The Integration of ex-offenders in South Africa based on the contemporary Chinese model: An Interdisciplinary Study

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There are possibilities for me, certainly; but under what stone do they lie?

Franz Kafka

In life it is more necessary to lose than to gain. A seed will only germinate if it dies. One has to live without getting tired, one must look forward, and feed on one's living reserves, which oblivion no less than memory produces.

Boris Pasternak

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ABSTRACT

This study aims to understand the process of stigmatization, marginalization and discrimination visited on ex-offenders after completion of their sentences. With reference to scholars such as Foucault, Festinger and Lerner, I problematize the notion that 'collateral consequences' (essentially stigma) should of necessity follow ex-offenders for the rest of their lives. Instead of attempting yet another intervention project (most of which have failed dismally), I have decided to discover what we can learn from the Chinese (and other cultures) on integration – an idea vouched for by both Habermas and Durkheim. This work is an interdisciplinary study since it is a 'complex problem' which requires as many inputs as possible and consequently I strive to be as inclusive as possible. To this end, I also make eclectic use of theory as opposed to a thorough-going singular theoretical application. This inclusivity also relates to my sources, where I have consulted scholars of both the twentieth and the twenty-first centuries who have had something of value to say on the matter. In this respect, John Braithwaite's seminal distinction between 'integrative shaming' and 'stigmatizing shaming' cultures was invaluable. The former prevents crime by resettling ex-offenders while the latter is 'criminogenic' and 'counter-productive' by driving ex-offenders away from mainstream culture through stigma. In this process the societal management of shame (resulting in either integration or stigma) has profound consequences. South Africa, a stigmatizing shaming culture, has rates of recidivism of between 85%-94% while the Peoples' Republic of China (PRC), an integrative shaming culture, presents only 6%-8%. My research problem is how to integrate returning ex-offenders in South Africa's stigmatizing shaming culture, based on the contemporary Chinese model, i.e. how to incorporate the best features of an integrative shaming culture into a stigmatizing shaming culture, specifically onto home soil in post-apartheid South Africa (if this proves to be possible). In order to enable the transplantation process both in time and space (an idea gleaned from Derrida), I have developed nine tools to assist me with this procedure. These tools may be of value to other researchers who may wish to duplicate the procedure along a different trajectory. By employing 'secondary data analysis' as my tool of data collection, I consider a number of original field work studies which were done in the PRC relating to the period 1949-1996, when the integrative shaming culture on the mainland was at its peak. In my

penultimate chapter but one I come to the realization that certain features of stigmatizing shaming cultures (these societies' 'diseased' nature, the prison-industrial-complex, the 'selfish' society and their inability to grasp its own 'desire', etc.) preclude the sensible fusing of these two cultures, which might well be impossible because the respective 'natures' (selfish vs caring) of these two societies are mutually exclusive. As a result, I develop a number of devices to complement the successful transplantation of certain features and to enhance the well-being of both ex-offenders and offenders alike. These are: an examination of the desire to integrate, self-confidence, self-esteem, trust and Victor Frankl's idea of 'paradoxical intensity'. I bolster this exercise by first building a case, based on Foucault's well-known notion, for the 'care of the self'. I conclude that while integration is an important issue of concern to both Critical Criminology and Critical Theory (in the tradition of the Frankfurt School), as my work straddles these two central disciplines, this course may not be possible for the present and, moreover, is not the only way to grow desistence (and foreclose recidivism) among ex-offenders. Instead, measures aimed at growing their well-being may be more effective and indeed make more sense politically.

Key words: *Integration, ex-offenders, recidivism, stigmatizing shaming cultures, integrative shaming cultures, societal management of shame, transplantation of ideas in time and space, the Peoples' Republic of China (PRC), home soil (South Africa), well-being*

DECLARATION

❖ I, Casper Lötter, declare that the thesis (or publishable, interrelated articles or mini-thesis) that I herewith submit for the Doctoral Degree in Philosophy at the University of the Free State, is my independent work, and that I have not previously submitted it for a qualification at another institution of higher education.

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8 December 2017

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CHAPTER ONE

Problem identification in the Context of the Literature Review

Background

This thesis deals with the problem of the social and economic exclusion of ex-offenders in stigmatizing shaming cultures (a term I explain below) such as that found in South Africa. I am guided by Critical Theory in the tradition of the Frankfurt School's emancipatory vision for the integration of marginalized and stigmatized groups on the periphery of society (Marcuse 1965/2011: 166; Habermas 1975a: Chapter One, part one; McCarthy 1978: 243-244; Honneth 1995). It is also a topic of burning interest (albeit for different reasons) to both Critical Criminology and correctional or conventional criminology, as I note below. Because it is a complex problem, as I explain in the next chapter, an interdisciplinary approach is used, drawing insights and ideas from diverse fields. These disciplines are philosophy (Critical Theory and post-structuralism), psychology, psycho-analysis, economics, law, development theory and criminology (both 'correctional' and 'critical'). It was Emma Goldman, the (in)famous anarchist who lived in the first half of the twentieth century, who observed (and since I do not have the original text available to me, I paraphrase her here) that every society deserves the criminals that it begets. I believe Goldman is (partially) correct in her observation within the context of my broader project of advocating sustainable reintegration of returning ex-offenders in South Africa. For reasons explained below, I deviate from the well-trodden practice in correctional criminology to design interventions for rehabilitation or integration. Instead, in this Chapter, I aim to demonstrate the value of a cross-cultural intervention modeled on the contemporary Chinese experience – assuming this exercise to be possible.

I proceed by summarizing, synthesizing and analyzing the literature review along four axes: integration/rehabilitation, the emancipatory ideal of Critical Theory, recidivism and stigma. In view of the fact that the vast majority of scholars equate rehabilitation with successful integration, I strive to consider these intervention initiatives more critically. Rehabilitation/reintegration is important to Critical Theory because of its emancipatory perspective (embedded in the promise and possibility of reintegration) while correctional criminology considers it vital because of the import it attaches to forestalling recidivism. My argument leads up to an exploration of stigma which was seminal in the 1960s to inaugurate and revitalize the school of Critical Criminology in the UK (while it is known as Conflict Theory in the US). The politics of labeling and the driving question (whose interests and whose order are we protecting?) have attracted a great deal of attention from Marxist-inclined scholars (myself included) in the field.

I intend to demonstrate the observed 'gap' in the literature regarding the inadequacy of rehabilitation and integration initiatives both in this country and in other Western model nations where stigma operates against ex-offenders by my attempting to fill in the assumed paucity using a Chinese model (explored in Chapter Four). Against this background, I will describe my own theoretical perspective which I will use to generate my research question and objectives.

Criminology and penology

I will define Critical Theory in the next chapter, and criminology and its two branches (referred to above) here. Criminology is defined as concerning "the contents and application of the criminal law of whatever society is under consideration" (Jones 2006: 31). Jones immediately proceeds to characterize the definition tendered as "unsatisfactory for a number of reasons." These reasons are that the criminal law might be silent on unmentioned criminal behaviour or how and why criminal behaviour is defined the way it is, why and how the criminal law evolved over time, why the criminal law differs from one region to the next in the same country and the rationale for severing the criminal law from its social context (*ibid.:* 31-34). An alternative 'humanistic' definition of criminology altogether has been suggested by Julia and Herman Schwendinger (1970: 148) to take into consideration the violation of fundamental human rights:

> If the terms imperialism, racism, sexism and poverty are abbreviated signs for theories of social relationships or social systems which cause the systematic abrogation of basic rights, then imperialism, racism, sexism, and poverty can be called crimes according to the logic of our argument.

To the Schwendingers' humanistic definition of crime, I would add hate crimes (explored below) in the widest non-legal sense of the word, since the legalistic definition of hate crimes arguably excludes as much as it includes. Two schools of thought exist in Western criminology, namely correctional or conventional criminology and Critical Criminology. Eugene McLaughlin (2010: 153) defines correctional criminology around three core tenets: the understanding of 'the criminal' as fundamentally different from 'the non-criminal', a dependence on law enforcement agencies (such as prison and police services) for their raw data, and the yearning to be appraised as an applied 'scientific' authority devoted to "the identification and management of offenders." Such a definition implies the embracing of 'empiricist' facts on crime removed from its social and political framework (a concern noted by Jones) and the rejection of sociological theory to explain deviance. Braithwaite (1995: 289) refers disapprovingly to "the limited relevance of statist criminology – the sort the state gives money to – to practical ongoing struggles to reduce the crime rate." In contrast, the province of Critical Criminology has moved beyond causal explanations of crime to focus on a "critique of correctional criminology in which the questioning of

political and social control would take precedence over behavioural and correctional issues… [and a critical understanding of] the capacity of the capitalist state to criminalise problematical behaviour" (McLaughlin 2010: 155)]. Its critical, Marxist edge was greatly influenced by Foucault's thesis on the paradigm shift in punishment from 'sovereign' to 'disciplinary power' (*ibid.:* 162-163) and informed its refusal to take no "notice of disciplinary boundaries" (Young 2002: 252). I share these sentiments embedded in Critical Criminology although I traverse scholarship in both correctional and Critical Criminology for fear of overlooking any nuggets of wisdom.

Michael Cavadino (2010: 447) suggests that penology encompasses the study both of punishment and 'penality', i.e. an "attempt to understand and also to influence *changes* in the practices, cultures and ideologies" (emphasis in the original), that inform punishment paradigms. In this thesis, taking my cue from Cavadino, I submit the prison-industrial-complex (a term I define in Chapter Three) to an ideology critique so as to understand its function in a world where almost everything is valued and judged solely according to its economic function (McCarthy 1978: 243).

Rationale

Is orange the new black? With most professions closed to returning ex-prisoners, as well as a wide range of social discriminatory measures (curtailed choice of housing, inability to travel internationally, social exclusion extending to members of the family, amongst others), ex-prisoners are ostracized and entrenched in a sub-culture of 'untouchables'. Sinisterly, in this way, industry is ensured of an inexhaustible source of cheap labour and government's efforts to maintain the institution of the prison, no doubt for profit, demands a wide range of outsourced services – catering, transport, security and private management – both in those African countries sympathetic to incarceration, notably South Africa, and in developed countries of other continents (Christie 1993: 111, 171-173). The case for ex-offenders' inability to be resettled following their release is expressed by Uggen, Manza and Behrens (2004: 281, 285) in the following striking terms: "Finding ways to manage stigma and establish an identity as a law-abiding citizen thus becomes a primary concern for offenders upon release, imposing additional barriers to reintegration […] Almost all respondents spoke of how their felony convictions made them outsiders, occupying a status that is 'less than the average citizen.' The increasing availability of public information about their crimes, however, made many feel especially marked and vulnerable." These remarks underline the unfortunate position of ex-offenders facing the challenges of reintegration and rehabilitation.

Rehabilitation

As far as rehabilitation is concerned, the UK-based Social Exclusion Unit (2002) defines social exclusion as "suffer[ing] from a series of problems such as unemployment, discrimination, poor skills, low incomes, poor housing, high crime, ill health and family breakdown." Of course, in the South African context, social and economic exclusion go hand in hand. Laub and Sampson (2003) have demonstrated that an environment advantageous to rehabilitation is only successful if combined with agency and a personal will to desist. Both Eastern and Western criminologists have found aging to be a significant factor in the desistence process (Sampson and Laub 1992; Bottoms *et al.* 2004: 370; McNeill 2006: 46).

The South African Department of Correctional Services' (DCS) White Paper (2005: paragraphs 4.2.1 and 4.2.2), however, has no qualms about the value of rehabilitation in the fight against crime and defines rehabilitation as:

> [T]he result of a process that combines the correction of offending behaviour, human development and the promotion of social responsibility and values. It is a desired outcome of processes that involve both departmental responsibilities of Government and social responsibilities of the nation. Rehabilitation should be viewed not merely as a strategy to preventing crime, but rather as a holistic phenomenon incorporating and encouraging.

Muntingh (2005: 29-30), as does DCS, cautions against using a drop in rates of recidivism as a yardstick to judge the success in rehabilitation and reintegration since these objectives are "multi-layered process[es] with too complex an interaction of variables for it to be measured by one indicator."

Despite the White Paper on Corrections' emphasis on the reduction of recidivism, Muntingh (2005: 7-8) quotes with qualified approval the nine variables which the Social Exclusion Unit (2002) identifies as cumulatively contributing to the hindering of reintegration and/or rehabilitation. These factors are the (1) lack of Education, (2) inability to find Employment, (3) Drug and Alcohol misuse, (4) compromised mental and physical Health, (5) negative Attitudes and poor self-control, (6) early Institutionalization and inadequate Life Skills, (7) difficulty obtaining Housing and Homelessness, (8) inadequate Financial support and debt, and (9) broken Family relationships. Muntingh suggests that these barriers to integration are a valuable point of departure for South African conditions, but contends that further research is needed. Shabangu (2006) contends that before their release a number of factors already impinge on ex-offenders' ability to rehabilitate and hence also compromise eventual reintegration. These factors are overcrowding in South African prisons, which leads to violence, and drug abuse, leading to social/economic exclusion upon release.

Gaum, Hoffman and Venter (2006) concur with the views expressed by the Social Exclusion Unit, and I highlight four barriers to integration which this team of researchers earmarks for South African conditions. Apart from noting the perceived need for further research on recidivism (2006: 421), as do other researchers below (notably Irma Schoeman and Lucas Muntingh), Gaum, Hoffman and Venter (2006: 216-219) posit the lack of confidence and self-esteem, the need to refocus attention from the external environment to the inner self, the attrition of trust in both their own judgment and in other people, and, finally, belated rehabilitation programme intervention as hurdles to rehabilitation and integration. I critique the factors that inhibit integration by noting that the insights of the British Social Exclusion Unit and those advanced by Gaum, Hoffman and Venter (2006) for local conditions are exceedingly valuable to gauge the prospects of integration and rehabilitation in South Africa. In Chapter Five, Part Two I develop five local remedies to augment the transplantation of Chinese integrative ideas onto South African Soil. Cilliers and Smit (2007) agree with the view that many factors contribute to the challenges of the DCS succeeding with its rehabilitation mandate. These authors list untenable prison overcrowding (2007: 86) and chronic staff shortages, specifically professional personnel such as psychologists and social workers (2007: 96-97), as contributing to this breakdown. Their emphasis on the role of the offender to effect reintegration, and an insufficient appreciation of the role of stigma in barring or complicating the rehabilitation/reintegration process, is problematic. They argue that:

> Rehabilitation is not a once-off event and in order to initiate an ongoing process, the offender must accept the fact that retribution needs to take place. This disposition, attitude and behaviour of the offender must change positively if he/she is striving towards achieving sound and lasting reintegration into the community. Prisoners need to discover and develop new, positive and relevant value systems for themselves. Further, there must also be a perceptible change in their external behaviour. If these pillars are not soundly constructed, rehabilitation will always remain a myth! (Cilliers and Smit 2007: 85)

Rehabilitation and lasting reintegration will remain a myth in any event if such a narrow, uncritical view of the process serves the hegemonic discourse. According to Griffiths, Dandurand and Murdoch (2007), sustainable reintegration becomes a realistic objective when risk factors are holistically seen to, and the social and physical well-being of the offender is not neglected. Their view on the need for a holistic intervention package is a refreshing break from stereotypical approaches, such as that of Cilliers and Smit who demand unilateral changes in offenders' attitudes without a corresponding gesture of goodwill from the community. The knock-on effect, as Jewkwes and Bennett (2008) note, is impaired rehabilitation efforts for incarcerated offenders. LeBel *et al.* (2008) have added to these insights and argue that the evidence shows that it is the interface between subjective

(such as a good sense of agency) and objective factors (such as strong social ties with peers and/or family) which translates into effective desistance. Kazemian and Maruna (2009) suggest that maturation interweaved with life experience is key in the fight against recidivism. Another key finding that these scholars propose is that optimism rather than pessimism to succeed in desisting is more likely to lead to victory. Thinane (2010) suggests that rehabilitation should be understood as bringing about positive change in the offender so as to forestall future criminal behaviour. It has been reported that many employers are hesitant to employ ex-offenders for fear of becoming victims to crime themselves and the undesirability of investing in a perceived liability (Fagan and Roberts 2011).

Ngabonziza and Singh (2012: 93) argue that the international perception is that intervention programmes do have an impact on rehabilitation/integration if an effort is made to address specific offenders based on their "criminogenic needs." Yet, with limited resources, prisons are "likely to remain a revolving door" (*ibid.:* 99). I do, however, recommend a number of pertinent suggestions for policy reformulation in Chapter Six which touch directly on my research project. Herbig and Hesselink (2012: 30-32), while concurring with Ngabonziza and Singh on the challenges that face the DCS, argue that the Department is pursuing a three-pronged progressive policy, based on the imperatives built into the White Paper, which places rehabilitation, restorative justice and a 'needs-based' Offender Rehabilitation Path (ORP) as its drivers. The former is embedded in a holistic approach aimed at facilitating the well-being and social reintegration of offenders. The restorative justice initiative "helps offenders to identify their responsibilities and to promote healing" (*ibid.:* 32). Based on Skelton and Batley's (2008: 27) suggestion that restorative justice should only serve a complementary role to traditional retributive Western-style justice, Herbig and Hesselink (2012: 32-33) contend that since crime is a "complex social matter" it can and should feed therapeutically into treatment programmes, but cannot address wrong-doing in its own right. I flag this Eurocentric view of justice in an African country and intend engaging with it in Chapter Five Part One. The DCS's latter initiative (a 'needs-based' Offender Rehabilitation Path [ORP]) is enshrined in a sentencing plan outlining the ORP which stipulates individual risk assessment, intervention programmes (such as anger management and substance abuse) and spiritual care. Rehabilitation is compromised by ex-offenders' circumscribed job experience and meagre job skills which limit attempts at being employed and the range of their earning capacity (Holzer, Raphel and Stoll 2004). Mabuza and Roelofse (2013: 53) confirm Maltz's finding in noting that many of their recidivist respondents report the influence of a dysfunctional family background and/or the negative influence of subculture peer pressure. This also emphasizes Herbig and Hesselink's (2012) contention that the value of a needs-based ORP is central to the DCS's rehabilitation mandate.

Kwela (2014) is also alive to the challenge of unemployment hindering rehabilitation and notes this as a significant barrier to the integration of ex-offenders. The difficulties of recommencing interrupted relationships with friends, loved ones and estranged acquaintances make for important challenges. Jules-Macquet (2014) found that most ex-offenders are received back into their communities in a cold and unenthusiastic manner. Adorjan and Chui's (2014: 102-103 and 105) fieldwork confirms these findings on the phenomenon of "aging out of crime" and they add the observation that personal resolve and strong social networking "actually exacerbated their ability to resettle into their communities". Adorjan and Chui (2014: 110) stress the negative effect of the absence of communal and familial support and encouragement with the following telling words: "In what appears to be a classic self-fulfilling prophecy, estrangement from family and potentially supportive peer groups sometimes opened opportunities for ex-prisoners to seek peer groups that would help them find drugs and moot efforts to desist from crime and resettle into their communities." They found that a tenacity to desist (evidenced by the presence of agency in their respondents) is only likely to bear fruit if it is based on the support of strong social bonds (*ibid.:* 111). L.R. Johnson (2015) observes wryly that gang activity and overcrowding in South African correctional facilities have fed into already insufficient rehabilitation and inadequate community reintegration programmes. Hargovan (2015) found that offenders are of the view that they are by rights permitted to be released on parole provided they participated in a restorative justice programme or process. Hargovan's findings demonstrate the divide between the rehabilitative perceptions of offenders (that a show of remorse and co-operation is sufficient) and that of the public (demanding assurances of desistence). L.R. Johnson (2015) also argues that South Africa's official youth unemployment rate of 35% leaves little room for ex-offenders to press their case for employment opportunities. This is a telling truth when, as Holzer, Raphel and Stoll (2004) have argued, ex-offenders are already behind in legitimate networking, work experience and skills generation. Confirming the findings of previous researchers, Walter, Caudy, and Ray (2016) show that mental and/or physical health challenges and the issue of substance abuse are known to create barriers to reintegration since these problems drastically curtail job options and housing or accommodation possibilities for ex-offenders, especially sex and drug offenders (Bender, Jennifer, Cobbina and McGarrell 2016).

My critique on rehabilitation/reintegration studies

My critique of the general position of these scholars is that, irrespective of how serious the ex-offender is about her or his rehabilitation, stigma will ensure that integration remains at best superficial. The failure of belated interventions highlighted by Gaum, Hoffman and Venter (2006: 215-216) is duly noted, but I depart from the tradition in 'correctional criminology' of arguing for intervention programmes. I attempt instead to import ideas from another culture to possibly enrich our own penal practice and I will not engage in this

debate. Rehabilitation interventions are valuable and not without interest. For example, Muntingh's (2005: 36-39) and Ngabonziza and Singh's (2012) discussions and analyses of NICRO's (National Institute for Crime Prevention and Reintegration of Offenders) Tough Enough Programme, outline the challenges and strengths of such intercessions. Numerous studies (Uggen, Manza and Behrens 2004: 284; Adorjan and Chui 2012; Ngabonziza and Singh 2012: 99; Chui and Cheng 2013: 680) however, across both the Orient and the Occident, have found that ex-offenders are critical of reintegration and rehabilitation incentives in the sense that these interventions do not address the almost insurmountable barriers of discrimination, stigmatization and marginalization experienced and keenly felt by ex-offenders. Their respondents expressed the belief that these interventions did little to integrate them sustainably.

I argue that the common thread that runs through these studies in rehabilitation and reintegration initiatives of both the DCS and well-meaning NGOs, such as NICRO, is that they are based on a Durkheimian functionalist view of society (noted below), i.e. one that accepts that society is fundamentally healthy and that the problem lies with deviant behaviour which tests the boundaries of good taste, and law and order. Granted that a few researchers – notably Muntingh (2002, 2005), Richards and Jones (1997, 2004), Uggen, Manza and Behrens (2004), Ngabonziza and Singh (2012) and Baur *et al.* (2017) – highlight society's essential role in sustainable reintegration efforts, I critique these studies as neglecting the vital perspective of a Marxist reading of crime (below). A valuable finding is a remark by one of Adorjan and Chui's (2014: 107) respondents, namely the person identified as N18: "A person will be happy if he [is] satisfied with what he has. Then, I don't need to take the 'old path'." This demonstrates the value of investing in the emotional well-being of released ex-offenders and is an aspect upon which Kazemian and Maruna (2009), Shover (1996), Liebling *et al.* (2005: 223) and Adorjan and Chui (2014: 107) have also remarked. In the same vein, Lorenzo Fioramonti (2017) demonstrates that development understood as 'growth' is something of the past in view of the limits (already reached) which our planet, as a closed ecosystem or macro-organism, has placed on further economic growth. Instead, Fioramonti (2017: 207-208) advocates a different understanding of development, namely the human development of caring. He suggests that "[a]s we question the consumerist fever, we begin to realize that development is not production and consumption [...] Care is the pillar of the wellbeing economy." I add to Fioramonti's vision of wellbeing instead of unsustainable, limitless growth and greed, by embracing Janet Cherry's (2016) notion of 'enough' in the context of a planet with finite (albeit rapidly depleting) resources. In my choice of research paradigm below, it is precisely this form of development (care and wellbeing, over growth and naked capitalist greed in the form of profits) for which I argue. I will return to this issue in Chapters Five, Part Two and Six.

Laudable intervention

A laudable intervention in the South African context is the inclusion of Section 27B (1) to the Criminal Procedure Act, 1977 (Act No. 5 of 1977) which reads that "one may apply for the expungement of a criminal record if 10 years have lapsed after the date of the conviction for that offence." Such a de-labeling process is vital in allowing ex-offenders a second chance in completing their life cycle sustainably. In the absence of re-initiation rites for rejoining society, I also argue that the discrimination, stigmatization and/or marginalization of ex-offenders amount to hate crimes. A hate crime is defined as "a criminal act that is motivated, at least in part, by the group affiliation of the victim" (Gerstenfeld 2013: 11). From Gerstenfeld's definition it follows that hate behaviour is not a crime unless such act has been criminalized by the legislature. In South Africa, the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (PEPUDA or the Equality Act, Act No. 4 of 2000), defines hate crimes and provides for their prosecution and for civil remedies in an appropriate court. Section 10(1) of the Act prohibits the publication of hate speech in the following wording:

> Subject to the proviso in section 12, no person may publish, propagate, advocate or communicate words based on one or more of the prohibited grounds, against any person, that could reasonably be construed to demonstrate a clear intention to--
>
> *(a)* be hurtful;
>
> *(b)* be harmful or to incite harm;
>
> *(c)* promote or propagate hatred.

Although the section appears to be widely framed by employing the test of reasonability to determine an objectively construed intention to hurt, incite harm or promote hatred, it also demands that the applicable words must be shown to fit one or more of the prohibited grounds. The Act defines 'prohibited grounds' as

> *(a)* race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth; or
>
> *(b)* any other ground where discrimination based on that other ground--
>
> (i) causes or perpetuates systemic disadvantage;
>
> (ii) undermines human dignity; or
>
> (iii) adversely affects the equal enjoyment of a person's rights and freedoms in a serious manner that is comparable to discrimination on a ground in paragraph *(a).*

Ex-offender status is thus not specifically included in the prohibited grounds (a fact that raises the question of the reasons for its non-inclusion: could it be that ex-offenders are so universally [but unjustifiably] regarded with suspicion that this functioned as a blind spot on the part of those who framed the Act?), although a case could be made to include such a status under the general ambit of sub-clause (b). However, section 12(b) of the Act creates a curious ground of justification (i.e. does not render the discrimination to be unfair) if, among other grounds, it amounts to "fair and accurate reporting in the public interest". I argue that despite the apparently wide ambit of the definition of unfair discrimination, the fact that the status of the ex-offender is not specifically included under the 'prohibited grounds,' is likely to trip up any legal challenge brought by an ex-offender based on alleged discrimination.

A further aspect that deserves comment is the problematic view expressed by these scholars of equating rehabilitation with reintegration. Perhaps the problem is partially the fact that most researchers in criminology are epistemologically situated outside the 'offender perspective' paradigm (as Irwin suggests, below) and are therefore largely unable to see the almost insurmountable difficulties posed by the social and economic integration of ex-offenders in a stigmatizing shaming culture. I argue below that Critical Criminology, because of its overtly political nature, demands that the researcher be explicit about her situatedness.

The standard text on paradigms is of course that of Thomas Kuhn. Kuhn (1996: 19) proposes that we see the world through a "definition of the field" in terms of peculiar understandings, perceptions and interpretations of phenomena, which are fundamental to the practice of a science, and comprise what he terms the 'paradigm' that determines such scienctific practice. Such shared 'paradigmatic' commitments to "rules and standards for scientific practice" (1996: 11) may change decisively when the paradigm in question runs into too many unsolved and unsolvable puzzles, which eventually lead to a "paradigm shift" (1996: 109). Examples are legion. Copernicus's concept of a heliocentric universe as opposed to Ptolemy's ancient idea of a geocentric understanding (i.e. that earth is the centre of the universe) is a familiar one. Another example is the feminist revolution in the so-called First World during the 1970s, which defined the world in terms of an exclusively feminine perspective as opposed to the traditional patriarchal world view that privileged the masculine point of view. In one of the next chapters, Chapter Two, Part Two, I suggest that my secondary methodology, namely auto-ethnography (which I define there), represents a paradigm shift in the social sciences for privileging the body as a site of knowledge, as opposed to the traditional idea of objective observation and knowledge. I argue that the question of the reintegration of ex-offenders is eminently feasible for – that is, lends itself to – probing, or being probed, with subjective instruments, such as the unique insights on their economic and social exclusion suggested by ex-offenders

themselves. As Jones *et al.* (2009: 167) argue, the critique of Convict Criminology on penological practices adds the unique voices of ex-offenders blended by academic acumen. This auto-ethnographic view privileges the first person experience and it is therefore also the reason (as I explain in Chapter Two, Part Two) for my choice of auto-ethnography as my supplementary methodology.

My own thinking on the issue of sustainable reintegration centers on Habermas's argument in one of his later works, *Between Facts and Norms* (1996), that law is the most effective instrument with which to effect the reintegration of marginalized groups (ex-offenders being a case in point.) If Habermas is correct (but I will show in Chapters Three and Six why I consider him to be wrong), his contention must be understood in the context of what Angela Davis's (2003: 50) has called the "malleability of history." I use her idea as a reference to Michelle Alexander's (2012) demonstration (as I indicate in Chapter Three) that, since the American mindset on racism had not changed after the Civil War, slavery was merely transmitted into Jim Crow, which evolved into mass imprisonment. But these trends represent the same narrative: sustained racism aimed at keeping the black man in his place. Kurt Lewin's (1997) study of 'force field theory' in facilitating organizational change, and Leon Festinger's notion of cognitive dissonance (noted below), confirm Alexander's thesis. Lewin proposes that rational argument alone is not enough (but a three stage self-involvement programme might be) to bring about sustainable, long-lasting change in group behaviour. Festinger was a student of Lewin while the latter was a member of the early Frankfurt School. To my mind, this emphasizes the value of an interdisciplinary approach. As I argue in the next chapter, an interdisciplinary approach is deemed compulsory practice in Critical Theory in the tradition of the Frankfurt School, but increasingly criminologists (although traditionally of a conservative bent, especially the South African scholars reviewed) are also embracing interdisciplinarity as a way to get a comprehensive handle on crime and crime control (Barak 2010: 175-177).

Emancipatory ideal

Most criminologists defend the idea of reintegration of ex-offenders, as indicated above, on the basis that this is likely to be a successful intervention in the fight against crime and especially the tendency to re-offend. One motivation amongst others for reintegration that has been advanced is compassion. This is the case for Critical Theory in the tradition of the Frankfurt School. Habermas (1979: 199), one of the foremost exponents of the contemporary reformulation of Critical Theory, eloquently puts the case for compassion as a driving force behind the preoccupation of Critical Theory with social change as a realizable goal:

> The pursuit of happiness might one day mean something different – for example, not accumulating material objects of which one disposes privately, but bringing about

> social relations in which mutuality predominates and satisfaction does not mean triumph of one over the repressed needs of the other.

With these words, Habermas displays a profound sense of emotional maturity which is indeed a rare find in interpersonal dialogue. I was hoping to aim for this same idea, i.e. compassion as a driver in the possible reintegration of ex-offenders. It is Žižek (2008) who raises the argument that the ghosts of lost causes have to be resurrected and dealt with, since failing to do so will merely result in the return of the repressed. This is also emphasized by him in his narration of Sophie Fiennes's *The Pervert's Guide to Ideology* (2012). I return to this argument of Žižek's in Chapter Four as it is relevant for the justification of my argument on reintegration.

I am mindful of Trafford and Leshem's (2008: 45) contention that the choice of a methodology or methodologies (considered in detail in the next two chapters) must fit the nature of the research topic. One intellectual trajectory that has placed an emphasis on emancipatory practices aimed at the integration of marginalized groups is Critical Theory in the post-Marxist tradition of the Frankfurt School (noted above). Habermas (1973) lists Marxism and psychoanalysis as examples of this kind of knowledge. Habermas (1981/1984: xl) develops the argument that the theory of communicative action (explored in the next chapter) has been fine-tuned to deal with these kinds of pathologies of the social reality – pathologies, according to him, that are peculiar to the course taken by modernity in the West. What is the link, if any, between Critical Theory as a possible research program and the lamentable recycling and warehousing of the marginalized, particularly ex-offenders? Failed resettlement leads to recidivism, which then leads to the aforementioned recycling. The return of the repressed is well documented by Freud and Žižek (as I observe below). I will return to this issue at the close of this chapter. "[C]ritical theory attempts to think beyond modernism while not abandoning the utopian legacy of the Enlightenment" (Benhabib 1996: 337) through non-violent communicative means (Habermas 1981/1984, 1987) in engaging "[t]he project of bringing home the diffused, the repressed, and the marginalized" (Wellmer 1985: 357). This revamped utopia is to be achieved through "constant reintegration and differentiation" (Benhabib *ibid.:* 338). Axel Honneth (1996: 370) argues that the most urgent task of Social Philosophy is to identify communicative distortions/social pathologies – such as stigma and its link to failed resettlement and re-offending in its train – and engage those processes in rational dialogue. I am guided by my intention to make a humble, yet original, contribution to emancipatory knowledge (in the tradition of Critical Theory) which is feasible and can be validated in an oral examination (Woolliams, cited in Trafford and Leshem 2008: 50). I will engage in an in-depth literature review of Critical Theory in the tradition of the Frankfurt School in my discussion of Critical Theory as my primary methodology in the next chapter. A Critical Theory of society in the post-Marxist tradition of the Frankfurt School (considered at length in the next chapter)

must, by analogy, in the spirit of activism and a critical mind-set, reconsider and examine ways and sustainable options to resettle ex-offenders after their release from sites of exile. Needless to say, this must be done within the context of a thorough and comprehensive critique of the prison as an institution.

Recidivism

The problem of challenged reintegration is exacerbated by the phenomenon of racial profiling in the United States (Alexander 2012) and the demonizing of the marginalized (notably ex-offenders and the poor in traditionally capitalist societies) as criminogenic in most capitalist societies (Reiman 1990; Braithwaite 1989: 41). But this is not the end of the story. Failed resettlement upon release often goes hand in hand with a reinforced tendency to re-offend. Pat Carlen (2005: 422) has no qualms about condemning recidivism as the "penologist's stone." Maltz (2001) argues that based on the Latin root of the word ('to fall back'), a recidivist is someone who has relapsed into her or his belated criminal behaviour pattern. Beck (2001) adds to this insight by proposing that an understanding of recidivism should entail three aspects, namely the criteria used to define recidivism, the time-frames involved and the rationale for deciphering the data on recidivism. I comment on the first two. A person might commit two very different crimes in a five year period and, to my mind, not be a recidivist, provided that these transgressions are not part of an overall delinquency profile, since a pattern of a career path is not in evidence. Internationally there seems to be no agreement on this issue (Wartna and Nijssen 2006; Ochieng 2009). Time-frames, as Beck suggests, are important in assessing whether or not we are dealing with a re-offender. If a person has not re-offended for a period of five years since his or her earlier conviction or what Prinsloo (1995: 139) refers to as a 'survival period', I am of the view that this is a reliable indication of rehabilitation. Postcolonial Hong Kong is "a unique context where 'East meets West' " (Adorjan and Chui 2014: 98). In Hong Kong, rehabilitative 'success' is measured by the ex-offender's 'survival' without commiting further crimes for a certain period after release (Lo 2008: 244). I argue above that a significant intervention in the South African context is the provision contained in Section 27B (1) of the Criminal Procedure Act, 1977 (Act No 5 of 1977) which allows for the expungement of a criminal record after ten years under certain conditions.

I argue that her or his record should be cleared to facilitate integration and should only be revived for sentencing purposes (which may or may not be relevant) if she or he is subsequently convicted of a further crime, a contention with which Schoeman (2010: 90-91) concurs. Recidivism is important in the management of crime. The Department of Correctional Services' (DCS) White Paper on Corrections (2005: 38) states that "The purpose of the correctional system in South Africa is not punishment, but protection of the public, promotion of social responsibility and enhancing of human development *in order to prevent recidivism*, or the return to crime" (my emphasis). Irrespective of how effective DCS

is in delivering on their mandate, the seriousness of their intent is underscored by O'Donovan and Redpath's (2006) argument that the sentencing pattern of South African courts are informed by the mantra that 'nothing works' and that only long sentences for re-offending will effectively incapacitate the offender. Irma Schoeman (2010: 81-82, 92) posits that the current confusion about the conceptualization of recidivism is not conducive to intelligence-based crime management strategies and policy-formulation. She contends that a scientific understanding of recidivism should drive any intervention strategy (p. 84). Based on a review of earlier studies on recidivism, she suggests the following definition:

> Recidivism is a behaviour process or pattern whereby an offender, who were [sic] previously found guilty of a crime and sentenced in a court of law, commits a further unspecified offence (within the survival period) and is found guilty of this offence, and receive [sic] a further undetermined sentence in a court of law (Schoeman 2010: 91).

Central to Schoeman's definition is the idea of criminal re-offence outside of a survival period. South Africa has a crime rate recently ranked sixth highest in the world (Nationmaster 2012) and it also exhibits very high rates of recidivism. Schoeman (2010: 81) suggests that, bearing in mind that no official statistics exist for South Africa, these rates could be anything between 55-97%. Ngabonziza and Singh (2012: 87) propose recidivism rates of either 94% or between 85 and 94%. Whether one agrees with Schoeman's figures or those of the latter, these are shocking and unacceptably high. According to Ben Geiger (2006: 1197) recidivism rates in the United States (another leading stigmatizing shaming culture) are at least 66% with significant percentage of homelessness and high numbers of unemployment among ex-offenders. Compare these scenarios with the case for China where re-offending rates hover between 6 and 8%! I discuss these Chinese statistics in greater detail below but I flag it here to show its relevance for the development of my argument.

Most mainstream criminologists in the Western world (and this includes South Africa) accept uncritically the rationale that, in order to manage recidivism, interventions are justified to ensure sustainable homecoming. This is also true of nominally socialist post-communist societies such as the Peoples' Republic of China (PRC) – where sustainable reintegration has a respectable track-record, as I demonstrate in Chapter Four – wherein the leadership justifies penal policy on the basis of a socialist agenda. Considering the value which both criminologists and Critical Theorists place on reintegration as a desired social goal, it is important to critically appraise this issue.

Reintegration critically appraised

Firstly, it is a significant feature of the literature that it is a misnomer to speak of reintegration of ex-offenders when most members of that group deviated precisely because they did not fit into that society in the first place (Liebling and Maruna 2005: 21; Gaum, Hoffman and Venter 2006: 412; Social Exclusion Unit 2002; Ngabonziza and Singh 2012: 90-92, 98-99; Uggen, Manza and Behrens 2004: 260, 262, 281, 283-284). The last source noted refers specifically to the phenomenon of offenders being 'off-course' in relation to traditional markers in the transition to adult roles (husband, father, employed, educated, homeowner, etc), and the importance of achieving such markers in ex-offenders' desisting from re-offending (2004: 287).

Secondly, Du Toit (2004) highlights three dangers in the uncritical assumption that reintegration is the panacea (life-elixir, the magic bullet, the all-cure) for social exclusion and poverty. By rolling out access to mainstream institutions and opportunities to marginalized communities, these incentives may be considerably averse to the 'real needs' of these communities (Du Toit 2004: 1001). For example, people living in a rural village deep in the Transkei may have no need for economic infrastructure development which the wealthy and powerful assume necessary for a meaningful existence. Exclusive focus on integration is likely to divert attention away from the usually ignored dysfunctional features of mainstream society. Du Toit (*ibid.*) argues that we should not lose sight of the "systemic dynamics of inequality, impoverishment and conflict within those larger formations themselves." Finally, integration may impact negatively on the ability of social actors to resist and engage critically with oppressive features of mainstream culture (Du Toit 2004: 1004). In the next chapter, I develop the case for compassionate members of a caring society and it might be, as Ann Masten (2001: 235) and Sue Gerhardt (2010) suggest, that resilience or effective moral agency lie precisely in early childhood development and not the mere presence of social actors in an oppressive context.

Thirdly, it is curious that in this age of 'decolonizing' hysteria in South Africa (Olivier 2017), the prison as an institution in Africa is a vestige of its colonial past and yet is such a ubiquitous, uncritically accepted feature of this continent (Foucault 1975/1991; Dissel 2008: 175; Nagel 2008). As Mechthild Nagel (2008: 71) notes, "[i]mprisonment then is the antithesis of Ubuntu, a practice of separation of humanity." As an intermediate reflection on the Habermasian (1981/1984, 1987) tradition, I raise the question, whether or not it is just possible that African society (certainly traditional African culture) has the latent emancipatory potential – as Habermas himself famously rehabilitated that potential for Western reason – to dispense with the crippling legacy of incarceration. Indeed, Mechthild Nagel (2008: 70), by building on the work of Ogbanaya Oko Elechi, argues convincingly that

Today, the legitimating of prisons is greatly challenged in African countries and many rural and urban communities (even in the face of grave offenses, such as rape and murder) would rather bypass the (neo) colonial justice system and go back to the pre-colonial ways of rendering restitution to victims harmed.

In the context of integrative shaming practices (as proposed by Braithwaite) and the African accent on restorative justice, it is worth asking, as I do in Chapter Five, Part One, the question of whether development of African sentencing instruments to displace incarceration as the dominant sentencing narrative is plausible. This perspective is offered as a possible alternative to the West's practice, in terms resonating with Foucault's sustained diagnosis of penal practices in this society, of 'internalizing the judge' so as to bring about micro-management by the prisoner herself (as I note above).

Finally, it seems almost bizarre or profane to me to be writing a thesis on the (re)integration of ex-offenders in South Africa precisely at a time when a shadow state (which is nothing if not a criminal rent-seeking network), coordinated and propagated by the president, his family and friends, are looting the constitutional state on an industrial scale (R. W. Johnson 2015, Bhorat *et al.* 2017, Olver 2017, Pauw 2017). In Chapter Three I remark on the damage such behaviour by our political leaders inflicts on the moral fibre of our society. Is the message to be imbibed by our youth that it is a 'free for all'? How is this message to be interpreted by ex-offenders who have served their time and may have made a commitment to desist from future criminal behaviour? I now consider the role of stigma in the lives of ex-offenders.

Stigma as the seminal link

Braithwaite (1995: 280-281) has called integrative shaming (namely the antinomy of stigma) "the missing link in criminology", because it positions the societal management of shame (resulting in either integration or stigma) as pivotal in either causing crime or preventing crime, respectively. At the same time Braithwaite's theory serves as a general explanatory theory that successfully incorporates other theoretical explanations for crime. Stigma extends the so-called 'ex'-prisoner's sentence with an extension of that prison sentence for the rest of her life. As far as ex-offenders are concerned, the literature on stigma hindering this group's emancipatory goal of social and economic reintegration illustrates a gap in the knowledge, as I demonstrate below. What is stigma and how important is it? Goffman (1963/1990: 19) notes that it is "the central feature of the stigmatized individual's situation in life [...] It is a question of [...] 'acceptance'." Chui and Cheng (2013: 672) define stigma "as a label placed on an individual or group that results in devaluation and association with undesirable characteristics." Mirroring the work of Goffman (1963/1990: 57-58) in distinguishing between the "discredited and discreditable," Chui and Cheng (2013: 673) draw a clear distinction between "concealable

minorities" and "visible minorities". Self-stigma demonstrates itself when a concealable minority (such as ex-offenders) internalizes these negative thought patterns against themself (Corrigan and Watson 2002; Mak and Cheung 2010). It is obviously also possible for visible minorities to present self-stigma. Ex-offenders, as I attempt to show below, are one group that is dogged by stigma from the day they leave prison. They are not the only group, however, to suffer the debilitating effects of stigma on their economic prospects and social lives. It is my argument that a range of marginalized groups (ex-offenders, women, African Americans, the poor, the gay community, etc.) are denied integration for very specific reasons, explored below. Regarding ex-offenders, however, Chui and Cheng's (2013: 678, 679, 681 & 674) empirical research has found the following negative impact as a result of stigma and self-stigma among this group:

> This constant sense of suspicion made it difficult for these young men to interact with other people and worse, diminished their sense of self-worth [...] It took a lot of courage and time for the ex-prisoners to disclose their criminal history to other people. Even after they had taken this leap of faith and were not met with discriminatory or prejudicial responses, their embarrassment about being an ex-prisoner and worry about future confrontations persisted [...] These young men tended to adopt a careful approach in disclosing their identities only when they needed to and only after trust had been established [...] Within Hong Kong correctional facilities, strong emphasis is placed on discipline and reform, and the lack of autonomy of prisoners is evident.

The lack of self-worth, trust and confidence and impaired agency among released ex-offenders are sources of great concern as these are likely to exacerbate the obstacles already evident in integration and rehabilitation efforts. I suggest that shame, wielded as a blunt instrument of stigma, rather than as a tool to achieve integration, is the direct result of this culture-specific manifestation of the management of shame.

At about the same time as the initial publication of Goffman's seminal work on stigma, Howard Becker (1963: 9) came to the conclusion that deviant behaviour demands labeling before it becomes a social reality, and that such labeling results in the fashioning of 'criminal careers.' Becker (1963: 147) suggests that 'moral entrepreneurs' are responsible for labeling crusades and the production of 'outsiders'. David Matza (1964) built on this insight by hypothesizing that there is no essential difference between deviants and non-deviants. Deviants spurred on by the lures of fun and excitement chose to *drift* between conformity and delinquency instead. Wilkins (1964) concurs with Matza and his coining of the term 'deviation amplification' suggests that there is a correlation between societal tolerance of deviance and the cementing of 'deviant identities.' Schwartz and Skolnick (1964) have, however, nuanced our understanding of stigma in their study of the influence of malpractice allegations on the later career paths of medical doctors. They found no

adverse long term implications and concluded that stigma operates selectively (imprisonment manifesting a strong sense of stigmatization) and is amplified towards the powerless. Lemert (1951, 1967) has deepened the conceptual understanding of stigma and deviance by having coined the term 'secondary deviance.' The deviant's reaction to stigma is an attempt to regain her or his uncontaminated humanity but it is essentially the societal reaction to deviance as a form of social control, rather that the act of deviance itself, that launches deviant careers. Lemert's findings are confirmed by Jock Young's (1971) observations of the stigmatization of harmless ganja users in London's Notting Hill in the 1960s where the unfavorable social response enhanced the deviant behaviour on more than one level. Taylor *et al*. (1973) have drawn the insight from these studies that labeling devoid of its social and political context is myopic, since it fails to address the key question ('whose law and whose order is being protected?, referred to above). This crucial turning-point is emphasized by Stanley Cohen (1973: 624), recalling the alternative humanizing definition of the Schwendingers, noted above, in his avowal that crimes "carried out by the powerful are not only not punished, but are not called 'crime.'" It is crucial that the labeling perspective be cast in a Marxist frame so as to accentuate the contradictions inherent in society and state. Synthesizing these insights on labeling, Edwin Schur (1974) popularized the term 'radical non-intervention' (embracing the concepts of decriminalization, diversion and deinstitutionalization). By decriminalizing so-called victimless crimes (gambling, drug use, promiscuity), even though distasteful, would circumscribe the reach of the criminal law in the private sphere of people's lives (Schur 1965) and ensure less stigmatization. Foucault (1975/1991: 107) has argued persuasively that indeterminate sentencing (which is precisely what stigma amounts to, although this was not his primary goal) would be a contradiction in terms as it would never enable the ex-offender to put the virtues acquired as a result of her or his correctional exercise to use and, as such, would amount to "little better than torture." Foucault's argument against the purposeless of indeterminate sentencing (presented by stigma) makes perfect sense in a rational, healthy society.

Ben Geiger (2006: 1229-1230) has argued that "With the demise or hibernation of rehabilitation as a goal of current penology, society no longer trusts that criminals who serve their sentences are reformed. As members of an unreformable class, ex-offenders are considered criminals. If ex-offenders are criminals, then government is justified in regulating ex-offenders for penological purposes." By contrast, Boris Cyrulnik (2009) has demonstrated that people are able to overcome past calamity through resilience if they are adequately supported by interpersonal relationships and especially if they are not labeled. Despite Foucault's cogent argument in favour of 'determinate' (as opposed to indeterminate, which is a corollary of stigma) punishment and Cyrulnik's thesis that we cannot be defined by our past, these arguments and their demonstration, as I argue below, are met with indifference in a generally greedy, uncaring and morally as well as ecologically decaying society.

A decade after the appearance of Goffman's general work on stigma in the lives of marginalized communities or groups, Preben Wolf (1978: 102) summarizes the state of the debate on stigma in the lives of ex-offenders by contending that "stigma is perhaps the most important deterrent element in punishment." He concedes that the disagreement on the role of stigma among scholars is an enduring legacy in penal policy. Box (1983) shows how the work of Schur, Cohen and Preben has contributed to the notion that the concept of 'crime' is anything but value-free and certainly politically charged. Braithwaite (1989) has laid the foundation for this investigation by his revolutionary distinction between integrative shaming cultures and stigmatizing shaming cultures. The former are found in communitarian societies (such as China, Japan, Korea, etc), while the latter evinces in individualistic societies (such as the Unites States, the UK and South Africa, among others). I explain these terms in Chapter Four. Braithwaite places considerable emphasis on moral persuasion as a way to reinforce the individual's conscience and bolster abhorrence for social delinquency. This idea feeds into Habermas's observation that the commonality embedded in human languages presupposes a fundamental ability to reach consensus. Braithwaite's insight is premised on control theory and the idea of societal agreement on large tracks of proscriptions (noted below). As I have lived in a Chinese society for many years, I can testify to the power of moral persuasion in communitarian culture.

I engage with his scholarship in Chapter Four in the context of my data collection exercise on Chinese soil, but I briefly and provisionally explain the difference between these two as shame being utilized by either society to manage deviance. In the case of the former, it is used to integrate ex-offenders after their having atoned, while the latter uses shame to stigmatize and exclude its wayward flock from mainstream society. Braithwaite's argument builds a case for the efficacy of integrative rather than exclusionary (or stigmatizing) shaming. Braithwaite (1989: 9) explains integrative shaming as "conceived as a tool to allure and inveigle the citizen to attend to the moral claims of the criminal law, to coax and caress compliance, to reason and remonstrate with him over the harmfulness of his conduct." He insists that the stigmatization of ex-offenders drives recidivism rates up and that integrative shaming is essential in the fight against crime. Braithwaite (1989: 100) argues that integrative shaming has a distinctive advantage over stigmatization, in that the former communicates condemnation of the criminal act without condemning the individual, while the latter encourages deviance as a master status. Integrative shaming facilitates the reintegration of the deviant while stigmatization ostracizes the individual and is counterproductive in terms of rehabilitation and desistance. In a revision of his theory (Ahmed, Harris, Braithwaite and Braithwaite 2001), Braithwaite suggests that shaming is essential because of the ways in which the management of shaming allows the delinquent to either acknowledge the shame or reject it. Integrative shaming allows for the former and promotes greater integration and reconciliation, since such acknowledgement is the cornerstone of a "commitment to a shared ethical identity" (Harris 2010: 113), and

the positive reinforcement of an 'unspoilt' self. Stigma leads to unacknowledged shaming, a rejection of the corrections suggested and a tendency to re-offend (Braithwaite 1989: 113).

As valuable as Braithwaite's contribution on the importance of social capital is in building and strengthening resources to desist from re-offending, I critique him as underestimating the importance of a Marxist reading of crime in capitalist societies (as I argue in Chapter Three). Vested interests in the propagation of the prison-industrial-complex (a term I explain in Chapter Three) are bound to create endless barriers to efforts to resolve the burning issue of the stigmatization and marginalization of ex-offenders. The labeling perspective has, in the words of De Haan (1991: 208), brought about a powerful awareness that "what we need is not a better theory of crime, but a more powerful critique of crime." Richards and Jones (2004: 202) demonstrates convincingly that ex-offenders are "never allowed the opportunity to return home and start a new life. Instead [they] are processed through correctional stages where they are structured to fail, return to prison and over time become institutionalized." This dynamic so ably identified by Richards and Jones may have no direct relationship with the prison-industrial-complex, but it is certain to serve as a potent metaphor for the position of ex-offenders in capitalist societies, which include South Africa. A Marxist reading will correct the skewed nature of his uncritical account, that there is sufficient political will to implement restorative over retributive justice, even though I am in complete agreement with him that offenders and ex-offenders have agency and should be encouraged in an integrative way to break with destructive habits, managed by society in a warm, firm and loving way.

Since 1997, John Irwin, himself an ex-offender who had turned his life around to become a scholar of note on criminology, encourages ex-offenders to shed their stigma in public by 'coming out' ceremonies in which they relate their prison experience to their research output (Richards 2010: 173). It is Irwin's (1985) considered view that prisons manage their charges in ways which create a social and economic underclass deemed 'rabble' both during incarceration and after release. I have no doubt that Irwin is correct in this observation save for the proviso that in certain jurisdictions (notably in communitarian societies such as the PRC, as I demonstrate in Chapter Four), prison has been very effectively pared with the ideal of rehabilitation. Whereas rehabilitation has been shown to have been abandoned in the West (notably South Africa and the United States) in favour of incapacitation, warehousing and management (as I attempt to show in Chapter Three), the uncritical assumption of managing rabble in stigmatizing shaming cultures has certainly fed into the phenomenons of stigmatizing and marginalizing ex-offenders as a group. In his influential *Discipline and Punishment: The Birth of the Prison*, Foucault (1975/1991) complements Irwin's insights in his arguing that the shift from punishment by spectacle to incarceration in the West precipitated both a mopping-up of marginalized groups and a disciplinary regime of the micro-management of the body so as to internalize the judge.

Foucault (1975/1991: 170-194) argues that the combination of three practices – hierarchical observation, normalizing judgment and the examination process that produces 'case studies' – laid the foundation for the new disciplinary regime to target the body and the soul (as opposed to the preceding regime that favoured outright torture and terror as public spectacle). Although observation and surveillance apply to all walks of life (school, hospital, prison, the armed forces, etc.), the new disciplinary apparatus demands the technology for "a single gaze to see everything constantly" (1975/1991: 173). By ingraining surveillance into the educational interaction between teacher and student and redirecting architectural design to permit uninterrupted observation, "it is the apparatus as a whole that 'produces' power and distributes individuals in this permanent and continuous field" (1975/1991: 177). In this way, the individual internalizes the features of the disciplinary society and this 'micro-physics' of the body and soul ensures self-management and self-observation, i.e. self-discipline. The same dynamic at play in this exercise of 'internalizing the judge' is observable in ex-offenders internalizing the negativity tied up in their own stigmatization and marginalization. Mak and Cheung (2010) identify three components to this process, namely 'self-stigmatizing cognitions' (feelings such as being less worthy than others), 'self-stigmatizing affect' (shame) and 'self-stigmatizing behaviors' (suspicion and forestalling interaction with others).

This theoretical (genealogical) trajectory on having created a form of 'subjectivisation,' as far as ex-offenders are concerned, finds empirical support in Weiss's (1998: 428-429) conclusion, after his surveying of reports on prisons around the globe, whereby he detects a

> [g]rowing pattern of declining liberality and growing intolerance [which] is unmistakably the most outstanding feature of world penal systems and this repressive policy derives from a common overarching reality: Prisons throughout the world are expected to manage a rapidly increasing "surplus population."

'Surplus population' refers to the growing numbers of the unemployed, unemployable (read: ex-prisoners) and underemployed (Kennedy 2004: 239-245, 299-300; Bosworth 2010: 94, 126-144, 149-150; Carlen 2005: 422 and the sources cited there). In a word, the unentitled, the unprivileged and the poor are caught at the wrong end of the stick in an unrelenting global economic system (Rossouw 2006: 1, 14-15, cited in Olivier 2011: 31). The famous prison abolitionist Angela Davis (2003: 16) is alive to this idea and refers to the role of the prison in deindustrialization drives as "a black hole into which the detritus of contemporary capitalism is deposited." Both Thomas Piketty (2014) and Sampie Terreblanche (2014) argue that in the 21st century the divide between rich and poor will continue to deepen exponentially and that without government intervention, which has failed miserably in the South African context despite the ruling party's election mandate (Terreblanche 2002), this divide is unlikely to correct itself. In a postcolonial context, Mary

Bosworth (2010: 15-16, 35-37) and Angela Davis (2003: 29-36) unearth a profound rationale for the prison, an institution with unmistakable Western roots (as Foucault [1975/1991] so brilliantly demonstrated), namely that slavery has reinvented itself as the prison to solve the American South's labour problems after the Civil War.

Like Dostoyevsky discovered a century and a half before Irwin, prisoners are just normal, fallible human beings (Irwin 2005: ix). Uggen, Manza and Behrens (2004: 262, 278, 285) suggest that the impact of stigma on ex-offenders in the United States has ironically resulted in most (especially first-time) offenders hoping and dreaming of integration upon release, but that this anticipation is based on unrealistic, idealized expectations. This applies with equal force to the societal management of stigma which, as the authors observe, falls far short of encouraging homecoming (*ibid*.). There is probably no reason why the same is not true for most first time offenders released from South African prisons. Uggen, Manza and Behrens (2004: 277) note that their respondents express resentment at their post-release treatment and their findings illustrate the loss of the tremendous potential of integration for desistence and rehabilitation.

> The bitterness underlying these comments shows the flip side of the power of community reintegration: when stigma and rejection are the dominant experience, the potentially restorative benefits of civic participation are lost.

One is tempted to ask if any Tom, Dick and Harry (by stigmatizing behaviour towards ex-offenders) is mandated to extend the court-imposed sentence duly served. Uggen and his team found that since most ex-offenders have had a stunted developmental trajectory (262), an integrative path that encompasses family, employment and civil responsibility is likely to yield the most sustaining results (Uggen, Manza and Behrens 2004: 260). They conclude that "avenues of participation that reinforces [sic] citizenship" (i.e. socioeconomic, familial and civic reintegration) in a responsible and supportive way, are bound to reinforce patterns of desistance. This argument ties in with Braithwaite's insistence that social capital is an essential stepping stone for reintegration theory and practice. Farrall (2004) confirms the conceptual link between desistence and social capital with his contention that the pursuance of human capital (skills and knowledge), as is the case with most intervention programmes, should be supplemented by interventions to build and secure social capital. Without legitimate employment opportunities (severely limited by imprisonment stigma), there is little chance that ex-offenders will have the confidence and inclination to foster social capital with family and community (and even less chance of having such gestures reciprocated). I critique Uggen, Manza and Behrens, and Farrall, for being insufficiently appreciative of the enormous impact of the vested interests ensconced in the prison-industrial-complex on well-intentioned interventions. But I acknowledge the value of social capital in the context of the Foucaultian concept of the 'care of the self' (in the form of trust, for example, explored in Chapter Five, Part Two) for

the potential of social and economic integration. Maruna (2001) suggests that stigma is an important consideration in view of the pivotal notion of "identity deconstruction" likely to harm the ideal of sustainable desistance. Schneider and McKim (2003) concur with this view. They argue that stigma is an acute presence surrounding ex-offenders, and hindering their integration.

Lukas Muntingh (2002: 22) acknowledges the impact of stigma on the vital need of the integration of ex-offenders and he argues that "[t]he reality is, however, that ex prisoners continue to suffer from social and economic exclusion — a reflection of society's belief that those who have offended or been imprisoned cannot be part of 'good' society again." Chen (2004) is at pains to point out the dangers of a mode of societal intercession that transforms shame into stigma. This is nothing new as Braithwaite had already identified this result in the vengeful and unforgiving management of shame two decades earlier. Most ex-offenders condemn their stigmatizing status or label as "invisible punishment" (Henderson 2005: 1240) and consider it "a scarlet letter, leaving them permanently marked or 'branded'" (Uggen, Manza and Behrens 2004: 280) which goes well beyond their court-imposed prison sentence. As ex-offenders expect discrimination and marginalization, these anticipations lead to anti-social behaviour, notably avoidance and concealment (Harding 2003; Winnick and Bodkin 2008). By internalizing these negative perceptions, ex-offenders position themselves as 'outsiders' (Uggen, Manza and Behrens 2004: 280; Winnick and Bodkin 2008). This confirms Becker's insight (observed above) on the political power of labeling to exclude and marginalize.

Amanda Dissel (2008: 172), also writing from a South African perspective, acknowledges the challenges which stigma poses in the lives of ex-offenders, especially on employment opportunities. She notes that rehabilitation can begin during incarceration but admits that it is not an ideal venue for that sort of intervention (Dissel 2008: 156, 175). She argues that integration and rehabilitation of ex-offenders is synonymous (*ibid.*), but her observation of the incredible impact which the introduction of self-management programmes (yoga and meditation) in Senegalese prisons had on recidivism rates (Dissel 2008: 177n14) contradicts the conflation of the two terms. I will return to this theme in Chapter Five Part Two. My critique of her contribution to the debate is that she does not appreciate the role that vested interests play in the perpetuation of incarceration (from the perspective of the profit incentive). Vested interests have skewed the understanding of the maintenance of both high re-offending rates and the construction of ex-offenders as a stigmatized and marginalized group. Dissel also uncritically views reintegration as a desired objective in the rehabilitation drive, a notion I question below. Her highlighting of the success of open prisons (sites surrounded by a single thin demarcating fence) in Mauritius and Mozambique (*ibid.:* 169-170) and the value of restorative justice (*ibid.:* 172, 174) in an African context, as opposed to retributive justice, are informative and valuable. As is

generally well-known, equalitarian countries in the global North, notably Finland and Norway, have also experimented successfully with 'open' prisons. Samuels (2010: 3, 15), writing from the perspective of a chaplain employed by the South African Department of Correctional Services in the Western Cape, has no qualms about the claim that stigma is a serious hindrance to integration.

John Muncie (2010: 142) argues that "the stereotyping of them [ex-offenders] as 'spoiled' precludes their ability to return to the mainstream." This cementing of the master status encourages the onset of a criminal or deviant career path. For example, Benson and co-researchers (2011) state that their stigmatization came as a shock to returning adult male ex-offenders, as the expectation was that they would be re-absorbed back into society after having served their sentences. Michelle Alexander (2012) contends that stigma is an emasculating and debilitating experience in the lives of released ex-offenders, and serves as a particularly effective weapon aimed at keeping African Americans in their place as second class citizens. Picking up on the debate in criminology in the 1970s on the rationalization and justification for stigma, which Preben Wolf refers to (above), Chui and Cheng (2013: 673) suggest that opinion is still divided between those scholars who defend stigma as a deterrent (Grasmick *et al.* 1991; Kobayashi *et al.* 2001; Kobayashi and Kerbo 2012) and those who argue that it hurts ex-offenders in unjustifiable ways and almost certainly feeds into re-offending patterns (Vagg 1998; Chen 2004; Funk 2004). Chui and Cheng (*ibid.*) conclude their study with the observation that "[e]xamining the stigma of returning prisoners is therefore vital for both researchers and policymakers." In the South African context, it has been found that ex-offenders released into the community are generally regarded as stereotypically unreliable and dishonest, and integration is resisted since the ex-offender is stigmatized as an irredeemable criminal (Kwela 2014).

Finally, Siyanda Mtulu (private communication, 28 April 2016), the CEO of Inqugu Development Trust, a Cape Town NGO focused on assisting ex-offenders with employment and reintegration initiatives, confirmed the views of the scholars noted above that stigma, above all else, is the reason why this group remain on the periphery of society after release. Many, if not most ex-offenders, according to him, are homeless and certainly unemployed. Why is it perceived as a problem to allow ex-prisoners and their families the opportunity to rebuild their shattered lives? I argue that this is not an insignificant consideration in view of the often devastating effects of secondary stigma attached to 'loved ones' (Murray 2007). Maltz (2001) observes the importance of a stable home (i.e. reintegration) in forestalling recidivism (implying failed resettlement). Mtulu's contention confirms the conclusion of Uggen, Manza and Behrens (2004: 285) that the communal management of stigma is woefully inadequate. They argue that "[a]n important remaining question for research and policy concerns the societal management of stigma." In Chapter Three I argue that darker forces are at play in the imperative to oppress ex-offenders and to ensure that they remain

a marginalized group. This argument is constructed around the notion of the vested interests that prison abolition activists have identified as perpetuating the prison-industrial-complex.

Japan and the PRC as communitarian societies: the rationale

But a different reality is possible. Dutton and Xu (1998: 322), writing at the turn of the century, observe that the Peoples' Republic of China (PRC), despite increasing Westernization and the economic opening-up of said nation in 1979, still has "by Western standards, very low crime and recidivism rates". These rates average between a negligible 6% to 8%! – as I note above – although the PRC has a high rate of imprisonment for the Far Eastern region. Of particular interest is the fact that contemporary Chinese society shows no signs of stigmatization towards returning prisoners upon their release from prison. The exception to this observation is Hong Kong, which only recently returned to China, and continues to evince a pre-Maoist traditional Chinese and British postcolonial prejudice towards deviance. Braithwaite (1989: 61) argues that Western penal practice results in the "uncoupling of shame and punishment." By contrast, with the West, Japan has the lowest crime rate in the global North. Chui and Cheng (2013: 675) remark that "Japan, like China, has a collectivistic culture that places a high value on how others regard one's actions." This is another way of saying that both Japan and the PRC have integrative shaming cultures. Japan has one of East Asia's lowest imprisonment rates (estimated at 58 per 100,000); Hong Kong has one of the highest at 141 per 100,000. Japan's rate of imprisonment is well below that of Mainland China (122 per 100,000). South Korea demonstrates average levels at 94 per 100,000, while Macau, another special administrative region of China (as is Hong Kong), appears to have the highest at 170 per 100,000 (Walmsley 2010).

This said, it needs to be added that there are signs that former prejudices against ex-offenders may be resurfacing in certain geographical areas in the PRC (coming full-circle, so to speak) – perhaps under the pressure of globalization, as I suggest in Chapter Four.

Why China and not an African community?

Why China and not an African community with values closer to that of post-apartheid South Africa? On this point I take my counsel from Umberto Eco's (1977/2015: 8) advice that students should be encouraged to "write a thesis that [they] are able to write." Writing a thesis on China and its rehabilitative potential for South Africa is possible for me and also appeals greatly to me. As I note in Chapter One, I had the opportunity to live in a Chinese community for a number of years and as a result, I had first-hand experience to observe and study an integrative shaming culture in person. To study a foreign African culture about which I know little or nothing, would have detracted from the objective and would have been close to impossible for me. The objection that contemporary South African

culture is very different from Chinese culture, makes the prospect even more appealing to me. From a trans-disciplinary perspective, I am reminded that the idea of a general theory of evolution (which includes humans, animals, plants and landmasses) began germinating in Darwin's mind after he discovered seashells on the summit of a mountain after an earthquake in Chile in South America (Morehead 1971). Studying rehabilitation practices in contemporary Chinese culture very far removed from our own, as a radically different way of being, is likely to produce striking insights and profound innovations *precisely* because, as the analogous example of Darwin shows, it is so very different from our own well-trodden ways of doing and thinking. An African culture closer to our own would not have delivered the same outstanding results because only great differences and distance (as in the case of Chinese culture) could do so. Said in another way, it is unlikely that Darwin could or would have produced his seminal text *On the Origin of Species* had he not joined the five-year-round-the-world-trip as a naturalist on the vessel the Beagle and experienced and observed such a vast number of greatly disparate, both animate and inanimate, specimens of evolution (as is generally well-known).

Despite my choice of Chinese over African society having been a pragmatic one, Chinese statistics on desistence during the period in question are clearly impressive. Most correctional criminologists, however, as I note above, are firmly of the conviction that rising recidivism is plainly a sufficient motivation for designing strategies to effect the proposed reintegration among ex-offenders. I do, nevertheless, intend to problematize this assumption (taking my cue from Alexander) and I also want to advise caution against adopting a strictly pragmatic approach to the phenomenon of managing this sub-class of 'untouchables' in the post-modern world.

Delimitations

To this end, it is one of my research objectives (as I indicate below) to transplant an idea from contemporary Chinese culture onto South African soil and adapt it for local implementation. In particular, I aim to trace the 'quasi-transcendental' conditions (explored in Chapter Two, Part Two, Chapter Three and Chapter Five) that would make such a move possible. Maruna (2011: 4) is alive to 'the cross-cultural enigma of stigma' and observes that "[Countries in the West] are particularly bad at reintegrating and re-accepting individuals who have committed offenses back into wider society." In the well-formulated words of Marx (1844/1983: 95) "Reason always exists but not always in rational form". In view of the limited impact of rehabilitation interventions and the neo-liberal grip on global penal policy (private prisons, outsourcing of services, political rhetoric on harsher imprisonment options [Cavadino and Dignan 2006]), such a cross-cultural approach seems eminently feasible.

Against the background of this thorough literature review, I argue that a clear gap in the extant knowledge on the reintegration of ex-offenders in individualistic, capitalist societies (which include South Africa and the United States) has been demonstrated. In view of Braithwaite's paradigmatic distinction between integrative and stigmatizing shaming cultures (defined in Chapter Four), I propose that this 'gap' is essentially centred around the issue of the stigmatization and marginalization of ex-offenders, which leads to their inevitable social and economic exclusion from society. Adorjan and Chui (2014: 110), in their review of scholarly sources both from the Orient and the Occident, suggest that, allowing for cultural variations, the reasons for failed integration are the same. Other variables including drug addiction, gangsterism and the effects of prisonization, etc., are largely the inevitable effects of such stigmatization (since it leads to subculture enculturation or social isolation), or the necessary by-products of institutionalization, although I can think of many exceptions. But for the most part, either stigma or integration, as Braithwaite correctly argues, is the paradigmatic feature of the societal response to crime. In individualistic societies it is the former response while in communitarian societies it is the latter response. By way of illustration, Adorjan and Chui demonstrate convincingly that, in the context of Hong Kong, drug abuse and addiction, unemployment or lack of employment opportunities, weak social bonds and relative deprivation (2014: 99, 106, 108-10) are the direct or indirect result of stigmatization, discrimination and marginalization. Although the authors themselves do not draw this conclusion and list stigma as only one of many factors (2014: 110-111) that contribute to detraction from a path of desistance, I argue that, in the light of Braithwaite's incisive analysis of the societal management of shame, these factors are for the most part the by-products of a stigmatizing shaming culture. Many studies (notably: Travis, Solomon and Waul 2001; Social Exclusion Unit 2002; Liebling and Maruna 2005) propose the same sort of 'package deal' argument, but I suggest that their focus is wrong for the reasons advanced above. Since rehabilitation and reintegration initiatives have been found to have a limited impact and ex-offenders, at any rate, are critical or dismissive of their value, my idea is, taking my cue from Braithwaite's study of Japan (as I note below), to investigate and enquire what we may learn from the PRC on this score. Cross-cultural learning in criminology is not a new idea and has impressive precedents.

Comparative penology's justification

Durkheim insisted in *The Rules of the Sociological Method* (1895/1982) that comparative, cross-cultural sociology should not be a specialized branch of sociology, but should in fact be considered the prerogative of all sociology. Peter Winch (1964: 317), as I note in the next chapter, in the context of Habermas's notion of rational reconstruction, proposes that the study of foreign cultures is certain to enrich our own. Indeed, my aim in considering the historical course of criminal justice in the PRC is precisely to fathom the possibility of an

alternative developmental trajectory (Weiss 1998: 460) to that of incarceration. Imprisonment as the dominant paradigm in sentencing has, following the American model, become uncoupled from meaningful rehabilitation in post-apartheid South Africa (Davis 2003: 40, 43; Muntingh 2008). In a similar vein, Allen (1992: 85) contends:

> It is the author's conviction that the process of looking at other systems provides us with an opportunity to evaluate and understand our own system. It gives us a perspective that is difficult to gain from within our own system. It was with the view of learning from the Chinese what characteristics of their corrections program would be transferable to the West that the author participated in a criminal justice delegation [to the PRC, CL].

It is with a similar vision to Allen's that I approach my project of attempting to discover what could sensibly be transferred from the PRC to post-apartheid South Africa (in terms of their integrative, rather than stigmatizing, shaming practices). Based on my transplantation of selected Chinese penal ideas (a cultural intervention) in Chapter Five, Part One, I make suggestions for improved penal practice in South Africa in Chapter Six.

From a theoretical point of view, four schools of thought emerged over the past century to explain deviance or crime (although the two terms are obviously not synonymous) in capitalist societies. As I note above, not all schools in criminology bother with sociological perspectives on crime and deviance, but as I aim to consider as wide and inclusive a view as possible, I include such a brief overview.

Sociological understanding of deviance or crime

Giddens (2001: 205) identifies four approaches in criminology that have contributed to our understanding of deviance or crime. These are functionalist, interactionist, conflict, and control theories, which I traverse below. I will indicate Braithwaite's (1989) critique to each approach as this leads up to his own general theory of crime, namely 'integrative shaming', which is central to my own theoretical perspective.

Giddens (2001: 207) suggests that functionalist theories consider crime and deviance to be the result of structural tension or a breakdown in moral values within a particular society. In his essay, *The Division of Labour in Society* (1893/1984), Durkheim postulates that the disintegration of social bonds in a community leads to loss of social cohesion and the resultant normlessness which guides behaviour. Durkheim called this form of societal change 'anomie'. Building on Durkheim's idea of anomie, Merton (1957) argues that in capitalist societies, the primary social goal is almost exclusively economic symbols of affluence, epitomized in the globalized idea of the 'American dream'. Marginalized and stigmatized groups, as Kratcoski and Kratcoski (1990: 54) show, are excluded from these legitimate paths as a way to reach these beloved goals and, considering the desired nature

of these objectives, such individuals might seek access to these resources through illegitimate ways. Lauer (1995: 19) proposes the notion that every society establishes clear priorities and values, and definite paths, or 'certain legitimate means', to achieving such goals. Two well-known theories in this school of thought are strain theory and relative deprivation, theories I briefly explore in Chapter Three, but as the names indicate, are premised on the idea of a functional society. My critique of capitalism and the propagation of the idea of a caring society in Chapter Two Part One, however, is a continuation of the opposing idea that the 'selfish society', to use the word coined by Sue Gerhardt, is premised on unbridled capitalism being a dysfunctional society. Braithwaite (1989: 38-43) is generally sympathetic towards a functionalist approach, as he contends that large tracts of society are in agreement regarding the fundamental norms on which the terms of the criminal law are fashioned. Clearly, integrative shaming as a crime management tool demands such a view. Critical Theory's insistence on the resolution of so-called 'social pathologies' (such as the integration of marginalized groups into mainstream society) shares such an ideological commitment to a fundamentally healthy society. An alternative view is represented by conflict theory, discussed below. Ruth First (1965/2006: 8), Joe Slovo's famous partner, highlights the latter idea beautifully in her memoir of her ninety day detention without trial during the heyday of South Africa's apartheid past. Held in solitary confinement in one of Johannesburg's inner-city police stations, she recalls that "[i]t was Friday night, police-raid night. Pickup vans and *kwela-kwelas*, policemen in uniform, detectives in plain clothes were combing locations and hostels, backyards and shebeens to clean the city of 'crime,' and the doors of Marshall Square stood wide open to receive the haul of the dragnet." The idea of conventional 'crime', as she suggests, is almost bizarre in the abnormal society presented by apartheid South Africa. The same is true of the idea of integrating ex-offenders in a post-apartheid South Africa ruled by gangsters, as I indicated above. My own view is that capitalist society, and this includes post-apartheid South Africa haunted by a shadow state, is terminally sick and these pathologies are symptoms of a decaying organism.

The interactionist approach attempts to understand how "deviance or crime" came to be "a socially constructed phenomenon" (Giddens, 2001:209). This section bears some regrettable but unavoidable repetition with the section on labeling or stigma (above). How did it happen that certain groups have been defined as deviant? I consider this social and political construction of subjectivities in Chapter Five, Part Two in the context of my justifying Foucault's concept of 'the care of the self.' Haralambos and Holborn (1991: 610) have built on these insights and they are interested in the interaction between so-called 'deviants' and those doing the defining. In particular, what the interactionist perspective values is grasping how naming individuals as deviants impacts on their functioning and future prospects (as I observed above). Giddens (2001: 209) contends that labeling theory is one of the most fructuous theoretical underpinnings of the interactionist approach in the

understanding of deviance. Building on the work of Durkheim, sociologists such as Becker and Stanley Cohen have explored the idea that marginalized groups do not fall from thin air but are socially constructed. Robert K. Merton (1948), one of the foremost scholars on labeling theory, coined the term 'the self-fulfilling prophecy' in his famous paper by the same title as a way to explain how labeling works in actual day-to-day practice. He defines the term as "a false definition of the situation evoking a new behavior which makes the originally false conception come true" (Merton 1948: 195). I argue that labeling has this quality of a self-fulfilling prophecy when applied to ex-offenders. Ex-offenders are excluded from legitimate opportunities and, as a result, access resources through illegitimate avenues. To some extent, there is overlap with the functionalist approach (above) which proves Braithwaite's (1989: 50-53) argument that a general theory of crime is possible by combining the strengths of these various theoretical initiatives. Are we surprised that ex-offenders are returned to prison as recidivists who have not learned their lesson from previous brushes with the law? No, of course not. They have proven themselves to be unreliable. I make these remarks tongue in cheek as these observations show the power of labeling. At least one of Merton's students, Howard Becker, has extended Merton's work on labeling to theorize subculture. Becker (1963) advances the conceptual understanding of how the production of subcultures is strengthened by the infusion of new blood, which is secured by the allocation of a criminal master status to would-be re-offenders. Once this "master status" trait is successfully applied, it overrides all the other character traits of the individual in question. Becker's (1963: 9) view of the dynamics of labeling is crucial in understanding the nature of deviance: "Social groups create deviance by making the rules whose infraction constitutes deviance, and by applying those rules to particular people and labeling them as 'outsiders'". According to Becker, it is not the nature of the behaviour itself that is at stake in the labeling process, but rather an arbitrary application of a set of rules and values that create the offender label. By way of illustration, I explore the question in Chapter Three, based on a Marxist reading of crime in capitalist societies, of why the poor are demonized as 'criminogenic' (for essentially the commission of petty crime) while rich industrialists, such as the Koch brothers, can evade criminal justice while contributing to climate change for their own enrichment. From the point of view of the wealthy and powerful, labeling serves as an effective ideological tool, as I argue in Chapter Three, in diverting attention away from the 'getting rich' schemes of the well-heeled. Once people have been judged and labeled, it stands to reason that they are unlikely to be afforded the acceptance and status they once enjoyed in that society. This perspective also feeds into postcolonial theory and its explanatory value of the effect of hegemonic discourse on marginalized peoples and voices (Seremani and Clegg 2016: 171).

Postcolonial theory is constructed as a critique of the enduring legacy of colonialism in the development practices and ideologies of so-called Third World peoples (Phillips 2011: 157; Botella-Ordinas 2013), but it is also a powerful theoretical lens to understand the

oppressive practices of stigmatizing and marginalizing groups within society. By portraying and labeling marginalized peoples as backward and in need of guidance (Said 1978/1995: 48, 57; Claeyé 2012: 161; McEwan 2014: 137) this representation justifies the ideology of their ongoing 'development'. Sherry (2008: 654) points out that the value of postcolonial theory lies in its ability to make disappeared voices and narratives visible. It aims to resurrect the meaning-making of the marginalized by "producing a liberatory, transformative subjectivity in an oppressed or marginalised group whilst at the same time producing useful knowledge of that group and those who work in support of them" (Phillips 2011: 165). It is accordingly necessary to be self-reflexive throughout the research process.

Braithwaite (1989: 20, 26-27) is not averse to the merits of labeling and subculture theories, but he is skeptical of the idea that social conditioning should determine ex-offenders' choices absolutely. I agree with him on this point as there would otherwise be no point in intervention efforts of any sort. For Braithwaite, the ideas that stigmatization is "counterproductive" and "criminogenic labeling" (1989: 20) are essential since this is the premise on which he constructs his theory of integrative shaming. My own view is that the distinction between stigmatizing and integrative shaming cultural practices are crucial to understanding the challenges faced by ex-offenders to rehabilitation, recidivism and the possibilities of reintegration into the wider community. To this I might add the entitlement of the power to stigmatize and the political and economical undertones which that entails. Without the labeling perspective, this essential politicizing move would be impossible (Muncie 2010). Postcolonial, labeling and subculture theories will accordingly be used to attain a deeper understanding of the process of labeling and the presentation of the voiceless or marginalized.

A Conflict Theory approach to deviance and crime is essentially a Marxist view of crime in capitalist societies. While certain members of society claim exclusive ownership and control of the means of production, conflict between the haves and the have-nots is inevitable. According to this view, only a Marxist perspective can adequately address the class conflict inherent in the dichotomy between power and deviance. This school of thought in criminology has produced impressive scholars (Haralambos and Holborn 1991: 623), notably William Chambliss, Sutherland, Anthony Quinney and Jeffrey Reiman. I engage these scholars in Chapter Three. Horton and Hunt (1984: 176) differentiate between cultural and class conflict theory. Whereas cultural conflict is the result of a clash between different subcultures' norms or cultural values, class conflict is the consequence of a conflict of economic interests. In the words of Horton and Hunt (*ibid.*), "[d]eviation will continue as long as class inequalities and class exploitation continue." In Chapter Three I rely extensively on this perspective to explore the phenomenon of the prison-industrial-complex in capitalist societies, including South Africa. In Chapter Four I explore a penal

system based on a socialist understanding of criminal law and crime in a particular society, namely the PRC. Dependency theory feeds well into the Conflict perspective. The former is a way to grasp "historically embedded, political-economic" relations between states on the periphery of the global economy and rich industrialized countries of the global North (Conway and Heynen 2014: 177). Said in another way, dependency theory propounds the idea that aggressive neo-liberal capitalism (a term explained in Chapter Five, Part One) is the very reason why the phenomenon of 'underdeveloped', as opposed to 'developed', countries is with us in the first place. Willis (2005: 45) argues that "the core industrialised countries were experiencing growth and economic development through the exploitation of the non-industrialised peripheral countries". Unequal power relations are at the root of the core/periphery dichotomy which feeds poverty and disempowerment. Braithwaite (1989: 40-41) is not sympathetic towards a conflict perspective since it clashes with his adherence to functionalism, noted above. McLaughlin (2010: 169), however, proposes that the idea that conflict drives "contemporary society mean[s] that the need for an agenda-setting Critical Criminological perspective [as it is known in the UK, CL] has never been greater." In my view, as I argue in Chapter Three, such a view is essential to understand, to a large extent in any event, the phenomenon of crime in 'selfish' societies. Dependency theory and a Marxist reading of crime in capitalist societies will accordingly be employed to gain a richer and fuller appreciation of stigmatization and marginalization in the context of the neo-liberal capitalist drive.

Finally, the control approach to crime and deviance is based on the idea that there should be no need for well-adjusted individuals in a fair society to revert to criminal behaviour. The social and psychological restrains on would-be criminals are often disregarded when the opportunity for self-enrichment presents itself. In Chapter Five, Part One, I refer to two studies which have showed convincingly how strong the "pull" of opportunity is on opportunistic behavioural patterns. Control theory is interested in the question of why this happens. Giddens (2001: 213) argues that control theories are premised on the view of an imbalance between internalized controls and urges towards criminal or anti-social conduct. Despite a tendency toward rational behaviour, given the opportunity, "situational decisions" would tempt many people to indulge in bad conduct. Horton and Hunt (1984: 177) contend that "...control theorists assume that people conform to the dominant values, because of both inner and outer controls." The former refers to internalized values and the latter to external rewards or sanctions for conformity to social expectations or the lack thereof. Control theorists such as Hirschi (1969: 11), as I note in Chapter Four, place emphasis on the link between the strength of social bonds between individuals and conventional society, and proposes that the tendency to deviate from social norms, values and expectations occurs when commitment to these bonds become compromised or flounder. Horton and Hunt (1984: 177) note a number of studies which have confirmed this presumed link. This theory has accordingly little interest with motivation as a cause for

crime and deviance. Learning theory is another theoretical design which may fit the control approach to crime and deviance. According to Sutherland and Cressey's (1978: 81) 'differential association' formulation of learning theory (perhaps the most influential 'control' theory), the potential delinquent weighs up all the linguistic constructs for and against transgression before she or he makes a decision to break the rules. I propose that such 'weighing up' takes place either consciously or unconsciously. Burgess and Akers (1966: 137) suggest that "[c]riminal behavior is learned according to the principles of operant conditioning." As is generally well-known, 'operant conditioning' is a term introduced by the famous behavioural psychologist B.F. Skinner (1958, 1972) to explain how positive reinforcement leads to exponentially enhanced conduct. Finally, Wilson and Herrnstein (1985) differ from their understanding of learning theory with their contention that learning depends on both classical and operant conditioning. Crime is a choice but a guilty conscience still hearkens back to classical conditioning. I consider the control approach to crime and deviance valuable, as does Braithwaite (1989: 31), as it explains to a great extent the reasons, as I argue in Chapter Four, for communitarian societies such as the PRC and Japan being so successful in having curbed recidivism through the sustainable reintegration of returning ex-offenders.

Braithwaite (1989, 1995), in his critique of the major traditions in Western criminology, contends that his own theory, integrative shaming, is superior to all these traditions, understood as a grand theory incorporating the significant insights of these traditions. In his latter contribution, he argues that the idea of integrative shaming needs to be supplemented by pride as a motor that drives social movements. As such, Braithwaite's theory of integrative shaming should rightly occupy the place as a fifth approach to explain crime and deviance in selfish societies.

My having explored the theoretical perspectives on deviance and crime was in order to systematically and conceptually enquire as to how the phenomenon of stigma itself is to be explained. I suggest the following four reasons for the existence of stigma, specifically in the lives of ex-offenders.

Explanations for stigma

Firstly, a major reason for their exclusion from society is found in Frank's (1991) argument, which he advanced to explain the rationale for the 'underdevelopment of the development of the third world.' His point is that regions such as Africa are neglected precisely because development is concentrated in other favoured spots of the world economy. By analogy, if certain groups can be excluded in advance from the official economy, be it on irrational grounds, it would improve the chances and opportunities of others already in the run for privilege and opportunity.

Secondly, Melvin Lerner has shown in a range of studies since the early 1960s that the 'Just World' hypothesis is based on the idea that most people believe that others get what they deserve, be it good or bad. Lerner (1980) argues that people uncritically value their conviction in a safe, stable and orderly world. The hypothetical 'contract' which each of us has in place with the world dictates that good deeds will be rewarded with their just deserts while the unfortunate must necessarily have done something bad or evil to justify their station in life. When 'bad things' happen we console ourselves with the thought that 'what goes around comes around' or, in the face of some calamity, with the saying that 'it is all part of God's plan.' This fundamental belief in a 'Just World' has been used to demonize the poor or, infamously, to justify victim-blaming (Lerner and Montada 1998). Furnham (1993) has proposed the view that those inhabitants of developing countries in the Third World, because of their perceived lack of power to influence events, have displayed a weaker attachment to the idea that the world is essentially fair and predictable. Respondents that leaned toward right-wing authoritarianism (Lambert, Burroughs and Nguyen 1999), a hard-working work-ethic (Furnham and Procter 1989) or some form of fundamentalist religiosity (Begue 2002; Kurst, Bjorck and Tan 2000), were found to be more likely to adhere to a 'Just World' belief system. This "self-serving bias" (Linden and Maercker 2011) in the belief in a just world, and Frank's argument that less development for the Third World means more for the global North, find confirmation in two other explanations of stigma: those of Goffman (1963/1990) and Robert Johnson (2005: 273).

Thirdly, Goffman (1963/1990: 145-146) tenders the view that stigma is an effective way to exclude the marginalized from the competition for resources, as stigma disastrously circumscribes their life chances and prospects.

Finally, Johnson contends that prisoners can be made to "validate our choices" since our misery can be exponentially extended to make theirs' so much more despairing. The same reasoning applies to ex-offenders after release. Due to the irrational motivation for stigmatization, I conclude that stigma is essentially rooted in what Linden and Maercker (2011) refers to as a "self-serving bias." According to Nagel (2008: 68), offenders and released ex-offenders are "some of society's most marginalized people." This observation is confirmed by the research findings of Jones Young and Powell (2015) which are that ex-offenders' are a 'highly stigmatized population'. These astute observations are mirrored in research conducted in the Orient, especially in communities (such as postcolonial Hong Kong) where wealth and success are the "measure of all worth" (Mathews and Lui 2001: 10). Adorjan and Chui (2014: 99) remark that "Those at the bottom of the social class ladder, which naturally include many ex-prisoners, thus experience great challenges to simply getting by on a daily basis, let alone extricating themselves from a criminogenic past." These observations apply with equal or greater force in capitalist societies around

the globe, including South Africa which is considered to be one of the most unequal societies in the world, as I argue in Chapter Three.

Marginalization and stigmatization

These four rationalizations for the phenomenon of stigma find uncanny endorsement in Foucault's work on the birth of the prison. Foucault (1975/1991) has argued that the transition from public spectacle to a 'gentler' punishment in the form of incarceration, is part and parcel of a modern movement to create a 'carceral' society in which populations are disciplined. Hence it is striking how similar the architecture of schools, hospitals and prisons are to each other. Foucault identifies three ways in which the micro-management of the body of the prisoner (though this applies to all populations under observation) is subjected to disciplining to produce a 'docile' and compliant subject. I find Foucault's observation, in contrast, tantalizing since in my review of the literature, I have identified the presence of agency (as I consider the topic in Chapter Three) in the ex-offender as being one of the seminal features that enable long-term sustainable desistance. Against the background of Foucault's thesis exploring the rationale for the 'carceral' society and the resultant disciplining of the body, I attempt to authorize my own theoretical position.

Authorizing my own theoretical position

Against the theoretical perspectives emerging from my review of the literature, I authorize or vindicate' my own theoretical position as a qualified agreement with Braithwaite on the explanatory value of functionalist/control approaches to crime and deviance. I intend to introduce complexity into the assumptions that underlie these theoretical considerations and problematize these critical positions in Chapter Five. Although Braithwaite is correct to hypothesize that (based on consensus) a large majority of the population wishes to see boundaries confirmed by the punishing or sanctioning of wayward behaviour, this is, in Marxist terms, to a certain extent, 'false consciousness', that is, ideological belief. As I demonstrate in Chapter Three, a conflict approach emphasizes the importance of delineating the salient features of the definition of crime in capitalist societies. I admit that my own position exhibits a tension between a Marxist reading of crime in capitalist society and the ideal of the integration of ex-offenders. The latter concept, as Julia and Herman Schwendinger (1970: 139-141) perceptively point out, is based on a functionalist understanding of society, which is clearly anathematic to a conflict perspective or a Marxist reading. Interactionalist theories (such as labeling and subculture) stress the self-defeating impetus of driving ex-offenders into outsider formations, while learning theory shows how criminal career paths are honed or fine-tuned. These ideological deformations evident in society, certainly in South African society, are the result of "systematic communicative distortions" (Habermas's [1970a] celebrated phrase). This line of thinking is also emphasized by certain members of the third generation of Critical Theorists (notably

Honneth, as I note above) on correcting 'social pathologies' which plays into this mindset. I contend that the prison-industrial-complex (a concept explained in Chapter Three) and the stigmatization and marginalization of ex-offenders are two such 'systematic communicative distortions', pre-empting a sensible solution to the indefensible propagation of the prison as first and foremost a business priority. Stigma, as I showed above, is an excellent 'revolving door' means or strategy of keeping the prison in business. I am in unqualified agreement with Martinson that crime is a 'normal' reaction or response to the conditions prevailing in an 'abnormal' society. This observation emphasizes the importance of reading Critical Theory side-by-side with Foucault because both focus on power, albeit from different vantage points. As for my approach to theory, I do not subscribe to the use of one thoroughgoing theoretical lens but, as I argue in Chapter Two, Part Two, to an eclectic use of theory, as is common in poststructuralist thought, as and how the situation demands.

For this reason, Honneth (1991) demonstrates that Foucault and Habermas can be put in productive conversation with one another, since both deal with power. He proposes two reasons for this. Firstly, Foucault's theory of power is an alternative to Habermas's transformation of the original programme of the early Frankfurt School into the communicative paradigm, and as such, Foucault's ideas represent a "negative radicalization of the Dialectics of Enlightenment" (Honneth 1991: xv). Secondly, since Foucault's theoretical impetus has its roots in Nietszche, Honneth (1991: xvi) hoped that a fruitful exchange between Habermas and Foucault might propel the former's understanding of society "beyond the framework in which it was previously located" so as to offer the possibility of "solving the basic problem" inherent in power relations. This is also what I aim for in my attempts to place Critical Theory and poststructuralism (two concepts explained in the next two chapters) in conversation with one another: the possibility exists of generating fresh and illuminating perspectives on the problem of power in late capitalist societies with specific reference to the sustainable reintegration of homecoming ex-offenders. In the final analysis, criminals cannot be allowed free reign to indulge their hedonistic behaviour at the expense of others,' but, and this is the crux of my argument, stigma is not the way to go. At this juncture, I consider Braithwaite's inter-cultural integrative shaming theory (as opposed to the trajectory to stigma) to be invaluable, and in the light of the importance of alternative social arrangements observable in other cultures, I intend to design an exploratory research engine (explored over the next two chapters) to investigate what we might learn from post-Mao China on the integration of ex-offenders. Finally, I disagree with Habermas's argument (noted above) that law is the most effective way to bring about the integration of marginalized groups (including that of ex-offenders). Instead, I am in agreement with Angela Davis (2003: 25), Braithwaite (1995: 289-294) and Naomi Klein (2015: 6-7) that social movements were, at least in part, responsible for the eradication of such social evils as slavery, lynching and segregation in the US. Klein adds

the example of the demise of apartheid in South Africa, which would have been unthinkable without a worldwide social movement. Braithwaite (1995: 297), conceding a criticism against an earlier argument of his, proposes that the pride in identity made possible by group solidarity is an important cohesive to consolidate the gains achieved through integrative shaming. To rephrase this consideration in the context of returning ex-offenders, Shere Hite (1988: 287) has queried why women who attempt to salvage failing relationships are labeled masochistic, rather than being applauded for their bravery and persistence. By analogy, I propose the question as to why ex-offenders and society at large cannot take pride in ex-offenders who sincerely rehabilitate and are able to re-integrate sustainably? As I note above, ex-offenders are a highly stigmatized group and accordingly pride in their identity as wayward members of society is not easily achievable. Against the background of my theoretical perspectives, I consider next my research question.

Research Question and five objectives

Accordingly, I formulate the following research question: How does one reintegrate returning ex-offenders into South Africa's stigmatizing shaming culture, considering what may be learned from the Chinese model?

In attempting to answer the question, I pursue five objectives, which are:

1. Developing tools to transplant the Chinese penological model from an integrative shaming culture onto South African soil;

2. Exploring the prison-industrial-complex critically to gauge its role and impact on sentencing practice;

3. Exploring Chinese penological practice and ideas;

4. Rationally reconstructing Chinese penological practice and ideas as well as rationally reconstructing South African society as a 'caring' community;

5. Developing home-grown remedies to fill the gap, if the transportation exercise proves to be only partially successful.

The first objective is addressed in Part Two of Chapter Two. The second is considered in Chapter Three and the third objective is pursued in Chapter Four. The fourth is explored in Chapters Three and Four and the fifth is considered and accomplished in Chapters Five and Six.

Ontology and epistemology

In view of the overtly political nature of criminological research, noted above, it is incumbent upon me to make my assumptions about the nature of reality (ontology) and

knowledge (epistemology) explicit. Making these assumptions explicit is important since it informs my choice of research paradigm and approach (Sumner and Tribe 2008: 53), as I noted above. My selection of methodologies and tools (explored in the next two chapters) will follow from these choices. From an epistemological viewpoint, I suggest that most studies in criminology (as analyzed above) propound knowledge from the point of view of 'case studies,' as Foucault (1975/1991: 184-192) indicates: knowledge generated in this way "constitute[s] the individual as effect and object of power, as effect and object of knowledge." My own view, following the proposal of John Irwin, is to acknowledge the value of 'emic' knowledge (Morris, Leung, Ames and Lickel 1999: 781), i.e. knowledge generated by insiders, namely ex-offenders or offenders, on their own terms. These bodies of knowledge are often obscured by the views of so-called experts. I explore the views of Convict Criminology in a later chapter. My own approach to this issue, based on my declared objective to be as inclusive as possible, is to strike a fair balance between emic knowledge and that of professionals in the field. I justify my approach on three grounds. Firstly, I am in agreement with the remark made by Roy King (2005: 131), a seasoned researcher on 'supermax' confinement, that "[i]t is a commonplace in the literature that prisoners have a profound sense of justice and fair play". Secondly, Habermas's (1970b: 75) contention is that participatory research (in which the respondents' views are deemed as valuable as that of the researcher herself) is in accordance with his views that experts should not speak for or on behalf of social actors, but that these actors should do so themselves. Thirdly, Adorjan and Chui (2014: 113) suggest that the views of other stakeholders (social workers, family members, prison wardens, etc.) are important in providing a context for the knowledge generated by ex-offenders, as opposed to "accessing a greater truth regarding reasons for desistance."

From an ontological point of view, two choices present themselves, namely objectivism and constructivism. While the former may be more at home in the natural sciences, where the notion of objective knowledge and reality still has a strong following, the latter considers phenomena in our social world as "only real in the sense that they are constructed ideas which are continually being reviewed and reworked by those involved in them through social interaction and reflection" (Matthews and Ross 2010: 25). Said in another way, social reality is 'contingent', that well-known Foucaultian expression, i.e. it could be different and it is in fact possible to structure a different world. There is nothing 'objective' or everlasting in the Western experience of social reality.

Situatedness

As noted above, Critical Criminology (as well as auto-ethnography) demands of me to be explicit regarding my own situatedness. I am a white, middle-aged male South African. I trained and practiced as a litigation lawyer and served a sentence in a South African prison for economic crimes. As an ex-offender, I have felt the pain and humiliation of stigma

resulting in social and economic exclusion and I harbour a burning anger over the wealthy and powerful (such as Zuma and Mugabe) who loot with impunity while imprisonment is designed and reserved for the small fish. I accordingly have a stake in this research project. Students with an investment in their research outcomes make for some of the best research, as Hart (2008: 222) points out.

Research paradigm and approach

My election of research paradigm and approach flows from my research aim and the delineation of my assumptions (noted above). I consider the other features of my research design, conceptual framework and research strategy, in the next chapter. Trafford and Leshem (2008: 94-97) identify four such paradigms (in broad, rather than narrowly social-scientific terms) – economic, developmental, social and micro-political – but this is not a closed list and other areas could be added, such as the macro-political. The former places emphasis on the optimal contributions that are expected from members to enable an organization to function in an economically productive manner, while the latter encourages members to become integrated and fully fledged. This latter (micro-political) paradigm insists on the value of counter-culture and an appreciation of the realities of local politics. A developmental or transformative paradigm entails either neo-liberal instrumentalist initiatives (a term explained in Chapter Five, Part One) or an understanding of helping people through nurturing and support to reach their optimal potential. In view of the challenges posed by reintegration (highlighted above) and the emancipatory aim of my project, I consider a cautiously optimistic transformative paradigm as the correct choice. As my study focuses on human development or well-being, a particular research paradigm aimed at transformation or development of human potential is an appropriate choice (Shannon-Baker 2016: 321). Shannon-Baker (2016) points out that a transformative paradigm does well with marginalized and minority groups and specifically aims to make the voiceless visible and heard. The researcher will do well to have an intimate 'insider' knowledge and understanding of the community concerned. As a result of my choice of paradigm, I intend to extend and develop the relevant theory.

My choice of research paradigm suggests either an inductive (qualitative) or deductive (quantitative) approach. The latter is recognized by structure and its aptitude of being depicted numerally, which means that the data are likely to be reliable and generalizable. The former approach explores experiential phenomena in order to understand these interpretively, and data would tend to be non-generalizable and contradictory (since we deal with humans who think and act differently from one another). Matthews and Ross (2010: 147) suggest that qualitative approaches aim for data "interpreted and structured by the researcher as part of the analytical process." Another way to understand the difference between these approaches is to think of an inductive approach as moving from an examination of the data to theoretical justification (grounded theory), while a deductive

approach allows the researcher to move from theory to data (Trafford and Leshem 2008: 98-99). A third approach is proposed by Timmermans and Tavory (2012), namely abduction, which combines the advantages of both inductive and deductive approaches. According to Timmermans and Tavory (2012: 170), abduction allows the well-read and theoretically astute researcher to engage with the data by way of an inferential creative process, and be receptive to surprise discoveries leading to 'abductive' insights or hypotheses with optimal explanatory value regarding relevant evidence. A drawback of deductive research is the fact that it forces the researcher to think and observe along well-trodden paths while inductive research hides the 'bigger picture' which obscures considerations of cause and effect. I consider abduction as fitting for the present project since it permits me to work from theory to data and data to theory, and as such is the most flexible of the three approaches to research. Whereas Adorjan and Chui (2014: 100) argue for a qualitative (inductive) approach, since it is "designed to elicit candid reflection", in my view this proposition is even more applicable to abduction as (arguably also a kind of qualitative) research approach, as it allows for the freedom, as I observed, to move to and fro between data and theory.

Before moving on to consider and develop my research design, methodologies and tools in greater detail over the next two chapters, I reflect on the irony that the great majority of those incarcerated in South Africa's growing prison-industrial-complex, is and remains black. It is ironic because the prison, as Angela Davis (2003: 42-43) points out, was designed to complement the white individualistic European developmental trajectory, and was transplanted to colonial grounds solely as an instrument of oppression to keep the natives in their place. Prison is business by any other means, to rephrase Clausewitz. In contrast, post-Marxist Critical Theory of society (in the sense of non-violent [r]evolution) and conflict theorists in criminology insist that change must be a rationally negotiated understanding, achievable within realistic time-frames so as to bring relief to afflicted groups as soon as possible, even if it is a temporary solution (Giddens 1985). In this chapter, I engage thoroughly with the literature so as to enable me to demonstrate the 'gap' in extant knowledge. Generating my own theoretical position enabled me to formulate my research question and the five accompanying objectives. Finally, in the memorable, albeit paraphrased, words of Žižek (2008), unless we can engage the ghosts of the past (returning ex-offenders) and lay them to rest (sustainable reintegration), we are bound to be haunted and plagued (rising recidivism) by so-called run-away levels of crime in a most uncanny fashion. Perhaps then Emma Goldman's words on society's presumed responsibility for crime, quoted at the beginning of this chapter, should ring true to some extent.

CHAPTER TWO: Part One

Primary Methodology and Research Design

My research question, explored in the previous chapter, is informed by the theoretical perspectives which emerged from my review of and engagement with the literature.

In this Chapter, I aim to critically outline my preferred primary methodology and to explain my research design explicitly. In the next chapter, Chapter Two Part Two, I explore my secondary research methodology and provide an overview of the 'nine research tools' I intend to employ (in Chapter Five) in transferring the Chinese nuggets collected in Chapter Four to home soil. My primary methodology, as I mentioned in the previous chapter, is critical theory in the tradition of the Frankfurt School and my secondary one is critical auto-ethnography. In making a valuable distinction between research methods, methodology and paradigm, Hurst (2004: 26) argues that

> Research methods, thus, are special procedures that are always underpinned by methodologies, which serve to justify them. One could say, for example that 'Being' is a paradigm, structuralism is a methodology within that paradigm, and structural analysis in its various forms is the method employed by structuralists. In the same paradigm of Being, Husserlian phenomenology is a methodology and his various 'phenomenological reductions' constitute the phenomenological method.

Hurst's attempt to link method and methodology with paradigm (a term I explained in the previous chapter) is a valuable heuristic tool to explain my own research decisions. Hurst's text appeals to me as it is also inclusive, as I argue below in the section on research tools. As for my justification for using Hurst's text, Bert Olivier, my doctoral promoter, recommended her book on research methodology to all his doctoral candidates. I have been unable to find any critical reviews but I do consider this source thought-provoking and, generally speaking, well written – although patches could do with proof editing. Her practice of using secondary sources, when the originals are presumably available, left a bit of a bad taste in my mouth. Nonetheless I consider it a handy guide to both novice and emerging researchers (such as myself) and it certainly delivers on its promise to leave the reader with more questions than answers. Finally, Hurst's latching on to the framework of John Caputo's breakdown of the hermeneutical enterprise – objectivist, participatory, critical and radical – in structuring her discussion of research methodologies in the social sciences (and presumably also the humanities), appears to be well advised. On the whole, Andrea Hurst's *Thinking about Research: Methodology and Hermeneutics in the Social Sciences* (2004) is a satisfying read, though demanding to the uninitiated (as it should be). As far as source criticism goes (in the sense of cultivating a taste for discernment among competing scholarly voices), I attempt to justify most of my important sources – i.e. those

that sustain the mainstay of my argument – with reference to published reviews. It is obviously not possible – nor desirable – for me to justify every single source. Generally, where I do not attempt to justify my source, the applicable paper appeared in a peer-reviewed journal (where anonymous reviewers act as strict gatekeepers) or otherwise the point is not contentious (or there is general agreement on its validity). The theoretical perspectives, for their part, generated my conceptual framework which I employ to structure my research design as it unfolds in this thesis (Trafford & Leshem, 2008: 43-44, 84-87).

1. Research Design and Conceptual Framework

Conceptual Framework

Miles and Huberman (1984: 33) understand a conceptual framework as "the current version of the researcher's map of the territory being investigated". Leshem & Trafford (2007: 95) comment on this widely cited definition by suggesting that Miles and Huberman's idea unites the notions of "purpose (boundaries) with flexibility (evolution) and coherence of the research (plan/analysis/conclusion) which all stem from conceptual frameworks". Berger and Patchener (1988: 156–159) argue that a conceptual framework should sensibly use theory to link previous research findings with the rationale of the present research project. Finally, King *et al.* (1994: 29, 112) advocate the notion that a conceptual framework should provide elucidation on two vital matters during the research process. These are firstly, the theoretical focus of the issue under scrutiny and secondly, what the investigation aims to accomplish and how this aim is to be achieved. My conceptual framework envisages a departure, for the reasons explored in the previous chapter, from the traditional understanding of devising intervention programmes to bolster integration or rehabilitation efforts. Instead, by employing Braithwaite's paradigmatic conceptual distinction between stigmatizing shaming and integrative shaming cultures, I develop a number of tools in the next chapter to assist the process of transplanting valuable ideas from one integrative shaming culture (the PRC) to home soil (post-apartheid South Africa) which is essentially a stigmatizing shaming culture.

This productive framework (referred to above) has produced my research question, which is how to integrate ex-offenders in a stigmatizing shaming culture that favours management and warehousing over rehabilitation. This is accomplished using a cross-cultural perspective (suggested by Habermas, as I show below) since the evidence is that traditionally designed interventions are ineffective. A critical examination, following a respected tradition in Critical Theory, of the role of the prison in Western jurisdictions and that of the prison-industrial-complex (a term I explain in Chapter Three) is necessitated by Habermas's emphasis on rational institutions. I hypothesize that intervention programmes to further integration and or rehabilitation fail in stigmatizing shaming cultures because

the prison in such an environment is criminogenic, i.e. it has lost any assumed link with the rehabilitation ideal. Melvyn Lerner's 'Just World' theory (explored in the previous chapter) explains the reasons why communities and individuals in such societies are loath to forgive and welcome returning ex-offenders. The largely unexamined beliefs are that because we live in a 'just world'; that is, bad things happen to bad people who deserve what's coming to them. The societal management of shame in stigmatizing shaming cultures, as I argue in Chapter Three, fuels recidivism and subsequent marginalization that favours management and warehousing over rehabilitation. In effect, rehabilitation is being abandoned in a stigmatizing shaming culture in the context of what R. W. Johnson (2015: 49) calls the wholesale "criminalization of the South African state." Johnson's linking of patronage and corruption at the very heart of post-apartheid government renders societal resistance to the integration of ex-offenders in South Africa indefensible and richly ironic.

In the previous chapter, I outlined the perceived gap in extant knowledge on the topic of integration, uncovered by a review of the relevant literatures, and the extent to which I intend to fill this gap (bearing in mind the limitations of my project). Andrea Hurst (2004: 26) defines methodology along the following lines:

> [M]ethodologies could be viewed as concentrating on the more practical task of prescribing how best to go about constructing and supporting explanations – and justifying these prescriptions, usually by appeal to some of the assumptions shared by everyone within a certain paradigm. Methodologies, in this view would be seen as aiming to provide reliable foundations for knowledge and understanding, and for validating specific methods.

> Methodology, in this case would involve assumptions about what counts as a research 'object,' what counts as knowledge, what counts as an appropriate way of doing research, what kind of outcome is expected or aimed for in research (the point of the research). These methodological assumptions, in turn, guide a researcher concerning the proper way to do research, or determine which are the proper research methods to use.

Methodologies embody a host of assumptions about the world (explained and explored in the previous chapter) and suggest the methods which would complement the chosen methodology or methodologies appropriately. By way of example, as I argue below, a specific economic paradigm (in the broadest sense of paradigm, namely, the general conception of knowledge and reality underpinning the predominant way of thinking or prioritizing certain matters in a society, in this case those pertaining to economics) is part and parcel of the problem that besets a potentially caring society, and the approach that is based on this paradigm is one that I reject. It is an approach that is not based on a development-paradigm which assumes a caring society will nurture ex-offenders back into

full members of that society, but instead on an anthropology of merciless competition and neglect of those who fall by the wayside – the so-called 'losers'. I criticize this economic system, namely neoliberal capitalism, on the basis that it feeds off a parenting style that is averse to what might be described, in neurological-educational terms, as the nurturing of neural pathways in early childhood leading to and producing compassionate adults. My choice of methodology justifies my methods over other worthy contenders, bearing in mind the topic under discussion. According to Trafford & Leshem (2008: 44) it is standard practice in social research for the research design section to precede a report on the methodology and tools. In any event, I have already attempted to justify my choice of methodologies in a reflexive sense in the previous chapter. Research design is defined as a strategy "to show how your research was planned and undertaken" (Trafford & Leshem *ibid*.) and should include a consideration of the role of the conceptual framework in such a design. Said in another way, a research design is a blueprint for a proposed research project.

Research Design

According to Christensen, Johnson & Turner (2015), research design encompasses a research approach, methodology or methodologies and research strategy to enable the researcher to effectively address her research question. Implicit in this conceptualization is the idea that an explicit map, plan or strategy of the proposed research process (the collection and the analysis of the data) will guide the polished research question generated by the researcher's theoretical framework. Every researcher aims to design the strongest and most feasible strategic line of inquiry. My acquaintance with the various bodies of literature has had the additional benefit of suggesting my 'research paradigm' and, following on that, my research approach and methodologies (Trafford & Leshem 2008: 94-97), as I noted above. These three issues were interrogated in the previous chapter. My choices of research methodologies propose and underpin three pivotal research decisions which together constitute my research strategy in respect of data collection, analysis and transplantation to home soil. My conceptual framework, discussed above, enables me to design my research strategy in a way that was feasible, sensible and financially viable.

Firstly, Habermas's emphasis on the value and enrichment properties of comparing developmental trajectories of the human species (indicated below), has suggested to me that secondary data analysis would be an appropriate method to collect my data on Chinese soil. The alternative would have been to do original field work in Chinese prisons and communities myself, but this was not feasible since this exercise (characterized by an accepting attitude towards ex-offenders) ended in 1995. The evidence is that from about this time, as I argue in Chapter Four, the societal attitude towards stigmatizing ex-offenders began to change for the worse again. My rationale for this decision is that apart from the fact that there is a great deal of very valuable published research (in English) available on

this period (1949-1995), from a pragmatic and financial point of view, it made sense for me, as a South African based in South Africa, to employ secondary data analysis as my data collection tool. As I note in Chapter Four, a precedent for using secondary data analysis as a data collection tool is Braithwaite's (1989) work on integrative shaming cultures drawn specifically from Japan. According to Payne & Payne (2004: 214) secondary analysis entails the use of data collected by a different team of researchers, for another project entirely, and in pursuance of a different research question. On the one hand, the resources and diversity of data-collection by a number of independent teams have enabled me to have a pool of a bigger and more diverse sample size at my disposal, contributing to the reliability of my own research findings. These advantages have led to the increasing appeal of secondary data to a growing number of researchers (Payne & Payne 2004: 2015). On the other hand, Marshall & Rossman (2006: 125) have pointed to three perceived drawbacks to the use of secondary analysis as a means of data collection and I discuss two that seem valid to me. In the first place, a particular theory or theories undergird(s) the studies relied upon to produce the data and unless this theoretical framework is made explicit, the emergence of the data might be distorted. In the second place, it is not known whether or not certain data may have been excluded from the picture presented in the published research and this is hence another way in which the research findings could have become distorted. My response to these objections is that provided these studies passed peer review, the researcher making use of secondary data must remain vigilant for any distortions, including ideological ones. There should accordingly be no inherent reason why such valuable research cannot be used to extend the boundaries of knowledge. I consider secondary data collection the most appropriate method for my investigation.

As far as the data themselves are concerned, my aim in reviewing the contemporary Chinese penal and rehabilitation system, as I argue in Chapter Four, is to understand its 'inherent' logic. Although this exercise is not executed uncritically, criticism is not foremost on my mind, as the transplantation process to new soil (post-apartheid South Africa) will of necessity imply change for these nuggets of wisdom (as the discussion of the 'sliding signifier' or the 'signifying chain' vis-à-vis Derrida and Lacan in Chapter Two, Part Two, demonstrates). In any event, this system – as is the case with all systems – is not beyond reproach and I attempt to show this in my rational reconstruction of certain features thereof.

Secondly, in analyzing or selecting the ideas from Chinese soil for transplantation, I made use of open, thematic coding. Since this is a transformatory study (as I explained in the previous chapter), my decision to analyze the data through capturing broad themes is based on the expectation that in so doing I would enable myself to make spontaneous, unexpected findings corresponding with my choice of research approach (abduction), noted in the previous chapter. A precedent for this method of analysis is the work of

Adorjan and Chui (2014: 101). Although the latter team makes use of qualitative analysis software NVivo 9 to assist with the analysis process, I did not deem this necessary for my own analysis because of the rationale stated above. Thematic Analysis is a process of meaning-making or making sense of data so as to identify and interpret ideas or themes that emerge from the data (Matthews & Ross 2010: 373). This enables the researcher to explore the data for meaning, establish relationships between different segments of the data and explain differences and similarities (*ibid.*). Gibson & Brown (2009: 130) contend that thematic analysis allows for the coding of the raw data which in turn creates categories describing a general feature of the data. A twelve step process is demanded to ensure a systematic result (Matthews & Ross 2010: 384-385). I summarize the twelve steps. After organising the data into appropriate columns, preliminary key themes are identified and interpreted. These emerging themes are then arranged into more definite categories into which the data are slotted. The purpose of this exercise is to compare the different categories with each other in an attempt to find possible links between the elements of this emerging collage. Matthews & Ross (*ibid.*) argue that correlating the emerging picture with the original data is important since the goal is to search for relationships between the different key themes and to find explanations for the links. The research question and objectives need to be tested against the emerging themes to ensure that the analysis furnishes feasible answers for them.

Methodologically speaking, it is worthwhile discussing <u>*how*</u> the four 'gears' of my study – rational reconstruction, auto-ethnography, thematic coding and the method of case study within the context of the Chinese penal and rehabilitation context – interact to produce or generate the findings set out in Chapter Six. In Chapter Four, the notion of rational reconstruction – very much in vogue in the Habermasian blend of Critical Theory in the tradition of the Frankfurt School, as I note in Chapter Two, Part One – is used to re-orientate selected contemporary Chinese penal and rehabilitative practices. This exercise is necessary as a result of the inevitable communicative and ideological distortions in evidence in any modern society – especially one infused with such deterministic (albeit benevolent) political presumptions and assumptions as those found in the post-Mao PRC. Both case study and auto-ethnography are used as incisive and insightful tools to triangulate the results generated (i.e. broad themes identified in the rationally reconstructed data on the PRC) by the transplantation or transmission of knowledge of these themes by way of thematic coding to home soil, as I did in Chapter Five, Part One. By way of example, case study in the context of the PRC's penal and rehabilitative practices is invaluable to assess the limitations and limits of 'thought reform' and 'ideological distortions' regarding the data garnered by secondary data analysis. By analogy with the biological sciences, Blumberg (2009: 5-13, 32-37) explains how the phenomenon of freaks and monsters (conjoined twins being a notable example) are valuable as features of evolution that delineate the limits of development, speciation and variety. Extreme case

studies in rehabilitation such as Chinese 'thought reform' mark the limits of the usefulness of the Chinese exercise for Western liberal purposes.

Finally, in developing my nine tools to transfer the notions found valuable in Chinese penal and rehabilitative practice, explored in the next chapter, I have attempted to be as inclusive as possible by drawing on ideas in post-structuralism (also explained in the next chapter), German philosophical thought and Anglo-American and African thinking on cultural transformation. As Derrida (1982b: 317) has suggested, ideas structured in time (the Mao period and post-Mao period, immediately succeeding the Great Helmsman) and space (Chinese soil) can be removed at any time from the context of their provenance and re-inscribed elsewhere, so that, by implication, they are valuable to inform, augment and enhance societal practice along a very different cultural path. I proceed accordingly to consider the concept of culture.

Culture Reconsidered

Although I have used the term 'culture' throughout this thesis as a generalized, sweeping notion, my avowedly poststructuralist perspective demands a more nuanced use of the concept. The understanding of 'culture' has evolved from that of a fixed entity bordered by nationality, ethnicity or religion (cf. Brumann 1999), to community cultures characterized by identifiable, peculiar knowledge sharing and behavioural traits (as the definitions of 'culture,' offered below, suggest). An example of the former is anthropology of the 1920s and the 1930s famously represented by Margaret Mead (her important text *Coming of Age in Samoa* was published in 1928) and her work among adolescent girls in the Samoan Islands. An example of the latter is the sharing and behaviour of Web 2.0 communities as well as social platform networking interaction.

These observations in the postmodern world imply that, unlike former times, a community culture is now _chosen_ rather than imposed top-down. Indeed, as Birukou, Blanzieri, Giorgini, and Giunchiglia (2013: 3) note, globalization has blurred the lines of demarcation between (traditionally understood) 'cultures'. This has also added to the perceived need to be more culturally conscious from a management perspective.

Birukou *et al.* (2013: 2) accordingly correctly suggest that the concept of culture is "slippery and ubiquitous." Speaking of 'stigmatizing shaming' and 'integrative shaming' cultures are of course unjustified, sweeping statements in one sense of the word. From a personal vantage point, I can testify to having experienced many instances of generous and kind treatment from individuals within the former culture proving that no 'culture' is entirely homogenous. In another sense of the word, generating such generalized or general features from within a targeted culture community is valuable (as Birukou *et al.*'s own definition of cultural, noted below, suggests) since these trends identify potentially

transmittable generalized, or group and not individual, traits which could be packaged and made available to audiences globally (as the authors' example of technical usage in the Internet community, noted below, shows).

By way of example, Birukou *et al.* (2013: 21) posit that in 1998 NetCaptor browser made 'tabbed browsing' available on-line, thereby introducing a novel way to 'surf' or access the Internet. This new trend caught on quickly among Internet users and soon most other browsers – Opera (in 2000), Mozilla Firefox (in 2001) and IE Explorer – embraced tabbed browsing. The upshot of this development is that tabbed browsing is now an unquestioned social practice (or 'meme', to borrow from Dawkins) of the culture community of Internet users in the second decade of the twenty first century. By contrast, this idea was unheard of by Internet users as recently as the 1990s. Significantly, this newly acquired trait in the culture community of Internet users encouraged Microsoft to alter "the pre-defined culture of supporting only one-page-one-window browsing to the actual culture of tabbed browsing" (Birukou *et al.*, *ibid*).

Following on from Birukou *et al.*'s illuminating example of tabbed browsing becoming a household name in the Internet community, it is worth asking after the ways in which other scholars have approached, considered and formulated the term 'culture'.

Bailey and Peoples (1998) define culture as "the socially transmitted knowledge and behaviour shared by some group of people" whereas Hofstede (2001) proposes that it is "the collective programming of the mind that distinguishes the members of one group or category from another." Both these definitions emphasize the idea of shared knowledge and behaviour peculiar to one group which can differentiate it from another. Before turning to Birukou *et al.*'s (2013) own definition, I would like to consider Carley's (1991) attempt. Significantly, she views culture as the knowledge disseminated across the population of a community and suggests a blueprint for the transfer of skills and knowledge based on the interaction between agents (especially through homophily, "i.e. the greater the amount of knowledge they share the more probable the interaction is" [Birukou *et al.* 2013: 21]). Carley argues that cultural exchange of this kind is a sort of 'culture spread'. Carley's inclusion of the notion of knowledge transfer and sharing is also central to that of Birukou *et al.* (2013: 2). The latter draws a distinction between knowledge acquisition on horizontal (as in the case of cultural interaction between agents) and vertical levels (such as values handed down by one generation to the next).

Finally, Birukou *et al. (ibid.)* offer the following 'formal' definition of culture – which will provide them with an "operational definition of culture that can be used for characterizing and describing culture in different scenarios" [at 2] – as a notion "of a set of agents at a moment in time. We define culture as a set of traits that are shared by the set, where traits are characteristics of human societies that are potentially transmitted by non-genetic

means and can be owned by an agent [...]. The requirement of traits being potentially transmitted is needed because transmission is a way of spreading traits, and, consequently, culture, and without transmission it is hard to achieve sharing. The sharing of such traits by the set is required for two reasons: (1) to go from the set of personal traits of an individual to the culture of the set of agents, and (2) to filter out characteristics which only pertain to the set of agents as a whole, but not to individuals."

This detailed and thought-provoking definition deserves comment. Firstly, it stresses the idea of culture as an entity that is continuously evolving. Secondly, the horizontal transmission of cultural traits is accomplished through contact between different cultures and the most common vehicle for that task is human agency. This notion has planted in my mind the awareness that the only effective way in which desirable social practices and norms can be transmitted from an integrative shaming culture to a stigmatizing shaming culture is through sustained contact, sharing and enrichment between South Africa's DCS and the Department of Prisons and Corrections in the PRC. At the time of writing, the *New York Times* (Nicas, 2018) reports that Apple has just become the first public US company to be worth more than one trillion dollars. According to the report, this great achievement has been a "business tour de force, marked by rapid innovation [...] while producing enormous volumes of cutting-edge devices" *(Ibid.).* Innovation, as is well-known, is only possible through knowledge sharing and the management of cross-cultural learning. This is an especially valuable concept in view of Birukou *et al.*'s (at 19 and 4) argument that all cultural trends are transmittable and capable of being possessed by an agent. I add this insight to my list of recommendations in Chapter Six. Thirdly, the authors [at 23-24] note that observability of traits is of paramount importance. To this observation one may add the ability to grasp its significance and this consideration ties in well with the requirement of detection. If the observer is unable to grasp a trait or, in Dawkinsian language, understand the significance of the meme within the context of the memeplex, she might also not be able to 'observe' it. Fourthly, Birukou *et al.*'s (at 23) assert that while Hofstede's definition of culture (noted above) assumes that transferrable traits are independent of one another, their definition does not address this issue specifically. My comment is that although the authors might be correct in asserting that certain trends could be 'independent enough' from the memeplex to be transferable to a new context, Derrida and Lacan's work (which I traverse in Chapter Two, Part Two) shows clearly that it is never possible to divorce an idea from its original context entirely. Furthermore, a study of the memeplex in its entirety might be called for to understand the trait in question and, for that matter, the entire memeplex might be so valuable that it suggests the need for transmission as a whole. I discovered this insight in Chapter Four in the context of certain rehabilitative ideas unearthed in the PRC. Lastly, the authors (at 22-23) observe that, unlike Balzer and Tuomela's study that focuses on social practices, their paper includes both normative and social practices. Social practices are non-normative, informal practices such as playing soccer on a Sunday or having sauna baths on a Saturday afternoon. I applaud this initiative to be inclusive since the discovery of transmittable gems is often serendipitous. Although a more nuanced grasp of the term 'culture' is valuable, sweeping statements also have their circumscribed place in the discourse. It is also invaluable to appreciate that in an increasingly cosmopolitan (postmodern) world, under pressure from globalization,

membership of a community culture is chosen (bottom-up) rather than imposed from a culture not of the agent's choosing (top-down). Studying other culture(s) will also assist us greatly to understand and appreciate our own culture more thoroughly (as Mead herself observed). Having given an explicit account of my research design, including a necessary and valuable reconsideration of the concept of 'culture,' in order to harvest the evidence to answer my research question, I proceed to consider my primary methodology.

2. Primary methodology: Critical Theory in the tradition of the Frankfurt School

As for my considered choice of Frankfurt School-critical theory as my primary methodology, I structure my discussion on this score around four themes, the three elements of Horkheimer's reseach programme – ideology critique, interdisciplinarity and praxis – and Habermas's contribution towards critical theory as a methodology.

After a brief discussion of the main proponents of critical theory in this tradition, I will explore two themes running through critical theory like golden threads. Firstly, the idea of compassion and secondly critical theory's amazing ability to accommodate other critical methodologies, and I will also suggest a reason for this being so. In so doing, I hope to show the interrelationship between these two considerations – compassion and accommodation.

The seminal texts and secondary literature (not only in German but also in English) that make up the canon of critical theory in the tradition of the Frankfurt School is truly vast and in order to manage my presentation of this chapter, I will arrange my discussion around six topics. The first three topics encompass the three elements of Horkheimer's well-known research programme (referred to earlier) – critique of ideology, interdisciplinarity and praxis – which has remained, by and large, the mainstay of a critical theory of society in the Marxist tradition, despite Habermas's extensive transformation of that project. The last three deal with Habermas's contribution to the methodology of critical theory, an overview of my secondary methodology (critical auto-ethnography) and, finally, the tools with which I intend to accomplish the transplantation in Chapter Five.

What is critical theory in the German tradition? David Rasmussen (1996: 11), in the introductory essay to that massive tome *A Handbook of Critical Theory*, defines critical theory in the tradition of the Frankfurt School as a particular intellectual orientation towards a critical theory of society with an emancipatory vision forged on the relationship between praxis/theory that found its inspiration in the ideas of Marx and Freud. Rasmussen elaborates on this and adds to this exploration that critical theory had its beginnings in the Frankfurt School with Horkheimer, Adorno and Marcuse as its most important representatives that found its contemporary reformulation in the work of Jürgen Habermas. To Rasmussen's definition one may add that the theories of Freud and Marx

were and are critically appropriated and reconstructed so as to suit the aims of the three generations of critical theory.

Horkheimer, the second director of the Institute for Social Research, laid the foundations for a Marxist-infused critical theory of society. Although he later became pessimistic over the possibility of reason, the early Horkheimer's (1931/1993: 6-11, 14) well-known formulation of critical theory as a research programme – so eloquently explained in his inaugural lecture of 1931 – where he promotes both philosophy and the empirical social sciences to full partners, is a Diagnostic Philosophy with practical intent validated by empirical research for changed historical circumstances. This formulation is a slight deviation from Marx's insistence that philosophy will realize its goals by negating itself.

Weber's (1904-5/1958: 180-183) thesis of the totalizing course of the rationalization process as the core of modernity, leading to the irreversible loss of meaning and freedom, became the central focus of the early Frankfurt School's programme of a critique of 'instrumental reason' superseding Marx's critique of idealism. If the task of a critical theory of society is to further the project of human autonomy and responsibility by way of emancipation (Habermas 1971: 194), then the rehabilitation of reason as reflection is crucial since positivism, in the words of Habermas (1971: 68-69), is "the denial of reflection". The distinction between instrumental action (e.g., labour or instrumental action) and communicative action (intersubjective networking, which depends upon the mutual acceptance of bona fides among interlocutors) is crucial to Habermas's entire project and is illustrative of certain continuity between the early members of the Frankfurt School and Habermas. McCarthy (1978: 20) explains this idea admirably by suggesting that whereas Marx considered the negation of philosophy a precondition for scientific critique, the early members of the Frankfurt School (as well as Habermas) felt constrained to eliminate scientism as a *sine qua non* for reclaiming Marxism as critique.

In my discussion of critical theory as a research programme, I consider Horkheimer (with brief references to Marcuse) and Habermas, since the thought of these figures seem most congenial to my project. Horkheimer argued for a formulation of a critical theory of society that contains three moments.

2.1. Critique of ideology

Thompson's (1990: 7) understanding of ideology as "meaning in the service of power" is a fructuous description of the term. Ideology critique finds its expression in immanent criticism that claims the principle of negation as its motor. Ideology, essentially, creates the illusion that relations are fixed and ahistorical. Critical theory's task, according to the early Horkheimer (quoted in Held [1980: 186], Held's translation), is to unmask the ideological pretences of social institutions. He explains this idea by arguing that "[t]he limit of what we

may rightfully call ideology is always set by the present state of affairs and our knowledge. Insight into the historically conditioned [nature of a social institution as well as] its societal function [are what is needed]." In his commentary on this passage, David Held (1980: 186) offers the following gloss:

> Individual (or sets of) claims, perspectives and philosophies can be regarded as ideological if they conceal or mask social contradictions on behalf of a dominant class or group. For example, forms of consciousness are ideological in so far as they claim to represent generalizable interests but conceal the particular and sectarian interests of the ruling class [...] The degree to which ideologies mystify social relations or adequately reflect distorted social relations (but thereby mystify the possibility of non-distorted social relations) is a question for inquiry in particular cases and contexts.

How is this exercise in unmasking particular or group interests that masquerade as general interests to be completed successfully? In its assessment of the discontinuity between reality and mere conjecture, critical theory employs the procedure known as immanent criticism. Horkheimer (1947/1974: 182) envisages a confrontation between immanent criticism and "the existent, in its historical context, with the claim of its conceptual principles, in order to criticize the relationship between the two and thus transcend them." According to Marcuse (1960: 25), a cultural artifact would answer the call of truth if it is able to fulfill its potential which, presumably, would not happen if it is ideologically compromised, as demonstrable via immanent critique. Immanent critique implies a criticism on its own terms to show up its inconsistencies and thereby create the possibility of radical change – once it is clear that the phenomenon has failed on its own terms.

Finally, a vital component of immanent criticism is the concept of 'negation' (a central idea in Marx's method.) Horkheimer (1947/1974: 182-183) claims negation has "a crucial role [...] double-edged – a negation of the absolute claims of the prevailing ideology and of the brash claims of reality [...] we are driven, by the principles of negation, to attempt to salvage relative truths from the wreckage of false ultimates." Marcuse (1972: 124) explains the way in which capitalism leads to its own devolution by equating the realization of the proletariat's special interest with that of society's generalizable interest (in other words the interest which all classes or groups have in common, namely emancipation). Negation will show up false claims precisely because their ideological pretences imply that they cannot be justified critically.

Held (1980: 185) comments on the import of the concept of negation in critical theory as the "mainstay of its approach. The truths to be drawn out are primarily negations." The notion of negation, so highly valued in the research programme of critical theory in the tradition of the Frankfurt School, allows us the opportunity to grasp the limits of claims

presented in the imprisonment drive and the subsequent second class-status afforded ex-offenders by a stigmatizing shaming culture even after the completion of their sentence. We are therefore able to consider the closed-off avenues (such as a recasting of the ideal of rehabilitation) in the woefully inadequate treatment of returning ex-offenders. In a brief review of Held's book, *Introduction to Critical Theory: Horkheimer to Habermas* (1980), Rick Roderick (1986: 1) contends that Held has succeeded in "raising a series of compelling objections both to the work of Habermas and to critical theory as a whole." With such a persuasive recommendation, I consider the book a critical source of penetrating views on the tradition of critical theory, even if I do not have reason to pursue all the "objections' in question.

In the next chapter, I will subject the prison industrial complex, a term I define there, to an ideology critique by examining whether or not their pretensions for the prison pass muster, i.e. whether or not its inherent inconsistencies can negate the prison's professed motivation for its existence. The value of immanent criticism is that it judges the phenomenon in question on its own terms, as remarked above. Horkheimer, Adorno and Marcuse all considered the method of ideology critique as immanent criticism essential in advancing the Marxist moment in critical theory as a project of emancipation (Held 1980: 187).

Illustration

By way of illustration, I explore the Marxist ideology critique of capitalism by way of a critique of Habermas. As is generally well known, the critique of capitalism is central to the Marxist project. As I suggest alternative rational societal arrangements to free market fundamentalism in the next chapter, it follows that a critical assessment of capitalism is called for. This will allow me the opportunity to develop Carol Gilligan's concept (and that of other feminists that have built on her work) of an 'ethics of care' as the core around which a more caring, responsive society might be constructed.

Finally, it will provide me with a springboard from which to critique Habermas's strictly rationalistic notion of cognitive development. Ever since I first came across Habermas's appropriation of, among others, Kohlberg's model of the development of communicational competencies, I felt uncomfortable with the fact that it was bereft of emotional content. I was, however, not able to articulate and substantiate my unease with Habermas's crass rationalistic view of cognitive development until I came across Sue Gerhardt's text *The Selfish Society* (2010). To be fair to Habermas, the wealth of peer-reviewed research on neurobiology that is available now (in the twenty-first century) was not available when he did his most important work (in the 1970s and in the early 1980s) on rehabilitating reason (his overriding concern at that stage) for the enterprise of critical theory. In any event, he is renowned for rewriting large tracts of his work in the light of criticism. Accordingly, I have

no doubt that Habermas would be the first to acknowledge that his work is not beyond reproach and that his priority is to have his work developed to incorporate new perspectives that would add value to the project of emancipation. In a thoughtful review of Gerhardt's book, Phil Hogan (2010) comments on its merits along these lines:

> Gerhardt is persuasive in showing how economic history has messed up our minds – from the agrarian revolution to Thatcherism and beyond – but she saves her real firepower for the science, which worryingly proves that the brain itself is reshaped by changing social conditions and attitudes, and that babies starved of affection will gird themselves neurologically for a less empathetic, less clement, more autonomous world. If this seems dispiriting, Gerhardt is never less than buoyant and has world-saving proposals up her sleeve based on regrowing new generations of children with sound parenting methods and getting a proactive, proethics government to cough up the extra support. These insightful chapters need to be read right now by everyone who is pregnant.

I consider Gerhardt's text, and the research that underpins her argument, key in bringing together the various threads of my overall argument, the so-called 'golden cord', that runs through this dissertation. This is especially applicable to my critique of capitalism which I now turn to from a neurological perspective.

Gerhardt's notion of a caring society

In my examination and advocacy of the 'ethics of care' below – in the context of suggesting a reformulation of Habermas's appropriation of cognitive developmental models in furthering his interests in communicative competencies – I argue for another possibility (pace the proletariat) in which to dissolve the inconsistencies, first identified by Marx, that riddle capitalist society. I refer to Lakoff (2002) and Gerhardt's (2010) notion of a caring society based not on the militant potential of the workers' class (as proposed by orthodox Marxism) but on the quality of early emotional (as opposed to strictly cognitive) development in babies and young children.

According to Hegel, the dialectic of history consists of three moments: thesis, antithesis and synthesis (Singer 2001: 99-103). The final stage (synthesis) brings about a new reality which resolves the contradiction unearthed in the antithesis. Whereas in Hegel the dialectic is understood as 'pure abstract thought' (or Idealism), in Marx (1852), however, the dialectic is 'grounded' in the material realities or circumstances in which the labourer finds herself, namely dialectical materialism. Lucio Colletti (1979: 49-51) suggests that this contradiction between idealism and materialism in Hegel's understanding of the dialectic is present in Hegel's work and it only required Marx and Engels to point to the resolution.

Lakoff's and Gerhardt's exploration of the negative link between the origins of the selfish society (late capitalism essentially) and nurturing early childhood parenting patterns, ties in well with my exploration of the ideology critique of capitalism by the critical theorists in the tradition of the Frankfurt School.

Neurobiology

Research into neurobiology - which is the study of those parts or areas of the brain which determine (or perhaps rather influence) human behaviour and the social practices that produce dominance of one/some over the other(s) – by Diana Baumrind (1966) and, more recently, George Lakoff (2002), has established two parenting patterns in the Western world forged by the onset of capitalism in the eighteenth century. These parenting styles are strict, on the one hand, and nurturing, on the other hand. Strict parents demand obedience on pain of physical punishment with the child's "needs for comfort unmet" in terms of parental responsiveness (Gerhardt 2010: 160-161). A nurturing regime is a system

> where children become responsible, self-disciplined individuals through being cared for, supported and respected. Parental authority is based on parental empathy, wisdom and willingness to engage in rational discussion – not an assertion of power. (Gerhardt 2010: 169)

Nurtured children perform better on moral cognition because their parent(s) settle tension by discussing the emotional sway of conflict at an early childhood stage with them and being responsive to their needs (Laible & Thompson 2000). Strictly brought-up kids become defensive in the face of criticism since they are used to punishment and negative feedback from caregivers (Thompson *et al.* 2006). The essential difference between the two parental styles for my purposes is that children from a nurtured upbringing display a greater tendency to empathize with fellow humans (and other living creatures) than products of strict parenting. I would add to these two parental styles those of permissive parenting that privileges neglect (where neither care nor discipline is present) and a combinative style incorporating both caring and discipline in its regime. Gerhardt (2010) argues – based on a wealth of research in neurobiology – that the parenting style to which children are subjected, patterns divergent neural pathways and affects different lobes in the brain of the child. Empirical evidence, although not conclusive (Lamm & Majdandžić 2015), now suggests that the mirror neuron system (MNS) forms the biological basis or neurological underpinning of empathetic behaviour and/or reaction in humans (Baird *et al.* 2011; Corradini & Antonietti 2013). Mirror neurons, so named because empathy presumably requires an act of imitation or relating on the part of the onlooker (Baird *et al.* 2011: 327), fire up neurological paths in the inferior frontal gyrus and inferior parietal cortex lobes of the brain that strengthen and evoke empathy under certain conditions.

Gerhardt (2010) contends that these conditions are predominantly parental styles that structure or pattern the brain at an early childhood developmental stage to either favour empathy or selfishness.

Attachment paradigm

Gerhardt's contention, evidently supported by recent findings (briefly outlined below), is that a nurturing childhood, in which an empathic lifestyle has been continuously reinforced, leads to well-developed areas of the brain that precipitate an empathic lifestyle of nurturing and caring behaviour towards others. The so-called 'attachment paradigm', although initially fiercely resisted, is now common cause among neurobiologists, cognitive linguists and psychologists (Gerhardt 2010: 168). In Chapter Four, I make the case for a nurturing society, which is a culture enmeshed in interdependency, based on a cross-cultural assessment of contemporary China in the context of their penal practices.

How does the experience of empathy pan out empirically? Firstly, Martha Stout (2005) shows that authoritarian or strict upbringing leads to a range of personality disorders of which the upper limit is psychopathy (which is a complete lack of empathy for others).

Secondly, youngsters exposed to nurturing and kindness in early childhood, show up a different range of reactions to distress and pain in others. Gerhardt refers to two studies to assess the benefits of early childhood nurturing. In the first study, Midlarsky and her group of researchers (2005) made a study of the values that drove a number of Holocaust rescuers. The most conspicuous differences between those who helped Jews at great risk to themselves and their control groups were high planes of social responsibility and empathy for others on the part of the former. In the second study, Walker and Frimer (2007) did a number of personality tests on a group of fifty Canadians honoured for caring or exceptional service. The findings are not surprising: these individuals had secure attachments from early childhood, well-developed agency and responsibility, and were intent on nurturing others. Despite the obvious spin-offs that nurturing childhood has for society in general (Gerhardt 2010: 328), amply demonstrated by the studies cited above, I am also interested in drawing out the link between nurture and secure attachment, on the one hand, and a dismissal of selfishness inherent in the pursuit of the profit-incentive, on the other hand. Several studies have emphasized the almost pathological need for physical things (that is, possessions) to shore up the emotional stability of individuals who had the dubious benefit of an authoritarian or strict parentage (Cohen & Cohen 1996; Kasser 2002). Unlike individuals who had a caring and kind upbringing and who revel in and are sustained by healthy, nurturing relationships, these respondents were found to be raked by anxiety and uncertainty, as indicated above.

Capitalism feeds off strict authoritarian parenting

The point I am driving at is that a caring, empathic society is possible in which the pursuit of material things can and must play a secondary role. Capitalism feeds off the strict or authoritarian parenting style. In the words of Sue Gerhardt (2010:322)

> if people were better nurtured emotionally, would they be willing to sustain capitalism? […] People who are well nurtured might be less interested in keeping up with fashion, buying the latest car or television, or emulating a celebrity lifestyle. They might be less obsessively concerned with expanding businesses and improving profits. And where would the food, gambling, entertainment and drugs industries be without human misery to drive them?

A caring society would be driven by values (such as empathy and kindness) that are antithetical to capitalism. Feminists, such as Carol Gilligan (1982), have envisioned a different societal model than that proposed by critical theorists, such as Horkheimer and Habermas. Whereas the Marxist legacy of the Frankfurt School traditionally argued for a rational reorganization of society, based on rights and fairness, to banish the unequal and indefensible distribution of privilege and opportunity, Gilligan contends that women's moral developmental trajectory is guided by empathy and care. I have attempted to build an argument to show that rationalistic values (as opposed to those of empathy and care) are precisely the wrong foundation upon which to build a fair and compassionate society, and if I am correct in my thinking, critical theorists may have to rethink the normative grounds of critical theory.

Habermas's neglect of the value of emotional intelligence, notably compassion and forgiveness as societal forces to facilitate integration of marginalized groups, in favour of a rational organization of society, opens him up to criticism. Žižek and Lacan show, as I note in Chapter Four, that the rationalizations for stigma, because of its supposed 'irrationality', covers up a rarely considered and acknowledged rationale which is buried deeply in the unconscious. Dismissing crucial features of our humanity such as the role of the unconscious in social interaction results in a distorted picture of Critical Theory's central project, that of integration. This is ironical, for one, considering Critical Theory's interdisciplinary drive. John Galtung and M. Kuur-Sörensen (2007: No page numbers provided) have criticised Habermas for his extreme rationalism on the basis that this leads to cultural opportunism. They argue that

> The women, the young and the old should learn to argue. The haberworld gives key legitimacy to masters of rationality, as opposed to, for instance, masters of compassion, with criteria that are obviously intellectual, hence

favoring intellectuals as opposed to, for instance, people with money and coercive force.

The upshot of Galtung and Kuur-Sörensen's criticisms is three-fold: Only intellectuals with a flair for argument will dictate policy to the exclusion of all else and the insistence on (Kantian) universalizability harks back to evangelical imperialism which favours Western cultural ideas, and might exclude partial solutions to problems. Finally, the emphasis on rationality within a context of modernity (as Habermas advocates) "is a recipe for converting cultural differences into structural inequities" (*ibid*.) and must of necessity exclude non-rational Oriental discourses that clash with this hegemonic narrative. The upshot of this brief criticism is that Habermas's focus on rationality makes him prone to Western-centred solutions of a sort that exclude narratives and role-players incompatible with 'reason' strictly defined.

Ethics of care

One way to do this is to incorporate the insights of a feminist 'ethic of care' in public life. Feminists such as Martha Nussbaum (2000) and Fiona Robinson (1999) have built on Gilligan's work and have rejected the idea of 'rights' to guide social justice as vague and too abstract to provide practical care in a world teeming with neglect and want. It is not only the notion of a rational re-arrangement of society that demands recasting in the light of the argument developed above (namely that an 'ethic of care' is sorely lacking in public life), but this feminist critique of rationalism impacts on Habermas's entire project. The problem is not merely reason's propensity to turn instrumental (the well-known concern of Horkheimer and Adorno, following Weber), but precisely that reason inherently lacks the emotional component so vital to a caring, empathic and compassionate society.   To be fair to Habermas, however, it would seem that the problem is not limited to him alone.

Gerhardt (2010: 311) puts the issue succinctly in proposing that "[t]hroughout the twentieth century, even the discipline of psychology preferred to focus on cognition rather than emotion." In substantiation of the thrust of her contention, Gerhardt quotes a leading cognitive neuroscientist, Moll *et al.* (2002), who argue, "[r]ecent theoretical developments in moral psychology, which had been dominated by rationalistic theories for centuries, have emphasized the role of emotion in models of cognitive development and behaviour." In fact, the thrust of my criticism of Habermas is that the focus of his research into the conditions for the possibility of communicative competence (as opposed to linguistic competence), explored briefly below, are overtly rationalistic and devoid of the healing properties of emotional maturity which is easily complemented by the feminist concern for an 'ethics of care'. In this respect my criticism of Habermas is part and parcel of the "co-operative effort to advance the argument," in his well-known words.

As Thomas McCarthy (1978: 282-283, 288) points out, Habermas's concern is for a theory of social action or an investigation into those parameters of interpersonal relations that will allow the speech act, based on various validity claims, to succeed in the sense of bringing about agreement. Rick Roderick (1986: 1) calls McCarthy's *The Critical Theory of Jürgen Habermas* (1978) "an excellent study [that] has clarified and systematized Habermas's work by shaping it into a coherent whole." In attempting to make sense of Habermas's extensive *oeuvre*, I made handsome use of it.

To sum up, Habermas (quoted in McCarthy, 1978: 290, the latter's translation) argues that

> [t]he goal of reaching understanding is the bringing about of an agreement that terminates in the intersubjective communality of mutual comprehension, shared knowledge, reciprocal trust and accord with one another.

While I am in agreement with Habermas that such a conclusion to negotiations would be commendable, let alone desirable, I consider it wishful thinking in a capitalist world-order driven by anxiety and fear, as indicated above. Empathy and caring, as I attempt to demonstrate below, following Goffman (1968), is almost certain to create the conditions for consensus between people who know and trust that they are being cared for.

Quality of the relationship

In his essay, "The Moral Career of the Mental Patient", Goffman (1968: 119-155) sketches the contours of the evolving relationship between the patient and her or his guardian in the context of the moral career path of the "prepatient" who is about to enter a "total institution".

> First is the *next-of-relation* – the person whom the prepatient sees as the most available of those upon whom he should be able to depend most in times of trouble, in this instance the last to doubt his sanity and the first to have done everything to save him from the fate which, it transpires, he has been approaching. The patient's next of relation is usually his next of kin; the special term is introduced because he need not be. (Goffman, 1968: 127)

The quality of the relationship between the guardian and the patient is such that, as Goffman (1968: 128-129, 132-133) contends, the patient is almost certain to base her or his most important decisions on the advice of this individual because she or he trusts the guardian unreservedly to have her or his best interest at heart. The point I am driving at in my reconstructive critique of Habermas, is that an environment of trust and empathy, such as that displayed in the commendable relationship between guardian and patient in Goffman's invaluable work, is vital for a world in which sustainable and enduring agreements can be reached. In concluding my criticism of Habermas, I can do no better

than quote the apt words of Sue Gerhardt (2010: 139-141) on the dominant relationship of emotions and feeling over reason.

> Whilst moral philosophers from Kant to Piaget to Kohlberg have believed that moral judgments are made using reasoning and reflection, recent developments in science have challenged these assumptions. The new evidence suggests that we make our moral judgments much more intuitively, with reasoning following on behind to justify our choices [...]

> The conscious and logical mind is the one that interferes with the predominant forms of thought, which are emotionally driven [...]

Emotions drive our behaviour and not rationality. It follows then that the brain research on which Gerhardt built her argument shows that the world which capitalism has shaped, as I argued above, sorely lacks an 'ethics of care' and her work will go a long way to create the extra-rational parameters enabling the feasibility of Habermas's model of communicative competences.

Efficacy of the concept of ideology critique

In conclusion, I have attempted to demonstrate the efficacy of the concept of ideology critique by examining capitalism on this score. Capitalism (and the technology that drives it) has demonstrably not succeeded in making humans happy. As Gerhardt (and others, such as Paul Verhaeghe [2014] and Renate Salecl [2010]) has shown so ably, capitalism does nothing if not to contribute substantially to, and tap into our misery of fear and anxiety. True happiness lies in secure early childhood attachment and fulfilling relationships in later life – not in physical things as commodities. In the words of Gerhardt (2010: 261), "a fully socialist position is that the social good is so important that economic power must be subordinated to it." I am in complete agreement with this sentiment.

Finally, Gerhardt has given me the tools to understand not only the reasons for capitalism as an economic system being ill-suited to create an empathetic, compassionate society, but also how capitalism allows for the marginalization of groups. People who are unable to make the grade under capitalism's competitive conditions are rejected and left to wallow in their shame because relationship repair is not a priority. This is a typical feature of a stigmatizing shaming culture as opposed to an integrative shaming culture (as Braithwaite [1989] has revealed). In a nurturing family, erring members may be corrected but are then reintegrated into the family fold. The distinction between strict and caring families also serves as a heuristic metaphor of the lessons we stand to learn from a compassionate society, such as that found in China, as I argue in Chapter Four. This underscores the indispensable value of a critique of ideology in an increasingly technocratic world.

2.2. **Interdisciplinarity**.

By adding philosophical, critical and interdisciplinary perspectives, no stone will be left unturned to understand phenomena in their concrete historical situatedness. The Chinese metaphor of the frog at the bottom of the well comes to mind – any perspective is necessarily partial or limited.

In making his famous distinction between traditional theories and critical theory, Horkheimer insisted that the conventions, methods and methodological pre-occupations of individual sciences be respected. These traditional bodies of knowledge are valuable, but only within a particular overarching context. This context is provided by critical theory as an integrative system with philosophically-based reflective oversight directed at the artifact under investigation. As a departure from mainstream research, Horkheimer (quoted in Held 1980: 189 [original not available to me]) demanded inductive rather than deductive research. Critical social research should accordingly aim to "delve deeper and deeper into the particular and discover the universal law therein." Consider that the school system in Finland has abolished all individual subjects (such as history, geography and literature) and, as in the case of the early Frankfurt School, particular phenomena are studied interdisciplinarily. Held (*op cit.*), a sympathetic commentator, explains the aims of this Frankfurt School initiative as follows:

> [T]he proposal seems to be that supporting evidence for theory can only be uncovered by analyzing, in an interdisciplinary context, the way in which particular phenomena are mediated; that is, the way in which they are formed and their identities sustained in interdependence with other phenomena. The claims of immanent criticism must be assessed in this context.

Horkheimer's insistence that the historical paradigm can only be grasped by the detailed theoretical and empirical investigation of particular artifacts, points to a level of inter- and trans-disciplinary scholarship in the Frankfurt School very much ahead of its time, and is certainly a feather in his cap.

As for the theoretical moorings that engendered interdisciplinarity as a component of the school's research project, David Held (1980:177) explains this idea as follows: "Through continuous criticism and reconstruction the partiality of perspectives can be progressively overcome." But, for Hegel the dialectic is arguably closed – *Abgeschlossen* – (unless one argues that there is a fundamental difference between his 'logic' and the way in which history deviates from it), and the Frankfurt's School's deviation from this Hegelian moment is a call for both political vigilance and continuous activism.

It is refreshing to note that the Frankfurt's School's insistence on interdisciplinarity in its approach to social problems in the 1920s, has been particularly prescient considering how

predominant the practice of inter- and trans-disciplinarity in research practice and methodology in the early twenty-first century has become.

Solutions to complex problems

Mansilla *et al.* (2009: 337) define interdisciplinary understanding as "the capacity to integrate knowledge and modes of thinking in two or more disciplines or established areas of expertise to produce a cognitive advancement – such as explaining a phenomenon, solving a problem, or creating a product – in ways that would have been impossible or unlikely through single disciplinary means." My own approach, as is evident on the pages of this dissertation, is very much inter-disciplinary (and to a small extent, I draw insights from disciplines fairly far removed from the humanities and the social sciences). Mansilla *et al.* (2009: 334) argue that "[a]t the dawn of the twenty-first century[…][s]ocio-environmental challenges such as mitigating climate change or eliminating poverty demand interdisciplinary solutions." In support of their argument, Mansilla *et al.* (2009: 335) quote the American National Science Foundation's mandate that encourages "investigations that cross disciplinary boundaries and require a systems approach to address complex problems".

Sir Leon Radzinowicz (1978: 12), sometime Professor of Criminology at Cambridge, on the bicentenary of the publication of John Howard's seminal *The State of the Prisons* (first published in 1777), advanced the view that Howard "would have conceded that prison reform, albeit still an 'important national concern' (to quote his own expression), involves issues infinitely more complex than he ever expected, almost defying solution." If prison reform is a complex issue; the phenomenon of the prison-industrial-complex (a concept I explain in the next chapter) is no less so, as I argue in Chapter Three. By way of illustration, prison abolitionist activists such as Angela Davis, a scholar whom I quote at length in the next chapter, is at pains to stress the efforts of activists like herself to encourage people to question the link between incarceration (as punishment) and crime. This is significant for post-apartheid South Africa which at present is considered the most unequal society on the globe (an argument I develop in the next chapter), has one of the highest levels of incarceration in the world and certainly the highest in Africa.

My point is that addressing climate change and alleviating poverty are complex issues just as is the case with prison reform and making sense of the prison industrial complex, all demanding interdisciplinary research. My project, which is an attempt at prison reform post-incarceration (to forestall recidivism) along the carefully crafted parameters explained in the next chapter, certainly stands to benefit from such inquiry and further underlines the value of critical theory (in the tradition of the Frankfurt School), in which interdisciplinary inquiry is given such prominence, as one of my preferred methodologies.

2.3. Praxis.

Following Hegel's critique of Kant's subjective knower and the objective conditions for knowing (which can and do change from epoch to epoch or from culture to culture), Horkheimer insisted on the mediation between reality and ideas. Findings must be empirically verified or at least discourse-analytically justified to be accepted as valid. Horkheimer (1935/1993: 200) elucidated this principle in an early essay, by insisting that the correct theory would be verified and confirmed empirically by the successful outcomes of historical clashes.

In league with Marx, Horkheimer insisted that critical theory is intertwined with history and that the truth claims inherent in theory can only be judged by its success or otherwise in historical action. By way of illustration, I refer to many well-known commonplace convictions (or assumptions accepted without demur) among scholars which have been subsequently found to be profoundly misleading (if not outright wrong).

In particular, I am referring to the stigma that dogs ex-offenders for the rest of their lives and which impinges appreciatively on their ability to lead a worthwhile and 'quality' life after their release from prison. Has our ability for compassion and caring been so compromised in the neoliberal information age that we have become inured to the idea of proportionality and sensibility in sentencing? Critical theorists in the tradition of the Frankfurt School have insisted on keeping the flame of emancipation for oppressed groups alive. I consider critical theory in this tradition eminently suitable as a primary methodology for my topic. I turn now to a consideration of Habermas's contribution to the methodology of a Critical Theory of society.

2.4. Habermas's contribution to Critical Theory

Perhaps Habermas's greatest contribution to critical theory, methodologically speaking, is his insistence on forging the emancipatory goal of social inquiry in a postpositivist frame by aligning that project with the best of the intellectual heritage of the modern world. He sought to combine classical (or traditional) theory with the methodological meticulousness of modern science (Habermas 1973: 79). In so doing, Habermas aims to reach beyond the understanding of philosophy as a 'first philosophy' to a notion of a social inquiry that paves the way for social change (practical intent) based on communication structures free from unnecessary domination (McCarthy 1978: 128-133). Since the late fifties, when he published his first paper on Marxist methodology, his project has undergone substantial revisions and I can do no more here than sketch the outlines of his work insofar as it impinges on my methodological exploration of critical theory. In the words of Thomas McCarthy (1978: 127), I shall also "be concerned only incidentally with questions of the

[chronological] development" of Habermas's work. In fact, my overview may even appear to be circular.

In particular, I will attempt to outline the early Habermas's on-going reformulation of the Marxist project of a critical theory of society (Roderick 1986: 69-73). I limit my exploration of Habermas's valuable project for two reasons. Firstly, to keep the discussion manageable and secondly, since I found the early Habermas (perhaps from the publication of the German edition of *Knowledge and Human Interests* [1968, English 1971] until the publication of the English version of *Communication and the Evolution of Society* in 1979) most congenial for the purposes of my own project. Bohman & Regh (2014) characterize this decade in Habermas's intellectual development as his "transitional phase."

> In this transitional phase from Knowledge and Human Interests to The Theory of Communicative Action, Habermas's basic philosophical endeavor was to develop a more modest, fallibilist, empirical account of the philosophical claim to universality and rationality. This more modest approach moves Critical Theory away from its strong transcendental framework, exemplified in the theory of cognitive interests with the unmistakably Kantian language of object-constitution.

From Habermas's so-called 'transitional phase,' I select two formulations reflecting his weaker transcendental framework, which concerns me here. Despite the fact that Habermas (1994) explicitly rejected this earlier formulation of transcendental reconstructions in his mature, postmetaphysical work, I consider it most valuable for my project for the reasons outlined below. Furthermore, there is no doubt in my mind that in view of Habermas's distaste for technocratic thinking (in which only the latest and most technologically advanced instruments are prioritized), he would have no problem with my utilizing an earlier part of his work (even if he has since discarded those ideas in part). These earlier reformulations are Habermas's epistemologically-aligned foundation of a critical theory of society with practical intent, and his later theory of social evolution conceived as a "materialistically transformed transcendental reflection" (Roderick 1986: 71).

Like Horkheimer (1937/2002), Habermas agrees that knowledge is historically and socially contextualized. Unlike Horkheimer, however, he substitutes for the latter's distinction between traditional and critical theory his own three-tiered theory of knowledge-constitutive interests (Roderick 1986: 53). In *Knowledge and Human Interests* (1968/1971), Habermas develops the idea of knowledge in terms of different founding or forging interests.

To begin with, empirical-analytical sciences are guided by a technical interest in control. Examples are geology, chemistry and physics. Secondly, hermeneutical-historical sciences have a practical interest and aim to understand (the human condition). Examples are

sociology and psychology. Overlap between these categories is common. Foucault (1961/2006) has pointed out how the social sciences (notably psychiatry) have been used to legitimate oppression and repression. Lacan (2007: 20-22, 24) points out that the master does not care for knowledge other than how it can legitimate the *status quo*. Another well-known example of how knowledge relates to an interest in control *and* understanding is provided by the popularity of so-called social Darwinism, an off-shoot of evolutionary biology, during the nineteenth century, which legitimated the harsh inequity of the social and economic conditions in Western industrial nations such as the UK. Curiously, whereas Darwin set out to demonstrate that organic development knows almost no bounds (an emancipatory or transformatory goal insofar as organisms are understood as maximizing their developmental potential), this insight was re-appropriated in the social world to mean the opposite. Reflection as integral to emancipatory practice is essential to counter the tendency of historicism (in the social sciences) and scientism (in the natural sciences) (Habermas 1968/1971: Preface and 68-68). Thomas McCarthy (1978: 135-136) summarizes critical theory's case against scientism in Habermasian terms as follows: "This double reflexivity distinguishes it not only from the objectivism of the exact sciences but also from the self-sufficiency of traditional philosophy." Historicism is defined as the tendency to grasp social phenomena exclusively in their historical context (McCarthy 1978: 170). The so-called objectivity and value-free findings of the positivistic sciences, which McCarthy refers to, and the social sciences infected by historicism, could not, however, account for the absence of meaning, so ably identified by Weber, in the social construction of reality in Western modernity.

Finally, Habermas contends that critical sciences have an interest in emancipation which transcends the technical and the practical. His favorite examples are Marxism and psychoanalysis (Habermas 1973: 9). Marxism is famous for its emancipatory potential. Janet Cherry (2016: 3), for example, refers to a dustbinman who cried in her presence when he understood how class structures had shaped his life. As for psychoanalysis, Breuer's patient Anna O. called it the 'the talking cure' (as is generally known). Other examples of emancipatory practices are vegetarianism (as an ethical position), spirituality (as opposed to organized religion) and feminism. Thomas McCarthy (1978: 53), a respected commentator on Habermas, and a translator of many of his early texts (including *Legitimation Crisis* [1975a] and *Communication and the Evolution of Society* [1979]), argues that *Knowledge and Human Interests* tenders "Habermas's first attempt to present his position systematically [...]." McCarthy suggests furthermore that the importance of this work lies in the effort to re-evaluate and unblock discarded avenues of reflection, left desolate by the increasing domination of positivism since the late nineteenth century. I concur with McCarthy's argument on the importance of this source for an understanding of the early Habermas, both in terms of stating his position systematically and his sustained

attack on the presence of positivism, as well as its value for my project (with its emphasis on the early Habermas).

As for positivism, a necessary corrective to the almost obsessive insistence on objectivity in both the social and the natural sciences came about by the linguistic turn of philosophy in the twentieth century – superseding the previous accent on consciousness (Rorty 1982: 195). As I indicate below, Habermas's attempts to escape the charge of a theory that locates ideology in other thought while his own point of view is not free of ideological distortion, moved Habermas to construct a comprehensive theory of society that is 'free' of knowledge-constitutive interests (the theory of the species' universal communicative competences). Habermas's (1982: 231) disdain for immanent critique found satisfaction in internal criticism, ironically.

This internal criticism of social, economic, psychological and political texts to gauge their strengths and weaknesses is a "philosophy of history with practical intent" that Habermas borrowed from Marx (McCarthy 1978: 137) and it is aimed at devising a comprehensive, integrated methodology for critical social theory. In fact, Habermas (1970c: 188, McCarthy's translation) considers meaning in the sense of *Verstehen* so important for the possibility of a trans-disciplinary understanding of the encompassing reality, that he calls it the "gate through which methodology must pass if positivistically paralyzed reflection is to be brought to life again."

My complementary methodology, discussed below, taps into this insight. Habermas argues that human beings find agreement in the language use that they have in common with one another as this is basic to their form of life. In particular, his criticism of Wittgenstein's overlooking the essence of the translatability of an idea into the investigator's home language (Habermas 1970c: 244-245), is invaluable for my own study.

This is also the point of departure which Habermas employs in his thinking on universal pragmatics, following Chomsky, briefly referred to above, to ground his theory of communicative competences. McCarthy (1978: 169) comments:

> If it were possible to develop a universal theory of language, the "grammars" of different language games could be given standard descriptions in a theoretical language [...] it could be undertaken "in a theoretical attitude."

Curiously, as I noted above, the celebration of subjectivity that came with the discovery of the grammars of different life forms became a platform, once again, for objective rules which all grammars are meant to obey: Habermas's universal pragmatics are a case in point. Habermas borrows his concept of 'developmental logic' from Piaget in his attempt to explain the logic which drives the various stages of developmental trajectories (Roderick, 1986: 100). In his debate with Gadamer on the proper limits of the critical hermeneutical

project (to use Hurst's valuable classification), the latter puts the case for critical hermeneutics in the following terms:

> The hermeneutic problem is not therefore a problem of the correct mastery of a language […] Such mastery […] is a precondition for understanding in dialogue. (Gadamer 1975a: 362; McCarthy's translation at 1978: 172)

Despite their disagreement on a great number of details, Habermas and Gadamer are both interested in the preconditions for achieving consensus in dialogue. Habermas's differences with Gadamer are useful in showing the reach of the former's goal for his conception of social inquiry, namely nothing short of the pursuit of a comprehensively integrated methodology for a critical theory of society. I am mindful of the charge of ethnocentrism (one, in fact, which has been leveled against Habermas: [Roderick 1986: 104]) in employing critical theory as my primary methodology to execute my mandate. Having lived in a Chinese community for many years, I am aware of the Chinese notion that the West is "too free" (although, as Bert Olivier pointed out to me, certain features of contemporary Chinese culture are more emancipated than those corresponding with similar practices in Western societies) and that emancipation is not a desired goal for everyone. I suggest that my attempt at triangulation by utilizing Habermas's theory of social evolution by rationally reconstructing contemporary Chinese penal and rehabilitative practices, with the aim of transplanting selected ideas to a South African marl (a further exercise in rational reconstruction), will go some distance to vacating the charge of ethnocentricism. I proceed to consider his theory of social evolution insofar as it relates to or explains Habermas's methodological direction or programme for rational reconstruction.

It is Habermas's attempt to deal with Gadamer's critique of the ideological dimension of critical theory (McCarthy 1978: 264) as well as his awareness of the conflation between critical reflection and transcendental reflection (referred to below), which convinced him to abandon Marx's empirical philosophy of history with practical intent for a reconstructed theory of the species in the form of a theory of social evolution (McCarthy 1978: 264). This move into a post-Marxist paradigm implies two new directions for Habermas's critical theory of society. Firstly, his insight that a critique of ideology based on the idea of systematically distorted communication must rest on a theory of ordinary communication, necessitated a reconsideration of critical theory's foundation in a theory of knowledge to the claim that it is founded on a theory of communication (Roderick 1986: 71). Secondly, Habermas conceives the theory of social evolution as a rational reconstruction of historical materialism (McCarthy 1978: 232-237) which presents yet another deviation from the classical Marxist project. Since orthodox Marxism's revolutionary agent has fallen by the wayside (Habermas 1968/1971: 25-63; 1973: 195-252), Habermas envisions an evolutionary model of the development of the species' universal communicative

competences. It concerns itself with a history of the species in the sense of a "reflective appropriation of its self-formative processes" (McCarthy 1978: 263).

It was only after he concluded the first German edition of *Knowledge and Human Interests* (1968, second edition 1973), that Habermas (1975b: 182) understood that the traditional use of the word "reflection" confusingly includes both rational reconstruction and critical self-reflection. Since these terms are "at the heart of his most recent work" (Held 1980: 327), it is worth considering the difference between them.

According to Habermas (1973: 22), rational reconstruction

> deal[s] with anonymous rule systems, which any subjects whatsoever can comply with in so far as they have acquired the corresponding competence with respect to the rules. Reconstruction thus does not encompass subjectivity, within the horizon of which alone the experience of reflection [understood as self-reflection] is possible.

In contrast, self-reflection "brings to consciousness those determinants of a self-formative process which ideologically determine a contemporary praxis and conception of the world" (Habermas, *ibid*.) Whereas a rational reconstruction is aimed at a 'pure theory' (devoid of any constitutive interest), critical self-reflection is projected only for the purpose of emancipatory change. It should be clear, however, that despite the differences between the two concepts, Habermas is at pains to point out that the two processes enhance each other and build on one another. Rational reconstruction bolsters self-reflection in the sense that it makes the range of possibilities explicit and limits human action. In particular it necessitates a "successful participation in a functioning rule-governed context" (Held 1980: 327). On the other hand, critical reflection will allow space for the former to unfold because new avenues, previously foreclosed through ideological distortion, are now available for consideration and appropriation. Subsequent remarks by Habermas (1973: 24; 1975: 184) indicate that he would not be averse to such a conclusion. Since a normative-theoretical foundation for critical self-reflection is provided by the results generated by rational reconstruction, Habermas (1975b: 184) argues that the

> [c]ritical sciences such as psychoanalysis and social theory also depend on being able to reconstruct successfully general rules of competence. To give an example, a universal pragmatics capable of understanding the conditions that make linguistic communication at all possible has to be the theoretical basis for explaining systematically distorted communication and deviant processes of socialization.

Critical self-reflection and rational reconstruction work hand in hand to achieve the goals of a positive prognosis for a society without communicative distortions and hence without

oppression. My supplementary methodology – critical auto-ethnography, discussed below – feeds well into this.

What are Habermas's reasons for reconstructing historical materialism? David Held (1980: 323) suggests that Habermas was convinced that historical materialism (the hallmark of classical Marxism) had to be "reformulated as a critical theory of society which incorporates the insights of the psychoanalytic model, particularly its insights into the significance of self-reflection." Freud's three-tiered therapeutic model (of metatheory, general interpretation to sustain a rational narrative and a specific application) was very influential in shaping Habermas's first reformulation based on a theory of knowledge (Habermas 1968/1971: 214ff.), and it was Gadamer's critique, among other criticisms, of critical theory's potential ideological deformation that led the former to seek out a rational reconstruction of historical materialism as a theory of social evolution.

Social evolution

Two aspects of Habermas's work on social evolution interest me; in the sense that they permit a springboard from which to explore and justify my research design. Firstly, in this context, for Habermas (quoted in McCarthy 1978: 233), reconstruction means "that one takes a theory apart and puts it back together in a new form, in order better to achieve that goal which it set for itself. This is the normal (in my opinion, normal also for Marxists) way of dealing with a theory that requires revision in many respects, but whose potential for stimulation has not yet been exhausted." It is my intention to reconstruct the South African situation in Chapter Three by a careful immanent critique of the 'quasi-transcendental' conditions which perpetuate the prison-industrial-complex. I continue this exercise by a rational reconstruction of the Chinese penal context in Chapter Four. Secondly, Habermas (1979: 121-122) argues that two preconditions govern the progress from one evolutionary stage to the next. My conceptual framework (generated in the previous chapter) taps into these "unresolved system problems that represent challenges" to contemporary South African society. Habermas's reference to "new levels of learning that have already been achieved in world-views" is decidedly applicable to the data I gather in the Chinese context in Chapter Four.

My argument is precisely based on the idea that, on the one hand, stigma against ex-offenders has resulted in unsustainable levels of recidivism, that fits Habermas's idea of 'unresolved systems problems' challenging the *status quo* in post-apartheid South Africa. On the other hand, a level of social and economic integration of ex-offenders has been achieved in the contemporary PRC that corresponds with Habermas's second precondition for evolutionary progress in terms of the species' 'learning curve'. This process of integration is a level of learning that has already been achieved in the PRC and one, as I argue in Chapter Four, from which we can learn. Generally speaking, Habermas's idea of

rational reconstruction is valuable for my thesis – the possibility of transplanting penological ideas from a contemporary Chinese society to post-apartheid South African marl – which I aim to do in Chapter Five. In Chapter Three, I expose those social and economic features of South African society which prevent the integration of ex-offenders and, in the same movement, entrench the stigma which keeps this group marginalized. In Chapter Four, I explore and reconstruct those features of contemporary Chinese society that demand consideration and, to borrow from Habermas, the potential of which have not yet been exhausted for present-day South Africa (another context).

Indeed, in the words of Peter Winch (1964: 317), one of Habermas's interlocutors, "Seriously to study another way of life is necessarily to seek to extend our own." Just as Habermas insists that self-reflection and rational reconstruction are two sides of the same coin in adding value to progressive self-formative processes in general, I employ both these precious resources to bear on the South African and Chinese theatres. By way of illustration, I argue in Chapter Five that the concept of stigma has led to enormous communicative distortion in the idea of redemption and rehabilitation in South Africa. Stigma and effective integration of ex-offenders are at opposite ends of the penological continuum. The value of the Chinese perspective, explored in Chapter Four, is precisely to show that another reality is possible.

Habermas is concerned with reconstruction on both individual (cognition, communication and action) and societal levels (Roderick 1986: 72). Societal reconstruction concerns me here. Habermas develops reconstruction on this level in two directions: productive forces and social integration processes. The first aspect of rational reconstruction is of course to highlight "productive forces" which further the interests of social integration (ex-offenders in stigmatizing shaming cultures being a case in point). I deal with productive forces here and I will say something more about social integration below.

Productive Forces

Habermas (quoted in McCarthy 1978: 248, the latter's translation) considers normative structures (institutions that enshrine good and clean values) so important for social integration that he refers to the former as the "pace-maker of social evolution, because new organizational principles of society mean new forms of social integration." It is precisely my argument that my careful rational reconstruction of Chinese penological and rehabilitative practices (and the social institutions in which these ideas find concrete rationalization), answer to this vision of Habermas.

Foucault's 'genealogical' turn

Curiously, critical theory in the tradition of the Frankfurt School is not the only philosophical tradition that treasures an inter-disciplinary understanding of the enigmas of

human existence and ways of being. It is my argument that such rational reconstructions of, for example the Chinese penal and rehabilitation efforts, such as I show in Chapter Four, are exceedingly relevant to our philosophical attempts to grasp our encompassing social reality. I can do no better than refer to Michel Foucault's 'genealogical' turn in an effort to bolster my case. Gary Gutting (2014), a well-known and credible Foucault scholar, explains the transition from his archeological to his genealogical period and the radical impact of this new paradigm on his thinking.

> Foucault's explicitly presents *The Order of Things* as an "archaeological" approach to the history of thought[...] So, for example, *History of Madness* should, Foucault maintained, be read as an intellectual excavation of the radically different discursive formations that governed talk and thought about madness from the 17th through the 19th centuries.

> Archaeology was an essential method for Foucault because it supported a historiography that did not rest on the primacy of the consciousness of individual subjects; it allowed the historian of thought to operate at an unconscious level that displaced the primacy of the subject found in both phenomenology and in traditional historiography. However, archaeology's critical force was restricted to the comparison of the different discursive formations of different periods. Such comparisons could suggest the contingency of a given way of thinking by showing that previous ages had thought very differently (and, apparently, with as much effectiveness). But mere archaeological analysis could say nothing about the causes of the transition from one way of thinking to another and so had to ignore perhaps the most forceful case for the contingency of entrenched contemporary positions. Genealogy, the new method first deployed in *Discipline and Punish*, was intended to remedy this deficiency.

His genealogical phase did not mean that Foucault had abandoned his archaeological period. Just as self-reflection and rational construction go hand in hand for Habermas, Foucault's two disjunctive methods at doing history also fed into and enriched one another. It is curious (and significant) that *Discipline and Punish* (1975/1991) – a 'rational reconstruction' of the history of the prison in Habermasian language – was the first of Foucault's explicit (although, arguably, even the *History of Madness* was a study of power, but at the implicit level) studies on power. Foucault's thesis is that the prison introduced a new paradigm in punishment that aimed at rehabilitating the offender rather than extract vengeance. Admittedly, this permitted the replacement of spectacle (torture) with more humane management (disciplining and normalizing the soul) of the condemned. The three steps or mechanisms, as I noted in the previous chapter, in gaining control of the subject's soul are, according to Foucault, examination (for example, of students or patients), hierarchical observation (such as watchtowers in prisons) and normalizing judgment (such

as that employed in re-classifying mental patients as cured or ex-offenders as rehabilitated). The new penological paradigm of imprisonment (as opposed to public spectacle in the form of torture and execution), has at its heart the nexus "power/knowledge", which strives for "the deployment of force and the establishment of truth" (Foucault 1975/1991: 184). David Tarbet (1978: 510) calls it "Foucault's most lucid, most direct and most challenging book." In a good review of Foucault's book, SparkNotes Editors (n.d.) applauds the original ways in which he demonstrates that "[a]bolishing the prison is unthinkable because it is so deeply rooted in society. In practical terms, Foucault wants to argue that we have developed no viable alternatives." Foucault's idea of a modern carceral or disciplinary spread throughout society (the model that society is an extension of the prison) is a powerful one that has significant implications for the project of prison reform and I will return to this theme in Chapter Five.

"The point of a genealogical analysis is," argues Gutting (2014: Page numbers not provided), "to show that a given system of thought (itself uncovered in its essential structures by archaeology, which therefore remains part of Foucault's historiography) was the result of contingent turns of history, not the outcome of rationally inevitable trends." This remark of Gutting's shows up one difference between Foucault and Habermas, namely the latter's pursuit of a rationally organized society (which presupposes, of course, that it is not rationally organized to begin with), but it is nonetheless remarkable how convergent Foucault and Habermas's work on power is. Axel Honneth (1991: 102-103) contends that the rejection of Marx's labour paradigm is the only common thread between Habermas and Foucault "since they gain access to the field of social action from completely opposite sides." I argue that both Habermas (in particular his enterprise of rational reconstructions and the theory of social evolution) and Foucault (specifically *Discipline and Punish* which inaugurated his genealogical period) are paradigmatic predecessors of my attempts to do precisely what Habermas envisaged – a rational reconstruction of both the Chinese and South African theatres in respect of punishment and rehabilitation practices.

Rational Reconstruction as Societal Integration

The second aspect of Habermas's concept of rational reconstruction on the societal level is social integration. In one of his later works, *Between Facts and Norms* (1996), he advances the argument that law is the most effective way to integrate marginalized groups. Habermas is probably correct in this, save for the serious reservation that unless society's collective mental framework has changed for the better, a legal innovation will not eradicate fundamental inequities in that society. Michelle Alexander (2012) ably demonstrates my reservations by showing that slavery was replaced by Jim Crow that was again replaced by mass incarceration of the descendants of former slaves. At no time since the Civil War did American society have its racist moorings fundamentally overturned.

Accordingly, slavery found other outlets and oppression has remained a shadow feature of that culture.

Critical Theory and reintegration

The question arises why critical theory has an interest in advocating the reintegration of marginalized groups. The answer is: compassion. The return of the repressed, a topic I briefly referred to in the previous chapter, is well documented by Freud and Žižek. It also ties in well with my argument on compassion as the driving force behind critical theory. As a research programme, it is geared towards identifying and addressing social pathologies. Earlier in this chapter, I attempt to develop a case for the adoption and development of a compassionate society rather than a society based on the pretentions of 'untrammeled' capitalism. In Chapter One, I justify the use of Critical Theory as my primary methodology on precisely this basis, i.e. its embracing of compassion for the marginalized/stigmatized in society.

Before moving on to consider my secondary methodology (and the tools to assist the transplantation process) in the next chapter, let us consider Dryzek's argument that critical theory – as a research programme – is well suited to be used in conjunction with other programmes. Dryzek (1995: 112) argues that although empirically oriented social scientists are more likely than not to dismiss critical theory as a research tool, he and Stephen White are of the view that critical theory offers a better explanatory model for the identification and evaluation of the treatment of social *aporias* (Greek for 'no way out') than do most other research programmes. Finally, Habermas (1981/1987: 375) observes that critical theory is not meant to replace existing lines of inquiry but rather to "provide a context for the assessment of their contributions and limitations." I would like to suggest a third reason for emancipation is the theme that runs through all these critical methodologies which Habermas has implicitly acknowledged by linking the critical social sciences with the interest of emancipation in *Knowledge and Human Interests.*

CHAPTER TWO: Part Two

Secondary Methodology and Tools

In the previous chapter, I develop my primary research methodology and my research design. In this chapter, I explore my secondary methodology and my nine 'tools' intended to assist the transplantation process from Chinese soil to home soil in Chapter Five, Part One.

1. Autoethnography as a complementary methodology

Ellis, Adams & Bochner (2010: para. 1) define autoethnography as "an approach to research and writing that seeks to describe and systematically analyze *(graphy)* personal experience *(auto)* in order to understand cultural experience *(ethno)* [...] This approach challenges canonical ways of doing research and representing others [...] and treats research as a political, socially-just and socially conscious act [...] A researcher uses tenets of *autobiography* and *ethnography* to *do* and *write* autoethnography. Thus, as a method, autoethnography is both process and product."

Indeed, disillusionment with grand narratives and the inflexibility of the notion of objective truth (both in the social and in the natural sciences) paved the way for an appreciation of narrative engagement in social research (Wall 2006: 147-149; Hughes *et al.* 2012: 209; Ellis, Adams & Bochner 2010: para. 1-3). As Arthur Bochner (2012: 155) points out, autoethnography gained increasing acceptance as a methodology of choice among social scientists during the 1980s and the 1990s. Since the human experience of reality, as Gadamer famously showed, can only be mediated through language, this poses a problem for traditional methods since "the constitutive quality of language creates experience and necessarily transforms the data that are being described" (Bochner 2012: 157). As understanding of the social is a 'telling' of 'knowing,' this is narration (White 1981).

Poststructuralist critique

The poststructuralist critique of the social sciences insists that, in the words of Richard Rorty (1982: 195), a radical overhaul of traditionalist methodology entails "utility of narratives and vocabularies rather than the objectivity of laws and theories." As LeGuin (1989: 151) argues, objectivity is sought because people fear their vulnerability at exposing themselves to the research process.

Rorty can be criticized for failing to locate the crux of post-structuralism. Whereas modernism places emphasis on 'being' as opposed to 'becoming', post-modernism's preoccupation, post-structuralism strikes a balance between these two extremes "by thinking them together" (Olivier 2013: No page numbers provided) and insisting that none

of these two extremes can be understood profitably if separated. The link between post-structuralism and auto-ethnography is that both these movements captures the 'both/and' moment. The latter does this by showing how the particular relates to the general in the sense that incidents in the narrative of a stigmatized group, for example, explain something about the broader culture in which that group finds itself.

Autoethnographers, on the contrary, "recognize the innumerable ways personal experience influences the research process" (Ellis, Adams & Bochner 2010: para. 3). If the point of social inquiry is for "material intervention into people's lives, one that not only represents but also creates experience," as Bochner (2012: 157) contends, it makes sense for research texts to double as "acts of meaning" (Bruner 1990). Max Weber, as is generally well known, foresaw the making of the modern world as an increasing rationalization and secularization of traditional ways of life which lead to a profound loss of meaning and thus 'disenchantment' with the world in the face of capitalism and modernity. Weber was an advocate of antipositivist methodology along the lines of *Verstehen* (interpretation), a concept noted above, rather than empiricism. In a consonant manner, autoethnography as a research paradigm focuses on 'meaning-making.'

Autoethnography has many features to commend it as a methodology in the social sciences (Hughes *et al.* 2012: 210; Delamont 2007; Hughes 2008; Pennington 2007) or, indeed, as a bridge with which to negotiate the divide between social inquiry and the humanities (Ellis, Adams & Bochner 2010: para. 39). Habermas, true to his anti-positivist stance, adopted his methodology for rational reconstruction of theory from the reconstructive sciences (such as cognitive development and linguistics) and not from the natural sciences (McCarthy 1978: 237). As is generally well known, the disciplines in the latter group insist on so-called objective, value-free research (untenable, as this approach has proved to be) (Shlain 1991; Kuhn 1996). For me, the three most compelling notions of autoethnomethodology are its emancipatory potential for the autoethographer her/himself, its ability to raise consciousness and, finally, following on from this, the healing locked up in a text that awaits a reader who extracts meaning from it for her or his own life. This resonates with Gadamer's hermeneutic principle of 'application', which is the final step in the cyclical process of moving from understanding through interpretation to the question, how something applies to one's own life (Gadamer 1970). As will be observed below, these categories, by their very nature, do not allow for a neat demarcation and the discussion is bound to overlap.

Many ways of embracing autoethnography

Actually, narrative is only one of many ways of embracing autoethnographic research (Hughes *et al.* 2012: 211, 217; Ellis, Adams & Bochner 2010: para. 15). Others include pleas for analytic ethnography (Atkinson 2006; Anderson 2006), symbolic interactionism

(Anderson 2006), 'translating' the results of autoethnography into acceptable, standard empirical research (Hughes *et al.* 2012) and performative autoethnography (Spry 2001).

Emancipatory possibilities

Tami Spry (2001) builds a convincing and impressive case for the understanding of autoethnography as a performative method of inquiry. She articulates the view that her performing autoethnography "has been a vehicle of emancipation from cultural and familial scripts that have structured my identity personally and professionally […] generating critical agency in the stories of my life, as the polyglot facets of self and other engage, interrogate, and embrace" (Spry 2001: 708). I have no doubt about autoethnography's potential for emancipation. In Chapter Four I applaud the practice of offenders writing their autobiography in Chinese prisons and more locally the Department of Correctional Services' (DCS) initiative to encourage offenders to perform autobiographical tales on the stage for the public - though the rationale appears to be 'cautionary tales' rather than being emancipatory. In the former practice, offenders are heartened to reflect on the course of their life and the opportunities for a rational reconstruction (in true Habermasian fashion!) thereof. "[W]riting personal stories can be therapeutic for writers," suggest Ellis, Adams & Bochner (2010: para. 25), "as we make sense of ourselves and our experiences." I may add my own liberating experience of the writing of this dissertation as a writing cure of sorts.

Autoethnography's ability to raise consciousness among the public at large (considered such a valuable tool in both feminism and Marxism) and among members afflicted by the cultural problem in question and thereby validating their feelings of pain, is particularly impressive. Ellis, Adams & Bochner (2010: para. 27) argue that

> As witnesses, autoethnographers not only work with others to validate the meaning of their pain, but also allow participants and readers to feel validated and/or better able to cope with or want to change their circumstances.

By way of illustration, 'the problem without name' identified by Betty Friedan (1963), was, ironically, widespread among women in American society at the time of the publication of her book *The Feminine Mystique* in the early 1960s. Goffman cites the example of the little boy with a deformed ear who observes another boy in the doctor's waiting room with a similarly deformed ear. He turns to his father with big eyes as his hand goes up slowly to his own ear. Our knowing that we are not alone in this world and that other people struggle with similar problems to our own is enormously powerful. Spry (2001: 712) notes that by taking in the contours of the autoethnographic text or performance (which is also a 'text'), communities are able to explore their own fractured existence and create their own space to heal. Layered accounts tend to ensconce the researcher's experience alongside her or his reflections on the relevant literature, data and analysis (Ellis, Adams & Bochner 2010:

para.20). Both Ellis (2002) and Goodall (2006) argue that consciousness-raising is a prerequisite for the promotion of cultural change. This is applicable to both personal and communal change. I seek to assuage or obliterate the stigma under which ex-offenders and their families labour and to this extent, I seek cultural change. This ties in well with my concluding observation, which is that autoethnography is not only a suitable methodology for my research topic – the unjustifiable stigmatization and marginalization experienced by ex-offenders who have served their time – but will also serve to complement my primary methodology (aimed at emancipation from unnecessary oppression).

In the section on tools below, I argue that texts are able to disseminate their contents without limits because of their ability to find or 'attract' meaning in different (incommensurate) contexts. Spry (2001: 726) expresses this idea with the telling expression "polyphonic intertextuality of people in [different] contexts." Derrida refers to this phenomenon as the 'travelling signifier', while Lacan calls it the 'sliding signifier', but it appears to me to be a rose by any other name. I elaborate on this below. This is the therapeutic value of autoethnography for the potential reader noted above.

I recall that at a slightly younger age I was incessantly drawn to the reading of feminist texts and it was only after I completed my Master's (in which I employed a feminist methodology) that it dawned on me that this was a way in which I attempted to come to terms with my own feelings of marginalization as a member of a stigmatizing and stigmatized community. Mary Louise Pratt (1986) notes that autoethnography was initiated from marginalized groups congregating on the borders of dominant culture. Hegemonic representation in narrative has been increasingly resisted (Personal Narratives Group 1989; Jones 1997; Simpson 1996). Romo's study (2005) has shown that power formations in society are least likely to acknowledge or be aware of its existence. By way of illustration, in a precious scene in David Cronenberg's film *A Dangerous Method* (2011), Freud (Viggo Mortensen) cautions Jung (Michael Fassbender) against taking psychoanalysis into esoteric paths (such as telepathy and parapsychology). Freud is at pains to explain that the reason for this caution is that the psychoanalytic community is already under pressure since most members of the profession in Vienna are Jewish. To this Jung says that he does not see the relevance and Freud observes dryly that Jung's remark is quintessentially Protestant – the point being that had Jung been a Jew he would have appreciated the anti-Semitic context immediately. Hughes *et al.* (2012: 212) note of Romo's work that autoethnography "seem to privilege a different type of legitimate authority to produce an inside-out discourse on *border crossing*."

Enabling marginalized voices

Said in other way, the marginalized have the greatest investment in autoethnography. I add my own observation to the above, that the therapeutic value of autoethnography lies in

enabling marginalized voices to become visible (Jago 2002; Boylorn 2006). In the next chapter, I cite Michelle Alexander's contention that family members of stigmatized ex-offenders are better able to endure secondary stigmatization if they are able to talk about their feelings, i.e. voice their pain. Bochner (2012: 161) explores this idea (and, incidentally, the applicability of autoethnography as the correct [supplementary] research methodology for my topic) in the following beautiful words:

> *The truths of autoethnography exist between storyteller and story listener; they dwell in the listeners' or readers' engagement with the writer's struggle with adversity, the heartbreaking feelings of stigma and marginalization*, the resistance to the authority of canonical discourses, the therapeutic desire to face up to the challenges of life and to emerge with greater self-knowledge, the opposition to the repression of the body, the difficulty of finding the words to make bodily dysfunction meaningful, the desire for self-expression, and the urge to speak to and assist a community of fellow sufferers. The call of these stories is for engagement within and between, not analysis from without (my emphasis).

Autoethnography as a research paradigm that privileges the embodied researcher in its encounter with cultural 'streamings' or currents (such as the marginalization and stigmatization of ex-offenders) as a site for (critical) self-reflection represents a considerable deviation from traditional methodological pre-occupations in the social sciences. It enables the socio-politically situated researcher, in the words of Denzin (1997: xv), to "study the social world from the perspective of the interacting individual."

The importance of epiphanies

Generally speaking, autobiographers explore 'epiphanies'—remembered moments understood to have had a significant brunt on the life course of that person (Bochner & Ellis 1992; Couser 1997; Denzin 1989), and events "after which life does not seem quite the same" (Ellis, Adams & Bochner 2010: para. 6). Consider the different experiential quality of life for holocaust survivors or that of ex-prisoners who spent twenty years behind bars. Epiphanies are certainly a transformative experience (Ellis, Adams & Bochner 2010: *op cit.*) which shows up the way(s) in which a person could negotiate 'intense situations', and that represents "effects that linger—recollections, memories, images, feelings—long after a crucial incident is supposedly finished" (Bochner 1984: 595). Needless to say, epiphanies are not normally chosen by the survivors but she or he is willy-nilly drawn into that situation (Bruner 1993; Denzin 1989; Freeman 2004; Ellis, Adams & Bochner 2010: para. 5). Consider the renewed life course of tsunami survivors or that of survivors of genocide in which everything was taken from them. These experiences were not chosen beforehand but, in retrospect, cannot but make for intense reflection and analysis, and colour everything from that point on.

Cultural artifacts as clues in research

An autoethnographer should not only have had the benefit of an epiphany, but she or he is also required to analyze experience, conduct interviews or talk to co-members and consult such cultural artifacts as photos, journal entries and clothes (Ellis, Adams & Bochner 2010: para. 7-9). As for clothes as a cultural artifact, I have always felt strongly that the ubiquitous orange uniform which offenders in South African prisons are required to wear, is aimed at dehumanizing them and also represents an attempt to erase their individuality. The point is that it is easier to brainwash a group of 'like-minded' people thrown together if they all observe conformity. The issue of the orange jumpsuit which offenders are made to wear in South African prisons has planted in my mind the insight that the clear demarcation between 'apparent' and 'inapparent' stigma (emphasized among both Occidental and Oriental social scientists) is not 'immutable' (Geiger 2006: 1211). The clear orange of the 'prison uniform' translates into 'inapparent' or 'invisible' stigma after release. As I indicate in Chapter One, Goffman (1963/1990: 57-58) distinguishes between the "discredited and discreditable" while Chui and Cheng (2013: 673) differentiate between "concealable minorities" and "visible minorities." Whereas Foucault points out in the opening pages of *Discipline and Punish* (1975/1991) how criminality attracted disfigurement, branding and torture in penal 'regimes of spectacle' (presenting 'visible' stigma), the disciplinary regimes of the modern period favour incarceration (which presents 'invisible' social and economical stigma by way of the 'prison badge'.). The historical cause of 'criminal' stigma has demonstrated that the stigma of a particular shamed group is not immutable but can change from one categrory to the other over time, although the same is not true for the vast majority of ex-offenders caught up in a particular 'snapshot' of history.

John Irwin (2005), who had an intimate acquaintance with life in prison, observed the new warehouse prison is in keeping with this compulsion by correction institutions to pressurize offenders into conforming. Irwin (2005: 76) argues that the offender is considered a "moral inferior, pathological or disreputable being that is in need of redemption, reformation or salvation." I am in complete agreement with Irwin. What strikes me is the indifference with which mainstream society in South Africa (and other stigmatizing shaming cultures such as the United States) treats ex-offenders, knowing that they suffer and that they have served their time. In the words of James Baldwin, refering to White America's attitude towards their blacks (but the same applies to the corresponding South African position), what amazes him, and me, is "the moral apathy, the death of the heart", which has made of White America "moral monsters" (Raoul Peck's *I am not Your Negro* [2016]). Just as White America cannot afford to think through their own motives (i.e. selfishness to maintain their unsustainable lifestyle of 'underdevelopment of development'), so the thought that South Africans may have to share a little of their

material comforts with returning ex-offenders, is a terrifying one and not a course likely to be considered seriously. Lerner's 'Just World' hypothesis and Festinger's notion of 'cognitive dissonance', which I note in Chapter One, are rationalizations for irrational behaviour (i.e. the actions of people who cannot afford to be honest with themselves). Their behaviour is irrational because, as Foucault argues and as I point out in Chapter One, punishment without end (i.e. stigma) can be nothing other than torture. This happens in spite of the persuasive evidence which Boris Cyrulnik (2009) tenders that people (read: ex-offenders) can and do change. In Chapter Four I quote Mao as decreeing that at least 95% of all offenders can be successfully rehabilitated. Despite all these considerations, what does it mean that (and what does it say of) stigmatizing shaming cultures persist(ing) in stigmatizing ex-offenders indiscriminately? The ex-offender is in no better position than the offender: her or his identity is as compromised as that of the still-incarcerated offender. I note and explore briefly below the following relevant concepts: ethics, truth/objectivity, generalizability and, finally, vulnerability.

Ethics

Firstly, ethical concerns for autoethnographic researchers are different from the concerns and challenges of traditionally minded social scientists (Hughes *et al.* 2012: 215). In view of the fact that ethnography focuses on "unveiling and critiquing underrepresentation, marginalization and oppression" (Hughes *et al. op cit.*), it makes sense that confidentiality of informants is an issue. Similar to traditional research, the safely and privacy of her or his respondents is of paramount concern, but it is of even greater importance in autoethnography. By the very nature of their research, autoethnographers implicate both themselves and intimate others (Adams 2006). Ellis, Adams & Bochner (2011: para. 27) cite the example of the son whose story features his mother and even by obscuring her identity (which might be a difficult exercise in the first place), he stands to implicate her. I recall here how uncomfortable I was/am in implicating my son in my writing. He has always supported me loyally and I have no desire to cause him embarrassment. I have something more to say about the issue of vulnerability in autoethnographic research below. While 'protective devices' is understandable and "the essence and meaningfulness of the research story" is of greater moment than the exact details, autoethnographers must take care how this can "influence the integrity of their research as well as how their work is understood and interpreted" (Ellis, Adams & Bochner 2010: para. 31). I must confess that in at least one story I recount in Chapter Four and one have recounted in this chapter, I have changed certain details to protect the privacy of my informants. This is autoethnographic writing, after all, where the personal is political and *vice versa*, as the literature produced during second wave feminism (roughly 1968-1975) has taught us. Hughes (2008) also suggests that respondents be given an opportunity to respond to the way(s) in which they are presented in the study.

Finally, the researcher's membership of the community presented could be a potential conflict of interest and the impact that this might have on the results needs some reflection (Hughes *et al.* 2012: 215-216). These observations make 'relational ethics' an essential concern for autoethnographers – something that is absent from the research concerns of traditional qualitative research (Ellis, Adams & Bochner 2010: para. 29-30). Actually, John Irwin, considered to be "among the most important voices on the subject of prisons and punishment in criminology" (Richards 2010: 173), argues that there are no better candidates for criminological research and teaching than ex-offenders. Irwin, himself an ex-offender who served time for armed robbery, is renowned for encouraging ex-offenders to pursue graduate work in criminology and, as importantly, to 'come out', despite their reluctance and stigmatization, in disclosing their criminal backgrounds in public. He is a founding member of the school known as Convict Criminology. In the apt words of Stephen Richards (2010: 174);

> How do you teach and write about prison without telling your audience what you learned inside? A core tenet of 'convict criminology' is that a former prisoner who wants to be a professor must not conceal their criminal past.

According to Irwin, ex-offenders, as I note in Chapter One, as full members of the cultural group in question, make for the best criminologists and it is their autoethnographical skills on which they will be judged.

Objectivity

Secondly, autoethnography has little truck with the notion of objective 'facts and truths' valued by the traditional social sciences and the natural sciences (Ellis, Adams & Bochner 2010: para. 2). Bochner (2012: 161) explains this novel understanding of the nature of autoethnography in the following words. It is not concerned with

> literal truths; they're emotional, dialogic, and collaborative truths. Autoethnographies are not intended to be received, but rather to be encountered, conversed with, and appreciated. My concern is not with better science but with better living and thus I am not so much aiming for some goal called 'Truth' as for an enlarged capacity to deal with life's challenges and contingencies.

Whereas traditionally conceived research designs are almost obsessed with separating the researcher from the 'object' under investigation, autoethnography venerates narrative truth, as I explained above, and, in particular, how and what an 'experience of an experience' can contribute to the lives of others. Autoethnographers proceed from the premise that existing research is a "source of questions and comparisons" rather than a "measure of truth" (Charmaz 1983: 117). But unlike the search for objective truth in traditional social science methodologies, layered accounts of this sort "use vignettes,

reflexivity, multiple voices, and introspection" (Ellis 1991). The fact that memory is fallible and contingent (meaning that a story can be remembered differently) is acknowledged (Ellis, Adams & Bochner 2010: para. 32). I have often reflected on the contingency of memory. The same phenomenon is present when one returns to a text after some time has lapsed and it reads differently to how it was originally recalled. I would like to suggest that perhaps the wording of the text has not changed but maybe we have been transformed in the interval. In a postmodern world, localized, partial and narrative knowledge are also ways of knowing (Richardson 2000). In the poignant words of Sarah Wall (2006: 148), "It says that what I know matters. How much more promise could it hold for people far more marginalized than I?" What autoethnographers are after are questions which ask: "How useful is the story?" and "To what uses might the story be put?" (Bochner 2002; Ellis 2004: 124). Duncan's (2004) research is very explicit about the unique, uncanny ability of autoethnographical research and writing to create the space for answering questions that have remained resistant to resolution by traditional research methods.

Generalizability of research findings

Thirdly, autoethnographers have no interest in the generalizability of their research results in the sense that traditional quantitative researchers have (Lincoln *et al.* 2011; Duran *et al.* 2006). As I indicated above, autoethnographers present the sort of evidence that invites readers to "compare their own lived experiences and contexts of interest to those conveyed by the author(s)" (Hughes *et al.* 2012: 215). Indeed, they employ personal experience "to illustrate facets of cultural experience and, in doing so, make characteristics of a culture familiar for insiders and outsiders" (Ellis, Adams & Bochner 2010: para. 3). Authors therefore create the opportunities for emancipatory change in the lives of readers and others perhaps far removed from the lifeworld of the author (Bochner 1997; Ellis 1995; Goodall 2006; hooks 1994). It should be added, however, that this – making a culture familiar to insiders and outsiders – presupposes something that approximates a quasi-transcendental principle: that of the ambivalent accessibility of others' experience through the medium of language. I call this 'quasi-transcendental' because it is not a 'pure' transcendental, which would conditionally guarantee full transparency of language for everyone; instead, it is 'quasi-transcendental', insofar as the language in which experiences are shared is 'accessible', but not in an unambiguous way. Everyone brings their own horizon of understanding to experience as embodied in language (or images, for that matter). This means that their interpretation of the 'text' will unavoidably gain a purchase on its use of language that is 'tweaked', or configured, differently (however slightly) from the interpretation of others. For researchers questing after objectivity this would be unacceptable; for autoethnographers it is a gain, because it fuses the particular of individual experience with the (quasi-) universal of language.

The issue of vulnerability

Finally, vulnerability has a place in autoethnography that is decidedly absent from traditionally conceived research designs. According to Wall (2006: 155), building on the work of Ellis and Bochner, the litmus test is "rich meaning, culturally relevant personal experience and an intense motivation to know." This can leave the researcher open to reveal (and unearth) intensely personal material. Ruth Behar (1997: 13-14) expresses this concept beautifully in the following words:

> Vulnerability doesn't mean that anything personal goes. The exposure of the self who is also a spectator has to take us somewhere we couldn't otherwise get to. It has to be essential to the argument, not a decorative flourish, not exposure for its own sake.

Goodall (1998, cited in Spry 2001: 714 [original text not available to me]) contends that this is exactly what good autoethnography is about. She contends that it "only has credibility when self-reflexive, and authority when richly vulnerable [...] When it is done well, we can learn previously unspoken, unknown things about culture and communication from it." I am mindful, however, that sometimes memories have been so painful or so awkward to commit to paper (despite its apparent potency from a methodological perspective), that I have not succeeded in doing so (yet). Accordingly, I am alive to the suggestion by Glave (2005), Pelias (2000) and McCauley (1996) that autoethnographers may resort to the second-person case to articulate moments felt too raw and sensitive "to claim" as their own. Following on from these general ideas on autoethnographical research, what are the salient features of autoethnography as a methodology?

Bochner identifies five pointers.

Bochner (2012: 158) identifies five distinctive pointers.

Firstly, researchers write in the first person dispensing with the idea of objective truth and the traditional idea of the separation between researcher and research object. Secondly, as I noted above, the generalization is not pursued as it is in orthodox social inquiry, which focuses "on generalization within a single case extended over time". Thirdly, the text's narrative features allow the genre to straddle the boundaries traditionally observed between social science and literature. Fourthly, the story line, as I highlighted above, often might (and often does) reveal deeply personal issues that disclose emotional experience, and thus "challenges the rational actor model of social performance that dominates social science". And fifthly, in exploring the vicissitudes of relationship building or nurturing, it portrays its fluctuations over time and "thus resists the standard writing practice of portraying a relationship as a snapshot". Several of these features are present in my writing and have been for some time (even before familiarizing myself with the literature on

autoethnographical research design) – in particular the first, the third and the fourth. I note that in Cronenberg's film (referred to above) Jung (Michael Fassbender) remarks to his wife, Emma (Sarah Gadon), that he considers no occurrence to be coincidental. How is the auto-ethnographic approach employed throughout this thesis?

My secondary methodology is not employed in any systematic manner, but, in line with my abductive research approach (as I explain and explore in Chapter Two, Part One), harnessed to tease out surprising discoveries. By way of example, the insight that post-apartheid South Africa (as well as the US) has evolved to leave no place for ex-offenders in which to find redemption and hence integration, is one of my most memorable findings. My supplementary methodology will be used as both a supportive commentary of the overall argument and as an auto-ethnographic account of my experience as an ex-offender in a stigmatizing shaming community culture which is South Africa.

Suitable as a complementary methodology

I argue that narrative ethnography is richly suitable as a complementary methodology for critical theory in the tradition of the Frankfurt School. Both emphasize the emancipatory potential of research (although each approaches it from diametrically opposite ends) and insist on the capacity of knowledge that can change the social world for the better.

How can the idea of auto-ethnography be squared with that of rational reconstruction (an idea explored in the previous chapter)? Although it is true that the employment of these two concepts in the same study does not imply that they are mutually dependent on each other, to my mind auto-ethnographic insights can serve as a valuable check on the development and direction of a rational reconstructive project. The reason for the emergence of this 'check' on the project is that the former is able to (and does in fact) serve as a form of triangulation which adds value to the 'truth claims' of rational reconstruction in both the South African social, economic and political context, and Chinese penal and rehabilitative practices. Rational reconstruction is an 'objective' exercise while auto-ethnography, as I argue in Chapter Two, Part Two, is a paradigmatic break with a supposedly 'objective' tradition in social science research and privileges instead subjective, personal insights by an insider on a significant slice of cultural life. In this way, the objective basis of rational reconstruction and the subjective insights generated by auto-ethnography as a methodological approach are bound to mutually reinforce and validate one another. It might well be that the experience of these rare 'experimental moments' (Marcus & Fisher 1986) in auto-ethnography, outlined above, so strange to traditional empirical research, might be the stirrings of a new research paradigm (Kuhn 1996) in the social sciences (if not trans-disciplinary), as Bochner (2012: 157) points out.

In conclusion, autoethnography aims to produce texts that can provide the space and inspiration for 'socially just' acts with the potential to bring about social, political and economic change (a topic which I traverse in depth in Chapter Three). This has enormous appeal to me, and together with critical theory (in the tradition of the Frankfurt School) is bound to be an effective and powerful perspective in exploring the stigma under which ex-offenders labour in stigmatizing shaming cultures such as South Africa.

2. Tools

Poststructuralist thought

My thesis is essentially an exercise in the management of cross-cultural borrowing. As such the tools implicit in transplanting the nuggets of Chinese wisdom on penology collected in Chapter Four, will be considered next. Half of these tools are drawn from the pool of French poststructuralist thought (Lacan, Derrida, Rancière) and the balance from the Anglo-American intellectual scene (Said, Dawkins, cross-analysis and receptor approach/ Recognition theory) although the Habermas/Gadamer debate is not situated there. Andrea Hurst (2004: 42) attempts to define poststructuralists as follows:

> If these thinkers have to be categorised at all (and not one of them is likely to appreciate any kind of categorisation), then they belong to a tradition of 'critical' postmodernism or poststructuralism. Here, thinkers (whom, following John Caputo, I have subsumed under the title of 'radical hermeneutics') share a common attempt to think in a way that differs fundamentally from the 'either/or' logic that has, until recently, governed Western theory. These thinkers, in various ways, attempt to retain some sense of a shared understanding, against the radical particularity and transitoriness celebrated by 'freeplay' postmodernists, without at the same time invoking the rigid structures of universality. In simpler terms, this means that they try to do justice to the cultural diversity and differences in the world without sacrificing our ability to think.

Clearly, these radical hermeneutics of the French poststructuralist persuasion differ from the critical hermeneutics of the Frankfurt School in that, for one, they do not subscribe to the view that intersubjective agreement is possible, or even (assuming it is possible) desirable. Nonetheless, my thinking is that a balanced methodological approach – in the sense of utilizing tools from both sides of the Atlantic – is bound to have a more wholesome effect on the eventual result. I have no doubt that my research decision on this point would find agreement with both Horkheimer and Habermas. Habermas, as is generally well-known, has no qualms traversing disciplines (philosophy and the social sciences) in intellectual traditions on both sides of the Atlantic.

Poststructuralist approach to theory

Although my primary methodology is Frankfurt School-critical theory, I am alert to Hurst's (2004: 7, 9-10) suggestion that the social world is a complex phenomenon. She contends that "[k]nowledge in these disciplines [the social sciences] depended not so much on perception and abstraction, as on understanding (Verstehen) – that is, the ability to enter sympathetically into the experience of others, as a consequence of our common humanity" (Hurst 2004: 12). In this respect, Bert Olivier (2015) proposes that the "post-structuralist turn", methodologically speaking, has a considerable advantage over the traditionalist approach of a thoroughgoing singular theoretical lens.

Olivier (2015: 349-350), with whom Hurst (2004: 42) would be in agreement, advocates the 'neither/nor' (or, alternatively, 'both/and') inclusive poststructuralist approach to theory appropriation rather than the 'either/or' thinking preferred by scholarly 'purists' (left to us by Aristotle). He explains the 'neither/nor'-logic with reference to Lacan's (1977a) well-known three registers of meaning, namely the real, the symbolic and the imaginary. Alternatively, in this regard Olivier (2015: 349) calls attention to the "ontological registers from the complex intertwinement of which human subjectivity (or 'being' for that matter) can be understood."

As soon as the subject recognizes herself in her mirror image, the subject has crossed the threshold from the 'real' into the imaginary phase and the symbolic register follows this when the subject enters and acquires language. Both these registers are assumed by surpassing the 'real' that will remain a distant memory (reminiscent of Derrida's famous critique of the unobtainable 'presence' that permeates Western thought) to which the subject can never return, but may experience overlap in the sense of approximation after a traumatic incident. As Lacan (1981: 52-64, cited in Olivier, *op. cit.*) points out, a traumatic experience is one that the analysand continuously relives in the spirit of 'what if' or 'if only', and there is perhaps no better example of how the 'real' continues to evade human appropriation. An analogy selected from the history of philosophy is Kant's famous recognition of the inability to uncover the *Ding-an-Sich*. We can never know the 'true' nature of the couch we sit on since time and space, as well as the categories of the understanding are necessarily parameters that structure our understanding.

By using these examples of the limits of human experience as heuristic tools, Olivier's (2015) exploration of the value of an eclectic assumption of available theoretical offerings (as the situation calls for) rather than one dominant theoretical lens becomes clear. Said in another way, poststructuralism has a decided preference for methodological and theoretical pragmatism over (unexamined) dogmatism in its scholarly work.

The poststructuralist turn in eclectic theory appropriation (dictated by the scholar's continuous attempt to approximate the real) has a striking correlation with Frankfurt School-critical theory's preference for interdisciplinary (and, as is the case with Habermas, even trans-disciplinary) investigation of social problems. Actually, by way of illustration, Dawkins's (2003) notion of 'meme' was introduced in 1976 to distinguish biological transfer of characteristics (Mendel's 'gene') from the transfer, both longitudinally (handed down from one generation to the next) and horizontally (contemporary), of social values, habits and practices.

Dawkins's concept of 'meme'

The Oxford Dictionary now defines 'meme' as "a self-replicating element of culture, passed on by imitation" (quoted by Dawkins 2003: 120) and a veritable (secondary) literature has sprung up around the concept "as a theory of human culture in its own right" (Dawkins 2003: 127 and footnote). The transfer of an entire group of related memes (religion is Dawkins's prime example), is known as a 'memeplex' or a 'meme-complex' (Dawkins 2003: 126). Dawkins (2003: 121-124) addresses one objection to the idea of 'meme' that I wish to discuss briefly, namely that memes have a "low fidelity rate" compared to genes' digital reproduction. Dawkins highlights the example of a game of "Chinese whispers" (known in the United States as 'telephone') played by a group of children. We can imagine the distorted message that emerges from the last child to have heard the 'whisper.' Against this, Dawkins (2003: 123) suggests that Susan Blackmore's distinction between "copying the product" and "copying the instructions" is valuable for an exercise in faithful reproduction by prioritizing the latter over the former. In Dawkins's words, "The instructions are self-normalizing. The code is error-correcting [...] The apprentice would not copy obvious mistakes." Dawkins's idea of 'meme' as social borrowing is a good introduction to the management of cross-cultural borrowing (horizontally). In view of the significance of the linguistic turn in philosophy (noted above) and in particular the paradigmatic impact it had on the work of poststructuralists, it might be heuristically valuable to continue my discussion with reference to three poststructuralist scholars after using Dawkins as a way to introduce the topic. Here I am referring to the work of Lacan, Derrida and Rancière, building on that of the Swiss linguist Saussure.

Saussure's contribution to linguistics

Saussure's model of the sign replaced the traditional referential system (whereby every sign referred to a specific 'referent' in the sense of an object, idea or concept) since the latter could not provide an explanation for the 'surplus' value of "language as a system of meaning" (Olivier 2005: 80). As is generally known, Saussure argued that the sign consists of a 'signifier' (a spoken or written word, image or gesture that 'signifies' something else) and a 'signified' (the idea or concept referred to). Most revolutionary, Saussure showed

that language does not consist of positives (the traditional system of signs with references), but that the functionality of signifiers only make sense in a 'field' of negatives since "meaning is a function of differences". By way of illustration, Bert Olivier (*op. cit.*), argues that the words "cat", "rat" and "mat" differ one from each other not because of what they refer to, but because the substitution of the consonants ('c', 'r' or 'm') allow for differences in meaning.

Derrida (1978: 281) points out that one feature of Saussure's model remained stuck in a philosophy of consciousness (a paradigm otherwise superseded by that of language). According to the latter, the 'unstable' signifier remained dependent on the 'stable' signified. The word 'elephant' may differ from one natural human language to the next but it still refers to the same 'concept' or 'image'. It is to the credit of both Lacan and Derrida, among other poststructuralists, that, building on the work of Saussure, the signifier was emancipated by jettisoning its distinction from the signified.

Lacanian metaphor 'the signifying chain'

Olivier (2005: 81) remarks that it is difficult to "overestimate the full significance and revolutionary consequences" of this poststructuralist move, and in accordance with this, I am concerned with the detachment of meaning and crafting or inscribing that signifier onto a new context. Lacan's prioritizing of the signifier (as in his famous remark that the "unconscious is structured like a language" [Lacan 1977b: 55]) precipitates the unfolding of the Lacanian metaphor 'the signifying chain' which is a great heuristic device for explaining its revolutionary impact. Even though removed from one context and re-inscribed onto another, the signifier remains intelligible since it is traceable along the chain of signifiers or the chain of signification, and may either reinforce its previous meaning or detract from (or add to) that, while always inescapably relying on it. Hence its neither/nor, or both/and structure. Shlain (1991: 165) quotes the example of how the idea of a flat earth made perfect sense in ancient Greece before the 'context' of Copernicus as there was no other knowledge available to contradict this (being the accepted wisdom of the time). Later contexts (new knowledge, new theories) along the chain of signification allowed for new, 'improved' (but at any rate different) insights since no context can saturate a signifier's meaning (the earth's geometrical format, case in point). The heliocentric paradigm conquered early modern Europe with Copernicus's revolution over that of the geocentric paradigm of Ancient Greece. The act of inscribing or crafting a signifier onto a new context implies necessarily (and perhaps also paradoxically) that it must remain the same *and* that it must inevitably change as well. This is the gist of the complexity uncovered by poststructuralist theory in all phenomena.

Derrida's 'radical destruction of the context'

Derrida's thinking on the 'radical destruction of the context' (which is also, at the same time, its deconstruction, given his demonstration that contexts lack a foundation, but do not, for that reason, lack meaning) complements Lacan's insights on the chain of signifiers or the chain of signification. Two of the meanings of Derrida's well known term '*différance*' need to be clarified before moving on. The first meaning of the term indicates that meaning can be transported temporally ('deferral') or spatially ('difference') (Derrida 1982a: 19). These differences and deferrals also imply, in the second meaning of the term, that displaced meaning may or may not (or not necessarily) recur. According to Derrida, this quasi-transcendental function of a displaced signifier in a new context is consistently assumed. Precisely the conditions which make mutual understanding or communication of meaning in a given context possible are also the conditions which engender the possibility that such mutual understanding or meaning might not be possible (Derrida 1982b: 310). Hurst reminds us that this idea of mutual understanding not being (necessarily) possible is what distinguishes critical hermeneutics (such as that of Habermas and Gadamer) from radical hermeneutics (such as that of Lacan, Derrida and Rancière). For example, Gadamer, as I point out below, insists that understanding is no different from having reached a mutual understanding.

The notions of 'writing' and 'absence' are important for Derrida (1982b: 311-312) in order to demonstrate his argument, that since all marks understood as 'writing' are necessarily (by their very nature) repeatable or 'iterable', irrespective of the supposed 'absence' from the presence of the speaker as in the case of 'speech,' no specific, supposedly 'original', context is demanded for its meaning to be grasped by a temporally or spatially distant reader. This non-saturation or indeterminacy of (a) context is "inscribed in the nature of the mark" and means nothing less than the "radical destruction of every context as a protocol of a code" (Derrida 1982b: 316), which implies that signs do not lose their meaning when inserted into new contexts (even if their meaning is altered or enriched).

What this means is that crafting or inscribing a signifier onto a fresh context will either enhance the 'original' meaning or clash with it (assuming the transplant proved possible) (Olivier 2005: 87, 78n5).

The upshot of Derrida's rethinking of context is that, firstly, signs, once in the open, are prone to "essential drifting" and, secondly, subject to the so-called "internal semiotic context [...] from which a sign can be removed at any time to be re-inscribed elsewhere" (Olivier 2005: 87). From this premise, as Olivier (2005: 88) points out, it is predictable that Derrida will expand his remarks on signs and contexts to language in the 'broadest sense' (including speech and writing) since decoding demands "the structure of a chain of signifiers of some sort, which is coterminous with language as such." The significance of

Lacan and Derrida's thinking for my study is that each, in his own way, stresses that matters human or social are irredeemably complex, and one can therefore not continue approaching the world in terms of traditional empiricist or (alternatively) rationalist methods. Consequently, when something is subjected to interpretive scrutiny, one has to consider every possible aspect that contributes to it being what it is – historical, cultural, theoretical, experiential, to mention only some such considerations – and when it is relocated, or moved, to a different context, such a move requires a reconsideration of all these aspects all over again, because every such move increases its complexity. This is precisely what has to be done when I carry out the proposed transplant regarding the treatment of ex-offenders from the PRC to South Africa, where the chain of signifiers has to be carefully traced to be able to come to valid conclusions.

Rancière's illustrative value

If Bert Olivier (2005: 83) is of the view that Derrida's treatment of the signifier is more radical than that of Lacan, the same can be said of Jacques Rancière. Rancière does not acknowledge the influence or, for that matter, the work of either Lacan or Derrida and, moreover, he is not explicit about his method in displacing the signifier. Rancière (2003: xxviii) remarks cryptically that "the power of a mode of thinking has to do above all with its capacity to be displaced," and it remains for me to identify his *modus operandi* with reference to his encounter with Hannah Arendt on the relationship between philosophy and politics. I consider Rancière's thought valuable for its illustrative potential of the ideas of Lacan and Derrida.

Arendt argues famously that in Ancient Greece the distinction between *vita activa* (active life) and *vita contemplativa* (life of the mind) was not observed. Socrates was of the view that the philosopher's task is an educational one (although, paradoxically, he claimed that knowledge or wisdom could not be taught), which is to help his interlocutors uncover the implicit truth in the political opinions (*doxa*) held by all citizens (since everyone has a contribution to make), rather than overwhelm them with philosophical 'wisdom'. Arendt approves of Socrates but not of Plato who, subsequent to Socrates' trial, despaired of the danger of political life and rhetoric. Plato introduced the distinction between *vita activa* (active life) and *vita contemplativa* (life of the mind) and prioritized the latter over the former as philosophy's account of eternal truths. It is a distinction between abstract ideas and concrete action that held firm until it became undone by Marx in the nineteenth century (as noted above). Plato justified this distinction by drawing a further distinction between *arkhein* ('beginning') and *prattein* ('achieving'), namely corresponding to the ruler and executive respectively. Schaap (2012: 148) suggests that Arendt borrows from Heidegger's idea of 'world' to recast plurality as the fundamental (ontological) condition of political practice.

Rancière shows that despite Arendt's anti-Platonic stance and her commendable insistence on a return to 'authentic politics,' this binary drive on her part reintroduces a repackaged yet fatal distinction between the social and the political based on the supposed equality implicit in democracy. Arendt postulates, for example, that the failures of the French Revolution were the result of the insatiable need of the poor that militated against the realization of freedom. Marx showed through his concept of historical materialism (highlighted above) that 'freedom' is only possible if the economic conditions in which subjects find themselves allow for this. In his critical reading of Arendt and his characterization of her as an 'archi-politics' philosopher, Rancière reveals his debt to Marx. Arsenjuk (quoted in Schaap 2012: 153) defines archi-politics as the absorption of politics under the rubric of "the logic of the strict and closed distribution of parts, a social space which is homogenously structured and thus leaves no space for politics to emerge." The important thing to note here is the strict distinction between the *political* (which, for Rancière, consists in the manifestation of equality in moments of *dissensus*, unlike *politics* as usually practiced along hierarchical lines of exclusion) and the social. Little wonder then that Rancière equates the tasks of political philosophy with that of the police. Philosophy's hatred of democracy finds expression in its demise of the common man's social standing.

Rancière, being the poststructuralist he is, proceeds from a radically different premise, namely that consensus is not a given and, given the state of politics under democracy, *dissensus* (or the fundamental inability to reach any sustainable agreement) ruptures over the distorted claims of modern democracy to equal participation. The hollowness of democracy, in SA as elsewhere, becomes apparent in moments of *dissensus*, such as Marikana, when the fundamental claim of common people to (democratic) equality lights up the fundamental inequality of hierarchically organized 'democracies'.

Sampie Terreblanche (2002), one of South Africa's foremost economists, argues that the ANC has failed the electorate in its post-apartheid mandate in having embraced a neo-liberal economic model in defiance of its electoral mandate to nationalize and follow a socialist model. Terreblanche's argument ties in well with the poststructuralist thought of Rancière and Derrida on the paradox of modern democracy, and ironically is relevant in the context of post-colonial South African and African politics.

Both Rancière (2006, 2010) and Derrida (1994, 1997) argue convincingly that democracy in its modern guise is nothing but an autocracy which leaves many cuts of the population destitute and marginalized for the economic enrichment of a selected few at the top. Derrida (1994: 85) berates Francis Fukuyama for his congratulatory celebration of liberal democracy as the *telos* of historical necessity in these terms: " ...at a time when some have the audacity to neo-evangelize in the name of the ideal of a liberal democracy [...] never have violence, inequality, exclusion, famine[...] affected as many human beings...". In

poststructuralist circles, Rancière (1999: 33) claims that equality "is not a given that politics presses into service [...] It is mere assumption that needs to be discerned within the practices implementing it." In the context of post-apartheid South Africa, consider the index of the well-known instances of nepotism at the very top of South Africa's liberal democracy. So-called 'Eurocentric' theory on the paradox of democracy shows that even in a post-colonial context, oligarchy can pose as parliamentary democracy, such as in the case of the Zuma administration and its unashamed collusion with business for personal gain.

Rancière's fundamental disagreement with Arendt, however, on the possibility of political understanding (grasping politics as a process as opposed to an autonomous domain, as Ingram [2008] contends), does not prevent him from appropriating her concepts for his own use. The important feature for my purposes is not that he uses her ideas, even if unacknowledged, as Andrew Schaap (2012: 161) points out, but *how* Rancière does so. In the words of Schaap (2012: 160), "[i]f Rancière does end up using some Arendtian concepts, these are fundamentally transformed when unmoored from Arendt's ontology, which Rancière consistently rejects."

By way of illustration, Rancière's *Disagreement* (1999) contains several unacknowledged references to Arendt's term 'world.' This does not come from Arendt exclusively; it was used by both Husserl and Heidegger, to mention only two thinkers, and it is probably Heidegger's use of it that Arendt appropriated. The very idea of dissensus plays on the theme of "putting two worlds into one" and is an allusion to the Heideggerian concept of 'world' which is paramount to Arendt's political thinking (Schaap 2012: 161). But, and this is the important point about Rancière's borrowing from Arendt, Rancière disagrees completely with her on her notion of political autonomy and the possibility of the political as a shared project between the rich and the poor. Considering that Arendt (as noted above) adopts Heidegger's concept of 'world' as an ontological term in which to anchor her political idea of plurality as an expression of authentic political experience, Rancière radically reshapes this central idea to the extent that it loses its ontological moorings (Deranty 2012). Whereas Rancière's 'world' envisions a meeting of politics (understood as the promise of equality for all) and the police (the ordering of role-playing, empowered and disempowered along lines of exclusion) in the space of the political, Arendt's quasi-Heideggerian 'worlding' merely refers to a space where equality is assumed populated by the rulers and the ruled (Schaap 2012: 162). Rancière's drastic regrafting of the signifier 'world' from its ontologically based context onto a context deprived of ontological anchors, is strongly reminiscent of Derrida's concept of 'destruction of context' as a precondition for displacement of the signifier.

Edward Said's travelling theory

Whereas Hannah Arendt re-inscribed Heidegger's notion of 'world' onto a new political context (the pre-Platonic Greek polis) in an attempt to bridge the separated spheres of *vita activa* (active life) and *vita contemplativa* (life of the mind), entrenched in political philosophy from Plato onwards, Edward Said (1983: 4) defines what he calls 'worldliness' in the following words:

> Texts have ways of existing, both theoretical and practical, that even in their most rarified form are always enmeshed in circumstance, time, place, and society – in short they are in the world, and hence are worldly.

This is perhaps another way of saying that texts (as understood in the widest possible sense) arise within a particular context and the text cannot but be 'in the world'. Unlike Habermas's contention of 'pure theory' (referred to above) which is entirely removed from what Ricoeur calls "circumstantial reality", there are no such texts for Said.

By way of illustration, Said (1983: 6) introduces the "worldly notion of the sacred text" with reference to the eleventh century Islamic school of Cardovian Zahirites who insisted on the surface meaning (as opposed to hidden meaning) of words. In other words, the text is available to any reader that comes to it and the idea of "private" access to any text is simply, for the Zaharites, incomprehensible. According to Ibn Hazm, whom Said (1983: 8) quotes with approval, language is "an institution signifying meanings anchored in specific utterances." The Quaranic text is written in the Arabic "imperative mode" (Said 1983: 7) that demands of an 'utterance' ('khabar in Arabic) "the verbal realization of its signifying intention." In short, Quaranic interpretation, in this sense, is driven by two paradigmatic incentives: *igra* (to read or to recite) and *qul* (to tell). As the foundational text of Islam as a proselytizing religion, such a text then, is already firmly etched in the world and its interpretation "*has already commenced* and is therefore already constrained, and constraining, its interpretation" (Said 1983: 9, emphasis in the original).

Lacan's concept of the 'signifying chain' is confirmed in Said's (1983: 9-10) view of the text as "already-in-articulation". Although this implies a wide range of possible interpretations (Gadamer), there are definite constraints on the mode of interpretation. All the same, Said's vision is an explicit rejection of binary oppositions between text and world and text and speech since the text in its circumstantial reality already serves a function *in the world* (Said 1983: 13, 18).

One way in which the text's interpretation is constrained, is its inherent tendency to displace, dislodge, and even marginalize other texts (in the widest sense of the word). In this regard, Nietzsche's idea of the will to power is quoted with approval by Said (1983: 14). Hence, Said (1983: 16) is able to point out that Orientalism (which implies the

inferiority of so-called 'exotic' texts and people) and Higher Criticism developed *in tandem* in a Europe set on empire-building. In light of this insight it is important to note that, according to Northrop Frye's theory of literature (*Ibid.:* 15), all texts derive their patrimonial power of displacement and marginalization from the centrality of the Bible in Western literature. Finally, in addition to the relevance of the above, Said's (1983: 22) plea for the blooming of diversity as opposed to monoculture (doubling as ethnocentricity) is a good platform from which to introduce my idea of a multiplicity of perspectives in the management or appropriation of cross-cultural learning.

I began my exploration of relevant tools with the neo-Darwinist biologist Richard Dawkins's concept of 'meme,' followed by the views of three poststructuralists on the displacement of the signifier and Edward Said's travelling theory. I conclude this section on methodological instruments by noting two fairly unrelated perspectives, namely the relevant lessons from the Gadamer-Habermas debate, a brief overview of cross-cultural analysis and, finally, two tools that have prepared the home culture for the proposed transplantation.

The Gadamer-Habermas debate

Despite their disagreement on a great number of details, Habermas and Gadamer are both interested in the preconditions for achieving consensus or mutual understanding in dialogue. An exploration of the Gadamer-Habermas exchange, interesting as it is, falls outside the scope of this treatment, but I note four aspects of Gadamer's (1975b) work which I deem of value for my own project.

Firstly, for Gadamer, interpretation and understanding go hand in hand. It is impossible for the interpreter to engage her or his 'text' without a range of preconceptions and prejudgments (*Vorurteilsstruktur*) (Warnke 1987: 75-81). Secondly, Gadamer does not suggest that having such preconceptions and beliefs is necessarily a problem for the interpreter. What is a problem, is imposing such a structure unconsciously on the text without awareness of its impact (McCarthy 1978: 173). This idea of Gadamer is reminiscent of Freud's insistence that a psychoanalyst prepares for her or his vocation by first undergoing analysis her or himself to limit the possible range of unconscious counter-transference. Thirdly, a successful interpretation is the result of a 'fusion of horizons' (*Horizontverschmelzung*), which entails the interlacing of the unfamiliar of the text with the familiarities of her or his own life-world (Warnke 1987: 81-82; McCarthy 1978: 173-174). Consequently, according to Gadamer (1975a: 80 [German text]; 1975b: 264 [English text]), "[w]e understand differently, if we understand at all." Finally, the upshot of Gadamer's insight is that there is no final or singularly correct interpretation (McCarthy 1978: 175-176). It is certainly impossible to reproduce an 'original' version (in the sense of a version that coincides with the authorial intention). A final interpretation is only possible after the

world has ended (but then, of course, there will be no more need for any further interpretations). Each epoch (and this is in fact true for every reader or interlocutor) brings its own concerns to a text and hence results in a potentially inexhaustibility of different readings. This idea compares well with Derrida's notion of a 'radical destruction of the context as a protocol for a code' noted above.

Habermas (1970c: 287, quoted in McCarthy 1978: 183, the latter's translation) argues that the existence of systematically distorted communication presupposes that hermeneutical understanding of a text (as understood by Gadamer), valuable as that is, is not enough to breach the veil of ideology. From a psychoanalytical point of view, Habermas's argument also applies to the pathological ruptures (silences, slips of the tongue, puns, lapses) in spoken language (Roderick 1986: 56-57). Habermas (quoted in McCarthy 1978: 183, the latter's translation) contends that

> Here it is not a question of deceptions within a language, but of deception with language as such. Hermeneutic experience that encounters this dependency of the symbolic framework on actual conditions changes into the critique of ideology.

Critique of ideology is indispensable in identifying unacceptable prejudice and retainable, justifiable authority (McCarthy 1978: 190). For the purposes of my project, it is important to note that Habermas's disagreement with Gadamer is not limited to the issue of systematically distorted communication (be it as a result of repression or domination or both), but also concerns the nature and possibility of agreement. Whereas Gadamer believes we are already engaging in a dialogue which habours the possibility of mutual understanding but also of misunderstanding, Habermas is of the view, in my opinion justified, that an approximation of the counterfactual ideal speech community is possible, but that the conditions for its actuality have not as yet been achieved. Curiously, this moves Habermas closer to the position held by Derrida and Rancière, noted above, on oligarchy posing as democracy and hence, the impossibility of reaching consensus under current conditions, given their conspicuous lack of optimism regarding conclusive agreement. I proceed now to consider cross-cultural analysis which is not a tool to aid 'textual' interpretation, but a method to highlight blind-spots in the home culture by way of learning on the issue in question from other cultures/ contexts in particular.

Cross-cultural analysis

Lisa Heldke (2002: 111) defines cross-cultural analysis as "exploring and evaluating concepts and practices from a culture other than one's own, using tools from one's own culture." Niall Ferguson (2012) argues that the fructuous interaction between different cultures is a major motivator of historical transformations. It is precisely such a transformation that I have in mind to change the social and economic landscape in South

Africa for the more congenial integration of ex-offenders based on the contemporary Chinese model. Cross-cultural analysis encompasses three steps.

Firstly, it analyzes dominant discourse on the subject in question (Yanagisako & Delaney 1992: 15-16). In South Africa the discourse model regarding imprisonment is the 'law and order' rhetoric (as I argue in the next chapter) while in the PRC it is 'rehabilitation' (as I argue in Chapter Four). By way of illustration, Edward Said (1978/1995) defines Orientalist discourse as those patterns of thought, habit and behaviour that engendered the West's conquest and colonial exploitation of seemingly 'inferior' races. The sole aim of Orientalist discourse is to validate portraying and stereotyping the native as begging for the European's 'civilizing mission'.

Secondly, cross-cultural analysis attempts to understand how culture fuses dominant and rebel discourses into a normalizing, seemingly cohesive social structure (Yanagisako & Delaney 1992: 15-19). A cross-cultural reading is tasked to highlight this ideological production of normality. Two ways present themselves to bring about this result. On the one hand, feeding apparently contradictory discourses into one another can show up the inconsistencies embedded in dominant discourse. For example, I attempt to show in the next chapter how the vested economic interests in the continuation of the prison contradicts and negates the ideal of rehabilitation enshrined in the Department of Correctional Services' mission and vision statement. On the other hand, reading against the grain of cultural practices and discourses have the benefit of uncovering their historical origin and represents a powerful way of emancipation for members of the marginalized group in question, since such a reading strategy demonstrates that the unfolding of the master or dominant discourse in question is not premised on inevitability (Yanagisako & Delaney 1992: 9-14). For example, in Foucault's histories of the treatment of prisoners and the insane, he shows that none of these social categories has an ahistorical origin but that they are precisely the result of historically conditioned discourses. The implication is that like all such categories, they are contingent, and subject to change.

Thirdly, cross-cultural analysis is not a one-size-fits-all universalized exercise but "must take into account specific systems of classification and meaning" founded on the researcher's grasp of the norms, cultural practices and institutions peculiar to the culture in question (Yanagisako & Delaney 1992: 15-20). This requirement is consistent with Critical theory's insistence on the integrity of immanent criticism (alluded to above), a subject to which I now turn. It is also the last tool in my bag.

In my exploration of the previous seven tools (which, in the process of intellectual evolution, grew from an initial five to nine), I have employed the method of internal criticism (a device made famous by Marx and, lately, Habermas) to gauge the strengths and weaknesses of the instruments identified. The final two instruments are tools I alluded to

in Chapter One. Transplanting the ideas earmarked in Chapter Four demands a prepared ground (marl) in the home culture (South Africa). There is little point in grafting the signifier onto a new context if there is no receptive ground for it, although Derrida insists that the quasi-transcendental nature of the signifier makes this ambiguity inevitable and hence, the consequences of such a grafting unpredictable.

Key to tilting the odds in favour of receptivity rather than rejection is ingraining the signifier onto a context with which it is compatible. In Critical Theory in the tradition of the Frankfurt School this idea is known as 'immanent criticism' (an idea I have explained above). In the context of indigenous African culture, two approaches were developed to assist with the transplantation of fresh ideas onto African soil. These are African recognition theory and the receptor approach. Before exploring the nature of these two approaches, it is worth noting Chris Allsobrook's (2017: 34) contention that these two complement each other in assisting the implementation of a new idea in (sub-Saharan) Africa for the purposes of interweaving it with local, indigenous customs. (I have a pre-publication version of his paper available, but it is possible that the numbering will differ from the published version when that appears.)

African recognition theory

Allsobrook (2017: 3-4) holds that African philosophers (notably Kwame Gyekye and Thaddeus Metz) typically reject Eurocentric ideas (such as Human Rights) because it is derived from an ontology of individualism which is foreign to community-based African society. In Chapter Three, I argue that individualism is the value that drives both capitalism and incarceration (based on the contentious issue of individual responsibility). In Chapter Four, I argue that the West has abandoned the values of rehabilitation and redemption in favour of the ware-housing of offenders for unacknowledged reasons, among others, of vested economic interests in the prison-industrial-complex. I hold that the Chinese were able to interweave the institution of the prison with the ideal of rehabilitation successfully, precisely because the PRC is a communitarian society (as is most African cultures). Essentially, as Antony Anghie (2013: 10) shows, African thinking rejects Eurocentric ideas in favour of Afrocentric initiatives, since the former excludes African visions of social and political justice.

To allay these objections, Allsobrook (2017: 16-17), building on the work of Martin and Green, proposes and defends the following components to his African recognition thesis:

> 1.   Justified by an overlapping consensus of critical moral standards, belonging to independent, comprehensive ethical doctrines, with these standards converging on a list of rights, each of which accords with Ubuntu, such that almost everyone agrees that these rights serve the common good, to the benefit of each and all, and;

2.   That a morally accredited way of acting or of being treated has some sort of significant social recognition in living customary practices.

Although Allsobrook is primarily concerned with attempting to show how Human Rights could be justified in an African context, I have no doubt that the two concepts identified (Ubuntu and overlapping consensus) in the extract quoted, are equally applicable to the importation of any idea which attracts "moral accreditation" in extant customary practices. I argue that in view of the contentious political nature of the prison in African society (outlined in the previous chapter), the issue of rehabilitation and redemption is an eminently feasible signifier demanding consideration for incorporation onto indigenous (particularly sub-Saharan) African cultures. I will demonstrate my contention in Chapter Five but I note briefly Allsobrook's treatment of the elements of Ubuntu and overlapping consensus that together constitute his African recognition thesis.

Firstly, Allsobrook (2017: 18) defines Ubuntu as "a good attached to the inter-dependence of individual and social well-being in society." This idea is often linked and justified with reference to the well known South African indigenous, isiXhosa saying "a person is a person through other people" (with its unmistakable communitarian undertones). This sentiment is encountered in other indigenous South African languages as well, like isiZulu. It follows then, that Allsobrook (2017: 19) is entirely correct in holding that the notion of Ubuntu has been widely accepted in sub-Saharan African indigenous cultures (including those practiced in South Africa itself.) Rights vest because of communal recognition.

Secondly, the concept of overlapping consensus in African (including Southern African) politics is of overwhelming importance. It would come as pleasant cross-cultural confirmation to Habermas's insistence that consensus is not only possible but essential. By "overlapping consensus" Africans do not mean majoritarian democracy but agreement among all the members of the tribe (Gyeykye 1992). Wiredu (quoted in Matolino 2016) goes as far as contending that overlapping consensus means nothing less than that "Consensus as a basis of joint action was taken as axiomatic." Curiously, African philosophers would seemingly agree with Derrida and Rancière's critique of Western-inspired democracy (Gyeykye 1992: 8). It is my contention that the integration of marginalized groups such as ex-offenders are arguably a given considering the contentious nature of the prison in Africa and the value placed on overlapping consensus. Few ex-offenders would be able to partake in sensible public decision-making if a cloud of stigma were to inhibit their participation (a topic I take up in the next chapter). Just as is the case in contemporary Chinese society, traditional African society – notably represented in South African customary law – aims for dispute resolution mechanisms that will enhance communal peace and harmony (Bennett 2011; Koyana 2015: 241). Allsobrook (2017: 22) argues that if an idea can pass the test of a common good (the requirement of Ubuntu) and

overlapping consensus, it stands to achieve moral accreditation in indigenous (particularly sub-Saharan) African society.

Finally, Allsobrook (2017: 30-31) argues for the acceptance of Human Rights in traditional African society based on the idea of 'continuity in change' (well established in the development of the common law) which, he holds, is helped by the theory of recognition. He also acknowledges the concept of reform (though not abolition) of conflicting legal principles proposed by An-Na'im as vital for the integrity of the internal logic driving that culture and the enrichment of possible cultural legitimacy. It is my argument that Allsobrook's model applies to the possible adaptation of any idea (not only Human Rights) into (particularly Southern) African society. To explore the idea of cultural legitimacy, Allsobrook (2017: 34-35) insists that institutional changes must accord with acceptable cultural receptors and to this end he turns to the work of Tom Zwart (2012) on the receptor approach.

The receptor approach

The receptor approach to the implementation of human rights internationally aims to identify social institutions on local level capable of sustaining such application and, where this does not prove feasible, motivates for improvement through reform. To this end, the receptor approach encourages 'home-grown remedies' (instead of attempting to replace [potentially] existing solutions with Western inspired alternatives) to further the cultural legitimacy of such transplantation (Zwart 2012: 546-547). The assumption is that interweaving new ideas with extant socio-cultural receptors is more likely to enhance their usefulness.

The receptor approach derives its name from the phenomenon in biochemistry that the receptor molecules found in the outer membrane will determine which signals are permitted to register (Zwart 2012: 548). Curiously, in many cultures in Africa and Asia new ideas are promoted without recourse to legal sanctions (Mutua 2002: 39). This is the result, as I argue in Chapter Four, of the communitarian nature of many non-Western societies (such as the PRC and a host of cultures in Africa) where informal sanctions are very effective in regulating society. Consider, for example, Solzhenitsyn's well–known critique of Western society during his Nobel lecture as neglecting the individual's duty to her or his community. Confucianism and collectivism, respectively, mark this characteristic of Asian and African societies (Zwart 2012: 551-552). The receptor approach is a strong advocate of the idea of cultural integrity and seeks to grasp every culture's inner logic. By way of illustration, traditional African societies prefer restorative justice to that of Western-sanctioned retributive justice. Where the match is less than perfect, the receptor approach demands that one or more elements are added to bring the social arrangement in question up to speed (Zwart 2012: 554).

In Africa, notably, several social nodes – religion, self-help, extended family – may serve as valuable receptors (Nhlapo 1997: 138). Richard Baah (2000: 53-57) has demonstrated how the Akan people of Ghana use religion as a conduit for human rights. The Akan consider showing goodwill to one another as the appropriate vehicle in which to perform God's mandate. An example of self-help is the increasing tendency of African women to respond to domestic violence by economic measures (by making themselves financially independent from their abusive partners) rather than legal ones (Green 1999: 222). In Grahamstown in the Eastern Cape, FAMSA, which has investment in the economic empowerment of women in South Africa, encourages skills acquisition and small business entrepreneurship as a way to escape abusive relationships (Zwart 2012: 557). These examples indicate that the receptor approach views ethnographic methods as being of far greater value than legal initiatives. Such research will aid the location of socio-cultural receptors likely to advance the cause (Romney *et al.* 1986: 313, 329).

Bonny Ibhawoh (2000: 838, 856-858) has argued that legislation aimed at correcting a wrong may turn out to be a paper tiger if the reforms do not carry cultural legitimacy. Bans on female genital mutilation in Africa, for example, have not always been enforced because of the reluctance to offend important investments. Ellen Gruenbaum (2005) has studied the apparent rationalizations for FGM (religious dictates, rites of passage, etc.) in an effort to devise a homegrown remedy for the scourge against its legitimation. If marriage is the reason for this practice, then in the words of Zwart (2012: 559), "the remedy should be tailored to this rationale." If the families of boys pledged that they would marry uncircumcised girls, this practice could be dealt a deathblow, and a campaign to this effect by an NGO has had remarkable success in Senegal. According to Gerry Mackie [1996: 999-1001], the pledge society is a Chinese innovation that eradicated the practice of foot binding in China. The receptor approach does not encourage legal engineering. Reforms should aim for felicity to the social mores in question (Zwart 2012: 560). A South African example which illustrates the value of this notion, is the remarkable results that the HOPE experiment (which combined the benefits of Western medicine with that of the indigenous belief in witchcraft) had in rolling back the fight against HIV/AIDS (Wreford 2009; Liddell *et al.* 2005). Zwart (2012: 564) comments as follows:

> To be able to reach and treat patients who shun Western medicine, the HOPE project recruited a number of traditional healers who were willing to incorporate counseling, testing, and antiretroviral treatment into their divination practice. Consequently, the patients who would usually avoid Western biomedicine, but were attracted to traditional healing, were exposed to the benefits of Western biomedicine nonetheless. Rather than replacing the local approach towards healing across the board by scientific medicine, which would probably have driven away the

patients, the experiment added to the already existing and operative indigenous system.

This raises the issue of cultural relativism against which Bert Olivier (2005: 79n6), among others, warns. I must confess that despite its admirable objectives and impeccable record of accomplishment, it would appear to me that the receptor approach has fallen victim to the lures of cultural relativism. By dealing with ways in which different cultural practices can be 'fused', however, I may just be acknowledging complexity in the form of concrete instances of 'both/and'. By way of illustration, Angela Davis (1990) relates how she was taken to task by Egyptian women for her interest in FGM (an African practice briefly alluded to above) on the basis that their economic empowerment (and their exploitation by the West) is more important to Egyptians than the European fascination with their sexuality. My provisional answer to this predicament, borrowing an idea from Lacan, is to "forge a theory that will admit death into its midst" (Payne 1993: 10). Tensions in theory are not always resolvable and it might even be productive (Roderick 1986: 3-4). Accordingly, Roderick's (ibid.) reading of Habermas attempts to "do justice to the real tensions in Habermas's texts" in view of the "complex and discontinuous development" of his project.

Finally, Zwart (2012: 569) argues that the receptor approach is likely to have greater success in societies that value community over individualism and restorative rather than retributive justice. I intend to show in Chapter Five that community and restorative justice are values which can be retrieved for South Africa.

Both the African recognition theory and the receptor approach tend to prepare the ground for the successful engraving of the signifier on South African soil whereas the first seven tools attempt to make sense of ways in which to remove it from its original context. Said in another way, Derrida seems to be mistaken if he is to be understood to mean that the odds cannot be tilted in favour of a successful transplantation.

In concluding the section on relevant tools selected (ideology critique understood as immanent criticism, rational reconstruction in the form of a theory of social evolution, Foucault's archeological and genealogical methods, the nine tools) and explored in this chapter, it appears that diversity in view and approach, rather than monoculture, is more likely to advance creative solutions to complex problems such as reintegration of marginalized groups in semi-communitarian societies such as South Africa. In this chapter, I have given a critical account of my two considered methodologies based on my choice of research paradigm which, for its part, pointed at the appropriate tools. I also noted that my research design is constructed around the conceptual framework generated in the previous chapter. In the next chapter, I will attempt to deepen the conceptual understanding of the prison-industrial-complex and its contentious role in entrenching the oppressive nature of

a neo-colonial device such as the prison in a post-colonial Africa in the unmistakable grip of neo-liberal imperatives.

CHAPTER THREE

An Ideology Critique of the Prison-Industrial-Complex

It was Marx (1842/1975) himself who famously questioned the legalistic conception of crime. By 'legalistic' I mean to say the reduction of criminological inquiry to the parameters of the extant criminal law. Said in another way, Marx questioned whether and why only behaviour labeled as 'crimes' on the book of statutes should be 'criminal'. Consider how unscrupulous industrialists have arguably manipulated policy to eventually bring about a (possibly) irreversible global climate change with catastrophic consequences for all forms of life on earth – yet this is not a 'crime' as defined in any statute. To illustrate, the *Weekend Post* (Loewe 2016: p2) reports, at a time that I was preparing the first draft of this chapter during one of the hottest summers in memory, that 'World Meteorological Organization' spokeswoman Claire Nullis said that the once-natural El Ninô drought phenomenon had combined with anthropogenic climate change to increase the impact on weather patterns around the world, in "a sort of double whammy."' In less than 20 years just two billionaire industrialists, the brothers David and Charles Koch, gave away more than 55 million U. S. dollars to climate change denialists (i.e. academics who make a living from drumming up evidence that climate change is not happening!) Closer to home – and to add insult to injury – consider also that Monsanto, the U. S. pesticide and genetically-modified-seed giant, has an army of lawyers on retainer to meet any legal challenges head-on. Its herbicide poisons (metaphorically called Roundup) are glycophosphate-based and has been used with catastrophic results in destroying the marijuana fields that grow naturally in the rural Transkei, notably around the towns of Lusikisiki and Port St Johns (Macgregor 2016: 5). When the World Health Organization issued a warning that glycophosphates are a probable cause of cancers (being carcinogenic), Monsanto demanded that it retract its statement. It has devastated the soil from an agricultural point of view for human and animal consumption for generations to come. My point, so well-illustrated by the World Meteorological Organization-quote just given, is that, to invert Habermas (1975a: 113-114), special interests are generalized so as to repress genuine general interests.

Reflecting on the criminalization of collecting loose pieces of wood by the Rhineland Parliament in 1842, Marx was struck by the fact that this right of peasants, which they had been exercising for generations, had suddenly been taken from them by a stroke of the pen. The way in which the rich and the powerful could structure society to suit themselves, i.e. write laws to serve their own interests, without meaningful 'negotiation', suggested to Marx that the battle lines of political economy runs through class conflict. Although Habermas has justifiably criticized Marx for privileging the economic sphere to the exclusion of inter-subjective communicative consensus, to take but one well-known example, I argue nonetheless that despite my taking Marx's valuable insight as my point of

departure, no sensible critique of the prison-industrial-complex (a term for which I am indebted to prison abolition activists such as Angela Davis [2005, 2003], among others) can neglect the 'social and political construction' of crime. Curiously, my reference to climate change denialists adumbrates my Marxist reading of crime in capitalist societies around which this chapter is centered.

In Robert Kenner's award-winning documentary film *Merchants of Doubt* (2014), Naomi Oreskes – an historian of science – points out that the rhetoric of anti-climate change advocates, is aimed at getting the public to divert their attention from the real action which is what is happening in science. In the same way as climate change denialists get us to focus on "doubt" rather than valid scientific findings, the rich and powerful get us to focus on petty crime committed mostly by the poor and effectively deflects our understanding of more serious "crime", even though it might not be defined as such in municipal legal systems, such as climate change to increase their profit margins which only benefit the very wealthy and most powerful (Reiman 1990; Chambliss 1989; Sutherland 1940, 1945, 1949; Schwendinger, J. & H. 1970). I argue below that just as climate change denialists distract the public from credible science, so does the criminal justice system in capitalist societies distract our attention from the unacknowledged crimes of the rich and powerful by demonizing the poor as criminogenic and by keeping the general public content by plying them with consumer goods. In the same movement, it also legitimates the political and economic *status quo ante* as unproblematic by foreclosing consideration of alternative arrangements.

The perspective of ideology critique

In this chapter I build to a case, using immanent criticism as a tool of analysis, to expose the ideological function of the prison-industrial-complex (a term which I explain below), in a democratic society, albeit a capitalist one, and in the same movement prepare the way for offering suggestions to assist returning ex-prisoners and the families to rebuild their lives. Said in another way, in this chapter I am not only able to show that the prison fails on its own terms, but also that it was never intended to 'succeed' in that way (fighting crime successfully) by critically recounting Reiman's 'Pyrrhic defeat theory'. The so-called criminal justice system strives above all to attain other ends than the reduction of crime in any serious and credible sense – enrichment of the already rich and powerful before all else – objectives that are rarely considered by a (generally ignorant) voting public, who so assiduously call for harsher and longer terms of imprisonment (Haney 2005: 68). To illustrate very briefly, in Chapter One, I referred to the prison as business by other means: I now subject the prison-industrial-complex to an inter-disciplinary scrutiny. The institution of the prison has close ties to capitalist democracy, as I explain below. For this reason, I will briefly examine two procedural models with which to assess and judge other possible contenders to capitalist democracy – firstly, Kropotkin's (1902/1989) 'mutual aid' society

as an alternative to Darwin's 'survival of the fittest' version of evolutionary theory (Gould 1997). Darwin's idea of the 'survival of the fittest', although he was not the first to visualize and propagate its application, had unfortunate consequences and led to an array of social programmes which took their justification from what came to be known as "social Darwinism." Small wonder that the idea of returning ex-prisoners to a forgiving and welcoming society (absent stigma) upon their release from prison is removed from a socialist society (albeit one with Chinese characteristics [Deng Xiaopeng])! Secondly, I also consider Habermas's theory of social evolution in view of his contention that a history of the species as a 'learning curve' is valuable in that it allows for a reconstructed alternative to a dominant view of the past which aims to close off reconsiderations of (a) different future(s). Curiously, both Kropotkin and Habermas advocate an evolutionary, rather than a revolutionary, reconsideration of society's potentialities and represent an important departure from orthodox Marxism.

Once the first leg of my demonstration is in place, I move on to the second – an examination of the impact of the prison on the individual's reflexive autonomy (explained below). To this end, I will employ, amongst others, the deeply reflexive ideas of Shafinaaz Hassim (2007) as she expresses those in her excellent study on how the values of honour, shame and seclusion – as these values are given expression in so-called 'honour-bound' societies – impact on the ability of successive generations of Muslim women to live and manage a reflexive sense of self in South Africa. In my view, there is a striking analogy between the status of women in so-called honour-societies and the status of returning ex-prisoners in a society ostensibly embracing features of late capitalism. This analogy can be captured in one word: stigma. In the case of returning ex-prisoners, I examine this phenomenon on two levels.

I discuss, firstly, the negative way in which the prison experience damages the prisoner's sense of self and secondly, the ways in which stigma post-prison leads to social, political and economic death, and leaves, and continues to do so, the management of 'spoilt identity' badly compromised. The chapter closes reflexively. I also ponder to what extent the ideological exposè of the prison (as only remotely serving its self-professed purposes of ensuring public safety, reducing recidivism and attaining rehabilitation and reintegration for those in its charge) is likely to contribute to the cause of prison abolition. By way of explanation, I make constant reference to and comparison between the penal policy and practice of South Africa and that of the United States and I argue that this is justifiable because since the onset of globalization (understood as capital's progressive ability to "roam the globe" [Davis 2005: 73]), American hegemony, underscored by an aggressive military strategy, has translated into the fact and has ensured that American penal ideas and hardware (different forms of penitentiaries) have been exported to all corners of the globe (Bosworth 2010: 197; Davis 2003: 100-103; Haney 2005: 86).

Inequality and incarceration

Angela Davis (*op cit.*) mentions that American F-type prisons (single dog-box cells as opposed to communal halls) have been exported to Turkey (which led to hunger strikes and many deaths among political prisoners). She contends that the exportation of the supermax to South Africa is directly linked to the "global prison economy [which] is indisputably dominated by the United States." Davis (2005: 109) observes laconically how sad it is that South Africa's new democracy "needs" the supermax, her point being that, fuelled by the privatization drive and taking its cue from the United States, prisonization in South Africa is "expanding and becoming more oppressive."

Perhaps one could question the equivalences between the conditions that give rise to the prison-industrial-complex in South Africa and those in the US. However, irrespective of these potentially divergent contingent conditions, I argue that the phenomenon of the prison-industrial-complex has acquired a serious foothold in South Africa. My reasoning is twofold. Firstly, as I note below, the US is the world leader in the development and maintenance of penal practices and technologies and it is unlikely that a third world country such as South Africa, eager and even desperate for inclusion in the international economic community, will not be affected by this new development in profiteering from the misery of marginalized people – both offenders and ex-offenders alike (a hybrid of Klein's (2014) 'disaster capitalism'). The ruling party in South Africa has shown itself to be incapable of looking past 'a fast buck' (Johnson 2015; Olver 2017). Secondly, Angela Davis, as I mention below, has pointedly questioned the importation of the supermax prison in Kokstad – there also happens to be a supermax facility in Pretoria – as evidence of the global reach of the prison-industrial-complex in a third world country which obviously has little or no use for it. It is significant that scarce resources were diverted from other socio-economic projects, such as road maintenance, schooling and medical care, to service the huge expense of an underground supermax prison. In my view, there is no doubt that the prison-industrial-complex has gained traction in South Africa which is a stigmatizing shaming culture community built around the predominant sentencing regime of incarceration. Consistent comparisons between the position in South Africa and the position in the United States are accordingly justified.

With Bush's declaration of the War on Terror after 9/11, military prisons, secret CIA prisons and immigration detention centres have mushroomed both in the United States and in all its colonial outreaches across the globe (Bosworth, 2010:199-228). Finally, Angela Davis (2003:102) remarks on how South Africa's "participation in the prison industrial complex constitutes a major impediment to the creation of a democratic society." It is interesting to note that in her 2003 publication (*Is the prison obsolete?*), Davis still spelled the "prison industrial complex" without hyphens, whereas in her collection of interviews (published two years later), she insists on the hyphenated version. I consider

the later version a great deal more potent and this is also the version I subcribed to in this contribution.

Angela Davis may have added that South Africa's embracing of the prison-industrial-complex is a necessary consequence of its post-apartheid government wholeheartedly embracing neo-liberal incentives (as the inauguration of GEAR in 1996, which meant placing RDP on the backburner testifies). South Africa is at present rated as, possibly, the most unequal society on the globe (sadly exceeding even the rankings of Brazil and India, countries which formerly had that dubious honour). Haroon Bhorat (2015) explains that "South Africa [is] one of the most consistently unequal countries in the world" despite its transition to non-racial democracy in 1994. In the same interview, Bhorat argues that

> Brazil's Gini [the measure of a society's equality, CL] was very similar to South Africa's in 1994. Since then, inequality in Brazil has fallen given the rapid rise in secondary school enrolment and graduation rates (without sacrificing quality), the introduction of conditional cash transfers and strong economic growth.

> India's poverty levels remain higher than South Africa, but its inequality levels are much lower than that of Brazil and South Africa. In contrast to both economies, South Africa since democracy has seen a moderate reduction in poverty levels, combined with a sharp rise in income inequality since 1994. This has all been amid single-digit economic growth.

Why is inequality so evident in South Africa?

Bhorat is adamant that "there are myriad reasons, but some of the key factors include skewed initial endowments (or assets that people and households have) post-1994 in the form of, for example, human capital, access to financial capital, and ownership patterns. All of these, and other endowments, served to generate a highly unequal growth trajectory, ensuring that those households with these higher levels of endowments gained from the little economic growth there was. In addition, we are an economy characterised by a growth path which is both skills-intensive and capital-intensive, thus not generating a sufficient quantum of low-wage jobs – which is key to both reducing unemployment and inequality."

Even though Bhorat's rhetoric of a 'myriad reasons' for South Africa's pariah status as an icon of inequality may be code for the government's enthusiastic embrace of a neo-liberal agenda dictated by Washington (i.e. deregulated rampant market fundamentalism), other economists are less tolerant of jargon. Vishnu Padayachee (2015) has no qualms in dismissing South Africa's former freedom fighters' pretenses that "without the slightest sense of irony, [we] may well make a case that they were and are the true champions of the struggle against poverty, inequality and unemployment in democratic South Africa. This

despite the fact that they arrogantly relegated left, social democratic options such as the Freedom Charter and the Reconstruction and Development Programme [RDP] to the dustbin of history. Instead, in 1996 they opted for the neoliberal Growth, Employment and Redistribution Strategy, a macroeconomic policy." Sampie Terblanche (2002, 2014) argues that the ruling party has reneged on its election promises (wealth re-distribution) and has embraced a neo-liberal agenda with catastrophic consequences for the vast majority of the poor.

Thomas Pikkety (2015), in a much publicized visit to South Africa, delivering the Nelson Mandela lecture at the Soweto campus of the University of Johannesburg, placed South Africa's unequal wealth and income distribution "at the top of its class." Capital's relentless pursuit of income and wealth is evident in the fact that in South Africa, as Pikkety highlights, 60 % of income is in the hands of 10% of the population. To this he could have added that one in four economically active South Africans are unemployed while one in three employees earn enough to qualify for income tax liability. However, all South Africans, irrespective of their level of income, are liable for indirect taxation such as VAT, the fuel levy and a range of so-called 'sin' taxes (on sugar, cigarettes and alcohol). According to Pikkety, Africa does not need development aid if only trans-national companies would pay their fair share of the tax burden. As Padayachee (2015) points out, Pikkety (2014) shows that without state intervention, capital's claims on wealth and income will literally know no bounds, and demands intervention to "arrest and reverse" (Padayachee, 2015) the trend. But capital's claim to have the monopoly on growth and development is a spurious one. Joseph Stiglitz and other public intellectuals (which include New York Mayor Bill de Blasio and US Senator Elizabeth Warren) have recently begun to advocate the idea that that "equality and economic performance are complementary rather than opposing forces". Stiglitz's latest book, *The Great Divide: Unequal Societies and What We Can Do About Them* (2016), projects the road plan ahead for this macroeconomic restructuring initiative of capital in the American context. Stiglitz's programme reminds one strongly of Kropotkin's plea for mutual aid, discussed above, as a viable alternative to struggle. It aims for US national economic policy options that will restrict the flow of income, wealth and opportunity for those who need it least.

Hence, the need for a Marxist critique in a post-apartheid South Africa, where neo-liberal discourses have colonized government, social and economic policy and cultural thinking at large, and driven indigenous ways of knowing to extinction – as Inge König (2015) demonstrates. Stimulating consumerism *and* crime (as I explain below) are two powerful ideological means of deflecting our attention away from the real problems. What is ideology? I found Žižek's (2000: 55) definition most helpful in clarifying the concept; he defines ideology as "a generative matrix that regulates the relationship between visible and non-visible, between imaginable and non-imaginable, as well as the changes in this

relationship". According to Žižek, this so-called matrix is "easily discernible" when a new social paradigm is confused with the continuation of an old one or the extension of an old paradigm is mistakenly misrecognized as a "radical rupture". An example of this dialectical interrelationship between the old and the new is Michelle Alexander's (2012) argument, as I explain below, that mass imprisonment, which began in the early 1980s, was not a radical rupture in race relations in the sense suggested above, but is in fact a continuation of the same line of institutionalized racism that founded slavery and continued uninterrupted in its crystallization as Jim Crow on to the imprisonment binge. Gramsci, and subsequently also Althusser, showed convincingly that ideology is the state's first line of defence, as indicated above. Not only is ideology the first line of defence, but a very powerful one at that, in the (largely successful) attempts of the rich and the powerful to keep the *status quo* from being (effectively or significantly) challenged. By portraying the present economic arrangement as the best possible, the consideration of alternative, more equitable economic systems, is foreclosed. Ideological policing of the past will decidedly influence our thinking on the possibilities of political and economic arrangements in the future. Ideology, as Althusser points out (and as is generally well-known), functions largely in an unconscious manner. This is the reason that communists and feminists can speak of 'false consciousnesses' among those who have not yet understood their ideological shaping and situatedness. As Thomas McCarthy (1978: 378) argues, "even in his more recent writings on the theory of social evolution […] Habermas maintains that at least the analysis of contemporary society has an irreducible practical dimension: if the past can be systematically reconstructed, the future can only be practically projected."

To this end, I intend to build my critique of the prison-industrial-complex around an exploration of a critical Marxist reading of crime in capitalist society, as indicated above. In my account of Reiman's Pyrrhic defeat theory I make predominantly reference, at the appropriate juncture, to other criminologists or sociologists who have given Marx, or a Marxist understanding of crime and society, a sympathetic hearing. In the wake of the recent neoconservative wave of punitive assertion that is sweeping the industrialized North (and is bound to 'trickle down' to 'developing' jurisdictions such as South Africa), Marxist criminology has taken somewhat of a backseat and it is perhaps time to ensure that its valuable perspective is not lost in a veritable forest of new thinking on retribution fuelled by fear and (unacknowledged) greed. In view of orthodox Marxism's stance toward criticism (the famous break between Sartre and Camus is a good example of this), perhaps a word of explanation is in order. The idea of engaging honestly with Marx's substantial corpus of writings has rarely been put more eloquently and crisply than by Robert K. Merton (1982: 917-918) in a letter to Alvin Gouldner, in agreeing to the latter's distinction between 'Marxism' and 'Marxists': "I have taken all that I find good in Marxian thought – and that is a considerable amount – and neglected conceptions which do not seem to me to meet tests of validity." Consider also Bettina Aptheker's (2006: 296), one of Angela Davis'

collaborators', confession that "There was a whole world of ideas out there about which I knew almost nothing, because my reading had been so (self-) censored." By the same token, Axel Honneth (1991: 102-103) demonstrates how both Foucault and Habermas had turned away from labour as Marxism's defining paradigm to the extent that both attempted to revise the aphoristic problematic posed by *The Dialectic of Enlightenment* – that instrumental reason merely enslaves and has lost its emancipatory potential – in that Foucault proposed, with his theory of power, a 'solution' to the enigma while Habermas transformed the problem into a 'communicative paradigm'.

For his part, Habermas has convincingly demonstrated that Marx's critique of classical political economy is largely or generally inapplicable to late capitalism (McCarthy 1978: 363) – the chief reasons being state intervention in the economy on a number of levels and capitalism's uncanny ability to co-opt challenges to its hegemony. Although it is beyond argument that Habermas is well read on this score (sociology of law) from an inter-disciplinary point of view, I have found some of his ideas limited as far as theoretical constructions in critical criminology go and a dearth in references to criminological literature (even Marxist-orientated ones). It could perhaps be argued that this omission could be justified in view of Habermas's generalized concern with a sociological reading of law and that of criminal law was not his priority. He does defend his choice by arguing that his intention was to move away from the technical foundations of criminal law (Habermas 1996: ixl). However, in view of his concern with legitimation and the fact, as Althusser and Gramsci have shown, as indicated above, that violence is the state's last, and most unaccommodating, line of defence in its ideological battle for the hearts and minds of the masses, Habermas's omission is perhaps less excusable. In this regard Jeffrey Reiman (1990: 138) observes that ideological criticism is "an effective tool for cutting through the illusions that dog our political life." Angela Davis (2003: 14-21) argues that the ideology of the prison serves two important purposes. These are its ability to conceive of the prison as the answer to a range of social problems (unemployment, homelessness and social discontent) by locking these superfluous populations up and the ability of the prison to appear as an unproblematic part of our social landscape. "We do not question whether it should exist," challenges Davis (2003: 18-19), "It has become so much part of our lives that it requires a great feat of the imagination to envision life beyond the prison." This is also vintage Foucault. Features of our society that lay claim to permanence as being part of the 'natural' order of things demand to be unmasked as transitory elements of a continuously changing ideological landscape. In other words, the prison is a historical curiosity and must be shown not to be ahistorical, and thus not valid for all times and all places.

It is perhaps trite to point out that authority shows its true colours only where it is effectively challenged, i.e. where ideology breaks down, brain-washing fails and sterner measures of 'convincing' (read: violence of which incarceration is the dominant form of

punishment) are called for. As Reiman (1990) perceptively points out, one of the ideological aims of the criminal justice system in the United States (but also in all capitalist societies, including South Africa) is the indirect legitimation of the present inequitable and unjustifiable economic system. I argue earlier in this chapter that 'untrammeled' capitalism is 'inequitable and unjustifiable' and I specify the grounds on which I base my claim. In any event, I will attempt to add to Habermas's insights by rereading those in the light of Marxist-orientated criminological theory insofar as these insights impact on my task of an ideology critique of the prison-industrial-complex, specifically as this Marxist reading has been recast in view of Jeffrey Reiman's (1990) 'Pyrrhic defeat theory' of criminal justice. Before turning to Reiman's model, I wish to outline my *programme* for the ideology-critical analysis of the prison-industrial-complex and address two possible serious objections to my project, discussed below.

In Chapter Two I recounted the three moments of critical theory as a research programme in the tradition of the Frankfurt School. These moments are ideology criticism, interdisciplinary insights and finally the theory/praxis dialectic. I defined all three these terms in Chapter Two and, for purposes of continuity, I will recap briefly here the concept 'ideology critique'. Marx, as is generally well known, arguably laid the foundation for a critical theory of society by condemning capitalism as bearing the seeds of its own destruction since, according to Marx, capitalism is riddled by inherent contradictions. As capitalism is a contemporaneous historical force, according to Marx the necessary course of dialectical materialism will ensure that capitalism is succeeded by communism. Immanent critique as a tool of analysis flows from this observation. Ideology, essentially, creates the illusion that relations are fixed and ahistorical. Immanent critique implies a criticism on its own terms so as to show up its inconsistencies and thereby create the possibility of radical change – once it is clear that the phenomenon has failed on its own terms. The validity of a cultural artifact stands or falls by whether or not it is able to justify its own pretentions. For Habermas, the task is to dissect the capitalist movement of craftily presenting particular interests as generalized interests, as I pointed out above. The way to do this, according to Habermas, is to apply the discourse of critical rationality to this phenomenon, i.e. to test the resistance of this fundamental contradiction (in capitalism) – the private appropriation of public wealth, opportunity, privilege and power – to a dialogue infused with generous dimensions of freedom at various levels, and without inhibition. It should be evident that capital has no interest in subjecting its claims to dialogue simply because its claims cannot be justified under conditions of such open and free dialogue.

The correctional mandate of three prison administrations

I therefore intend to subject the prison as a cultural artifact to the test of immanent criticism so as to show up its ideological deformations (judged by its inherent contradictions) and thereby demystify its role as a natural feature of the order of things in

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our society. This inquiry has two legs: 1) What pretentions does the prison exhibit?, and 2) Have interdisciplinary findings from the social sciences justified those pretentions? As far as the first issue is concerned, I will restrict myself to the mission and vision statements of prison administrations in three separate jurisdictions, i.e. South Africa, South Australia and Jamaica.

Apart from South Africa, the 'correctional mandates' of South Australia and Jamaica were arbitrarily chosen for critical examination simply to demonstrate how widespread the neglect is of the rehabilitation ideal (even though it might be honoured by word), as I argue in Chapter Four, in Western penal jurisdictions. This issue is important to my overall argument because I argue that it is precisely the neglect of the invaluable resource of rehabilitation in favor of incarceration, warehousing and managerialism which distinguishes Western penal practices from its Chinese counterpart (during the period demarcated). For this purpose, a critical examination of the 'correctional mandates' of any three Western jurisdictions would have been sufficient. I (randomly) chose those of South Australia and Jamaica to complement that of South Africa.

The Department of Correctional Services (DCS) in South Africa (2013) advertise their "core functions" as enhancing

> public safety, and effective criminal justice, through effective management of remand detention; reduce re-offending through offender management and rehabilitation; and social reintegration through management of non-custodial sentences and parole. The new mission is: contributing to a just, peaceful and safer South Africa through effective and humane incarceration of inmates, rehabilitation and social reintegration of offenders. The new values include: security, development, integrity, effectiveness, accountability, equity and justice and ubuntu.

The corresponding state department in South Australia (Australia, Department of Correctional Services, 2016) has the following vision and mission statements:

> The department's vision is for 'a safer community by protecting the public and reducing re-offending.

> Our mission is to 'contribute to public safety through the safe, secure and humane management of offenders and the provision of opportunities for rehabilitation and reintegration.

Jamaica's Department of Correctional Services (2016) has the following broad Vision and Mission Statements respectively.

> Repurposing Lives for Safer Communities and a Productive Jamaica.

> We manage Jamaica's Corrections System; contributing to national security by implementing world-class rehabilitation and re-integration programmes in our correctional institutions and probation services, while maintaining safe custody of offenders.

All three jurisdictions emphasize four key outcomes: public safety, addressing and reducing crime/ re-offending (recidivism) and the first prize which doubles in the twin features of rehabilitation/ social reintegration. I argue that an ideology critique of the prison-industrial-complex is justified both systematically and methodologically. From a systematic point of view it is vital to investigate and formulate a critical response to the question whether or not these four laudable objectives (public safety, desistence and rehabilitation/ social re-integration), which are surely representative of correctional administrations around the world, are realistic and the extent to which these outcomes are indeed achievable within the context of a (supposedly) deliberative participatory democracy (but more likely, a 'liberal democracy'). In the course of this chapter I unpack the way or ways in which the prison-industrial-complex could claim to live up to these promises.

From a methodological point of view, critical theory is an apt instrument with which to probe the prison-industrial-complex. Reiman (1990: 180n1) remarks in his provocative *The Rich Get Richer and the Poor Get Prison* that the "Frankfurt School of social theory, of which Jürgen Habermas and Herbert Marcuse are probably the best-known representatives, is distinguished by the application of Marxism as well as Freudian theory to the analysis of ideology." Angela Davis (2005: 20-21), who studied under Horkheimer, Marcuse and Habermas and is an internationally known prison-abolitionist activist, replied to a question during an interview, on the influence of critical theory in the shaping of her views on the prison-industrial-complex, that

> Well, I've certainly been inspired by critical theory, which privileges the role of philosophical reflection while simultaneously recognizing that philosophy cannot always by itself generate the answers to the questions it poses. When philosophical inquiry enters into conversation with other disciplines and methods, we are able to produce much fruitful results. Marcuse crossed the disciplinary borders that separate philosophy, sociology and literature. Adorno brought music and philosophy into the conversation. These were some of the first serious efforts to legitimate interdisciplinary inquiry.

Reiman and Davis have certainly made a case for critical theory in the tradition of the Frankfurt School as a valuable perspective for evaluating the role of the prison in the (post)modern world. So my own efforts to understand the prison-industrial-complex envision an interdisciplinary approach. In an interview conducted by Barbarella Fokos, Angela Davis (2007) explained that "Herbert Marcuse taught me that it was possible to be

an academic, an activist, a scholar, and a revolutionary." In the case of Davis, her activism is further proof of her commitment to the values of a critical theory of society in a Marxist fold. In my exploration of the second possible objection to my project – whether or not a reform project as opposed to advocating full-blown abolition does not legitimate the existence of the prison – discussed below, I stress the finding that a reform idea which does not contribute, ultimately, to the abolition of the prison-industrial-complex, necessarily legitimates the prison's unjustified presence in our society. Said in another way, any theoretical endeavour focused on the prison, such as mine here, must ultimately translate into activism. As I indicate below, Angela Davis argues that the uncritical abolition (and I do not mean 'reform') of the prison is a mistake since it is intimately tied up with business and military concerns while both Davis and Michelle Alexander make the case that the conditions which engendered slavery in the first place (the unacknowledged discourse of racism) also underpin the present imprisonment binge in the United States and around the world. The responsible way forward is to dismantle the 'prison-industrial-complex' and address the oppressions which enable it. What is the 'prison-industrial-complex'?

The prison-industrial-complex

Eric Schlosser (1998) defines the 'prison industrial complex' as "a set of bureaucratic, political, and economic interests that encourage increased spending on imprisonment, regardless of the actual need." In an interview conducted in 2004, Angela Davis (2005: 35-36) explains the rationale for baptizing the 'prison', as this institution is generally known, as the 'prison-industrial-complex.' Her crisp and incisive comment justifies a somewhat longer extract.

> Well, first I should like to indicate that the use of the term *prison-industrial-complex* by scholars, activists, and others has been strategic, designed precisely to resonate with the term *military-industrial-complex.* When one considers the extent to which both complexes earn profit while producing the means to maim and kill human beings and devour social resources, then the basic structured similarities become apparent. During the Vietnam War, it became obvious that military production was becoming an increasingly more central element of the economy, so to speak. One can detect similar proclivities in the prison-industrial-complex. It is no longer a minor niche for a few companies; the punishment industry is on the radar of countless numbers of corporations in the manufacturing and service industries. Prisons are identified for their potential as consumers and for their potential cheap labor [...]. Finally, a brief observation that has enormous implications. At least one corporation in the defense industry has actively recruited prison labor. Think about this picture: prisoners building weaponry that aids the government in its quest for global dominance. (Emphasis in the original.)

An inherent part of the inquiry into the 'prison-industrial-complex' is a Marxist reading of crime. Before proceeding to my next task, critically outlining and padding Reiman's 'Pyrrhic defeat theory', I pause briefly to sketch out two important limitations of or possible objections (alluded to earlier) to my project as I see these at this point.

Two objections to my thesis

The first objection to my project is one which was perceptively formulated, albeit in a similar context, by the Scottish-born criminologist David Garland in his book *Punishment and Modern Society* (1990). According to Garland, changes in penologically relevant practice and institutions do not only come about through changing needs and the availability of new technology but also, crucially, by what is deemed fashionable by the authorities and those with the power to make policy. Attention to popular culture is therefore important to understand new developments in penal practice and policy. Garland (1990: 210) refers to this phenomenon as a "loose amalgam." In the film *The Social Network* (2010), the inventor of Facebook, Jessie Eisenberg's character (Mark Zuckerberg) hits on a comparable idea. His invention of Facebook, a new form of social media, is initially only available to students at the exclusive Harvard University. In time it expands to other desirable educational hubs (Yale and Stanford) and by the time it becomes available to rich kids at Oxford and Cambridge across the Atlantic, it had reached iconic status. Today Facebook, as is generally well known, is a household name around the globe and (importantly) in daily use among members of all strata of society. According to the *New York Times* (Isaac 2018: p. A1), Facebook has at least 2 billion users at present, a fact that testifies to it being 'in vogue'. The relevance of this consideration for my venture is simply this: In view of the neoconservative mood that has swept over much of the developed world and the tendency among the mass media, and other agencies with a vested interest in sustaining a new 'class of slaves' (explained in Chapter One), I am at present at a loss as to how to make the idea of forgiving and welcoming returning ex-prisoners popular and fashionable. That it is a popular notion in China, which is a communist society (at least in name and mode of governance, although economically speaking it represents state capitalism) has already been noted above. According to Garland's idea, an idea in vogue is much more likely to succeed than one without that sort of momentum.

Yaacob Garb's (1996) reading of Rachel Carson's book *Silent Spring* (1963), a landmark study on the dangers of pesticides and a household name in the environmental debate in the United States, has suggested to me one way in which both these serious objections (of which the second is considered below) could possibly be addressed in one movement. The relevant issue is Garb's (1996: 229-231) views on the reasons Carson's book "created a storm of media and government attention and elicited angry rebuttal and attacks" (remaining on the *New York Times'* best-seller list for three years) while Murray Bookchin's *Our Synthetic Environment* (1962), published a mere six months earlier than Carson's

(which appeared in 1963) and which explores the same pesticide dilemma as the latter, is a "scarcely remembered book." Garb's considered view is that whereas Bookchin's contribution was a comprehensive attack on the environmental and human harm caused by an industrialized capitalist civilization which makes these outcomes unavoidable, the argument in Carson's book was under pressure to avoid these same seemingly inevitable conclusions.

Consequently, whereas Bookchin's "pill was too big, bitter, and unfamiliar for most Americans to countenance much less swallow", Carson's message remained safely "within the bounds of the American mainstream." Garb's point is that even though the latter's reception came at a cost (for example, the same discourse that allowed pesticides in the first place has continued undisturbed), her diluted medicine had an attentive – and influential – audience while Bookchin's book fell dead-born from the press (as was said of David Hume's *Dialogues concerning Natural Religion* ([c.1750s/1998] in a climate of religious zealotry where angry mobs bade for his blood.) What does this have to do with selling the notion of forgiveness for returning ex-prisoners to an audience who cannot visualize a social and political landscape without prisons dotting it?

My point is that if the idea can be made 'fashionable', perhaps in the same way or ways in which Carson made hers palatable, I might be able to make headway while an uncompromising, although certainly justified, crusade against a holy cow (the prison), is bound to go nowhere. In the wise words of Virginia Woolf (1929/2005: 603), written in the context of "women's work" in patriarchal society but sharp enough to be grasped by almost everybody caught up in the economic paradigm gripping the globe at this juncture of the adventure of the species, "Money dignifies what is frivolous if unpaid for." There is also something to be said for strategic intervention since, in the well-known words of Thuli Madonsela, 'whisper[ing] truth to power' has sometimes a better chance of falling on fertile ground than an aggressive time-consuming exercise likely to fail for being 'too radical'. In my view, making a case for the redemption of returning ex-prisoners is one such case, rather than a comprehensive attack – though surely a worthy cause in itself – on the prison-industrial-complex. The Earl of Marlborough, Churchill's illustrious ancestor, is reputed never to have fought a battle he could not win. By analogy, if we can sell the powers-that-be and the general public the worthy idea of welcoming back returning ex-prisoners rather than an all-out challenge against the prison-industrial-complex (which, as it is, is unlikely at this point to garner an audience that could make a difference), this will be a victory in (a) battle – although admittedly not the war – of note. On a personal note, I want my PhD to make a difference in the lives of returning ex-prisoners and their families. I do not want the copies of my PhD to remain on the bookshelves of university libraries gathering dust. In the committed words of one of the most cited criminologists in the United States, Richard Cloward, describing the state of academia at Columbia during the

1950s, "They taught and they wrote and they did research. Well, it wasn't activist enough for me"(unpublished interview, quoted in Brotherton, 2010: 147). In fact, one thing that I have been privileged enough to learn from the work of Michelle Alexander (2012), Angela Davis (2005) and Jeffrey Reiman (1990) is that writing and conceptualizing are not enough; if anything these activities must lay the basis for activism. Speaking for myself, I cannot agree more. In fact, even at this early stage of my project, I already have a growing list of practical recommendations which will be elaborated upon in the final chapter, Chapter Six (Conclusion and Recommendations). Critical theory of society in the tradition of the Frankfurt School demands, as I argued in the preceding two chapters, that theory and practice go hand in hand, and I agree with this sentiment. Finally, I have found further support for my argument – the second objection to my project discussed below – that it is worthwhile focusing on eliminating stigma rather than to launch a comprehensive attack against the prison-industrial-complex, in the work of both Michelle Alexander (2012) and Angela Davis (2003), both abolitionist activists.

The second objection to my project is that whereas there is no doubt in my mind that the prison-industrial-complex is a cruel and inhumane practice, prison as we know it should be reserved for a tiny handful of criminals deserving of separation from society at large. I am in complete agreement with Davis (2003) and Thomas Mathiesen (2006) that, save for extreme cases such as serial killers where incapacitation might be called for, generally speaking, the prison has no place in a humane liberal or, preferably, social democracy. My dilemma is that advocating the implementation of an idea from another culture, however laudable, to ameliorate stigma attaching to returning prisoners so as to curb, among other objectives, recidivism, has the unfortunate consequence of (potentially, at least) legitimating the prison-industrial-complex indirectly.

To illustrate, during High apartheid in South Africa, the government of the day attempted to legitimate the racist policies of the day by creating a so-called 'three-chamber parliament' in 1983 whereby South Africans of both 'coloured' and Indian descent were given limited representation in this new parliamentary structure. A glaring feature of this new dispensation was the fact that the majority of South Africans (blacks) were still excluded. As is generally known, advocates of this 'new deal' put forward the suggestion that although this new development (the three chamber-parliament) was not an ideal situation (implying that more of the 'right stuff' was to follow in due course), it was a move in the 'right direction'. It was at this point that dissident voices could be heard articulating the position that apartheid could not be 'reformed,' but can and should only be abolished *in toto*. Any attempt at 'reform' of this evil system is in the same movement an attempt at legitimation of the *status quo*. By the same token, I am convinced that any attempt to 'reform' the prison-industrial-complex is not only destined to fail but bound to legitimate this evil system. Fully conscious of this criticism and cognisant of the dangers inherent in

my project, I will nonetheless attempt to justify my project as worthy of consideration within the corpus of criminological literature with a philosophical slant. Curiously, as Koos van Eeden (2016: personal communication, 16 January) pointed out to me, any serious attempt to reform an evil system eventually leads to its demise. This happened to apartheid and, almost contemporaneously, to Gorbachev's attempts to reform Soviet communism. This is not, however, my justification for propagating an 'innovation' to the system. In any event, I am not as optimistic as Koos van Eeden (2016, *ibid*.) to think that a modest reform in penal practice is bound to lead to the abolition of the prison-industrial-complex (discussed in greater detail below.)

My attempt at justification runs along these lines: Empirical studies, as I note in Chapter One, have shown that a significant section of returning ex-prisoners express great need for social and economic reintegration. This is not true of all ex-prisoners since many continue to commit crimes and are returned to prison for not having learned their 'lesson' from their previous spell of incarceration. As I will attempt to demonstrate in this Chapter, the reason for this 'failure' lies in the fact, on a Marxist reading of crime in capitalist society, that the prison was never meant to 'succeed' – i.e. combat crime successfully – but has become part and parcel of capital's insidious ways to make money from the misery of the poor and to keep crime, as we know it, at a premium in order to divert attention from their own 'criminal activities' (although these actions are rarely defined by the criminal law, either municipal or international in terms of crimes against humanity.) While I do not discount the urgent need to abolish the prison as "those monuments of human hypocrisy and cowardice" (in the celebrated words of Kropotkin 1975b: 56), I do believe that the suffering of living ex-prisoners and their families justifies intervention now. The prison-industrial-complex might well disappear together with capitalism when the grip of the economic paradigm on the globe slackens, but assuming that takes another century, how will my musings help ex-prisoners and their families cope *now*? Is it not also a cop-out to wait for 'perfect or correct conditions' before taking action (in the sense of doing something palatable for members of the afflicted marginalized group within acceptable and sustainable time-frames), as the brilliant Rosa Luxemburg (quoted in Žižek 2008: 361), once pointed out famously?

> There is always a space to be created for an act – precisely because, to paraphrase Rosa Luxemburg's critique of reformism, it is not enough to wait patiently for the "right moment" of the revolution.

Habermas (1981/1984, 1987) argues that the discourse of rationality demands that solutions be sought in free and unrestrained dialogue first and foremost with the community or communities involved, i.e. returning ex-prisoners in the case at hand. If my reader merely concedes that those returning ex-prisoners who wish to be reintegrated socially and economically should be helped in doing so, my point will be made. Finally, the

normative drive in social critical theory does not mean that we must decide for others – Kant demonstrated centuries ago that to do so is the greatest form of despotism and, closer to home, would duplicate the deplorable habits of capitalism to disguise their interests as our interests without meaningful consultation (understood as 'negotiation') and debate (as we have come to know its ways), as I attempted to explain above. Waiting for Godot – who might or might not come – is certainly not everybody's cup of tea.

At the outset, it needs to be acknowledged that the possibility of inadvertently legitimating the prison (industrial-complex) is a very real one. Liebling and Maruna (2005: 20) argue, in a slightly different context from the one within which I seek an answer, that research on the invidious effects of imprisonment could, in a backhanded sort of way, legitimate the prison as an institution if researchers merely wish to ameliorate the conditions of imprisonment without also stressing the idea that the prison is not necessarily the only option when it comes to the consideration of punishment alternatives. They quote two reasons advanced by Hans Toch (1988: 41-42), perhaps the doyen of 'prison effects' research, on why researchers are nevertheless justified in focusing their research on the pains of imprisonment. Firstly, Toch is of the view that prisoners are suffering needlessly and that this harm can be prevented. "While prisons exist it does no good to cry without effect in the wilderness of unresponsive public opinion[…] These fellow humans are stressed now, and must be helped to survive [now]," Toch postulates. Examples of prison reforms that demand immediate consideration and attention are, in the American context, the tendency to limit cherished visits by loved ones and the, even more disturbing, trend of filling up supermax facilities with vulnerable patients rather than the stated target audience (the so-called 'worst of the worse') ostensibly to justify its exorbitant costs (R. Johnson 2005: 257-263). In the South African context, the *Mail & Guardian* (Maregele 2016: 12) reports that some of S.A. Correctional Services' most pressing problems include chronic overcrowding, highlighting the notorious Pollsmoor Prison in Tokai, Cape Town, and the easy contraction of deadly communicable diseases, notably TB, of which the manageability is exacerbated in an overpopulated environment. To this one may add poor nutrition. Secondly, Toch argues that survival heroes such as Victor Frankl, Nelson Mandela and Dostoyevsky, who not only survived the prison but were able to transform their experience into something lasting and worthwhile, are worth studying to understand the lessons their lives hold for us.

Attractive as Toch's line of thinking is, I am of the view that although his justification for prison reform as opposed to prison abolition is justified, I am nevertheless convinced that the charge of reform legitimating the prison as an institution is still unaccounted for. To this end, I turn to the work of Angela Davis and Michelle Alexander.

Alexander (2012) is not set against prison reform work *per se* and her approach a nuanced one. "If we hope to end this system of control, we cannot be satisfied with a handful of

reforms […],” she argues. ”The notion that all these reforms can be accomplished piecemeal – one at a time, through disconnected advocacy strategies – seems deeply misguided” (Alexander 2012: 232, 233). She argues instead for reforms that would further the cause of the movement that will eventually result in prison abolition within the context of dismantling the discourse (she uses the word “public consensus” [Alexander 2012: 234]) that makes racist discrimination consistently possible – and allows it, chameleon-like, to change and survive from slavery to Jim Crow to mass incarceration. The nub of her argument is contained in the following lines:

> The foregoing should not be read as a call for the movement building to the exclusion of reform work. To the contrary, reform work is the work of movement building, provided that it is done consciously *as* movement-building work. If all the reforms mentioned above were actually adopted, a radical transformation in our society would have taken place. The relevant question is not whether to engage in reform work, but how […] [I]t is critical to keep in mind that the question of how we do reform work is even more important than the specific reforms we seek. *If the way we pursue reforms does not contribute to the building of a movement to dismantle the system of mass incarceration, and if our advocacy does not upset the prevailing public consensus that supports the new caste system, none of the reforms, even if won, will successfully disrupt the nation's racial equilibrium.* Challenges to the system will be easily absorbed or deflected, and the accommodations made will serve primarily to legitimate the system, not undermine it. (Alexander 2012: 235-236, emphasis added)

Alexander (2012: 93-96) makes a credible case for targeting stigma (which she calls “the prison label”) as a more urgent task than reducing prison sentences. Her argument, which she backs up with quantitative evidence, is that stigma and the legal discriminations which it spawns, leads to a social and economic wasteland for returning ex-prisoners. In turn, the ‘inferior citizen’-status leads to being cut off from normal economic opportunity and social re-integration (a phenomenon known in criminology as ‘relative deprivation,’ referred to below in greater detail), to very high rates of recidivism and to endless recycling of ex-prisoners in and out of prison. Her argument agrees on all fours with mine and since it is so well formulated, I will quote it below and give it a little more space for its fecundity.

> The disturbing phenomenon of people cycling in and out of prison, trapped by their second-class status, has been described by Loic Wacquant as a “closed circuit of perpetual marginality.” Hundreds of thousands of people are released from prison every year, only to find themselves locked out of the mainstream society and economy. Most ultimately return to prison, sometimes for the rest of their lives. Others are released again, only to find themselves in precisely the same

circumstances they occupied before, unable to cope with the stigma of the prison label and their permanent pariah status.

Reducing the amount of time people spend behind bars – by eliminating harsh mandatory maximums – will alleviate some of the unnecessary suffering caused by this system, but it will not disturb the closed circuit. Those labeled felons will continue to recycle in and out of prison, subject to perpetual surveillance by the police, and unable to integrate into the mainstream society and economy. Unless the number of people who are labeled felons is dramatically reduced, and unless the laws and policies that keep ex-offenders marginalized from the mainstream society and economy are eliminated, the system will continue to create and maintain an enormous undercaste (Alexander 2012: 95-96).

It is my argument that my project of targeting 'stigma' and the resultant creation of a marginalized 'undercaste,' is a reform project within the context of Alexander's understanding of worthy reforms to build toward a movement to unsettle the discourse that makes the imprisonment binge possible in the first place. Angela Davis (2003) has a similar take on the problem.

Davis (2003: 103) reasons that "[a] major challenge [of] this [antiprison] movement is to do the work that will create more humane, habitable environments for people in prison without bolstering the permanence of the prison system." Her answer, which correlates to a very large extent with the suggestions put forward by Alexander, is "to let go of the desire to discover one single alternative system of punishment that would occupy the same footprint as the prison system" (Davis 2003: 106). In view of the hold which neo-liberal capitalism has on the prison and in particular its success in exploiting the link between crime and punishment, she suggests pondering and exploring a range of questions that problematizes the link between profit and punishment, crime and punishment and the ways in which our society allows capitalism to abuse vulnerable groups constituted by class and race. Whereas Alexander focuses on the racialization of punishment in the 'War on Drugs' in the context of the United States, Davis argues instead that the profit-motive drives punishment and any other structural weakness (which would include residues of racism). Punishment and racism are structural weaknesses in society as they are based on irrational thinking. The link between integration and crime is not punishment but the common 'ethical identity' between the offender and her community while racism favours the stereotype (i.e. a singular personality trait) and denies the full-on biography of the person. These features are weaknesses because they embody institutions with irrational concerns (such as racism and punishment). Davis advocates an

[A]bolitionist approach that seeks to answer questions such as these [and] would require us to imagine a constellation of alternative strategies and institutions, with

the ultimate aim of removing the prison from the social and ideological landscapes of our society. In other words, we would not be looking for prisonlike substitutes for the prison, such as house arrest safeguarded by electronic surveillance bracelets. Rather, positing decarceration as our overarching strategy [...] [W]e might envision an array of alternatives that will require radical transformations of many aspects of our society. Alternatives that fail to address racism, male dominance, homophobia, class bias, and other structures of domination will not, in the final analysis, lead to decarceration and will not advance the goal of abolition. (Davis 2003: 107-108)

I suggest that my project of questioning and possibly eliminating stigma attached to returning ex-prisoners, and those already seeking re-entry into society, qualifies as one such alternative reform that will require radical overhaul of societal attitudes. In Alexander's (2012) thinking, the questioning of stigma is crucial to transforming the penal landscape since the recycling of ex-prisoners (facing social ostracism and bleak economic prospects in an unforgiving home environment) is the cannon fodder which feeds the prison and keeps it alive. Habermas (1996: 352) himself insists that social integration (presumably of marginalized groups) is at the very top of his political agenda. Finally, Aziz Couldry (2016), responding during a public lecture to a question on the relationship between reform efforts and prison-abolition within the context of social movement activism, remarked that daily struggles have the potential to develop into fully fledged movements by virtue of the fact that like-minded people network, find common cause and strength in knowing that they are not alone. Michelle Alexander points out that the phenomenon of misjudging the norm, in the sense of not knowing or not reasonably suspecting the existence of fellow sufferers, is known as 'parallel ignorance' and presents a real problem in efforts of building social movements. On this point, I ponder that perhaps both objections (fashion and reform as opposed to abolition) can be addressed in one movement, as Naomi Klein (2015: 5-6) argues in a different context. She suggests that not only governments have the right to declare a crisis. If enough people decide that a goal is worth pursuing, it can be accomplished without central authority's 'say so.' This is the crux of philosophical anarchism as I explained below. Finally, Klein cites an impressive list of examples (as I note in Chapter One) to illustrate her point that many worthy movements in the recent history of our species occurred outside of the purview of government approval, which include the abolition of the slave trade in the nineteenth century, second wave feminism (1966-1976) insisting that women are entitled to equal rights and the anti-apartheid movement (while many conservative governments, notably Ronald Reagan's Republican party administration and Margaret Thatcher's conservative government, around the globe supported the apartheid government).

Kropotkin, Darwin and Habermas: is capitalism the best possible option?

After considering the two possible objections to my endeavour, discussed above, I will briefly examine Kropotkin's take on Darwinian evolutionary theory and Habermas's theory of social evolution (inspired at least partially by the same source), in a triangular methodical movement, so as to be able to explore capitalist democracy's claims of being the best possible option under existing conditions and available knowledge, before my developing (and in small ways attempt to reconstruct, in Habermasian fashion) Reiman's 'Pyrrhic defeat theory' critically. I should perhaps explain that I found it necessary to 'reconstruct' Reiman not because his thesis is wrong in any fundamental way, but because subsequent research (notably the work of Michelle Alexander [2012]), has confirmed Reiman's thesis in surprising ways to the extent that he understates the insidious means by which the state machinery is capable of "ensuring" that the system fails spectacularly. To illustrate very briefly, Reiman is at pains to argue that his thesis is not a 'conspiracy' theory in the same way in which Foucault has argued famously that 'the King has no head' – that is, that one tends to attribute subjective agency where there is none, and where it is rather a case of cratological (power-related) effects being the result of the way that power is distributed along the defiles of networks of power. I argue that the evidence suggests that this is only partially true and that a fairly convincing case can be built, as Alexander (2012) and Angela Davis (2005) do, for the proposition that there has been a designed effort to roll back the rights and advantages for American blacks gained after the Civil War (1861-1866) and, subsequently, after the Civil Rights movement in the 1960s. I'm not sure that this would be incompatible with Foucault; even where power-networks favour subjects in certain nodal positions in the network, or perhaps precisely because of this, such subjects are in the position to manipulate the system. This is why Castells (2010a) can talk about the 'global elites of the space of flows', which is understood not as a 'place' in the conventional sense of the word, but as a 'process'. Sprawling mega-cities such as New York, Hong Kong and Shanghai are 'inter-connected' through the process of flows (capital flows, immigration flows) rather than place.

In curious ways, as I will attempt to show below, this 'backlash' (to borrow from Susan Faludi) against colour has found its way into post-apartheid South African society as a transmogrified animal – but this time aimed at the poor generally, although the vast majority of the poor in South Africa is and remains black South Africans. Does it matter whether the skewed nature of the criminal justice system is the result of a conscious conspiracy or not? I do not know. Perhaps the answer is that my argument, if correct, does not challenge Reiman's central argument. It does, to my mind, change its contours and the ways in which the problem might be challenged successfully. I have suggested above – and I have found support for my contention in the work of Davis, Alexander and Couldry – that a 'strategic intervention' is more likely to yield results than an all-out frontal attack and, if I

am correct in my assessment of Reiman's theory, this would seem to confirm my more cautious approach.

It might perhaps have been more systematic to discuss Rieman's 'Phyrric defeat theory' first, before engaging with Kropotkin and Habermas' work on procedure so as to assess alternatives to capitalism, as Reiman's work demonstrates (clearly, to my mind anyway) the dysfunctional and irrational nature of so-called capitalist liberal democracy, which I explore below. I am, however, mindful of Adorno's (1955/1967: 65, 225, 150; 1966/1973: 18, 162-166; 1951/1974: 71, 85-87, 209-212) warning, following Nietzsche and Benjamin, about style, the myth and danger of a "complete" treatment of the problem and the ease of co-option by mainstream dominant discourse. Adorno makes use of aphorisms and the unorthodox arrangement of verbs. His enthusiasm for Schoenberg's music underpins his notion of anti-consumerism to which I will return below in the context of Könik and Meinhof's work on consumerism as an ideological device of late capitalism. Adorno (1955/1967: 150) argues with conviction that just as Schoenberg's music makes unusual demands on the listener, his own work also demands of the reader "spontaneously to compose its inner movement and demands of him not mere contemplation but praxis." I intend then to reverse the 'natural' order of things for that reason and first examine Kropotkin and Habermas' work on a procedural normative model with which to assess and judge alternatives to capitalist democracy before considering Rieman's theory on criminal justice. Why the emphasis on procedure rather than substantial political theory? Apart from Adorno's persuasive argument on the necessity of style rather than substance to avoid what Mathiesen (2004) has called the general acceptance or acquiescence in silence in modern society, my reasons are two-fold. Firstly, it is obviously beyond the scope of this enterprise to digress into political theory on responsible and rational alternatives to capitalist democracy, as John Rawls' has done so admirably in his *A Theory of Justice*. As such this represents a justifiable limitation to my project. Secondly, I have instead found it more productive to consider and assess procedures, such as those provided by Kropotkin and Habermas, to judge social arrangements for its fairness and rationality. Habermas (quoted in McCarthy 1978: 265-266, the latter's translation) explains the case for procedure as opposed to substance as follows, with reference to

> the diagnostician of the present assumes the fictive standpoint of an evolution-theoretic explanation of a future past […] As a rule, Marxist explanations of developed capitalism also share this asymmetric position of the theoretician who analyzes developmental problems of the contemporary social system with a view to structural possibilities that are not yet institutionalized (and will perhaps never find an institutional embodiment.)

Although it is certainly true that Habermas' project has steered away from practical current issues, as one of Habermas' commentators David Held (1980: 374-375, 329) contends, to a

concern with the universalist features of his theories of communication and of social evolution, these tasks, according to Habermas, have nonetheless an immediately relevant application in their assisting in the "diagnosis of contemporary development problems." In fact, as Rick Roderick (1986: 13, 16-17, 70-72) points out, it is precisely Habermas's break with Marx's "philosophy of history with practical intent" to an understanding of universal pragmatics grounded in a theory of communicative rationality (a transcendental moment that goes beyond the concrete 'now') validated by a reconstruction of the history of human societies (its historical moment) in an "attempt to explain the development of empirical [linguistic] competencies in empirical subjects," that gives Habermas' theory of social evolution its central location in his project. This move of Habermas's has two consequences, namely he loses the proletariat as the subject of social agency, and his ideology criticism, briefly referred to above, is now expressed in his famous concept of "systematic communicative distortions." Finally, he appears to be in agreement with Horkheimer and Marcuse that the historical dialectic does *not* necessarily translate into the demise of capitalism and into a further socialist stage. The historical course of dialectic materialism is *Unabgeschlossen* – not foreclosed or not a necessity. For Habermas, social evolution encompasses two elements – firstly, the acquisition of a learning curve that provides the material from which, secondly, social movements take their "rationalization of action" as the rationale to correct perceived disturbances in the fabric of the society. Ideally, this leads to the formation of normative structures that incorporate these insights since these structures are "the pacemaker of social evolution, for new principles of social evolution mean new forms of social integration." As I indicated above, this argument leads to his concept of a social theory critical of ideology as "the suppression of generalizable interests" and the motivation for Habermas's (1975a: 113) well-known (presumably counter-factual) 'ideal speech situation' based on the following test :

> [H]ow would the members of a social system, at a given stage in the development of productive forces, have collectively and bindingly interpreted their needs (and which norms would they have accepted as justified) if they could and would have decided on the organization of social intercourse through discursive will-formation, with adequate knowledge of the limiting conditions and functional imperatives of their society?

Whereas Habermas hints at the possibility of exploring new structural possibilities in the light of past failures through rational consensus, Kropotkin, as a representative of a "standard, well-developed Russian critique of Darwin [and certainly not an idiosyncratic crackpot], based on interesting reasons and coherent national traditions," (Gould 1997: 6) argues for mutual aid as a more rational alternative to combat or struggle as a response to the demands of natural selection. As Stephen Gould (1997) points out, the perspectival difference, in terms of geographical location, between Darwinians and their Russian critics

in part accounts for their opposing conclusions. Both Darwin and Wallace reached their conclusions independently from observations in the tropics teeming with life, whereas their Russian critics, like Kropotkin and Tolstoy, are sustained by visions of life in a vast empty space sparsely populated. Darwin himself recognized two forms of struggle, the struggle for scarce resources among members of the same group and the common battle against the environment. Petr Kropotkin (1902/1989) went further than this dualistic theoretical trajectory by arguing that based on his naturalist observations in Eastern Siberia and North Manchuria countless species practice mutual aid. Naomi Klein's [2015] warning that climate change has passed a point of no-return and that this presents humanity with a golden opportunity to co-operate on this looming catastrophe, is immensely relevant here.) Kropotkin builds an impressive case for mutual aid based on consensus flowing from the imperatives of evolution as a driving force for developing progressive human institutions without the need for central government or authority. While Kropotkin's argument for mutual aid is certainly a worthwhile alternative to capitalist individualism in a dog-eat-dog world and a pressing consideration in view of Naomi Klein's plea for global co-operation in the face of runaway global warming, it is also a case for philosophical anarchism which holds that humans are capable of arranging their own affairs through consensus without the intervention of external authority (Kropotkin 1975a). In the words of the funeral cortege of 20 000 people bearing the black flag of philosophical anarchism at Kropotkin's funeral, "where there is authority, there is no freedom" (Avrich 1978: 277).

Habermas and Kropotkin have much in common, of which rational consensus among autonomous, free and unconstrained members of the same group, without the need of an external authority to ensure agreement, is a matching similarity. Habermas' support for philosophical anarchism is perhaps more equivocal than Kropotkin's uncompromised stance but I hope to show that Habermas has a conscious sympathy and unconscious support for the anarchist cause. In the preface to his book *Between Facts and Norms* (1996: xl), he responded to criticism that his theory of communicative action is not practical enough or might have anarchist implications by contending that "the potential of unleashed *communicative* freedoms does have an anarchist core. The institutions of any democratic government must live off this core if they are to be effective in guaranteeing equal opportunities for all" (emphasis in the original).This extract is symbolic of Habermas's conscious sympathies for the anarchist cause, i.e. a society where people can resolve their differences and arrange their affairs with *only the need for* rational discourse, presumably within the context of a caring mindset, as a tool to manage conflict and without the need for external authority to validate their choices, but also testifies to the discomfort of putting his name to the anarchist cause. Perhaps as a rationalist he is wary of the law of unintended consequences. Be that as it may, I am of the opinion that Habermas is an anarchist on an unconscious level. He discusses his idea of "the ideal communication community" as "a

model of 'pure' communicative sociation." Habermas (1996: 323) then proceeds to elaborate upon his ideal communication community in these unacknowledged anarchist terms, that

> the only available mechanism of self-organization is the instrument of discursive opinion and will-formation, and by using these means the community is supposed to be able to settle all conflicts without violence. The community even solves the "stubborn" problems of societal integration communicatively, in the final analysis through rational discourse – *yet without the aid of politics and law (*emphasis added).

In my view there is little doubt that a fair reading of this passage justifies the conclusion that Habermas subscribes, be it unconsciously, to the imperatives of philosophical anarchism. I am aware of the dangers of categorizing a prolific scholar such as Habermas, whose positions can and must and have inevitably change(d), but I am nonetheless convinced that the nature and centrality of his counter-factual 'ideal speech community' in his *oeuvre* justifies such a claim. Examples of proto-anarchist movements from South Africa's recent past abound, notably the so-called 'kangaroo-courts,' a direct show of rejection of a discredited and illegitimate legal system, practiced by the excluded black majority during South Africa's apartheid years. My efforts to draw on alternative visions to political life other than capitalist democracy are important. Angela Davis (2003: 42-46) points out that imprisonment as the dominant form of punishment was an innovate answer to the demands for a disciplined workforce created by the rise of industrial capitalism and the new ideology of quantifying punishment in measured commodities of time (in the same way workers are remunerated for their work). Moreover, she argues that "[i]n the twenty-first century, antiprison activists insist that a fundamental requirement for the revitalization of democracy is the long-overdue abolition of the prison system" (Davis 2003: 39). Finally, Mary Bosworth (2010: 158, 170), in her reading of Garland's hypothesis that excessive state vengeance speaks of perceptions of weak governance (to which I also refer below), argues that such aggressive punishment regimes "are as much an attempt to disguise the vulnerabilities of the state in power as they were responses to public opinion." Imprisonment makes sense when it is seen as a temporal historical force that is at the same time an integral part of the capitalist version of democracy. Before moving on to consider Reiman's Marxist reading of crime, I pause to point out that I will return to Habermas and Kropotkin's procedural models which offer thought-provoking and interesting alternatives to capitalist democracy.

Reiman's 'Pyrrhic defeat theory'

Jeffrey Reiman (1990) calls his Marxist-inspired account of criminal justice in late capitalist societies descriptively a 'Pyrrhic defeat theory.' A Pyrrhic victory refers to a victory that is

achieved at such costs that it amounts to a victory only in name. A defeat of the same magnitude would mean that it's a defeat in name only and one that actually amounts to a victory. Reiman explains the somewhat unconventional name in the following terms: "The Pyrrhic defeat theory argues that the failure of the criminal justice system yields such benefits to those in positions of power that it amounts to success. In what follows, I will try to explain the failure of the criminal justice system to reduce crime by showing the benefits that accrue to the powerful of America [and in all capitalist societies, CL] from this failure" (Reiman 1990: 5). Said in another way, the system was never designed to 'succeed' as the compliant bourgeoisie understood the system to function.

The criminal justice system, both in South Africa and in the United States, succeeds precisely because the fight against crime, as conventionally understood, cannot be won since the system is meant to self-perpetuate and stimulate crime. As this is a serious allegation, I elaborate on this point beyond giving a mere example. Two issues stand to be considered here, namely that the prison cannot solve the problem of crime since it is precisely one of a number of systemic sources that generates crime; and that the link between crime and punishment is contentious.

Firstly then, the system must appear to fight 'crime' but only enough to show that it takes (the) crime ([s] of the poor) seriously. Reiman (1990: 129-133) argues that in a capitalist democracy, where income and wealth distribution is vastly unequal and success is measured in terms of money and power only, the poor had been 'demonized' not only to justify the belief and conviction that that economic arrangements are fair but to deflect attention from the ways in which the rich make their money. Since wealth and money are taken as a sign of moral superiority in a consumer crazed society, of which South Africa is one, as I explain below, poverty is conflated with the idea of moral depravity and without difficulty equated with moral failure. More serious 'crime,' such as the greed of a few that has led to climate change, as I pointed out above, is not on the agenda for prosecution. The government agencies created to fight 'crime' (as I will demonstrate below) actually ensure that the commission of fresh crime is continuously encouraged. Alexander (2012), Reiman (1990: 80-115) and Davis (2005: 37) are adamant that vigorous policing in poor communities (to the exclusion of more affluent ones) – for the reasons that I suggested above - will ensure that more bodies from this section of society are fed into the criminal justice machine. Consider the qualitative conclusions reached by Human Rights Watch (2000) on the state of the so-called criminal justice system in the US that "The extraordinary disparity between black and white incarceration rates reflected in part the fact that black men constituted a disproportionate share – 44 percent – of all felons convicted of the violent crimes that receive long sentences […] [T]he arrest rates for drug offenses were six times higher for blacks than for whites. Although blacks constituted an estimated fifteen percent of all drug users, they constituted 36 percent of arrests for drug

possession and 49 percent of state felony convictions for possession. Fifty-six percent of all drug offenders in state prison were black." How is this discrepancy to be explained? Afro-Americans, generally speaking and subject to the provisos noted below in the context of poverty, are not prone to committing more crime than whites, but because their communities are more closely scrutinized for infractions, they produce more bodies for processing. Two theories from the sociology of deviance suggest that poverty is a 'source' rather than a 'cause' of crime (Reiman 1990: 8-9, 14, 48; Quinney 1970/2008).

These are strain theory and relative deprivation (briefly explored in Chapter One). Various strain theories of deviation postulate the idea that living in a potentially prosperous society, such as South Africa with all its equalitarian promises of a free non-racial democratic society, with the implicit message that social mobility is an achievable aim for all. This is not the case, however, since the legitimate means of obtaining these social and economic desirables are blocked for the vast majority of people, and encourages people to obtain these goods through alternative sub-cultural means, i.e. crime. This is in itself a great motivation for people to close the gap between opportunity and socially desirable goals by illegitimate means (Cloward & Ohlin 1960: 77-107; Reiman 1990: 125-129).

The experience of poverty in the midst of affluence (the theory of relative deprivation) leads to discontent among those people who believe they are entitled to better. Rummel (1976: xx) argues that relative deprivation "asserts that we take our presently perceived or expected position, achievements, gratifications, or capabilities as a base of comparison against our wants or needs, or what we feel we ought to have. The gap between wants or oughts and gratifications or capabilities is then our deprivation, or relative deprivation in the sense that it depends on our base of comparison". It is, as he perceptively points out, not the existence of oppressions *per se* which leads to revolt; rather, but the conviction among a certain group that they are entitled to a greater piece of the cake might well lead to violent interrogation of present economic arrangements. To illustrate, the riots in the ANC training camp Viana, outside Luanda in Angola during January 1984, was believed by the ANC security department, Mbokodo, to be the work of enemy agents, but this allegation was subsequently persuasively disproved by the Loots-commission of inquiry as instead "a spontaneous eruption of anger by MK members who were sick and tired of enduring appalling conditions in the camps while their leaders lived in relative luxury in Lusaka" (Hermanus 2016: 19). Perhaps this is the answer to Koos van Eeden's argument, referred to above, that reform initiatives lead to the demise of evil systems, such as untrammeled capitalism and apartheid. The answer does not lie in the supposedly magical curative potential of reforms, as it does in the 'revolution of rising expectations' (that well-known term in politics), i.e. relative deprivation. Social analysis, such as that by Reiman, Alexander and Davis, that confirms these theories of social deviance (strain theory, relative deprivation) through the examination and evaluation of empirical evidence, has led

criminologists to argue that these forms of structural oppression make crime inevitable in a society that caters only for the needs of the wealthiest and the most powerful. In the words of David Garland (1997: 201) "[g]rounded social analysis that tries to make sense of penal policy" is a greatly desired resource. Under conditions of poverty, conclude Cloward & Ohlin (1960: 105), there is "acute pressure to depart from institutional norms and to adopt illegitimate alternatives."

What implications does this conclusion have for the ideal of re-integrating returning ex-offenders, so heroically incorporated in the mission and vision statements of the three departments of correctional services quoted above, already labouring under a debilitating stigma? To illustrate, the badge of stigma afflicts returning ex-prisoners and condemns this class of unfortunate souls to social and economic oblivion, the evidence for which I quoted at length above. This almost certainly ensures a steady stream of returning ex-prisoners released with a burning sense of injustice and resentment at the system that visited such indignities on them during incarceration (elaborated upon below) with precious little to encourage resettlement, as I argued above. The laudable aim of reducing recidivism among ex-offenders in all three mission and vision statements of the prison authorities cited above is simply unattainable, since the way economic and social arrangements are 'skewed' in capitalist societies not only produces a steady stream of new prisoners, but the dearth of social and economic opportunities open to ex-offenders ensures a high rate of recidivism, as I argued above and will argue again below.

Secondly, Nils Christie (2004) has proposed that the link between work and money should be severed. Everybody is entitled to a decent standard of living irrespective of their personal circumstances. By the same token, it is my view that the link between crime and punishment should and could justifiably also be severed. Angela Davis (2005: 37-38) explains why we should not be duped into the ideological brainwashing that punishment follows crime.

> Well, the link that is usually assumed in popular and scholarly discourse is that crime produces punishment. What I have tried to do – together with many other public intellectuals, activists, scholars – is to encourage people to think about the possibility that punishment may be the consequence of other forces and not the inevitable consequence of the commission of crime. Which is not to say that people in prisons have not committed what we call "crimes" – I am not making that argument at all. […] Those communities that are subject to police surveillance are much more likely to produce more bodies for the punishment industry. But even more important, imprisonment is the punitive solution to a whole range of social problems that are not being addressed by those social institutions that might help people lead better, more satisfying lives. That is the logic of the imprisonment binge:[…] Remove those dispensable populations [the homeless, the unemployed]

from society. According to this logic the prison becomes a way of disappearing people in the false hope of disappearing the underlying social problems they represent.

Discredited model of human behaviour

Once again, the phenomenon of the prison on our social and economic landscape should not be taken for granted. As Angela Davis so perceptively points out, in the passage quoted above, the prison serves a whole range of functions in our society which include a perceived solution to many social problems, serving the interests invested in the prison-industrial-complex – as I pointed out at same length above – and putting the poor (and/or communities of colour) "in their place" (Alexander 2012: 40, 191). Punishment for those behaviours labelled 'crime' (as I demonstrated at the outset of this chapter) is only one of many possible motivations for the 'reinvented' prison. Spending money on incarcerating people as an alternative to spending money on more pressing social issues (housing, education, alleviating poverty) is a way to ensure that role players with a vested interest in the prison-industrial-complex are not disappointed (Davis 2003: 16-17, 102-104; 2005: 37-38, 85; R. Johnson 2005; Alexander 2012: 217-220). But the imprisonment craze is not just the result of vested interests in the prison-industrial-complex, although it is an important impetus. It is also fueled by what Anthony Bottoms (1995) calls "populist punitiveness," politicians wanting to appear tough on crime for political gain (because it is popular) (Bosworth 2010: 150-153; Haney 2005: 68-69,73), and media over-anxious to blow the flames of moral panic (Haney 2005: 68-69; Bosworth 2010: 168). Craig Haney (2005: 81), Mary Bosworth (2010: 96), Michelle Alexander (2012: 8-12, 230-232) and Pat Carlen (2005: 424) have argued independently of each other that disillusionment with the rehabilitation ideal in the late 1970s did not result in the closure of prisons, as was widely expected, but the prison reinvented itself to serve new(ly found) interests. I argued above that these new interests include but are not limited to those vested in the prison-industrial-complex. By the same token, Davis (2005: 40) and Alexander (2012: 217-220) suggest that once it was realized that the prison had failed on its own terms – the demise of the rehabilitation ideal – the prison was not dismantled but reinvented as a warehouse for those deemed unemployable or otherwise disposable for the neo-liberal cause. Foucault (1975/1991) demonstrates famously that the prison fails precisely so as to engender delinquent groups ready for the categorization. Haney (2005: 78-87) contends that the rationale which underpins the idea of incarceration as a punishment gained currency and momentum during the nineteenth century based on a model of human behavior – individualism and the concept that persons need to take responsibility for their actions – which has since been thoroughly discredited by modern psychology and the understanding that contextual factors are the determining issues in behaviour that is labeled 'criminal'. Haney (2005: 81) insists that "contextual, situational and structural forces" are absolutely

imperative to assuage human behaviour, but imprisonment feeds off the individualistic model of accountability and responsibility. In the words of Mary Bosworth (2010: 169), "while prisons have always been used to control the poor and the disorderly, the extent to which incarceration in the 1990s became divorced from any of its historical justifications for justice, crime reduction, or rehabilitation is remarkable." As Jeffrey Reiman (1990: 131-133) argues with some force, emphasis on individual responsibility (however misguided) is essential in a society that denies its own responsibility for crime and its lack of accountability to the marginalized communities created by structural oppressions. That the rehabilitation ideal is still present in the vision and mission statements of Correction Services in South Africa, South Australia and Jamaica (quoted above) is either the result of ignorance or otherwise simply bizarre.

Class, not race, in South Africa

According to Reiman, building on the work of Marx and Richard Quinney (1970/2008, 1974, 1977), the criminal justice system is 'rigged' from the stage where certain kinds of behaviour are discriminately selected as crimes (hereinafter referred to as 'conventional' crime, an idea with which I opened this Chapter) and others not, as I pointed out briefly at the outset of this chapter, to the point where the poor and powerless are demonized as 'criminogenic' and inevitably make up the vast majority of those incarcerated – both in the United States and in South Africa. There are both differences and similarities between the situation in South Africa and of that in the United States and I will attempt to outline those since it provides a good understanding of the way or ways in which the logic which drives the discourse of imprisonment is able to configure in new and other surprising situations. Davis and Alexander argue that abolishing the prison without making sure that those conditions (racism, sexism, xenophobia, the profit motive) which made the prison possible in the first place are also destroyed, will only see new forms of oppression emerge to replace those superseded ones. Alexander (2012) argues that the abolition of slavery after the Civil War in the United States did not disturb the basic "architecture" of racism as it changed colour from slavery to Jim Crow to mass incarceration. She postulates that "It is fair to say that we have witnessed an evolution in the United States from a racial caste system based entirely on exploitation (slavery), to one based largely on subordination (Jim Crow), to one defined by marginalization (mass incarceration)" (Alexander 2012: 219.) Slavery translated into Jim Crow and, after the Civil Rights movement of the 1960s, in particular the Civil Rights Act of 1965 after the march on Selma, the rich and powerful sought a new way to put blacks "in their place" (Alexander 2012: 40, 191), as suggested above, so as to assuage the brewing economic resentment of the middle class and poor whites with the closure of manufacturing industries in the early 1970s.

Alexander's (2012) thesis is that the prison is wielded as an instrument to roll back the advantages gained by the Civil Rights-movement and recreate a new class of 'slaves'. I

believe that her argument is essentially correct and that in post-apartheid South Africa that logic has trickled down not as in a racialized form of oppression, as the game is played in the United States, but essentially as one of class. I will attempt to unpack and demonstrate that idea below.

In South Africa, a newly moulded society that has just emerged from centuries of slavery and racial tension, the neo-liberal rhetoric targets the poor and the powerless, irrespective of race or colour. But Alexander's (2012) argument remains valid for my project. Whereas she is able to demonstrate that the prison is at work to create a new class of 'undercaste' specifically from the ranks of the coloured communities – African American, Hispanic, Native American and, since the War on Terror was declared by George W. Bush after 9/11, also people of Middle Eastern complexion – my argument is that the same logic is at work in post-apartheid South Africa but, in view of our particular history and also the fact that the vast majority of South Africans are people of colour, the focus is on the poor irrespective of race. In the United Sates, in contrast, poverty and colour seem, generally, to go hand in hand. What implications do her thesis and conclusions hold for my project? As I will attempt to show briefly, it is the same 'architecture' of oppression that is at play in both societies although the rules of the game have changed. The very first paragraph of Anthony Traill's book on extinct Khoisan languages, *Extinct South African Khoisan Languages* (1997?), expresses almost exactly my (at the time, still unarticulated) thinking on how Alexander's thesis, on the evolution of the "undercaste" in the United States, had its beginnings in South Africa. Traill (1997: 1) explains how the Khoisan peoples of Southern Africa evolved and managed to survive extinction over the past three hundred years:

> For countless thousands of years South Africa has been the homeland of Khoisan peoples[….]The conditions which led to the destruction of the Khoisan societies are well documented, varying from disease and genocidal persecution to attitudes of intolerance and disdain. Although the Khoisan peoples fiercely resisted the onslaught, survival ultimately involved abandoning their cultural and linguistic identity. Linguistically, many, perhaps the majority, shifted to Afrikaans, creating a distinctive dialect of that language. Others adopted the language of their locality. Tswana, Sotho, Zulu, Swati, Xhosa. Socially, most found themselves marginalized in an underclass, and economically they became unfree labourers.

Just as Traill details in broad strokes the costs associated with the survival of the Khoisan peoples, my argument is that the social and economic marginalization of black people were symbolically reproduced after 1994, South Africa's first democratic elections, in the form of 'class' as the new 'race'. Although racism became unpopular in 1994 in South Africa, the dominant discourse which made "a closed circuit of perpetual marginality" possible – in fact demanded it – remained intact in the 'new' post-apartheid South Africa. The poor became the 'new black', as did ex-offenders, as I argue in Chapter One. My argument is

based on both Alexander's and Davis' work, referred to above, on the one hand, that merely abolishing the prison without attending to the conditions which made the prison possible in the first place, will merely result in new forms of oppressions arising, and Reiman's (1990) thesis, on the other hand, that the criminal justice system in capitalist societies demonizes a selected marginalized group so as to deflect bourgeois discontent from the rich. Inge Könik (2015) demonstrates that the neo-liberal drive in post-apartheid South Africa has translated everything, to the point of extinction of indigenous ways of knowing, in economic terms. She explains that the BEE (Black Economic Empowerment) programme mooted by the ANC to uplift black South Africans from centuries of poverty and eradicate the disparities created by apartheid, has only benefitted a tiny minority of black South Africans (the so-called 'black diamond' middle-class) who, as a result of their new found wealth, have indulged in almost unbelievable levels of 'conspicuous consumption' (while the vast majority of black South Africans have been left confounded in the cold) and, together with their white propertied compatriots, resent the poor as a 'menace' (Könik 2015: 90-91). She argues that "[t]he democratic transition in 1994 did not dismantle the capitalist underpinnings of South Africa, and so racial apartheid has simply been replaced by class apartheid. Each new neoliberal development adds yet another page to the country's chronicle of domination" (Könik 2015: 92). Justice Albie Sachs (2015) has remarked that in post-apartheid South Africa the system still favours whites. The reason for this is that, as class has replaced race after 1994 (Könik 2015: 91-92), and in lieu of radical economic transformation, promised by the RDP (Redistribution and Development Programme) leaflet but abandoned in favour of neo-liberal incentives with the adoption of GEAR in 1996, referred to above, whites (together with the new black middle class) have retained their economic hegemony in post-apartheid regime to the continued detriment of the majority of black South Africans. It is not surprising then that as a result of a lack of radical economic transformation since 1994, violence along racial lines has erupted on South African university campuses in the first half of 2016. As indicated above, South Africa is today considered to be one of the most unequal societies in the world. In the same way in which Alexander (2012) demonstrates that mass imprisonment is a continuation of slavery by other means, since the same oppressive discourse remained in place, I argue that the same is true in post-apartheid South Africa save for the fact that 'race', in a society that had had just emerged from three centuries of slavery, had to be replaced by another marginalized group. As I point out in Chapter One, South Africa, like Hong Kong, is not welfare society and these 'hyper-capitalist' cultures have negligible social security and poor medical care for those unfortunate enough not to be on medical aid or medical insurance. I contend that the same trend of mass incarceration is evident both here and there but for different reasons.

By putting these sources in conversation, I am able to construct a credible explanation why and how the prison, an institution of immense oppression in apartheid South Africa before

1994 (and not unlike the position in the United States after the War on Drugs was declared in the early 1980s), was able to survive into a new dispensation and continue to flourish as an institution of oppression, but this time around with the subtle difference of being the prison-industrial-complex as opposed to a mere instrument of political oppression. Davis (2003: 50) refers to this idea that concepts (and practices) can survive in different guises with the passage of time as the "malleability of history."

Jeffrey Reiman (1990) shows, as I have indicated above, how demonizing the poor legitimates the economic status quo in capitalist societies. In the United States, of course, where racism is also unfashionable, the racist discourse has to be disguised very craftily. As Alexander and Davis demonstrate, the discourse of racism in the United States had never been properly dismantled. Reiman's basic analysis is sound except that, as Alexander shows so convincingly, in the United States it is not the poor *per se* that is targeted, but the non-white poor – African Americans, Latinos and immigrant communities – in particular. Perhaps the point is that the poor and the communities of colour (which are made up of minorities) are conflated in the popular imagination of the United States whereas in South Africa, a society that has just emerged from centuries of slavery in which the majority are non-white South Africans, the poor are made up across all racial boundaries and the discourse of race is (understandably) thoroughly unpopular and politically incorrect. In the United States it might well be that race in still the driving logic in an era of an incarceration binge, except that it had to be disguised, as Alexander shows, as 'colourblind justice.' The same happened in South Africa in 1994 with the first democratic elections – racism lost its appeal. In this country, principally because of the strong hold which the neo-liberal profit motive has on the government of the day, the discourse that permits unjustified discrimination is and remains in place, just as is the case in the United States, save for the fact that it had to find another outlet.

My argument, by building on the work of these scholars, is that the poor have been demonized as 'criminalpoor', in post-apartheid South Africa – Reiman's thesis exactly – and that our poor doubles as the new 'race' for purposes of exploitation. If this becomes unfeasible, management of these disposable people is accomplished, one way or another, and such a way will be found, in warehousing them in ever-sprawling prisons. I arrived at the concept 'criminalpoor' by rephrasing the term 'criminalblackman' that was introduced by Kathryn Russell to explain the manifestation of the phenomenon "[once] blackness and crime[...] became conflated in the public consciousness" (quoted in Alexander 2012: 107). As indicated above, the collapse of the manufacturing industry in the 1970s in the United States created a vast number of unemployed. Not only was it necessary to divert discontent of the poor and middle class whites away from America's rich and powerful, as indicated above, but a means had to be found to 'manage' these masses of the newly unemployed poor, which at the same time would have the benefit of legitimating the economic *status*

quo ante, as also indicated above, and foreclosing the need for painful structural adjustment. In the United States, the need for structural adjustments as a responsible solution to pressing social problems was resisted and instead the War on Drugs was found to be the perfect answer in the form of a pretext for reversing the gains of the Civil Rights Movement. A word on the rationalization of the War on Drugs is in order. I make five points on this score.

Firstly, it has been shown convincingly that whites use illegal drugs as frequently as do African Americans, yet the vast majority of those arrested, convicted and sentenced to incarceration for possession in the United States are people of colour (as I indicated above). Secondly, even though it has been proven beyond doubt that crack and powder cocaine are on a par in their effects on the human body, possession of crack is still penalized a great deal more harshly than possession of powder. It should be explained that communities of colour in the United States prefer crack to powder whereas whites prefer the latter. This profiling prejudice favours whites over blacks in sentencing practices for reasons which are not justifiable, as explained above. Thirdly, in a world saturated with messages in the mass media on the availability of all sorts of 'legal' drugs which are only within reach of the affluent on health care or medical aid, consider how unfair this is to punish those on the fringes of the economy (who aim for the same drug-induced oblivion as the rich) and whose only recourse is to 'illegal' (and perhaps easier available) drugs. Prison researchers, as indicated above, have commented that the media employ 'moral panics' tactics to sensationalize the drug scare and the availability of so-called illegal drugs so as to boost their circulation figures and sales.

Fourthly, it needs to be asked what investment the pharmaceutical industry, which earns billions annually in so-called legalized drug sales, has in the War on (so-called 'illegal') Drugs. As Davis (2003: 93-101) and Alexander (2012: 57) point out, respectively, both the privatization drive – whereby services such as catering are outsourced to private companies who employ prisoners to do the work at a fraction of the generally accepted rate of labour costs 'on the outside' – and the construction industry – for the construction of new prisons, not houses – have benefitted greatly from mass imprisonment. By the same token, how much have the 'legitimate' pharmaceutical companies benefitted from the imprisonment craze? The *Sunday Times* (2015) reported that the relatively new underground supermaximum ('c-max') facility in Kokstad, on the border between KwaZulu-Natal and the Eastern Cape, officially opened in May 2002, cost the taxpayer half a billion rand. Davis (2003: 102) notes "I am highlighting South Africa's embrace of the supermax because of the apparent ease with which this most repressive version of the U.S. prison system has established itself in a country that has just recently initiated the project of building a democratic, non-racist, and non-sexist society." I echo the sentiment of both these scholars, as referenced above, in posing the question whether this money could not

have been used to better effect in the delivery of basic services (such as education, health, electricity and water.) Finally, many studies have indicated that drug abuse is a social problem and can be addressed adequately with treatment and care programs. My point is not that drug abuse is not a problem, but that it is a problem that cannot be considered sensibly in a judicial context and, in particular, the shift from social to criminal justice was motivated solely by politicians greedy for mileage (as I noted above). The criminal justice system has proven that drugs are a problem that is beyond its reach to solve or make any appreciable impact. In short, the justification of the War on Drugs falls far short of the justification for the money, time and effort that have been invested in its pursuit – both in South Africa and in the United States.

The ideological legitimation of the *status quo ante*

It is not my argument, nor that of Reiman (1990: 113-114) or Davis (2005: 37), that the 'reality' of the poor being more prone to commit 'conventional crime', as defined by either statute or common law, does not mean that most of those committed to goal are not guilty of behaviour that we define as 'crime'. It also does not mean that rich people never go to prison. They certainly do. This happens for two reasons. Firstly, if and when the rich go to prison, they are what Alexander (2012: 205), in a similar context, has poetically called "collateral damage." Secondly, the system succeeds, argues Reiman (1990: 4), precisely because it is "complex", i.e. it is tough identifying the 'inner logic' that drives it. The rationale for this skewed picture, argues Reiman, is essentially two-fold. Firstly, because focus on the 'crimes' of the poor deflects the discontent of the middle classes from the actions of the rich and powerful – actions which are not defined or understood as 'criminal' but which, as he convincingly shows, are more dangerous to our well-being on this planet than the crimes of the poor. When President Zuma's lawyers famously argued that corruption is a 'victimless' crime – which it certainly is not, considering that the cake from which South Africa's poor must be fed, is suddenly so much smaller – this confirms Habermas's point that the rich and powerful colonize public wealth for private gain, referred to above. My example of climate change (brought about by unscrupulous industrialists greedy for self-enrichment at any cost), proffered at the opening of this chapter, remains valid as an illustration of this idea. Secondly, demonizing the poor and the powerless in this way serves a very important ideological role. It legitimates the economic *status quo* of greatly disparate power, wealth, opportunity and privilege as being fair since the poor deserve their station in life for their morally 'degenerate' conduct. By collapsing poverty and morality into one category, the ideological message is that you get what you deserve. The poor have nothing for a reason and this is the same reason why the rich have everything. Žižek (2000: 82n4-5) observes that one of the functions of ideology is to explain and objectify the "origin of evil" in an external source (the poor, case in point) so as to justify our divesting us from our responsibility in its causation. Or, said in another way,

the 'criminalpoor', as I have rephrased Kathryn Russell's term 'criminalblackman', as indicated above, is the source of evil. They are to blame for their own situation in life and society has no stake in intervention in their fate.

Demonizing the poor as criminogenic is not the only way, as I suggested at the beginning of this chapter, in which the discontent of the middle classes is arrested and diverted away from the behaviour of the wealthy and powerful. In the former West German context, Ulrike Meinhof (1980: 44, 47), the notorious urban terrorist considered to be the most significant woman in German politics since Rosa Luxembourg (Kramer 1981: 213) before Angela Merkel came to power as chancellor of a postwar unified Germany, articulated this idea with some poignancy. She insisted that the German public were being well fed and otherwise kept compliantly plied with consumer gadgets (which certainly include the 'comforts' of religion and the 'excitement' of sport) to keep them from paying too much attention to politics. I quote Meinhof here for the simple reason that her observation is probably valid for all industrialized nations both then and now. By the same token, Inge Könik (2015: 147-148) has argued that South African youth, in a process that started in the 1960s, judge their gender identity against their spending performance. For both young black women and men the process is 'toxic' and 'dysfunctional'. In the case of the former, its effects are evident from the fact that "black women had internalized a self-rejecting racial bias" in their excessive exploring of skin lightening products and hair straighteners (Könik 2015: 152). In the case of the latter, models of masculinity are a toss-up between that of the breadwinner or that of the 'individualist consumption' model where the latter is increasingly gaining the upper hand in a global neo-liberal setting of hard drinking, chain-smoking and womanizing, as an understanding of manliness (Könik 2015: 162). She explores the disturbing custom of *izikhothane* among Zulu-speaking youngsters (not excluding president Zuma, in my view) to demonstrate her argument, a practice that has no doubt become more common among South African youth generally, albeit practiced in more subtle ways of "burning money".

> The dysfunctional aspects of consumption-oriented masculinity are now conspicuous in the township youth subculture of *izikhothane*, inspired by 'fashion shows' that Zulu migrant workers used to hold in their hostels. However, the migrants only ever paraded around in expensive designer clothing. Contemporary *izikhothane* practitioners go much further, by parading and then burning expensive consumer items, often in front of the less fortunate. The destruction of these commodities does not symbolize a revolt against consumerism, but a desire to prove excessive wealth, consumer competence and so masculine virility…. (Könik 2015: 165).

With this reference to the resurrection of the tribal practice of *potlatch*, well-known to anthropologists, Könik (2015: 218) concludes her argument by quoting the Africanist

philosopher Achille Mbembe's (2014) view that "[t]he single most important transformation brought about by the end of apartheid was an acceleration in turning South Africa [...] from a society of control into a society of consumption." (Mbembe is not using the phrase 'society of control' in the familiar Deleuzian sense.) His argument, and that of Inge König (2015), is that by collapsing the idea of democracy into that of consumption has robbed South Africans of their critical ability to participate meaningfully in deliberative democracy by making them compliant with the *status quo* by plying them with meaningless consumer goods. Perhaps this is the point about debilitating stigma and impaired autonomy in its train: Crushing citizens that might not be fooled with consumerism and the demonization of a supposedly criminogenic poor because of their economic and social marginalization. According to Axel Honneth (1991: 101), the later Adorno's social theory is "committed to the idea of an administrative manipulation of psychically weakened members of society." To sum up, attention is diverted away from the machinations of the rich and the powerful by the perceived threat of crime from the poor and the lure of consumerism under a cloak of ideology that the economic and political arrangements that are in place (the *status quo ante*) are the best available option. My point about our current leadership is not simply that president Zuma is a corrupt leader. If that was the point, it would not be worth making. My argument is three-fold.

Firstly, Zuma is not merely an 'aberration' in an otherwise 'workable' system. Remember the shark expert in the film *Jaws* who said he loves sharks? Well, I 'love' Zuma for the same reason. Zuma's uncompromising and often transparent strategies at self-enrichment is a beautiful illustration of how the rich and powerful every day and in all corners of the globe 'fleece' us but, unlike Zuma's antics, it is generally done in subtle and undetected ways (just as climate denialists, as indicated above, have not actually produced new evidence but merely sown destructive doubt regarding credible scientific findings). To illustrate, both the *Mail & Guardian* (Brümmer & Sole 2016) and the *Sunday Times* (Hunter 2016), two of South Africa's foremost investigative newspapers, report that both the South African Communist Party and the Federation of Trade Unions (COSATU) – the ANC's alliance partners – and insiders in the ANC have publicly raised concerns about Zuma's close friends, the Guptas', influence and hold on government. President Zuma is not an example of a bad and corrupt leader. He is a beautiful example of how the system *actually* functions and works. In the context of Reiman's Marxist reading of crime in late capitalist society, President Zuma should be commended for his 'honesty' and 'transparency'.

Secondly, to my mind what is more serious, is the damage that President Zuma has done to the moral fibre of our society. People throughout the country can observe daily how the rich and powerful operate with impunity and get away with it. By way of illustration, consider the release of Shabir Shaik, Zuma's so-called financial advisor, and Jackie Selebi, South Africa's former national commissioner of Police, on 'medical' parole after serving a

small fraction of their sentences (as is generally well-known). Both Shaik and Selebei were sentenced, incidentally, to 15 years each for corruption. Their release on so-called 'medical parole' must sit very uncomfortably with the families of thousands of prisoners who die every year in our prisons but are unable to lever the necessary 'pull' to have their applications for medical parole considered and possibly approved within a reasonable time-frame. The harm to the moral character of our country is this: truly upright and honourable behaviour is not sanctioned or valued anymore. The message is that if you can get away with it, your actions are fine and not morally wrong. President Zuma is perhaps aptly the Head of the Youth Moral Regeneration Program. Lest we think the point is irony, it is not. The 'new' morality is you can do what you like, but you need to be resourceful enough to get away with it. When the Vice-Chancellor of Rhodes University, Sizwe Mabizela, condemned the moral degeneration of leadership in the country, no doubt with Zuma in mind, he was severely and publicly reprimanded (as is generally well known). What is the message of his reprimand? Simply this: Rhodes' Vice-Chancellor does not understand the new dialectic of moral leadership.

Thirdly, the public spat between Zuma and the king of a tribe in the rural Transkei, Abathembu King Buyelekhaya Dalindyebo, is an interesting case in point. The king was jailed for 12 years for a number of violent crimes after his appeal on conviction was dismissed by the Supreme Court of Appeal. The (Eastern Province) Herald (Mukhuthu 2016a) reports that the king refuses to eat prison food or wear the ubiquitously orange uniform (issued to inmates) until and unless President Zuma also wears it! Can the king's reasoning be faulted? Not in my thinking. Considering the valuable social analysis that Reiman's Pyrrhic defeat theory brings to the debate, they are both criminals that belong behind bars save for the trite observation that Zuma is unlikely to join the king. For once, and this appears to another beautiful illustration of Reiman's Marxist reading of crime, the rich is pitted against the rich and it is not a one-sided battle of the rich and powerful against a witless mass of poor – rendered ignorant of the drawn battle-lines by a thorough round of ideological brain-washing. The Burger (2016) reports that the king is by no means a model prisoner and he is giving the wardens in East London's Fort Glamorgan's maximum security wing a hard time. If the king was a nobody committed to maximum custody for the violent crimes for which he was convicted, I am fairly confident that his recalcitrant ways would by now have landed him in Kokstad's underground supermax where he would be held in solitary confinement for months, and sometimes years, on end until he loses his mind.

Both Zuma and the King know the rules of the game (since, in Reiman's reading, they both amount to royalty) and it would not surprise me at all if the King, provided they can come to some sort of understanding, is also released on some pretext, such as medical parole – although the uproar caused with the release of Shaik and Selebi on similar grounds, as is

generally well known, closed that avenue for now. Presidential pardon is always an option (Mukhuthu 2016b). A way will always be found if the rich and powerful are to be accommodated. In conclusion, Reiman (1990: 115) proves beyond a reasonable doubt that the system of criminal justice in so-called capitalist democracies is engineered to ideological effect so as to "*maintain a real threat of crime that the vast majority of Americans* [and South Africans, CL] *believes is a threat from the poor* (emphasis in the original)." I have attempted to demonstrate that although the vast majority of the poor end up in prison for conventional crime – for reasons which include ideological demonization and structural oppressions explained by the theories of relative deprivation and strain, explored above – the greatest threats to our continued existence on this planet, do not emanate from the poor but do in fact come from the rich. Climate change and ecological disaster are examples I mentioned above. My point is that the practice of penological regimes to sweep large numbers of the poor into prison warehouses does not protect the public and secure public safety for all (as I quoted above from the vision and mission statements of three departments of correctional services). As for the prison itself, Mary Bosworth (2010: 178-179) argues, building her argument on a range of impressive empirical data, that mass imprisonment actually increases crime if it is pushed beyond a certain threshold. Paradoxically, then, the prison-industrial-complex endangers public safely rather than the other way round. In fact, the most dangerous criminals have remained outside of the barbed wire save for the fact that their behaviour is not defined as 'crime'. In the apt title of Simon Raven's (1966) popular novel of the sixties, "The Rich Pays Late(r)". But those in prison pay without delay.

The debilitating effects of stigma

One of the payments extracted from prisoners is damage to personal autonomy and, in view of the serious implications it has for ex-prisoners' ability and willingness to partake in the political process that shapes their lives so significantly, I now turn to a consideration of this issue. Since Kant's coinage of his famous dictum 'dare to think for yourself,' critical theory in the tradition of the Frankfurt School has insisted on the import of untrammeled personal autonomy, I will divide my discussion into two sections. Firstly, the damage suffered to autonomy during incarceration and secondly, the ways in which prisoners experience further encroachment to their sense of self through stigma, post-release. It must not be understood that the damage to personal autonomy in prison and, once released, back in society are unrelated. They are not. Goffman (1963/1990: 50) contends that in cases where the individual's stigmatization is related to her or his institutionalization (prison, mental hospital, sanatorium), "much of what he learns about his stigma will be transmitted to him during prolonged intimate contact with those in the process of being transformed into fellow-sufferers." Both phases, the prison and the world

after the prison, are closely interrelated when it comes to imputing the stigmatized person with her or his new social identity, that of a shamed group.

In his landmark study *The Captive Society* (1958), Sykes lists five general pains of incarceration. These are loss of services and goods, damage to heterosexual orientation, loss of freedom of movement, loss of security (as a result of enforced association with others not of the prisoner's choosing) and, finally, impaired personal autonomy. Irwin and Owen (2005: 115) conclude, in a good paper that surveys the harms (be it intended or otherwise) of incarceration, that

> Taken together, the harm of the contemporary prison creates human beings that are less equipped to deal with post-release realities. Each of the harms described here [...] reduces the released prisoners' ability to achieve economic and social viability, satisfaction and respect when returning to the free world. Decreasing recidivism and breaking the cycle of repeated incarcerations requires more humane prisoner management, and realistic preparation for release through acknowledging, and ultimately reducing, the harms of imprisonment.

All five of these losses first identified by Sykes, and subsequently subjected to further research by later 'prison effects' scholars, are serious and worthy of lengthy examination, but for the purpose of this Chapter, I will consider only the last – impaired personal autonomy – because of its centrality for the project of deliberative democracy. In fact, imprisonment has further implications for liberal democracy which are not at all obvious. Both Garland (1990, 1996, 2001) and Bosworth (2010: 155-159) argue that failures of governance have, at least partially, found expression in renewed efforts to incarcerate more people for longer periods of time under harsher conditions. Despite Bill Clinton's assurances that his administration's uncompromising stance on crime management has caused an appreciable dent in crime in the United States, Garland (1996: 462) argues that such punitive rhetoric, in the face of a drastic decline in the rehabilitative ideal, is more indicative of "weak political regimes than [...] strong ones." Garland's (1996) points out that the privatization drive can partially be explained with reference to governments distancing themselves (which is in itself an acknowledgement of failed policy) from the perceived failings of the fight against crime by handing over the responsibility to penal professionals and paying for that service (like any consumer expecting good value for its money). I referred above to Žižek's (2000) argument that one of the aims of ideology is to objectify a scapegoat (a narrative of evil) that will enable us to wash our hands of any responsibility for wrongdoing. Pikkety (2015), on the other hand, has condemned the privatization drive of public services as counter-productive. Curiously, the *dominant theme* in recent South African history over the past 350 years has (not 'had', because it is a continuing dynamic) been South Africans' struggle for their political and economic autonomy (which they now stand to lose in the relentless onslaught of global consumerism,

as pointed out above). The right to autonomy is entrenched in Section 12(2) of the South African Constitution (1996) and reads as follows:

> 2) *Everyone has the right to bodily and psychological integrity, which includes the right -*
>
> (a) to make decisions concerning reproduction;
>
> (b) to security in and control over their body; and
>
> (c) not to be subjected to medical or scientific experiments without their informed consent.
>
> (emphasis added)

While the framers of the South African Constitution (1996) considered personal autonomy important enough to ensconce it in our constitution, it is important to be clear about the nature of autonomy and its role in public life. What is personal autonomy and how important is it? Kenneth Bayes (1996: 249) understands moral autonomy, from the perspective of critical theory in the Frankfurt School-tradition, as the individual's capacity for "critical reflection" and the ability to frame reasons for conduct measured by grounds which nobody could reasonably reject as the basis for "informed and uncoerced agreement." Shafinaaz Hassim (2007: 37-41, 122), a South African Muslim feminist, conceptualizes loss of autonomy as both impaired agency and damage to personal autonomy that "disallows the self-reflective capacity of the citizenship." Hassim sees this important loss as progressing along three steps that culminate in the abandonment of the fully reflective self: terror, stigma and internalization of (damaging) values. By the use of these three instruments, patriarchy in the guise of 'sacred revelation' is able to physically and emotionally stunt the personal autonomy of Muslim women in South Africa, specifically those of Indian descent. Although her study is devoted to the position of South African Muslim women of Indian descent, the findings that she unearths are equally valuable for my project. By the same token, the state utilizes terror (in the form of the prison), stigma post-release (which is the topic I devote my project to) and the internalization of damaging values, of which I say more below, to crush prisoners and ex-prisoners and thereby deprive them of their constitutionally entrenched right to personal autonomy.

Reflective autonomy and deliberative democracy

I have remarked above that autonomy is integral to the project of deliberative democracy. But how important is it really? Bayes (1996: 245) interrogates the notion and highlights the fact (in somewhat modified terms that resonate with Kant's famous statement in the *Critique of Pure Reason* of 1781) that "public reason without personal autonomy is empty

and personal autonomy without public reason is blind. The ideal of public reason has normative force only if public reasons are seen as arising from the deliberations of autonomous individuals". For Habermas (1981/1984,1987) himself, the idea of attempting intersubjective understanding by free and equal participants with a passion for the best argument without untrammeled personal autonomy would simply be unthinkable. In fact, Habermas considers the issue of autonomy so important that in his book *Knowledge and Human Interests* he made it central to his critical social theory of society. Habermas (1971: xx) contends that

> The human interest in autonomy and responsibility is not mere fancy, for it can be apprehended *a priori.* What raises us out of nature is [...] language. Through its structure, autonomy and responsibility are posited for us. Our first sentence expresses unequivocally the intention of universal and unconstrained consensus.

Although Habermas has since refined and rethought his position, notably as a result of detailed criticism of his original formulation by and fruitful debates with Luhman (systems theory), Gadamer (hermeneutics) and Albert (critical rationalism), Habermas has never wavered from the crucial importance of autonomy to ground reason and responsibility. In fact, I would argue that his well-known linguistic turning away from Marxist labour, only confirms his conviction in the import of autonomy. Hassim (2007: 108) argues that impaired personal autonomy is "significant for social control and for unpacking the limits of reflexivity along the continuum of negotiating choices." There is simply no point to the idea of public reason, intersubjective agreement and deliberative democracy without achievable outcomes to guarantee the integrity of the personal autonomy of members of counter-majoritarian groups. Hassim (2007: 19) asks how it came about that in the new democratic South Africa (one that constitutionally guarantees equality) in "all spheres of social life [...] there remain deeply entrenched cultural niches in society that are impenetrable by the fledging democratic legal system." I continue to unpack the implications of Hassim's question as I pursue the ideology critique of the prison. Has damage to personal integrity been demonstrated for prisoners or ex-prisoners or both? The answer to both is affirmative.

Loss of agency, assaults on the self and degradation

I pause here to note, as does Haney (2005: 68), that it is important to appreciate that the distribution of prison pain is not "merely unpleasant" for its (intended and unintended, notably the children of offenders) recipients, but can cause serious long-term effects in the lives of prisoners by "permanently impede[-ing] their development, undermine their present and future well-being, and shape and affect their potential for post-prison adjustment." While I acknowledge these well-documented concerns in the 'prison effects'-literature, in this contribution I only focus on these concerns insofar as it impacts on the

prisoner's autonomy and ability to lead a fully reflexive life both during incarceration and post-release. As far as the experience of imprisonment itself is concerned, Irwin and Owen (2005) discuss harm to the individual's autonomy under three headings and I will restrict my remarks to their observations on this score. These headings are revealing and for that reason I note them here: loss of agency, assaults on the self and degradation.

Loss of agency in prisoners can be demonstrated by prison conditions which include a dull and repetitive routine with minimal aberrations and rudimentary structure, trapped in a maze of (sometimes confoundingly conflicting) rules that govern every aspect of their lives that, over many years, erode the ability of prisoners to control their own destiny and to make meaningful decisions. It ill prepares prisoners with life skills beyond the barb-wire in a fast-paced life saturated with a "vast number of choices" (Irwin and Owen 2005: 98-100). Assaults on the self are evident from the fact that prisoners, many of whom are admitted to prison with "deeply damaged or dysfunctional psyches" (Irwin and Owen 2005: 101), are afforded either too much privacy (solitary [supermax] confinement!) or too little in warehouse prisons where the opportunity to reflect and make sense of their surroundings is not forthcoming. As far as degradation goes, Irwin and Owen (2005: 108) remark that the "most persistent and insidious degradation is the hostility and contempt directed" at prisoners by officials, specifically prison staff and also medical personnel who view complaints with suspicion and treat prisoners like trash. The outcome of these degradation rituals are not difficult to fathom. Irwin & Owen (*op. cit.*) comment:

> Treating prisoners with contempt and hostility and persistently and systematically casting them as ill-worthy, harms prisoners in complicated and somewhat unexpected ways. Many are psychologically scarred. More reject their rejecters, turn away from conventional society and embrace an outsider, usually a criminal, viewpoint.

As I point out in Chapter One, stigma drives re-offending. Robert Johnson (2005: 260, 273) suggests that the popular rationale for making "hard time harder" is that prisoners serve an important role as society's whipping boy. "If we are unhappy, as a consequence of our choices," he argues, "prisoners can be made unhappier still, to validate our choices." For women, imprisonment is a painful experience, as it is for men, but with different dimensions to it of which I note three here. Firstly, since many women in prison are mothers with (often dependent) children, separation from those significant others (be it children or family) is the "most painful aspect" of imprisonment for women (Irwin & Owen 2005: 111; Bosworth 1999). Secondly, although women generally tend to be more obedient and observant of the rules than men, women are much more likely to be cited for petty infringements (and punish more severely) than do men (Irwin and Owen 2005: 106). Is this a replication of patriarchal oversight over women in confinement, as Irwin and Owen suggest? And what do these experiences of women's imprisonment bear witness to in

relation to the gendered pattern of social control in an era of "neo-liberal penal rhetoric", as Candace Kruttschnitt (2005: 167, 156) asks. Finally, whereas men prisoners are more likely to experience sexual assault prisoner-on-prisoner, in female facilities the attack is much more likely to come from a male prison official (also known as a warden). In its examination of the issue in American prisons, Human Rights Watch (1996) concludes that "[o]ur findings indicate that being a woman in US state prison could be a terrifying experience." And there is little reason to suspect that in a globalized patriarchal world this is not an experience common to caged women around the world. According to their report, the problem is compounded by four issues: a culture of employee unaccountability, ineffective complaint procedures, inability to escape your attacker and meagre signs of public distress.

The imprisonment of black women, as Angela Davis (2003: 19, 65) remarks, is one of the fastest growing sectors of the prison-industrial-complex. Candace Kruttschnitt (2005: 146) suggests that this is true for women generally, but she does write from the perspective of British criminology. Is this a way of putting women in their place? A backlash against the gains registered in the wake of second wave feminism (1966-1976)? But it would be naïve to think that it is not also related to the demands of the neo-liberal profit incentive, as I have attempted to demonstrate in this chapter. Davis argues that women's coming of age has resulted in domestic violence (originally intended for the disciplining of women in the home as they were not seen as men's equal in the public sphere) becoming increasingly unpopular and as a result imprisonment is now seen as a viable option in the social control of women. All in all, women's experience of incarceration is perceived to be an assault on their gendered identity as 'women'. For both men and women the experience of imprisonment is likely to produce psychologically scarred individuals fuming with "frustration and a burning sense of injustice, coupled with the crippling processing inherent in imprisonment" (Irwin & Owen 2005: 115). Their treatment at the tender mercies of prison officials and medical personnel does little to stabilize their sense of personal autonomy and their ability to consider their choices reflexively.

How Stigma impacts reflexive autonomy

In unpacking the impact of stigma post-release on the personal autonomy of ex-prisoners, whether returning or already making a stand in the wilderness, I draw on the work of Goffman (1963/1990), Alexander (2012), Hassim (2007), and John Irwin (1970, 1985) in an attempt to illustrate the devastating effects of stigma on the ability of the stigmatized individual to engage autonomously (in the reflexive sense of the word) with the world post-release. As far as the impact of stigma on the ex-offender's compromised individual autonomy is concerned, I argue that autonomy is never total or complete, but always only relative – relative to others, to language and to social and cultural options available to the individual. Goffman (1963/1990: 11-17) emphasizes that the stigma is closely related to

the stigmatized individual's new 'social identity.' Not only is it believed that the stigmatized individual is "not quite human" but discrimination will dog this individual, thereby reducing her or his "life chances". Finally, this is done on the basis of a 'stigma theory' which is an ideology that naturalizes and rationalizes the stigmatized person's situation, but for other unarticulated reasons of prejudice (such as class differences), and it is, above all, embedded in stereotype as this finds expression in a particular attribute. In the case of a returning ex-prisoner, for example, her or his honesty and integrity will be suspect irrespective of the crime for which she or he had to serve time behind bars. There are several ways in which stigma impacts on the individual's reflexive autonomy and I will briefly address those aspects insofar as it is relevant to my undertaking.

Firstly, ex-prisoners are known to internalize their own inferiority and the burning shame of stigma. Goffman (1963/1990: 18) comments that

> the standards he [the stigmatized person] has incorporated from the wider society equip him [or her] to be intimately alive to what others see as his failing, inevitably causing him, if only for moments, to agree that he does indeed fall short of what he really ought to be. Shame becomes a central possibility, arising from the individual's perception of one of his own attributes as being a defiling thing to possess, and one he can readily see himself [or herself] as not possessing.

It takes little imagination to understand the impact of internalization and shame on the stigmatized ex-prisoners' personal autonomy. Alexander (2012: 165) contends that ex-offenders and their families feel "intense shame [...] despite the lack of obvious alternatives" to a criminal career path. She quotes from interviews with ex-prisoners and concludes that "the formal mechanisms of exclusion are not the worst of it. The shame and stigma that follows you for the rest of your life – that is the worst" (2012: 161). Alexander builds on the insight of Gerald Sider that the study of institutionally sustained silences in a culture is significant for the understanding of that culture. I would add that the culture of silence which cocoons shame and internalized inferiority also sustains the culture of control that feeds off it. Alexander (2012: 165-169) argues that the hurt and pain of deeply held shame and the culture of silence which underpins that social dynamic as families battle with a perceived sense of 'personal failure' has transformed the shame and stigma of criminality into internalized 'self-hate', as I note in Chapter One. John Irwin, who himself did a five year-stint for armed robbery in Californian prisons, is a well-known academic criminologist and co-founder of the Convict Criminology-school (which I discuss at some length in Chapter Two, Part Two). For Irwin it is very important to break the hold of shame and internalized inferiority on ex-prisoners by way of their consideration of a career in criminology. Stephen Richards (2010: 174) explains Irwin's *modus operandi* with new recruits which is to test "their transparency, their courage to retain their own identity, despite the stigma they suffer, and the temptation to conceal their past [...] Their

professional lie becomes a performance that inhibits their work and limits their ability to write about the subject they are determined to bury." Attempting to pass as a 'normal' is not a healthy coping mechanism (Alexander 2012: 167-169; Goffman 1963/1990: 92-113). Irwin's insistence on coming to terms with stigma by complete public transparency for a career path as a convict criminologist is a good indication of the debilitating impact that shame and internalization has on the integrity and personal autonomy of ex-prisoners. Breaking with the culture of shame and self-hatred, Alexander (2012: 167) notes, in cases where stigmatized individuals (extended stigmatization) have had positive experiences with disclosing the status of a 'loved one', these respondents reported that they were able to cope better. Although Alexander writes from the perspective of the American ex-offender experience, I can testify that it is no different from that of the South African context.

Secondly, personality change as a result of stigma is well known. Goffman (1963/1990: 23) notes that "[t]he very anticipation of such contacts [between normals and the stigmatized] can of course lead normals and the stigmatized to arrange life so as to avoid them." It is not difficult to understand the negative impact of the inability to source feedback from one's peers and, as Goffman (1963/1990: 24) rightly points out, this social *lacuna* is more likely than not to lead to a range of psychological conditions such as acute suspicion and depression. Speaking for myself, from the point of view of heuristic research (a concept that I explained in Chapter Two) I have no doubt that my own prison experience and the stigmatic aftermath have changed my personality in that the ambitions I harboured in my pre-incarceration days have crumbled to dust, and I am left with one or two very circumscribed (which includes finishing this dissertation successfully) ambitions. Goffman (1963/1990: 23-24) relates one example of personality change resulting from stigma and for its vividness I quote a brief extract here:

> [Mrs Dover was a] warm and friendly woman who enjoyed travelling, shopping and visiting her many relatives. The disfigurement of her face, however, resulted in a definite alteration in her way of living. The first two or three years she seldom left her daughter's home, preferring to remain in her room or sit in the backyard. 'I was heartsick,' she said, 'the door had been shut on my life.'

There is no doubt in my mind that if stigma has the ability to change personality, it also has a most devastating impact on the stigmatized individual's personal autonomy. Since this is a deeply reflexive piece, I must confess that for myself my personality has changed in that whereas in the past, before my own incarceration, I was an outspoken, opinionated person, since my release, and even during the spell of incarceration, I became a great deal more guarded in expressing myself in the company of 'normals', not always knowing whether or not I could or would 'pass' as a normal myself – a coping mechanism referred to above. My ability to 'read' atmosphere in a group became elevated (in the sense of a critical awareness

of what 'normals' would take for granted). One result of this new-found ability is the fact, as James Baldwin (Raoul Peck's *I am not Your Negro* [2016]) also observes, that I understand my 'normal' or mainstream South Africans better than they perhaps understand themselves. They have never been forced to look at their own lives incisively and critically, as I have had to do. In particular, I am ignored to bolster their own consciences since 'normals' assume uncritically that they have and are entitled to the moral high ground. I have been condemned as 'rubble' since they consider themselves to be 'lilly-white' innocent of evil and yet, as I point out in Chapter Two, Part Two, their arrogance and indifference has made of them 'moral monsters'. Goffman (1963/1990: 136) refers to this phenomenon as a "special aliveness to the contingencies of acceptance and disclosure."

Thirdly, ex-prisoners' craving for acceptance is seldom reciprocated and the impact of stigma on these stigmatized individuals is pronounced in that they appreciate that acceptance is not forthcoming. Goffman (1963/1990: 18) remarks that "those who have dealings with him [the stigmatized individual] fail to accord him [or her] the respect and regard which the un-contaminated aspects of his social identity have led him to anticipate extending, and have led him [or her] to anticipate receiving; he echoes this denial by finding that some of his attributes warrant this." Michelle Alexander (2012: 161-163) notes examples from the American ex-offender experience which includes the ex-prisoner having to beg his grandmother for a place to sleep (since she fears losing public housing for harbouring him) and "the woman who crosses the street to avoid you." Speaking for myself, I have had experience in the South African context of all the instances she records from the American theatre. The fact that 'normals' treat a stigmatized person as sub-human, and never with the respect which would have been in place had she or he not been a member of the stigmatized group in question, raises a tragic question. How would such a stigmatized individual even consider participating as a free and equal partner in public debate (Habermas's well-known formulation), which informs deliberative democracy? Alexander (2012: 169) observes that the shame of stigma that comes with the badge of criminality "results in a repression of public thought, a collective denial of lived experience." Are these unfortunate individuals not only stunted socially and economically but also effectively denied a say in their own governance? We can also see how the different aspects of stigmatization (shame and internalization, personality change, treatment as inferiors by 'normals', and the stigmatized person's reactions to that) impact on the individual to render him or her thoroughly crushed (and tragically so). I traversed the justifications/explanations for stigma in Chapter One, but I ask here once again: can such utter marginalization of fellow human beings even be justified? I ask this question fully cognisant of the fact that a life-time of stigma is one of the consequences of a guilty verdict, while this is never explained to accused persons ready to plead guilty during their trial. Section 35(3) of the South African Constitution (1996) guarantees the right to a fair trial and reads as follows:

Every accused person has a right to a fair trial, which includes the right -

(a) to be informed of the charge with sufficient detail to answer it;

(b) to have adequate time and facilities to prepare a defence;

(c) to a public trial before an ordinary court;

(d) to have their trial begin and conclude without unreasonable delay;

(e) to be present when being tried;

(f) to choose, and be represented by, a legal practitioner, and to be informed of this right promptly;

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

(h) to be presumed innocent, to remain silent, and not to testify during the proceedings;

(i) to adduce and challenge evidence;

(j) not to be compelled to give self-incriminating evidence;

(k) to be tried in a language that the accused person understands or, if that is not practicable, to have the proceedings interpreted in that language;

(l) not to be convicted for an act or omission that was not an offence under either national or international law at the time it was committed or omitted;

(m) not to be tried for an offence in respect of an act or omission for which that person has previously been either acquitted or convicted;

(n) *to the benefit of the least severe of the prescribed punishments if the prescribed punishment for the offence has been changed between the time that the offence was committed and the time of sentencing*; and

(o) of appeal to, or review by, a higher court. (emphasis added)

If an accused is entitled to the lesser punishment, how fair is the sentence if the sentence in question (life-long stigmatization with economic and social marginalization in its train) and its implications were never explained to the accused?

Fourthly, the reactions of the stigmatized individual to compromised treatment by 'normals' are a clear indication of the insidious ways in which stigma shapes and impacts on personal reflexive autonomy. These reactions are cowering when meeting on an equal footing with normals, avoiding responsibility for decision-making and "the special reasons

for feeling that mixed social situations make for anxious unanchored interaction" (Goffman 1963/1990: 29, 21, 28-30). I suggest that these assaults on the self, to borrow from Irwin and Owen, are self-evidently not conducive to a healthy personal autonomy or *Mündigkeit* (autonomy and responsibility) in the Kantian sense of the word. Ulrike Meinhof, as indicated, argued that consumerism rendered the German public well fed/ complacent and unable to make informed and responsible (*Unmündigkeit)* political decisions.

Concluding remarks

Bearing in mind Eric Schlosser's definition of the prison-industrial-complex, noted above, and Naomi Klein's (2014) notion of capitalism's uncanny ability to profit from people's misfortune, the intersection of these two analyses is key on how change in general, encompassing these three areas of public life, can be effected. My focus, of course, is the prison-industrial-complex as the driver of incarceration as the dominant sentencing regime in a stigmatizing shaming culture such as South Africa. As I argue in Chapter Two, Part One, the caring society – in which shame would be employed to integrate and reconcile rather than stigmatize and polarize – is the antipathy of capitalist society. It is only possible to shape and nurture the former version of a progressive society by removing, or at least reducing, the profit incentive (the economic aspect) which drives the phenomenon of the prison-industrial-complex. As I explain in Chapter Five, Part One, the diminishing autonomy of the modern (especially third world) state is increasingly tied up in the conflation of the profit-agendas of TNCs (a term clarified there) with the public policy formulation of national governments. This includes the ruling party in South Africa, as we have seen with their involvement with TNCs such as Bell Pottinger, SAPS, KMPG, China South Rail, ArcelorMittal and McKinsey episodes (as is generally well-known). Change, as Michelle Alexander (2012) and Angela Davis (2003, 2005) show, is only in fact possible if it is addressed along all three axes of the cultural, economic and the political aspects. The possibility of the advancement of the caring society, as feminists such as Martha Nussbaum have argued, is intrinsically linked up with progressive, emancipatory change (guided by an ethics of care) across society as a whole. One way to do this is to address the profit motive that enables imprisonment as the dominant sentencing regime in stigmatizing shaming cultures thriving on recidivism, stigma and rising crime rates. How do these drivers relate to bolstering the existence and the proliferation of the prison-industrial-complex?

In conclusion, I argue that from **the perspective of ideology critique**, the prison has failed the test of the rehabilitative ideal for which it was initially promoted through-out the nineteenth century and much of the twentieth, but it succeeded to reinvent itself with the impetus provided by neo-liberal profit-concerns (hence the coinage of the term **'prison-industrial-complex'** by prison-abolition activists). By utilizing ideology critique in the form of immanent criticism as a tool to investigate the prison from an inter-disciplinary perspective, as a presumably natural feature of our society, I was able to unearth **four**

professed ideals in the correctional mandate of three prison administrations around the globe in an attempt to gauge whether or not the prison has lived up to those normative standards. Those four features are public safety, reducing recidivism, rehabilitation and reintegration of ex-offenders. Since the goals pursued by the advocates of the 'prison-industrial-complex' all relate to generating profits, according to Jeffrey Reiman's 'Pyrrhic defeat theory' it follows that encouraging high rates of recidivism (through the stigmatization of ex-offenders as a political policy determination, among other meassures) and the actual stimulation of crime (through an unequal society), are business priorities for this venture. I have argued that the prison cannot possibly ensure public safety because the 'Pyrrhic defeat theory' makes it clear that the 'prison-industrial-complex' is only very superficially concerned with 'public safety', since punishment as a consequence of crime is only one of several goals achieved by the institution of the prison. Furthermore, my exploration of **Reiman's 'Pyrrhic defeat theory'**, which is essentially a Marxist reading of crime in capitalist society, has demonstrated that the poor are demonized as criminogenic in an (largely successful) attempt to divert attention away from the so-called non-conventional crimes of the rich and wealthy (which, among other things, has led to climate change on a scale that threatens the future of life on this planet). Another way in which South Africans are kept compliant is through the lure of global consumerism and in this context I have used the ideas of Inge Könik (2015), Ulrike Meinhof (1980: 44, 47) and, to a lesser extent, that of Adorno to show its relevance for **the ideological legitimation of the status quo ante**. As far as reducing recidivism is concerned, I have attempted to show that **the debilitating effects of stigma** on ex-prisoners unable to regain economic and social acceptance renders this ideal largely an empty promise. In the final analysis, the prison must fail in all its pretences since, as Craig Haney shows, the idea of prison is based on a **model of human behaviour (the autonomous individual) that is thoroughly discredited** in favour of the contextual model favored by modern psychology and sociology. Finally, most antiprison activists and 'prison effects'-scholars are in agreement that the rehabilitation ideal was abandoned by prison administrators in the 1970s and that the prison is mainly serving as **a warehouse to recycle populations rendered superfluous** by the dictates of the neo-liberal agenda (the unemployed, the aged, immigrant communities, ex-offenders). I have also pointed out that excessive reliance on imprisonment (and privatization in its train) is a disturbing indication of **failed governance.** Finally, reading Foucault's (1975/1991) thesis on prisonization as a measure to instill a culture of control, together with Garland's argument that excessive punishment is indicative of failed governance, leads one to the disturbing conclusion, as Simon points out, that government is increasingly (as a consumer co-opted into the neo-liberal rhetoric) divesting itself from its mandate to manage 'conventional crime' (a term I explained above) in favour of privatization, and capitalizing on the control-incentive by **encouraging citizens to 'manage' themselves** so as to avoid victimization (both as victims of crime and as collateral damage to the incarceration drive).

To sum up, the prison fails the test of internal criticism convincingly. The answer to the question why it is still part of our social landscape lies partly in the existence of the financial interests invested in the prison-industrial-complex. Other explanations stress the potential for political gain by politicians wanting to appear tough on crime, irresponsible media sensationalism and a (largely ignorant and manipulated) public baying for vengeance to validate their own unfortunate choices. It is curious, as I pointed out above, that the prison has managed to fan out to the extent (no doubt prompted by the profit-motif) that it is now a most visible feature in almost every society on the globe and has become [so very uncritically] a globalized fetish largely unopposed, whereas I have to go to considerable lengths to justify and critically transplant a penal feature from another (socialist) culture to ameliorate a crushing feature (stigma) of a consumerized item so eagerly and uncritically accepted. In his seminal text on stigma, Goffman (1963/1990: 31-45) makes reference to two groups who accept the stigmatized, an idea which I briefly alluded to in Chapter One. These are the 'Own' and the 'Wise' (the term 'the wise' originates in the gay world). Only the latter group concerns us here. Certain normals, the so-called 'wise,' accept the stigmatized on an equal footing and Goffman (1963/1990: 41) suggests that this is often the result of a "heart-changing personal experience". Imagine an entire society of the wise. The next chapter is devoted to precisely this topic: how do the Chinese embrace the prison as a penal strategy and yet ensure that prisoners return to their communities without being dogged by stigma?

CHAPTER 4

The Chinese Road Map to Re-entry

In the previous chapter I explore the idea (espoused by such scholars on imprisonment as Angela Davis and Craig Haney) that the prison has become obsolete because the original premise on which it was based is the mistaken understanding of the reasons for people driven to commit crime. I refer here to the notion (which was subsequently discredited by recent findings in modern psychology) that the responsibility for deviance is the sole province of the individual irrespective of environmental or external structures or influences. By analogy, during the early 1980s the Chinese Communist Party (led by the likes of Deng Xiaopeng) reversed the course of and preference for informal social control (Mao's infamous mass line justice), critically considered below, in favour of a codified criminal justice system. This was deemed especially necessary in view of the great economic changes which were about to overtake the PRC and usher her into the role of a new world leader in an increasingly post-American polarized world order.

Prison redundant in the West

The rationale for this move, claimed the Party policy makers, was that the current historical stage in which China found itself had superseded reliance on the 'mass line' (just as Angela Davis and Craig Haney demonstrated the case for the redundancy of the prison in the West). Is it my argument that the prison has become redundant in the West (from the perspective of rehabilitation, which was its 'original' source of inspiration) while this exported cultural artifact still serves this purpose in the PRC? The response to this pertinent question is a resounding 'Yes'. The prison has somehow 're-invented' itself in the West (hence the coinage of the term 'prison-industrial-complex' by prison activists in the US) for purposes other than rehabilitation in so-called liberal democracies. With the phrase 'purposes other than rehabilitation', I refer, as noted above, to the 'warehousing' (in the words of Irwin Johnson) of so-called 'superfluous' populations, as Foucault has argued, and an array of vested economic interests. Significantly, for the purpose of my project, as I attempt to show below, the Chinese communists (in the PRC) were able to blend incarceration with rehabilitation, on the one hand, and informal social control with formal structures, on the other hand, very effectively. Both these features are largely absent from the administration of criminal justice in South Africa and the US, and we would do well to learn from the Chinese on these scores – assuming that these ideas are capable of successful extraction from the home culture and replantation in the host culture (which is a theme I explore in the next chapter).

Increasingly repressive global penal policy

In a global overview of penal policy and practice at the turn of the twentieth century, the editors (Robert Weiss and Nigel South) of the scholarly volume *Comparing Prisons Systems: Towards a Comparative and International Penology* (South & Weiss 1998: 12-13), identify seven trends of which at least five confirm a growing repressive imperative. These trends are the politicization of crime, exploitation of the fear of the 'Other' [notably the influx of unwelcome refugees], the prevalence of managerialism over other penal objectives, the proliferation of supermax facilities and the neoliberal move towards privatization of prisons and outsourcing of services. Closer to home and as a prime example of vested interests in the perpetuation of the prison-industrial-complex, *The* [Eastern Province] *Herald* [De Kock 2016] alludes to the current controversy that involves alleged fraud in terms of irregular awarding of tenders worth close to 2 billion rand to BOSASA for catering in South African prisons.

The increasing repressive regime in global penal policy also points to an undeniable abandonment of the rehabilitation ideal in favour of managerialism or a gubernatorial regime, selective incapacitation and containment (or warehousing) of so-called 'superfluous' groups (the poor, the unemployed, the elderly and the youth; in a word, the marginalized), noted above. This is an argument I attempt to demonstrate in Chapter Three. As far as the issue of warehousing in Western penal practice and policy is concerned, Hannah Arendt (1963) argued that (in the context of the Holocaust) the dehumanization of people through the purpose of rendering them obsolete and without purpose (in the sense in which I use the term warehousing), is a crime against humanity. Indeed, as James Baldwin argues, White America has no idea what to do with its 'redundant' blacks and treats them like the 'Final Solution' (Raoul Peck's *I am not Your Negro* [2016]). I have no doubt that the same fate is true of ex-offenders in stigmatizing shaming cultures such as South Africa. In the West, as I note above, warehousing as a penal objective is pursued in preference to the abandoned 'ideal' of rehabilitation since the reinvention of the prison to serve unacknowledged neoliberal interests, as I argued in Chapter Three.

Prison doubling as a warehouse

In the same mould, I suggest that if warehousing superfluous populations serves no other purpose than rendering them obsolete, to turn the argument on its head, then the propensity to install the regime of managerialism in Western penal practice and policy is a crime against humanity. In the context of Habermas' notion of technocracy and Arendt's (1963) corollary that the banality of evil in the twentieth century lies in the neglect of 'thinking' (in the Kantian sense of 'dare to think for yourself,' flagged in Chapter Three), I ponder its implications for the policy of warehousing human beings. According to Arendt

(1963: 26-26, 55), the contemporary banality of evil is epitomized in the "Eichmann phenomenon," namely that he was such a "terrifyingly normal human being" capable of the most extreme form of evil, precisely because evil thrives on "un-reflexivity" or the abandonment of thinking, just as rehabilitation has been abandoned in the West.

The Chinese way

Against this background, my investigating China and the opportunity to examine contemporary policy and practice in the PRC, is indeed a breath of fresh air and it is a privilege to imbibe the confidence and official investment in the rehabilitation potential of offenders and ex-offenders in this society. I illustrate this idea with two examples. Firstly, R.J. Troyer (1989) notes that whereas American prison administrators refer despondently to "hardened criminals" in their charge, Chinese prison officials, in contrast, speak positively of remoulding offenders into "new men." Secondly, Christopher Birkbeck (1993: 314) laments the fact that legal education for the general public, based on both traditional Chinese and Marxist teachings, has a very high priority in the PRC whereas a similar dynamic is absent from the United States and, certainly also, South Africa.

For the Chinese, prevention far outweighs attempts at corrections *ex-post facto*: hence, the emphasis on crime prevention through education and early (even childhood) intervention (Dutton & Xu 1998: 299-302). In order to make this chapter presentation manageable, I have selected four sections for discussion. In one way, this chapter can be read as an attempt, based on the PRC's recent experience, to drum up the case for rehabilitation in South Africa.

Four topics explored in this chapter

These four topics are

(1) Braithwaite's contribution on shaming practices in communitarian cultures such as Japan and its relevance to the administration of criminal justice in the West;

(2) the justification for my three case studies, culled from the recent Chinese experience as it evolved in the PRC in the context of brief references, scattered throughout this chapter, to my three case studies;

(3) the exploration of the historical course of criminal justice in the PRC (or mainland China), from 1949-1996 (following a suggestion by Braithwaite); and, finally,

(4) my own preliminary reflections on its relevance for South Africa, following the method of Habermas, within the context of the tools which I aim to employ in Chapter Five in my attempt to transplant this valuable idea.

I proceed now to consider Braithwaite's contribution to the Western understanding of shaming practices other than stigma, such as the communitarian idea of integrative shaming.

1) Braithwaite's contribution to criminology

According to John Braithwaite (1989), who is perhaps the pre-eminent Western scholar on the cultural parameters of crime prevention strategies in communitarian societies, cultures such as Japan and China are tough on crime but forgiving and accepting of ex-offenders who have served their time. Communitarian societies are defined as comprising the following three elements: "1) densely enmeshed interdependency, where the interdependencies are characterized by 2) mutual obligation and trust, and (3) are interpreted as a matter of group loyalty rather than individual conscience" (Braithwaite 1989: 86). Communitarian (as in the Far East) and individualistic societies (notably the US with its emphasis on individual ambition, greed and success) inhabit two opposing extremes of the spectrum. To illustrate, the Chinese do not hesitate to deal severely with criminal elements as is evidenced by harsh conditions of detention and other more draconian interventions such as the death penalty, imposed notably for drug trafficking and serious cases of corruption or embezzlement of state resources. In the latter case, the Supreme Peoples' Court in Beijing, the equivalent of the South African Supreme Court of Appeal, must approve this sanction. Sometimes the death penalty is postponed for a period of two years to give the convicted criminal an opportunity to get his or her act together. Butterfield (1983: 153), who is perhaps the foremost sinologist of his generation, explains the latter observation brilliantly by suggesting that "in China, nuance can be everything."

Braithwaite (1989: 107) insists that deviance invites one of two possible societal responses, both of which centre on the concept of shaming. It is his argument that shaming practices are either integrative (as in these Far Eastern societies) or stigmatizing (as in the West). In situating shaming in this novel way, he is able to reposition existing but conflicting theories in criminology (label theories, learning theories, association theories and opportunity or subculture theories) into a general integrative theory, briefly explored in Chapter One. By analogy, late in his life Einstein sought (unsuccessfully) to develop a unified field theory which would explain all phenomena in physics in a comprehensively overarching manner, even reviewing his notes on his deathbed. Perhaps Einstein's quest was doomed for failure because of his dismissal of quantum mechanics, a point to which I will return, but, unlike Braithwaite's feat for criminology, discussed below, Einstein never succeeded in his objective (as is generally well-known). In low crime cultures (essentially communitarian societies that are highly group-centered) the response is an integrative one where the offender is accepted back into the group. In high crime societies (essentially individualistic capitalist cultures where the interests of the individual take precedence over that of the group.) the offender is shunned and the stigmatization leads to shielding from

shaming because of (criminal) subculture empowerment (Braithwaite 1989: 102). South Africa falls in the latter category, despite the residual Ubuntu culture pulling the other way. Subculture membership stimulates further deviant behaviour and because legitimate opportunities are blocked, the subculture ambiance allows for the exploration of illegitimate (or criminal) opportunities. In Chapter Three I emphasize the implications of Jeffrey Reiman and Richard Quinney's Marxist argument that societal institutions in capitalist societies (such as the United States and South Africa) encourage (rather than discourage, as concerned citizens would have hoped for) so-called conventional crime (a concept I sought to explain in the previous chapter). The reason for this disturbing hypothesis lies in the essential fact that such stimulation of conventional crime has the benefit of legitimating the economic *status quo* of irrational and unjustified opportunity and privilege and diverts popular attention away from the unconventional crimes by the wealthy and powerful. This behaviour detrimental to the common good but not recognized as 'criminal' by the municipal law. Said in another way, a society that is not organized rationally (to allow for the oligarchic distribution of opportunity and privilege) needs to revert to ideology to bluff its way to legitimacy and respectability. Sarah Gavron's *Suffragette* (2015) is an excellent illustration of the law being an instrument of political oppression. After advocating peacefully for votes for women for decades, in exasperation the suffragettes, led by the indomitable Mrs. Pankhurst (Meryl Streep), went over to violence. The year, according to the script, is 1912 and in the UK women got the vote only in 1928 after many excruciating sacrifices and unbridled, brutal police harassment. When Maud Watts (Carey Mulligan) remarks to Violet Miller (Anne-Marie Duff) that breaking windows is not respectable, the latter demands that if "You want me to respect the law, then make the law respectable." And to Police inspector Arthur Steed's (Brendan Gleeson) insistence that it is his duty to uphold the law, Carey Mulligan's character (Maud Watts) retorts bitterly that "Your law means nothing to me. I have had no say in making the law […] We break windows and burn things because war is the only language men listen to." Marx and Engels made no bones about the law's oppressive class nature and considered it an inherent feature of capitalist society's superstructure based on the economic sphere (as is generally known).

Unpacking Braithwaite's hypothesis on integrative shaming is certainly a worthwhile scholarly exercise. In a thoughtful review of Braithwaite's "original contribution to theory [while] following Sutherland, [adding that] he builds his case around prior research", Christopher Uggen (1993: 483) contends convincingly that Braithwaite succeeds above all in exploring and rearranging existing theory so as to make a plausible case for integrative shaming in highly industrialized Western societies. By analogy, I argue that the Communist leadership in Post-Mao China has also succeeded in finding an acceptable balance between formal and informal social control as I note in the opening paragraph of this chapter. I flag this achievement here since I believe this balance is essential (in the same way in which

silent breaks between the individual notes are essential for the performance of a musical piece) for making realistic inroads into the phenomenon of stigma attaching to returning ex-offenders, an argument which I hope to demonstrate in this Chapter and the next. But whereas Braithwaite (1989: 162) argues a case for importing the actual shaming ceremony – the naming and shaming of officials in Japanese corporations, often televised on Japanese channels, is his favorite example – to a Western theatre, my aim is more modest.

In my study, I assume that the shaming ceremony (occurring during the incarceration preceding their release) is a given fact and my question settles on how the societal response in individualistic capitalist societies, referred to above, can be reined in and diverted to integration rather than the traditional course of stigma, rejection and subculture empowerment. Apart from this obvious difference between my contribution and Braithwaite's, there happens to be two other (less obvious) differences.

Firstly, while Braithwaite focuses on crime prevention strategies in Japan (his father was one of only six survivors of a Japanese death march during World War Two), I engage with crime fighting in another Far Eastern – also communitarian – society (Post-Mao China) for reasons of my own. Having lived in a Chinese community for many years and having been married to a Chinese lady from Shanghai (who in fact planted the idea for this dissertation in my mind, as I mention in Chapter One), I have more of a fair inkling of how the Chinese mind, moulded by both the Cultural Revolution and Communist rhetoric, ticks over. I know little or nothing about Japanese culture. Secondly, whereas Braithwaite seems content with importing the so-called shaming ceremony 'without ceremony', I intend to proceed with greater circumspection. I investigate the historical course of the Chinese integrative response to crime (a cause that Braithwaite recommends, incidentally) from Mao's first pronouncements on the remoulding of criminals to new citizens to Deng Xiaopeng's successful blending of formal and informal crime control structures. Braithwaite's methodological (and epistemological) decision to shun tools to assist the importation procedure leaves him open to attacks on the value of the practical application of his contribution (although his impact on theory is beyond doubt). As indicated above, I employ a number of tools in the next chapter to assist with the transplantation procedure.

In terms of the Chinese idea of resettling ex-offenders in an officious climate where the shaming practice is integrative rather than stigmatizing and rejecting (since stigma is the name of my 'game'), their concept is organized in terms of both time and space. I argue that the Chinese idea of redemption for ex-offenders (despite the fact that it is culled from a communitarian society) is organized in terms of both space (the PRC as a space geographically removed from post-apartheid South Africa) and time (from the inception of the PRC in 1949 to roughly the mid-1990s). China scholars agree that the PRC (despite its socialist pretentions of "socialism with Chinese characteristics" [Deng Xiaopeng]), has been

transformed into a post-communist society saturated with consumerism and obsessed with making money **(**Zarrow 2008; Dirlik 2008). The corollary is that, because of market dictates, stigma has made a patched comeback in so-called post-communist PRC. As Dutton & Xu (1998: 303-305) show, "well-documented social discrimination suffered by former inmates" means that the "problems of stigmatization appear once again". This is then also the reason I draw most of my scholarly sources for this chapter from the period of 1949-1996. Upon reflection, this should not really come as a surprise to China observers, an idea that I unpack below. Goffman (1963/1990: 45) draws a distinction between "the natural history of a category of persons with a stigma" and "the natural history of the stigma itself." It is the latter that interests me here.

To illustrate, delimiting my project by focusing on stigma (as I explained in Chapter One), I argue that if stigma could be removed from the lives of ex-offenders in South Africa and resettlement becomes a realistic alternative to a life of rampant crime, surely the tide against recidivism will be turned. That this is indeed plausible is evident from the autobiography of Nelson Mandela's *Long Walk to Freedom* (1994) in which the liberation icon observes that 'prison' stigma was absent from the lives of black people during the struggle. This was because so many people went to prison for petty crimes (such as not being in possession of the despised passbook) in the context of a widely condemned illegitimate government. In the same way in which the repression of stigma under apartheid returned to South Africa after its first democratic elections in 1994, it also seems to make a comeback in twenty-first century China. Žižek (2008) provides an explanation for its recurrence in psychoanalytic terms. The return of the repressed (as is the case with ex-offenders marginalized in the West), an idea scattered throughout Freud's substantial corpus (and denoting the return, in the form of pathological symptoms, of a repressed traumatic event in the subject's life), is a foregone conclusion and it is bound to hound us relentlessly. I refer to unsustainable levels of recidivism unless we revive and settle these 'lost' causes, as I contend below. Curiously, one of Žižek's striking examples is the suppression (or repression, in psychoanalytical terms) of capitalism in China during its Mao era, which has made a magnificent return under Deng. China's economic revival might very well propel it into the outstanding financial giant (perhaps alongside India, yet another repressed cause, certainly in the Western psyche) in an increasingly post-American world, as I indicate above. I aim, then, to transplant this idea which is organized in terms of both time and space (as it manifests itself in contemporary PRC), to South African marl (a prepared, fertile ground) within the context of Braithwaite's fructuous concept of integrative shaming practices.

Despite these differences between Braithwaite's venture and my own, on the one hand, and the apparent shortcomings in his, on the other hand, I consider Braithwaite of immense importance to my own task, as I will attempt to show below.

In this chapter, I aim to inquire into the Chinese way of resettling ex-offenders and, if this proves feasible, make certain assumptions about its effectiveness. My aim is of course, as stated and explored in Chapter One, to prepare the ground for transplanting this novel idea to South African soil (assuming, for the moment, that this can be done sensibly and responsibly). The management of cross-cultural borrowing is a topic which I examined in Chapter Two and in the next chapter (Chapter Five) I will attempt to do such ambitious transplanting by employing the parameters of both time and space, as indicated above. Before exploring the social, ideological and philosophical underpinnings that directed the historical course of criminal justice in the PRC, I deem it necessary to justify my three case studies whilst proffering a brief description of each.

2) Justification for case studies

It is refreshing indeed, then, as alluded to above, to observe the lengths to which both corrections and society go in the PRC to capitalize on their considerable investment in rehabilitation. This is true of both the Mao years and the Deng administration in the so-called post-Mao period where the new leadership made considerable attempts to reign in the worst excesses of the Mao period. What the Chinese mean by rehabilitation is however very different from what is understood by the term in liberal democracies in the West, where individualism and freedom of conscience are valued (Min 2016). In the West (and certainly in South Africa), 'rehabilitation' implies little more than refraining from re-offending (or desistance, as the phenomenon is known in Western literature). For the Chinese rehabilitation means a great deal more than mere successful desistance. According to Min (2016), in the context of socialist penology as it evolved in the PRC, rehabilitation means nothing less than fundamental change in the life, values and thinking of offenders and, as I will demonstrate in my examination of two examples below, the Chinese believe it is justified to go to any lengths to achieve this goal. My two examples are taken from published accounts of two Chinese ex-offenders and because both are well-known figures, it has the added benefit of allowing for a critical evaluation by a wide audience. The two case studies referred to are those of Ding Ling and the last emperor of China, Pu Yi. The former is the legendary feminist who was famously reprimanded by Mao himself just as Rosa Luxemburg was 'corrected' by Lenin for her feminist preferences over a socialist agenda. The latter at some point doubled as a puppet for the Japanese during and before the Second World War. At the last minute I decided to add a third case study and I mention this here because I believe it is relevant in order to understand my approach to and the contours of the Chinese problematic. Pu Yi was finally pardoned and released in 1959. According to the account of his release in Bernardo Bertoculli's *The Last Emperor* (1987), a film that scooped up no less that nine academy awards, in the words of Ying Ruocheng's character, the Prison Director: "As a result of remoulding through labour and ideological education during his captivity, he [Pu Yi] had proven that he had *genuinely reformed* (my

emphasis)." I place an accent on the last two words to underline an observation I had made above: Chinese rehabilitation means something very different from what is understood by this term in the West. I use the text of both the film and the autobiography as the former covers aspects omitted in the latter.

The third case study is the autobiographical account of Dai Sijie (surname first and given name second) and is devoted to his re-education during the Cultural Revolution (1966-1976) in a remote mountain village. In Chinese culture the family name precedes that of the person's given name, which is a clear indication of the import of group interests over that of the individual, a point to which I shall return below. Although Dai's (2002) account was originally published in French after he settled in France in 1984, a successful film was made of the text in Chinese Mandarin (with good English subtitles), set in China itself. My reason for including this example of remoulding is because the first two are overly uncritical and my thinking is that a more critical account (such as the one provided by Dai) will provide the desired balance.

I advance three good reasons for case studies, other than them being in vogue in the academic world, adding value to my project. The last two justifications are based on a Lacanian appreciation of the value of personal narrative (understood as the case study) and will require a longer sojourn than the first. I feel justified in immersing myself in the work of Lacan for the purpose of enriching my understanding of narrative in view of Shoshana Felman's (1987: 4) assessment of him. Felman argues that Lacan is "without doubt one of the most influential and controversial French thinkers of this [twentieth] century [whose] capacity to inspire both passionate agreement and passionate disagreement has been matched only by Freud's." As for my justifications to employ case studies, firstly, the narrative embedded in a case study provides the researcher with an invaluable opportunity to assess and evaluate the efficacy of policy (Joffe 2016). I refer here in particular to penal policy in the context of the reintegration of released ex-offenders in the PRC during the so-called classical communist era, i.e. 1949-1996, before the onset of the post-communist era marked by the mixed market and conspicuous consumption. I obviously hope, based on the data collected and recorded in this chapter, to be able to suggest recommendations to both influence and improve penal policy in South Africa as far as reviving the rehabilitation ideal is concerned (and which is my task in the next two chapters). As far as implementing innovations to policy considerations are concerned, we should not underestimate the ingenuity of the SA Department of Correctional Services. After the publication of Breyten Breytenbach's *The Confessions of an Albino Terrorist* (1984), depicting prison conditions during his spell of incarceration, the Department on its own initiative sought to undermine the provisions of the notorious s 44 of the Prisons Act of 1959 (which latter text is not available to me). This provision placed an onus (in practice difficult to discharge) on any newspaper to take reasonable steps to ensure that 'false

information' about prison conditions are not published. The Department subsequently reached an agreement with a major newspaper group which stipulated that the provisions of the aforesaid section will have been deemed to be met if the accounts of prison conditions are submitted to the Department first and equal coverage is then given to their response (even though this move had dubious legality) (Van Zyl Smith 1998: 405-406). If this feat was possible during the apartheid years, then I have good reason to be hopeful that my own carefully considered recommendations will find a responsive ear among the new guard. In view of my complementary methodology, critical auto-ethnography, explored in Chapter Two, I consider this deeply reflexive observation valuable. Braithwaite (1989), incidentally, approves of ethnographic research to gauge the efficacy of communitarian crime-control measures and he expresses impatience with so-called quantitative methods in comparative criminology, a sentiment with which I agree.

Secondly, in the previous three chapters I made much of the idea, so powerfully articulated by the first generation of critical theorists at the 'original' site of the Frankfurt School in that town itself, that theory and practice (understood as activism in the context of the prison) go hand in hand. But a greater familiarity with Lacan's (1975/1991: 68-69) work has convinced me that a third moment is bound to add considerable value to the first two. I am referring here of course to narrative or the case study. From a Lacanian perspective, theory and practice is impotent without the case study. Not only does the case study validate the theory, it also develops theory (as is generally well known). Significantly, however, practice seems to operate side by side with theory on a level (perhaps not sufficiently appreciated by the Frankfurt School) which, revealingly, does not allow for an interpenetration of these two elements. Shoshana Felman (1987: 102), one of Lacan's sympathetic feminist commentators, makes the argument that a good case study exhibits three powerful parameters from a Freudian psychoanalytic perspective: The case study must be effective or compelling in its symbolism, we must be able to recognize something enduring in it and, finally, it must be able to validate theory. Lacan, Freud's most influential commentator and theoretical heir, considers practice as overwhelmingly more importance than theory and postulates that narrative in the case study will elucidate that which is 'untranslatable' in practice. Theory, according to Lacan's account, is not unimportant, of course, but only makes sense belatedly or in retrospect. I would add to this note the observation that theory has the additional advantage of giving new-comers or novices a convenient handle on the discipline which might guide them until such time as they have garnered enough confidence to start engaging (perhaps independently) in practice.

I will attempt to explain this idea (the radical interdependence of practice, theory and narrative [in the sense of the case study]) by recounting Lacan's reinterpretation of Melanie Klein's (1930/1975: 219-232) account of the Dick case. I will begin by giving a brief extract of Klein's rendering of this case study and urge the reader to carefully observe

her imposition of the Oedipus-complex (the little boy's sexual fixation on his mother and jealousy of his father) on her little patient. Klein reports that on the first visit this four-year-old boy Dick

> was largely devoid of affects, and he was indifferent to the presence or absence of mother or nurse. From the very beginning he had only rarely displayed anxiety, and that in an abnormally small degree[...] He had almost no interests, did not play, and had no contact with his environment. For the most part he simply strung sounds in a meaningless way[...] When he did speak he generally used his meager vocabulary in an incorrect way. But it was not that he was unable to make himself intelligible: he had no wish to do so[...]

> [During the first consultation] he had let his nurse go without manifesting any emotion, and had followed me into the room with complete indifference[...] just if I were a piece of furniture[...]

> But he was interested in trains and stations and also in door-handles, doors and the opening and shutting of them[...]

> I took a big train and put it beside a smaller one and called them "Daddy train" and "Dick train." Thereupon he picked up the train I called Dick and made it roll to the window and said "Station." I explained [to him that] "The station is mummy; Dick is going into mummy." Meanwhile he picked up the train again, but soon ran back into the space between the doors[...]

> Finding access in this way to his unconscious, I succeeded in activating anxiety and other affects. The representations then became fuller and I soon acquired a more solid foundation for the analysis.

What is important about Klein's account, although I did not quote her version in full, is her intuitive clinical implication (rather than application, as noted above) of the Oedipus myth to Dick's treatment. She rationalizes her procedure *ex post facto*, but as Lacan contends, this feat is of less moment than her actual performance during the procedure itself. Lacan (1975/1991: 68-69) comments:

> She slams the symbolism on him with complete brutality, does Melanie Klein, on little Dick. Straight away she starts off hitting him [with] large-scale interpretations. She hits him [with, CL] a brutal verbalization of the Oedipus myth, almost as revolting for us as for any reader – *You are the little train, you want to fuck your mother.* [Lacan's emphasis, CL.]

Quite clearly, this way of doing things leads to theoretical discussions – which cannot be dissociated from a case-diagnostic. But it is clear that as a result of this interpretation something happens. Everything is there[…]

This text is a precious one because it comes from a therapist, of a woman of experience. She feels [senses, CL] *things, she expresses them badly – one cannot blame her for that.*

(My emphasis).

As a litigation attorney engaged in the courts on almost a daily basis, I was always uncomfortable with a strictly theoretical discussion of a legal principle without reference to what the courts do with it. Oliver Wendell Holmes, a judge of the US Supreme Court, famously said that the life of the law is not logic, but experience (as is generally well known). If we substitute Holmes' word 'experience', as it comes to flower in the case study, for 'practice', we have an understanding of Lacan's preference for practice over theory. As Lacan also points out, the practitioner herself, as we have seen in the study above, is often at a loss to articulate how the narrative validates the theory (assuming it does). I am of the view, however, that when Lacan refers to 'practice', he has in mind something different from what the critical theorists in the tradition of the Frankfurt School meant by practice. It is my argument that what the latter meant by 'practice' is that theory should above all be translatable into activism while Lacan actually implies (certainly judging by his explicit distinction between apply and imply, referred to above) that practice is inferior to what he prefers to call 'clinical experience.' I attempt to show this in his exploration of Melanie Klein's case study. Said in another way, clinical experience is a very advanced form of practice with which only senior practitioners, after a great many years of experience, are blessed. An example might suffice to illustrate Lacan's point. De Groot (1946/1978) demonstrates that very strong chess players (and this is certainly true of Grandmasters too) do not generally calculate deeper or consider more variations than expert players (a category just below very strong players). Actually, their vast knowledge of the game has allowed them to build up a memory bank of tens of thousands of typical positions, which permits them to recognize patterns on the board of which weaker players would be both oblivious and ignorant. In effect, they play on 'instinct' or 'gut feeling'. Said in another way, it is the quality of their decision-making (in a fraction of the time) – made possible by a vast data bank of past experience and familiarity with theory – that is the defining feature of Grandmaster chess. It is this quality, rather than the routine practice of regularly playing chess, that interests Lacan and that he calls 'clinical experience.'

Felman (1987: 109) places the following gloss on Lacan's reinterpretation of the Dick case: "In much the same way as Freud, dealing with Oedipus, interrogates specifically the practical effect, the narrative efficacy, of the myth, Lacan, withholding understanding of the meaning of Klein's Oedipal intervention, *interrogates specifically its narrative-symbolic*

efficacy: its productive practical and clinical effect" (my emphasis). Theory can and does give the practitioner a provisional handle on meaningful intervention, but as Lacan so skillfully explains, it cannot substitute for practical implication (again, rather than 'application' since it does not happen consciously) and in which the value of the case study serves as such a magnificent heuristic device.

Thirdly, the narrative inherent in the case study, allows for (a) Lacanian reading(s) in locating the "excess" beyond the obvious message. To paraphrase Lacan, the displacement of the signifier along the chain of signifiers permits not only the emergence of questions as opposed to answers but also the generation of a number of small peripheral issues instead of the few big ones. Perhaps the 'answer' lies in a further question. I suggest that Lacan can be understood with profit against the backdrop of Žižek's idea that lost 'cases' must be revived and re-examined since its status of not-having-been-laid-to-rest suggests that something significant in our psyche is not in equilibrium, an argument to which I return below albeit in a slightly different context. References to the return of the repressed are scattered throughout Freud's substantial body of work. To illustrate, Gavin Bradshaw (2016) insists that correcting the fractured state of social cohesion in the South African context should be a priority. Lacan, instead, would identify the absence of that cohesion in the social body politic as being of special significance. Said in another way, the 'lack' (represented in lost or failed [and thus repressed] causes) is of greater import than the actual content of the signifier-text. For Lacan, the 'lack' in question is constitutive of the human subject; it can, by definition, never be overcome. Lacan's thinking on this point goes, of course, against the grain of received wisdom. Consider, for example, the well-known maxim of Goethe (2015: 1), believed to be the last universal European intellectual (at an age, no doubt, when such a feat was still possible):

> It is much easier to recognize error than to find truth; the former lies on the surface, this is quite manageable: the latter resides in depth, and this quest is not everyone's business.

Apart from the fact that the very idea of 'truth' had become problematized (not least by post-structuralists such as Lacan himself, among others) since Goethe penned his aphorisms in the late eighteenth/early nineteenth century, I will attempt to demonstrate Lacan's valuable albeit radical shift of the reading act from content to location. Lacan understands the concept 'the Other' to refer to the third vital moment – the structure of the unconscious narrative since, as Lacan famously rephrased Freud, "the unconscious is structured like a language," with its lapses, breaks and silences – in the dialogic analytic relationship between analyst and analysand. I use the concept 'other' here in its postcolonial sense as reference to peoples other than Western heterosexual men. That is not what Lacan understands by it, though; for him 'the Other' is the discursive unconscious, in the 'discourse' of which social normativity is embedded. If the cause of rehabilitation has

been abandoned in the West (and I include South Africa under this collective term), Lacan's notion of excess on the surface of the signifier (the location instead of the content) have powerful and important implications for ourselves. This implies (rather than applies) that the presence of the Other (women, Black people in the United States, released ex-offenders, etc.) through rendezvous with the unconscious – 'symptomatic' readings of the narrative as it emerges in case studies – need to be dealt with. To quote Žižek again, unless we lay to rest the unfinished business of lost causes (the resettlement of ex-offenders, whereas, as I note in Chapter Three, the West has abandoned rehabilitation), the repressed (ex-offenders unable to find re-entry) will continue to return (Freud's thesis) to haunt us (high and unsustainable rates of recidivism). The point I am driving at is that narrative (in the sense of the case study) is deserving of our consideration because their story is literally our story.

Lacan (quoted in Felman 1987: 61; the latter's translation) puts the point cryptically but memorably as "the inmixture of the subjects." Said in another way (and to employ Spivak's [1981: 158-159] critique of Kristeva's book *About Chinese Women* [1977] as an apt analogy), our colonizing efforts to understand the other, is nothing if not an attempt to understand ourselves. The engagement of the occident with the orient (or that of the normal with the stigmatized) is not altruistic (as it so seemingly appears to be) but self-centered. I will elaborate on this point in detail below as it affects the interrelationships of the three-tiered analytical relationship championed by both Freud and Lacan. Attention to the narrative of involving the Lacanian 'lack' is thus vital for an understanding of the role of the case study in penal, and psychoanalytic, research and work. I make this observation granting that, in Lacanian terms, it is not possible to overcome such 'lack' once and for all; should this occur, it would be an instance of psychosis, as illustrated in Freud's famous Schreber case.

Both the efficacy of policy considerations and the researcher's own (perhaps unacknowledged and unexamined) investment are good reasons for examining case studies. Generally speaking, my intentions with the examination of the published accounts of these three ex-offenders are two-fold. Firstly, by laying bare the Chinese way of correcting and rehabilitating ex-offenders, I will be in a position to critically evaluate its potential value for transplantation purposes to South African marl. Secondly, it will also allow me the opportunity to note and scrutinize objections, in the context of learning from this culture, to the Chinese ways of doing things (notably, Harry Wu's [1992] and Williams & Y. Wu's [2004] objection to the PRC's so-called Gulag penal networking practices). My approach to the Chinese experience, despite these objections, is well conceptualized by Shoshana Felman in her own approach to Lacan's teachings and to this end I quote her briefly on this point. She explains her position in the following manner:

> I will neither explicate Lacan as a set of foreclosed conceptual dogmas, nor will I engage in a debate about his controversial personality. Instead I will attempt to

share here with the reader the lived experience of a discovery: of the discovery that psychoanalysis has opened up for me through my encounter with Lacan's work. I propose to explore, in the pages that follow, at once the insights that I have obtained from working with Lacan's text and the way those insights have made a difference in my own relation both to life and to my own work. (Felman 1987: 4)

In my own approach to the issues around Chinese corrections, I aimed for a similar *modus operandi* as that of Shoshana Felman in her approach to Lacan and his work as formulated in the quotation given above. In the words of Margaret Atwood's (1985: 315) fictional character Professor Pieixoto, "[o]ur job is not to censure but to understand" (or: not to condone, but to understand, as is the case in the Chinese penal context.)

In the previous chapter, I outlined the stated objectives of four prison administrations in the West. I concluded the chapter with the observation that I hoped to have demonstrated that, in the four jurisdictions under investigation, all four of these objectives are observed more readily in their failure than in their fulfillment or attainment. Curiously, as I explain below, the Chinese pursue only one goal, rehabilitation, and, I argue, they have succeeded in this. Frederick Allen (1987 & 1992), whose work I unpack below, comes to the same conclusion in his empirical work where he surveyed rehabilitation efforts in three Chinese (PRC) prisons. He argues that the Chinese project is practical and realistic with respect to resettlement. He concludes his study by encouraging Western prison administrators to reconsider the abandonment of the rehabilitation ideal in the light of the Chinese experience. In the next chapter, I will attempt to show how current penal practice in South Africa (while still doing lip service to the rhetoric of rehabilitation and reintegration) can be blended sensibly with certain features (critically evaluated) of past Chinese penal practice (which has achieved tangible rehabilitative results and has done more than shallowly representing the rehabilitation ideal). I do not think that I overstate my case in arguing that whereas recidivism may be Western penology's 'stone' (to borrow from Pat Carlen [2005: 422], as I note in Chapter One), in the case of the PRC, it is very much 'rehabilitation'. Actually, the Chinese case is far from perfect, in the sense that conditions on so-called goldilocks-planets are 'perfect,' but we can learn from the recent Chinese experience in the PRC. Harry Wu, for example, is a virulent and articulate critic of what he calls China's extensive Gulag forced labour camps system that contributes a sizable percentage to the PRC's national GDP. He has accused the West of complicity in this slave labour exercise because of trade and investment. Although I do not discount this criticism, I am more interested in the positive (and hence transferable) features of the Chinese experiment in rehabilitation and reintegration, as I note with approval above in my reference to Felman's approach to Lacan and his work.

In this chapter, I aim to demonstrate what can be learned from the Chinese experience (in the case of the PRC) between the years 1949-1996, as there are signs that things might be

changing for the worst again (perhaps as a result of increasing Westernization and globalization). In this respect, my transplanting exercise will be a spatial and a temporal move. To my mind, the most attractive feature of the Chinese experience is the fact that traditionally the Chinese valued human relationships to the point that Dawson (1971: 376-378) states unequivocally that the Chinese genius for relationship building is one of four seminal fonts Westerners can learn from the Chinese with profit. (I am not concerned with the other three sources of wisdom here.)

My aim with this Chapter, as I explained in Chapters One and Two, is nothing less ambitious than to lay the foundations of what US Attorney General Loretta E. Lynch, in a speech in Philadelphia as recently as April 2016, reported in the *New York Times*, called a "road map to re-entry" for ex-offenders (Lichtblau 2016: p. A9). There is no doubt in my mind that this belated attempt by the US to reintegrate their ex-offenders is prompted not by considerations of compassion for ex-offenders and their families, but by unsustainable levels of imprisonment (and recidivism.) I note above Goffman's notion of the natural course of a stigma in the context of Žižek's original use of Freud's idea of the return of the repressed, and this is certainly also relevant here in explicating the American move to counter warehousing of their ex-offenders. Though her scheme is aimed at the resettlement of ex-offenders (especially regarding drug convictions) in the United States, my project is focused on South Africa with specific reference to stigma. Stigma is and remains a serious obstacle to resettlement in the United States, as Michelle Alexander (2012) has demonstrated so powerfully, as it is in South Africa, and I trust that my findings might also be of value in the American context.

In the previous chapter I note the abandonment of the rehabilitation ideal in several jurisdictions in the Western world (either by word or deed or both). Since the United States sets the tone for what is fashionable (from a penal perspective), prison researchers should not underestimate the impact of warehousing offenders (an overwhelming feature of the American penal landscape) and the resultant implication that management and incapacitation have become the dominant measures of prison administration to be aped. I pause to reflect that perhaps the fact that the resettlement of returning ex-offenders is honoured more readily in its breach than in its observation, should not come as a surprise to us in the context of a society that has lost faith in rehabilitation in particular, but also in the redeeming values of forgiveness and caring more generally.

By way of illustration, the idea behind 'goldilocks-planets' is invaluable, i.e. that the interface of a number of perfect conditions can create a unique environment for the creation and even the flourishing of life (unlike the situation on the vast majority of planets with imperfect conditions which will not allow for the budding of life). In my using this same idea as an analogy for the successful resettlement of ex-offenders, I will attempt to identify and isolate those features of contemporary Chinese culture that made this

criminological marvel possible during the period of time highlighted (1949-1996). In the next chapter, I will attempt to transplant this idea to African soil by utilizing the tools for such transfer which I developed in Chapter Two, Part Two. I proceed now to take up Braithwaite's suggestion (which is a requirement for cross-cultural analysis as a research tool, anyway) to explore the historical course of modern Chinese penal exercise (1949-1996).

3) An exploration of the historical course of criminal justice in the PRC, 1949-1996

In traditional Chinese society, even though criminals and their families were subjected to a heavy stigma (Dutton & Xu 1998: 297-299), stereotype, generally speaking, is avoided when dealing with others. As Braithwaite (1989: 88-89) contends, this is possible in communitarian societies because the interdependency with which the members are enmeshed allows for a greater biographical awareness of one another than is the case in individualistic capitalist societies. Goffman argues, as I pointed out in the previous chapter, that stigma is possible because the stereotype is accentuated and 'glorified' as the only personality trait of the stigmatized person worth considering to the elimination of the rest of her personality. In Goffman's (1963/1990: 14) words, "A stigma, then, is really a special kind of relationship between attribute [such as criminality, CL] and stereotype". Consider also in this context the remark of Hannah Arendt, referred to above, that dehumanizing human beings through the act of rendering them obsolete is a crime against humanity. This is exactly what stigma does. By analogy, Marx and Engels turned Hegel's glorification of abstract thinking (as highlighting one aspect of a phenomenon to the exclusion of all else, in the same way that stigma demolishes the individual's biography) on its head by insisting that 'concrete facts' are precisely the negation of idealist or abstract thinking (as is generally well known). I think it significant then that stigma is avoided in a socialist communitarian society such as the PRC. Both Butterfield (1983: 211) and Braithwaite (1989) have no doubt that it is the genius for relationship-building in communitarian societies (China and Japan, respectively) which results in the propensity of those cultures to confront the 'whole person' (with a nuanced and complicated biography) instead of the stereotype. With the victory of the Communists over the Nationalists in 1949, Mao inaugurated a new penal dispensation for dealing with offenders during all five stages, i.e. pre-trial detention, the actual trial stage, punishment adjudication (if convicted) and, finally, during incarceration and post-release. It is this policy and its evolution over the next four decades that I explore in the pages below. In doing so, I will rely to a considerable extent on the work of Leng & Chiu, *Criminal Justice in Post-Mao China: Analysis and Documents* (1985), which is devoted to an exploration of the evolution of the criminal justice system in the PRC from its inception under Mao in 1949 to Deng Xiaopeng's remoulding of that system in the early 1980s. Deng sought to remould criminal justice in

the post-Mao period at least partially because of the perceived (and altered) demands of economic development since 1978. In a review of Leng & Chiu's book, Tao-tai Hsia (1985: 376, 374) commends it for making an "objective, timely" contribution to the study of Chinese law, especially so since the authors made "extensive use of [original] Chinese legal materials" of which many (even most, at that stage in any event) are/were not available in English.

Leng & Chiu (1985: 7) sketch a useful background to my overview of the criminal justice system in the PRC as follows:

> Two forms of law have coexisted and competed with each other in the People's Republic of China. One may be called the jural (formal) model and the other the societal (informal) model. The former stands for formal, elaborate, and codified rules enforced by a regular judicial hierarchy; the other focuses on socially approved norms and values, inculcated by political socialization and enforced by extrajudicial apparatuses consisting of administrative agencies and social organizations.

Actually, two models of criminal justice were nothing new to the Chinese experience of social control on the mainland. In traditional Chinese society, ever since Confucius passed down his teachings around four centuries before Christ, *fa* (positive law) had always complemented *li* (moral code, rite) (Leng 1977: 356, Leng & Chiu 1985: 8). In fact, even before 1949, as the legal system had made a haphazard start in those areas of China controlled by the communists, "special encouragement was [also] given to [...] the use of mediation for handling civil cases, and the employment of extrajudicial organs and procedures in imposing sanctions and settling disputes" (Leng & Chiu 1985: 11). An example of the societal model of law in the South African context is the infamous 'kangaroo courts' set up in African townships during the apartheid years, and which, interestingly enough, seem to be making a come-back in what is increasingly perceived as the discredited post-apartment government of the African National Congress (ANC). According to Mao himself at least 800 000 people were executed during such mass line justice meetings and many more sentenced to long terms of re-education through labour, or reform through labour, in China's network of labour camps. Class struggle and continuous revolution were the two corner stones of the new society (Leng 1977: 363-366 and n77). The class status of the accused was almost certainly the decisive feature in deciding her or his fate, since Mao expressed the idea through the dictum of 'killing chickens to scare monkeys' (i.e. giving harsh sentences to class enemies would serve as an example to the people) (Leng 1977: 365n69). In a famous speech of Mao (1957/2004), early that year, the Great Helmsman made a strict distinction between so-called "antagonistic contradictions" (between citizens and class enemies) and "non-antagonistic contradictions" (among citizens themselves). The former were treated with untrammeled harshness while there

was room to treat the latter with leniency if they co-operated and confessed. The so-called five Black Elements (landlords, rich peasants, counter-revolutionaries, rightists, other bad elements) were deprived of social and political rights, and if convicted of a conventional crime, a member of the five Black Elements was typically given a harsher sentence than a member of the people. Two examples will illustrate this practice which would certainly be frowned upon in a liberal democracy. Leng (1977: 364-365n68) cites the 1971 case of adultery (at that stage still a crime in the PRC) in Amory. The man was a factory worker while the woman's father had been an official serving under the now despised Nationalists. Both were convicted but the woman received a two year term while the male received one year. The implication is that the woman received a heavier sentence because of her counter-revolutionary 'background'. Shinicino (quoted in Leng 1977: 365n70 [the original text is unavailable to me]) notes a 1961 case where a soldier raped a former landlord's wife at gunpoint in Kwangtung but was given a wrap over the knuckles because of his "good [revolutionary] background". I pause to ponder the lamentable fact that I am personally aware of two very recent cases where the evidence of ex-offenders in personal injury claims were dismissed on grounds of (no) credibility in the local division of the Port Elizabeth High Court. I have no doubt that the Maoist notion of inequality before the law is reproduced in so-called Western liberal democracies in respect of ex-offenders as a stigmatized group where the attribute of criminality is abstracted and 'glorified' in service of the stereotype. As I was the Plaintiff in one of these two matters, I am bitter about the way in which counsel for the Respondent as well as the presiding judge subtly referred to my 'ex-offender' status to justify the conclusion reached *on witness credibility*. Even though the doctor claimed to be unable to 'remember' the facts leading up to his alleged unprofessional conduct and I had a positive memory of the incident, my version of events was labeled as 'self-serving'. I argue that this incident shows how the society from which ex-offenders are drawn in stigmatizing shaming cultures (and which gives them their identity) have somehow evolved to exclude them from any meaningful place in this culture (James Baldwin in Peck's *I am not Your Negro* 2016). As Baldwin also notes, this realization is a devastating experience and certainly counts as an 'epiphany' (a term I explain in Chapter Two, Part Two) (Bochner & Ellis 1992; Couser 1997; Denzin 1989; Ellis, Adams & Bochner 2010: para. 6). Ex-offenders are a 'disposable' population and the sooner these 'not quite human' elements are recycled back into prison, or otherwise effectively dealt with, the better. In the same breath I applaud the value of my supplementary methodology, auto-ethnography, for being so useful in 'meaning-making' of this sort. Stereotyping negates the rest of that person's biography, as I argue above in putting Goffman, Hegel and Marx 'in conversation' with one another.

The reason for my three case studies being all Black Elements is precisely to show that the distinction was not as rigid as is sometimes supposed and also because these cases on the periphery of the legal system in the Maoist PRC will show the limits of the criminal justice

system in that society…. But what does the solution of extreme, apparently untreatable cases, tell us about the efficacy of policy? I leave this question open for the moment and, in Lacanian fashion, I might not return to it. This plays on Lacan's dictum, that the letter always arrives at its destination.

As far as the treatment of contradictions between the people (civil disputes and minor criminal matters) is concerned, education, persuasion and mediation were encouraged. More serious criminal issues were dealt with by administrative sanctions or struggle sessions complemented by criticism and/or self-criticism. Serious criminal matters (such as rape and embezzlement) were referred to the court structure for adjudication.

Deng Xiaopeng famously said that Mao was 70 percent good and 30 percent bad (McGregor 2011: 245). One innovation of Mao (1949/2004, 1956/2004) that certainly outlived himself, was his proclamation that "most criminals could be remolded" into new citizens by the twin injunction 'reform through labour'-programme and ideological education, although Mao himself firmly detested physical labour (Chang & Halliday 2005: 15-16). According to Ladany (1992: 115), Mao was the inspiration for this line of thinking since he sought a way to remould the ideological stance of his political adversaries. On the rehabilitation of criminals Mao had much to say. Mao aimed to drive this initiative with the slogan "reform first, production second" (*Mao Zedong Thought on Carrying Out and Developing the Theory of Criminal Reform Through Labour*, quoted in Dutton & Xu, 1998: 308 [original source not available to me]). Mao insisted that it was possible to mould and remould criminals into new productive citizens. Mao is often quoted as saying that the majority (apparently 95%) can be remoulded into new people and that even counter-revolutionaries could be rehabilitated through labour rather than executed (Mao 1949/2004: 1/18; 1957/2004: 1/8). In Pu Yi's autobiography, one of my case studies, he repeatedly emphasizes Mao's dictum that only criminals that have sincerely rehabilitated through continuous remoulding would be forgiven by the community and welcomed back into its fold (Pu 1965/1989: 359).

What is the purpose of physical labour? One rationalization is that physical labour makes individuals self-sufficient in the context of an egalitarian society (A. Lötter 2016). According to the Chinese jurists interviewed and quoted in Ruge (cited in Leng 1977, 369n104 [original source not available to me]), the purpose of reform through labour is aimed at re-education rather than punishment. This has the benefit of teaching the individual useful skills (which might be put to the benefit of society as a whole, albeit as slave labour as Harry Wu [1992] insists) and bracketing the ideology of exploitation (which would have allowed others to perform those tasks in her or his stead). To illustrate, consider the almost unbelievable fact that according to the script of Bertoculli's *The Last Emperor* (1987), Pu Yi, the last Emperor of China, as a child after his coronation, was not

even allowed to wipe his own bottom. Though this is an extreme example, it does make the point somewhat graphically.

Finally, ideological education is divided into ideological reform and political education (Leng 1977: 369). The former encompasses self-criticism, criticism in groups, being vigilant about the wrongdoing of others and the writing of lengthy confessions. Pu Yi (1965/1989: 354-356) reflects how he and his co-prisoners were motivated to write autobiographies to help them to understand how and where they went wrong. I reflect here how my own PhD has been a liberating writing cure and that I have no doubt as to the therapeutic value, which the writing of a critical autobiography will have on offenders' rehabilitation, and the efforts directed to that end. Political education refers to the study of Marxism-Leninism, Mao Zedong's thought, state laws, Party policy and current affairs. Said in another way, effective rehabilitation means, to the Chinese in the PRC, nothing less than 'thought reform' (Xinran 2008; Min 2016; Dai 2002). I agree, however, with Dutton & Xu (1998: 295, 291), against Harry Wu (1992) and Lifton (1961), that the "cognitive value of labour" brings "forth human transformation" and it is too simplistic to dismiss the Chinese efforts as mere 'brainwashing [*shi nau*].' Consider, however, the facts in the case study of Ding Ling. In Shanghai of the 1920's (then considered the Paris of the East) she progressed as a writer on women's issues (and women's rights regarding such so-called bourgeois issues as sexual freedom) to a member of the Party. As the latter, she claimed unequivocally, after her rehabilitation in 1979 as a so-called rightist element (one of the Five Black elements made reference to above), that she considered herself a member of the CCP first and a writer second (Feuerwerker 1984: 31-32). Another example that lends credence to the brainwashing hypothesis is that of Dodo, Lin Bao's daughter. As Lin Bao and his family made last minute arrangements to flee China, his daughter Dodo – "a very brainwashed young woman" and the "product of the fear and twisted logic of Mao's China" (Chang & Halliday 2005: 581-582) – leaked their plans to the authorities. This deceit led to their disastrous fate: their plane crashed over Mongolia en route to the Soviet Union in September 1971.

In weaving the ideas of Mao Zedong Thought with those of the other considerations and thinking in this chapter I generally rely on the scholarly and critical (albeit mammoth) tome of Jung Chang – the author of the popular autobiographical novel *Wild Swans: Three Daughters of China* (1991) – and Jon Halliday entitled *Mao: The Unknown Story* (2005). Their study is not only a well-balanced and thorough account – though revisionist – of Mao's life, thought and influence in the remoulding of modern China itself, but is also based on an impressive bibliography of both original Chinese and non-Chinese (Russian, English, French, German and, curiously, Italian) language sources. It is possibly the standard scholarly work on Mao available in English today. This source is important insofar as the Great Helmsman's thinking and practice impact on my project of learning sensibly and

profitably from the Chinese on the topic of resettling ex-offenders. Mao is an important feature in this chapter since he was the driving force in the Chinese Communist Party's thinking on the reform of criminals (be it ordinary or political). In the words of Leng (1977: 356), "there is little doubt about the magnitude of Mao's impact on the Chinese legal system."

Actually, the concept of criminal justice in the PRC cannot be understood without appreciating Mao's considerable investment in that project. In the words of Leng & Chiu (1985: 5),

> To understand the post-Mao criminal justice reform and its limits, one must appreciate how the criminal justice system operated under Mao's rule.

Curiously, perhaps in deference to Mao's preference for the mass line, rulings by the people's court rarely dignified its decisions with references to the extant law. According to Leng (1967: 1-27), the choice of procedure (juristic or societal) depended on the nature of the case and, even more importantly, the ferocity of the revolutionary struggle at that point in time when the trial took place. It is not uncommon for offenders to be sentenced to a spell of incarceration in a police station. Not infrequently, justice was administered by the police or other public security organs, as I noticed from my own observations during my own stay in China (2009).

Mao was less than enthusiastic over the so-called jural or juristic model of law. He had a definite preference for informality and 'flexibility' in the adjudication of legal cases since continuous revolution and class struggle had to be prioritized at all times (Leng & Chiu 1985: 11; Chang & Halliday 2005: 407). In the period leading up to the notorious Cultural Revolution (1966-1969), the class nature of law was stressed and the independence of the courts was understood to mean their being subject to oversight by the Chinese Communist Party (Leng 1967: 57-63). Liberal (or individualistic) ideas such 'the benefit of the doubt, if any, should go to the accused' and 'the presumption of innocence' (legal principles taken for granted in the West, certainly in South Africa) were rejected out of hand as "theories of bourgeois jurisprudence" incompatible with socialist legality (Leng 1967: 63).

During 1954-1957, Mao modelled both China's industrialization and its laws on the Soviet model. Evidence of the ascendency of the juridical model during this period is to be found in the 1954 Constitution (Peoples' Republic of China 1954) which makes only one solitary reference to the CCP (in the Preamble). During the Great Leap Forward campaign, the Soviet model (and by implication the juridical model of law) was finally abandoned in favour of the mass line and "politics in command" (Eckstein 1966: 29-37). The Great Leap Forward was actually nothing other than Mao's secretly hatched scheme to take over the world by way of "break[ing] into the superpower league" as soon as possible (Chang & Halliday 2005: 444). As mentioned above, Mao distrusted the so-called juristic model and

with the onset of the Cultural Revolution, he saw an opportunity to destroy so-called "bourgeois legal institutions" (Leng 1977: 359-360). His Red Guards, actually rebellious youngsters fed up with discipline and eager for a piece of the action (Chang & Halliday 2005: 534-535), were instructed to "smash Gongjianfa" (policy, the prosecuting authority, courts) (Leng 1982: 205). Other manoeuvres employed to achieve this end were the "wider use of mass line devices and the imposition of military control over Gongjianfa by the People's Liberation Army (PLA)" (Leng & Chiu 1985: 18).

By 1973, when the Cultural Revolution finally drew to a halt, the courts had barely survived the mass extinction of legal institutions. However, the prosecuting authority had effectively floundered, and its functions were usurped by the public security agency on the basis that bourgeois law was not appropriate for the "socialist economic base" (Ruge, interview with Chinese lawyers, quoted in Leng 1977: 360n40 [the original of this source is not available to me]). The legal profession as we know it in the West had effectively ceased to exist in the PRC.

The Cultural Revolution – which Mao's Foreign Minister Chen Yi labelled "one big torture chamber" (Chang & Halliday 2005: 546) – clearly shows the emergence of the societal model over that of the judicial one. The Party and the Police had completely taken over the functions of both the bench and the (by now non-existent) bar (Leng & Chiu 1985: 19). To illustrate, the 1975 Constitution (Peoples' Republic of China 1975) makes no reference whatsoever to the accused's rights to counsel (or legal representation, in South African legal parlance), an open trial, equality before the law or independence of the judiciary – once again rights taken for granted in the West. In 2012, I was present during an immigration hearing in the Magistrate's Court in Bellville, Cape Town where the presiding officer ruled in favour of the release of three individuals of the PRC because of certain lapses in the observance of the procedure during their arrest and subsequent detention on Immigration violations. The Department of Home Affairs was also ordered to pay the costs of counsel incurred by the three individuals involved. From prior experience, I knew this is an unlikely scenario in a Chinese court, irrespective of the facts. The three Chinese individuals were stunned by the outcome and I overheard one mumble, "I am so proud of this country. So free and fair." Indeed. The four rights eliminated from the 1975 Constitution, referred to above, were restored to the 1978 Constitution (Peoples' Republic of China 1978) by virtue of the inclusion of articles 41 and 42 in the new text.

Mao's death in September 1976 ushered in a commitment by the Party leadership (spearheaded by Deng Xiaopeng, himself recently rehabilitated as a so-called 'black element', referred to above) for "a more stable and equitable system of criminal justice" (Leng 1982: 235). The CCP Central Committee's resolution on historical development dated June 27, 1981 is an important document since it unequivocally pronounces the existence of new challenges that supersede Mao's demands for the class struggle and

continuous revolution. These outdated historical ideas, according to the wording of Article 37, "do not conform to the conditions and the needs of the current new period of development." Of special interest are fresh provisions for safe-guarding individual rights in a communitarian society under the 1982 Constitution (Peoples' Republic of China 1982). Article 5 of this unique instrument in Chinese legal history entrenches the rule of law by mandating that all organs of state are subjected to the law and the Constitution. It also outlaws arbitrary arrest and detention as well as unlawful search and seizure. Two other important provisions are equality before the law for all citizens (Article 33) and the independence of the judiciary (Articles 126 and 131). As a result, Leng & Chiu (1985: 35) argue that by the early 1980s the juridical model of law "has more than regained the respectability it once enjoyed in the mid-1950s."

The primary reason for the ascendancy of the juristic model in the years immediately after Deng took control of government affairs, was "in the interest of the overall economic development" (Leng & Chiu 1985: 37-38). As is generally known, China opened its doors to economic investment, development and trade in 1979, after Deng reportedly saw spectacular industrial modernization during a visit to Japan in 1978 and reputedly declared famously that 'socialism is not poverty'. Deng, according to Chang & Halliday (2005: 637), "never made a move against Mao's person while Mao was alive, and even after Mao's death, insisted that Mao must not be denounced personally, although he repealed much of Mao's core legacy." To illustrate the descendent fortunes of Mao's societal model of criminal justice under Deng, we need to consider that between the years 1979 and 1983, the People's National Congress and its associated legislative organs promulgated more than 700 laws and other enactments (Leng & Chiu 1985: 46). By contrast, only 148 important pieces of legislation were passed between the years 1949 and 1953 (Leng & Chiu 1985: 11-12). The latter category is inclusive of the well-known Marriage Act of 1950 which gave women unprecedented rights, such as divorce on demand – in theory, at least. Curiously, according to Niall Ferguson (2014: 105-108), China observers are surprised at the PRC's "tremendous growth" into the 21st century without the presence of proper institutions to warrant it. Mao, as I note above, left no stone unturned to wipe out legal institutions in his personal preference for the mass line justice – the societal model. Since the Chinese presumably rely predominantly on *guanxi* to regulate economic and inter-personal relations, Ferguson (writing in 2013) notes that on average only 50 per cent of all civil judgments are enforced in the PRC. Guanxi is understood to be informal economic and social networking held together by entrenched goodwill between the participants. But Ferguson (considered "the most brilliant British historian of his generation", according to the publishers' blurb on the cover) warns that the PRC, without adequately supporting institutions to guarantee investor confidence and the enforcement of commercial agreements, is close to reaching its ceiling of economic development and growth. No doubt

other factors such as environmental pollution and ruin will also play a role in reaching this ceiling (Watts 2010).

In the Post-Mao period, Chinese society as it has developed in the PRC, succeeded in achieving an acceptable balance between informal and formal social control. It remains for me to explore this instructive model before moving on to consider three case studies in order to assess the efficacy of the Chinese mixed model for South African conditions. During the early 1980s, rising crime rates, notably prostitution and a range of economic crimes made possible by rapid economic reforms, gave the Chinese leadership cause for pause. Dutton & Xu (1998: 293) put the case for modernization in the following crisp terms:

> Modernization and economic liberalization ripped into the traditional fabric and induced the classic symptoms of social dislocation: high labor mobility, rising unemployment, rapid inflation, rising rates of crime, rising recidivism rates and so forth.

The abolition of the so-called "resident registration" in the early 1980s has allowed for the influx of tens of millions of young people to the coastal cities (Situ & Liu 1996) and masses of people (calculated at between 50 and 60 million people per day in 1994) on the move, which had spawned so-called "transient criminal activity" (Dutton & Xu 1998: 317-318). To put this in perspective, imagine that South Africa's entire population is homeless and on the move all at once looking for employment and better opportunities. The response was the total onslaught on crime, the four-pronged strategy. The so-called 'comprehensive treatment of social control' which is contained in a policy paper dated March 1991 by the Standing Committee of the People's National Congress, gave all citizens a role to play in the fight against crime, i.e. the societal model of law made a come-back (Situ & Liu 1996).

The four motors driving the comprehensive treatment campaign are 1) legal education for the masses, 2) citizen involvement in law enforcement (para-legal anti-crime fighting agencies with powers to investigate, arrest and prevent crime, street crime prevention committees and mediation committees) 3) the effective rehabilitation of ex-offenders through education, persuasion and redemption and 4) harsh sentencing options for white collar criminals and hardened criminals (the death penalty and the death penalty postponed for two years are examples of two radical interventions). Incidentally, the last consideration (known as 'bifurcation' in sentencing) is one which Weiss and South observe as one of the seven global trends in penal policy and practice cited as evidence for increasing repression in prisons around the world, noted above. Dutton & Xu (1998: 321) refer to this period as the "carceral spread in post-reform China". However, in a study of ten low crime cultures, Frieda Adler (1983) concluded that societies with strong social bonds engender less crime. With social bonds she is not referring to family bonds but the

involvement of empowered members of the community. The core idea around which Braithwaite (1989) builds his thesis for integrative shaming (which ties in well with Adler's work) is Travis Hirschi's (1969) notion that deviance is the result of weakened social bonds and, of course, Durkheim's (1893/1984) idea of social solidarity. This is an idea to which I will return in the next chapter, but I flag it here because of its fecundity for my project.

Frederick Allen (1987) argues that apart from the formal and informal social control mechanisms discussed above, the Chinese, because of the enormous size of their population, have traditionally also relied on a third mechanism, internalization, which worked well until the early 1980s and, as we saw above, has received new emphasis in the 1980s. Mao's ideas on the malleability of human nature thus found a sympathetic ear in the traditional Chinese context (Dutton & Xu 1998: 299-301). The Chinese prefer conciliatory and compensatory aspects over the criminal sanction as the latter is not perceived as likely to resolve the dispute (Allen 1987: 103). Dutton & Xu (1998: 292) coin the phrase "an amalgam of traditional methods and values wed to a Marxist framework," to explain this idea of blending traditional Chinese thinking on conflict management with that of the Chinese communists. At the outset of this chapter, I noted the huge investment which the communist regime in the PRC, based on Mao's conviction that the vast majority of offenders are capable of 'remoulding', referred to above, has been making in rehabilitation as a realistic and achievable outcome of the prison experience. This is unlike the position in the West where managerialism and incapacitation had almost completely displaced the rehabilitation ideal, as I note above. During a US penal justice delegation to the PRC in 1987, Allen (1987, 1992) made a number of important observations regarding the resettlement of ex-offenders with implications for the West of which I note six here that strike me as relevant to my project.

Firstly, Allen (1987: 80) was impressed by the way in which the prison is not merely seen as an instrument to dispense pain, but an authentic mechanism with which to help offenders rehabilitate "and it is a concept that is embedded deep in the present Chinese system." Secondly, inmates are expected to take part in each other's rehabilitation and, as happened during mass line meetings in the Mao period, offenders are put on the stage and subjected to constructive criticism by their peers (Allen 1987: 84). Allen (1992: 85) reports that those inmates who qualify to do so are encouraged to join the staff "upon the completion of their sentence". What a great and innovative idea to inspire and motivate youngsters to fundamentally reform themselves. Strong emphasis is placed on reform through peer pressure and, reflecting on the three institutions he visited, the author concludes, "There is considerable evidence that reform through labor is humane, ideologically implemented, and effective" (Allen 1987: 108; but see Wu [1992] for a view to the contrary). In fact, Allen makes an unassailable case for a revival of the idea voiced by Cressey (1965), in lamenting the rise of the professionals in rehabilitation in the US, that

ex-offenders who meet the required criteria should be engaged in rehabilitating their former peers. Buckley's (1972: 24-30) study confirms Cressey's findings in his assessment that offenders often resent efforts at correction by those they consider "part of the system". I may add that this would arguably be the case especially so in a punitive regime considered discredited to some degree (such as is the case in many Western jurisdictions where prisoners are warehoused without any apparent regard for their well-being, an issue which I note above and to which I will return at the conclusion of this chapter). Support for this strategy is not slow in coming: Braithwaite (1989: 168) argues for peer review and the sanction of inmate groups in shaming offenders back into the group as a great deal more effective than judgment from a centralized body (since it maintains the social bonds which inhibit deviance). Dutton & Xu (1998: 307) argue revealingly that this "[integrative rehabilitative] program rests on the idea of *ganhua* [face] which necessitates a cadre-model to emulate." I will return below to this issue of *ganhua* [face] which is fundamental to communitarian society but also has a sharp side to it and is precisely the reason for the Chinese impatience with re-offending. I suggest that this is also the reason for model ex-offenders being invited to join the staff as it emphasizes the integrative force of 'face' in the PRC.

Thirdly, upon admission to a correctional facility, new inmates are given every opportunity to "examine and criticize themselves" and gain an understanding of "why they commit crimes" (Allen 1987: 81). No expense is spared in encouraging both members of the offender's family to visit him or her "to help bring about change" as well as model former inmates to visit prison and share their experiences. In Gaungzhou Reformatory, catering for offenders between the ages of 14-18, the youngsters are educated and taught work skills and good habits (Allen 1987: 108). The facility has many blackboards covered with positive slogans. At Tuan Hur Labour Reform Camp, reserved for offenders aged 14-20, offenders are encouraged to reform through criticism but ill-treatment of offenders or corporal punishment is not permitted. Pu Yi (1965/1989: 354-356) notes how all prisoners were encouraged to write lengthy, deeply reflective autobiographies in an attempt to assuage how and where they went wrong. On a personal note, I can testify (as I did earlier) to the rehabilitative and remedial effects of a writing cure, which the researching and writing of this dissertation certainly has been. This is perhaps the appropriate junction to commend the South African Department of Correctional Services for their great initiative to encourage and facilitate prisoners to take part in performing the stories of their lives, notably at the world-renowned Grahamstown Arts Festival (Boshomane 2016). Although these shows are marketed as 'cautionary tales', I can also see great therapeutic value, in the same way in which autobiographical writing is a cure, in such performances for the participants themselves.

Fourthly, unlike the Western emphasis on individual responsibility (which idea, incidentally, gave rise to the prison as an institution) (Haney 2005), the Marxist stress on the environment as criminogenic is taken very seriously. Most Westerners are astonished to learn that the PRC declared herself "socialist" in 1956 and free of all crime since socialism is meant to have eradicated the conditions that stimulate crime (Dutton & Xu 1998: 314-315). Allen (1992: 82-83) formulates this idea in the following words:

> Responsibility for deviant behavior is usually attributed to the external environment [...] These negative influences may not necessarily reflect on the reality of the environment, but on the individual's perception of these realities. Consequently, the entire rehabilitation process is based on the task of re-educating the offender [...] to respond to the environment within a socialist orientation.

This is a fundamental shift in focus (from individual to the external environment) and I will return to this important, even crucial, consideration when concluding this chapter. Curiously, the Chinese seem to have inadvertently empirically verified Haney's argument, discussed in Chapter Three and referred to above, that modern psychology has demonstrated convincingly that the idea of individual responsibility for crime, independent of considerations of structural complicity beyond the offender's reach, is redundant in view of what we now know of criminogenic environments. Fifthly, Allen's team observed a sincere effort on the part of prison officials to assist inmates in coming to terms with themselves and they were impressed with the climate of caring, commitment and investment in the lives of the various inmates (Allen 1987: 86; Dutton & Xu 1998: 299-302). This sentiment is echoed in Pu Yi's published memoirs. Pu Yi is perhaps Mao's most famous prisoner and the Chinese are fond of referring to him as an example of the unbridled success of their system of rehabilitation. Pu Yi's (1965/1989: 348-350) recollections of how supportive and warm the prison officials were towards him during his ten years of incarceration touched me but also left me a little doubtful. It is very encouraging then to note supporting evidence for this proposition from Western sources with no apparent investment in distorting the evidence. This is a far cry from the drive to warehousing and selective incapacitation (and the concomitant relinquishing of rehabilitation) so prevalent in Western jurisdictions. I will return to this consideration in the next chapter. I am convinced that the general absence of compassion towards marginalized groups (including the pervasive indifference to the fate of ex-offenders) in the West, is an important ingredient of the problem concerning our inability to stem the tide of recidivism (assuming that we are serious about this task since I have expressed doubts about this commitment in the previous chapter).

Finally, Allen (1992: 85) has no difficulty in accepting the Chinese claim that "[o]nce the rehabilitation process is completed, the offender is forgiven and he [or she] receives a full pardon." To illustrate, Allen (1987: 104-105) ascribes six functions to the police based on

his observation of a police station in Shanghai. These are education, supervision of volunteers, general assistance in times of crisis management, registration, investigation and crime prevention. Under the last heading, Allen affixes the following significant remark: "The police are actively involved, together with the families involved, in educating the criminal element. It is not uncommon for the police to help ex-offenders find employment." (Gary Koekemoer suggested during one of my two seminars on Chapter Four that in South Africa it is the criminals who find the cops jobs!) His empirical work at Beijing Municipal Prison, one of three prisons he studied in the PRC, led to the following observations: although the walls are fortified with five electrified wires, the inmates seems to have considerable freedom of movement and are fully employed. Offenders are encouraged to learn marketable skills and those that do, according to the author, have no problem in finding employment when they return to the open society (Allen 1992: 84-85; Dutton & Xu 1998: 303-304). The latter source indicates that industry was, certainly during the Mao era, compelled to employ a certain quota of ex-offenders. This idea could work in a Western context if coupled with attractive tax incentives. But, unlike the situation in the West, for the Chinese, as I attempt to demonstrate below, crime prevention does not begin when the offender enters the criminal justice system. It starts almost literally at birth. For the Chinese prevention is the very essence of crime control.

As far as the goal of crime-prevention (in the sense of pre-empting recidivism among former offenders) itself is concerned, the study by Zhang and his group of researchers (1996), is instructive. Zhang *et al.* examined two specific forms of community crime prevention organizational mechanisms in the PRC and also made an attempt to evaluate their respective impact on perceived crime and recidivism. The two mechanisms considered are *bang-jiao* and *tiao-jie*. The former is a "means of assisting and guiding those who have misbehaved [ex-offenders]" and actively contribute to their constructive resettlement with warmth, love and acceptance (Zhang *et al.* 1996: 200, 208-209; Research Group 1985). The latter is "a mechanism for mediating disputes among members of the community" (Zhang *et al.* 1996: 200). It might appear at first glance that these two community crime prevention forums have disparate functions. I argue below that their efforts work hand in hand to prevent crime at different but commensurably developmental levels. This is the reason I discuss both these informal mechanisms of social control together, since they reinforce each other and productively feed into one another. In essence, as Zhang *et al.* (1996: 201) point out, Western community-based crime prevention strategies focus on the victim and attempt to justify their perspective by enhancing awareness and eliminating avenues for opportunistic crimes, whereas the Chinese perspective (as it has evolved in the PRC, at any rate) focuses on the offender or potential offender. Indeed, Troyer and Rojek (1989: 3) insist that unlike the Western tendency to assume that either formal or informal control predominates, the Chinese networking "weaves together a unique combination of formal and informal methods, with a strong

emphasis on the latter." Clark (1989: 59) notes that "Local or people's justice is officially recognized as necessary and legitimate." This ties in well with Frieda Adler's argument that the involvement of members of the community make for social solidarity, noted above.

At grass-roots level, neighbourhood committees are empowered to assist in the government's comprehensive crime prevention strategy, referred to above, reformulated under Deng, in the form of *bang-jiao* and *tiao-jie*.

Bang-jiao is specifically aimed at rehabilitating ex-offenders; either those released from penal institutions (prisons, reformatories or labour camps) or juveniles under administrative sanction, welcoming them back and providing them with the tools and know-how for sustainable resettlement (Mok 1990: 12). Neighbourhood *bang-jiao* committees are very popular in China and I will concentrate on those. These usually consist of the offender's parents, an officer of the local police station, a member of the neighborhood committee, a representative of the offender's former work place and the head of the offender's former school where he or she was once a student (Zhang *et al.* 1996: 208).

Three principles "guide" the implementation of *bang-jiao*. (a) The offender is afforded an equal status with the other participants as it is believed that treating the offender as an inferior is unlikely to advance the goals of rehabilitation and could prompt the offender to "reject the help and guidance" (Zhang *et al.* 1996: 209). (b) Every effort must be made to assist former offenders to obtain employment, realize schooling opportunities and, possibly, marriage, as these efforts are considered key to the ex-offender's reintegration. (c) Ex-offenders are provided with love, acceptance and "heart-to-heart, persuasion" (Research Group 1985) so as to facilitate their complete reintegration into the community and assure them of their acceptance by the group. Only this solid "gesture of reacceptance" (Braithwaite 1989: 55) by the community will motivate ex-offenders to show "genuine repentance" (Zhang *et al.* 1996: 209). I note here Braithwaite's (1989: 152) strong preference for "warm but firm" instead of the Western option of "cold and punitive."

Tiao-jie, as I note above, is a mechanism of dealing with disputes between neighbours and family members through mediation, to forestall the incidence of crime. As Kennedy (1990: 125) notes, unresolved tension eventually leads to full-blown crime. *Tiao-jie* committees serve precisely this purpose of prevention. These forums operate under the umbrella of the relevant authorities and their members are elected by the constituencies that they are meant to serve. These members might receive some training in mediation skills and are generally unpaid and drawn from the ranks of "reputable older citizens" (Zhang *et al.* 1996: 209). All civil disputes and minor criminal offences which are not deemed serious enough for referral to the courts fall under their jurisdiction. According to a report in the *China Daily* of 1993 (quoted in Zhang *et al.* 1996:210 [original text not available to me]), there

were at least one million *tiao-jie* committees throughout the PRC at that point in time and had collectively successfully resolved at least 52 million disputes between 1986 and 1992.

Zhang and his group of researchers (1996: 210-211) point out that the communitarian nature of Chinese society, referred to above, is conducive to the favourable functioning of dispute-resolving mechanisms such as *bang-jiao* and *tiao-jie* (which is no doubt true). I ponder here that both *bang-jiao* resettlement initiatives and *tiao-jie* mediation are notions ripe for the picking and transplanting to South African soil where so-called kangaroo-courts, which are headed up by empowered members of the community, are making a comeback in our townships. In an effort to verify the laudatory claims made by the government for its success, the authors (Zhang *et al.* 1996: 212-215) conducted field work in conjunction with the Tianjin Academy of Social Sciences during the autumn of 1991 among the inmates of prison camps and prisons in and around the city of Tianjin. The objective of this study, which was conducted with the help of questionnaires completed by a trained member of the academy, was to gauge the perceptions among inmates of the effectiveness of *bang-jiao* and *tiao-jie* committees in their respective communities.

The researchers framed two general questions that they sought to answer through the results of the questionnaire. Only the second of these questions concerns me here, namely "is there an empirical relationship between the perceived presence [sic] and functioning of the community crime prevention organizations and the likelihood that an inmate will be a repeat offender?" (1996: 213). Said in another way, the intention would be to tease out the relationship, if any, between the perceived presence of *bang-jiao* neighbourhood committees and the perceived perception of recidivism under their jurisdiction. As the authors put this issue,

> An indicator of repeat offending is particularly relevant to assessing *bang-jaio*. One of the intended functions of *bang-jaio is to reintegrate offenders into the community and to prevent the development of criminal careers.* (My emphasis)

Indeed, as Zhang and his team of researchers argue, a significant drop in recidivism rates in communities where *bang-jaio* committees make their presence felt will provide significant evidence for the proposition that the resettlement of ex-offenders in the PRC is a social reality worthy of academic register. Despite some reservations on the possible bias inherent in their quantitative findings – the researchers only dealt with serious offenders "in the absence of random sampling" [1996: 214-215] with offenders guilty of minor transgressions being dealt with through administrative sanction, as I note above – they were nonetheless able to reach the following significant conclusion:

> Inmates who report living in communities with this community crime prevention organization are significantly less likely to be repeat offenders than those who live in communities without such an organization. The odds of being a repeat offender

for those with a *bang-jaio* in their neighborhood are approximately half of those for inmates without a *bang-jaio* […] In contrast, the perceived operation of the *tiao-jie* has no appreciable relationship with the probability of being a repeat offender. The difference between the relationship of *bang-jaio* and that of *tiao-jie* is theoretically interpretable because the former strategy is designed explicitly to reintegrate offenders into the community and to forestall the development of criminal careers [while the latter is designed to eliminate tension that might translate into crime in the first place, CL] (Zhang *et al.* 1996: 217).

I pause to reflect here on the fact that in contrast to the feeble attempts at resettlement in the West, in the PRC, including traditional Chinese society, a third general crime prevention strategy has taken root in the form of internalization and acceptance and understanding of social rules (Allen 1992: 80-81). The idea of micro-management of the body, which includes "internalization" of discipline by the subject, is also true of the West (Foucault 1975/1991). This same idea caused the prison to supersede public spectacle in becoming the dominant form of punishment in the West. 'Internalization' is arguably especially true of communitarian societies such as China and Japan where group interests take precedence over that of the individual and where the individual gains her identity from her group affiliation. Allen (1992: 85), as I note in Chapter One, advocates a cross-cultural perspective "with the view of learning from the Chinese what characteristics of their corrections program would be transferable to the West." This also allows us an opportunity to re-evaluate and reconsider our own system with new eyes.

It is with a similar vision to Allen's that I approach my project of attempting to discover what (in terms of their integrative rather than stigmatizing shaming practices) could sensibly be transferred to post-apartheid South Africa – a country which presumably still possesses communitarian features such as that ensconced in the Africanist concept of Ubuntu.

4) Intermediate reflections

It is indeed refreshing, then, to observe, as I note above, the lengths to which both corrections and society at large in the PRC go to capitalize on their considerable investment in rehabilitation. But the remoulding/(re)integrative shaming of criminals (both during incarceration and after release) are not the only ways in which the Chinese deal with recidivism. As Allen (1992: 85-86) points out, although the PRC is very serious about rehabilitation, they have very little patience with re-offending. Evidence of this is the fact that the Chinese will not hesitate to execute criminals (convicted of crimes ranging from murder to rape to petty theft) if in their opinion these individuals have shown themselves to be habitual criminals. In the words of Allen (1992: 86), "So, while in the West, the criminal justice system may lack the rehabilitation initiative, the Chinese initiative will go

only so far. If their efforts bear no fruits, they may terminate further efforts". This illuminates, at least partially, their almost negligible rates of recidivism. Dutton & Xu (1998: 322) explains this phenomenon with reference to the concept of *ganhua* [face], noted above in the context of the exemplary cadre:

> [The Chinese idea of f]ace is something which is given through reciprocity and something one seeks revenge for if it is not given. Face makes the Chinese integrative strategy of *ganhua* possible, but face will also demand its revenge should this method falter. This is [so] because what is at stake with reintegrative *ganhua* is not just the criminal's face, but also the face of the cadre, the police and the Party.

Allen's conclusion and Dutton & Xu's exploration of the vital role of *ganhua* [face] in Chinese rehabilitative efforts are also borne out by studies in other communitarian Far Eastern societies. Elmar Johnson's (1998: 358) study of criminal justice in Japan suggests that the Japanese have little tolerance for repeat offending and furthermore Japanese police have (at definitive intervals, at least) no qualms in torturing for the purposes of eliciting a confession. Johnson bases his argument on both the conclusions reached by the Joint Investigative Task Force put together by three Tokyo Bar Councils (McCormack 1986) and the observation by Miyazawa (1992: 158) that Japanese detectives insist "procuring confessions is primary in investigations and that other investigative activities must follow this." (Both these sources are quoted in E. H. Johnson, 1998: 350). Confessions are also encouraged in Japan by the fact that first time offenders know they will receive leniency for co-operating. The same general idea is true of criminal justice in the PRC, as Allen (1992: 82) shows. Suspected criminals have "much to lose if they insist they are innocent" when the evidence does not support their version and, as is the case with the Japanese, rehabilitation becomes feasible only with a "complete confession and admission of guilt." As for the presence of stigma in communitarian shaming practices, it is heart-warming indeed to learn that Chinese officials reported to Allen (1992: 85), that although isolated incidents of discrimination against ex-offenders are known, the feedback was "overwhelmingly positive." Unlike the situation in the West, Allen (*op. cit.*) argues that Chinese society does not victimize ex-offenders and does not sanction official stigma after incarceration. His understanding of the position in the PRC is that all rights and privileges are restored to them upon their release. I do, however, also note above that the natural /usual course of stigma in the PRC is once again in the process of changing for the worse (perhaps as an inevitable result of the return of the repressed, as Žižek, following Freud, observes.) I close my intermediary reflections with two observations.

Firstly, the Chinese emphasis on structural explanations for crime (over the West's preference for individual responsibility) is given added impetus by two considerations. On the one hand, Gavin Bradshaw's (2016) insistence that in his experience as a facilitator of conflict resolution and management, agreements that are perceived to be fair are more

likely to succeed than the alternative. My point is that crime may very well be resistance against unacceptable social [stigma] and economic arrangements [rising unemployment rates and a vastly disparate income curve in the newly created democracy of South Africa] in capitalist societies generally. This thinking is well encapsulated in these lines taken from feminist Marge Piercy's (1982) poem 'In The Men's Room(s)': "Economy is the bone, politics is the flesh. Watch who they beat, watch who they eat, watch who they relieve themselves on, Watch who they own. The rest is decoration."

On the other hand, the argument of Robert Weiss (1998: 429) that research has established beyond doubt that "unemployment, not crime rates, has the most consistent relationship to incarceration in capitalist countries" while the most glaring relationship is that of low incarceration rates to equality – as demonstrated in Japan and the Netherlands (and Poland before 1990). Paul Verhaeghe (2014), for one, as I note In Chapter Two, Part One, has shown that inequality is the greatest source of a variety of social ills, including mental illness. As South Africans we should take careful note of the latter statement as our country has both unsustainable rates of unemployment (40%?; Janet Cherry [2016: 7-8] suggests 50%) and is at present, as I argue in Chapter Three, considered to be the most unequal society on the globe. In the inimitable words of Janet Cherry (2016 *op. cit.*),

> Kwazakhele is not the worst place in the world to live: it has good infrastructure, health care, access to food, education etc. But half the adults are unemployed; they are an urban proletariat without wage labour, and with no other means of livelihood. Among these unemployed are the Amabutho introduced at the beginning of this lecture – those who gave up their youth and education for liberation, but who thirty years later, are still destitute.

Indeed: what a crying shame. These heroes of liberation have been left redundant, ready for warehousing and the mopping up into a fairly recent neo-liberal venture: the prison-industrial-complex, as I argue in Chapter Three, and once they have been released from prison, they are ripe for social death and official exclusion from the formal economy.

Secondly, as I note above, Lacan's notion that displacement rather than the actual content of the message is of greater moment, is also of import for my project. Significantly, penal scholars in the PRC (cited in Dutton & Xu 1998: 300) describe their government's program of 'thought reform' as a process of displacement: from a mindset of exploitative conduct, criminals are led to an understanding and appreciation of socialist morality, despite the structural inequity that still surrounds them. The Chinese communists have learned well from Marx in this regard, as I note above. Marx (1852) observed that "Men make their own history, but they do not make it as they please; they do not make it under self-selected circumstances, but under circumstances existing already, given and transmitted from the past." Both the Marxist insistence on structural causes of crime and the Lacanian idea of

dislocation rather than content (so powerfully illustrated in the Chinese context) are relevant to make the very notion of cross-cultural borrowing even plausible.

Concluding remarks

I have attempted to demonstrate in this Chapter that the Chinese have been able to marry crime prevention and rehabilitation in an impressive manner (thereby forestalling recidivism through a number of effective mechanisms). They were able to do so by using the ideas of imprisonment and punishment as tools for rehabilitation whereas in the country of its birth, namely the West, the idea of rehabilitation has been unapologetically abandoned. In recent years the idea that the prison in the West has become obsolete since it is based on a model of individual culpability which has since been convincingly discredited by our modern understanding of psychology, that crime is almost exclusively a result of external forces largely outside the control of the individual, has been gaining ground. In the previous Chapter, I attempt to show that this notion, as advocated by the likes of Angela Davis (2003) and Craig Haney (2005: 80-81), is justified on a number of levels. Chief among these is the fact that the prison convincingly failed the test of an ideology critique, i.e. it is unable to rise to the expectations which it set out to achieve (namely combat crime and rehabilitate offenders in a sustainable fashion). It is curious that the Marxist critique of the role of the criminal justice system in capitalist societies (as developed by such scholars as Jeffrey Reiman and Richard Quinney, reviewed in the previous chapter) is confirmed by the contemporaneous experience of a socialist society such as the PRC. I have referred above to the Marxist view of deviance as it is understood in the PRC (namely that crime is not located in the individual but in structural sources in the environment) and it is striking that this insight is confirmed by Western psychology on the cusp of the twenty-first century. Verhaeghe (2014), Gerhardt (2010), Braithwaite (1995) and Salecl (2010) are cases in point. Actually, one of the recommendations which Allen (1992: 187) proposes, apart from his great idea that ex-offenders should be incorporated in our efforts to combat crime, is that we in the West should "try to bring out in the open why our criminals have become criminals." I contend that in view of a Marxist reading of crime in capitalist society, the neoliberal gospel that South Africa's new democratic leadership has whole-heartedly embraced since 1996 and the devastating ideology critique to which I have subjected the prison-industrial-complex (which includes its grip on the new democratic society of post-apartheid South Africa), render this observation of Allen's particularly relevant. These three topics were the veins around which I built Chapter Three and I flag them here to show their inter-connected relevance. Just as Einstein, cited above, was unable to fathom a unified field theory because of his presumed 'blind-spot' in dismissing the indispensable role of quantum theory in physics as a whole, we in the West are also doomed not to see the forest for the trees because of our own parallel inability to appreciate the indispensable ingredient of redemption in our quest to rein in unsustainable

levels of crime and recidivism. For unless we do so we are, to paraphrase Žižek, earmarked by the ghosts of our lost cause (the abandonment of the rehabilitation ideal in the West) to be spooked without end (unsustainable levels of recidivism, as I noted above).

But there is more to this observation than unsettling levels of recidivism and unsustainable crime rates.

At the outset of this chapter I noted Hannah Arendt's thought-provoking argument that (purposeless) warehousing of prisoners dehumanizes them as human beings (as is now a widespread practice in prisons through-out the Western world) and is therefore a crime against humanity. She formulates her insight in the context of the state having made people superfluous during the commission of Nazi atrocities. The lack of reflection on penal policy leads to an abandonment of the intensely human activity of thinking (Heidegger). No doubt it is, at least in part, responsible for the slavish embracing of the insidiousness that Habermas calls 'technocracy' (namely, the standardized mode of (non-)thinking and doing of which an observable end result is called for to justify the exercise at all). I pause to observe that the warehousing of offenders in the West is one such result of technocracy, in the sense that it is done un-reflectively and almost mechanically (which underlines again their dehumanizing, as Arendt has argued in a slightly different context). If dehumanizing human beings by rendering them superfluous is the final stage in the evolution of totalitarianism (as Arendt argues), then I suggest that the growing trend of repressiveness in penal policy and practice globally, noted above, is a good indication that this is where we heading. For all Harry Hongdu Wu's ingenuity in drumming up evidence of so-called slave labour in the 'Chinese Gulag', he neglects to do a comparative analysis of global trends in penal practice and policy. This is something to which I allude briefly, above and which might have placed a different perspective on his (valuable, no doubt) contribution to the debate on penal practice in the contemporary PRC. This is also my task in the next chapter, namely to attempt transplanting, as I indicate in Chapter Two, some of these magnificent penal innovations by the Chinese, the features of which I outlined in this chapter, onto South African soil by utilizing the tools enumerated above.

CHAPTER FIVE: Part One

Transplantation to Own Soil: Analysis

In this chapter I aim to transplant the data collected on the Chinese experience in Chapter Four to own soil (which is post-apartheid South Africa at the tail-end of Jacob Zuma's government.) In doing so, I will employ the tools which I developed in Chapter Two to make sense of an exercise that is essentially one of managing cross-cultural borrowing. I intend relying mostly on the receptor approach and the contributions of Lacan and Derrida to the theory of complexity so as to tilt the odds in favour of a positive transplantation rather than one that will result in nullity.

In view of my objective, which is displacing the signifier (the rehabilitative and integrative memeplex identified in Chapter Four) from the PRC to South Africa, the significance of Derrida and Lacan's work for my project needs to be kept firmly in mind. The 'memeplex' referred to is the mass of data on rehabilitation collected from the Chinese context. Poststructuralist complexity theory presents two important issues for me. Firstly, Derrida's idea that "destruction of a context as a protocol for a code" implies both destruction and de-construction, as I explained in Chapter Two. This means, paradoxically, that the signifier will remain the same *and* change in the new context onto which it has been grafted. Secondly, Lacan's insistence (also noted in Chapter Two) on its consistent significance along the signifying chain in the course of re-attaching the signifier onto a new context, means that the signifier must be reconsidered in all its complexity/totality. I shall attempt to do justice to the complexity of all the ideas presented in this chapter.

The caring society and Ubuntu

Transplanting features of an integrative shaming society onto another society exhibiting those same features, is far more likely to lead to a successful grafting than to attempt the same exercise with a stigmatizing shaming culture (such as the case with post-apartheid South Africa, the UK or the United States.) In Gerhardtian terms (explored in Chapter Two, Part One), the latter society correlates closely with her understanding of a selfish society, propounding the ideals of neoliberal capitalist development, as opposed to a nurturing, caring society. The latter trajectory encapsulates development in another sense of the word, namely to assist people to lead more satisfying, meaningful lives. The link between integration and rehabilitation lies in nurturing and caring. The common features (or non-features) of stigmatizing shaming cultures are selfishness motored by a neoliberal rush for 'more' and an absence of nurturing and caring. That said, there is a certain allure to transplanting features of a Far Eastern Asian culture to African soil. Although Ubuntu is an African concept, in South Africa it has acquired a "*spiritualised* understanding of forgiveness and reconciliation" (Praeg 2014: 24, emphasis in the original). Tapping the

potential of this notion of Ubuntu is precious for questioning the unexamined stigma and marginalization of ex-offenders as a group, for transforming such stigma and marginalization into acceptance and forgiveness. The societal management of shame in stigmatizing shaming cultures results in stigma rather than integration. In Chapters One and Two, Part One I justified why this study is transformative rather than exploratory. It is precisely because stigma serves a 'valuable' purpose (the creation of a vulnerable sub-culture removed from competition for scarce economic rewards from the rest of society), that the ideal of rehabilitation plays second fiddle to those of management and incapacitation (as I observed in the previous chapter). My argument is precisely to problematize stigma in the natural order of things (to paraphrase Foucault) and to this end I challenge internalized stigma/ inferiority by retooling five skills to assist (ex-)offenders in developing their human potential and social capital. A society's inability to integrate ex-offenders must necessarily translate into the allocation of huge sums of money to building new and renovating older prisons since re-offending is almost synonymous with stigma (which is the antinomy of sustainable integration). I argue that integration and stigma are two incompatible principles. It should come as no surprise that the prison-industrial-complex (a term I explain in Chapter Three) is the driving force behind the imprisonment binge in stigmatizing shaming cultures and that stigma feeds very conveniently into this narrative dynamic. The re-inscription of a signifier (integration/ nurturing/ rehabilitation), sourced from an integrative shaming culture, onto a stigmatizing shaming culture demands tools to develop home-grown remedies to fill the inevitable gaps that remain in the new context. My research question emphasizes the central role of stigma in hindering the much-needed integration of ex-offenders.

My research question

I briefly recap my research question, explored in Chapter One, before going on to outline the structure of this chapter. My research problem is how to integrate ex-offenders successfully into the stigmatizing shaming culture evinced in post-apartheid South Africa, utilizing the ideas canvassed from an integrative shaming culture such as contemporary China (the Peoples' Republic of China). The latter culture, unlike the former, is able to resettle ex-offenders sustainably, essentially because of the effectual absence of official stigma while its presence in the former would appear to be a major stumbling block to resettlement as well as a driver for high rates of recidivism. By way of example, stigma of ex-offenders creates a vulnerable subculture prone to exploitation as cheap labour, and their effective exclusion from mainstream society/ the official economy, characterized by intense competition for scarce and or valuable resources.

 Serious efforts as well as the political will to invest in genuine rehabilitation, is key to selling the idea of an integrative shaming practice to an unresponsive public. Essentially, this latter objective is more likely to succeed if stigma could be addressed, and I will

suggest a strategy to do this. In a recent interview with Clare Ballard (2017: p19), who manages the penal reform programme at Lawyers for Human Rights in Johannesburg, she points out that "Prison issues have fallen off the radar. They're being interrogated less and less." This 'falling off the radar' feeds into the narrative of stigmatization and marginalization of ex-offenders upon their release from incarceration. Government and the public at large need to be convinced that dismantling stigma will not hurt their security and that it would in fact feed into the notion of a safer and more caring society. For the Chinese, however, prevention is of greater moment than picking up the pieces after the fact (as is generally the case in South African criminal justice). Bearing these considerations in mind, I propose to divide this chapter into four sections.

Chapter divided into four phases

Firstly, I will propose a policy design for enhanced rehabilitation and stigma eradication, two strategies which I argue feed into one another. Secondly, I recommend a crime prevention strategy through early childhood intervention and educational initiatives. Thirdly, I suggest incentives to enhance rehabilitation efforts during incarceration. Fourthly, I propose a range of measures to continue the rehabilitation project after release by principally ensuring effective resettlement. Interweaved throughout these four stages is the need to enhance the ability of offenders and ex-offenders to survive, and if possible even to flourish, in a stigmatizing shaming culture, while efforts are afoot to change society. Bridging the gap between an integrative shaming culture and a stigmatizing shaming culture by empowering both ex-offenders and offenders to enhance their emotional wellbeing and care for the self, while we attempt to grow features of the former onto the latter, is key. These changes or features are the grafting of a considered selection of the data collected from the Chinese context in Chapter Four onto the South African context.

In coding my data according to the four phases or themes outlined above, it became obvious to me – as early as during the actual coding process – that many items overlapped. Although the coding attempted to make sense of the data by dividing them into four distinct themes, this often amounted to an artificial division and I have made an effort to develop items across thematic boundaries where this was called for. Andrea Hurst (2004: 39-40) has made an analogous observation with regard to the inability of a single methodology to adequately enable a researcher to grasp a particular subject matter.

The themes that emerged from the aforementioned coding were developed on a further level. Since the transplantation of ideas from an integrative shaming culture to a stigmatizing shaming culture left many insurmountable gaps in the home culture, I have developed many home-grown remedies to assist the cohesion process.

Neoliberal global policy regime

In Chapter Three I identified the fading of the rehabilitation ideal in favour of warehousing and managerialism in Western jurisdictions (including South Africa) as the main culprit in the failed rehousing of ex-offenders. This is compounded by a number of identified vested interests, which tend to entrench and favour the prison-industrial-complex over other (even peculiarly African) sentencing options. In the first section of this chapter, I will make a number of preliminary observations as to how this problematic feature in corrections policy might be addressed.

The problem however, is multifaceted in view of the fact that states situated in the global south (although increasingly a feature on a global scale) are unable to retain autonomy over national policy because of the reach of neoliberal capital (Leys 2008b & 2008c). This implicates the neoliberal policy regime, by which I mean the revival of the nineteenth century economic *laissez-faire* liberal ideal since the 1980s, which manifests in market fundamentalism on a global scale. Its emphasis is on a minimal role of both state intervention in the markets and state spending in general, so as to allow for privatization of state owned enterprises and the out-sourcing of services traditionally offered by the state (Vincent 2010: 337; Goldstein 2011: 30; Leys 2008a: 27-28).

1) Preliminary Reflections on Policy Formulation

Leys (2008b: 99) argues that autonomous national policy is almost a relic of the past and the task of domestic politics in the 21st century is a continuous effort to convince the electorate by "every available means" to support policies introduced to satisfy the demands of global market forces. As Colin Crouch (2004: 4) observes in his characterization of politics which he tellingly calls 'post-democracy', "Behind this spectacle of the electoral game, politics is really shaped in private by interaction between elected governments and elites that overwhelmingly represent business interests." From the late 1980s onwards, the demarcation between private and public interests has all but dissolved (Leys 2008c: 118). With the restructuring of the civil service around a corporate agenda, public policy-making itself had become "out-sourced" (Leys 2008c: 129).

As Leys demonstrates, the very idea that the public sphere is a different concept divorced from the objective of private profiteering altogether, has been lost. The public sphere has a unique range of socio-cultural indicators that do not respond well to economic audits. Curiously, as Susan Strange (2004: 220; and see Hardt & Negri 2001) points out, the only area where government has increasingly and paradoxically intervened, is in the private affairs of their citizens. Perhaps this development is not so surprising after all if one considers the nation state's impotence, that is, lack of power, over the market.

What I have in mind is policy formulation regarding possible steps to be taken to emoloriate stigma in the lives of ex-offenders. My hope is that such policies will also enhance efforts to bolster the rehabilitation initiative.

As to the structure of this section on policy formulation for corrections in South Africa, I intend to frame it along the lines of policy formulation suggested by Andrew Jordan and John Turnpenny (2015). These will be further fine-tuned using the recommendations of Sachin Warghade (2015) for developing countries (such as South Africa) in the grip of patronage. Without such fine-tuning my attempts at formulating suggestions for policy improvements will fall on arid or barren soil. In the next chapter, Chapter Six, devoted to Conclusion and Recommendations, I will explore the implications of my preliminary reflections for possible future policy formulation in this area.

Jenkins-Smith (quoted with approval in Jordan & Turnpenny, 2015: 19) defines a policy formulation tool as "a technique, scheme, device or operation [...] which can be used to collect, condense and make sense of different kinds of policy relevant knowledge to perform some or all of the various inter-linked tasks of policy formulation." Before considering the five policy formulation tasks proposed by Jordan & Turnpenny (*op. cit.*), it is worth pointing out that my purpose in this chapter has the exact objective outlined by Jenkins-Smith in his definition just cited, namely to make sense of the 'policy relevant' data collected from Chinese soil in the previous chapter.

Jordan & Turnpenny note the following five policy formulation tasks to which policy formulation tools are directed. These are problem characterization, problem evaluation, specification of objectives, policy option assessments and policy design. In noting my research question above, I propose that I have dealt with the first two tools specified by Jordan & Turnpenny. My objective is essentially the revival of the rehabilitation ideal in South African corrections within the context of my overall aim which is the reintegration of ex-offenders into a stigmatizing shaming culture (even though this would appear to be a contradiction in terms). There is no real need for a 'policy options assessment' as the ideas I transplant from the PRC are a transfer under Dawkins' notion of a memeplex, i.e. a group of ideas or social practices which logically co-habit. Dawkins' favoured example of such a memeplex or meme-complex is religion. By the same token, the ideas on rehabilitation and resettlement which I have collected and intend transplanting to own soil, all form part of a coherent mass of detail on rehabilitation and the reintegration of ex-offenders.

Good practice(s) on corrections

Finally, my policy design will encompass supplementing and reinforcing existing good practice(s) on corrections in South Africa – notably DCS's encouragement of performing auto-ethnography, mentioned below – and I take into account factors which are likely to

inhibit its effectiveness in a developing economy such as South Africa. Two such factors are vested interests, noted above, and potential political/neoliberal capital intervention for reasons other than the common good or rationality.

Despite the reality of South Africa having emerged as an oligarchy under the Zuma government (R. W. Johnson 2015), which is a common feature of developing countries, evidence-based policy design and carefully articulated argumentation to support and justify the suggested policy directions, remain in demand. This is the case especially in times of budget cuts and the need for (apparent) transparency. Note its relevance for South Africa where civil society is increasingly challenging government policy in our courts. Examples which readily come to mind, as is generally known, are the 'nuclear deal' which was declared null and void, the SASSA debacle with social security pay-outs, riddled with allegations of corruption, and Zuma's firing of South Africa's beloved finance minister, Pravin Gordhan, and his deputy, on the basis of a spurious intelligence report. I am also cognizant of Janet Cherry's remark (highlighted in the previous chapter) that change is more likely to come from the periphery than from the centre. By way of illustration, I quote Lukas Muntingh below, who indicates that in many parts of Africa (including South Africa) communities are involved in crime prevention and conflict management.

Equality Act

An important way in which government should intervene to delegitimize stigma and empower ex-offenders, is to amend the Promotion of Equality and Prevention of Unfair Discrimination Act No. 4 of 2000, which prohibits hate speech and discrimination on a basis that undermines human dignity or perpetuates a system of disadvantage, to specifically or explicitly include reference to discrimination, bias or stigmatization of ex-offenders. I note this argument in Chapter One in my review of the literature and Geiger (2006) has made the same argument in respect of ex-offenders as a vulnerable 'suspect class' for the United States. Ex-offenders in South Africa would then be entitled to approach the Equality Court with a complaint based on work discrimination or social marginalization. Nothing is likely to be as effective in reversing stigma and marginalization against ex-offenders as hurting 'normals' where it pains most, in their pocket. Financial compensation of this nature would go a long way to empowering ex-offenders both individually and as a group. It is also important that this legislative amendment (even though one could also argue that the case for ex-offenders could plausibly be read into the text) be tested in the courts to raise awareness of ex-offenders' rights and the enforcement thereof. I refer below to Fiona Cornish (2006) and Campbell *et al.'s* (2005) argument that encouraging equal rights is part of a three-pronged successful intervention strategy of bracketing or challenging stigma in marginalized communities and I propose that the Equality Act (as it is known in common parlance) is an effective basis for intervention to achieve this goal.

Although I agree with Cherry's argument that change is more likely to come from the periphery than from the centre (government intervention), I argue that both changes in the centre and on the periphery are needed to create meaningful change from a purely 'law and order' criminal justice mindset towards a rehabilitative paradigm in South African corrections. An imprisonment drive, as the US experience has demonstrated, is clearly unsustainable and the question is not really the binary vision of 'either/or'. Unless corrections in this country embraces the rehabilitation ideal, it would be forced to do so at some point in the future when the unsustainable incarceration drive comes tumbling down. This could happen when a tipping point is reached in terms of funding for new prisons or the maintenance of existing ones or when recidivism rates approach that of crime rates. My hope is that change can be stimulated from both ends of the spectrum, the periphery and the centre.

In attempting to revive the ideal of rehabilitation in South African correctional practice, I am mindful of the fact that the prison is likely to be around for some time. One reason for its resilience is the phenomenon of the prison-industrial-complex, a range of vested interests that ensures the prison's perpetuation, and a notion that I explore in Chapter Three. On the one hand, there would be no need to combat stigma of ex-offenders if there was no prison. On the other hand, as I observe in Chapter Four, 'prison' stigma was absent from the social and political reality of most South Africans during the struggle years. I argue that this was a consequence of a legal system that had fallen into disrepute, but it is not necessary for such drastic measures to combat the debilitating effects of stigma on ex-offenders.

Rehabilitation as a 'memeplex' transplanted to own soil

As such, the Chinese idea of interweaving incarceration with rehabilitation, has important implications for my transplantation. The same applies to their blending of informal social control with formal structures, a topic to which I will return in greater detail below. The PRC, as I attempted to demonstrate in Chapter Four, has made a considerable investment in rehabilitation and in this chapter and the next, I will show how this profound notion can be made to work for correctional practice in South Africa. Rehabilitation is the memeplex which is desperately needed in the South African penal context. The issue is not merely a question of resuscitating rehabilitation. My argument is that it goes much deeper than that. The bigger issue is that of a society that has lost confidence in the values of forgiveness, and caring more generally. I am of the view that 'caring' is the Derridean 'change', noted above, which needs to mould the transplanted signifier to successfully take root in its new context. Transplanted as it is from an integrative shaming culture, caring is the lacking ingredient in the new context, where shaming doubles as marginalizing stigma that aims to exclude by definition. Transplanting this memeplex of rehabilitation and integration onto South African soil by utilizing the nine tools I developed for this purpose in Chapter Two, Part

Two might provide researchers with a good case study to observe its transformation in a society – though still predominantly a stigmatizing shaming one – that lays unique claims to features of Ubuntu.

How features of Ubuntu can help

Although I have no doubt that Praeg (2014: Preface) is correct in his assessment that the Marikana massacre has irretrievably extinguished the ANC government's claim of having structured the post-apartheid society on the basis of a "common humanity," I remain optimistic regarding Ubuntu's emancipatory potential for marginalized communities (such as ex-offenders). At Marikana in September 2012, as is generally well known, 34 unarmed workers engaging in unprotected industrial action were shot down and killed by members of the South African Police Services sent to intimidate a group of striking platinum miners in North West province. Praeg (2014: 12) defines Ubuntu as a form of postcolonial critical humanism displaying "a more fundamental or primary concern […] with the relations of power that systematically exclude certain people from being considered human in the first instance." Ramose (1999: 44) contends that since Africans are a vanquished and harmed people, any philosophical engagement on African soil must start with this incontrovertible premise (Ubuntu). The "sense of belonging" must hence be understood within the context of a "conversation between equals who are not yet equal" (Praeg 2014: 13-14). In the final analysis, Ubuntu is a "political struggle for recognition." In his understanding of Ubuntu as an emancipatory praxis, Achille Mbembe (quoted in Praeg 2014: 21) suggests that post-colonial thought might be pursued as "an enquiry into the possibility of a politics of the future, of mutuality and of the common." Unpacking these profound ideas for the potential of the integration of ex-offenders implies nothing less than Ubuntu featuring as an emancipatory praxis fuelling the politics of recognition of ex-offenders. Andre Gunder Frank's argument (referred to below) on the politics of the "under-development of development" underlies the urgency of decolonizing the lives of ex-offenders colonized by the interests of neo-liberal global markets.

I now turn to a consideration of data collected from the Chinese theatre which I introduce to own soil. As these resources are drawn from an integrative shaming culture (as opposed to our own culture) I will suggest and recommend home-grown remedies to fill in the gaps left by the transplantation.

2) Early childhood intervention

As I noted in Chapter Four, prevention is the very crux of crime control in the PRC. This implies four valuable ideas for implementation in the South African theatre.

The creation of neural pathways during early childhood

Firstly, for the Chinese, prevention starts with intervention in early childhood. This ties in well with Sue Gerhardt's plea for early childhood intervention explored in Chapter Two. Gerhard's argument, one with which I am in complete agreement, is that a caring, as opposed to a strict, parental style during early childhood will create neural pathways in the brain which would ensure caring, compassionate grown-ups. Her thesis, as I indicate in Chapter Two, is supported by empirical evidence, although some of it is still tentative. The upshot of her suggestion, and that of general Chinese social practice, is that compassionate people will not entertain the need to hurt others and will at the same time have enough caring to embrace the integration of ex-offenders who have served their time and shown a propensity for rehabilitation.

Compassionate people, in short, nurture others. Darwin has made a generally not well-known argument for the notion of happiness in advanced animals (McMahon 2007: 410-424). His argument is precisely that evolution drives animals to be happy and this happiness, in my reading, is nothing if not interwoven with compassion, nurturing and caring for our fellow animals (whether human or non-human) on this planet. In Denis Villeneuve's thought-provoking film *Arrival* (2016), aliens from a much more advanced civilization than our own, arrive on earth to help humans, not to conquer or defeat, but to avoid a future catastrophe. What is this gesture if not compassion for non-alien (from their perspective, alien) beings? As such, this theme is a logical continuation of my argument begun in Chapter Two on the urgent need for the shaping of a caring society, as opposed to a selfish society (in the neoliberal capitalist developmental sense of the word), in which material possessions are not desired to fill in empty spaces in the human psyche. As I have lived in a caring society for a number of years myself, I can attest to its balming effects on the psyche of the ex-offender. A caring environment can also be no-nonsense, as the Chinese data in the previous chapter – with mass executions for re-offending, even in the form of petty crimes – demonstrates. Although a general roll-out of the caring society in South Africa is probably a pipe-dream for the foreseeable future, it does serve the admirable function of being a utopian idea against which current practice can be judged. I take my cue from Habermas's counter-factual ideal speech community which serves an analogous function.

Chinese rehabilitation remoulded

I have my doubts about the applicability of grafting the Chinese appreciation of rehabilitation onto the South African context. It demands remoulding. As I contend in the previous chapter, what the Chinese understand by rehabilitation is vastly different from mere desistence as it is construed in the West. From the three case studies that I tendered in the previous Chapter, it is clear that the Chinese mean nothing less than complete

'remoulding' of the offender, i.e. 'brain-washing'. I do not believe that this notion is necessary in the South African context to allow for the other valuable suggestions to take root. Brain-washing (*shi nu*) will certainly not find a receptive ear in a liberal democracy. My suggestion is that successful desistence and an acceptable level of sustainable integration are the most we can hope for in terms of the achievable objectives for rehabilitation. This example of reconsidering transplanted social phenomena in all their various aspects, demonstrates the value for my project of the contributions to complexity theory by French poststructuralists such as Lacan, Derrida and Rancière, noted above.

Legal education for the general public

Secondly, Christopher Birkbeck (1993: 314), noted in Chapter Four, decries the lack of legal education for the general public. In the PRC, this incentive is considered a basic resource to prevent crime. I suggest that members of the public who know their rights are more likely to avoid ambiguous situations which can land them in trouble. Practicing legal practitioners in this country could be encouraged to roll out programmes for educating the public in their disciplines and claim the time spent as credits towards their social or corporate responsibilities. Most professional bodies in law in South Africa now demand credits of this sort before issuing an annual licence to practice. My view is that such a nation-wide programme will not only lead to appreciable prevention of crime but will also give credence to Frederick Allen's (1987) point that the 3rd mechanism of crime prevention by the Chinese (namely internalization of legal proscriptions), is bound to yield dividends.

Peace committees

Thirdly, in Chapter Four I note the importance of the social model of law (as opposed to solely the judicial model in the PRC) and I argue that the infamous 'kangaroo courts' are making an appreciable come-back in the South African context. As is generally known, these courts functioned against the backdrop of an illegitimate apartheid government. It is, however, not my case that they should be encouraged in post-apartheid South Africa because of popular discontent with the ruling party. Instead, I add my voice to that of Frieda Adler (1983) who argues that cultures with low crime rates are the result of strong social bonds fostered by the involvement of empowered members of the community. By the same token, Braithwaite (1989) builds his thesis for integrative shaming (which ties in well with Adler's work) around the concept of a communitarian society which rests on Travis Hirschi's (1969) concept of deviance as the result of weakened social bonds and, of course, Durkheim's (1893/1984) notion of social solidarity. Hirschi argued that strain theories (crime as the result of the failure of social emancipation, i.e. the relative deprivation of the poor) do not explain the role of social control (illuminated by Foucault) in the production of crime patterns. Society demands and obtains conformity through either rewards or coercion, as Althusser independently pointed out. In a society where the

perception holds that the fight against crime is lost, I argue that it is vital to involve members of the public pro-actively in the strategies against crime. In the PRC, the input of members of the public has been shown to be absolutely crucial, as I demonstrated in the previous chapter. Muntingh (2008: 200) notes the presence of peace committees in South Africa as, to an extent, already fulfilling this task.

Fourthly, *tiao-jie* committees, as I note in Chapter Four, is a method to deal with disputes between family members and neighbours by way of mediation so as to forestall the incidence of crime. According to Kennedy (1990: 125), unresolved tension between members of the public eventually leads to full-blown crime if this strain is not addressed and somehow resolved. *Tiao-jie* committees, I observe in the previous chapter, serve precisely this purpose of prevention. This idea can be transplanted without must difficulty onto South African suburban life.

My suggestion is to roll out pilot projects in pre-selected suburbs to gauge their effectiveness, scope and range. With high levels of unemployment in our townships, members of our communities can be encouraged to assist in resolving tension between members of their social groups. Government or corporations (in terms of their social responsibility programmes) should be encouraged to make funds available to sustain these valuable initiatives so as to ensure their sustainability. In the previous chapter I highlighted both Janet Cherry and Sampie Terreblanche's estimations of current unemployment rates among black South Africans being fifty percent. Initiatives such as the constitution and functioning of *tiao-jie* and *bang-jiao* committees in such townships/suburbs will go some length to alleviating the problem of pandemic unemployment and assist in curbing both crime and recidivism. Even a small income and a sense of purpose are better than nothing.

Re-evaluating imprisonment as a sentencing option

Finally, as is the case in Japan and the PRC, every effort must be made to keep first time offenders out of prison. Without prisons there is no need to address the problem of stigma after release, as I note above. Quite apart from the fact that imprisonment has become a politically sensitive topic in an African context, as I contend in Chapter One, bent on decolonizing post-colonial culture in all its myriad facets, there are other pressing reasons for re-evaluating imprisonment as the dominant sentencing option. The problem is not merely that imprisonment is driven by factors other than evidence-based policy – the prison-industrial-context being a case in point – but it is commonplace in the literature that incarceration as a sentencing option fuels recidivism (Gendreau *et al.* 1999: 154).

As Lukas Muntingh (2008) argues, magistrates and judges in (South) African courts should be encouraged to reject the prison as a default option and African inclusive instruments should be presented during sentencing as viable options. Instead of a "prison-centered

sentencing" regime (Muntingh 2008: 193) that operates as an automatic default for alternative sentencing profiles (community service orders or compensation payments, among others), the sentencing debate demands expansion beyond an 'either/or' discourse (*Ibid* 198-199). Muntingh (2008: 200) advocates a fundamental reassessment of imprisonment as the dominant sentencing directive, to a more inclusive sentencing regime where the prison is only one of many options in a richly elaborated montage of Africanized sentencing ideas. One such contention that has gained a popular foothold in many parts of Africa (including South Africa) is the involvement of community structures – divorced from the formal criminal justice system – to dispense conflict management in cases involving petty crime or less serious deviant behaviour.

These home-grown remedies have much in common with the *tiao-jie* and *bang-jiao*-committees discussed in the previous chapter and which I proposed for local introduction. The idea is to stimulate, as Allen (1992: 82) indicates, the perception – among both the public in general and governance structures in particular – that rehabilitation (and its corollary, reintegration) becomes viable with the offender's "complete confession and admission of guilt" (as is the case in the PRC). In fact, I would go as far as suggesting that incarceration, as a sentencing option, should be outlawed legislatively unless the offender is deemed a danger to society and his or her removal from society becomes imperative. The emphasis should shift, as is the case in the PRC, from incarceration, a band-aid cure, to full-on prevention as the dominant crime prevention strategy. I now turn to the issue of rehabilitation efforts during incarceration.

3) Rehabilitation efforts during incarceration

As I observed in Chapter Four, Frederick Allen encourages Western prison administrators to reconsider their embracing of managerialism and warehousing in favour of the rehabilitation ideal. The latter paradigm veers sharply in favour of restitution and reconciliation (as is the case in China) and the former privileges retribution (which is a peculiarly Western sentencing objective honed on colonial ideas of exploitation). I suggest that Allen's proposal is especially likely to be fructuous in the South African context because of its potential for the employment of African instruments in sentencing. This is a distinction which underlies the receptor approach as one of the tools employed – and explored in Chapter Two, Part Two – in making sense of a cross-cultural transplantation of memes (a term defined in that same chapter).

Two valuable ideas culled from my exploration of the three case studies in Chapter Four are physical labour during incarceration and the writing of autobiographies by offenders. In terms of the receptor approach, I add two further home-grown remedies since the transplantation from Chinese soil (an integrative shaming culture) to South African home base, demands cementing of these to ensure that the exercise does not remain an academic

one. These two house-grown remedies, explored in detail below, are my suggestions for the keeping of companion pets in prison and the 'care of the self'. The first will be discussed in this section and the second in the next section. Both these suggestions are intended to assist offenders in coping successfully with the disappointment and discontent they would invariably experience in a stigmatizing shaming culture upon release from custody.

Prison labour a conundrum

As for the case of work programmes during incarceration, in terms of the SA Constitution (unlike the practice in the PRC) no offender can be compelled to perform forced labour as part of a sentencing plan. I surmise that the rationale for this consideration is the fact that historically, prison labour was used extensively during both colonial and apartheid oppression to enrich capitalist interests (Bernault 2003). The same can be said of the historical course of the United States, as Mary Bosworth (2010: 34-37) points out, where convict leasing (its numbers swelling as the result of freed slaves convicted on petty offences) merely replaced official slavery after the conclusion of the Civil War. Conditions on prison farms and plantations were brutal "rivaling slavery in its sadism and violence."

My answer to this enigma is that despite the prohibition against forced labour in South African prisons, offenders do work voluntarily even though, from my own experience, the conditions are exploitative and the offenders are compensated with a pittance. By way of illustration, offenders employed in the Department of Correctional Services' (DCS) kitchens are paid, if memory serves me correctly, no more than three hundred rand per month. At the present exchange rate (May 2017), this is the equivalent of fifteen pounds or twenty US dollars. The problem is compounded by the fact that catering is outsourced to a private vendor. This is BOSASA and their tenders run into billions of rands. As I indicated in the previous chapter, BOSASA is no stranger to allegations of corruption and nepotism. Curiously, however, despite the historical rationale (which is exploitation) against forced penal labour, the intervention of private vendors like BOSASA has turned the clock back to revive the exploitation of prison labour for private gain. The difference between the present practice and its historical precedent is that the present cover for the financial exploitation of offenders during their incarceration is the farce that it is 'voluntary,' which it ostensibly is.

Despite the negative connotation of so-called voluntary labour with exploitation during incarceration, outlined above, I nonetheless agree with Allen, Dutton & Xu and the conclusions of Chinese jurists reported by Ruge, against Harry Wu (1992) and Lifton (1961), as I argued in the previous chapter, that the 'cognitive value of labour' brings 'forth human transformation.' Perhaps the solution lies in offering offenders a short remission off their sentence (perhaps six months) if their efforts at voluntary work turns out to be transformative. On a reflexive note, the exploitation of offenders (both in terms of their

employment within the prison and to perpetuate the prison-industrial-complex) and ex-offenders (in terms of denying them opportunities irrationally and indiscriminately) amounts to evidence that the institution of the prison (and its extention, the stigmatization of ex-offenders) is an effective way to re-introduce slavery, by way of creating 'sub-human' disposable populations, into progressive society in a fashionably 'acceptable' manner (as Michelle Alexander [2012] argues).

Writing autobiography 'on the inside'

As is the case with labour, writing has the potential of having a great transformative and rehabilitative effect on offenders during incarceration. Incarceration is an enforced spell of 'cooling one's heels', so to speak, and creates a valuable space for critical self-reflection. The opportunity and encouragement to commit one's thoughts on the course of one's life to paper (or the computer screen, if that is feasible in South African prisons), in a deeply reflective manner, during a period of disgrace, has, in my view, great therapeutic value. As I attempted to motivate the notion in Chapter Four, I indicated that Pu Yi (1965/1989: 354-356) reflected in his own (published) autobiography that all prisoners were expected to write lengthy, deeply reflective pieces in an attempt to grasp how and where they came to be in prison. As is the practice in prisons in the PRC, these accounts of an offender's life should ideally be subjected to peer-review by other offenders (preferably others in the same writing programme). This ties in well with Braithwaite's (1989: 168) argument, highlighted in the previous chapter, which is that the shaming of offenders back into the group should emanate from peer review as it – sanction of inmate groups – is considerably more effective than judgment by a removed parental or quasi-parental body. Allen (1987: 84) also came away from his examination of prisonization in the Chinese context greatly impressed with the system of offenders' self-criticism and constructive criticism by their peers in their efforts to make sense of their own lives.

Finally, close readings of individual autobiographies in seminar groups of perhaps ten offenders is also a good idea worthy of consideration. Every member of the group could be given the opportunity to read a paragraph out loud for all to hear and then the group could comment freely on it. This form of close-reading, well-known to attendees of post-graduate seminars, leads to enriched understanding of the issues ensconced in the text and sometimes reveals surprising under-currents not always evident to the author herself or himself. *The New York Times* (Parker-Pope 2015) recently reported on a number of scholarly studies that have highlighted the benefits of autobiographical writing, especially for marginalized groups. The original texts of these studies are not available to me and I rely accordingly on the reported versions. Once a first draft of the narrative is available and has had the benefit of close scrutiny by members of the author's peer group, the author needs to be encouraged to reconsider the overall direction of her or his narrative structure and should not be averse to rewriting her or his account with new insights.

Benefits of writing an autobiography

It is often the case that a first draft obscures issues which the author is not ready to face. In an experiment conducted at the Johnson & Johnson Human Performance Institute, coaches tasked the members of their group to write about their goals, and attempted to understand and identify the reasons why they did not achieve those goals (*Ibid*). Once the group had written the initial version of their stories, they were encouraged to reflect and rewrite their original account so as to produce a more reliable version. By way of illustration, one woman in the group named Siri initially recorded her reasons for not exercising enough as a result of having to take care of her children and working too hard. She was, however, motivated by the group to take her original account in hand afresh. Her revised version rehashed the same facts as her original but contained a more forthright evaluation of rationalizations of exactly why she neglected physical training, and produced startling effects. "The truth is," she wrote, "I don't like to exercise, and I don't value my health enough. I use work and the kids to excuse my lack of fitness."

In another experiment led by James Pennebaker, a leading authority on expressive writing, students at the University of Texas were asked to write for a quarter of an hour every day on either a mundane topic or on an issue of personal importance (*Ibid.*) The students who wrote on the latter topic were more likely than the other group not to report suffering from illnesses. "The idea here is getting people to come to terms with who they are, where they want to go," comments Pennebaker. "I think of expressive writing as a life course correction." I cannot think of a better course of rehabilitative incentive for offenders during incarceration than expressive writing. It is inexpensive and transformative and yet requires surprisingly little input from DCS. Wilson, another scholar interested in the positive effects of writing, argues that "[w]riting forces people to reconstrue whatever is troubling them and find new meaning in it" (*Ibid*.) New meaning is exactly what offenders need to search for in an attempt to bring a new 'horizon of understanding', in the Gadamerian sense of the word (explored in Chapter Two Part Two), to their current grasp of their past.

 In my treatment of interpersonal skills in the next section in this chapter, I note the emphasis which Victor Frankl places on meaning as a magnificent coping mechanism for offenders during incarceration. According to Jack Groppel, another researcher on the remedial effects of writing, "[w]hen you get to that confrontation of truth with what matters to you, it creates the greatest opportunity for change" (*Ibid.*) At the risk of stating the obvious, change is exactly what is sought after in DCS's attempts to prompt rehabilitative behavioural patterns in offenders. Although both these experiments produced only anecdotal evidence for the health benefits of writing (both physical and psychological), these reports are nonetheless compelling. These are the reasons for the need for peer review and sincere encouragement of the offender to reconsider and possibly rewrite the original first draft.

As for the suggested architecture of the proposed autobiography, my own considered opinion is that 50 000 words, polished and proofread, should ideally be set as the standard. Offenders could perhaps be encouraged to consider autoethnography as a methodology within a personal developmental paradigm, as I have done in this exercise in doctoral writing. I can testify to the emancipatory value of this methodology and in order to make sense of it copies of the seven scholarly papers which I explored in Chapter Two, Part Two, can be made available and tendered or offered to offenders who might commit themselves to a future pilot project. My view is that the writing of autobiographies would complement DCS's project of performance autobiography (as I note in the previous chapter). As I mentioned in Chapter Two, Part Two, Tami Spry, in her scholarly paper on performance as an emancipatory force in autoethnography, made an excellent case for this. John Irwin, as I note in previous chapters, encouraged ex-offenders to publicly unburden and shed their stigma. DCS's in-house rehabilitation programme in which performance autoethnography is facilitated, is a commendable initiative to manage the challenges posed by stigma in the lives of both offenders and ex-offenders.

There is also no reason in principle why good autobiographies could not be published for financial gain or placed on the internet (if publication through the normal channels does not appear to be feasible). In the event of gainful publication, DCS would be more than entitled to attract a 25% agency fee. There happens to be a well established historical precedent for this, as this is exactly what happened at San Quentin State Penitentiary at the height of its incarcerated offenders' literary surge during the 1960s (Hallinan 2003: 80-81).

> San Quentin soon became a writer's colony, a criminal version of Yaddo. In 1947, inmates submitted 395 manuscripts for publication. In 1961, they submitted 1,989. So many inmates were writing books that in 1968 the California Department of corrections began charging a 25 percent agent's fee for each manuscript submitted. (Hallinan, *op. crit.*)

I would urge a wider distribution of texts if, in the tradition of autoethnography, as I pointed out in Chapter Two, these texts have the potential to help others gain insight into their own emancipation. I suggest that DCS could be encouraged to launch pilot projects in at least one prison in each of the nine provinces in South Africa to gauge potential pitfalls before a general roll-out is considered (if this project is judged helpful).

In August 2007, such a creative writing project (although it was not considered to be a 'pilot project') was successfully executed at Groot Drakenstein Correctional Facility which is located in the marvelous landscape between Franchhoek and Paarl in the Western Cape. This is the same prison from where Nelson Mandela was famously released in 1990 and a bronze statue of him with raised fist is to be seen on the precise spot where the icon emerged from prison. As an offshoot of the first Franschhoek Literary Festival (FLF) in

2007, Margie Orford agreed to lead a nine month creative writing workshop at Groot Drakenstein for fifteen male inmates ("Five from maximum, five from medium and five juveniles" [Orford 2008: 15]). The results of this workshop are collected in an attractively produced grey-covered booklet. It contains poems, short stories, landscapes and self-portraits. (The art pieces were brought to life in three art sessions engendered by Jane Solomon.) Published as *Fifteen Men: Words and Images from behind Bars* (2008), it promises to plough back the royalties earned from its sale to community projects via the FLF Library Fund.

As I argued in the previous chapter, if it was possible during the apartheid years to convince DCS of the advisability of a new course of action, then I am confident, as I expressed the hope in Chapter Four, that evidence-based policy recommendations are likely to find favour among the new guard. The only immediate obstacle that I foresee with this suggestion, is the introduction of television into South African prisons and globally, for that matter, since the late 1970s. Robert Johnson (2005: 267) puts the case against the presence of TV in prison succinctly in the following words:

> Once introduced into prisons, TV appears to have, without any coercion whatsoever, displaced reading and writing as recreational pursuits, pursuits that are thought to empower and even liberate rather than merely entertain.

From my own experience, I am aware of the soothing and addictive effects of TV and sugar (a very popular commodity indeed among offenders) in a harsh, repressive environment where inmates are weighed down by petty restrictive rules offering little hope between its black-painted walls. Try as I may, I cannot think of a way to escape television's clutches among the converted. But, on the upside, writing and reading still presents an opportunity to turn the debilitating weight of the prison experience into something positive. I am referring to the liberating and creative possibilities locked up in the precious pursuits of writing, reading and reflection. I reflect that auto-ethnography has proved to be a methodology that has added considerable value to the investigation of my research question.

The therapeutic value of companion animals during incarceration

Another fruitful avenue that presents much needed therapeutic opportunity for offenders during incarceration – but should also be of interest to ex-offenders after release – is the keeping of pets. The proposal for allowing companion pets during incarceration is not, as alluded to above, meant to molly-coddle offenders, but is made with the specific purpose of nurturing feelings of compassion for (in this case non-human) others among offenders, and enhancing their self-esteem and general wellbeing. I am of the considered view that these 'inter-personal' skills are very important to prepare the offender, and the ex-offender in her

or his subsequent life upon release, to successfully manage herself or himself in a stigmatizing shaming culture. As a result, I argue that taking steps to secure the emotional wellbeing of offenders is essential if we are serious about rehabilitation. I make suggestions for policy reform in the next chapter, but it should come as no surprise that stigma is likely to remain in our culture, as is the case with the prison-industrial-complex, for the appreciable future. It is sensible and responsible to prepare offenders for the realities they will almost certainly face on the 'outside' while at the same time also addressing the salient features of a stigmatizing shaming culture that appear to be most pliable or malleable.

Sandra Gregory's incarceration in Thailand

This idea was planted in my mind during my reading of Sandra Gregory's memoir of her incarceration in a women's prison in Thailand (Gregory & Tierney 2003). Gregory was convicted in the late 1990s of trafficking heroin and was initially sentenced to capital punishment, later converted to life imprisonment which was subsequently changed to 25 years. (It is a curious observation that, unlike the position in South Africa, a sentence of 25 years in the Thai criminal system is not considered a life sentence.) In her memoir, Gregory recalls the large number of cats that roamed the prison grounds in which she had been incarcerated and she reflects that soon after starting her work in the prison bakery, "I adopted a young tomcat by the name of Jow-Son. Before long my cat became the most important thing in my prison world" (Gregory & Tierney 2003: 141-142). These words might appear insignificant, but being a cat-lover myself, I suspect that Gregory's off-hand observation could plausibly open a fruitful new avenue for investigation.

Animal assisted therapy

AAT [animal assisted therapy] programs are defined as "interaction with an [non-human] animal [that] helps to foster human health and wellbeing or enhances quality of health" (Graham 1999: 7). Nimer and Lundahl (2007: 225) define AAT as "the deliberate inclusion of an animal in a treatment plan. Generally, AAT involves a credentialed treatment provider who guides interactions between a patient and an animal to realize specific goals." Bernie Graham considers his book *Creature Comfort: Animals that Heal* (1999: xv) "appropriate [reading] for those considering implementing AAT [animal assisted therapy] programmes." In an interesting review of the text, Christine C. Menefee (2000) propounds the view that it is

> a timely and valuable introduction to Animal Assisted Therapy (AAT), a scientific and medical discipline still in its infancy – and one that should be particularly appealing to many teens as a possible career direction. Graham tells plenty of fascinating stories (illustrated with black-and-white photos) as he relates his own experiences and those of others working with diverse creatures such as dolphins,

cats, dogs, donkeys, monkeys, ferrets, guinea pigs, rabbits, fish, and horses. Those benefiting from AAT include mentally or physically disabled children and adults in private programs or in institutional settings such as hospitals, clinics, and prisons…

I rely quite extensively on this well received text for my argument on the value and advisability of allowing (and even encouraging offenders) to keep pets during their incarceration. The healing properties of human animal interaction with non-human animals are fairly well-known, but in my view the value embedded in a book such as Graham's, lies in the fact that he makes a sustained argument for it in an unreflective world inhabited by carnivorous human animals. He also brings together, as evidence for his argument, a wealth of research on the subject. The nub of his argument is contained in the following passage:

> A range of animals have clearly demonstrated their ability to offer therapeutic support and comfort in the most challenging of environments and situations. Their work has encompassed both crisis interventions and the establishment of ongoing relationships. Many of these endeavours are characterized by the ability of animals to effect change or offer hope where human efforts have been unsuccessful. (Graham 1999: 243)

A question worth considering is why non-human animals have this amazing ability to heal humans. A number of reasons have been advanced to explain the benefits of human interaction with pets and I canvass five here (Graham 1999: 47-67). Firstly, a practising vegetarian (a choice made for ethical reasons) who harbored dreams of becoming a vet in her youth but who was prevented from fulfilling her potential because of personal circumstances, suggested to me that non-human animals offer unconditional love, and this feature allows for emotional and physical healing in humans (Lötter, S. 2017, personal communication: 18 June). To the unquestioned value of unconditional love, I would also add the benefits of friendship and companionship provided by animals. I agree with this view since love is known to have the curative qualities of a balm, especially unconditional love. Secondly, Graham (1999: 214) contends that non-human animals are less likely to judge – certainly not on issues that would appear to be important for humans! – and this reservoir of emotional warmth taps into isolated humans.

Thirdly, focusing on animals tends to take oneself out of one's self-involvement and could provide a worthwhile window for an enriching experience that demands interaction with one's environment. In a later reference to Victor Frankl's programme of logotherapy (explored briefly below), Frankl suggests that 'deflection' is an important technique to refocus the patient's attention on more fruitful pursuits. Fourthly, Graham (1999: 210-211, 233-234) notes two instances where feral cats and a cockatiel were adopted and nurtured by sexually abused survivors in adulthood and mentally challenged patients respectively.

In both cases the humans identified with the animal(s) in question as survivor(s) who managed to cope under difficult conditions, and consequently proved to be a source for empowerment. Graham's reference to the feral cats is based on the study of Wells *et al.* (1997) which was conducted after it was found that a group of feral cats took up residence near a mental health centre in rural Michigan, USA and, as a result of the cats' entering and leaving the centre through the open windows, these non-human animals began having a demonstrable beneficial therapeutic effect on the patients. Wells and her colleagues observed that the patients demonstrated improved self-esteem as a result of their own identification with the feral cats that demanded respect for their lifestyle as undomesticated cats that had to fend for themselves. All in all they found that contact with the feral cats led to the patients' devising an enriched, renewed worldview for themselves. Finally, Brickel (quoted in Graham, 1999: 59) studied the therapeutic effect of cats on the elderly in a total care ward and concluded that the emotional attachment which some of the patients developed with the cats had a knock-on effect in that it generated better relationships with staff and other patients. The presence of the cats in the ward also rendered the institutional atmosphere more homely and pleasant.

A considerable literature exists for the argument in favour of introducing pets into prisons. I survey the evidence for and against the argument before engaging it critically.

Eileen Wells *et al.* (1997) observe that some institutionalized persons (although their study was conducted in a mental health centre that houses adult survivors of childhood sexual abuse) established strong bonds with feral or undomesticated cats that they were able to nurture for the first time in their lives. By analogy, offenders (especially women) with a history of abuse could do with bonding with animals in the same way in which Wells and her colleagues have highlighted the benefits for mentally challenged patients with a history of sexual abuse. A survey of Scottish prisons in the late 1990s by Mary Whyam and Liz Ormerod (1997) led to their advancing a convincing case for companion animals, especially cats and pigeons, in prisons. The term 'companion animals' deserves comment. The idea is that animals in a prison context could lend offenders the comforts of non-judgmental, reciprocal, valued companionship (where the offenders' companionship is also valued), when isolation and loneliness are paramount features of a bleak and uncaring environment.

Two units for high security offenders, namely Barlinnie Special Unit and Shotts Special Unit, provided evidence for the benefits of especially feral cats and birds in prison environments. Staff thought that these companion animals lent a notion of normality to an otherwise harsh and sterile institutional atmosphere and permitted the offenders to express their feelings in a socially acceptable way. Whyam and Ormerod found that animals increased the quality of the relationship between offenders themselves and offenders and staff; taking care of animals improved the self-esteem of offenders and working with

animals enhanced offenders' inter-personal skills such as empathy, patience, compassion and responsibility. Finally, the researchers concluded that offenders' work with animals might translate into employable skills upon release. Finding gainful employment after release is a great challenge to most ex-offenders, and Whyam and Ormerod's suggestion on this score is a welcome one. So are their findings on the enhancement of inter-personal skills, empathy and responsibility among especially violent offenders.

Whyam's and Ormerod's proposals for a general implementation of companion animal programmes in penal environments are supported by both offenders and prison staff. The authors are a senior probation officer and a veterinarian respectively. Graham's (1999: 248) gloss on their work is that it left him convinced that "in these most uncompromising of surroundings" companion animals have delivered a spectrum of quantifiable benefits for offenders, staff and society in general.

A number of studies in the United States have lent credence to the notion of introducing companion animals into penal institutions. David Lee (as reported by Graham, 1999: 248-249) devised a 12 month study between similarly constructed groups of psychiatric offenders (a control and an intervention group) at Oakland in Lima, Ohio. Over the year that the experiment was conducted, pets were introduced into the care of the intervention group but not the control group. Lee found that there was a significant drop in violence (compared with the no-pet group) with no suicides in the former group while the control group reported eight documented suicide attempts. To my mind there is a marked similarity between this finding and that of Liebling *et al.* (2005).

Liebling and her group of co-researchers (2005: 209) researched the role of "the uneven experience of unfairness, disrespect and lack of safety" in the management of offenders in prisons and found that perceived fairness in the treatment of offenders were more likely to lead to a reduction in attempts at suicide. Perceived fairness in treatment (understood as ongoing contact with loved ones, personal development, imported vulnerabilities into the prison environment and estimates of personal safety) was found to contribute significantly to lower levels of distress for offenders. The common denominator between Lee's study and that of Liebling *et al.* lies is the element of caring. Both fairness and unconditional love/valuing provide this common denominator.

A dog care programme for the rescue and rehabilitation of stray dogs established at Purdy Women's prison in Washington State by Kathy Quinn (reporting in Graham 1999: 249), an ex-offender, had very successful and encouraging results. Not only were more than 500 canines rescued and given a new lease on life but some of these dogs were also trained to assist humans with severe disabilities. In my discussion of Kanter's work, below, on building confidence in the context of the value of developing life skills programs for offenders to assist them in dealing with stigma upon release, she highlights the value of

encouraging initiative. The value of her observation can clearly be seen in the case study of Kathy Quinn. Finally, in another study done in 1982, Earl Strimple (*Ibid.*) introduced a programme for the instruction of animal care and, subsequently also that of a course in animal health technology, by way of placing a number of different animal species with offenders during their spell of incarceration at Lorton prison, Washington DC. While the national rate of recidivism among males was 62.5 per cent at the time, it was found that the re-offending figures for the offenders at Lorton that were enrolled in the pet programme were an astonishing 13 per cent.

Recent research on the benefits of AAT suggests that ownership of a companion animal in the lives of homeless people on Australia's Gold Coast leads to diminished feelings of loneliness, increased responsibility, greater opportunities for social interaction and improved emotional wellbeing – as well as mental health (Slatter, Lloyd & King 2012: 380-381). Marginalization and a loss of meaning are likely to be assuaged by the presence of companion animals that provide friendship and unconditional love. As such, interaction with companion animals "may be an opportunity to build the skills required to reintegrate into mainstream society" (*Ibid*). All these areas noted in the lives of the homeless are present without exception in the lives of offenders and, in general, ex-offenders. Julius *et al.* (2013) argue that animals hold great benefits for human-animal interaction in that ocytocin which is released in humans after physical contact with animals, amounts to the secretion of a nurturing hormone that calms and leads to attachment. AAT is accordingly considered to contribute significantly as a "social lubricant" in building secure emotional attachments. I argue that attachment is a greatly needed resource in pursuing the ideal of a caring society and AAT is possibly one avenue to explore its benefits.

Building the case

For all these reasons I will attempt to build a case for the great benefits attached to allowing offenders, and ex-offenders, to keep pets. Graham (1999: 278) advances the sensible view that the animals selected for AAT should be appropriate for the task at hand. My thinking is that cats and birds might be the most suitable arrangement during incarceration. The (in)famous "Bird-man of Alcatraz," Robert Stroud, convicted of two murders and incarcerated for more than two decades, supervised two cells filled with birds (Graham, 1999: 248). Stroud published no less than two books on the topic, namely *Stroud's Digest on the Diseases of Birds* and *Diseases of Canaries*. But the evidence noted puts forward a case for other animals, under suitable conditions, being valued and conducive to offenders' comfort. As for cats, their infamous streak of independence (and their admirable ability to climb in and out of windows through prison or security bars) would stand them in good stead in a penal environment. Graham (1999: 212) puts the case for cats as companion animals succinctly in the following words, even though he intended the words to have a general application:

> Caressing and stroking are very much a part of any relationship with cats. Their soft fur, gentle nudges and propensity for filling our laps make them hard to resist. Touch and physical contact can be very important to our well-being and in this respect cats may play a particularly important role.

It is the thrust of my argument that the wellbeing of offenders and ex-offenders are of paramount importance in preparing them for release into the uncertainties that await them in a stigmatizing shaming culture such as South Africa. To this end, companion animals such as cats, can make a contribution. Dogs, despite their reputation as 'man's best friend', could raise security concerns and might be a bother (in terms of late night barking) to other offenders. Horses and dolphins, despite their reputation for miraculous powers of healing, would arguably be impracticable in the penal context. With visiting pets rather than residential pets, the scope could obviously be broadened.

Graham's (1999: 67) contention that AAT should be part of a holistic approach to regular therapy and health care, is analogous to the Chinese argument, considered in the previous chapter, that a holistic solution to crime prevention is far better than fractured solutions. My thinking is that therapeutic efforts in South African prisons along these lines are beneficial from a rehabilitative perspective for three reasons. Firstly, the evidence noted makes a strong case for pets in prisons creating space for well-being among offenders. The knock-on effect is better relationships with peers and staff. Secondly, better psychological states among offenders is likely to add to rehabilitation efforts in that anecdotal evidence suggests lower rates of recidivism among those offenders who had the opportunity to interact with animals during incarceration as opposed to those who did not. Finally, greater well-being among offenders will enhance the acquisition and development of other life-skills (confidence, self-esteem, finding their 'relatively autonomous self' (a term I explain in Chapter Three) in searching for their true desire), discussed in greater detail below, that are deemed necessary to cope with the onslaught of a stigmatizing shaming culture upon release.

Rehabilitation in a new context

From the foregoing argument, it can be deduced that in an integrative shaming culture, as Allen discovered during his empirical work in Chinese prisons, the Chinese in the PRC succeeded in blending the prison and rehabilitation successfully. The Chinese experience has demonstrated that prison can transcend its reputation as an instrument that merely dispenses pain to that of an institution devoted to and with a sincere investment in the rehabilitation of offenders. My own experience of prisonization in South African prisons is that offenders rehabilitate *despite* the prison, meaning that the prison in South Africa has not shown itself to be a worthy investment in rehabilitation. I critique Amanda Dissel's (2008: 156) confluence of the terms 'rehabilitation' and 'integration' (noted in Chapter

One) for precisely this reason. With reference to Martinson's (2001) finding that generally speaking 'in-house' rehabilitation efforts globally had little beneficial influence on recidivism, Dissel argues that rehabilitation is nonetheless still possible as a result of prisonization (the prison experience). My argument, however, is that rehabilitation efforts are only sustainable in a society that approximates features of the caring society. Ex-offenders do sometimes rehabilitate despite the lack of integration or the almost insurmountable difficulties which opportunities for integration present in stigmatizing shaming cultures. The Chinese experiment, providing evidence of the credence of integration in integrative shaming cultures, is therefore such a valuable perspective. Three other insights garnered by Allen lend further credence to this paradigm shift in correctional practice.

Firstly, Allen argues strongly in favour of the Chinese practice of allowing offenders who qualify to join the staff. So did Cressey (1965) and Buckley (1972: 24-30) in the context of Western correctional practices but the idea seemed unfashionable at the time (as it still is in the South African context). This would be a plausible suggestion to deputy minister of Justice and Correctional Services' Thabang Makwetla's concern during his recent visit to the St Albans Correctional Facility complex, situated just outside Port Elizabeth, where he lamented the shortage of staff as "scary" (Butler 2017).

The objection in the latter context appears to be that nobody should profit from crime. My own view is that this sentiment is understandable except that it misses the point enrobed in the advice given to soccer players, namely: keep your eye on the ball. The ball in this context is rehabilitation. If the notion of permitting model ex-offenders to join staff at the expiration of their sentence proves feasible, as it has in the Chinese context, to encourage offenders to turn their lives around, then DCS must definitely give it serious attention. In any event, as I argue above, BOSASA benefits from their crimes in the sense of exploiting offenders' labour. The argument that nobody should benefit from their crimes, seems spurious and beside the point considering that vested interests in the prison enterprise benefit from offenders' crimes anyway. Our objective at all times should be to further the rehabilitation ideal.

Secondly, newly admitted offenders in prisons in the PRC are urged to 'examine and criticize themselves' and arrive at a perception or understanding of 'why they commit crimes.' This vision, in my view, is the crux of rehabilitation. Unless there is an understanding of the genesis of crime, nothing will change. For the Chinese, in the PRC at any rate, nothing less than a complete change of mind-set, understood as 'brain-washing', will do. But, as I contend above, this would probably not be an acceptable proposition in an individualistic 'Western' country such as South Africa and the best we could hope for is successful desistance.

Thirdly, as I note in the previous chapter, Allen's team were impressed with evidence observed of prison officials showing genuine interest in helping offenders to come around to an understanding of their crimes, and an environment of caring, commitment and investment in the lives of the various inmates. To what extent this far-reaching idea is a viable option in South African prisons in the short run, is of course an open question. But it does underscore Habermas's contention that a different developmental trajectory is possible through attempts at rational reconstruction of existing projects. I now turn to a consideration of effective resettlement after release, with an emphasis on Mao's famous injunction that the vast majority of offenders can be remoulded into new people and, on the basis of their sincere or authentic rehabilitation, can be forgiven and accepted back into society. But, in this, as I indicate in Chapter One, society has a major duty to discharge in the responsible management of shame.

4) Effective resettlement with special reference to stigma

Once the offender is released from custody, the litmus test for the efficacy of DCS's rehabilitation efforts presents itself. If the Chinese experience is anything to go by, and I submit that in its rationally reconstructed state it is indeed a model example (analogous to Habermas's counter-factual ideal speech community) worthy of emulation, people can and do change their ways in a fashion that is sustainable.

Sustainable resettlement

One of the convenient myths that underpin sentencing practice in South Africa, explored in Chapter One, is the idea that people get what they deserve because people do not or cannot change their ways for the better. From a rehabilitation perspective, this perception, wrong as it is, has devastating consequences because it forecloses the central issue of hope for both the offender, expectant of release and successful resettlement, and the ex-offender, who may or may not already have been disillusioned. By way of illustration, in a study comparing the hopes and expectations upon release of Swedish women prisoners with Irish women prisoners, the researchers found that, in contrast to their Swedish counterparts, despite austere and repressive conditions of incarceration, the Irish were surprisingly optimistic about their prospects upon release (Lundström 1992). In comparison, the Swedish offenders, detained in relatively comfortable circumstances, were anxious and depressed about their prospects.

Political prisoners were not included in the study since political prisoners have a different range of expectations and motivations. The Irish penal system is characterized as retributive while the Swedish is considered liberal, progressive and rehabilitative (Lundström 1992: 64). The reason for this enigmatic difference in offender expectations is that, to employ Braithwaite's valuable distinction, Irish culture is an integrative shaming

culture while Sweden is a stigmatizing shaming culture. Said in another way, the Irish had good reasons to expect acceptance and integration upon release, while the Swedish women (especially the recidivists) had no such illusions (Lundström 1992: 75-76). Hope is the offender's greatest resource in an alien, uncaring and cruel environment. Lundström's study confirms the Chinese experience in a cross-cultural Western context, namely that successful resettlement is possible in a caring communitarian setting. Herein, then, lies the reason why the Chinese concept of *Bang-jiao* can be such a powerful innovation for South African penal and rehabilitation practice.

Bang-jiao committees, which I explore in Chapter Four, are specifically directed at returning ex-offenders. As Mok (1990: 12) indicates, their mandate is to assist ex-offenders with their rehabilitation by welcoming ex-offenders back and pro-actively working hand-in-hand with other government agencies to ensure sustainable resettlement. I argue, as I do in the previous chapter, that John Braithwaite's (1989: 55) "gesture of reacceptance" is vital for kick-starting and sustaining a regime of genuine rehabilitation. In Chapter Four I outline the salient features implicit in this communal structure. As I note above, the two crime prevention strategies of *bang-jiao* and *tiao-jie* both hinge on the involvement of the public in crime prevention and control and has had very promising results in the PRC over a twenty year period. In crime-ridden communities such as Helenvale in Port Elizabeth or Bonteheuwel and Mannenberg in Cape Town, empowering the residents of those communities to become involved in securing their own safety, will send a powerful message that their fate is in their own hands and that their own input can make a difference both preventatively and pro-actively. Pilot projects in affected communities can lay the foundation for a study to gauge the potential for and identify possible tweaks that might befall such innovations.

Contextual factors

Finally, as both Allen and Haney contend, the social environment as a potential criminogenic agent needs to be taken very seriously. Incarceration for individual culpability, as I argue in Chapter Three, falls short of dealing with the matter consistently and consequentially. As the Chinese experience has shown, the only responsible way of approaching rehabilitation is to re-orientate the ex-offender's perception of these inevitabilities. Consequently, the entire rehabilitation course is built around the notion of re-educating the offender and ex-offender to interact with these skewed surrounds in ways that are defensible and sustainable in the long run. There is simply no point in focusing on a narrow and outdated conception of individual responsibility without including the pressing role of the social environment in shaping criminal behaviour.

The argument for contextual factors over that of individual responsibility is a topic that I introduce in Chapter Three and continue to interrogate in Chapter Four in the context of

the Chinese socialist (largely successful) efforts to complement the institution of incarceration with that of rehabilitation. Curiously, both these concepts are Western in origin but only in China did they find an acceptable balance within a socialist orientation. It is notable that the Chinese emphasis on structural adjustments in the societal fight against crime includes a huge investment in compassion and integration-shaming. Two European experiments have highlighted the correctness of the Chinese approach inadvertently (since these studies were not designed to that end) in a cross-cultural perspective. Habermas, as I indicate in Chapter Two, suggests that the examination of alternative developmental trajectories is important to enable us to evaluate the strengths and weaknesses of institutions situated in our home learning curve.

Firstly, Germany experienced high rates of theft of motorcycles during the 1980s. After the wearing of helmets was introduced and made compulsory, the rates of theft of motorcycles inexplicably dropped significantly (Mayhew, Clarke and Elliott 1989). Secondly, the theft of second-hand metal in the UK dropped by half after the introduction of, among others, the legislative requirements that metal buyers had to be registered, payment be made by way of electronic funds transfers (EFTs) and the demand for seller's identification (Gash 2017: 248-250). In both these cases, small tweaks in the system encouraged would-be thieves to abandon their recalcitrant ways. If most crime, as Tom Gash (2017: 250) contends, building on the work of Richard Wortley, is the result of opportunism, then it makes perfect sense to remove that temptation in recognition of the argument that opportunity is king in the making of the vast majority of criminals. Gash (2017: 260) contends that a three-pronged approach should be substituted for our sticking plaster or band-aid approach of dealing with crime as a conditioned knee-jerk response.

In the first place, the accent needs to shift from the would-be offender to the issue of crime. By focusing on crime trends and what motivates these opportunistic curves, a window opens which will allow for the effective addressing of the phenomenon. Often a lot of money is thrown at a problem without any real thought about the contours and depth of the problem. In Chapter Four, I note that traditionally, the Chinese favour a focus on the offender rather than the victim. Western crime reduction approaches prioritize the latter. In the second place, Gash proposes that a comprehensive crime prevention strategy, which includes a whole range of actors apart from the criminal justice system, should be adopted. Research has shown that solutions to opportunistic crime can come from a wide assortment of different perspectives. Once again, this idea found validation in the Chinese context (as I indicate in Chapter Four.) In the third place, the reluctance to experiment with new and different solutions to problems instead of far-reaching initiatives such as mass imprisonment, needs to be overcome as soon as possible. If the socially contextualising revolution in rehabilitation is indeed a valuable improvement on the Western insistence on

individual responsibility, then it follows that the Chinese insight is one worthy of serious and compelling reflection.

On a final note, Lundström (1992: 75-76) demonstrates that the most liberal, progressive penal system cannot change the mind-set of an unresponsive and oblivious public. By way of illustration, it took nothing less than a protracted civil war to effect the abolition of slavery in the United States. However, the nub of my argument does not end there. As Michelle Alexander argues persuasively, an argument that I note with approval in Chapter Three, the civil war might have ended official slavery, but it did not succeed in fundamentally overhauling the public mind-set of the American public, i.e. it did not change the deep-seated thinking that blacks in the United States are not entitled to or worthy of equal rights, opportunities and treatment as white Americans are. In fact, as she points out, *de facto* slavery was merely replaced by Jim Crow, which in turn was displaced by mass incarceration. Alexander's thinking is confirmed by Lundström's findings. Legislation that provides for second chances for returning ex-offenders is a right step but in the wrong direction, as Žižek said about Foucault's support for the Islamic revolution in Iran. Without measures to change current punitive popularity in a fundamental way to practices belonging to a more caring, compassionate society, receptive to welcoming back ex-offenders, legislation to this end will be little more than a sticking plaster to the problem of stigma. I suggest below a number of steps that can be put in place to overcome this important obstacle to the integration of ex-offenders in a stigmatizing shaming culture – and I have in mind, specifically, post-apartheid South Africa in the grip of patronage in an era of what Mcebi Jonas, South Africa's former deputy minister of finance, calls "radical economic looting" (as is generally well-known).

Change from the periphery

In formulating an adequate response to this not inconsiderable obstacle to the integration of ex-offenders in South Africa, I am mindful, as noted at the outset of this chapter, of Janet Cherry's (2016) proposal that change is more likely to come from the periphery than from the centre. Under the former, I include marginalized groups such as ex-offenders, and by the latter I mean essentially meaningful government intervention. Naomi Klein (2015) argues in the same vein as Angela Davis (2003), as I note in Chapter One, that great strides in the human condition were not initially brought about by government initiatives, but by those of NGOs or simply everyday people. By way of example, the abolition of slavery in the British Empire was a private incentive. Another memorable example that comes to mind, is Rosa Parks who famously refused to give up her seat for a white man. The integration of women into the mainstream workforce, as I observe in Chapter Four, was the result of many unimaginable sacrifices by, among others, the British Suffragettes.

In a sense, this negates the possible role of African recognition theory, espoused by Chris Allsobrook and explored in Chapter Two. The institutions and structures which this strategy is supposed to identify in an African context are obvious for my project. The institutions and structures which I consider relevant for the project of successfully resettling ex-offenders in the South African context, are DCS, ex-offenders themselves and NGOs that devote themselves to the care of ex-offenders after their release from incarceration. Having said this, I also have suggestions for government interventions that, in my view, are likely to add considerable value to the project. Essentially, my approach is an eclectic one, for which I attempt to prepare the way in Chapter Two Part Two, where I probe post-structuralist thinking, notably that of Lacan and Olivier. I will first consider possible suggestions for changes from the periphery and then those meant to inform government intervention.

As for potential contributions by the periphery, I reiterate that government intervention, assuming such to be forthcoming, is not enough to ensure sustainable integration of ex-offenders. The mindset of the public at large also needs to be educated and influenced for the better. In this respect, I believe that NGOs such as NICRO, the Institute for Crime Prevention and the Rehabilitation of Offenders, a nation-wide organization with offices in all major centres in South Africa, play an invaluable role. Because of its status as a go-between between ex-offenders and the public, NICRO enjoys a vote of credibility when it comes to educating the public on matters of crime prevention and the potential integration of ex-offenders.

As the Chinese experience, traversed in the previous chapter, has shown, making convincing inroads into rates of recidivism hinges to a great extent on the possibility of making the most of the opportunity presented in the sustainable resettlement of ex-offenders. By NICRO possibly appointing an in-house researcher who can write and publish under their name in (especially) the local press, and present seminars and public lectures on a wide range of topics related to the need for stimulating such features as those prevalent in integrating shaming cultures, a great deal can be done to change the unreflective thinking of the broader public to embrace compassionate initiatives. Raising awareness among members of the public is of paramount importance. I note below McGinty *et al.* (2015) and Campbell *et al.*'s (2005) research findings on the value of educating the public to make effective inroads into the prevalence of stigma. As Braithwaite points out, only a genuine gesture of re-acceptance will break the deadlock between efforts to rehabilitate and the stultifying effects of stigma, leading to the social and economic exclusion of ex-offenders. Most ex-offenders are desperate for a second chance, as I indicate in Chapter One. I suggest that full-page advertisements in local and national papers where ex-offenders are welcomed back into the community, will go some distance to fill this gap. Initiatives of this nature are calculated to challenge popular stereotypes of offenders and

ex-offenders alike and are bound to stimulate popular debate on the unjustified exclusion and discrimination suffered by this marginalized group.

The re-initiation ceremony

Braithwaite and Mugford (1994) raise the importance of transformative certification as a symbolic gesture of re-admission for returning ex-offenders. This is an important suggestion both for the community, receiving the ex-offender back into its midst and signaling a much needed welcoming to the ex-offender, as well as for her or his family as a formal sign of acceptance. In the early 1960s Kai Erikson noted (1964: 16–17), that one is "ushered into the deviant position by a decisive and often dramatic ceremony, yet is retired from it with hardly a word of public notice. And as a result, the deviant often returns home with no proper license to resume a normal life in the community". In view of the stigma that dogs the ex-offender, such proper licence to join her or his erstwhile community as a full member of that society, is of great importance to the ex-offender and her or his family.

From the perspective of the community, if such integration has its corollary in effective desistance, this is no doubt of value to the community too. Uggen, Manza & Behrens (2004: 285-286) argue that the responsible 'societal management of stigma' would go a long way towards successful integration as communities are not well equipped to deal with returning ex-offenders at this present time. Although these observations were made almost fifteen years ago in the context of the United States, I can testify from personal experience in the South African context (in a similarly stigmatizing shaming culture) that these words are as true today as they were then.

Re-initiation rituals sponsored or co-sponsored by NICRO would go some distance to help entrench the notion, among both ex-offenders and the public in general, that integration is not a hopeless pipedream. My considered view of this issue is that it is a very important initiative to formally welcome ex-offenders back into the community and I can think of no better opportunity for such re-initiation rituals as when the ex-offender is officially released on parole. This, as I can testify, is the moment when in the mind of the ex-offender she or he is given a fresh chance to prove to society at large and to her or himself that the parolee is fit to rejoin society. My suggestion is that it is in the public's interest not to take this opportunity to show forgiveness and acceptance to newly released ex-offenders lightly.

 This is a very important opportunity to re-establish bonds with sanctioned members of society who deserve a second chance. The provision of soft drinks and snacks and the awarding of an integration certificate are markers that could make the moment a special one, with significance for both the ex-offender and the community to which she or he belongs. A short speech by the head of the community corrections forum from which the ex-offender is released back into the community – and normally forms the link between the

correctional facility and the community while the ex-offender is on parole – congratulating the re-initiates and offering them warm words of encouragement would not be amiss.

Proposals for a re-initiation ceremony that really conveys the importance of integration and a receptive community are certainly valuable ideas to interweave the initiative of integration with the African notion of Ubuntu, understood as forgiveness and reconciliation. It is, however, not enough if the ex-offender herself or himself is not emotionally or psychically ready for the on-going challenges posed by the project of integration in a stigmatizing shaming culture and the concomitant acceptance of the community. Although the advancement of the idea of a caring society is the thrust of my argument, explored in Chapter Two, the personal development of vulnerable individuals is a priority, as the caring society is not likely to happen overnight and these individuals need to be able to look after themselves in the interim. This is especially true in view of the neo-liberal grip in which post-apartheid South Africa finds itself. Advanced capitalism, as I argue in Chapter Three, demonizes marginalized communities such as the poor, refugees and ex-offenders in a (largely successful) attempt to divert attention away from the shenanigans of the wealthy and powerful. It is also an effective way to keep the prison's 'revolving door' in operation in its successful attempt to perpetuate the irrational institution (as Habermas argues, as I suggest in Chapter Two, Part One) of the prison-industrial-complex. To this end, I have developed five initiatives to assist ex-offenders in preparation for their moment of 'potential' integration and, failing that, enabling an alternative route to 'well-being'

If the driver behind the proposed legitimate (and I use this word advisedly) social and economic exclusion of marginalized groups, such as ex-offenders, is analogous to Andre Gunder Frank's (quoted in Leys 2008a: 43-46) idea of 'underdevelopment of development,' measures must be put in place to help these groups to develop along lines that can add value to their lives. Frank (1991: 58-60) was one of the first theorists to understand that neoliberal world development necessarily means either marginalization or underdevelopment (or 'anti-development') for much of the Third World. Said in another way, the selfish society trumps the caring society. The notions that I have in mind are a programme to enhance the ex-offender's self-esteem, including the importance of nurturing realistic expectations around the issue of integration, the great value of confidence as an inter-personal skill, techniques to grow trust in a culture suspicious and untrusting of ex-offenders and, finally, Victor Frankl's psychological procedure of 'paradoxical intensity.' As I observe above, some topics will easily overlap between the four sections into which this chapter is divided.

In this chapter, I aim to transplant the data collected on Chinese soil to home soil using thematic coding. This exercise has largely been a successful one and a range of invaluable ideas were relocated that took root in new soil without much difficulty. These ideas were

coded and explored in four groups: childhood, pre-incarceration, incarceration and post-lease. However, despite the fructuous nature of the transplantation, it became clear to me that the peculiar features exhibited by stigmatizing shaming cultures weigh too heavily to grow a sustainable culture of integration and redemption. These transplanted features may survive unassisted in stigmatizing shaming cultures, but this will still not translate into integation. Although the implementation of these suggestions from Chinese penal practice will go a far way to ameliorate the existing brutal conditions of marginalization, stigmatization and wide-spread discrimination which ex-offenders in South Africa face everyday, it is unlikely to do much to assist with their integration. The negative features I have in mind are the existence of the prison-industrial-complex, considered in Chapter Three, and the selfish unexamined rationale for the economic and social exclusion of stigmatized populations, such as ex-offenders, by selfish societies, considered in Chapter One. Finally, other features which militate against an integrative culture taking root are these societies' 'diseased' nature and the inability or reluctance of communities to engage in responsible, (re)integrative management of shame so as to generate a shared 'ethical identity' (Harris 2010: 113) between the offender and her community. In fact, the 'nature' of stigmatizing shaming, as opposed to that of integrative shaming cultures (selfish vs. caring), may well be mutually exclusive. In integrative shaming cultures, as I show in Chapter Four, inter-personal relationships are valued very highly. This is not the case as a general rule in stigmatizing shaming cultures. As I note above, Clare Ballard (2017) argues that 'prison issues have fallen off the radar' (in the latter cultures). By extention, this observation also applies to the welfare of ex-offenders. This general indifference to the plight of the marginalized in stigmatized shaming cultures feeds beautifully into the central features of the 'selfish society', notably the money that stands to be made from recycling these 'disposable populations' and the more immediate benefits (such as excluding them from legitimate competition) this has for 'normals'. Until communities are prepared to shoulder their responsibility in managing shame in response to crime in a way that allows for redemption and integration, nothing will change. I argue that integration by ex-offenders in South Africa is not feasible at present, but this certainly has the potential to change in time to come. Instead, I argue in the next chapter that for the time being much can be done to assist ex-offenders to survive in a harsh stigmatizing environment after release. The crux of my thinking in the next chapter revolves around the insight, explored below, that despite the impossibility (and even undesirability) of integrating ex-offenders in stigmatizing cultures for the present, recidivism can still be addressed effectively in other ways. Firstly, as Amanda Dissel (inadvertently) demonstrates, there are other ways to grow desistence among ex-offenders than merely the much flaunted (and flawed) idea of post-release integration. Her example of how the introduction of meditation and yoga programmes in Senagalese prisons slashed recidivism rates in that country, is telling of the value of encouraging and enabling well-being among ex-offenders. Secondly, as I indicate in Chapter One, studies note how a positive attitude (an ingredient of emotional well-being)

among ex-offenders feeds into patterns of desistence. Du Toit, as I indicate in Chapter One, observes how integration of marginalized groups into an 'abnormal' society is politically undesirable as it is bound to 'paper over' the fault lines of that society. This is an important consideration since Taylor *et al.* (1973) and Stanley Cohen (1973) argue that the labeling perspective (i.e. the act of labelling) is itself politically motivated. My own theoretical perspective, which I explore in Chapter One, is critical of the idea of a 'functionalist' society and I adopt, instead, a conflict, Marxist-inspired view of society. What I have in mind is a programme which will add value to the well-being (emphasized in several studies that I note in Chapter One) of ex-offenders in stigmatizing shaming cultures. As I show in Chapter One, intervention projects to assist and encourage ex-offenders to integrate in stigmatizing shaming cultures have very poor track records in both the West and the East. Integration is only one possible route to achieving desistence among ex-offenders and it is certainly not the most attractive or effective way to go. I argue that 'well-being' as opposed to integration is a more powerful route to desistence and has the added benefit of not being a politically compromised solution.

CHAPTER FIVE: Part Two

Well-being and the 'care of the self': Interpretation & Discussion

In the previous chapter, I came to the conclusion that despite the successful transplantation to home soil of a number of ideas (or memeplex) from Chinese soil, these features nonetheless left 'gaps' which can be filled by home-grown remedies. This is justified by the receptor approach, one of my 'tools' discussed in Chapter Two, Part Two. Moreover, if DCS could be persuaded to attend to the well-being of both offenders and ex-offenders, as I argue in the previous chapter, it would grow desistence from crime among these populations (and forestall recidivisim). From the point of view of the powerless ex-offender, this makes more political sense, as I note in Chapter One. I attempt to first build a case for the 'care of the self' before exploring my five home-grown remedies which are moulded on Foucault's rationale of 'care for the self'.

The case for offenders' well-being structured around 'care of the self'

The development of inter-personal skills specifically honed to assist ex-offenders to cope with the harsh and unresponsive demands of a stigmatizing culture (notably South Africa), is one such topic that easily overlaps between the subject of rehabilitation during incarceration and that of rehabilitative efforts after release. In view of the fact that DCS has for many years insisted that violent offenders complete a course in life skills as a precondition to be considered for parole, the receptor approach allows me to add to this incentive the introduction of a voluntary course on *specific* life skills for all offenders in anticipation of being granted parole. As I cannot repeat this critical treatment of the five items in both sections, I submit that it is however an integral part of my argument that this discussion can, and should, be read as being applicable to both. Gloria Steinem (1992: 30) suggests that institutionalized opposition to self-esteem programmes is premised on the understanding that reliance on an 'inner' authority (self-esteem, confidence, conscience) is frowned upon by external authority that prefers expressive reliance an on external, visible mandate. Accordingly, I will first develop a case for creative resistance as an acceptable and sustainable form of subjectivity for ex-offenders and offenders alike.

Foucault's (1975/1991) theorizing of 'docile bodies' – referring specifically to offenders – was taken one step further by Deleuze (1992), where the latter argues that under the sway of neoliberal capital, the disciplinary regime is replaced through the regimen of economic coercion. We live on a finite planet and there are only so many resources to go around. The broader implication of this argument – namely that economic colonization of one and all is the overriding aim of capital in the contemporary world – is well conceived. The construction of a colonizing, global Empire reaching into every corner of the globe, began

around the same time as the end of the Vietnam War. Hardt and Negri (2001: 244-245) explain the circumstances which led to this state of affairs:

> As a result of the project of economic and social reform under U.S. hegemony, the imperialist politics of the dominant capitalist countries was transformed in the postwar period. The new global scene was defined and organized primarily around three mechanisms or apparatuses: (1) the process of decolonization that gradually recomposed the world market along hierarchical lines branching out from the United States; (2) the gradual decentralization of production; and (3) the construction of a framework of international relations that spread across the globe the disciplinary productive regime and disciplinary society in its successive evolutions. Each of these aspects constitutes a step in the evolution from imperialism to Empire. […]

Hardt and Negri's incisive analysis of how imperialism was converted into Empire and the resultant global reach of its colonizing, leaves one question unanswered, namely the objectives by which (when actualized) such economic servitude is obtained and entrenched. Four such objectives have been identified and I mention them briefly.

Firstly, Foucault's (1975/1991: 170-194) enumeration of the 'securitised' index, foreshadowing the surveillance characteristic of the carceral spread in modern societies, ensures that not only offenders and ex-offenders are legitimately 'securitised,' but simply everybody. Everything from blood and DNA samples to fingerprints and credit records are part and parcel of the 'panoptical surveillance' of everyone, as Olivier (2017) points out. In the words of Hardt and Negri (2012: 19), "Security technologies have leapt forward in recent years to delve deeper into society, our lives, and our bodies." If this is what Foucault meant by his famous suggestion (Foucault 1975/1991: 298-308) that contemporary society is one big prison warehouse (considering the ubiquity of prison architecture as seen in the similarity of design of schools, factories and hospitals), then as a former inmate of prison in the narrow sense of the word, I cannot but agree with Foucault.

Why is the securitisation of the globe important for neoliberal capital (neo-)colonial exploitation? The reason is, as Bert Olivier (2017) puts it, "[T]hrough the media the natural associative or social tendencies of people are transmogrified into the 'fearful isolation' of the securitised." The purpose of this exercise is to demonize a certain category of people and to alert ordinary people to what Hardt and Negri (2012) refer to as "this world of filth". This is a reference to suppressed groups such as the poor, offenders still incarcerated and ex-offenders on the 'outside' dreaming of economic decolonization. Just as neoliberal capital has been colonizing the natural and human resources in every corner of the globe, ex-offenders' have their legitimate expectation of being integrated back into society upon their release from incarceration expropriated, and their economic and social potential

colonized. I explore this perspective above in the context of Andre Gunder Frank's explication of his understanding of the 'underdevelopment of development' or 'anti-development.' The profit incentive in having ex-offenders, among others, emasculated, is to keep high rates of recidivism among ex-offenders intact (by excluding them and keeping them excluded from mainstream economic and social activity) in the service of the vested interests ensconced in the prison-industrial complex (a concept I explained in Chapter Three). Their disempowerment is deemed to be legitimate. *The* point is encapsulated in the economy of exclusion, as Alice Cherki (2011: 132-133) points out in her commenting on Fanon's vision of colonization in the following terms:

> This time is governed by a society of contempt, where the power of money triumphs and is erected as a true ideology inducing fear of the other, regardless of what form it takes, from North to South. This ideology can be characterized by financial capital, corruption, subjection of the impoverished, and a culture of fearing the other, which leads to exclusion [...] securing an atmosphere for hegemonic, repressive, and violent statements.

By furthering a culture of impoverishment and exclusion that results from such practice, neoliberal capital insists on keeping the entire economic pie for itself. Secondly, Deleuze makes a cogent argument for the role of information overload so as to ensure that marginalized groups (such as ex-offenders), are unable to find their voices and articulate their concerns and needs. He alludes to "little gaps of solitude and silence in which they might eventually find something to say [...] that might be worth saying" (quoted in Hardt and Negri 2012: 15). In Chapter Three, I point out that consumerism is one way in which the wealthy and the powerful keep the populace docile and Deleuze's highlighting of information overload as yet another tool to silence legitimate concerns, lends further credence to my argument developed there. Thirdly, Foucault (1972: 227), in his inaugural address, specifically identifies education as one of the means of the "social appropriations of discourse":

> Education may well be, as of right, the instrument whereby every individual, in a society like our own, can gain access to any kind of discourse. But we well know that in its distribution, in what it permits and in what it prevents, it follows the well-trodden battle-lines of social conflict. Every educational system is a political means of maintaining or of modifying the appropriation of discourse, with the knowledge and the powers it carries with it.

The formation of new subjectivities

Ironically, then, in Foucault's analysis the invidious, if tacit aim of education is precisely to prepare us for the role of accepting class conflict and social and economic exclusion

without questioning, within the global power game of unilateral enrichment. Taken together, the three instruments discussed – education, information overload and the 'securitised' index – prepare us for an economy based on exclusion and privileged access to resources by the wealthy and the powerful. The point I am driving at is that neoliberal capital has also, concomitantly and inescapably, prepared the ground for the structuring of new subjectivities and the means to resist the demands of exclusion driven by the narrative of economic disempowerment. Hardt and Negri (2012: 9) put this idea succinctly in the following words:

> The triumph of neoliberalism and its crisis have shifted the terms of economic and political life, but they have also operated a social, anthropological transformation, fabricating new figures of subjectivity.[...] these movements [of resistance and rebellion] have the ability not only to refuse these subjectivities but also to invert them and create figures that are capable of expressing their independence and their powers of political action.

It is exactly these movements of resistance and subjectivities of (relative) autonomy that interest me. Hardt and Negri's analysis confirms my own. In Chapter Three I argue that the experience of incarceration results in a compromised autonomy for the vast number of offenders and that this state, though it might be politically desirable by the dictates of the economy of exclusion, is not by any means a positive development for those affected by such exclusion. According to Castells (2010b: 6-7), 'identity' is not a product of a genetic inheritance or social meme (in Dawkins's sense of the word): Identity is a social construct. Confirming Hardt and Negri's insights in this regard, Castells (2010b *ibid.*) contends that identity in the information age must be understood within the context of the "rise of the network society" which made new formations possible, as opposed to the ways in which identity came into being during the modern age (now superseded by the information age).

Castells (2010a: 8-10): identifies three forms of identity that took shape in the course of the information age: "legitimizing identity" (which is constituted by overriding societal discourses such as religion, morality and education and might indeed, as Freud famously pointed out, add to the upholding of civilization), "resistance identity" (which takes shape in resisting social and economic exclusion and alienation), and "project-identity." Drawing on Castells's work, Olivier (2017) defines the latter concept as an identity "that appears when social agents employ cultural material for the construction of a novel, socially redefining identity, with a view to the transformation of the social structure in its entirety, such as in the feminist movement". Castells (2010a: 9) is of the view that "resistance identity" might be the most important formation for our times. Bert Olivier's gloss on this identity is the acknowledgement of the value of "collective resistance against what is experienced as unbearable oppression or exclusion, specifically of identities which have been shaped comparatively clearly by historical, cultural or geographical forces and

developments." In reference to neoliberal capital colonization, Castells (2010a: 11-12) argues that:

> Under such new conditions, civil societies shrink and disarticulate because there is no longer continuity between the logic of powermaking in the global network and the logic of association and representation in specific societies and cultures. The search for meaning takes place then in the reconstruction of defensive identities around communal principles. Most of social action becomes organized in the opposition between unidentified flows and secluded identities....I propose the hypothesis that the constitution of subjects, at the heart of the process of social change, takes a different route to the one we knew during modernity, and late modernity: namely, *subjects, if and when constructed, are not built any longer on the basis of civil societies, which are in the process of disintegration, but as prolongation of communal resistance.* While in modernity (early or late) project identity was constituted from civil society (as in the case of socialism on the basis of the labor movement), in the network society, project identity, if it develops at all, grows from communal resistance. This is the actual meaning of the new primacy of identity politics in the network society. The analysis of processes, conditions, and outcomes of the transformation of communal resistance into transformative subjects is the precise realm for a theory of social change in the information age.

I take Castells's analysis of social change under 'coercion' of social/economic/political changes in the early 21st century of social agents in either individual or communal form to be vital in the understanding of the ways in which both offenders and ex-offenders, both individually and/or as a community, can resist the debilitating and crushing effects of alienation and exclusion, both social and economic, in a stigmatizing shaming culture such as South Africa. Whether these identities take shape as 'resistance identity' or 'defensive identity' (as Bert Olivier [2017] claims), is immaterial. The importance of my argument, and the supporting evidence that I have succeeded in collecting, lie in the fact that 'resistance' identity or the identity project are both widely pursued in our contemporary world and are legitimate expressions of active resistance to unsustainable oppression entrenched in economies of exclusion and alienation.

Foucault and the emancipatory developmental paradigm

Finally, I argue that the objective (one among others, as I stated in Chapter One) of developing ex-offenders' specific interpersonal skills of caring for the self within the context of wellbeing in an age of no or little growth, is eminently justified within the context of my anti-neoliberal yet emancipatory or transformatory developmental paradigm (explored in Chapter One). Foucault (1990: 44) quotes Socrates' presentation of himself to

his judges as a master of the art of caring for himself. Socrates contends that the gods insist that men are not to concern themselves with their possessions or property, but firstly and foremost with their souls. The latter [the cultivation of the soul] is related to Foucault's exploration of that concept in the world of ancient Greece and of its relevance for our modern times. Plutarch is invoked as authority for the proposition that "diseases of the soul" are much harder to diagnose than ordinary afflictions of the body (Foucault 1990: 58). Plutarch warns that diseases of the soul often go undetected for long periods of time and might even be mistaken for virtues. The most important way of guarding against diseases of the soul is an intimate knowledge of oneself (Foucault, *ibid*). Knowing oneself is a useful tool when examining a failing of judgement. Seneca (Foucault 1990: 62) draws attention to the fact that the examination which he has in mind here is not the outcome of a criminal trial with either a guilty verdict or discharging of the accused.

The correct analogy is the appraisal of a work of art so as to encourage a friend in her or his accomplishments. On the other hand, "[t]he fault [is brought under the microscope, CL] on the basis of the recapitulated and reconsidered verification of a failure, the rational equipment that ensures a wise behaviour." Epictetus (Foucault 1990: 63) goes as far as claiming that the true vocation of philosophy is in fact none other than taking prudent steps to exercise the soul "so as to accept in the relation to the self only that which can depend on the subject's free and rational choice" (Foucault 1990: 64). Some of the skills elaborated upon below, such as searching for and identifying one's true desire, attempt to enhance this feature touched upon by Foucault.

Tellingly, Foucault (1990: 65) contends that the care of the self envisages untrammelled subjectivity in the sense that one is only answerable to one's own conscience – an argument compatible with that advanced by Castells, Deleuze and Fanon (above). Finally, Seneca (Foucault, 1990: 66) makes a convincing argument for the proposition that care or mastery of the self is not an act of rebellion but "the experience of a pleasure that one takes in oneself." This implies that one is a happy individual and as such accepts one's limitations graciously. Happy people are unlikely to hurt others or resent their good fortune (Foucault 1990: 89, quoting the Dio of Prusa). The driver of this reason, the *logos*, settles in the soul and remains a permanent asset. The point is precisely that a good ruler also takes care to have an impeccable private life and takes pride in living a life of self-restraint. Perhaps the care of the self is the flipside of the caring society – an argument I advanced in some detail in Chapter Two. In an effort to avoid or delay colonization of their subjectivity, both ex-offenders and those still on the 'inside,' should be encouraged to enhance their life skills, particularly those that relate to survival or creative resistance to colonizing in a stigmatizing shaming culture, critically explored below. Before doing so, I first need to address the divergence between Foucault's outward-looking ethics and my own inward-looking ethics.

It is of course true that Foucault's examination of the Greco-Romano idea of the 'care of the self' is predicated on an outward-looking ethics, while I aim to employ the concept creatively as an inward-looking ethics – achieving emotional well-being among both incarcerated and released ex-offenders in stigmatizing shaming cultures (particularly South Africa, the UK and the US). But my utilizing Foucault's well-known concept is also an attempt to achieve an outward objective, namely desistence as I argue in Chapter Five, Part Two, although it is admittedly primarily aimed at nurturing inner serenity and equilibrium. It is my contention that the ancient Greeks would have agreed with this line of reasoning since they insisted that a good statesman must of necessity also be a good father and husband. I argue accordingly that an inward-looking ethic (i.e. methods to achieve emotional well-being) is a precondition for an outward-looking ethical approach.

I proceed to consider the five 'home-grown remedies' alluded to above. The cumulative aim of these exercises is precisely to cultivate the ideal of the care of the self, so admirably interrogated by Foucault in its ancient historical context in the West.

Self-esteem

Firstly, Gloria Steinem (1992) argues that communal self-esteem is vital to complement economic growth. In a critical review of her book on the subject, Marjorie Sachs (1992) suggests that, despite finding the book unsatisfactory herself,

> There is much good in this book. I feel the subject of selfesteem is indeed a
> central one and Gloria Steinem has done her homework […]

> Gloria Steinem raises some important questions in this book. We could
> all do well to think about our own selfesteem and she certainly points us
> in the right general direction.

While I am in agreement that the issue of self-esteem is one of major importance for people in general (but especially so for offenders and ex-offenders), I disagree with Sachs's general assessment that Steinem's exploration of the value of self--esteem, both personal and societal, is "naive" and "almost adolescent." In her autobiography, Sandra Gregory observes that, drawn from her own experience as a female prisoner in the notorious F-wing of Durham High Security Prison, women prisoners had self-esteem of "almost zero" (Gregory & Tierney 2003: 237). In my opinion, many people, even at an advanced age, struggle with this issue and, speaking from personal observation during incarceration, a great many offenders, and ex-offenders, for that matter, have serious self-esteem problems. A detailed study of this valuable and vital skill, especially among marginalized communities, is important. Perhaps Sachs can do without a consideration of the need for self-esteem, but she should speak for her own privileged community. Steinem's contention is especially potent in marginalized communities such as ex-offenders where no or poor participation in

economic growth is likely to be the case. As I explained in Chapter One, stigma in stigmatizing shaming communities such as South Africa and the United States results in both the social and economic emasculation of this vulnerable group.

Poor self-esteem, as Steinem (1992: 27-28) rightly points out, is probably the reason for these individuals having found themselves in these unfortunate situations in the first place. A powerful precedent for the nurturing and development of communal self-esteem is the Task-Force on Self Esteem Enhancement brought to life by the Californian legislature in the 1970s and subsequently duplicated in other states (Steinem 1992: 27-28). Significantly, the Task-Force found that one of the seven social areas in which the lack of self-esteem was to play a major role in perpetuating the problem, was crime and violence. (Inequality, as I indicate in the previous chapter, is another important marker of social ills). The argument for planting and nurturing self-esteem in marginalized communities requires little motivation that individuals who feel good about themselves, will have insufficient incentive to bother or hurt other human beings. In my exploration of Foucault's care of the self in the Ancient Hellenistic world, above, I stressed my agreement with his view that happy individuals are unlikely to damage or hurt others.

In a sense, this argument in favour of enhancing offender and ex-offender self-esteem is a continuation of my argument begun in Chapter Two where I sought to criticize neo-liberal capitalism as a selfish societal design and an unsatisfactory developmental paradigm. My objective there and here is to make a convincing case for a caring, nurturing society instead. In another sense, this continuation is also a direct parallel of that argument since, whereas I sought to advocate Gerhardt's views for a nurturing early childhood so as to produce compassionate, caring adults in later years, my current occupation is to uncover the conditions for turning offenders and ex-offenders into compassionate beings belatedly. These individuals are those that have evidently fallen through the cracks produced by the 'selfish society' – and the purpose of the present exercise is, significantly, to recover the "inner child". Steinem (1992: 37) refers to the inner child as "a familiar feeling of being neglected, deprived, and insecure." She elaborates on this idea in the following heart-rending words:

> Each of us has an inner child of the past living within us. Those who needed to build no walls have access to that child's creativity and spontaneity. Those who had to leave this crucial core behind can tear down the walls, see what the child needed but didn't have, and begin to provide it now. The more we do this, the more we know that we are worth it. (Steinem 1992: 38-39)

Steinem envisages a programme to rescue the abandoned inner child created by the strict parenting style outlined by Gerhardt (and recounted by myself in Chapter Two) and to

provide those adults with the tools to regenerate the benefits of a nurturing parentage, namely the restructuring of compassionate adults.

Her programme for the recovering and rescuing of the inner child encompasses four steps (though I had to reconstruct these steps from her text). Firstly, the gay notion of 'coming out' is a powerful one in the context of ex-offenders shedding their stigma status and a procedure that Irwin proposes (noted in Chapter Three). Frankl's technique of paradoxical intensity, briefly traversed below, ties in well with the idea of 'coming out.' In the context of building self-esteem, it is meant to signify shedding a fake childhood shame and reaching out for a true identity. This is a time-honoured way for "discovering a true self" (Steinem 1992: 38-39). Her second step is taken from an idea of Alice Miller's. Miller's point is to give the inner child a proper audience, and to listen attentively to the pain she had to bear alone, without witness and without the language to grasp what was happening to her in an atmosphere deprived of hope. The idea is for the adult child to champion the needs of "the inner child of the past" (Steinem 1992: 100) and "reparenting oneself" (Steinem 1992: 104). I consider these ideas profound and fructuous in the context of the revitalized rehabilitation ideal. Steinem's third step is to encourage us to unlearn the self-serving valuations which others have imposed on us (Steinem 1992: 109ff) as a precipitation of her final step, namely relearning our true self (Steinem 1992: 153ff).

To this end, she lists a number of possible paths, including journeys into the unconscious to recover the inner child. As for the means chosen in penal environments, Steinem (1992: 157) notes that "[p]risons could provide positive ways of showing individual worth instead of stripping inmates of all identity." This is of course true and Steinem's contention that the inner child has to be rescued in the context of a sense of authenticity, is pursued below in the discussion of Young-Eisendrath's idea that an examination of women's true desire (extrapolated by myself to the situation of offenders), as opposed to patriarchy's version of wanting to be wanted, is essential for self-determination and autonomy.

Authentic self-determination

Secondly, Polly Young-Eisendrath (2000) is of the view that most women (another marginalized group that is slowly reclaiming the space due to them) have not learned how to explore and value their own needs and yearnings. Her argument is that women are so overwhelmed by the perceived need of "wanting to be wanted," that they often become flustered in therapy when asked what they themselves need or want (Young-Eisendrath 2000: 4). She bases her argument on Lacan's dictum that "[w]omen do not give their love to men who love them, but to men who want them" (as reported by Schneiderman 1983: 30). Despite the significant inroads which Western feminism has made in patriarchal societies, women remain confused about their own desire as well as the legitimacy of their own needs. Young-Eisendrath (2000: xv) argues that the distinguishing feature of being human

is our ability to change our ways, which is only possible when we know our own hearts and our own desires. How valuable this contention is for offenders and ex-offenders! She decries the contemporaneous female desire to be desired above all "as a damaging *affliction* of female development in societies where women are expected to please men" (*Ibid*, 2, emphasis in the original).

In patriarchal societies, women are not encouraged to explore their own needs and desires and as a result they have no idea what they truly want for themselves. Torn between the self-defeating images of the 'hag -bitch' and the ever-sacrificing muse, women have to follow a ravaged path to their own sense of authenticity and self-determination (*Ibid*, 18-20.)

Young-Eisendrath proposes an extensive programme to assist women to recover their sense of self-determination, self-respect and authenticity. In Chapter Three I developed the argument that the experience of imprisonment itself leads to a significant impairment of offenders' autonomy and skills at self-determination. From a heuristic point of view, I have made an attempt to rationally reconstruct her programme into a seven step process. The first step suggested for women to claim their sovereignty and self-determination is to explore the psychological complexes which we as adults re-enact to protect ourselves from dangers, both real and perceived. These acquired habits from childhood need to be carefully scrutinized to alert us to destructive or self-defeating defence mechanisms in our adult years, and these psychological complexes are teased out from our unconscious as a result of sensory stimuli or emotional contexts originating from and corresponding to similar states experienced during childhood. In the second step on this journey to authenticity, feminists have discouraged women from taking advice from 'experts' on female desire. Women must claim this power for themselves (Young-Eisendrath 2000: 41). As a third step towards healing, Young-Eisendrath (2000: 48) urges women to engage the double bind of the disempowering binary imagery of the hag-bitch and the muse imposed on women:

> To step outside the double bind, we have to confront the hag in ourselves: the image of an overpowering female whose needs and desires are monstrous. Both she and the heartless muse are fantasies of male dominance that are used to keep women disempowered. Trapped in the double bind of female beauty, we have identified with these images, bringing shame and defeat to ourselves.

Taking Young-Eisendrath's argument on the urgent need to confront the oppressive imagery of the hag-bitch and the muse as my cue, I argue that only a critical reflective stance on the part of women as to their own desire within the context of patriarchal constraints, will allow for a window, for women to truly come to terms with their own autonomy. It should come as no surprise that women are confused and bewildered over

the idea of authentic female desire since men, who since time immemorial have assumed positions as their Masters, have always dictated to them in their so-called best interests. In Chapter Two I have highlighted my interest in feminism as one shaped by my own confused feelings and distress at being marginalized. A fourth step is for women to acquire the skills to protect themselves against harmful stereotypes such as anorexic models based on images of idealized and unhealthy female beauty (Young-Eisendrath 2000: 50). In the fifth place, women must claim for themselves the conviction of their own path of self-determination and a belief in the righteousness of being in control of their own lives. Above all, women must shun the sense of shame in claiming their own desires (*Ibid*, 51). In the sixth place, once we have located self-defeating stereotypical discourse in our own thinking and that of others, we need to engage and defeat such negative "cultural conversation and symbols" (Young-Eisendrath 2000: 52). It needs no argument that, especially initially, constant vigilance and struggle are demanded not to succumb to such stereotypes.

Finally, by studying and adopting empowering and emancipatory role models "outside the double bind of female beauty", women will be able to identify with and learn to develop and sustain new avenues of being female or any other gender they choose to explore and/or embrace (*Ibid*, 53). I am in agreement with her contention that it is vitally important to understand "the history and development of female appearance as an aspect of male dominance." Only once women are strong enough to alter their own positioning towards cultural stereotypes of female beauty, will women be able to challenge the dominant culture in which they live and emerge as emancipated beings in possession of their own destiny and path of self-determination.

The point of the exercise is to reconcile opposite ends of the binary in the female psyche, i.e. the hag-bitch and the self-sacrificing muse/mother stereotype. As is generally well known, this is an example of the yin-yang symbol in Eastern mysticism. By integrating the 'shameful' aspects of womanhood with the socially accepted traits, a woman arrives at a version that is truthful to her.

I argue that Young-Eisendrath's programme can be productively and perceptively extended to the proposed integration of ex-offenders in stigmatizing shaming cultures, such as South Africa. Christopher Uggen and his group of researchers have found that ex-offenders, and especially first time offenders preparing for release from a spell of incarceration, have highly unrealistic expectations of integration and re-acceptance back into society (Uggen, Manza & Behrens 2004: 284). Although his study was based on the hopes and expectations of a group of ex-offenders in the United States, I can testify to the similarly unrealistic phenomenon among ex-offenders in South Africa. I am of the considered view that Polly Young-Eisenrath's valuable observations, developed over many years of talking to women in therapy, can be reshaped and applied with profit to the situation of ex-offenders on the cusp of release or even those having despaired of the hope of reintegration.

By reworking and applying the seven steps to the situation of ex-offenders in cultures where their re-integration is not encouraged, as is the case with women in patriarchal societies, these unfortunate individuals can help themselves to find self-determination and a sense of self in an otherwise hostile community or environment. Just as the historical trajectory of female beauty is an ideological projection of male domination, as Young-Eisendrath contends, it is my argument that the history and development of ex-offenders in stigmatizing shaming cultures is an ideological by-product of unacceptable capitalist 'waste,' as I note in Chapter One. In Chapter Three I show that the prison, on the brink of becoming obsolete in the wake of its failure to do justice to the rehabilitation ideal in the 1970s, re-invented itself to serve 'other' unrelated interests (notably vested interests known as the prison-industrial-complex that are divorced from the prison's historical mandate.) As I indicate in Chapter One, keeping ex-offenders subjugated as a new vulnerable sub-class (where 'orange' is understood as the 'new black'), is the price demanded for the existence of the prison-industrial-complex. As I argue consistently throughout this thesis, this is not a justified outcome and certainly not one that is capable of standing up to critical scrutiny in a constitutional democracy under the rule of law, such as post-apartheid South Africa propounds to be.

In applying the seven step recovery plan, outlined above, to returning ex-offenders, I recommend the following programme: Ex-offenders must examine their psychological complexes (albeit with the assistance of others such as psychologists or trusted friends) to understand what remnants of their childhood hinder their attempts to unearth their own authentic selves. Speaking for myself, I have no doubt that the inability to love and accept oneself is a psychic hurt that originates in childhood, and haunts so many ex-offenders in later life. In Hermann Hesse's novel *Steppenwolf* (1927/1961), the protagonist is unable to love others because he cannot love himself. He experiments with binge eating, sex and other diversions because he is unable to unearth his authentic self. I argue that many ex-offenders labour under the same drawback. This is a power that ex-offenders must claim for themselves within the context of an understanding that good and evil, as Nietzsche perceptively pointed out, are both shades of human existence (although it should be added that the matter is not that simple in Nietzsche's work).

By way of apt analogy, both Tom Gash and R. Martinson have advanced convincing arguments to rebuff the 'either/or', rather than the 'both/and' approach (terms which I explain in Chapter Two, Part Two), that encapsulates a great deal of popular, and scholarly, thinking on crime.   Gash (2017: 19-21) argues that opportunity is often the decisive factor in the execution of crime.

> We all have tipping points at which usually unacceptable behaviour becomes irresistible to us. So the temptations and provocations we face are often as important as our innate desire to be law-abiding. Almost all of us are corruptible –

as we see from those cases in the London riots where normally law-abiding citizens were looting alongside gang members or, still more worryingly, during those ugly moments in history where entire populations colluded in genocide. But, on a more positive note, even the most antisocial can be radically constrained by the circumstances they encounter. [...] Making criminal opportunities even marginally less obvious or appealing can therefore have a major impact, as in the motorcycle helmet example. [...]

I will suggest that the most plausible explanation for shifts in crime rates across the twentieth and twenty-first centuries involves specific economic, social and technological changes that have radically altered the number and types of criminal opportunities we encounter in the course of daily life. (Gash 2017: 20).

I contend that Gash's insistence on the role of opportunity in crime might not be a comfortable thought to many people who might prefer to think in terms of definitive binaries (a concept which I explore in Chapter Two, Part Two), namely good or evil. I suggest in Chapter One that Gash's argument forced me to rethink my own orientation as having been ensconced in the paradigm (a notion I explain in Chapter One) of Victims and Survivors (essentially a Marxist reading of crime in capitalist societies), as opposed to that of Heroes and Villains (essentially that of the "determined and effective criminal" [Gash, *ibid*, 68]). A more accurate picture of the causes and motivations for crime would appear to be a great deal more dynamic, namely somewhere between the two extremes or binaries of the two aforesaid paradigmatic worldviews on crime.

Gash (*ibid*, 75) refers to two studies, among a critical mass of evidence in which he explores the myth of the determined and effective criminal (2017: 66-87), to validate his perspective on the vital role of opportunity. The first study reveals that more than two-thirds of British robberies were committed "by chance" or because of opportunity spotted in passing. In the second study, more than eighty percent of recidivist robbers reported that their last job was completely unplanned. The contention of R. Martinson (2001) on the overstated reliance on rehabilitation in an abnormal society, strengthens Gash's case. Martinson propounds the view that crime might very well be a "normal" response to "abnormal" conditions of inequality, oppression and unemployment in society. By steering clear of the double-bind of good or evil (and in fact of a combination of both), ex-offenders must demand for themselves their own destiny and conviction in the righteousness of their own authentic path. Young-Eisenrath (2000: 32) contends that

When we no longer cling to be being seen in a particular way and learn to speak the truth with an open heart, we find that almost nothing seems impossible – not because we are in control of everything but because we discover how to depend

gratefully on others, how to change when change is required, and, most important, how to be less ashamed, envious, guilty, isolated, and afraid.

Polly Young-Eisenrath's powerful message of empowering women to engender their transformation or emancipation from reliance on stereotypical images, is one which I argue can be applied with equal force in the lives of ex-offenders, battling with internalized inferiority and acceptance in a stigmatizing shaming culture such as that evinced in present-day South Africa. It also ties in very well with Chinese thinking on changing the offender's mindset, traversed in the previous chapter, to enable her or him to cope in a socialist manner in an environment which is almost certainly adverse to her or his interests. The unrealistic expectations which many ex-offenders harbour, so ably identified by Uggen and his group of co-researchers (Uggen, Manza & Behrens 2004), over the possibilities of integration, need to be viewed with suspicion. Just as Young-Eisenrath (2000: 188-189) encourages women to engage with their authentic sense so as to identify their true desire, ex-offenders should be encouraged to come to terms with the authentic parameters of their desire to be integrated into a hostile or, at best, indifferent society upon release.

Spot the stereotype

Ex-offenders must be vigilant to spot the stereotype, refer to in Chapter Four, of the ex-offender in both their own thinking and that of others. Only by constantly challenging the stereotype and its damaging afflictions in the lives of ex-offenders, can this prevalent and unjustified discursive effect of ex-offenders' stigmatization be successfully addressed and changed. In this process, ex-offenders would be greatly assisted in studying and emulating good role models. The published lives of Malcolm X, Angela Davis (although she was merely detained without bail before and during her trial), the work of John Irwin, and many other accounts of ex-offenders who discovered their authenticity and their determination to be true to themselves, are available and should prove to be powerful beacons of hope and guidance to ex-offenders. Jeremy Cronin, the well-known deputy secretary-general of the South African Communist Party (now retired), reports that while he was incarcerated on a seven year stint by the apartheid government, he was not permitted to attend his (first) wife's funeral and he managed his grief by writing poetry (*City Press* 2017: p9). Tellingly, his poetry is now included in the curriculum for Grade 12 learners – an achievement of which he is very proud.

By analogy, I argue that the Western imagination, structured as it is on the binary opposites of good and evil, can be immeasurably enriched by an appreciation and re-examination of the abandonment and rejection of one half of this binary, namely in the guise of the building of communal efforts to re-integrate returning ex-offenders – as I observe above with references to the phenomena of opportunity and an abnormal society. As I note in the

previous chapter, Lacan refers to this phenomenon as the "the inmixture of the subjects." If, as Freud contends in *Civilization and its Discontents*, repression is the price we pay for having the benefits of society, then Young-Eisenrath's idea of our coming to terms with our authentic desire, is a great opportunity to come to terms with our repressed self. As Young-Eisenrath herself concedes, confidence is an invaluable ingredient in the struggle to identify and follow one's own true desire and self-determination, although it should be noted that discovering one's own 'desire' is not an easy matter, as Lacan (1997: 311-325) shows at length in his *The ethics of psychoanalysis*. Accordingly, I turn now to a scholarly consideration of the issue of confidence and the value it might add to returning ex-offenders in finding their place in the sun in a stigmatizing shaming culture.

Confidence

Thirdly, Rosabeth Moss Kanter's (2006) scholarly study, based on 300 original interviews of business leaders, sport coaches and other decision makers, and two surveys of 1,200 organizations, of the immense – nay, essential – value of confidence in almost all human endeavour, has planted in my mind the idea that perhaps I was partially wrong in my assessment of Sue Gerhardt's idea of the caring society in Chapter Two. Although I think it is still true that strict and permissive (with caring being the absent ingredient in both regimes) parenting styles impact negatively on youngsters during their early formative years, after considering Kanter's views on the destructive influence of "losing streaks" (because of lack of confidence) on the psyche of individuals and groups, I am now of the considered opinion that lack of confidence, or being caught up in a doom loop of lack of confidence, is as destructive as a selfish mindset formed during early childhood. In my consideration of Steinem's ideas on self-esteem (above), I explore her view that lack of self-esteem can be rectified by way of nurturing the ex-offender's inner child. By the same token, Kantor shows how confidence, eroded by a losing streak, can be regained through a turnaround strategy. In a fairly incisive review of Kanter's book *Confidence: How Winning Streaks & Losing Streaks Begin & End* (2006), Beverley Little (n/d) commends Kantor for her ground-breaking approach in understanding the role of confidence in business and sports:

> I started reading this book for two reasons. I respect Rosabeth Moss Kanter as much as any current management writer for her skills at writing to the audience of the practicing manager. Secondly, I am fascinated by the concept of confidence -- the link between "expectations and performance" as Kanter puts it. Why do people with equal skills have different outcomes? Why do teams sometimes perform above their talent level? I was not disappointed. Using examples from sports and business, she weaves convincing parallels between such disparate organizations as the Philadelphia Eagles, Continental Airlines, Prairie View A&M University, Gillette and South Africa.[...]

As you can guess, I highly recommend this book. It can be read as a great collection of anecdotes, as an application of theory, or as a "how-to" book for leaders and change agents. I found it satisfying on all three levels.

I also found the book satisfying on a number of levels and in particular its probable application to prisons, prisoners and ex-offenders. In the Preface to her paperback edition, Kanter (2006:xii) notes that many people in organizations caught in a losing streak told her that they found "comfort in the analysis of losing streaks in Chapters 4 and 5. They see that they are not alone. By identifying the symptoms of a losing streak, they can begin the turnaround journey described in Chapters 6, 7, 8, and 9." Although Kanter's book on confidence is ostensibly aimed at turning around failing organizations and businesses through bolstering their confidence, there is no reason these lessons cannot apply to marginalized groups such as incarcerated offenders and returning ex-offenders as well. This is precisely what I aim to do in this section.

Kanter's scholarly study of the role (or lack) of confidence in either persistent winning streaks or losing loops, has convinced me that the corrections environment is a textbook case (Kanter 2006: 127) of one such "doom loop" in which a perpetual "losing streak" is taken for granted. The "positively reinforcing success factors [accountability, collaboration and initiative] in winning streaks" (Kanter 2006: xv) are automatically ruled out as having no application in a harsh, non-nurturing, stigmatized environment, such as prisons, crowded with 'losers' and negativity. I am, however, of the view that having an enforced sojourn in a corrections environment should not define such a person's future life span, as Boris Cyrulnik (2009) shows. Just as blacks should not be defined by the colour of their skin, women by their ovaries, Jews by their religious convictions and lesbians by their sexual orientation, ex-offenders should also be permitted to move beyond their (criminal) past. Incarceration should justifiably be 'written off' as the 'lowest point', but could also be considered a valuable learning experience in the lives of people who clearly lack direction, as Kanter argues the case for the need of confidence in the lives of struggling corporations.

In Chapter One, I included Skinner's revolutionary idea of positive reinforcement as part of my theoretical perspectives, and Kanter's work on how to turn doom loops into positively reinforced and reinforcing winning streaks ties in well with this approach. In fact, in the Preface to the hardcover edition, Kanter (2006: xvii-xix) indicates that her research was meant to empower people, to shape social entrepreneurs that could change the world at grassroots level for the better, and "also [directed] to all the institutions that we must turn around to make the world a safer, saner place." I include the prison environment as one such space that needs turning around and my exploration of the Chinese penal system in the previous chapter demonstrates that such an endeavour is possible. Certainly, in the West, the prison's metaphorical presence as representing a 'losing streak' is taken as inevitable by not only offenders, staff and ex-offenders, but also by the general public.

Kanter (2006: 6) argues for the socio-economic value of confidence along these lines:

> On the way up, success creates positive momentum. People who believe they are likely to win are also likely to put in the extra effort at difficult moments to ensure that victory. On the way down, failure feeds on itself. As performance starts running on a positive or a negative path, the momentum can be hard to stop. Growth cycles produce optimism, decline cycles produce pessimism.[…] "Losers," on the other hand, seem doomed always to lose, because no one believes in them, no one invests in them, no one helps them improve. That's how the rich get richer and the poor get poorer…

The crushing effect of feelings of powerlessness needs to be converted into empowerment, which is "vital to high performance", to avoid "patterns of perpetual disappointment" and emotional depression, so commonplace in prisons (Kanter 2006: 7, 20). Kanter insists that correct leadership can develop the potential for a turnaround from losing to winning. Her idea of a "development picture" (Kanter 2006: 23) that captures the salient features of both winning and losing streaks, fits well with my anti-neoliberal capital developmental research paradigm noted in Chapter Two, Part Two.

Winning is hard work, argues Kanter (2006: 63, 145) and not susceptible to cosmetic surgery such as "putting lipstick on a bulldog." I argue that this is especially true for a Western penal environment because of the 'static' (culture of negative expectations) that surrounds an organization in decline (Kanter 2006: 89ff). Repeated failures, common in a penal context, leave offenders steeped in a condition which Martin Seligman (quoted in Kanter 2006: 93) refers to as "learned helplessness", which is a mental state that discourages people from even trying. This also ties in well with Andre Gunder Frank's contention, briefly referred to above, that dependence excludes any other alternative developmental paradigm since the underdevelopment of development amounts essentially to anti-development. Kanter (2006: 94) coins the poetic term "the timidity of mediocrity" to explain this state of emotional helplessness and inaction, and she identifies nine pathologies that characterize losing streaks or doom loops.

These features are: lack of communication, a finger-pointing or blame-assigning culture, disrespect and isolation, inward-focusing, widening inequality, shrinking hopes and dreams, diminishing initiative and catching negativity (Kanter 2006: 97-98). I submit for consideration that each and every one of these pathologies is present in the South African penal environment. In the next chapter I consider initiatives to advance the goal of inclusive communication between offenders and staff, but the absence of meaningful communication is certainly a problem in the management of offenders' grievances. Disrespect and isolation are also major challenges. With high levels of sexual assault and offender-on-offender and staff-on-offender (and *vice versa*) violence, disrespect and

isolation are endemic problems. I recall sitting in the sun during my own incarceration and thinking what a peculiarly harsh and un-nurturing environment the prison is. Finally, it will be recalled that in Chapter Three, I remark how my own prison experience clamped down on my expectations and aspirations in a post-prison community.

In summarizing the contrasts between winning and losing streaks, Kanter (2006: 139, 145) emphasizes that it comes down to continuity of effort and a willingness to make an investment in turning around the doom cycle. In the previous chapter, I remark how much investment the Chinese have put into rehabilitation and the encouraging returns which they have reported on their efforts. Marginal investments that immediately come to mind are clean, bright painted buildings and encouraging model offenders to join staff as pillars of motivation for newly admitted offenders (Kanter 2006: 11, 13). The black-painted walls in unventilated cells which I encountered, are not a winning move. She argues that understanding the dynamics of losing streaks is a valuable first step, but distinguishing cause and effect is a tall order because a losing culture is such a complex, entangled system (Kanter 2006: 140-141). Kanter (2006: 146-147) also warns of the backlash against unpopular decisions, false signs of recovery and the facts that turnarounds run on several independent clocks at once. As for the former, it is commonplace in the literature that extending a helping hand to ex-offenders (such as social security payments for a limited period after their release) is not a popular idea in the wilderness of unresponsive public opinion. I will return to this suggestion in the next chapter.

As for the foundational stones of recovery from a doom loop to a winning streak, Kanter (2006: 182-290) explores three concepts that feed into each other and reinforce one another. These are accountability, collaboration and initiative. Facing the facts of the problems that beset correctional services (overcrowding, violence, corruption, to mention but a few) can lead to potentially fruitful levels of collaboration between offenders (on one level) and offenders and staff (on a further level) to produce empowered individuals (both staff and offenders) eager to contribute with fresh ideas and innovations of their own. The goal, of course, is to encourage the structuring of a truly rehabilitative space. It is all very well to prepare offenders to be confident after release into a stigmatizing shaming culture, but the chances are that the challenges, especially relating to employment opportunities, are likely to be overwhelming. Accordingly, I turn to a consideration of the important idea of generalized social trust.

Trust as social capital

Fourthly, trust is not the same as confidence. As Giddens (1990: 83-8) points out, professionals are consulted by the public at large since its distinguishing feature is 'trust in abstract systems.' This commitment is based on the assumption that the confidence placed in these societal experts will not be disappointed. In these instances, market forces "would

not lead to any assumptions concerning a necessary continuity of 'confidence' with 'trust'. Trust may assume confidence, but confidence does not imply trust" (Barbalet 2006: 8). After my release from incarceration, I lived in a Chinese community for many years before returning to a stigmatizing shaming Western society where many people knew my background. What struck me painfully is that the most significant feature absent from the latter culture is trust. As I point out in the previous chapter, a warm acceptance of returning ex-offenders is taken for granted in integrative shaming cultures such as the PRC. In Martin Scorsese's film *Silence* (2016), set in early seventeenth century Japan (an integrative shaming culture) in the context of the violent and ruthless persecution of Christians, both apostate Portuguese priests, Ferreira (Liam Neeson) and Rodrigues (Andrew Garfield), are integrated into Japanese society and even given Japanese wives. (Filmed on location in Taiwan, it employed, judging by the credits, a small army of Chinese extras.) This is not the case in stigmatizing shaming cultures where ex-offenders are treated with deep and hurtful suspicion. I consider it important to explore the value or otherwise of trust in society.

Karen S. Cook (2001: xxvii) argues that trust relationships are basic building blocks of democratic societies and hence have become a central line of inquiry in the social sciences. She maintains that "In the absence of trust, what are often fairly complex systems must be put in place to protect against exploitation and opportunism and to produce close monitoring and effective sanctioning." Similarly, Barbalet (2006: 4) contends that in a great many instances it makes sense to trust since failing trust there is no other way to advance. He quotes Georg Simmel as proposing that society is by and large constructed on the value of trust despite the obvious inherent risk. Luhmann (1979: 88), one of Habermas's interlocutors, puts the case for the value of trust in society in the following convincing terms:

> Without trust only very simple forms of human cooperation which can be transacted on the spot are possible, and even individual action is much too sensitive to disruption to be capable of being planned, without trust, beyond the immediately assured moment. Trust is indispensable in order to increase a social system's potential for action beyond these elementary forms.

A society without trust as its central organizing principle, as Luhmann points out in the passage quoted above, will be reduced to elementary forms of human cooperation. However, the idea of trust is academically vague or ill-defined (Cook 2001: xxvii). In view of the vital importance of trust in society as suggested by Karen S. Cook and others, I offer five definitions of trust. Sobel (2002: 148) defines trust as "the willingness to permit the decisions of others to influence your welfare." E.M. Uslaner (2002: 2): "When we trust other people, we expect that they will fulfill their promises, either because we know that they have usually done so in the past … or because we believe that we shall fare better if we

presume that others are trustworthy." According to Mayer, Davis, and Schoorman (1995: 712), trust is "the willingness of a party to be vulnerable to the actions of another party based on the expectation that the other will perform a particular action important to the trustor." J.B. Barney and M.H. Hansen (1994: 177) proffer the following understanding of trust. Trust "is the mutual confidence that one's vulnerability will not be exploited in an exchange." Bradach and Eccles (1989: 104) tender that "[t]rust is an expectation that alleviates the fear that one's exchange partner will act opportunistically." A constant refrain repeated in these definitions is the idea of vulnerability or dependence assumed by trust. The question arises whether or not a trusting nature is necessarily a good character trait.

Balliet & Van Lange (2013) argue that trust is an important component of cooperation, both in terms of establishing and maintaining cooperation. This is true for both individuals and especially in groups. Intense cooperation is not likely to be achievable without trust. In groups in particular, trust engenders cooperation despite unfavourable hiccups and doubt (Van Lange, Ouwerkerk & Tazelaar 2002). Van Lange (2015: 75) contends, quite rightly, that "some dose of generalized trust is, quite literally, one key to a healthy, long life." I ponder how trust in a healthy and wholesome environment would transform ex-offenders, conditioned by a distrustful officialdom during their incarceration. If cooperation (in the form of desistance from crime) is what is required from ex-offenders, trust is perhaps part of the solution.

What is the basis of trust? My idea is that if the salient features of trust could be isolated, perhaps ex-offenders and other marginalized peoples suffering from stereotyping and the debilitating effects of unjustified mistrust, could learn from its study and empower themselves by drawing from, and sustaining themselves with this great resource. Although Sztompka (1999: 65-6) makes a case for trust to be a 'personality trait', Susan Rose-Ackerman (2001: 539, 540) is of the view that trust has a emotional foundation in which "trust is generate[d]" by "trustworthy behaviour encouraged by love and friendship", while Barbara Misztal (1996: 157-207) contends that 'trust as passion' is encouraged within the context of love and friendship or other such meaningful relationships. Barbalet (2006: 12) makes reference "to the essentially emotional basis that is foundation to all trust." It would stand to reason then that trust is engendered in a meaningful relationship. Other scholars, notably Fukuyama (1995) and Putnam (1993), advance the argument that trust is a cultural artifact that appears only in the context of intermeshed communal relationships. Van Lange's (2015: 72) conclusion seems to be in agreement with the general proposition that cultural norms in themselves might demand desistance from deviance. He demonstrates that trust is hardly inheritable, but closely correlated to cultural differences.

Van Lange points out that the World Values Survey (www.worldvaluessurvey.org/wvs .jsp) discloses that low trust cultures as found in Turkey, Indonesia, and Brazil exhibit indices of generalized trust of between 10 to 30, on a scale from 0 to 200, while high trust cultures

found in countries such as Denmark, Sweden, and Norway show scores between 120 to 140 points on the same test. The role of cultural dynamics in accounting for the presence of trust, is therefore indisputable. Van Lange argues that high trust cultures have two features in common. These characteristics are equal income distribution and low levels of apparent corruption.

Finally, Dinesen (2012) points out that 'new arrivals' from low trust communities are profoundly influenced by the integrative characteristics of a higher-trust culture. Imagine what the induction to a high trust culture would do for newly released ex-offenders in terms of their confidence and self-esteem! David Halpern (2001: 247) shows that inequality and self-interested values despite high social capital in the form of trust, leads to increased rates of crime. His multivariate model demonstrates that high social capital in society does not lead to lower crimes rates if these features are coupled with high levels of inequality and self-interested values. I am greatly attracted to the idea of ex-offenders enjoying the warm welcoming features of high trust cultures, but this reality might remain a pipe dream for most offenders in Western jurisdictions precisely because of the notion of stereotype inherent in stigma. Failing culture, Herreros (2015: 353-354) argues that a trusting family relationship "provides people with priors [preconceived perceptions] about other people's trustworthiness" although filters such as the media, gossip and social interaction with strangers could update their perceptions "with the new information acquired."

Mikulincer (1998) suggests that attachment theory, in terms of which caring and love are provided by a primary caregiver in early childhood, is a strong indication of the fostering of and development of trust in individuals. In Chapter Two Part One I develop Gerhardt's related notion of acquiring the valuable skill of compassion (in later life) in early childhood as imperative for the idea of structuring a caring society. Van Lange (2015: 73) explains the concept in the following terms: "The notion is that early 'experiences' of dependence, and especially the degree to which socially relevant others provide a secure or trusting environment, is essential or crucial to the development of trust." It is possible to build on Van Lange's explication of honing early experiences of a trusting environment by investigating Yamagishi's (2001) idea of trust as 'social intelligence.' Compassion, an idea I explore in Chapter Two, belongs under this heading. Carter & Weber (2010) offer evidence in support of the proposition that respondents with high trust "may be better at accurately assessing others' trustworthiness" (Van Lange 2015: 74). Yamagishi's counter-intuitive evidence on trust (in Cook, 2001) ties in with the work of Carter & Weber (*ibid*) in advancing the view that high trust as a manifestation of social intelligence engenders high trusters not to be more credulous, as some critics may assume, but to have far greater powers of discrimination in identifying reliable social capital (trustworthy people) than low trusters, despite the concomitant risk and its downside of avoiding new opportunities.

"This argument", notes Cook (2001: xviii), "while interesting at the individual level, is even more intriguing in its implication for groups or societies generally characterized by high and low trust." Guseva and Rona-Tas (2001), and Herreros (2015: 354) argue that a high trust family life does not generate low social trust in the outside world. If anything, inefficient government (such as the collapse of Russia during the 1990s or the endemic corruption enabled in South Africa under the patronage system fuelled by Jacob Zuma in the second decade of the 21st century) leads to low social trust. Yamagishi argues that low trust societies will need to develop alternative resources to substitute for the lack of social or emotional intelligence that are encapsulated by the development of generalized trust. If anything, low trusters are far more gullible than high trusters.

Not everybody has been convinced by the argument that trust is a social capital of sorts. Coleman (1990: 318-9), for one, suggests that trust, as a form of social capital, is transitive, i.e. that A will trust B simply upon the good word or recommendation of C. Barbalet (2006: 17), on the contrary, contends "because trust has a fundamental emotional element there can be no transitivity in trust." He argues that if B, in the example cited above, disappoints A, A would re-examine his own evaluation of C's trustworthiness. Barbalet's argument overlooks, and in fact does not even consider, the experimental evidence tendered by Carter & Weber (2010) and Yamagishi (2001), noted above, that high trusters have a far better track record in judging trustworthiness in strangers than people from low trust cultures and it also overlooks the point that A, in our example cited, does his own evaluation when she/he engages with B. This implies that it is not only C's judgment that is at stake here but also A's. From my own experience of having lived in a high trust culture, trust is transitive precisely because high trusters rely not only on their own judgment but also on other socio-cognitive filters, notably the judgment and experience of other high trusters.

In conclusion, the development and maintenance of trust in the lifeworld of ex-offenders is a much needed part of the puzzle to foster integration. Although future research is needed on how this is to be achieved, it is clear to me that a comparison between stigmatizing shaming cultures (or low trusting) and integrative shaming cultures (or high trusting cultures) will show trust, and the value placed on relationships, to be the common denominators.

Meaning and paradoxical intensity

Fifthly, two ideas espoused by Victor Frankl (1946/1987), the famous Nazi concentration camp survivor, appear to me to be eminently suitable to apply to the situation of both offenders and ex-offenders in stigmatizing shaming cultures. According to the Book-of-the-Month Club and the Library of Congress, Frankl's book *Man's Search for Meaning*: *An Introduction to Logotheraphy* (1946/1987), is considered to be one of "the ten most

influential books in the United States" (Fein 1991). In the first place, Frankl's (1946/1987: 76-79) notion that suffering could be meaningful, is exceedingly valuable. He quotes Nietzsche (p.76) – "he who has a why to live for can bear almost any how" – and Rilke (incidentally Heidegger's favourite poet) – "How much suffering there is to get through!" (p.78) – illustrating his argument that if sufferers (and these include offenders serving a sentence) could be guided to see their suffering as meaningful, this would be instrumental in assisting them to re-appraise their lives. Why would offenders' suffering be meaningful? It demands no argument that something went amiss to facilitate their having landed up in prison, and their suffering is a great opportunity to address this missing link. In my treatment of Steinem's concept of the abandoned 'inner child,' noted above, I suggested that neglect in early childhood development is almost certainly one such missing link.

In the second place, Frankl's (1946/1987: 123-131) concept of "paradoxical intensity" has personally allowed me to gain my own voice in public speaking engagements. Phobic conditions such as the anticipatory fear of public speaking as a result of internalized inferiority (ex-offenders case in point), are treated by the technique known as deflection to divert attention away from the intensity of the fear. As Goffman points out, mixed social interaction between the stigmatized and normals often leads to awkward situations, especially in view of the fact that 'information flow' management is uncertain for the stigmatized. As the stigmatized (notably ex-offenders) do not know what and how much the normals know about her/his situation, this leads to a certain amount of anxiety for ex-offenders. By way of example, for more than two years I suffered from the fear of public speaking but forced myself to engage in that activity until the symptoms disappeared. In my view, both Frankl's ideas of meaning in suffering and paradoxical intensity are invaluable to assist offenders and ex-offenders alike in bridging the gap between a stigmatizing shaming culture and that of an integrative shaming culture-in-the-making.

Stigma maturation

Finally, Goffman (1963/1990: 158ff, 272ff) illuminates the important issue that stigma matures in the individual to the extent that the stigmatized individual becomes impervious to taunts, slights and other signs of bias towards her or him on the basis of her or his membership of a particular stigmatized group. I am alive to this eventuality but the challenge remains that it could take a great many years for most ex-offenders to reach this point and in the meantime they need to cope and maintain themselves in a harsh, uncaring environment. The other side of the argument stands for consideration. The five notions for self-development, whether in an individual or communal context, feed into each other and are, in my estimation, more likely than not to accelerate the process of bringing members of this group to the point of a matured stigma. The point I am driving at is that individuals with a good self-esteem, in touch with their own needs and hopes and able to take care of themselves on an emotional or psychic level, are able to manage onslaughts against their

sense of self with greater ease and purpose of mind than individuals from that group without those skills and mindset. Good self-esteem, confidence in their own abilities, realistic expectations of acceptance/integration and an all-round ability to care for the self are good markers for potential re-entries (whether or not that eventually happens) and their capacity to remain true to themselves, even if the parallel trajectory of economic development is compromised (as it almost certainly will be). Fiona Cornish's (2006) community development and health awareness project among sex workers in the Sonagachi Project in Kolkata, India, is instructive.

Interventions from the centre

In an intervention to challenge the internalized stigma of these women, she (a) advocates a campaign that raises an awareness that sex workers have the same rights as others', which should be respected, (b) compares sex workers to other marginalized but politically successful groups and (c) collates evidence of members' accolades. Cornish asserts that internalized stigma and the absence of "empowering experiences" engender "fatalistic expectations" of a doomed future. Arguments about the possibility of change and a different reality presented to a marginalized group afflicted with stigma need to be backed up with evidence of the experience of emancipation. In the South African context, the emancipation of black people after 350 years of slavery and servitude, provides evidence of a positive achievement against unimaginable odds. I have also suggested legislative moves (above) to entrench the rights which ex-offenders should ideally enjoy as equal members of a stigmatizing shaming culture. Evidence of positive achievements of ex-offenders abound, with the examples of Nelson Mandela and Jeremy Cronin (noted above), coming to mind.

The Chinese suggestion, that model offenders should be appointed as members of prison staff upon conclusion of their sentences, considered above, would have a wonderful impact on the morale of (ex-)offenders and I propose that more research on this point is necessary. Interventions with an emancipatory aim in the lives of stigmatized groups can succeed, provided stigma is problematized in a "material context" with plausible alternatives. Campbell *et al.* (2005) suggest that stigma against HIV/AIDS sufferers in South Africa can be beneficially eroded by education, legislation against stigmatization and inviting voices of community leaders to speak out against stigma. As for education, it was found that evidence in the public domain that substance abuse is treatable, reduces incidents of stigma (McGinty *et al.* 2015). I argue that evidence of sustainable rehabilitation will have a similarly positive outcome for ex-offenders. This is also my aim in designing the intervention, canvassed in this chapter, to provide the tools and evidence for an alternative reality in the lives of (ex-) offenders.

As I note above, the Chinese idea is to orientate the offender to understand her or his position from within a socialist perspective in a societal context of oppressive structures.

Said in another way, the ex-offender must be prepared, on release, to be judged not by her or his circumstances, but by her or his response to the environment. The Chinese perspective is validated cross-culturally in a Western context by Freud's answer to one of his patients upon her enquiring how Freud intends helping her to change her circumstances. Freud's remark is tellingly contained in one of his early texts on hysteria (which, in that context, is a symptom of female resistance to male oppression in a patriarchal society):

> No doubt fate will find it easier than I do to relieve you of your illness. But you will be able to convince yourself that much will be gained if we succeed in transforming your hysterical misery into common unhappiness. With a mental life that has been restored to health you will be better armed against that unhappiness. (Breuer & Freud 1895/1955: 305)

The precious idea encapsulated in these words of Freud also contains the nub of my objective in recommending the acquisition and development of specific life skills (enhanced self-esteem, confidence, clear understanding of desire, trust, paradoxical intensity/meaning in suffering) for would-be ex-offenders. In the wise words of Alison Liebling *et al.* (2005: 223) "It may be worth considering how and whether well-being might be accomplished, even in prison, and if not, why not." The potential wellbeing of ex-offenders is particularly important at a time when "prison issues have fallen off the radar", as Clare Ballard (referred to above) notes. We cannot change the world to suit the needs of ex-offenders, but we can prepare them to face the challenges embedded in stigmatizing shaming cultures in a well-prepared fashion.

Concluding remarks

In this chapter, I have attempted to transplant ideas found to be valuable in the Chinese penal context to own soil. My exercise was aided considerably by the poststructuralist contributions to complexity theory – notably that of Derrida and Lacan. These are the ideas that the signifier has to remain the same *and* simultaneously change, and Lacan's notion that the signifying chain demands that the signifier has to be reconsidered in all aspects of its totality. However, in view of the fact that the signifier is drawn from an integrative shaming culture, it was deemed advisable to develop 'home-grown' remedies to assist the transplantation process to own marl. The most important of these so-called home-grown remedies are the five interpersonal skills developed to assist both offenders and ex-offenders in achieving emotional wellbeing and 'care for the self' (in Foucault's celebrated phrase) on their journey to stigma maturation. To this end, I attempt to develop an argument to justify creative resistance in the emergence of new subjectivities. The development and maintenance of home-grown remedies are encouraged by the receptor approach, one of the tools that I conceived in Chapter Two, Part Two (noted above). My

objective is to problematize the unreflective acceptance of the stigmatization of ex-offenders so as to empower them to deal with the challenges embedded in a stigmatizing shaming culture. By using Janet Cherry's notion of change on the periphery (explored in the previous chapter) as well as suggesting policy considerations for government intervention, I attempt to approach the conundrum of stigma in the lives of offenders and ex-offenders from both these angles. In the final analysis, it is my hope that Ubuntu, as a struggle for recognition of marginalized communities (that is, as an emancipatory or transformative praxis) might strengthen the hand of ex-offenders in ridding themselves of the scourge of unjustified and unjust stigma. It is not part of their sentence and nor should it be. The next chapter will deal with the conclusion of my argument and, following that, recommendations for future policy formulation and design.

CHAPTER SIX

Conclusion and Recommendations

In Part Two of the previous chapter, I interpreted and discussed the factual findings arrived at in Chapter Five, Part One. The findings reached were that the transplantation of the penological ideas and practices identified in contemporary China (PRC), selected through thematic open coding, could by and large be relocated onto own soil. However, it was found that the conditions for such transplantation of the punishment and rehabilitation-memeplex (a term I explained in Chapter Two, Part Two) were inadequate and, as a result, a home-grown remedy, based on Foucault's notion of the 'care of the self', was justified and developed in the next chapter.

Reminder of my research question

In Chapter One I outlined the rationale of my study to be the unjustified social and economic exclusion of ex-offenders in stigmatizing shaming cultures such as South Africa. Ben Geiger (2006), Mechthild Nagel (2008) and Jones-Young and Powell (2015) are scholars who have all identified ex-offenders as a 'highly stigmatized group'. However, not all stigmatized and marginalized groups are on a par. Goffman (1963/1990: 39, 45) provides the example of divorced individuals who are currently less stigmatized in the US mainstream society than they were, say, half a century ago. Although I concede the need and desirability to integrate ex-offenders from the perspective of criminology, to forestall recidivism, and Critical Theory's emancipatory goal for marginalized groups, my view is that efforts in this direction are futile under present conditions. This idea is excellently expressed by Ben Geiger (2006: 1191), though in a different context:

> Ex-offenders are not just marginalized, they are also a clear example of repeat losers in pluralist politics. Ex-offenders are often legally disenfranchised. In addition, legislatures impose collateral consequences of conviction on ex-offenders. Collateral consequences are statutes and regulations that inhibit ex-offenders' productive re-entry into society. These statutes testify to ex-offenders' lack of political organization. Furthermore, both ex-offenders' legal disenfranchisement and their de facto political powerlessness are systemic problems.

I remind my reader of my research question (explored in Chapter One) which is how to integrate ex-offenders in South Africa, based on the Chinese model of integrative shaming (assuming this to be possible.) If a plausible answer to this vexing question (from the perspective of both traditional criminology and Critical Theory) could be found, as I argue I have done, this would amount to a considerable contribution to the extant knowledge on this topic.

My point of departure is divergent. Firstly, Braithwaite's seminal conceptual distinction between stigmatizing and integrative shaming cultures (explored in Chapter Four) informed all subsequent research decisions. My finding in Chapter Five, Part One that rehabilitative and integrative interventions in the former cultures are a futile exercise since any gains are nullified by the effects of stigma, is a direct (albeit surprising) finding emanating from this conceptual insight. Secondly, as a consequence of the foregoing consideration, I deviated from the traditional approach in 'statist' criminology of designing and evaluating interventions aimed at enabling the potential rehabilitation and integration of ex-offenders (such as NICRO's 'tough enough' programme). To my mind this served as a legitimate delimitation of my study.

The reasons for this decision were that these programmes had a poor track record and empirical studies showed ex-offenders generally considering them to have been ineffective. Although I have not privileged the perspective of ex-offenders in the sense of excluding all other views, it would have been strange, considering my own position as an ex-offender, not to have given this perspective its due weight. My secondary methodology is auto-ethnography and is precisely the sort of lens recommended by the school of Convict Criminology, noted in Chapter Three, which does place excessive emphasis on such perspective. My own view is that since their exclusion/inclusion is a deeply personal social and economic issue for ex-offenders, their own reflective thought on their stigmatized situation in life, is a valuable perspective that cannot be ignored in any sensible and responsible consideration of the issues at hand (the political power to label, the consequences of stigma, integration, rehabilitation and recidivism). Finally, my ideology critique of the prison-industrial-complex (undertaken in Chapter Three) convinced me that the high stigmatization of ex-offenders as a group or class is part and parcel of the irrational perpetuation of the prison as an institution for nothing but financial greed and gain. To this end, stigma is necessary to ensure the 'revolving door' of recidivism (Ngabonziza and Singh 2012: 99) to keep the prison in business. In anchoring my own theoretical perspectives in Chapter One, I conceded tension between my embracing of a Marxist reading of crime in capitalist society (essentially a conflict approach) and the notion of the possible integration of ex-offenders in a stigmatizing shaming culture. The latter is essentially a functionalist approach considering 'system problems' such as crimes which are solvable or avoidable pathologies in an otherwise healthy society. In fact, Habermas (quoted in McCarthy 1978: 248) has gone as far as to compare society's aligned potential to integrate marginalized groups to a societal 'pace-maker' [*Schrittmacher*], as I note in Chapter Two Part One. The contradictory nature of a conflict approach within the context of a functionalist objective (integration of ex-offenders) is an insight to which I am indebted to Julia and Herman Schwendinger (1970: 139-141), as I noted in Chapter One.

Against this background, my study was designed and undertaken along the following parameters: The first objective was to develop the tools to enable the transplantation of valuable penological ideas from the PRC to own soil. This is addressed in Part Two of Chapter Two. The second objective is an ideology critique of the prison-industrial-complex and is considered in Chapter Three. My thinking was that irrespective of how rational the critique of the underlying cause (imprisonment) of stigmatization of ex-offenders is, a neo-liberal capitalist imperative would irrespectively nullify such considerations. The third objective, identifying valuable penological and rehabilitative ideas in an integrative shaming culture, following Braithwaite's valuable conceptual distinction, is pursued in Chapter Four. From a financial and pragmatic point of view I decided to collect my data by using secondary data analysis, following Braithwaite's and Sutherland's examples. The fourth objective is a rational reconstruction, following Habermas, of the Chinese penological and rehabilitative practices in Chapter Four and the South African economic situation in Chapter Three. The suggestion of a rational reconstruction of post-apartheid South African society was taken up following Susan Gerhardt's idea of a 'caring society', explored in Chapter Two, Part One, and Paul Verhaeghe's idea of the evils of an unequal society, considered in Chapter Four. The fifth and final objective, a home-grown remedy, if the transplantation from Chinese soil proves to be only partially successful, is considered and accomplished in Chapters Five, Parts One and Two respectively. I relate my findings next.

Factual and conceptual findings

My factual finding is that if ex-offenders rehabilitate, they do so *despite* the prison, *not because* of the prison. One example (as I noted in Chapter One) is the phenomenon of 'aging out of crime.' Another example, one I attempted to explore and develop at length in Chapter Five, Part Two, is based on Foucault's idea of 'care of the self'. A number of considerations permitted me to reach this finding. The first is the concept emphasizing the importance of emotional well-being in a world without growth, which applies to both a finite planet running out of resources (Cherry 2016, Fioramonti 2017) and Frank's notion of the underdevelopment of the developing world to benefit the developed world disproportionally. By analogy, the 'non-growth' I have in mind for ex-offenders as a class is the continuing exclusion, discrimination, marginalization and stigmatization of ex-offenders in stigmatizing shaming cultures such as South Africa and the US. In this context, emotional well-being is pivotal. The second is, as Braithwaite (1995: 278) points out, that stigma fuels crime (as opposed to integration as a management tool for crime control). Labeling also allows for the ex-offender to reject her rejectors and promotes hardening or cementing of a criminal career path.

Accordingly, my conceptual conclusion is that the goal of integrating ex-offenders into stigmatizing shaming cultures is a pipe-dream in the current economic climate where, in

the words of McCarthy, noted in Chapter One, almost everything is judged in terms of profits and economic considerations. Much ink has been spilled (as is clear from my literature review in Chapter One) on the idea of how to resettle ex-offenders most effectively and sustainably. Efforts and money should instead be reserved for understanding how ex-offenders could be assisted to survive stigmatization and marginalization responsibly (and even, to some extent, to flourish). The vision of the 'care of the self' is a considered response to this enigma. In Chapter Five, Part Two I developed an elaborate justification for this position from a philosophical perspective. From a conventional criminological point of view, I am also justified in formulating this perspective since a number of studies (Herbig and Hesselink 2012: 30-32; Kazemian and Maruna 2009; Shover 1996; Liebling *et al.* 2005: 223 and Adorjan and Chui 2014: 107) have suggested the need to focus on the well-being of offenders (and by necessary extension, that of ex-offenders too). Integration is a politically compromised and factually ineffective way to reach the same result, as I argue in Chapter Five, Part One.

Contribution to knowledge

I argue that my contribution to extant knowledge lies in my having developed theory to show that despite my proposed introduction of features from an integrative shaming culture (the PRC), onto a stigmatizing shaming culture (South Africa), the demands of the aggressive neo-liberal imperative (observed in Chapter Five, Part One) would render the sustainable integration of ex-offenders in the latter culture, by and large, a fruitless exercise for the present. The neo-liberal incentive, as I argue in Chapter Three, is manifested in the prison-industrial-complex which, as I explained in that chapter, is the continual marketing of the prison as a business enterprise without regard to its actual need or purpose.

South Africa has earned the historic reputation as a nation having valued ubuntu as a result of, among other reasons, the amazing forgiveness which black people having shown whites, their former oppressors for three hundred years, with the transition to a democratic dispensation after the first one-person-one-vote elections in 1994. It might just be possible to capitalize on this notion of ubuntu in developing the idea of forgiveness and redemption towards returning ex-offenders. Despite Braithwaite's dismissal of a conflict approach to crime and the indisputable value of his theory of integrative shaming (considered in Chapters One and Four), my finding is that it is precisely the irrational perpetuation of the prison for financial greed and profit that is likely to scupper this incentive. I suggest that the value in this conclusion is embedded in the fact that money and effort could be redirected in other more sustainable ways (rather than misguided efforts to integrate ex-offenders under current circumstances) to assist ex-offenders and society at large.

I argue that I have contributed to a conceptual understanding which links recidivism and the goal of integration through my finding that integrative interventions in stigmatizing shaming cultures (such as South Africa) are not viable under the weight of the prison-industrial-complex driving the perpetuation of the institution of the prison for reasons (managerialism, warehousing, incapacitation) other than rehabilitation. Instead, a plausible alternative is to focus on other sustainable avenues to assist ex-offenders in a harsh, unforgiving climate of stigmatization, marginalization and discrimination. Although I do make suggestions regarding the protection of the rights of ex-offenders below, because of the highly stigmatized nature of this group (noted above), it is unlikely that many ex-offenders would be in a position to fight for these rights. Accordingly, it is my view that recommendations for improved interventions, although not unimportant, are just a temporary 'stop-gap.' Essentially, my finding is that the most important way in which ex-offenders can be helped is to encourage them to take charge of their own lives. My programme for a 'care of the self', developed at length in Chapter Five, Part Two, is a home-grown remedy to show the way in this direction of thinking.

In view of my claim that I have developed theory, I attempt to justify my proposed addition to extant knowledge. I suggest that my research question (how to integrate ex-offenders) which is a laudable goal in both criminology and Critical Theory, has now been answered. Intervention strategies to this end in stigmatizing shaming cultures world-wide have found that 'nothing works' (Martinson 2001). I argue that the 'nothing works' mantra in Western criminology is the result of the wrong questions being asked. Taking my cue from Braithwaite's (1989, 1995) distinction between stigmatizing shaming cultures, on the one hand, and integrative shaming cultures that understand the invigorating value of 'pride' to consolidate a rehabilitated person's identity, on the other hand, I strongly suggest that we know the reasons why 'nothing' supposedly works. Society cannot simply sit back and expect ex-offenders to 'rehabilitate' in a harsh stigmatizing culture. But this does not mean that 'nothing' works. Only once society meets ex-offenders half-way with 'sincere gestures of acceptance', such as re-integration ceremonies, open prisons and job opportunities, will the tide of recidivism turn. But before this can happen, we need to start asking the right questions.

My conceptual conclusion is that in view of communities' resistance to the integration of ex-offenders (notably employment discrimination) and the perpetuation of the prison-industrial-complex (as I note above), such intervention efforts, however well-intentioned, are doomed to fail under existing debilitating conditions of stigmatization and marginalization. In making this claim, I argue that I have advanced knowledge by using two axes. Firstly, I have combined two or more distinct concepts (the prison-industrial-complex, recidivism, stigma and the integration of ex-offenders) in novel ways to explore a conventional problem (the proposed integration of ex-offenders), and secondly, I have

illuminated fresh insights (the political power of labeling and its effect on recidivism in stigmatizing shaming cultures) into existing problems (the [im]possibility of integration) to reach my findings and conclusion. By applying the empirical work of criminologists on Chinese penal and rehabilitative practices (an integrative shaming culture) to the South African stigmatizing shaming culture, it became clear that high and unsustainable rates of recidivism (between 85% and 94%, according to one respectable estimate, and deemed a major obstacle for Western criminology), is an inherent feature of the latter culture, and part and parcel of our societal management of shame.

Secondary findings

Two secondary findings ([re]considered in [a rewritten] Chapter One) that I did not anticipate are the political significance of stigma leading to "collateral consequences" and stigma directed against ex-offenders being a hate crime. Firstly, the notion of what Geiger (2006: 1192) has called "collateral consequences" (noted in Chapter Five, Part Two) translates essentially into the fruits of stigmatization, namely wide-spread discrimination and marginalization of ex-offenders as a class. As I argue in Chapter Three, the idea of 'punishment without end' (a concept lambasted by Foucault as senseless, as I observed in Chapter One) cannot be justified in an open society founded on democratic principles. The imperative of individualised punishment demands proportionality to the crime of which the offender was convicted. To my mind nobody expresses this idea better than Geiger (op cit.)

> Collateral consequences are a legal burden constituting punishment and should be imposed through the individualized process of criminal sentencing, according to the Bill of Attainder Clause. If collateral consequences are nevertheless imposed legislatively, at a minimum their burden should be proportional to the responsibility of individual ex-offenders for their criminal histories.

> The considerable variation in the moral character of ex-offenders' criminal histories means that lumping arsonists and shoplifters together, for example, is likely to overstretch any but the broadest of moral schema. Most civil legal burdens applied to wide swathes of ex-offenders, then, will be morally disproportionate to the criminal histories of a substantial portion of ex-offenders. Without meaningful judicial protection of ex-offenders, the Equal Protection Clause permits legislatures across the country to pile burden after unexamined burden onto a class that merits heightened scrutiny and for whom these burdens are grossly disproportionate. Such government abuse violates the doctrine and spirit of equal protection.

The fact that the effects of stigma are not considered during sentencing in stigmatizing shaming cultures is in itself a crying shame as this is a collateral consequence of piling

"burden after unexamined burden" on ex-offenders grossly disproportionately for the rest of her or his life, even after serving a relatively short sentence. My first secondary finding is that the widespread practice of stigmatizing ex-offenders in South Africa is unconstitutional, since it does not pass constitutional muster (as I suggested in Chapter Three). Secondly, the irrational stigmatization and marginalization of ex-offenders is a hate crime and should lead to the heightened protection of this class under the provisions of the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (PEPUDA or the Equality Act, Act No. 4 of 2000), the equal protection-clauses entrenched in the Constitution, or similar legislation which might be enacted in South Africa in the near future. Stigma of ex-offenders who have allegedly served their time and repaid their debt to society (as the expression goes in common parlance) is both unconstitutional and could be considered a hate crime under existing legislation. My two secondary findings are consistent with that of Geiger (2006: 1193), which is that "ex-offenders bear the traditional indicia of suspectness and qualify as a suspect class [for protection under the Equal Protection Clause]." Based on Julia and Herman Schwendinger's (1970: 148) humanistic definition of crime as "social systems which cause the systematic abrogation of basic rights," I conclude that the grossly disproportionate systemic stigmatization and marginalization of ex-offenders as a collateral consequence of their having served their time in prison, is a crime against ex-offenders as a class. As I noted in Chapter One, it is richly ironic to do a study on the integration of ex-offenders in South Africa with government-sponsored funding while the interests of a shadow state are serviced by office bearers at the very highest levels in the constitutional state.

Generalizability

In view of my abductive rather than inductive approach (terms I explain in Chapter One), I would nevertheless suggest that my findings, both conceptually and factually, are high on reliability and less so on generalizability. My central conceptual finding – which is that the project of the integration of ex-offenders is not feasible in stigmatizing shaming cultures because of the neo-liberal imperative to perpetuate the prison-industrial-complex – is met by many exceptions. In many African countries, though not in South Africa, as I noted in Chapter One and Chapter Five, Part One, there is a growing trend toward deprisonization as a sentencing option for political reasons. The evidence, as Geiger (2006) shows, is that stigmatization is highest where the group in question is perceived to be vulnerable and/or politically weak. Schwartz and Skolnick (1964) found that stigma exhibits a decided class bias towards the powerless. Ex-offenders with access to money or political influence are less likely to feel the effects of stigma and marginalization. From a cultural point of view, offenders are more likely to be organized along political lines in the US (Malcolm X and his impact on the politicization of prison culture immediately comes to mind) than in post-apartheid South Africa. As I argued in Chapter One and Chapter Five, Part Two, following a

suggestion by Braithwaite (1995), the most effective way to deal with crime is extra-legally through social movements, raising consciousness over injustice made possible by structural inequality (such as domestic and gender violence in a context of patriarchy). It is the pride made possible by membership of successful social movements (notably the gains made by the feminist movement of the 1970s and the well-known success of the activist campaign for HIV/AIDS anti-retroviral medication in post-apartheid South Africa) which complements integrative shaming as a crime prevention tool. It is precisely this crucial feature of 'pride' which is bound to be lacking in highly stigmatized populations such as ex-offenders in conservative regions (South Africa being a case in point): the lack of political organization of the stigmatized and marginalized is likely, as Irwin (1985) contends, to keep this shamed group at the bottom of the social hierarchy in hyper-capitalist societies where 'dog eats dog'.

The socio-economic conditions in South Africa are an example of what this latter observation pertains to and it illustrates the high reliability of my findings which at the same time detracts from its generalizability in stigmatizing shaming cultures on the whole. I raised the pertinent question of why South Africans cannot take pride in the achievements of ex-offenders who have managed to turn their lives around and desist from further crime, especially in view of rising and clearly unsustainable rates of re-offending. The answer lies in the highly stigmatized nature of this class and the fear of secondary stigma, as Goffman (1963/1990: 43) and Murray (2007) have pointed out. As shame is not managed productively in stigmatizing shaming cultures to integrate ex-offenders and prevent criminal careers from becoming cemented, shame and the inability to take pride in the rehabilitative achievements of ex-offenders is likely to lead to the ghosts of our past (a lost cause) continuing to haunt us until a tipping point (or points) is reached, as has been shown by Žižek (2008) and Sophie Fiennes's documentary *The Pervert's Guide to Ideology* (2012), narrated by Žižek. Having made this argument, there are signs that one or more of these tipping points may already have been reached in the United States (Lichtblau 2016).

A Critique of my Research

In critiquing my own work, I might have adopted a political paradigm instead of one centred on a developmental, transformative, caring universe. As Honneth, noted in Chapter One, points out, it is precisely the issue of power that links Habermas's corpus with Foucault's perspective. Because of my situatedness, I have a vested interest in assisting ex-offenders to rise above their circumstances by focusing on the advancement of their own well-being. A political paradigm would almost certainly have touched on issues raised in my own study, namely the essential link between the political power to label and, to borrow from Irwin (1985), recycling 'rubble' in and out of prison, that is those populations deemed disposable. There is a definite link between the perceived need of ware-housing so-called 'disposable populations', on the one hand, and the perpetuation of the prison-

industrial-complex, on the other hand. Since I conceded the tension, noted above, between a Marxist reading of crime and functionalism (a perspective in which my research problem is embedded), power has been a constant theme shadowing my elective choice of theoretical paradigm and relevant methodologies. Critical Theory in the tradition of the Frankfurt School is based after all on emancipatory practices such as Marxism and psycho-analysis. The same consideration applies to auto-ethnography (as I argued in Chapter Two, Part Two).

From a choice of power or politics as a research paradigm, an abductive approach over inductive approach would still have been preferable because of the former's ability to elicit surprise findings in the researcher's movement between theory and data and *vice versa*. As far as an appropriate methodology is concerned, post-colonialism (a term I defined in Chapter One) is one that immediately comes to mind. Post-colonialism is an excellent methodological lens from which to examine the implications of power-imbalances based on class induced by an economic system. Adopting this perspective, if I kept my instruments the same – collecting my data through secondary analysis of existing literature and thematic coding for the eventual analysis to assist the transplantation exercise – the research outcomes would be different from those actually reached, however. Instead of strategies to help ex-offenders cope and survive a post-release world steeped in disproportionate marginalization, an examination of the irrational perpetuation of stigmatization and discrimination from a power perspective might have led to radical revolutionary ideas of overthrow (such as those found in many African countries and in the revolutionary, politicized climate encountered in US prisons). This would, ironically, be a reversal, from the non-violent communicative measures designed by the post-Marxist movement of, especially, the Second Generation of Critical Theorists of the Frankfurt School to those favoured by classical Marxism. In the final analysis, my hope is that although I shied away from such a radical approach, my own study might be useful to scholars set on a violent solution (especially ex-offenders in the mould of Convict Criminology, a term I explained in Chapter Three). In Chapter One I quoted the words of Emma Goldman, to the effect that that every society deserves the criminals it begat. To this observation I may add the well-known war cry of Rosa Luxembourg, as I note in Chapter Three, that it is never incumbent upon revolutionaries to wait for 'correct conditions' before acting. To my mind, however, it might still be preferable to work towards Habermas's matrix of 'rational institutions', considered together with Sachin Warghade's (2015) proposal for 'autonomous policy formulation venues', which together would go some way towards eliminating greed-fuelled irrationalities such as the prison-industrial-complex and the needless and avoidable misery created in its wake. To a considerable extent South African society finds itself in a dead-end regarding its ability to develop new forms of social and economic integration, ex-offenders as a class being a case in point. Such a programme, engendering new forms of integration, was a research priority for Habermas during the

late 1970s and the early 1980s (McCarthy 1978: 249). Although my study was designed to be inter-disciplinary, I argue that in my choice of research paradigm (development as care and the enhancement of human potential) I display "epistem[ic] appropriate[ness]" (Trafford and Leshem 2008: 143) to the two core disciplines at stake, Critical Theory and Critical Criminology.

Suggestions for further research

Although, as I claim above, I have achieved my five objectives which, in turn, have enabled me to answer my research question satisfactorily, further research is necessary to bring this project to fruition. I make the following suggestions:

1. Since my work is based on transplanting ideas from an integrative shaming to a stigmatizing shaming culture, penologists interested in comparative work of this nature, should consider similar projects from other cultures, with greater similarities than the PRC to South Africa, such as Brazil – also a post-colonial culture exhibiting high levels of crime, inequality, corruption and rates of incarceration – if one or more valuable rehabilitative or punishment-related ideas can be identified in that society.

2. Further research is also needed on growing South African features of ubuntu to complement such ideas of integrative shaming cultures as those which I have identified (in Chapter Five Part One) as suitable for transplantation to own soil.

3. In view of my finding that the integration of ex-offenders is not feasible in South Africa's present climate of a stigmatizing shaming culture, exacerbated by the neo-liberal imperative, it is worth examining other productive ways in which ex-offenders can be assisted to beat the odds stacked against them. Rehabilitation is possible despite the current impossibility of integration (albeit scholarly consensus on the latter issue tends towards the contrary).

4. Further research is needed to quantify and justify the notion of the disproportionality of lumping together (as stigmatization does) different groups of disparate ex-offenders with wholly different criminal profiles, and the way or ways in which this erodes the principle of individualized sentencing.

5. Research is also needed on how ex-offenders can improve their political standing (for the purposes of lobbying), as their powerlessness and vulnerability seem to attract further unexamined burdens by opportunistic politicians, a media that thrives on moral panics and a largely ignorant public baying for blood without always knowing their own motives.

6. Based on Sachin Warghade's (2015) excellent study of the need for 'autonomous policy formulation venues' in the developing world (alluded to in Chapter One, Part One), I suggest that in view of the irrational role which the prison-industrial-complex has been shown to play in interest-based policy formulation (as opposed to evidence and analysis-based policy) in stigmatizing shaming cultures globally, the need for further research on the possibility of establishing such an independent regulatory agency (IRA) for corrections in South Africa has been indisputably demonstrated. Such mandate might be based on the idea of "creating space for more rational, participatory [which implicates both offenders still incarcerated and ex-offenders as role-players] and analysis-based policy-making" (Warghade 2015: 207).

7. How can Kurt Lewin's (1997) study of 'force field theory,' noted in Chapter One, be used to facilitate organizational change, so as to bring about a paradigmatic shift in the indifference and at times condemnatory attitude of the public towards ex-offenders in a stigmatizing shaming culture?

8. In view of my having highlighted the importance of a caring society (Chapter Two, Part One) to produce compassionate human beings, further research on how the growth of the caring society can be stimulated to blunt the most odious social features of rampant capitalism in our society, is urgently needed.

9. Finally, since Braithwaite has identified the West's uncoupling of shame from punishment, it is worth asking (through further research) how that link can be restored in largely Western jurisdictions like South Africa, and reinforce that with the powerful notion of encouraging society to take pride in the rehabilitative efforts of returning ex-offenders. Pride in such efforts is bound to be an effective strategy in the fight against crime.

Based on this study and the limits imposed on its ultimate reach, I make a number of suggestions which might be of interest to groups such as DCS, ex-offenders as a class, scholars in criminology and penology and Critical Theorists in the tradition of the Frankfurt School.

Recommendations

The following recommendations are suggested:

1. Model offenders about to be released should, at far as possible, be offered employment opportunities within DCS, as role models are desperately needed for the rehabilitative purposes of offenders still serving sentences. This idea, as I noted in Chapter Five, Part One, has been employed with significant success in the PRC.

2. In view of Birukou *et al.*'s definition of culture, noted in Chapter Two, Part One, as, *inter alia*, the horizontal transmission of knowledge through cross-cultural contact, I recommend a greater deal of interaction and contact between South Africa's DCS and its counterpart in the PRC. My hope is that, considering this element of Birukou et al.'s definition, valuable memes, and for that matter even memeplexes, from the latter's integrative shaming culture will rub off on the former.

3. The evidence is that the utilization of labour in South African prisons is exploitative and an agency (such as the office of the Inspecting Judge of Prisons) should have oversight of this exercise to ensure fair dealings between the offender and BOSASA as well as DCS (which employs a great many offenders within its walls). Despite the indisputable transformative value of work, which the Chinese experience has high-lighted (as I note in Chapter Five, Part One), offenders have every right to fair treatment at the hands of those appointed to 'care for them' during their spell of incarceration.

4. Every effort should be made to enhance the rehabilitation initiative during incarceration. To this end I suggest the introduction of animal assisted therapy, imbuing the prison experience with positivity as far as is possible (utilizing morale-building slogans, freshly painted cell walls and fair-minded staff), and encouraging offenders to write structured/guided autobiographies, as is the case in Chinese prisons.

5. In view of my analysis of (perhaps unconscious) judicial prejudice towards ex-offenders, as I indicate in Chapter Four, 'sensitivity' training (once widely in use to combat racism in the so-called 'new' South Africa) of judges and magistrates are sorely needed.

6. DCS should consider shifting the emphasis from using religious instruction as a tool of rehabilitation, as Amanda Dissel (2008) points out, to stressing the enhancement of emotional well-being instead, as is demonstrated by the effectiveness of the Senegalese experience with yoga and meditation. Many studies have demonstrated the importance of addressing the emotional well-being of ex-offenders, while it could be argued that religious instruction, though perhaps not unimportant to those who truly yearn for it, amounts essentially to ideological white-washing or arguably

even 'brainwashing'. The latter eventuality brings our penological practice uncomfortably close to that of the Chinese communists, whom we have sanctioned on precisely this point.

7. After release, some form of a re-initiation ceremony, as I suggested peremptorily in Chapter Five Part One, should restore dignity to returning ex-offenders (especially juveniles).

8. African sentencing instruments should be presented as much as possible during argument in court as an alternative to direct imprisonment, since, if we can avoid incarceration in the first place, as the Japanese experience has shown, the stigmatization of this population could be avoided.

9. Criminal lawyers should complement their argument in 6, above, with expert evidence to demonstrate the lifelong 'collateral consequences' of stigmatization, marginalization and discrimination (notably employment screening and social shunning) as a convincing argument to sway the bench to consider alternatives to direct imprisonment. If individualized sentencing means anything, then the debilitating effects of stigma on the lives of ex-offenders must be taken into account.

10. In view of the success which African (Mozambique, Mauritius) and Nordic (Finland, Norway) countries have had with open prisons, it is high time for DCS to begin experimenting with this type of humane detention which will also serve as a bridge between a stigmatizing and integrative shaming culture.

11. From a structural point of view, as Braithwaite among others have shown, there is an urgent need to address crime made possible by inequality (for instance patriarchy, among other structures), such as targeting domestic and economic violence against women, as the Australian experience has revealed, which is an excellent way to get started, as women are arguably a majority in most cultures.

12. The Chinese experience has indicated that effective management of crime demands the active involvement of communities. My analysis of *tiao-jie* and *bang-jiao* committees in Chapter Five, Part One has shown how easily these structures could be made to take root in South African society.

13. The roll-out of legal education to the public at large, as demonstrated in the Chinese experience, should be a priority in the onslaught against crime.

14. As many studies have shown, it is absolutely vital that the public be educated about the beneficial effects of forgiveness against ex-offenders who have served their sentences and three aspects in particular deserve ventilation. These are Melvin Lerner's (1980) 'Just World' hypothesis, Leon Festinger's (1957) notion of cognitive dissonance and Boris Cyrulnik's (2009) thesis that resilience can overcome calamity (incarceration and the shame of an interrupted career path), if the survivors are supported by interpersonal relationships and not labeled. Together these three ideas partially and provisionally, but effectively, explain the reasons for stigma and how a new future can be built instead.

15. A well-argued declaratory order from a division of the High Court in South Africa, that the stigmatization of ex-offenders amounts to a 'hate crime', would go a long way to pique public interest in an alternative way of thinking about stigma and its social acceptance.

16. An organization such as NICRO or the Western Cape-based Civil Society Prison Initiative (which have the interests of ex-offenders at heart) should consider launching a constitutional challenge against the effects of 'collateral consequences', caused by the stigmatization of ex-offenders under the provisions of the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (PEPUDA or the Equality Act, Act No. 4 of 2000), or similar legislation.

17. Finally, it goes beyond the obvious that the example which our elected political leaders, on both local and national levels, set in looting the fiscus and squandering tax-payers' money is not conducive to encouraging law-abiding, model behaviour among offenders and ex-offenders alike.

In the final analysis, it is our imperfections that make us human, and, from a psychoanalytic perspective the unnecessary and indefensible stigmatization of ex-offenders, doubling as our 'Other', ought to be laid to rest for us (and them) to regain our psychic equilibrium. The story of the moral career of the ex-offender, as Goffman, Lacan and Žižek have inadvertently pointed out, is inextricably intertwined with that of mainstream society. The stigmatization of ex-offenders is nothing but an insistence by normals on their own uncontaminated 'purity' or 'innocence', ensuring that ex-offenders pay the 'price' to maintain this dangerous illusion. These features show a level of naivety which feeds into rates of recidivism unheard of in integrative shaming societies (such as Japan or the PRC). In reaching these painful insights, my secondary methodology, auto-ethnography, was invaluable. Apart from the consideration that the rationale for stigmatization of ex-offenders is far more complicated than merely being an instrument of deterrence, the irresponsible and unsustainable societal management of shame in stigmatizing shaming

cultures points to a moral bankruptcy and a level of emotional immaturity (including greed) which is rarely acknowledged. As James Baldwin argued, the inability or unwillingness of White America to critically examine the assumptions which underlie its own life of privilege and opportunity, have made of them "moral monsters", as I note in Chapter Two, Part Two and Chapter Three. I suggest that Baldwin's astute observation applies with equal force to the deprivations visited on ex-offenders as a class, both in this country and the United States. It is beyond obvious that stereotyping of this nature is simply not justifiable in an open democratic society. By excluding ex-offenders and other disposable populations from mainstream society as 'rubble' to be recycled in and out of 'irrational' interest-based (as opposed to evidence and analysis-based) institutions, notably the prison-industrial-complex, the moral high-ground of so-called 'normals' has been considerably eroded. To maintain otherwise, is to deny the authentic nature of their 'desire'. To quote Baldwin (*I am not Your Negro* 2016) again, "Not everything that is faced can be changed, but nothing can be changed until it is faced."

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