

Youth Diversion: Reforming Juvenile Justice in Post-Apartheid South Africa

By Bryan Dong

AUTHOR BIO

Bryan Dong, originally from Johannesburg, South Africa, is a senior student at the Middlesex School in Concord, Massachusetts. Interested in pursuing a career in African Studies and academia, Bryan is deeply passionate about legal aid and critical race studies – particularly the intersection between youth diversion reform and restorative justice principles. He is a member of the USA National Debate Team and the Founder of the Juventus Justice Foundation which has worked closely with South African schools and legal institutions to expand access to youth diversion for students across the nation. Bryan has built institutional archives that have documented the Apartheid lived experience of dozens of victims and has been recognized by the Princeton Prize in Race Relations and UN High Level Political Forum. He aspires to use his research to further reform policy and anti-carceral state legislature to create more racially equitable systems.

ABSTRACT

Post-apartheid South Africa formally rejected its legacy of punitive punishment and race-based juvenile incarceration with the exegesis of restorative justice principles and ubuntu in the early 21st century – ultimately enshrining a new era of youth diversion reform in the 2008 Child Justice Act. Yet, two decades later, youth diversion remains critically inequitable across provincial lines and inadequately implemented as the Act's largest central mechanism for diverting South African youth from formal incarceration. This paper argues that South Africa has failed to realize its constitutional promise of restorative justice; structural underfunding, provincial disparities in NGO probational capacity, and the absence of a national standardized framework have concentrated institutional resources in wealthier provinces such as Gauteng and the Western Cape, while more rural regions in the Eastern Cape remain critically under-resourced and assigned to formal court processes and punitive detention by default.

Applying government reports, case law, and first-hand accounts from South African youth, this paper tracks the historical development of apartheid-era juvenile detention through the Child Justice Act's enactment to present-day institutional gaps – dealing considerably with contesting arguments that

diversion undermines deterrence and accountability. It concludes by proposing two interlocking solutions: a standardized national framework for diversion access, program quality, probational caseloads, and a redistribution of institutional resources to historically underfunded provincial programs. Absent these reforms, this paper argues that South Africa risks re-inheriting the legacy of a carceral state that undermines the restorative justice reforms of its late constitution.

Key Words: *Apartheid, 2008 Child Justice Act, youth diversion reform, NICRO, transitional justice, recidivism and reoffense, comparative juvenile justice frameworks, Gauteng probational policy, carceral state legacy, South African Constitutionalism*

INTRODUCTION

In October of 1992, at just 13 years old, Neville Snyman was arrested and held in juvenile detention for the simple act of stealing sweets and a cold drink from a storefront in Robertson, Cape Town. Neville was detained in police cells with other offenders under the age of 21. Within two days of detainment, he was raped and beaten to death by his cellmates (Skelton, 2010; Human Rights Watch, 1994).

While public outrage has called for radical reform, post-apartheid South Africa continues to face these same realities of its late carceral status. Daily, an average of 51 cases of murder, 142 cases of sexual offense, and 452 cases of common assault are recorded in South Africa. (Sui et al., 2018). Of these cases, young people under the age of 21 commit approximately two-fifths of crimes nationwide – with roughly only 30% of them being routed through NICRO or state-sponsored diversion programs (Statistics South Africa, n.d).

These realities radically compete with South Africa's renewed constitutional priorities outlined by leading figures such as Nelson Mandela: "On behalf of the government, I wish to say once more, that no one receives the attention of our government more than the youth. You are our future" (Mandela, 1995, para. 2). As youth struggles become increasingly entrenched, a growing contradiction between our constitutional ideals and modern realities has become increasingly clear: South Africa is at risk of re-inheriting a legacy of punitive punishment and arbitrary detention.

Following the fall of the Apartheid Regime in 1994, South Africa was faced with the challenges of reconstruction. Emerging from decades of segregation, state violence, and racial exclusion, the juvenile justice system was one of the first structures South Africa needed to confront. The late legal system was fundamentally weaponized against black youth: basic legal rights were suspended, severe torture was tolerated, and black teens were detained en-mass. Post-apartheid lawmakers demanded radical form. The founding principles of late Archbishop Desmond Tutu and Nelson Mandela were therefore established: the new constitution would adopt a philosophy of restorative justice and *ubuntu* (I am because we are). Formalized in the Child Justice Act of 2008, the Constitution of the Republic enacted a rehabilitation and

diversion-first approach to juvenile justice – moving away from decades of youth incarceration and detainment.

In spite of these reforms, however, diversion programs for vulnerable South African youth have remained critically inaccessible and underfunded. Diversion programs – including family group conferences, victim-offender mediation, and life skills training – remain disproportionately concentrated in more wealthy and affluent provinces such as Gauteng and the Western Cape. Meanwhile, rural provinces like Limpopo and the Eastern Cape struggle with program establishment in light of critical resource shortages (Mangwiro et al., 2024). Even in provincial regions with established programs, however, diversion initiatives remain dysfunctional: resource and funding deficits, staff shortages, untrained probation officers, and a lack of aftercare all contribute to ongoing constraints on reform. This paper argues that South Africa has failed to fully implement its principles of restorative justice in its juvenile justice reforms. Inheriting an Apartheid legacy, South Africa continues to default to punitive punishment, detention, and incarceration over its promised diversion ideals. Although the Child Justice Act has pioneered diversion as part of South Africa's constitutional reforms to incarceration, unequal access to diversion programs and limited institutional resources have prevented reforms from fully serving vulnerable youth – undermining restorative justice goals in the South African justice system and necessitating redistribution solutions to government policy.

HISTORICAL CONTEXT: THE CHILD JUSTICE ACT - THE ORIGINS AND DEVELOPMENT OF JUVENILE DIVERSION

Apartheid, meaning “apartness” in Afrikaans, was a brutal system of institutionalized racism, segregation, and white supremacy – a notion which governed South Africa from 1948 to 1994. Under the Apartheid regime, an authoritarian state emerged: black South Africans were functionally stripped of their majority citizenship, confined to small township territories, and racially classified. The 1950 Population Registration Act mandated that every citizen be classified as either white, Black, mixed race, or Indian. Subsequently, the Group Areas Act (1966) demarcated exclusive areas for different racial demographics – forcibly displacing Black South Africans to rural “homelands” and impoverished townships. In order to move across communities, black South Africans had to carry with them at all times “passbooks” as part of Pass Laws to access cities and employment opportunities. At every turn, Black South Africans were reminded of their systemic inferiority and subjugation: “Blanke Gebeed - Whites Only” signs lined the streets of public spaces and restrooms, Bantustan schools lacked basic infrastructure, and townships were frequently tear gassed (“Apartheid,” 2018).

Further entrenching inequalities, the Apartheid government passed the 1953 Bantu Education Act which assigned black students to a second-class education focused on preparing them for wage labour under white control. Under the Bantu Education system, classes were taught strictly in English and Afrikaans, and instruction was mandated in needlework, handcraft, planting, soil conversation, and Christian religion. The education system was fundamentally aimed at training children for menial jobs the government deemed suitable for their race and subservience to white South Africans. Funding also largely came from communities themselves – meaning in underserved townships, Black schools received

critically less funding compared to their white counterparts. As the student-teacher ratio rose up to 60-1, attempts to establish alternative schools by activists were deemed illegal by the end of the 1950s. Even beyond secondary education, non-white students were barred from attending open universities under the Extension of University Education Act (1959) – a systemic barrier to higher education which still presents lasting impacts on racial inequality decades after the Apartheid Regime (Bauer, 2018).

As the government-imposed Afrikaans as the primary medium of instruction in Bantu schools, Black learners across townships finally rose in dissent – culminating in the Soweto Uprising (1976). Soweto, a township complex designated for Black South Africans, associated Afrikaans with the language of its oppressors – the apartheid state, police officers, and bureaucrats who imposed upon the township frequent abuses and police violence. Subsequently, on the morning of June 15, 1976, students assembled outside class marching down the streets holding signs with slogans reading “To Hell with Afrikaans” and “Down with Bantu Education.” In response, police officials opened fire. Hector Pieterse was one of the first students to have been killed in the uprising. His limp body held in the arms of his brother Mbuyisa Makhubu was photographed and surfaced across global media – serving as a haunting image of police brutality, and the failed strife of students for liberation (Kulik, 2023).

By the 1980s, region-wide boycotts started across the Western Cape. Students had learned from the lessons of 1976 and become more formally organized and co-ordinated. According to COSAS activist Monde Tabata, “The boycotts of 1980 became very important and may have been a turning point in the students’ struggles, in that the students in 1980 in Cape Town had a formation such as the Committee of 81 ... where students realized that they would never be able to fight their struggle by themselves, without the support of the communities” (Khanya Journal Staff, 2018). Students made some gains through these boycotting movements: more textbooks were provided and schools were repaired after radical boycotts against buses and white-owned store fronts. However, as protests intensified, the apartheid government began to inhumanely crackdown on dissent: soldiers picked students off the streets and would hold them for several hours in the veld where they would be brutalised – beaten with fists, rifle butts, and often subjected to electric shock treatments as many had petroleum poured over them near open flames. This brutalisation became a display of authority by the Apartheid government and a statement against rising dissent (Vorster, n.d.).

However, by 1994, President Nelson Mandela was released from Robben Island and led a reform movement which put an end to the apartheid regime – moving away from decades of racial oppression and punitive punishment to a new constitution and juvenile justice system. One of the most important developments was the ratification of the United Nations Convention on the Rights of the Child by the South African Government in 1995 which gave way to a new priority in asserting the rights of children to not be detained except as a measure of last resort – applying instead an emphasis on diversion. One of the first cases brought forth to the new Constitutional Court was *S v Williams 1995 (3) SA 632 (CC)* which struck down corporal punishment against children on the grounds of cruelty and inhumanity. Later, President Nelson Mandela acted with haste to reform existing laws to outlaw the imprisonment of children during the pre-trial phase entirely. By 1999, the law-making process began with the Minister of Justice and the South African Law Commission drafting a Bill for comment in 2001. The committee held

workshops and received written submissions from various criminal justice role-players including children themselves (Skelton, 2010).

In 2008, the Child Justice Act was passed – formally creating a reformatory justice system for South African youth. The Bill adopted the founding principles of the new Republic of South Africa: an emphasis on restorative justice, truth and reconciliation, and *ubuntu* (*I am because we are*). The Act explicitly outlined its objectives under the following goals: “fostering children’s sense of dignity and worth; supporting reconciliation by means of a restorative justice response; and reinforcing children’s respect for human rights and the fundamental freedoms of others” (Republic of South Africa, 2008, sec. 2). The Act aimed to promote the spirit of *ubuntu* by prioritizing the dignity of children – recognizing young offenders as valued members of their communities even in the face of legal repercussions. As described by the Constitutional Court, “the constitutional value of *ubuntu* or *botho* is an idea based on deep respect for the humanity of another” (Dikoko v Mokhatla, 2006, para. 68). The new Child Justice Act, under the guiding principles of restorative justice, became one of the most globally progressive juvenile justice initiatives. Applying its African communal philosophy, the Act placed a significant emphasis on diversion programs such as community service, victim-offender mediation, and life skills training. Operating on two levels of offense, the first level included oral or written apologies, counselling, and service while the second included more intensive intervention: compulsory attendance at educational centers, vocational programs, and long-term rehabilitation. At each level, the new Constitutional Court aimed to use detention as a last resort – attempting to deconstruct many of the structural inequalities created under the Apartheid Regime for a growing generation of youth (Sloth-Nielsen, 2011).

THE CURRENT ISSUE: ACCESS INEQUALITY AND INSTITUTIONAL RESOURCE LIMITATIONS

However, modern realities suggest that in spite of the Child Justice Act’s reforms, the implementation of diversion programs has remained largely ineffective. Up to 50% of youth who complete juvenile justice diversion programmes re-offend with reconviction rates sitting roughly at 28% within 18 months of diversion (Tshivhase & Sekgobela, 2026). Likewise, the availability of diversion programmes has been vastly concentrated in more urbanized and affluent provinces including Gauteng and the Western Cape while rural regions such as the Eastern Cape critically lack the necessary infrastructure, NGOs, and probation officers necessary to construct effective diversion programmes (Mangwiro et al., 2024). In an Annual Report by the Department of Justice on the implementation of the Child Justice Act, the DOJ concluded that while Gauteng and the Western Cape had 12 and 7 service providers respectively, the Eastern Cape only had 2 situated in the urban regions of East London and Lusikiski (Republic of South Africa, 2023). Even in well-resourced provinces, however, government organizations like NICRO have suffered from funding shortages and high caseloads which have translated into the funnelling of children into informal court processes. Coupled with an overall shortage of community resources, diversion programmes severely suffer from unequal accessibility and limited institutional resources – ultimately failing to deliver on many of the goals originally set out by early constitutional amendments.

The Eastern Cape has consistently been identified as one of the most high-burden yet critically low-capacity diversion provinces for youth in South Africa. In fact, a finding from the 1997 Interim Policy Recommendations of the Inter-ministerial Committee on Young People at Risk specifically warned that there would be limited and vastly unequal access to diversion in less well-resourced provinces such as the Eastern Cape. Access inequality across provinces has been a long recognized structural issue since the beginning of diversion policy in South Africa. Nonetheless, the Eastern Cape has seen little structural change since 1997 (Wood, 2003). As mentioned, the few formal diversion programs available across the province have been centralized in the urban regions of East London, Lusikisi and parts of Gwebhera. Youth in more remote, rural locations such as townships struggle with sparse public transportation – making participation in programming nearly impossible. Recent empirical studies find that children travel between 40 to 70 kilometres to participate in diversion programming (Tshivhase & Sekgobela, 2026). An Eastern Cape learner further shares: “We lack money for transportation to go through the diversion programmes. Our parents rarely get us to attend the sessions, and we do not get financial support from the Department of Social Development and NICRO. I struggle to attend the sessions and sometimes I feel as getting the money through stealing” (Wood, 2003). The financial barriers to accessing the transportation costs have had detrimental impacts on the efficiency of diversion. As offenders struggle to afford basic bus-fares, they face legal consequences for their program absences – further entrenching themselves in diversion sentences. Likewise, diversion programs also suffer from a critical shortage of state resources: due to a lack of state-employed probation officers, rural courts often default to formal trials instead of diversion because localized diversion options simply aren’t available. Even when available, NICRO, as the only implementing organization of diversion programs in the Eastern Cape, struggles to support offenders. The program is frequently unable to employ and pay personnel adequately and NICRO social workers desperately struggle with the overload of youth offenders. This critical underfunding and absence of external NGOs in the Eastern Cape has exacerbated provincial disparities. The Eastern Cape consequently remains the province with the highest rate of youth incarceration in South Africa (Mangwiro et al., 2004).

Comparatively, more affluent provinces such as the Western Cape have vastly more well-developed programmes supported by accredited NGOs and government organisations. The Western Cape’s Department of Social Development is widely acknowledged as the country’s most extensive provincial diversion system for young offenders. The Department offers advanced and accredited programs for children aged 10-18, including anti-substance abuse, aftercare, self-development, and home-based supervision programming. Multiple well-developed signature programs are also available: Rhythm of Life (self-development), Wake Up Call (substance abuse), and Reverse Your Thinking (Restorative Justice) – each program partnered with a collective network of roughly 219 non-profit organizations to further developmental services (Wood, 2003).

Beyond being an inherently more affluent province driven by tourist-capitalism, the Western Cape also places a heavy emphasis on funding major NGO regional providers like NICRO, Khulisa Social Solutions, and RESTORE – allocating over R2.9 billion to child protective services (Swart, 2026). Compared to the Eastern Cape’s rural districts, the Western Cape’s diversion programming is also far more institutionalized and dispersed across its provincial regions. The province has integrated youth

crime-prevention initiatives in high-risk and underserved communities such as Mitchells Plain, Gugulethu, Khayelitsha, and Handover Park – accessing youth in far more remote and peripheral areas (Western Cape Government, 2019). Despite its relative advantages, however, the province still struggles with serious problems including drug-trading and youth recruitment into gang violence in the Cape Flats. Nonetheless, the Western Cape still demonstrates that with stronger institutional support, NGO partnerships, and federal funding, provincial diversion programmes can be significantly stronger.

However, it is important to note that even in provinces with high urbanisation and federal funding, probation services and communities can continue to be overloaded and underserved. A standing example of a province strained by its large urban population is Gauteng which suffers severely from overburdened probation officers and courts. High numbers of offenders and limited institutional resources have contributed to large-scale court failures in recent years. Gauteng's juvenile courts, pressured by rapid decision turn-over times and understaffing, have been critiqued for operating in a “selective and disjointed manner.” While the Child Justice Act established underlying principles for decision-making in provincial courts, no national framework is formally applied in the status quo – allowing many juvenile courts to engage in the inconsistent, unequal, and discretionary treatment of offenders (Wood, 2003). This discretion has led to a large rise in race, class, and gender-based prejudice along with monetary corruption. Gauteng subsequently accounts for 39.8% of municipal corruption cases in South Africa – almost four times the KwaZulu Natal's rate as the running second at 9.6% (Van Der Merwe, 2018). Gauteng's rural communities, like those in the Eastern Cape, also continue to remain underserved. Parts of Soweto, Alexandra, and informal settlements around Johannesburg similarly aren't able to afford transportation to diversion programmes. Studies have also shown that the absence of food provided at long, intensive sessions has also contributed to struggles for youth programming. Even families and communities themselves are also resistant to supporting diversion programs. A Gauteng student relates that “we lack emotional support and good relationships with the social workers. Our parents do not care if we exist or not” (Wood, 2003). Gauteng therefore demonstrates that despite urbanisation and funding, a juvenile justice system can still remain dysfunctional in the absence of accountability and communal support.

Ultimately, the immediate and long-term impacts of unequal diversion implementation deeply entrench inequalities and structural harms against youth. In the short term, institutional limitations on diversion resources – including transport, food access, weak aftercare systems, and a critical shortage of probation officers – mean that young offenders are unable to successfully emerge from rehabilitation and diversion. These limitations continue to lead to high rates of recidivism where youth re-commit crimes within 12 to 18 months of diversion or join gang-influenced environments. This reality also contributes to rising inequalities between provinces themselves where well-resourced provinces are far more likely to engage in effective diversion as opposed to rural regions forced to engage in formal court processes and direct incarceration. Over the long term, these effects further lead to recurring cycles of criminalisation where youth become increasingly entangled in a juvenile justice system that significantly reduces their prospects in employment, education, and socioeconomic development. On a larger institutional level, increased recidivism exacerbates existing issues with overburdened courts and probational services – shifting vital resources away from rehabilitation initiatives towards punitive punishment. All together,

these trends heavily undermine the ideals of restorative justice outlined in South Africa's new constitution – placing the country at large risk of reinforcing a legacy of apartheid-era inequalities and incarceration.

COUNTER ARGUMENT: A CASE FOR NECESSARY PUNISHMENT

Some critics may argue, however, that the declining efficacy of diversion programs is not inherently regrettable. Rather, it reflects a system that has placed too much emphasis on rehabilitation over crime accountability. From this perspective, diversion programs can be seen as weakening deterrence against crime among youth through punishments that lack severity and punitive practice. Diversion programs often fail to establish the disincentives to engage in crime – especially with repeat offenders. When youth offenders are continuously diverted from criminal detention, they risk engaging in progressively more serious crimes when desensitized to punishment. This precedent is therefore particularly harmful to public confidence which assumes the justice system engages in proportionate and appropriate accountability.

Furthermore, some critics argue that diversion leads to inconsistent and discretionary justice outcomes. As seen in Gauteng, diversion outcomes vary significantly across jurisdictions, cases, and provinces – often leading to prosecutorial bias, prejudice, or corruption. In practice, the Child Justice Act merely establishes the underlying principles of court decisions; however, it fails to provide a national framework and official guideline for punishment. In many cases, this inconsistency can lead to public disillusionment: South Africa's court system no longer operates on equal laws, but rather it is defined by court powers and prejudice (Wood, 2003).

Finally, one could argue that diversion doesn't solve for the root causes of crime behind high-risk youth communities. While rehabilitation programs can support youth already in the criminal justice system, it fails to provide oversight on crime itself. Juvenile justice should instead focus on establishing greater law enforcement to target the source instead of the symptoms of crime. Therefore, a stronger alternative to diversion would be reinvesting in public safety and police oversight over communities – as opposed to seemingly symbolic programs that haven't produced tangible reductions in recidivism.

While concerns about accountability and deterrence are legitimate, this counterargument primarily assumes that the reduced rates of punishment and punishment severity are directly proportional mechanisms. Punitive punishment is not always the most effective means of deterrence, especially for youth; in fact, it often has more detrimental effects on recidivism because it isolates and brands them as offenders with a criminal record. Nationally, approximately 52% of formerly incarcerated individuals are rearrested – most of which attribute their re-offenses to insurmountable socioeconomic struggles or employment stigmas (Alper et al., 2018). Even with rehabilitation, offenders often leave the prison system with stigmas attached to them and criminal exposure that bars them from fully reintegrating into society. Unlike adults, children have the propensity to change and be successfully rehabilitated. Formal incarceration instead creates permanent systemic barriers that critically limit their future prospects. Moreover, unlike diversion, incarceration fails to account for the structural factors that lead to crime: poverty, family instability, and exposure to violence. In practice, diversion includes intervention methods

like counselling, life-skills training, and vocational education. These programs target and change the inherent behavioural qualities of young offenders. Recognizing that many young offenders aren't driven by criminal incentives, diversion acknowledges that their actions are instead often a consequence of environmental pressures, family conditions, or economic struggles. While diversion initiatives have admittedly not been perfectly implemented in South Africa, these realities are a product of weak state investment and capacity rather than an inherent flaw in the principle of diversion itself. In countries like Norway where effective diversion programs have been applied, recidivism rates among youth have been as low as 20% (First Step Alliance, 2022). Likewise, prosecutorial bias and prejudice are not mutually exclusive to diversion: the alternative is a court system which incarcerates far more punitively with the same, if not greater, degree of inconsistency and inequality. Therefore, it is crucial that we act on the restorative justice principles behind diversion in the interests of youth.

SOLUTIONS: STANDARDIZATION AND RESOURCE REDISTRIBUTION

While the Child Justice Act has provided the juvenile justice system with the legal foundations and principles for diversion, its application still remains highly discretionary across provincial courts – exacerbating prejudice and prosecutorial bias. Diversion in the status quo operates on a geographic basis; punishments are decided under local judgement instead of a set of national guidelines. While the Child Justice Act recommends programs at two different levels of severity, many provinces either choose not to follow those programs at their own discretion or lack the resources to execute them (First Step Alliance, 2025). Under the juvenile justice system, two young people who commit the same crime but in different places should face the same outcome; prejudice and judicial discretion should not play a role in the punishment or incarceration of a young offender. Therefore, on the government level, one of the primary solutions the juvenile justice system needs to work towards is standardizing diversion through a stricter and more formalized national framework.

In order to carry out this solution, the new framework needs to clearly redefine the following: which offenses qualify for diversion, the bare-minimum requirements each diversion program must meet, and the number of cases assigned to each probation officer. As it stands, provincial courts have the total discretion to deem the severity of varying offences – often labelling them more punitively than the change itself necessitates. Standardization and oversight on diversion punishments on specific crimes like petty theft ensures that youth offenders are held accountable fairly and consistently. Moreover, in the status quo, the quality of diversion programs varies significantly across provinces – many of which are critically sub-par and underfunded. Establishing basic metrics to evaluate whether provincial programs satisfy requirements would help communities keep local governments accountable for proper diversion programs. Finally, the government needs to establish regulated caseloads for probation officers in order to reduce severe understaffing, overburdened assignments, and under-resourcing.

By implementing the above framework and regulations on diversion programs and courts, we can directly address the root causes of provincial inequalities and weak accountability across courts. Standardization would establish guidelines that mandate transparency in addition to setting basic national standards for program quality. A review board and monitoring program would need to be established to

ensure that courts and programs remain in compliance. In doing so, the new framework would ultimately improve basic public confidence in an equitable and effective diversion system.

Additionally, at an institutional level, diversion programs should look towards redistributing their diversion capacity across provinces. A major reason why diversion programs remain inconsistent across provinces is because of the vast resource disparity between urban and rural communities. More affluent and urbanized provinces like Gauteng and the Western Cape have significantly more NGO partnerships, probation officers, and specialized diversion programs. This reality essentially suggests that effective diversion is entirely contingent on geographic location. Despite being a national network, the dispersal of federal funds and NGOs is critically stratified across South Africa. To address this, the Department of Social Development and national programs like NICRO need to redistribute institutional resources to more under-funded rural communities.

In order to achieve these aims, the government firstly needs to increase funding or redistribute existing funds towards probation officers, infrastructure, transport, and programming in the following states: the Eastern Cape, the Free State, Mpumalanga, and Limpopo which are the most critically under-resourced. Furthermore, NGOs should begin establishing or relocating centers to more remote, underserved areas in the above provincial regions. Doing so would capitalize on greater community involvement and human resources in running programs. Finally, national departments should begin making community reforms by creating targeted grants. Designated for rural communities, these grants could support transportation access, rehabilitation services, or train probation officers (Skelton, 2010).

The above solutions address the primary causes of diversion failure – unequal institutional capacity – by redistributing existing funds and resources. Additional government funding would be needed for grant initiatives and community reforms; however, it is important to note that without institutional support, diversion programs will continue to be increasingly inaccessible and ineffective. By garnering more funds and more deliberately distributing provincial capital, we can make youth diversion a shared national priority rather than a regional interest.

CONCLUSION

Emerging from decades of segregation and punitive punishment, South Africa reconstructed its juvenile justice system with one central goal in mind: to rehabilitate young offenders rather than punish them – to act on the principles of *ubuntu* and restorative justice. Yet today, modern realities reveal that unequal access, inconsistent diversion policies, and critically under-resourced programs have prevented South Africa from realizing these ideals. Our constitution agrees: no child should be wrongfully incarcerated based on the province he lives in or the local program he attends. It is therefore imperative that we do not abandon our diversion initiatives. Instead, we need to ensure that our national framework is truly standardized across provincial lines; we need to redistribute our resources in the interests of our communities; we need to remain firmly resolved in our faith in restorative justice. Without these resolutions, South Africa's ridden realities will not change; provinces will remain fundamentally equal, and reform will reach an impasse. South Africans and officials alike now face a choice: to accept a fundamentally unequal system entrenched in the incarceration of our youth, or to build one that acts upon diversion that is truly equal, consistent, and effective for every young South African.

REFERENCES

- Alper, M., Durose, M., & Markman, J. (2018, May). Special report 2018 update on prisoner recidivism: A 9-year follow-up period (2005–2014). U.S. Department of Justice. <https://bjs.ojp.gov/content/pub/pdf/18upr9yfup0514.pdf>
- Apartheid. (2018, December 3). In Encyclopædia Britannica. <https://www.britannica.com/topic/apartheid>
- Bauer, P. (2018, April 16). Bantu Education Act. In Encyclopædia Britannica. <https://www.britannica.com/event/Bantu-Education-Act>
- Dikoko v Mokhatla, 2006 (6) SA 235 (CC). <https://www.saflii.org/za/cases/ZACC/2006/10.html>
- First Step Alliance. (2022, January 3). What we can learn from Norway's prison system: Rehabilitation & recidivism. <https://www.firststepalliance.org/post/norway-prison-system-lessons>
- First Step Alliance. (2025, November 12). Challenges faced by the diversion programmes on young offenders. <https://journal.eu-jr.eu/social/article/view/3557/2578>
- Human Rights Watch. (1994, February 8). Prison conditions in South Africa: XI. Special category of prisoners. <https://www.hrw.org/reports/1994/southafrica/13.htm>
- Khanya Journal Staff. (2018, June 18). The students and the uprisings of the 1980s. Karibu – A Working Class News. <https://karibu.org.za/from-soweto-to-democracy/>
- Kulik, R. (2023, June 16). Soweto uprising. In Encyclopædia Britannica. <https://www.britannica.com/event/Soweto-uprising>
- Mandela, N. (1995, June 16). Address by President Nelson Mandela at National Youth Day event. Nelson Mandela Foundation. <https://archive.nelsonmandela.org/index.php/za-com-mr-s-268>
- Mangwiro, V. P., Tanga, P. T., & Ekobi, G. A. (2024). Assessing the impact of diversion programmes on young offenders in the Eastern Cape Province, South Africa. *E-Journal of Humanities, Arts and Social Sciences*, 5(16), 2960–2972. <https://www.ajol.info/index.php/ehass/article/view/302883>
- Republic of South Africa. (2008, May 11). Child Justice Act 75 of 2008. Department of Justice and Constitutional Development. https://www.justice.gov.za/legislation/acts/2008-075_childjustice.pdf
- Republic of South Africa. (2023, December 13). 2022/23 annual report on the implementation of the Child Justice Act. Department of Justice and Constitutional Development. <https://www.justice.gov.za/vg/cj/CJA-AnnualReport-2022-2023.pdf>
- Skelton, A. (2010, September 15). Reforming the juvenile justice system in South Africa: Policy, law, reform, and parallel developments. UNAFEI. https://www.unafei.or.jp/publications/pdf/RS_No75/No75_09VE_Skelton.pdf
- Sloth-Nielsen, J. (2011). “Just say sorry”? Ubuntu, Africanisation and the child justice system in the Child Justice Act 75 of 2008. *Potchefstroom Electronic Law Journal*, 14(4), 63–90. https://scielo.org.za/scielo.php?script=sci_arttext&pid=S1727-37812011000400004
- Statistics South Africa. (n.d.). Children series, volume III: Education and child statistics directorate. https://www.statssa.gov.za/publications/92-02-03/Presentation_Reported%20crime%20against%20children_Volume3_Final.pdf
- Sui, X., Massar, K., Kessels, L. T. E., Reddy, P. S., Ruiter, R. A. C., & Sanders-Phillips, K. (2018). Violence exposure in South African adolescents: Differential and cumulative effects on psychological functioning. *Journal of Interpersonal Violence*, 36(9–10), Article 0886260518788363. <https://doi.org/10.1177/0886260518788363>

SCHOLARLY DEBUT

by Scholarly Review

Fall 2026

- Swart, M. (2026, March 27). Funding boost for child protection and shelters in Western Cape. MSN News.
<https://www.msn.com/en-za/news/other/r2-9bn-funding-boost-for-child-protection-and-shelters-in-western-cape/ar-AA1YPYAC>
- Tshivhase, J., & Sekgobela, T. (2026). Factors affecting the effectiveness of diversion programmes for children in conflict with the law. Social Work/Maatskaplike Werk, 62(1).
<https://doi.org/10.15270/62-1-1365>
- Van Der Merwe, G. (2018, August 12). The provinces and municipalities in South Africa where corruption is most reported. BusinessTech.
<https://businesstech.co.za/news/government/263657/the-provinces-and-municipalities-in-south-africa-where-corruption-is-most-reported-study/>
- Vorster, J. (n.d.). Children in detention. SAHA – South African History Archive.
https://www.saha.org.za/youth/children_in_detention.htm
- Western Cape Government. (2019, October 12). Crime prevention programmes for youth at risk.
<https://www.westerncape.gov.za/service/crime-prevention-programmes-youth-risk>
- Wood, C. (2003, October 1). Diversion in South Africa: A review of policy and practice, 1990–2003. Institute for Security Studies.
<https://issafrica.org/research/papers/diversion-in-south-africa-a-review-of-policy-and-practice-1990-2003>