

**Dirk van Zyl Smit**

**Emeritus Professor**

## PUBLICATIONS:

### BOOKS

*Life Imprisonment in Asia*, (edited with Catherine Appleton and Giao Vucong) Singapore: Palgrave Macmillan, 2023

*Incorporating the Nelson Mandela Rules into National Prison Legislation: A Model Prison Act and a Commentary*, Vienna, UNODC, 2022.

*The Impact of COVID-19 on Prison Conditions and Penal Policy* (Edited with Frieder Dünkel and Stefan Harrendorf), London: Routledge 2022.

*Life Imprisonment a Global Human Rights Analysis* (with Catherine Appleton), Cambridge Mass.: Harvard University Press, 2019. Published in Spanish (with additional contributions by Luis Arroyo Zapatero and Beatriz López Lorca) as *Cadena Perpetua Un análisis global desde los derechos humanos* Valenica: Tirant lo Blanch, 2022.

*Life Imprisonment and Human Rights* (edited with Catherine Appleton) Oxford: Hart, 2016 (paperback 2019)

*European Penology?* (Edited with Tom Daems and Sonja Snacken) Oxford: Hart, 2013.

*United Nations Handbook on the International Transfer of Sentenced Persons* (with Roisin Mulgrew) Vienna, UNODC, 2012.

*Kriminalität, Kriminalpolitik, strafrechtliche Sanktionspraxis und Gefangenrenaten im europäischen Vergleich]* (Edited with Frieder Dünkel, Tapiu Lappi-Sepälä, and Christine Morgenstern). Mönchengladbach: Forum-Verlag Godesberg, 2010, 2 vols.

*Release from Prison: European policy and practice* (edited with N Padfield and F Dünkel). Willan, Uffculme, 2010 460 pp.

*Principles of European Prison Law and Policy; Penology and Human Rights* (with S Snacken) Oxford University Press, Oxford, 2009. Published in Spanish (with additional contributions by Luis Arroyo Zapatero and José Luis de la Cuesta) as *Principios De Derecho y Política Penitenciaria Europea: Penología y Derecho Humanos* Valenica: Tirant loBlanch (June 2013).

*United Nations Handbook on Alternatives to Imprisonment*, Vienna: UNODC, 2007.

*Taking Life Imprisonment Seriously in National and International Law* The Hague, Kluwer Law International, 2002.

*Imprisonment today and tomorrow: international perspectives on prisoners' rights and prison conditions:* (edited with Frieder Dünkel) 2<sup>nd</sup> Edition. Kluwer 2001, 1<sup>st</sup> Edition 1991.

*Prison Labour: Salvation or Slavery? International Perspectives* (edited with Frieder Dünkel) Ashgate/Dartmouth, Aldershot, 1999,

*South African Prison Law and Practice* Butterworths, Durban, 1992, xiv & 447 pp.

*Towards Justice: State Control and Crime in South Africa:* (edited with D S Hansson) Oxford University Press, Cape Town, 1990.

## ARTICLES

“The European Human Rights System and the Right to Life Seen through Suicide Prevention in Places of Detention: Between Risk Management and Punishment” (with Gaëtan Cliquennois) (2021) 23 *Human Rights Law Review* 1–28.

“Can European human rights instruments limit the power of the national state to punish? A tale of two Europes” (with Gaëtan Cliquennois and Sonja Snacken) (2021) 18 *European Journal of Criminology* 11–32.

“The Paradox of Scottish Life Imprisonment” (with Katrina Morrison) (2020) 28 *European Journal of Crime, Criminal Law and Criminal Justice* 76-101.

“International Prison Standards and Transnational Criminal Justice” (2019) 4 *UCI Journal of International, Transnational and Comparative Law*, 101-127.

“Un acercamiento a la jurisprudencia del Tribunal Europeo de Derechos Humanos sobre la cadena perpetua y a su posible proyección sobre la prisión permanente revisable en España” (with Cristina Rodríguez Yagüe) (2019) 31 *Revista General de Derecho Penal*, 1-31.

“Rehabilitation as a Dominant Idea in European Prison Law: Problems and Prospects” (2018) New Series, No. 1, *Romanian Journal of Sociological Studies*, 9–18.

“The Ultimate Penalty” (with Catherine Appleton) (2018) 19 *New Philosopher* 88-93.

“Lebenslang in Europa: Die neue Rechtsprechung des Europäischen Gerichtshofs für Menschenrechte” (with Angelika Reichstein,) (2017) 4 *Forum Strafvollzug* 229-234.

„Réhabilitation et une perspective de libération pour toute personne condamnée à la réclusion à perpétuité“ (with V. Vouleli) 2016 *AJ Pénal* 322-325

“Human Dignity and Life Imprisonment: The Pope Enters the Debate” (with M. Abellán Almenara) (2015), *Human Rights Law Review*, 369–376.

Lebenslange Freiheitsstrafe in einer globalisierten Welt“ (2015) 27 *Neue Kriminalpolitik* 171-180.

“‘One cannot legislate kindness’: Ambiguities in European legal instruments on non-custodial sanctions” (with Sonja Snacken and David Hayes) (2015) 17 (1) *Punishment and Society* 3–26.

“La Pena Dell’ergastolo in un Mondo Globalizzato” 2014 *Criminalia: Annuario die sceinze penalistiche* 59-74

“Whole Life Sentences and the Tide of European Human Rights Jurisprudence: What is to be Done?” (with Pete Weatherby and Simon Creighton) (2014) 14 *Human Rights Law Review* 59-84.

“Droit de toute personne condamnée à la réclusion criminelle à perpétuité d’avoir une perspective de libération. Cour européenne des droits de l’homme, Grande chambre, 9 juillet 2013, n° 66069/09, 130/10, 3896/10 *Vinter et autres c/ Royaume-Uni*” 2013 *Actualité Juridique Pénal* 494-496 (A4).

De levenslange vrijheidsstraf internationaal vergeleken (2013) 39 (1) *Justitiële verkenningen* 12-31.

Inconstitutionnalité de la réclusion à perpétuité sans libération conditionnelle obligatoire pour les mineurs meurtriers (Cour Suprême des Etats Unis, *Miller contre Alabama*, 25 juin 2012 (567 US – (2012)) 2012 *Actualité Juridique Pénal* 607-609 (A4).

“What is in a name? Preventive Detention in Germany in the Shadow of European Human Rights Law” (with Kirstin Drenkhahn and Christine Morgenstern) 2012 *Criminal Law Review* 167-187.

„La Chambre suprême des États-Unis ordonne à l’État californien de libérer des milliers de détenus” February 2012 *Actualité Juridique Pénal* 108-110 (A4).

“Pozaeuropejskie wpływy penologii europejskiej” (with Sonja Snacken) (2011) 33 *Archiwum Kryminologii* 503-514.

“Regulation of Prison Conditions” (2010) 39 *Crime and Justice* 503-563.

“Outlawing irreducible life sentences - Europe on the brink?” (2010) 23 (1) *Federal Sentencing Reporter* 39-48 (A4).

“European Penal Policy and National Penal Practices - Lessons for Scotland?” (2010) 16 *Scottish Journal of Criminal Justice Studies* 4-19.

“Prawa Więźniów W Perspektywie Europejskiej Ostatnich Lat” (with Sonja Snacken) (2009) 31 *Archiwum Kryminologii* 7-34.

“Europejskie Reguły Wykonywania Sankcji I Środków Orzeczonych Wobec Nieletnich Sprawców Czynów Karalnych” (with Frieder Dünkel and Andrea Baechtold) (2009) 31 *Archiwum Kryminologii* 35-60.

„Die Europäische Grundsätze über Sanktionen an jugendlichen Straftätern“ (with Andrea Baechtold and Frieder Dünkel) (2009) *Schweizerische Zeitschrift für Kriminologie/Swiss Journal of Criminology* 9(2) 49-59 (A4).

„Europäische Standards zu langen Freiheitsstrafen: Aspekte des Strafrechts, der Strafvollzugsforschung und der Menschenrechte“ (with Sonja Snacken) (2009) 21 (2) *Neue Kriminalpolitik* 58-68 (A4)

“Lange vrijheidsbeneming in binnen- en buitenland” 2008/6 *Sancties* 317-327.

“Die Durchsetzung europäischer Prinzipien im Strafvollzug – Parallelen zur Abschaffung der Todesstrafe?” 2008/6 *Greifrecht* 88-95 (A4).

“The implementation of youth imprisonment and constitutional law in Germany” (2007) 9 *Punishment and Society* 347-369 (with Frieder Dünkel).

“Humanising Imprisonment: A European project?” (2006) 29 *European Journal of Criminal Policy and Research* 107-120.

“Life Imprisonment: Recent Issues in National and International Law” (2006) 29 *International Journal of Law and Psychiatry* 405-421.

“The Abolition of Capital Punishment for Persons under the Age of Eighteen Years in the United States of America. What Next?” (2005) 5 *Human Rights Law Review* 393-401.

“International Imprisonment” (2005) 54 *International and Comparative Law Quarterly* 357-386

“Nachträgliche Sicherungsverwahrung” (2004) 43 *Kriminalpädagogische Praxis* (with Frieder Dünkel) 47-57.

“The Death Penalty in Africa” (2004) 4 *African Human Rights Law Journal* 1-16.

“Disproportionate Sentences as Human Rights Violations” (with Andrew Ashworth) (2004) 67 *Modern Law Review* 541-560.

“Preventive Detention of Dangerous Offenders re-examined: A comment on two decisions of the German Federal Constitutional (2004) 5 *German Law Journal* (with Frieder Dünkel) 619-637.

“De blik van een buitestaander op de voorstellen tot hervorming van de straftoemeting in België” (2004) 22 (101) *Fatik* 5-9.

“Aspekte der Strafzumessung in der internationalen Strafjustiz” (2003) 115 *Zeitschrift für die gesamte Strafrechtswissenschaft* 931-957.

“Human rights and sentencing guidelines” (2003) 5 *Law Democracy and Development* 45-52

“Civil disabilities of former prisoners in a constitutional democracy: Building on the South African experience” 2003 *Acta Juridica* 221 – 237.

“Punishment and Human Rights in International Criminal Justice.” (2002) 2 *Human Rights Law Review* 1-17.

“Tresní právo a sociální kontrola”. (2001) 9 *Právní Rozhledy* 109 114.

“Abolishing Life imprisonment?” (2001) 3 *Punishment and Society* 299-306

“Harte Strafjustiz: Typisch für Süd-Afrika?” (2001) 50 *Zeitschrift für Strafvollzug und Straffälligenhilfe* 71-76

“The Place of Criminal Law in Contemporary Crime Control Strategies” (2000) 8 *European Journal of Crime, Criminal Law and Criminal Justice* 361-376

“Mandatory sentences: A conundrum for the new South Africa?” (2000) 2 *Punishment and Society* 1.97-212

“Prosecuting authority in the New South Africa” (2000) 8 *CIJL Yearbook* 137-155 (with E. Steyn)

“Individual liberty in crisis? Reflections on the decision of the Constitutional Court in *S v Dlamini; S v Dladla and Others; S v Joubert; S v Schietekat.*” (2000) 16 *South African Journal on Human Rights*, 292-312 (with J. Sarkin, E. Steyn, and R. Paschke).

“*Editorial: International Regulation of Punishment*” (2000) 2 *Punishment and Society* 259-262 (with A Coyle)

“Anchoring the Treatment of Sentenced Prisoners in a Rights Discourse: the Example of Prison Labour in German Prison Law” (1999) 116 *South African Law Journal* 613-624.

„Unbegrenzte Möglichkeiten hinsichtlich lebenslanger Freiheitsstrafen in den U.S.A.?“ (with Anna Oppert) (1999) 111 *Zeitschrift für die gesamte Strafrechtswissenschaft*. 558-576.

“Criminological Ideas and the South African Transition” (1999) 39 *British Journal of Criminology* 198-215.

“Life Imprisonment as the Ultimate Penalty in International Human Rights Law” (1999) 9 *Criminal Law Forum* 5-54.

“Mandatory Minimum Sentences and Departures from Them in Substantial and Compelling Circumstances” (1999) 15 *South African Journal on Human Rights* 270-276.

“Privatised prisons and the Constitution” (with Hugh Corder) (1998) 11 *South African Journal of Criminal Justice* 475-490.

“Changing Prison Life” (1998) 48 *University of Toronto Law Journal*, 451-457.

“Some features of correctional reform in South Africa” (1997) 11 *Acta Criminologica* 47-57.

“Gefängnisarbeit - Ein 'Reservat der Sklaverei'?” 4/1996 *Neue Kriminalpolitik* 9-10, (with F Dünkel).

“Constitutional Jurisprudence and Proportionality in Sentencing” (1995) 4 *European Journal of Crime, Criminal Law and Criminal Justice* 369-380.

“Re-entering the International Community: South Africa and Extradition” (1995) 6 *Criminal Law Forum*, 369-377.

“Is Capital Punishment Constitutional? The answer from Hungary” (1994) 7 *South African Journal of Criminal Justice*, 348-352.

“Rechtliche Grundlagen und Grenzen gemeindebezogener Sanktionen” (with M Löschnig-Gspandl) (1994) 77 *Monatsschrift für Kriminologie und Strafrechtsreform*, 307-315.

“Reconciling the irreconcilable? Recent developments in the German law on abortion” (1994) 2 *Medical Law Review*, 302-320.

“Degrees of Freedom” (1994) 13 *Criminal Justice Ethics*, 31-38.

“Legal standards and the limits of community sanctions” (1993) 1 *European Journal of Crime, Criminal Law and Criminal Justice* 309-331.

“Public Protest and Violence in South Africa - Past Wrongs and Future Rights” (1993) 2 *Tilburg Foreign Law Review* 321-340.

“Is Life Imprisonment Constitutional? - the German Experience” 1992 *Public Law* 263-278.

"A Legitimate Prison System in a Future South Africa?" (1992) 16 *Legal Studies Forum* 167-192.

"England: Streitpunkt Lebenslänglich" (August 1991) 3 *Neue Kriminalpolitik* 19-20.

"The Administration of Justice, Law Reform and Jurisprudence" (with E Cameron and G Marcus). 1989 *Annual Survey of South African Law*, (1991), 556-618; 1988 *Annual Survey of South African Law* (1989) 500-556; 1987 *Annual Survey of South African Law* (1988) 482-536; 1986 *Annual Survey of South African Law* (1987) 545-591

"Adopting and adapting criminological ideas: Criminology and Afrikaner nationalism in South Africa" (1989), 13 *Contemporary Crises* 227-251.

"The nature and effect of legislative and quasi-legislative administrative acts Part II" (1989) 4 *SA Public Law* (with A Rabie).

"Indigence and the right to counsel" (1988) 4 *South African Journal on Human Rights* 363-369.

"Presence of legal advisers at the interrogation of suspects by the police" (1988) 1 *South African Journal of Criminal Justice* 295-300.

"Leave of absence for West German prisoners. Legal Principle and Administrative Practice" (1988) 28 *British Journal of Criminology* 1-18.

"South African prisons and international law" (1988) 4 *South African Journal on Human Rights* 21-36.

"The nature and effect of legislative and quasi-legislative administrative acts Part I" (1988) 3 *SA Public Law* 193-210 (with A Rabie).

"Sentencing: The Ratio between a Fine and an Alternative Period of Imprisonment" (1987) 11 *South African Journal of Criminal Law and Criminology* 220-225 (with J Taitz).

"'Normal' Prisons in an 'Abnormal' Society? A comparative perspective on South African prison law and practice." (1987) 6(2) *Criminal Justice Ethics* 37-51; and republished in (1987) 3 *South African Journal on Human Rights* 147-166.

"Nochmals: Südafrikanischer Strafvollzug" 1986 *Zeitschrift für Strafvollzug und Straffälligenhilfe* 280-285.

"The Decision on how to Plead: A Study of Plea Negotiation in Supreme Court Criminal Matters" (1986) 10 *South African Journal of Criminal Law and Criminology* 3-20 (with N-M Isakow).

"The Limits of the Criminal Sanction" (1986) 11 *Journal for Juridical Science* 186-193.

"Assessors and Criminal Justice" (1985) 1 *South African Journal on Human Rights* 218-235 (with N-M Isakow).

"'Professional' Patent Agents and the Development of the English Patent System" (1985) 13 *International Journal of the Sociology of Law* 79-105.

"Facts from Figures: The Case of Influx Control" (1985) 9 *South African Journal of Criminal Law and Criminology* 89-91.

"The Administration of Justice, Law Reform and Jurisprudence" (with Edwin Cameron). 1984 *Annual Survey of South African Law* (1985) 573-621; 1983 *Annual Survey of South African*

*Law* (1984) 507-539; *1982 Annual Survey of South African Law* (1983) 496-528; *1981 Annual Survey of South African Law* (1982) 580-611; *1980 Annual Survey of South African Law* (1981) 503-532; *1979 Annual Survey of South African Law* (1980) 511-548; *1978 Annual Survey of South African Law* (1979) 695-742.

"Negotiated justice and the legal context" April 1985 *De Rebus* 173-174 (with Norma-May Isakow).

"The Legislative Entitlement of Security Detainees and Prisoners' Rights" (1985) 1 *South African Journal on Human Rights* 160-165.

"Public Policy and the Punishment of Crime in a Divided Society: A Historical Perspective on the South African Penal System" (1984) 21/22 *Crime and Social Justice* 146-162; and republished in (1985) 1 *Natal University Law and Society Review* 54-67."The Compulsory Appointment of Assessors Reassessed" (1984) 101 *South African Law Journal* 212-216.

"Corporal Punishment - Joining Issue" (1984) 8 *South African Journal of Criminal Law and Criminology* 69-74 (with Liz Offen).

"Criminology and Criminal Justice" *Inaugural Lecture University of Cape Town* (new series No 83). Also published in modified form in (1983) 7 *South African Journal of Criminal Law and Criminology* 107-124.

"Judicial discretion and the sentence of death for murder" (1982) 99 *South African Law Journal* 87-98.

"Convicts on the Hard Road: Reflections on the system of convict labour introduced by John Montagu (1844-1853)" May 1981 *De Rebus* 223-226.

"A private person's title to prosecute: *Mkhanya v Bailey* 1980 (4) SA 713 (T)" (1981) 5 *South African Journal of Criminal Law and Criminology* 78-79.

"Judicial Appointments, Public Confidence and the Court Structure: Proposals for a New Approach" September 1980 *De Rebus* 430-435 (with E Cameron and H Rudolph).

"Criminological Theory and the Sociology of Law" (1980) 4 *South African Journal of Criminal Law and Criminology* 244-249.

"Section 112(3) of the Criminal Procedure Act: *Khumalo* 1978 (1) SA 516 (N) and *Balepile* 1979 (1) SA 701 (NC)" (1979) 3 *South African Journal of Criminal Law and Criminology* 74-77.

"The Compulsory Appointment of Assessors" (1979) 96 *South African Law Journal* 173-177.

"The Treatment of Official Crime Statistics in South African Criminology" (1977) 1 *South African Journal of Criminal Law and Criminology* 123-134.