

Conference Reports...

International Mandela Day 2020: A symposium organized jointly by the *James R. Mancham* Peace and Diplomacy Research Institute (University of Seychelles), the Seychelles Prison Service, and the United Nations Office on Drugs and Crime.
Seychelles, 21 August 2020

Crime and Punishment: Have we got the balance right?

This was a rare event in the year of Covid-19, in that it brought people together in one place, the university campus at Anse Royale. One presenter could not travel to Seychelles but spoke, instead, through a video link from South Africa. Because of social distancing the number of attendees had to be limited; we had to put back the event to 21 August (rather than the official date of 18 July for Mandela Day events); and the wearing of masks was another sign that things were not entirely normal. In all other respects, this was an old-style conference, a reminder of the 'old normal'.

Logistics apart, this is the third year that the Seychelles Prison Service (SPS) has initiated a special event to mark International Mandela Day. As part of his exceptional legacy, Mandela is remembered because of the United Nation's decision to develop what are called the Nelson Mandela Rules for prison management and reform. Since his appointment as Superintendent of SPS towards the end of 2017, Raymond St Ange has embarked on a programme to ensure that Seychelles is at least equal to the standards set by the international rules.

The theme of the event, on getting the balance right between crime and punishment, is central to the whole criminal justice system and is one that is essential to the good order of all societies. If crime itself cannot be banished, how should we treat the criminals? Should the emphasis be on severe penalties for crimes committed, with long periods of detention? Or, at the other extreme, is it better to keep the time spent in prison to a minimum because of the pervasive environment of criminality that is typical? There is no easy answer, but the SPS Prison Superintendent is clear about one thing – namely, that the whole thrust of policy should be to increase the chances of inmates staying out of prison once they are released. 'Rehabilitation is the key' is the message that informs the work of the entire service and was a focus for this event.

Given the scope of the issue and the limited time available to discuss it, the participants – a mix of politicians and professionals, as well as inmates from the nation’s only prison, at Mont Posée – were well served by a selection of experts guided, in turn, by an experienced moderator, Ambassador Dr Erna Athanasius. Well known in Seychelles for her work with, and on behalf of, children, Dr Athanasius revealed her own, innate sense of justice, and her interest in hearing the views of the different presenters and members of the audience. This is a field in which we can all learn more and a good moderator can be of enormous assistance.

Diana Benoit, Director of the *James R. Mancham* Peace and Diplomacy Research Institute, welcomed participants to the university. She explained that there is a natural synergy between UniSey, which can provide research and academic programmes, and the prison service with its pressing needs to solve immediate problems. The present event was a sign of constructive collaboration.

A context was also provided by Karina Bruwer, Country Representative of the UNODC, who stressed that the Mandela Rules are based on human rights and the basic dignity of all prisoners. Through the international organization that she represents, a distance training programme has been developed to enable all prison staff, around the world, to better understand the principles that underlie the Rules and the consequent application of good practice. It was encouraging to note that the first cohorts of Seychelles Prison Service have already completed the UN programme, and certificates were awarded later in the session.

Collaboration between experts in the field is important and a valuable partner of the Institute is Professor Geoff Harris, a research professor in the International Centre for Nonviolence at the Durban Institute of Technology, South Africa. Geoff is an honorary professor at UniSey and has published widely on topics that are relevant to the theme of this symposium. He has also worked on restorative justice schemes in South African prisons.

In his video presentation, Professor Harris reminded the audience of how prisons are not inherently suitable if rehabilitation is the main goal. Inmates in that situation learn little about mainstream society but much about a criminal sub-culture. Yet retributive justice – where the balance is on long sentences – remains the norm, with the public instinctively on the side of this approach. As an alternative, why not, instead, explore the potential of restorative justice, where the offender has to face the victim and where, ideally, this is done in the presence of the wider community. Such was the model in traditional African societies. In the same vein, truth and reconciliation tribunals (of which there is one currently at work in Seychelles) are designed to lead to greater understanding by all parties and a chance to move on in their lives. But experience in South Africa has shown that unless the authorities take the process seriously, and act on recommendations, the outcomes can be counter-productive.

Following this theoretical overview, it was important to hear from the Chief Justice of the Republic of Seychelles, Dr Mathilda Twomey. The CJ offered some fascinating examples from her own case experience to show just how difficult it can be to achieve the right balance when administering punishments. This is especially so when there are mandatory sentences, which can sometimes be hard to match to particular cases. Paradoxically, mandatory sentencing is a result of politicians acknowledging the strength of public opinion, although it is not uncommon for the public to respond to sentences they have previously urged as being either too punitive or too lenient.

A compelling argument was put that judges should not be bound by the rigidity of mandatory sentencing, which might sometimes lead to sentences that could only be regarded as unrealistic. Robbery, for instance, attracts mandatory periods of imprisonment but there is a world of difference between someone who steals, say, a pair of shoes and someone else who breaks into a home to steal valued belongings. It becomes essential to examine all the circumstances surrounding a crime and, while necessarily taking account of the mandatory periods of imprisonment, also questioning the wisdom of locking someone away for a disproportionate length of time. Decisions invariably have to be individualized in an attempt to achieve justice. And one must never forget that the mere act of removing someone from mainstream society is the biggest punishment of all.

A different perspective was offered by Pastor Abel Ntep Ntep of the Sixth Day Adventist Church, who injected into the discussion a spiritual dimension. [Although Dr Ntep Ntep prepared the presentation, because of last-minute circumstances, it was delivered by his colleague, Pastor Bijoux]. The different faiths, he explained, can have a direct influence on the lives of prisoners through their visits and counselling. This is an active process, in which the term 'correction' is interpreted as an opportunity to change one's behaviour and one day find a place again in society.

Chaplains have contact not only with prisoners but also the families left behind. And they pay special attention to juvenile offenders, seeking to turn them back from a future life of crime. An important job for ministries is to restore hope for those who feel abandoned and isolated from the rest of society. There must always be a way back. Integrity is a stock-in-trade for the chaplain, who must be trusted in what are clearly difficult circumstances. When a prisoner is finally released, the work of the chaplain is not over as, perhaps, the biggest challenge of all is still to come; finding a niche in society again requires fortitude on the part of the individual and also support.

Having listened to the various speakers and to questions from the audience, the Prison Superintendent then reasserted his belief that rehabilitation is the key. He gave an account of what he and his staff are doing to improve conditions in Mont Posée and to attain the

standards of the Mandela Rules. On the frontline in doing so are the prison staff, who Raymond St Ange wants to support, through education and other measures, to enhance their professional standing.

As well as physical improvements to the prison estate, there are various projects designed to increase opportunities for prisoners and to encourage a greater sense of self-worth. Figures were produced to show that the rate of recidivism is not as high as in many other places but there is a great deal more to do. One questioner asked what is being done to reduce a drug culture in prison, and it was admitted that this is more difficult to counter than many might think; new measures, however, are being implemented with a view to improving the situation.

In spite of popular views to the contrary, prison is a harsh environment. It is often thought that conditions are too amenable but that misses the point entirely. The main punishment is that it takes away personal freedom. The participants included a number of inmates from Mont Posée, including a number of 'lifers', and they would surely agree. What can be more punitive than the loss of one's freedom?

Time was allowed throughout the event for questions and comments from the audience. These included the following views:

- ◆ Restorative justice requires greater understanding from the general public. It is certainly not an easy option for an offender, who will almost certainly not appreciate the full impact on the victim of their crime.
- ◆ Social media has to date encouraged more extreme views from the public, rather than increasing understanding. Mainstream media also veers towards 'sensationalism'. People tend to think that sentences are too lenient.
- ◆ Judges have to take account of a combination of factors before sentencing. In spite of mandatory sentences, judges must individualize cases to arrive at a fair decision.
- ◆ Bail is a contentious issue and has to be carefully controlled.
- ◆ It is acknowledged that the use of drugs amongst prisoners is a serious problem and attempts are being made to reduce this.
- ◆ Emphasis in the discussion was put on the need for effective victim support.
- ◆ The identity of victims through the media or other means can lead to unwanted difficulties.
- ◆ There is provision to review sentences but it was not clear how the system works. Is it up to date?
- ◆ Questions were asked about the support given to offenders after they are released from prison. What services are involved and is it a joined-up response?
- ◆ The rate of recidivism is an important index of how well the system is working. Can restorative justice help to reduce this further?

- ◆ Restorative justice is still relatively unknown and work should be done with the media to bring it more into the public eye.

The event covered a lot of ground in little more than half a day. But it was clear that the subject is multi-faceted and a great deal more work needs to be done. Discussion will now take place between the organizing parties to see how this continuing process can best be achieved.

In the meantime, readers of this report may wish to have access to the full version of the different presentations, which is possible through the following link:
<https://bit.ly/2FKED4g>

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