

Dana Saroop Seetahal Symposium:

Re-engineering the Criminal Justice System

June 14 2014

9:00 am – 3:00 pm

Noor Hassanali Auditorium, UWI, St Augustine Campus

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Politics and Leadership

Panel 4 – 12:30 pm

Restorative Justice: Closing the Revolving Door

CRIME AND THE JUSTICE SYSTEM

Good afternoon ladies and gentlemen. All protocols observed. I would like to extend my sincerest condolences to the Seetahal family. When I returned from England to live in TT, I attended Hugh Wooding Law School to complete my LEC and Dana was my tutor. She became my friend. Our nation has lost a true patriot. May she rest in peace.

The words of Blessed Cardinal John Henry Newman come to mind: “I am a link in a chain, a bond of connection between persons.” Crime reduction is everybody’s business. Each of us is responsible for building our nation; for moving from retribution to restoration.

We all have a vision of a safer, just and peaceful society; a society in which the rule of law prevails and in which there are conditions that will enable each person to realize his/her potential. The challenge for us is to move from vision/paper policies to action.

Our Chief Justice, Ivor Archie, said at the opening of the law courts in 2012 that our Criminal Justice System is in “crisis” and that urgent remedies are needed to be put in place to improve the efficiency and productivity of the system.

We have a National Development Agenda based on 7 interconnecting pillars for sustainable development, the first of which prioritises people – our action plan is people-centred with a commitment to promote prosperity for all. Yet, sadly, as our Inspector of Prisons, Daniel Khan

said in his 2012 report, **74%** of our people re-offend within 3-5 years of leaving prison. Clearly what we are doing is not people-centred enough.

(7 Pillars: People, Poverty, Security, IT Connectivity, Diversified Knowledge Economy, Good Governance, Foreign Policy).

We will not achieve our goals unless we address the current revolving door that keeps leading many former inmates back into prison. And since about 98% of inmates will return to society, there is urgency in the air for us to close this door. **To do so, we must:**

1. re-generate the *morals and values* that underpin the lives of our people and address what we consider to be “we culture.” Many seem to have lost their moral compass. For some there was never a moral compass because they have been failed by home, school and society. As Sir Dennis Byron said: “Crime flourishes when the environment is conducive to people behaving in a certain way.” In a culture in which almost “anything goes”; one in which moral relativism, materialism, individualism, and selfishness seem to be the order of the day, there is little hope of turning the tide of crime and violence unless we promote morals and values. Many say that we have lost a few generations and we must focus on saving our youth. Well, let me give you 2 examples of how we are failing some of our youths.

Some time ago I was in a food establishment waiting to collect my purchases. A young man entered and approached me. His leg was bleeding. He said he was shot by someone from a rival gang and wanted some money to get home. He offered to sing for me in return for money. His Gospel song still haunts me. While he sang, his cell phone rang. He told me after he ended his conversation that it was his 6 year old son waiting for him in Beetham. It turned out that he was a single father, parenting his son via a cell phone. His response to my concern for his son was: “He cool man!” How many of our children are in similar situations?

And then there was the young man I heard on a radio station telling listeners how he ended up in YTC. His mother left for the USA when he was very young and sent him barrels of “goodies” every now and then. He lived with his uncle in a squat in Laventille.

On mornings, in order to get money to buy breakfast, he joined his uncle in mugging person(s). Where are our mentors and role models? Does society care about our youths?

There is a stage before the “Revolving Door.” How do we prevent people from going through that door in the first place? The UNDP’s 2012 report entitled Human Development and the Shift to Better Citizen Security urged us to rethink our approaches to tackling crime and violence and providing security on the ground and to seek to achieve a better balance between legitimate law enforcement and preventive measures – with a stronger focus on prevention. A key recommendation states: “Because crime harms social cohesion, Caribbean nations must better address youth violence and street gangs, whose crimes are rarely prosecuted;”

2. re-examine our understanding of what an effective criminal justice system (CJS) should look like and address our inadequacies which previous speakers today have outlined e.g. more than 25 years ago the Law Association recommended that members of the Police Service should not prosecute cases but that a national institution such as the UK’s Crown Prosecution Service, be established, thus releasing Police Officers to do their work. Today we are still talking about this. Perhaps if we act decisively, we may enhance the level of crime detection which is about 10%. We will not achieve evidence-based policing if there are not sufficient police men and women engaged in this process. One only has to read Clarence Rambharat’s article in the Express on 13 Jan, 2014 – *Outgunned & Undermanned*, to understand some of the challenges the Police Service faces. I was a member of the Police Service Commission for 4 years and know of some of the deficiencies of the system. If we are serious about reducing crime, it is time we conduct an honest evaluation of our Police Service - recruitment, training, deployment, supervision, management, performance appraisal, the use of technology etc. Action to root out ‘rogue cops’ in the Police Service is a critical part of building public confidence in the Service.

As has been mentioned already, there are other aspects of the CJS that need to be addressed e.g. our forensic investigative abilities, inadequacies in the judiciary, our prison system, our infrastructure etc. As Sir Dennis Byron said today, the length of pretrial detention in TT is a human-rights issue. We must use our human ingenuity to

devise strategies to reduce the backlog in our courts and minimise further delays to the administration of justice.

If we keep trying to put new wine into old wineskins we will continue to flounder. We must speed up the overhaul of the **entire** criminal justice system if we are to stop the revolving door;

3. re-examine our understanding of Restorative Justice (RJ) and the conditions required to promote RJ effectively. It is necessary to map out how we can introduce RJ in an integrated manner at all levels in our CJS and include society in this process. As Chief Justice, Ivor Archie, said at a recent Symposium: “How can the Church” (and I would add, all religious groups and all of society) “stop being bystanders and work collaboratively” to build our nation?;

Thankfully, a *Discussion paper on Restorative Justice in TT* was circulated for comment recently by the Ministry of Justice. It rightly stated that “in conjunction with other policies, (an RJ Policy) can aid in the strengthening and transformation of the criminal justice system” in TT. I submitted a response on behalf of the Catholic Church. It can be accessed on the website of the Catholic Commission for Social Justice (CCSJ). RJ is not a soft option. While ensuring that offenders are accountable to society for the harm they have caused, as St Paul said: “prison should be a place of redemption...Not to promote the interests of prisoners would be to make imprisonment a mere act of vengeance on the part of society.” The watchwords of an RJ approach are: repentance, reparation, restoration, reconciliation, rehabilitation, empowerment, and re-integration with a sense of responsibility. This should assist us in promoting right relationships in our society.

The other bit of good news is that on 19 May 2014 CCSJ, on behalf of the Catholic Church, responded to The Administration of Justice (Parole) Bill, 2014 which will also go some way to improve the CJS – if all that is necessary to implement Parole is in place. I sat on the Cabinet appointed Parole Introduction Committee for 3 years from 2004 to 2007 and at last action is being taken;

4. consider sentencing options that are more in keeping with effective reintegration of some offenders into society;
5. examine whether we are living up to the prison's *Motto: To hold and treat* or whether we are just warehousing people – how are inmates processed – screened and assessed – when they enter prison? The fact that we are still operating on 1838 prison rules and still waiting for the 2012 Prison Rules to be passed in Parliament and be enacted, highlights the lack of urgency with which these issues are being addressed ;
6. devise strategies to bring hope to victims of crime, to those incarcerated and to society at large. We must bring a humanizing perspective to custodial sentences. In order to bring hope we must address issues such as what Inspector of Prisons, Daniel Khan, calls the “unabatedly appalling” conditions in some of our prisons, including overcrowding in some, poor infrastructure, lengthy delays in processing cases etc;
7. consider the kind of treatment/rehabilitation programmes that should be made available to each prisoner – the challenge is to encourage them to change their lives. What structured, individual treatment plan/programme is available to each inmate? Are there programmes to promote positive emotional and attitudinal change, a sense of responsibility and community? Do programmes help to address education deficiencies such as illiteracy; and social ills such as drug/alcohol addiction/abuse? What pre-release programmes exist to prepare inmates for release?
8. address the needs of staff who work in our prison system. Appalling conditions impact adversely on prison officers/staff also. An effective RJ approach will consider their needs also. There is an urgent need for the Prison service to establish management information systems to monitor the performance of staff.

(TT has **nine prison facilities** — Port-of-Spain, Carrera Island, Golden Grove, Arouca, Maximum Security Prison, Arouca, Youth Training Centre, Arouca and Tobago Convict Depot in Scarborough).

Prison cell-phone jammers were promised by our PM since last year. This technology which can find phones and block calls as well as text messages from unapproved numbers within the prisons, will go some way to improve our response to crime.

According to the Prison Officers Association (POA) Cerron Richards, Body Scanners are also needed.

In Sasha Harrinanan's report in Newsday on 25 June 2013 headed: "*Canada helps TT prison reform*" we read: "Justice Minister Christlyn Moore and Commissioner of Prisons Martin Martinez yesterday met with senior officials from the Correctional Service of Canada (CSC) to continue discussions on how to improve operations in the nation's prisons, implementation of restorative justice and the use of cellphone jammers to prevent inmates from making illegal calls. Martinez noted that 'the need for training in leadership and other competencies (and) the issue of a proper offender management system' were among the other issues discussed at yesterday's meeting.

"According to Moore, CSC will work with the Prisons Service to improve its correctional policies; correctional technologies; security intelligence; correctional programs; facility planning, layout and control; research and evaluation mechanisms, as well as provide training and leadership development for our prison officers."

We obviously know what must be done to stop the revolving door. We now have a new Minister of Justice and a new Cmr. of Prisons. It is hoped that they will take this work forward;

9. develop pre-sentencing and correctional facilities for youths that will meet international standards. Our CJ himself acknowledged at a Youth Justice Symposium at the Hyatt Regency on 3 Oct 2013 that: "The Justice system in this country is falling short of international standards as it lacks specialized juvenile courts, as well as widespread diversionary and rehabilitative programmes specifically targeted at young offenders."

Action must be taken by the appropriate Government Ministries to address the various areas of concern identified in the 2011 report of the *Caribbean Basin Security Initiative Juvenile Justice Assessment* produced for the United States Agency for International

Development (USAID). The report identified several areas of concern, including sentencing options such as corporal punishment or imprisonment, inappropriate infrastructure of detention centres, inadequate centres for female juveniles who were often housed with adult female offenders, and the unavailability of professionals to adequately treat with the psychological needs of young offenders.

10. identify and address the many obstacles that stand in the way of former inmates as they try to transition from prison life back into their role as members of society. This relates to re-entry and aftercare of inmates on their release. What aftercare programmes exist to help former inmates reintegrate successfully into society?; What community facilities exist to provide a safety net/support for those who have nowhere to go on release e.g. halfway houses, pre-release centres, transitional living facilities?

Let me give you an example. Some years ago, CCSJ embarked on a pre-release programme (40 weeks before release) in the maximum security prison – called the *Walk Tall Programme*. We also bought about 7 acres of land in San Raphael and opened the Anthony Pantin Reintegration Centre – a place where former inmates who have nowhere to go can find shelter and start their journey back into society. It is now run by the Society of St Vincent de Paul on my Commission’s behalf. Many of those who come to the facility are re-directed to Piparo, because they are drug addicts. Where did they get drugs while they were in prison? Only this week a prisoner threw a packet of marijuana at a Magistrate in a court. How did he get it?

CONCLUSION: I end with the words of Senate President Timothy Hamel-Smith who said when paying tribute on 5 May to former independent senator and prominent senior counsel Dana Seetahal at the Senate: “This country will return to the law of the jungle if there is no overhaul of the criminal justice system...It is absolutely vital that all of us who collectively make up the stakeholders in the criminal justice system, including us legislators, the judiciary, the Police Service, defence lawyers, prosecutors, the Ministry of Justice and the media, take up the challenge to overhaul the system from top to bottom...”

How many more of our people must die before we act?

I thank you.

