

Contemporary Issues in South African Prisons

A response to presentations in plenary session II

by

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In the belief that I was to be a discussant at a breakaway workshop featuring Jonny Steinberg and Abby Witbooi, I have made an effort to obtain an outline of Abby's input, and also a copy of the research paper that Jonny's input was to be based on. As it turns out, Jonny Steinberg is not here today and has been replaced by Judge Hannes Fagan and the workshop has become a plenary.

The advantage of being a respondent is that one is able to string together a series of unrelated points. I'm thus going to try to come at this from a slightly different perspective: rather than deal directly with the issues raised by the speakers, I will try to extend some of the points raised in their papers or discussion, and also make a few perhaps unrelated comments derived from their inputs.

Perhaps one of the most important aspects of [Jonny Steinberg's paper on overcrowding](#) is that it broadens our thinking about how we should understand what overcrowding is and its implications. Too often we understand overcrowding as the relationship between two numbers: the ratio between the official approved capacity and the actual number of prisoners. Jonny's paper makes it clear that it's not just about the numbers, that overcrowding has to be understood on other levels too.

The paper offers a more qualitative approach to understanding overcrowding, rather than relying on these percentages only. For Abby Witbooi, the impact that overcrowding has on staff is a key issue. This is the case for both macro and micro-management in prisons, and for the maintenance of order and balance in an imprisoned community. But macro I refer to management issues at the level of prison management. By micro-management I'm talking about the forms of management that happen in a unit of a section of a prison, in the day to day direct relationships between staff and prisoners, in circumstances where all the wits, senses and experience of staff are needed on a daily basis. I'll talk about each of these briefly in a moment.

Last week, while thinking about how I was going to approach this input, I happened to see in the *Cape Times* a feature article by Erik Schaug headlined "Public spaces dignify communities". The article was talking of course about urban public spaces, whether city centres or informal settlements. Public spaces in the outside world are roads, paths, parks, squares, waterways etc. Public spaces are different in prisons, and very often public spaces overlap with private, but as with free communities, public spaces in prisons also serve to dignify prison communities, both prisoners and staff.

This is clear when you come across the decent and adequate public spaces in prisons such as the new Malmesbury prison, or even Goodwood or Voorberg (apologies for all the Western Cape examples), after being accustomed to the depths of Pollsmoor. Community is an important concept in prison, often forgotten with all the talk of numbers and percentages, and in ignorance of the often mundane drudgery that happens behind the walls. For prison managements, balance and order are – or should be – concepts as important as notions of control of prison communities.

What is also the same with prisons and outside communities is that public spaces are very difficult to create once a physical structure has already been imposed. Of course in South African prisons this is a serious problem as by the far the majority of prisoners live in structures which were built to warehouse black people during the apartheid years. The challenge of ensuring prisoners' dignity is thus even more difficult.

The converse is also the case in that the lack of public space also tends to undermine the dignity of communities – it is the case in informal settlements and it is also the case in prisons. To live one's life entirely in one place – to eat, sleep, drink, play, talk, shower and defecate all in one room is clearly in conflict with the maintenance of dignity, and even more so in overcrowded conditions. But dignity is important for prisoners: if prisoners leave prison having had their human dignity impaired or denied, they will be so much more likely to impair or deny the dignity of others.

This also points to the importance of the creative use of spaces that are unused in all prisons, including the older ones. Of course, a reduction in prison numbers won't by any means change the general structure of living arrangements in the older prisons. In fact, probably nothing can – the only way to ensure inhabitants of a prison like the Pollsmoor (Maximum) Admission Centre live in dignity is to demolish and rebuild it. But with fewer inhabitants and smaller communities in prisons, the problems associated with this warehousing will at least be diminished.

(A former Correctional Services Minister who didn't exactly come across as a human rights advocate when he promoted the idea of prisoners living in mineshafts and in large ships in the South Atlantic, was nevertheless right when he referred to many of the older South African prisons as cattle sheds).

There is also the question of staff numbers (as raised by Mr Witbooi) and how these relate to prisoner numbers, essentially the staff-prisoner ratios. Again, as with overcrowding, the pure numbers are bland, but whatever way one looks at it, it is a serious problem for prison management. Some advanced industrial countries have positive ratios (ie more staff than prisoners, including of course, administrative staff), and some of the staff unions in these countries threaten strike action if there is more than one prisoner to a cell.

Here the ratio is around 1:5 or 1:6, but even this doesn't begin to tell the story. When staff in that ratio are whittled away from Head office, the regional offices, and staff in the area commissioners offices, maintenance staff and logistics etc, one can find units that are operating – officially – at about 8: 250. In reality, some of the eight are on escort duty, attending courses, sick leave etc, and it is down to four or five staff

members at times. This has obvious implications for management when this is the everyday situation.

At night, of course, this is even worse, and nothing that can be termed supervision can take place at all. There is skeleton staffing, most of whom are justifiably afraid of entering a communal cell if that should become necessary.

But while facilities and staff shortages are obvious, other problems are posed to prison management as a result of current trends. Increasing numbers of young men are being sentenced to extremely long periods of imprisonment, including life sentences. Some of these are as a result of the minimum sentencing legislation, and others merely as a result of the courts responding to increasing calls for heavier punishments.

Jonny Steinberg alludes to a generation of young men with little hope. Again, I want to point to management issues here. Whole units or sections or even whole prisons are likely to be increasingly dominated by these men who have no future, who can see no future beyond the prison. This refers to a growing group of ageing prisoners who, as they get older, pose a smaller and smaller threat. Their actions in prison can have no consequences, as little more can be done to them. If a 22 year old is serving a twenty year sentence, what danger, what deterrence does the threat or reality of a further three or five years hold for him? Once their possible futures, their very lives, have been taken away, there is little worse that can be done. The consequences, in fact, are meaningless. In contrast, those with shorter sentences are more likely to be able to see an end to their time in prison and thus the consequences for extending this time due to offences committed inside prison will be clearer and more likely to affect their behaviour.

Management thus has little stick (or in fact carrot) left. Prisons contain real communities that survive in quite a tenuous balance. Often it takes great skill to manage this balance. It makes managing and ensuring community order in a complex social environment that much more difficult. Often these management difficulties are not recognised or acknowledged by those who are afflicted by what Judge Navsa earlier referred to as the "Let them rot" syndrome. Actually, this myopia is shared by those who see prison at the end of the criminal justice system, and believed that once offenders are convicted and sentenced, the job is done.

And finally, a word about government: the Department of Correctional Services has in general been quiet about the implications of this overcrowding for its management. More recently, there have been calls for the Departments of Justice and Safety and Security to take responsibility for awaiting trial prisoners. But otherwise the Department has, publicly at least, been silent about the impact of the rising numbers throughout the 1990s, and exactly how this impacts on the realities of prison management. What is also important is that it seems that the DCS is not taking the high levels of imprisonment into account when developing their more recent policy. While the Department of Correctional Services does acknowledge the problems posed by overcrowding, it has not adequately built this reality into its White Paper strategies. So for example the intentions of the DCS as expressed in the new White Paper assume a situation of relative normality in prison units. Reality on the ground, in the units, on the other hand, as I outlined a moment ago, is even worse than the

ratio suggests. Given the conditions that exist, and are likely to exist for some time yet, expectations that DCS has of its staff are perhaps unrealistic.