

# **“Crime and Criminals: Is Locking them Up the Only Solution?”**

**TH Barry Lecture Theatre, Izikho Museum, Cape Town  
22 November 2007**

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## Speakers:

### **Antony Altbeker**

Antony worked for the Ministry of Safety and Security between 1994 and 1998 monitoring police performance. Since then, he has held a senior position in the National Treasury's Protection Services team and been a senior researcher at the Institute for Security Studies and Centre for the Study of Violence and Reconciliation. Antony is now freelancing, though he continues to work largely on issues of crime and justice. He has recently authored *A Country At War With Itself* in which he explores South Africa's crime problem. Antony has an honours in political studies and a masters in economics, both from Wits.

### **Jean Redpath**

Jean works as an independent research consultant, predominantly in the criminal justice field. Jean was formerly a researcher at the Institute for Human Rights and Criminal Justice Studies at Technikon SA, and prior to that a parliamentary analyst for the South African Institute of Race Relations. She has a BSc. in Mathematics and Chemistry, and an LLB, from the University of Cape Town, and has been admitted as an attorney in the Cape High Court. Jean is co-author of a major new analysis of crime trends, to be published by New Africa Books in 2008.

## Chair:

**Neil Horne**, independent analyst

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### **Antony Altbeker:**

When I was given the topic for tonight's discussion, my mind flashed back to being 13 years old and watching Not The 9 o'clock News. They did this skit where they set up a discussion programme and the question the presenter was going to ask was: what can we do about football hooligans?

The first speaker says "In the Conservative Party we've thought about this problem for some time, and we feel that the only solution is to cut their goolies off!" The next person on the panel was a sort of liberal academic, and he responded with "We've reviewed the international evidence, and we agree!"

Tonight's debate may not get to that point!

Is jail an appropriate solution to our crime problem and how much jail does South Africa need? There are many in the crime debate who seem to think that jail is never the answer. I'm not like that. I'm on record as saying that I think we need to double the number of people behind bars. This is an unusual position in South Africa amongst people involved in this debate. That view has got me into a great deal of trouble. I don't think Jean believes that prison is never the answer, but I'm pretty sure she thinks I'm wrong about our need to grow our prison population as a result of our crime levels.

Why do I hold this view? The most visceral reason for such a view is that jail is what a lot of people deserve – there are some people who we are better off without in our streets and communities, and morally and ethically they deserve some sort of punishment.

A second reason I think jail is an appropriate response is deterrence. Prison and the prospect of prison is something that shapes the way people make decisions. There is much debate on this in international literature and it would be completely foolish of me to pretend that this assertion is unquestionably true.

I suffer, however, under the burden of having been trained as an economist so that I have a rational-active model of how people make decisions. I believe, in light of that, that the prospect of prison affects the way people make decisions, not mechanistically and not per decision, but in the way that it shapes our general orientation toward decision-making, and shapes the rules of thumb people use when living under their circumstances.

The third reason, and perhaps the most controversial and hardest to convey, both in the book and in talking about this subject, is that I think that one of our problems in South Africa is lawlessness, a culture of violence. We have a situation where violence and a resort to violence have crept into the way people respond to their world, to an extent which now borders on the cultural. It is a pervasive pattern of behaviour that transmits itself from one generation to the next.

To change people's behaviour we need to improve their lives, but it also involves setting some hard rules and then enforcing them. I think we have to do a lot of rebuilding of our society. For a long time the subtitle of my book was 'crime and violence in a half-made land'. This phrase, 'a half-made land', was one borrowed from VS Naipaul, and I used it because, when a society is in a transition, there is a sense that you are moving from one clearly understood state to another. But a society that is half-made can remain half-made forever, and it feels to me that this is where South Africa is right now. Thus one of the things we have to do in South Africa, is law enforcement.

Something that I confront in my book is the idea that crime is coming down. There is plenty of credible evidence that the numbers of murders have reduced. There are lots of reasons for that – the end of the political and ethnic

violence of the early 90's, a more stable society, state assistance for the poorest households, for instance. But that doesn't mean that the answer to the question 'is it getting better' is yes. My analysis shows that robbery has been increasing rapidly.

So my reasons for wanting to double the prison population include: vengeance, deterrence and the need to change the shape of our society. To double our prison population is an expensive business – even doubling it over 10 years is not achievable. How would one go about doubling it? Firstly, we should be focusing on violent offenders – prison should not be used to deal with all of our problems. On the other hand, our focus should not be exclusively on violence - many non-violent crimes do more damage than violent crimes (like the Fidentia example).

Secondly, we should not be doing increasing the prison population by increasing sentence lengths. I think this is the wrong thing to be doing. Our sentences are irrationally wrong already. I can't see how someone is less likely to commit a crime because of a 7 year sentence than they would be for a 5 year sentence. So that diminishing margin of return on sentences longer than a certain length means these prisoners are just a waste of space.

There have been a lot of different responses to my book. One is 'we're already a high-incarceration society – if it's not working now why will it work in the future?' My answer is that although we are a high-incarceration society, if you look at our incarceration rates in proportion to our murder rates, we are right at the bottom of all international figures.

My second point on that is that there's an impression in South Africa that our incarceration rate, already high, is going up. This is not true. In 2005 they had to release people because prisons were full to bursting point. After the releases, the prison population went down to 160 000 and now in 2007, those numbers are the same. Thus over two years, there has not been much of an increase at all.

The second kind of response I've received is that the international evidence on prisons and their impact as a response to crime doesn't support my thesis. There is evidence that some international experience doesn't support my thesis, but it's not true that only one answer can be drawn from international evidence. The body of studies and literature is so variable that no definitive answer is clear.

The third kind of response and the most common is: why would we spend all this money on prisoners when we have such pressing social needs in South Africa? My answer is, if we are going to build our society we have to work at law enforcement more strenuously than we have been. The other part of the answer is that I can't stand up here and tell you that prison is the answer to all South Africa's problems. Of course it is not. But I don't think we can build up our society without pushing law enforcement a little harder.

**Jean:**

**SPEECH**

**Questions from the floor:**

1. I was employed as one of those psychologists working in prisons, and I'd like to state that we were actually stopped from performing our tasks. The majority of inmates did want to stop what they were doing, and to change, but they didn't know how. Increasing the numbers of inmates will only exacerbate a situation in which the few resources there are (like prison psychologists) are spread so thin that they are of no help to anyone.

*A: Yes, our prisons don't rehabilitate people and overcrowding makes it worse. My argument doesn't rest on rehabilitation (its possibilities or its failures) at all, because to be quite honest, I don't think we're going to get that right.*

*J: I disagree with Antony – I do believe in rehabilitation. There are a couple of such programmes in South Africa, and I have met people who have been successfully rehabilitated. Evidence from the USA shows that correctional programmes can be as, if not more, effective if they take place outside of prison. We don't need to think of rehabilitation programmes always taking place within prison, especially in the context of young offenders.*

2. Why are so many more prisoners men than women? This never really comes up in this discussion about crime and it seems to me to be an obvious determinant of crime.

*J: I'm happy to report that there's a violence prevention programme going on in the Department of Health, and one of the key questions they're asking is why men are the majority of offenders. All these questions are being considered - albeit in the Department of Health, which seems a little strange.*

3. Former president Mandela had to work very hard while he was in prison. Why don't prisoners now have to do hard labour?

*A: Prisoners do in fact work in prison although those programmes have been cut back a lot over the past few years.*

*J: The issue of hard labour has to do with some constitutional provisions, but I'm not too familiar with those arguments, so I can't really comment.*

4. Linking to the previous question - when people are in prison, perhaps it could be seen as those people having forfeited their right to be free in society, but the focus should be on a constructed, organized life within

prison, where prisoners effectively work in a factory and are made productive, earning money which they will receive when they leave prison.

*A: I'm all for good programmes in prison. Prison shouldn't be a black hole in which people are thrown to rot. That's not the purpose. People have to get a sense of self, worth, dignity, in whatever shape or form. But I don't think that means that we can't and shouldn't be using prison.*

5. Before 1963, Mandela said to me once that the thing he feared about going to prison was the violence within prison. That's an element that needs attention. I'm concerned also about the way we talk about 'prisoners' in general, while the differentiation within that group is enormous. White collar criminals are very different to the kind of people who killed Professor Larkin. There is a high degree of differentiation in criminality and deviancy.

*J: Yes it is very important to distinguish between the types of crimes and in fact government policy at the moment is predominantly to incarcerate people who commit violent crimes. Sadly, they are often arrested but do not go through the system*

Taking up on the other point - what about getting people to work and work really hard – not at pointless hard labour, but at actually paying back to society for some of the ills they have caused.

On the gender issue: I think that girls and women have for a long time borne the responsibility of maintaining the home, and are thus not the people who get into violence because they are so busy with the home.

6. Two questions: I would imagine most crime comes from certain strata of marginalized groups. Should not preventative programmes be targeting those strata?

*J: A lot of interventions in other countries have targeted 'at risk' communities and families. The problem is to identify these in the first place, and no attention has been given to this area at all in South Africa.*

Second, there is a societal approach to crime which is sometimes referred to as a zero tolerance policy – any breach of norms of social behaviour is viewed very severely and is not allowed. There's a lot of behaviour in our society which does constitute a breach of social norms, but is not quite severe enough to qualify as serious or violent crime. These breaches are just sort of accepted by everyone as unfortunate but normal parts of life. Surely if we took a zero tolerance approach to the smaller breaches, it would halt the natural progression of 'smaller' crimes into 'larger' crimes?

*J: I'm not necessarily advocating a zero tolerance approach - but I am advocating for a society that sends signals to offenders that their behaviour is unacceptable. Right now, until you commit a very serious offence, nothing happens.*

7. It's very disappointing to hear people talking about crime and not mentioning the root cause of crime. I concur with Annemarie – the degrees of crime that we see are very different. State crimes, white collar crimes - what kinds of crime are we talking about? People who have stolen loaves of bread, or people who oppress or people who rape? Before we get to the solution we need to address to root cause.

*J: Not a lot of research has been done in South Africa about what the root causes of crime are – poverty, inequality, absent fathers. I am working on a book about that right now.*

8. Before we speak about crime we have to know the cause of the crime. Drugs are at the center of crime. The unemployment rate is causing crime. We have to address these underlying issues before we can talk about crime. We also have a big problem with the judicial system. People are arrested and handed over to the magistrate, who grants bail. Unfortunately no-one has an idea of what is going on in the judicial process, or how the system works, so that when the arrestee gets out on bail, there is mob justice, and that person is beaten or killed.

*J: Drugs have certainly been a big problem in others countries, but again we don't have the stats in South Africa to know quite how drugs and crime are interfacing. We only have about 2 or 3 thousand drug-related inmates in prison. Compared to countries like the USA, it's a very low proportion.*

*A: One point I want to make is on the question of root causes and drugs. I agree that social stuff is the root of our problem in South Africa. Our historical legacies and their psychological impact, the amount of rage that they generated in South Africa, these are fundamental reasons why we have the problems we have. The difficulty comes in the way we talk about root causes in South Africa – poverty, broken homes etc, do play a role. But another key cause is that young people are growing up in communities which are violent, and as a result they become socialized into violence. They are both pushed by poverty etc, and pulled by violent peer groups who are into crime.*

*Jean says I argue in the book that social crime prevention was tried and failed. I actually argue that policing for crime prevention was tried and failed. Whether crime prevention could work is debatable. It's not true that nothing is being done – amongst the police, amongst the social welfare departments, or even within the economy, things are being done and things are changing. But for some reason we just don't see the results on the ground.*

*Jean is quite right about the magnitude of sentences not being a deterrent. But what confuses me is that she says apprehension rates matter. There are*

*two issues there, firstly: apprehension to what end – what are you going to do with an apprehended violent criminal once you have him? The programme alternatives have to show that they work before we can use them. Secondly in 2005 the police said they arrested 2,5 million people over the course of the year. That's 1 in 10 people over the age of 18! These are high apprehension rates – but something has to happen as a result of apprehension. Not enough is happening down the line. The weakness in our system is perhaps not at the apprehension point, but with the follow-through.*

9. Antony, you spoke about having to remake society. If we accept that prisons generally don't reform people, and that seems right, what makes you believe that by arresting more people and keeping them in jail for less time, things will improve?

*A: That is an excellent question and goes to the heart of what my thesis is about. The point I'm trying to make is not about what happens to the people who go to jail. I believe in humane treatment. I think our prisons are awful, and they make people worse. But I also think we live in a society in which the state has failed to define the boundaries of acceptable behaviour.*

*It has been like that for many years as a result of our history and the incredibly cynical use of state power that characterises our history. I will never forget reading of a deeply disturbing instance of that cynicism: when Helen Suzman asked an NP member of parliament about how they planned to deal with the long term effects of the forced removals from District 6, he answered "we can hold it for ourselves and for our children – after that, who cares?"*

*If you live in a society like ours where people use violence for all sorts of things, someone has to set the rules and the consequences for breaking the rules. What our society lacks is a sense that our state can do that or is doing that. There are some things that a state has to react to, and quite ruthlessly.*

*J: I don't disagree with Antony that people who are serial offenders should be removed from society. But there are levels of violence. We all consider robbery a violent crime – but what level of violence is required before we are happy to remove perpetrators from society forever?*

*I also agree that part of the problem is that society is not demonstrating its disapproval of poor behaviour. People abscond from court, don't pitch for their hearings, and there doesn't seem to be any kind of penalty. This doesn't mean that every one of these people needs to go to prison – we mustn't lose our imagination about what can be done. We need to start building programmes that can be attached to community service or correctional supervision. No-one has mentioned restorative justice this evening, but it's something we've tried to explore in South Africa and where it's explored properly, it can work*

10. My question goes to Jean. I fully support what you said about addressing the social issues. I believe one of the key causes of crime is poor parenting – not broken homes, necessarily, but parents not being there and not performing their jobs as parents. If a child, even a 16 year old, goes to prison and is there for a small while, they learn that prison is a hard place - but if they return home to a place where parents don't do anything to support, care for or control their child, that child will go from bad to worse. We need parenting workshops to teach parents responsibility.

Another factor is that parents exercise different levels of care and control over kids of different genders, so that the same parents might insist on their 10 year old girl being home by 7, but let their 11 year old son play out until much later.

*J: Parenting interventions are a kind of intervention that has been shown to be successful in some countries. In one study, women with children who were living alone were visited by a social worker maybe once a week for a period of two years. The children were tracked, and the results showed definite improved outcomes for the children from the homes where that intervention had occurred. Parenting interventions would be a key element in South Africa. However, many of the interventions only work in certain circumstances, and so there would have to be good planning.*

11. I'd like to hear from both panelists their opinions on the relation between what the Constitution requires in respect of the functions of the police, and what needs to be done when police are inefficient, and relations between police and communities break down. Everyone knows that the Constitution requires that police prevent and combat crime. Antony says prevention clearly hasn't worked and we want to see more combating. I have to suggest to you, Antony, that if you want to double the prison population you are going to need a much more efficient police service.

Another point: I'd like everyone in this room to know that the founding fathers and mothers foresaw that we would be sitting here tonight, and they provided that if there are complaints in any province about the efficiency and so on of the police, a commission of enquiry ought to be constituted.

*A: We are not going to get a commission of enquiry in the Western Cape, because no good will come of it for the Premier. He has very little control over the police, and he would just be embarrassed in front of his superiors in Pretoria. I actually think the cops in the Western Cape are the best. I haven't been to all police stations, in the country, of course, but that is my feeling.*

1. To what extent do you think the general erosion of the sense of right and wrong has a lot to do with crime today? Not just among a few individuals, but right to top of Cabinet, where the president doesn't take



action against the Commissioner of Police? Generally there seems to be an attitude that if we can get away with it, it's fine.

*J: The erosion of sense of right and wrong is part of the problem, and that links to our comment that the state needs to set boundaries.*

*A: You speak of an erosion of right and wrong: 'erosion' assumes that that sense was there in the past. I don't think that was the case in South Africa.*

2. I wanted to talk about bringing back the death sentence for serious crimes. Another problem is the large number of single parents with bastard children (sic). If the father is absent, you can't be a good parent.

*J: If the magnitude of the penalty is not a deterrent, then the death penalty will not be any more effective than life imprisonment. In a US study which tracked crime rates after abolition of death penalty in various states, crime rates were seen to drop after abolition. It is very hard to draw a direct line between the death penalty and deterrence.*

*Regarding single parents, during the research for our book we tried to correlate crime rates with absent fathers. Initially an absent father looked like a significant factor - but when you add income and other demographic factors into the equation, it falls away. Our research showed that the mere fact that a father is absent does not mean there is a greater chance that the child will turn to crime*

*A: Last week the **New York Times** ran an interesting article about the terrible dilemma that liberal criminologists are currently going through in US, because many studies have shown that the death penalty does work as a deterrent. That's the thing about international literature - it varies. For myself, I don't rely on deterrence as a basis for rejecting the death penalty; I reject it because I believe that it's abhorrent. The decision should not be made simply on the basis that it's a deterrent or not. The fallibility of people, especially in the criminal justice system, is a factor which should always be in our minds.*

3. If you consider jail to be a solution, you need to look at recidivism rates. Looking at our country's recidivism rates, prison almost seems pointless. People come out of jail angrier than they went in. On the question of making prisoners work – to make such programmes constructive would cost a lot of money. Already prisoners cost us a fortune.

*A: On recidivism: I read a study lately in which the researcher interviewed a number of hijackers in Johannesburg prisons. Almost every one had committed some crime before, and said that they would commit crime again once they were out. There was thus, amongst this group, a very high recidivism rate – but I don't think we can prove that it's invariably the experience of jail that pushes people to commit crimes again. The criminal*

*career is a major factor. Thus recidivism rates, and their causes, are very hard to measure.*

4. In our community we have a number of community service groups and programmes, aimed at the youth to get them involved and keep them from getting sucked into crime. Unfortunately, the state does nothing to support these programmes, or to empower the children in our community. What do we do about the youth that is not yet committing crimes, but is immersed in crime?

*J: Your comment is exactly what I'm referring to when I say we mustn't lose our imagination about what can be done. There needs to be an expansion of mindset away from the criminal justice system to broader efforts.*

5. I wanted to pick up on the point about restorative justice. It is ironic that prisons are talking a lot about restorative justice these days. This is a good thing, but it is too late once a person is already in prison. Could you say more about alternative social interventions?

*J: There is a sense in which restorative justice is 'too late' in prisons; but often those coming out of prisons who are rehabilitated have managed to access these kinds of restorative justice programmes and they can be very helpful.*

6. Is there a powerful political will to recognize crime as a scourge of the country and to do something, or are we just having an academic debate?

*J: I think there is political will, but it's focused on a vengeful and combative approach. We need a shift of mindset.*

*A: There is some political will, but government is a bit exhausted from the struggle against crime. I don't think they thought it would be this hard. Fresh ideas are not really bubbling through the system. Political will is a nebulous concept. I think that if there were easy solutions, government would implement them. But our problem is so complex that many factors contribute to getting it right, and there is a sense of it being insurmountable.*

**END**