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Important Developments:

Minimum sentences legislation (Sections 51 and 52 of the Criminal Law Amendment Act, No 104 of 1997) will cease to have effect on the 30 April 2005 unless renewed by the President in terms of section 53(2) of the Act. It is unclear at this point what process will be followed in determining whether these sections will be extended, or whether there will be an opportunity for public consultation on the matter. Watch this space!

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Prison Gangs

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by Jonny Steinberg

A provision in the new Correctional Services Act, which came into effect in late 2004, states that a prisoner who "professes to be a member of a gang or who takes part in gang activities" has committed a disciplinary infringement. Anyone familiar with the history prison administration in South Africa will hear the echoes. More than nine decades ago, in 1912, the Minister of Justice recommended that gang activity be banned from the prisons. And, again, in 1978, a Supreme Court ruling in a prison murder trial stated that gang membership should be punishable by the prison authorities.

And yet, the Number gangs – the 26s, 27s and 28s – have outlived every prison administration that has attempted to destroy them, and will no doubt outlive this one too. They have been in the prisons for about a hundred years now, and it is improbable that they are going to disappear any time soon.

Indeed, now is arguably one of the least propitious times in South African history to be attempting to destroy the Number gangs. Gangs flourish when prisons are overcrowded and when a large proportion of inmates are serving long term sentences. South Africa's prisons are more crowded than they have ever been before, and, with the introduction of mandatory minimum sentencing in 1998, have a larger proportion of long-term inmates than ever before. Current conditions, in other words, will probably foster the longevity of the Number gangs.

If destroying the gangs is not a viable option, how should they be dealt with? Stated simply, the task is twofold: to transfer power and control from inmate gangs to prison management, and to minimise the most pernicious aspects of gang activity – particularly violence, and the control gangs exert over the lives of inmates. And yet, as any experienced prison administrator will testify, executing those goals is far more difficult than stating them. Drawing prisoners out of gangs and into more productive activities – like recreation, study and skills development programmes – is premised on a prison controlled by warders, not gangs. Yet when gangs infringe on managerial control, it is difficult to both contain the gangs and give prisoners the freedom of movement and association required for meaningful work and recreation. In other words, there is a tension between what is required to control the gangs day-to-day, and what is required to tame them. Is there a way out of this conundrum?

As distasteful as this may sound, one way that appears to have worked to some extent entailed acknowledging the gangs' existence openly and entering into a tacit agreement with them. I am talking specifically about a project that was implemented at Pollsmoor Admission Centre in the late 1990s.

The project was premised, first and foremost, on building relationships of personal trust between prison management and influential inmates. The head of the prison spent a great deal of his time out of his office and in the prison itself, identifying influential inmates and engaging with them. After about a year, the prison head set up a committee of 20 inmate delegates, each in charge of a different portfolio – sports, recreation, food, health, sanitation, and so forth. Each of the 20 members of the committee was a gang leader. The prison head

made a pact with them. He would ease restrictions on movement – increase exercise time, begin sports and recreation again – and consult inmates in regard to aspects of the running of the prison, but only as long as gangs leaders played by his rules. The moment the gangs used their new spheres of freedom to commit acts of violence or intimidation, the prison head would close these new spheres of freedom down.

The project achieved much success, for a while at any rate. By 2000, reported assaults by warders on prisoners were down to 11, compared to 78 in 1995. Reported assaults by prisoners on one another were down to 47, compared to 219 in 1995. What accounted for the project's success?

Management was creative enough to use the shocking conditions in the prison as a bargaining chip. Before the project began, the prison was in such a chaotic state that a host of activities had either been restricted or abandoned. There were no sports or recreation, and prisoners were lucky to exercise once a week. Prison management offered to make life behind bars more tolerable by bringing these activities back, but in exchange the gangs had to play by management's rules. A tacit *quid pro quo* was thus established. Management had to live up to its side of the bargain by behaving rationally and predictably, and by removing all arbitrariness from the day-to-day management of the prison. Prison gangs had to put away their knives.

Prison gang leaders were essentially left with a simple choice. Quality of life behind bars could become considerably better, but only in exchange for a de-escalation of violent gang activity.

The project was impressive inasmuch as it managed with improve the quality of prison life without a significant injection of more resources. It is testimony to how much the successful running of a prison depends on investing time and energy in the relationship between managers and inmates, no matter how poorly resourced the prison is.

And yet, any attempt to replicate the project will undoubtedly face a host of potential problems. First, the project relied heavily on the building of personal relationships of trust. It may have been a happy coincidence that Pollsmoor Admission Centre had the sort of managers and gang leaders who could connect with each other. Also, projects built on personal relationships are unstable; what happens when, as is inevitable, there is a turnover of managers and inmates? How does one build a system independent of particular personalities?

The fabric of the pact will always be fragile since a degree of animosity is built into the very structure of the relationship. Inmates are bound to resent the pact. They will be asked, in essence, to collaborate in maintaining the rules of their custodians, and they will inevitably strain against the roles they are being offered. The pact is sure to fail whenever the new domains of freedom offered to inmates are merely nominal. In that case, there is no quid pro quo, merely an opportunity for gang leaders to push the staff to the margins of the prison. The pact is also sure to fail when prison administration's behaviour becomes unpredictable. Arbitrary violence, the withdrawal of privileges for reasons that are unintelligible to inmates – these would destroy the pact instantly. (Excerpt Nongoloza's Children)

In the absence of new resources, the success of a project of this nature will always be limited. It is all very well offering gang leaders a better quality of life, but if improved conditions hit a ceiling quickly, prison managers have less and less to bargain with. Until objective material conditions improve, and, in particular, until the problem of chronic overcrowding is tackled, prison managers will have limited room for manoeuvre.

Jonny Steinberg has recently written a monograph on prison gangs, Nongoloza's Children, published by the Centre for the Study of Violence and Reconciliation, as well as a biography of a prison gangster, The Number, the research for which was funded through the CSV.

The views of the author do not necessarily represent the views of CSPRI

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SA Prisons at a glance

Category	Feb-04	Aug-04	Variance
Nr of prisons	240	228	-5.0
Functioning prisons	233	224	-3.9
Closed prisons	7	4	-42.9
Total prisoners	187065	186739	-0.2
Sentenced prisoners	132315	136941	3.5
Unsentenced prisoners	54750	49798	-9.0
Male prisoners	182892	182587	-0.2
Female prisoners	4173	4152	-0.5
Children in prison	3973	3544	-10.8
Sentenced children	1698	1707	0.5
Unsentenced children	2275	1837	-19.3
Total capacity of prisons	113551	113825	0.2
Overcrowding	164.74	164.1	-0.4
Most overcrowded:			
Feb '04: Durban Med C	387.63%		

Aug' 04: Umtata Med		377.00%	
Least overcrowded			
Apr '04: Vryheid	27.85%		
Aug' 04: Vryheid			
Awaiting trial longer than 3 months	23132	22190	-4.1
Infants in prison with mothers	228	192	-15.8

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