

The Quality of Justice

by Janet Jagan - Feb 16, 2008

The toughness or otherwise of the courts of a country play an important role in the level of crime in a country, whether they be in the developed or developing world.

Singapore, for example has a no nonsense court system which made even chewing gum or littering the landscape serious offences which bring on heavy fines. Criminals who sell narcotics or those guilty of using such substances are treated harshly, even condemned to death. As is expected, crime is low in that country.

On the other hand, countries which are easy on criminals, who are let off with a slight slap on the hand, find themselves over-run by criminal activity. The judicial systems as well as other aspects of dealing with those who break the laws, unless tightly controlled and geared to deal with bribery and corruption, are bound to fail. And fail they do in too many countries of the world where crimes are growing greater in number and ferocity.

Most of the developed countries have growing crime rates as well as overflowing prisons, which seem ineffective in turning out reformed prisoners. To the contrary, many prisons are the breeding grounds for more dangerous criminals.

The developing countries are infected with the growing narco-traders who use these territories as bases for the transshipment of drugs to the countries which have the buyers and users of narcotics and who pay the most. A great deal of crime, as we all know, is narco-based.

The Americans who invaded Afghanistan, mainly to capture Bin Laden, eliminated, for a time, the Taliban, who, bad as they were, had killed the growth and export of heroin. Now, under NATO control and mainly American troops, the growth and trade of heroin has increased 100%, which thus increases the movement and use of narcotics worldwide, but mainly to North America and Europe.

In Guyana, like the happenings throughout this hemisphere, crime is growing. We need not only tougher means of preventing crime, which everyone is focusing on today, but also much improved methods of dealing out justice, which, I am afraid, is not up to the standards which the situation demands.

I am aware that criticizing the courts is supposed to be taboo. When I was first appointed Prime Minister in 1997, I spoke of the need to improve the judiciary and observed that it was lacking in many ways. Chief Justice Desiree Bernard called me up and slapped my fingers for making such a comment. But, of course, it was a very mild criticism and didn't really say what was wrong with the system, which is now under greater scrutiny due to some really awful developments recently.

But on this subject of courts, it is really sad that in one particular area of abuse, that is, rape, the records of the lower and upper courts are abysmal. Records shown that about one percent of all reported cases of rape ever reach conclusion. We have cases of 6 year old girls being raped and the matter reaches court 5 years later. Obviously it doesn't work. An 11 year old child cannot be expected to remember details of a

shocking event so long ago, nor should she be expected to relive that torture she endured, plus the shame. In other words, delayed justice is not justice.

Too often the torments of giving evidence and the crude methods used, are too much for a rape victim of any age, and thus may withdraw from the case, which makes life easy for the apparently growing number of rapists. Also, the legal system in all sorts of cases, allows a smart and slick lawyer to use sharp practices to win his/her case for the frequently guilty offenders.

I read an item in the daily press on September 5, 2007 in which a man accused of having carnal knowledge of a 9 year old was freed by a jury. The report stated that the trial judge who had expected a guilty verdict called the accused a lucky man and told him “you must thank your lawyer, the jury and your lucky stars, because you know as well as I do that you are guilty.” What message does that tell us? That there is something really wrong with our system of justice!

In another instance, a 14 year old accused her father of incest. The report noted that the prosecuting police inspector “warned the teen that she made a very serious allegation and could be charged if she is telling lies.” What does that message tell us? Obviously, the prosecutor doesn’t believe the girl and so our justice system is really flawed.

In another horrific case, four men “caught in the act of sodomizing a girl” appeared in court and 2 were put on bail and 2 remanded. If the police actually caught the 4 men in the act, in the house of one of the accused, why weren’t all four remanded? One never hears the end to these reports. Will the 2 on bail show up or will they disappear, as one did recently when put on bail in the high courts? It makes one wonder at the quality of justice!

I recall reading on one part of a newspaper (4/2/06): a teacher accused of molesting a pupil was put on station bail and in the next column, accused horse thieves were refused bail. Such is justice!

I also noted an item from St Lucia in which the mother of a raped child was sentenced to jail for one year for not reporting the rape of her 13 year old child by the child’s grandfather. The child’s brother reported that he had seen his sister assaulted by the grandfather and told his mother. When asked by the magistrate what she did, she replied “I did nothing.” For that, she had to pay the penalty. I would say – that is justice!