

The Criminology of Madiba Mandela: A Tribute

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‘While I do think certain individuals are disposed to crime because of their genetic inheritance or abusive upbringing, I do believe that apartheid turned many otherwise law-abiding individuals into criminals. It stands to reason that an immoral and unjust legal system would breed contempt for its laws and regulations’. Nelson Mandela, *A Long Walk to Freedom*.

The idea that certain people are predisposed to criminality as a result of genetic inheritance is difficult to reconcile with the politics of a revolutionary like Mandela because such a theory belongs to crude biological determinism of the sort embraced by fascists like apartheid officials. Such a view was originally advanced by an Italian prison doctor, Cesare Lombroso, who accompanied the army during the conquest of the darker-skinned Sicilians in the late 19th century and not surprisingly concluded that those who were resisting colonization were born criminals, in his book, *The Criminal Man*.

That Lombrosian positivism may have been accepted as gospel truth by the apartheid forces to justify their attempts to dehumanize Africans at a time that Mandela took up the defense of Africans in court. But for him to hold on to that belief after being released from 27 years of unjust imprisonment is puzzling especially because Mandela was not attributing the theory to the crimes of the apartheid regime and the genetically white perpetrators, he was attributing that eugenics criminology to fellow Africans whom he correctly observed in the same paragraph were being unfairly criminalized by an unjust system of regulation.

However, the idea of genetic inheritance of criminality is a commonsensical one that is found in many cultures around the world where parents warn their children not to marry from certain families because criminality runs in their family. Stephen Pfohl debunked such ‘pathological perspectives’ by relating them to the breakdown suffered by Malay factory workers employed by US and Japanese transnational companies. The women traditionally worked autonomously from male control but in the factories they were subjected to intrusive male control and they suffered from ‘epidemic of hysteria’ that medical experts employed by the companies tried to pass off as evidence of genetically inherited pathology whereas it was perfectly understandable in cultural terms of loss of power by the women.

Mandela made the above reflection after recalling his experience as a criminal defense attorney who had to defend some talented individuals who were driven to a life of crime by the system of apartheid. In his autobiography, he condemned opportunistic elements who engaged in a life of criminality under the guise of being members of the freedom struggle and he insisted that such criminals had

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no place in the freedom struggle. But he had no apologies for founding the armed wing of the African National Congress to sabotage the installations of the apartheid regime as a strategy to force the minority government to agree to a negotiated solution that would pave the way for the Freedom Charter which proclaimed that South Africa belonged to all who live in it irrespective of skin color.

For the ‘crime’ of demanding the human right that all human beings are equal, he was hunted down as a notorious criminal nick-named the Black Pimpernel, was betrayed by a CIA agent in 1963 and convicted in 1964 before being sentenced to a life in prison just as Martin Luther King Jr was penning his famous letter from Birmingham City Jail in which he proclaimed that disobedience to unjust laws is an obedience to God. Mandela spent 27 years of his life before the white supremacist regime bowed down to reason and released him after lifting the ban on the ANC and the South African Communist Party and allowing those exiled to return unconditionally.

Mandela remained on the ‘terrorist watch list’ of the US government until 2008 even after the distinction of being the first black and first democratically elected president of a new South Africa. UK officials who also opposed his release from prison and joined the US in supporting the apartheid regime for decades also continued to call him a terrorist. Even now that the entire world appears to praise him as a hero, there are still extreme right-wing US pundits that call him a communist and a terrorist who did not deserve to be honored by the first black US President, Barack Obama, and nearly 100 other heads of state from around the world, including three past presidents of the US. But as Obama challenged his audience during the funeral elegy for Mandela, the leaders of the world should emulate his example of humble leadership devoid of bitterness instead of continuing to oppress their own people.

The above quotation from the autobiography of Nelson Mandela exemplifies the bundle of contradictions that the revolutionary icon could be said to have embodied. As the revolutionary leader of armed struggles who later led the non-violent negotiated settlement to end apartheid, he used violent and non-violent means of struggle in accordance with the dictum of Malcolm X: By Any Means Necessary. However, the greater credit is given to his very African philosophy of non-violence which the great Mahatma Gandhi claimed that he learned from the war-like Zulu in South Africa and which Martin Luther King Jr claimed that he borrowed from Gandhi.

Making a distinction between opportunistic criminality that preyed on the poor and the criminalization of innocent Africans, Mandela expressed his rejection of a legal system that made it a crime for Africans to drink from a water fountain that was for whites only, or to walk on a beach that was for whites only, to walk through a whites only door, or to ride a whites only bus, a crime not to have a pass book and a crime to have the wrong signature on that book, a crime to be

unemployed and a crime to be employed in the wrong place, a crime to live in certain places and a crime not to have a place to live in their own country.

Jacques Derrida analyzed the contradictions in Mandela's criminology in the famous 1987 essay: '[For Mandela: In admiration.](#)' According to Derrida, it would have been more consistent for Mandela to reject the idea of law entirely given the way it was used to support organized violence against the people of South Africa. Instead, Mandela expressed his love for law during the [Rivonia Trial](#) where he proclaimed that he was prepared to live for the ideal of a just society but that he was also prepared to die for that ideal. Derrida may have made a mistake there by suggesting that Mandela loved law because what Mandela really loved was justice, in my humble opinion.

As a tribute to Madiba Mandela, I wish to attempt to resolve the apparent contradiction in his criminology evident in his synthesis of biological and psychological determinism with critical criminology. One quick resolution would be to see the biological determinism as a minor intrusion into his thought that was never evident in his criminal justice policy. That single sentence from his autobiography should not be amplified into a paradigm of equal importance to what I would call his more foundational decolonization criminology perspective.

The idea that the apartheid system was a system of organized crime against the people that should be stopped through dialogue or by force is the hegemonic understanding of what could be called the criminology of Mandela. Apartheid was criminal not because there was anything genetically criminal about white people who imposed such laws out of selfish class-race-gender interests and Africans flouted such laws brazenly not because there was anything criminal in their genes or simply as a result of psychological abuses in their upbringing.

Mandela held on to such a belief in 1994 when his autobiography was published probably because such ideological views were still supported by a few influential psychologists and biologists in respected institutions of higher learning. This may explain why no criminologist has highlighted the apparent contradiction and called for its repudiation from the thoughts of our beloved and respected Madiba.

Critical criminology would benefit more from the practice of Mandela as a legal defense attorney who specialized in defending the poor who were being criminalized by an unjust system and who took up arms to fight that unjust system when it became apparent that apartheid would not yield to legal logic in its own law courts. Mandela practiced criminology as peacemaking and criminology as lovemaking by seizing the opportunity to open dialogues with the wicked white supremacist regime at a time that hardline ANC supporters preferred to continue the armed struggle and defeat the apartheid regime militarily as Cuban forces helped to prove in the [decisive battle of Cuito Cuanavale](#) that probably forced the regime to end its invasion of Angola and begin negotiations for the independence of Namibia and ultimately, for an end to apartheid.

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The lessons from Mandela's life include the fact that when he was undergoing the rites of passage to adulthood, he and his age mates were given the assignment of doing something daring and they decided to steal a pig, roast it and eating it to prove their masculinity. If they had been arrested as thieves and incarcerated, the world may have been denied the visionary leader that emerged in him as a result of his exposure to a loving upbringing by his royal uncle and his higher education as a lawyer and exposure to membership in a revolutionary organization. W.E.B. Du Bois was also arrested and convicted as a child for 'swiping' grapes from a farm but a teacher saved him by undertaking to guarantee his future conduct or else he could have been another statistic ruined by the criminal justice system. Malcolm X, Martin Luther King Jr, Kwame Nkrumah and Nelson Mandela, among others, are proof that with the proper education and activist organization, a revolutionary could go to prison and still emerge to transform the society in a progressive way.

Also, during his internship as a lawyer, Mandela was tempted to defy the apartheid instruction from white female office clerks that he should drink only from the new tea cups that were bought just for him and the other black attorney in the law firm. The black attorney asked Mandela to ignore them and follow his example of drinking from the older tea cups but Mandela shrugged and told them that he was not thirsty. Similarly, in prison, the apartheid system gave black prisoners brown sugar and gave white prisoners white sugar but Mandela led the prisoners in boycotting sugar altogether as unhealthy anyway.

When Mandela was released, Chief Buthelezi and the Inkatha Freedom Party chose to fight against the ANC for supremacy and lots of black people were being killed under a suspected instigation by the 'Third Force' of right-wing white extremists. Mandela decide to meet with Chief Buthelezi and issue a joint press conference to call for peace and unity. To his surprise, Chief Buthelezi used his opportunity to speak first by declaring his determination to battle the ANC to the last man. Mandela responded by calmly thanking Chief Buthelezi for calling for his release from prison, reminded him that he was close to his father and that they fought the apartheid system together. He extended his hand to Chief Buthelezi to join him in fighting to end apartheid finally.

True to his model of inclusive leadership, Mandela appointed Chief Buthelezi into his cabinet in 1994 and also appointed the former ruling white minority party into his cabinet based on their proportional votes of 10% and 20% respectively. Some criticized Mandela for allegedly selling out by not excluding them from government and for agreeing to accept a joint Nobel Prize for peace with Frederick de Klerk, the last ruler of apartheid South Africa. But above all, Mandela was accused of selling out the black majority by agreeing to market reforms that meant that the white minority continued to control the land and the wealth while the black Africans remained poor and plagued by violent crime.

Finally, the policy of forgiveness and reconciliation with which Mandela attempted to heal the wounds of South Africa were not perfect as no policy is ever perfect, but it is a clear contrast to the zero-tolerance and war-making approach of conventional criminal justice systems around the world. One of the first laws that Mandela implemented was the abolition of capital punishment even while the killers of Chris Hani, the ANC and Communist Party leader, were still awaiting trial and could have been sentenced to death. African countries should learn from his example there especially because the death penalty was imposed on Africans by colonial authorities that have since abolished it in Europe while African regimes cling to it.

Mandela's single term as president has been praised by all and sundry except by power-hungry people such as General Olusegun Obasanjo who revealed that he had tried to persuade Mandela to sit tight in office but the wise Mandela said no. Those who accuse Mandela of not completing the emancipation of the black majority in South Africa are mistaken because none of the decisions that Mandela took was a personal one not backed by the ANC leadership. Joe Slovo, the Communist Party leader and ANC ally, also defended the strategy of a national democratic revolution as a first step towards complete emancipation. It is now up to us as the heirs of Mandela to complete the emancipation project that he helped to initiate by extending the abolitionism of Mandela as follows:

1. Abolishing the colonial boundaries that divide and weaken Africans and fast tracking the African Union Government initiative especially since the colonizing countries that divided Africa are fast uniting their own countries and eliminating borders in Europe to make them more competitive with the economies of scale in the US, Russia, Australia, Canada, China and India.
2. Ending the cruel, arbitrary and barbaric death penalty that European colonial authorities imposed on our people especially since the colonizers have since abolished such laws in their own countries. The retention of the death penalty brutalizes the psyche of the citizens because if the state can kill people as punishment, the people get the idea that they too can kill to settle arguments.
3. Ending discrimination against same-sex couples the way Mandela did again because such sex-discrimination laws were imposed on Africans during colonialism and the colonizing countries have since abolished such laws in their own countries. Tolerating violence against same-sex couples directly and indirectly also contributes to the toleration of violence in the society.
4. The Constitutional Court in South Africa rejected the application of a lawyer who was a Rasta Man who claimed that he needed dagga or marijuana for his religious sacrament. Given that 18 states in the US have voted to authorize medical marijuana and two states plus one city have voted to legalize it, given also that Uruguay has emerged as the first country in the world to legalize marijuana and given that The Netherlands and Portugal have for years been experimenting with allowing responsible

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- adults the choice to buy and use marijuana and thereby reduce the harm of allowing underground drug gangs to make a killing in the trade, African countries should legalize marijuana without waiting for the US and the other European countries to lead them by the nose. The law against marijuana was a colonial imposition in Africa but we can always rely on education to get people to say no to the drug unless they use it as a prescription for health conditions.
5. African countries should legalize the woman's right to choose to have abortion in a safe medical environment to protect African women from being killed by quacks. This is another law that was imposed on Africans by colonial authorities and they have since abolished the law against abortion in most of their countries, thereby reducing maternal deaths much more than the sorry condition of African women who continue to seek abortion when necessary but are not given the equal protection that democracy demands.
 6. African countries should abolish laws making sex work illegal because this too was an imposition from colonial Europe which has largely abolished such laws whereas in Africa, sex workers continue to face a hard time from corrupt law-enforcement agents and sex traffickers because the law makes sex workers illegal by definition. There is evidence that when sex work is legal and regulated, children will not be able to be used in the industry, the sex workers will insist on using condoms to avoid sexually transmitted diseases and violence against sex workers will be reduced.
 7. Finally, African states should unite by implementing a common policy of allocating 10% of the annual budgets directly to the people to invest as they see fit. The African states should also increase the budgets for education, research and development to help to kick-start the industrial revolution across Africa the way it was done in other parts of the world and for the benefit of humanity.

In 2006, as the Vice President of Research Committee 29: Deviance and Social Control, I organized a number of sessions for the International Sociological Association World Congress of Sociology in Durban, South Africa. One of the papers that I presented was on 'Nelson Mandela: The Freedom Fighter as a Criminologist'. This tribute to Mandela captures the essence of that presentation.

Long Live Mandela. Viva Madiba! Organize, Do Not Agonize!