

The 1st 'Advanced Academy on International Studies in Human Rights and Humanitarian Law' on Robben Island, Cape Town (S.A.)

By Florian Hoffmann

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[1] "ROBBEN ISLAND IS A VERY SPECIAL PLACE in the new South Africa. No one in South Africa [and few elsewhere] refuses an invitation to come here"; with these words Justice Pius Langa, Vice-President of the South African Constitutional Court, aptly alluded to the symbolic significance of the place chosen as the venue for this first International Human Rights Academy.⁽¹⁾ Indeed, it turned out to be quite an ingenuine idea on part of the Academy's organisers -namely Prof. Jeremy Sarkin from the University of Western Cape (UWC), Prof. Leo Zwaak from Utrecht University, and Prof. Johan Vande Lanotte from Ghent University, as well as Prof. Asbjorn Eide from the Norwegian Institute of Human Rights- to bring, for the first time ever, thirty-five participants from twenty-two countries to the place where Nelson Mandela served eighteen of his 27-years in prison and about which one of his fellow inmates, Ahmed Kathrada, who is now the Chairperson of the Robben Island Council, said that "we [the ex-prisoners] would want Robben Island to reflect the triumph of freedom and human dignity over oppression and humiliation, of courage and determination over weakness, of a new South Africa over the old". As such, it was, perhaps, the ideal place to devote a good two-and-a-half-weeks (from April 3 to 20) to human rights in all their shades and colours.

[2] For many if not all participants, who, in ordinary life, are academics, lawyers, human rights activists, and United Nations field workers, it was quite an extraordinary experience to be almost literally 'locked' on this former prison island for a relatively extended period of time and spend each day –with the exception of weekends, when field trips to the mainland were organised- from 9:00 to 5:30 (and often longer, on account of ad-hoc extra sessions) learning and discussing about (almost) everything that is currently 'hot' or up-and-coming in international human rights. What added to this special 'feel' was both the presence on the Island of several ex-political prisoners, who interacted formally and informally with the Academy and shared their moving experiences with the participants, as well as the quite unique natural and wildlife, with, among others, fairly tame impalas and springboks, ostriches and one of Southern Africa's largest colonies of African penguins. Under these circumstances, a very special group dynamic developed, aided also by the mixed character of the group in terms of professional activity, gender and age, which meant that the usual professional rituals were replaced by a general open-mindedness towards, and genuine interest in the others' horizons of experience. As a consequence, even those participants with prior knowledge of specific topics could still genuinely learn a great deal from the discussion. This was, of course, also due to the, on the whole, excellent quality of lectures given by an impressive array of twenty-one lecturers, many of whom stayed for several days and thus also became part of the 'Island group'. Among them were the current Director of the Netherlands Institute for Human Rights, Prof. Cees Flinterman, two members of the Human Rights Committee, Profs. Cecilia Medina and Sir Nigel Rodley, two members of the UN Sub-Commission on the Protection and Promotion of Human Rights, Profs. Fried v. Hoof and Asbjorn Eide, a member of the International Executive Committee of Amnesty International, Prof. Peter Baehr, the Deputy Prime Minister of Belgium, Johan Vande Lanotte, as well as several other top academics from Africa and Europe.

[3] The topics were broadly divided into the standard arrangement for international human rights law, namely UN system, regional systems –i.e. European, African and Inter-American-, and humanitarian law, but there were also several special issue topics such as gay and lesbian rights, mass expulsion, or euthanasia; however, even the 'canonical' topics often provoked a livelier-than-expected debate on account of the diversity of perspectives within the participant group. Indeed, in this continuous dialogue among human rights defenders from all over, the often subtle but omnipresent tension between universalist and relativist human rights conceptions, which underlie even the seemingly well-settled aspects of human rights law were often brought to the fore. Hence, for example, one of the sessions on the UN's treaty-based system of human rights protection emerged into a fascinating discussion of whether and how such culturally deeply embedded practices as female genital mutilation (FGM) should be approached from a human rights perspective; while, on one hand, FGM clearly violates a number of rights contained, among others, in the International Covenant on Civil and Political Rights (ICCPR), some of the participants coming from countries where FGM or similar practices exist, were, on the other hand, able to throw some light on the cultural significance of such practices, and the potential illegitimacy and counter-productivity of an approach which aims to take on the practice head on. A similar discussion took place on gay and lesbian rights both during a special session on that topic, and during a session on NGOs, in which Prof. Peter Baehr recounted the difficulties experienced by Amnesty International to commit itself to (certain) gay and lesbian rights despite considerable opposition from some of its regional sections. And even the slightly too thorough and somewhat technical treatment of the European system gave rise to a heated debate on euthanasia, in fact just days before the European Court of Human Rights' verdict in *Pretty v. UK* (2) .

[4] Of particular interest was, of course, also the comparison of the three regional systems, and, generally, of the specific theory and practice of human rights in the three continents. Prof. Chris Maina Peter, from Dar-es-Salaam University, for example, introduced the opportunities and challenges lying ahead for the soon to be created African Court of Human Rights, and thus provided participants with a comparative perspective in relation to the European and Inter-American Courts. Likewise, economic and social rights were discussed with much reference to the emerging constitutional jurisprudence in South Africa –with the *Soobramoney & Grootboom* cases on the right to medical treatment and the right to housing respectively (3) -. In another session on the African system, Peter Vale (UWC) painted a credible picture of the gradual dismantling of the state system in Southern Africa and elsewhere, and its replacement with trans-state identity formations, such as religious groups, professional networks, or self-styled 'communities'; he then challenged participants to think about how human rights can be protected in such radically post-national circumstances. Another high point of the Academy were two sessions on transitional justice led by Prof. Jeremy Sarkin, who reflected on the probably best known, if controversial truth and reconciliation process in South Africa and, with the assistance of a Rwandan participant, on the perhaps even bigger challenges lying ahead in that country; with, among others, participants from Argentina, Macedonia and Germany complementing the debate, the difficult balancing of truth, justice, and reconciliation was put into ample perspective. Finally, there were also several ad-hoc sessions, notably on women's rights, mass expulsion, a pro / contra debate on the Kosovo intervention –with a vote being taken at the end in which the pro's lost against the con's by 11 to 17-; and there was one session where several participants briefly introduced their respective countries and their general human rights situation.

[5] The little time that was left in the evenings and weekends were also filled with activity, including mixed football games –with, among others, a Belgian Deputy Prime Minister in the goal-, and a Karaoke night which even saw two members of the Human Rights Committee actively contribute; and participants painted in common a 'peace corridor' under the gentle guidance of painter and former political prisoner Lionel Robbins. In all, it proved to be an unforgettable experience, both professionally and socially, for all who were there. Fortunately, it is to be repeated, next year in Ghent, and the year after again on Robben Island, and for anyone wanting to broaden and deepen their human rights horizon while meeting at length with colleagues from the diverse walks of human rights life, it is very much worth applying.

For further information: <http://www.uwc.ac.za/law/humanrightssacademy/>. (1) Or, in shorter parlance, the International Human Rights Academy (IHRA)

(2) *Pretty v. United Kingdom*, ECHR at

<http://hudoc.echr.coe.int/hudoc/ViewRoot.asp?Item=4&Action=Html&X=603102745&Notice=0&Noticemode=&RelatedMode=0>

(3) *Soobramoney v Minister of Health (Kwa-Zulu-Natal)*, Constitutional Court of South Africa, Case No.: CCT 32/97, 26 November 1997 (at <http://www.concourt.gov.za/courtrecords/2002/tac/tac51.pdf>) & *Grootboom and others v Government of the Republic of South Africa and others*, Constitutional Court of South Africa, Case No.: CCT38/00, 21 September 2000

(at <http://www.concourt.gov.za/cases/2000/grootboomsum.shtml>)