


STRENGTHENING COMMUNITY SAFETY BILL 2023

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To the committee,

A balance must be struck between Human Rights and Public Safety. Derogation of Human Rights is always a devil's bargain. As it applies to this topic, criminal offending and the restriction of freedoms, derogation of human rights in accordance with law produced by a democratic process is specifically permitted in all Human Rights conventions. Lawful restrictions on the freedoms of convicted persons can violate a person's Human Rights but these do not constitute a violation of the conventions and is specifically permitted.

The bond between parent and child can be a powerful one and inspire loyalty and obedience.¹ There is an expectation and understanding that all parents can demand such obedience. This is not always the case. The child may rebel and grounding the child may not work if the parents are absent due to work or other commitments that makes compliance impossible to enforce. This bill is about empowering communities to impose penalties and restrictions on the freedoms of children to ensure that those convicted of a crime can be supervised and their freedom restricted where such freedoms are abused to interfere with the freedoms and rights of others. The essential legal basis of common law governing good conduct and maintenance of the peace to be found in Article 12 of *The Charter of The Forest (1225)*. Children do not necessarily have the power, parental supervision, bond, emotional control, accessible positive adult role models, insight or foresight to make good choices.

These laws must be tempered by contrasting provisions. In Tasmania farmers were appalled by facing court as defendants when their houses were getting burnt down because they had left their gun safes unlocked. Similarly, we have not imposed laws to suitably criminalize leaving car keys in the car or in an openly visible and accessible location. If a child steals a car by obtaining the keys left on the driver's seat or by the unlocked front door then the person responsible for the proper storage of those keys should receive an equitable punishment. The seriousness of driving safely was best expressed to me as a teenager by the fire department putting on a hydraulic 'jaws of life' exhibition, "A driver's license is permission to drive a one ton steel cage at speed." Criminalizing such conduct would also relieve insurance companies of their obligations to pay out in such circumstances because the policy holder would have incurred loss as a result of criminal actions. Consideration is required regarding whether responsible operation of a motor vehicle includes taking reasonable precautions to secure the access token required for its operation from children unknown to the owner. Should a person share the freedom to operate a motor vehicle if they can't be trusted to secure the keys?

Longer sentences do not lead to less offending. The strength and size that comes with puberty does not necessarily correspond with enhanced capacity for judgement. Pediatric forensic psychology is a complex intersection of pedagogy and criminal justice that must be rooted in an understanding of the experience of childhood. Children are often framed as psychopaths when they commit a serious crime and make representations that they failed to understand or consider the consequences. Similar framing is not used in cases such as the Northern Territory Emergency Response reports where little girls found their only access to food was by exchanging sex or in Kenyan slums, access to water by exchanging sex.² What can be surmised from these reports is that youth criminal offending and delinquency can be reduced by providing young women and girls with quality food and water to empower them to refuse sex.² That substance abuse was an essential element of community gatherings where communal food was served and entertainment was provided. Providing bread and circuses without obligatory substance abuse empowered women and girls to refuse sex.³ The Blue Light Disco contains these elements.⁴ In order to reduce youth offending all that is needed is to find a sober pedagogically minded Aboriginal woman. Pay for them to regularly provide food and fun to women and girls at a level and intensity that is competitive with the bad boys to limit

their capacity to exercise their biological imperative.

1 Maiko, E. Yuko, A. Misato, K. (2019) Public alarmed by sexual assault acquittals in Japan. May 23, 2019. <https://www3.nhk.or.jp/nhkworld/en/news/backstories/545/>

2 KEWASNET(2021) CSOs Annual Water and Sanitation Sector: PERFORMANCE REPORT: Financial Year 2020/2021. Kenya Water and Sanitation Civil Society Network. page xiii, xix, xxii, 31, 66. https://kewasnet.co.ke/download/the-voice-fy-2020_21-final-report/

3 Wild, R. Anderson, P. (2007) Ampe Akelyernemane Meke Mekarle “Little Children are Sacred.” Report of the Northern Territory Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse 2007.

4 QPS (2019) Dirranbandi Blue Light disco swims the night away. Dec 4, 2019. <https://mypolice.qld.gov.au/southwest/2019/12/04/dirranbandi-blue-light-disco-swims-the-night-away/>

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