

Making Queensland Safer Bill 2024

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I present this submission on the *Making Queensland Safer Bill (Qld) 2024*. In short, I recommend that this Bill be withdrawn. As one illustration of the barbaric nature of this Bill, it could result in mandatory life sentences being handed down to ten-year-olds, with a minimum non-parole period of 20 years, for murder. "Murder" under Qld law can occur without any intention to hurt any person (see eg *Criminal Code*, s. 301(1)(b)).

There can be few stronger arguments against this Bill than those presented in the Statement of Compatibility issued by the Attorney-General, Deb Frecklington MP. In that Statement, the Attorney-General concedes that the Bill, if passed into law, will breach the human rights of children in the following ways:

- The Bill will result in decisions being made where the best interests of the child are not the primary consideration
- Detention shall not be deemed to be a measure of last resort for child offenders, nor will the shortest appropriate period of detention necessarily be adopted.
- More children will be detained in watchhouses, which will limit rights of humane treatment in detention, and of rights to be free from degrading and inhumane treatment or punishment. The latter right is recognised as absolute in international law.

Contrary to the Attorney-General, I believe that the law will indirectly discriminate against Aboriginal and Torres Strait Islander children in such a way as to breach the human right of non-discrimination. At the least, the Attorney-General concedes the disparate impact that the Bill will have on such children. This law will only widen the "gap". This is ironic when the government has spoken of the need to take practical measures to address Indigenous disadvantage.

I also believe that the amendments to open up the Children's Court to victim families and the media go too far, especially in their removal of the court's discretion to exclude people where there is a risk to safety or where there could be prejudice to the administration of justice. These amendments therefore breach the rights to privacy and life of children who are tried in children's courts. Again, the best interests of the child are disregarded.

Extraordinarily, the Attorney-General also concedes the following:

- There may be less restrictive options to achieve the stated purpose, which is vaguely described in the Explanatory Notes as addressing “growing community concern and outrage over crimes being perpetrated by young offenders”, and holding such offenders to account. The A-G concedes that it is not necessary to achieve that purpose to apply mandatory minimum sentences to children.
- “The negative impact on the rights of children likely outweigh the legitimate aims of punishment and denunciation.”
- “The amendments will lead to sentences for children that are more punitive than necessary to achieve community safety”.
- “The amendments will treat children less favorably than adults in the same circumstances and therefore directly discriminate on the basis of age”.

Hence, the Attorney-General effectively admits the proposed law is unjust and irrational. Her only justification is that the law is “clearly supported by Queenslanders and are a direct response to growing community concern and outrage over crimes perpetrated by young offenders”. It is telling that the Bill addresses *concern and outrage*, emotional responses which are not necessarily rational and which can be manipulated. It is not clear that this is a legitimate countervailing purpose for the purposes of limiting human rights. It is an abdication of leadership to cave in to populist emotions.

Importantly, the Attorney-General does not claim that the Bill addresses “safety”, which is clearly a legitimate purpose, despite the name of the Bill. Indeed, it is clear that the Bill will make children less safe. She also concedes that the Bill restricts rights more than is necessary to protect community safety (see above).

The overall effect of the Bill will make Queensland less safe. More children will grow up in prison, increasing trauma, lessening chances of rehabilitation, and increasing their chances of living a life of crime. It will increase deaths in custody. It will tear apart families and communities, especially amongst Aboriginal and Torres Strait Islander peoples.¹

Finally, the truncated time for consultation on this Bill is an abuse of parliamentary process. Such manipulation of the law-making process reduces trust in government. The government justifies this on the basis of its election promise to have the law in place by the end of the year. It is disgraceful that such an arbitrary timeline and a concern with “optics” should be prioritised over proper consultation on a Bill which will have a devastating impact on the rights of children.

¹ Human Rights Law Centre, “Premier Crisafulli gob-smacking laws to lock up 10 year old children, and destroy families and communities in Qld”, <https://www.hrlc.org.au/news/qld-laws-to-jail-kids>,

The chair of the UN Committee on the Rights of the Child has already expressed dismay at the flagrant disregard for children’s rights exhibited by the Queensland government.² I agree.

Recommendation: Withdraw the Bill in its entirety

² Rudi Maxwell, “UN slams Queensland as a “flagrant disregard for children’s rights”, *NITV*, 2 December 2024, <https://www.sbs.com.au/nitv/article/un-slams-queensland-laws-as-a-flagrant-disregard-for-childrens-rights/4oqyo77xh>