Speech by

Annastacia Palaszczuk

MEMBER FOR INALA

Hansard Wednesday, 11 February 2009

JUVENILE JUSTICE (SENTENCING PRINCIPLES) AMENDMENT BILL

Ms PALASZCZUK (Inala—ALP) (8.57 pm): I rise to oppose the Juvenile Justice (Sentencing Principles) Amendment Bill. The opposition has tonight put forward a private member's bill that has simply not been thought through. In fact, the speakers opposite have clearly shown their lack of understanding of how the juvenile justice system in this state works. The member for Toowoomba South stated in his second reading speech—

... those people who commit such crimes should be held accountable and face punishment that is deserving of the crime they have committed, regardless of the age of the offender.

This is where the opposition starts to get into trouble from the word go. The Juvenile Justice Act is an act that deals with a child who has not turned 17. It is an act to provide comprehensively for the laws concerning children who commit or who are alleged to have committed offences or for related purposes. Only persons aged 10 years and over are deemed to be offenders. Under Queensland law, children younger than 10 years of age are deemed not to be criminally responsible even if they are involved in the commission of an offence. Juvenile offenders are those aged between and including 10 and 16 years of age. So does the member for Toowoomba South from the outset think that a young person of 11 should be treated exactly the same way by our courts as a 16-year-old or exactly the same way as a 23-year-old?

To understand why we treat young people differently to adult offenders, we can look to the Juvenile Justice Act in Queensland, to the United Nations Convention on the Rights of the Child and to principles that have been widely accepted both in Australia and overseas. In Queensland we have the Juvenile Justice Act. The main objectives of this act are the establishment of a code for dealing with children who have allegedly committed offences; the jurisdiction and proceedings of any courts constituted as a children's court; and the inclusion of the child's family in the process of rehabilitation and reintegration, particularly with Aboriginal children and their families.

Schedule 1 of the act outlines the charter of juvenile justice principles—namely, the protection of the community from offences; the youth justice system should uphold the rights of children, keep them safe and promote their physical and mental wellbeing; victims should be given an opportunity to participate in the juvenile justice process; and an offending child should only be detained in custody, whether on arrest or sentence only, as a last resort and the least time that is justified under the circumstances. It is this point that we are debating tonight.

So where did this principle of detention as a last resort come from? Was it just made up? No. The principle of detention as a last resort is a well-established sentencing principle in Queensland and other jurisdictions. In formulating its recommendation, the Forde inquiry pointed to obligations under international law. In particular, article 37(b) of the United Nations Convention on the Rights of the Child 1989 specifically states—

The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;

In the Beijing Rules, adopted in 1995, it clearly states that the aims of the juvenile justice system emphasise the wellbeing of juveniles and shall ensure that any reaction to juvenile offenders shall always be in proportion to the circumstances of both the offenders and the offence and, further, that this response to young offenders should be based on the consideration not only of the gravity of the offence but also of personal circumstances such as social status, family situation and the harm caused by the offence. Commentators around the world have stated how loss of liberty and separation from the usual social environment are certainly more acute for juveniles than for adults because of the early stage of development of the child—the young person.

So we have the Beijing Rules and the United Nations Convention on the Rights of the Child. We now have the Juvenile Justice Act here in Queensland and then we have sentencing provisions which mirror the international rules. So what do these sentencing principles say? Section 150 of the act states that, in sentencing a child for an offence, a court must have regard to the juvenile justice principles, the nature and seriousness of the offence, the child's previous offending history, whether the child is an Aboriginal or Torres Strait Islander person, the child's age, whether the child can be rehabilitated and whether the child can be assisted by family or opportunities to engage in educational projects and employment. It goes on to stipulate that a detention order should be imposed only as a last resort and for the shortest appropriate period.

It is very clear that the act sets out the court sentencing principles to be taken into consideration. But now we come to what the opposition policy of juvenile justice really is, and let me assure members that it is not a comprehensive policy. In August 2008 the member for Caloundra said that he was concerned at the massive overrepresentation of Indigenous offenders as well as children known to the Department of Child Safety coming into contact with the juvenile justice system. So what is the opposition's solution? The opposition now under this strategy wants all young offenders to go to detention—lock them up and throw away the key! So it is that on the one hand there is overrepresentation of Indigenous offenders in our prison system and now it wants to increase the numbers even more.

But wait; it gets better! Let us go for the other side of the coin. On 27 August 2008 the member for Cunningham stated that boot camps would tackle rising youth crime. So in an attempt to support early intervention—rather than looking at the causes of crime and looking at crime prevention programs—those opposite have a desire to run boot camps. There are no details of this boot camp policy; it is just going to send them all to boot camps. The member said—

> The Liberal National Party will run boot camps as an early intervention strategy that will divert young offenders from detention centres and jail. They will be run to teach young people respect for others and themselves.

With this latest thought—this latest bill before the House—the opposition now wants to tell the courts how to do their job.

Ms Jones: They never quite got the separation of powers.

Ms PALASZCZUK: That is right, member for Ashgrove. It now wants to tell the courts how to do their job. The principle of detention as a last resort is not just something this government has plucked out of thin air.

Mr Horan interjected.

Ms PALASZCZUK: No. It is not something that has just been plucked out of thin air. It is a principle that has been enshrined in the United Nations Convention on the Rights of the Child. It is an accepted principle internationally and it is an accepted principle in Queensland and in other Australian jurisdictions.

It is very easy to see how those opposite are sensationalising these issues. So what solutions do they have? Do they have any other ideas for intervention and postrelease programs? Have they thought about any policies in relation to this? They have one answer, and that is to send young offenders to boot camp or, alternatively, send them to prison. So what is it? They want to tell the courts what to do and how to do it. What they fail to realise is that some of these young people come from broken families. They have been exposed to substance abuse or they themselves have been physically or mentally abused.

Mr Gray: Or sexually abused.

Ms PALASZCZUK: Or sexually abused. The Bligh government through the Department of Communities places a clear focus on early intervention and reducing young offending. Through early intervention and prevention, the department seeks to address the factors leading young people into crime. Already we have seen $0.46 million being spent through the youth safe communities initiative, which is targeting young people at high risk and is being targeted through Logan, Ipswich and Inala. We have seen $0.35 million committed to two programs to reduce reoffending and aggression replacement training programs to improve social skills, anger control and moral reasoning for adolescents and children with serious aggression problems. So, as members can see, this government is committed to early intervention and prevention programs.

I have visited the Brisbane Youth Detention Centre on numerous occasions. It is not a holiday camp, as the member for Burdekin may have us believe. Sentencing young offenders is the jurisdiction of the courts, not of this House. We are at arm's length. It is independent from government. The courts have the jurisdiction to take into account those sentencing principles when they are about to sentence a young person, and they also take into account the United Nations Convention on the Rights of the Child in relation to detention as a last resort. I urge members not to support this bill.