Submission

to the

Law and Order Committee

on the

Young Offenders (Serious Crimes) Bill

Introduction

1. Caritas Aotearoa New Zealand is the Catholic Agency for Justice, Peace and Development. We are mandated by the New Zealand Catholic Bishops Conference to work for the elimination of poverty both overseas and at home in New Zealand.

2. Caritas Aotearoa New Zealand opposes the intent of this Bill on the grounds of:

   • The Bill clashes with the Catholic understanding of justice and forgiveness;
   • It breaches the United Nations Convention on the Rights of the Child (UNCROC);
   • We believe young people develop through education not punishment;
   • It overlooks the real problem of New Zealand’s justice system.

The Catholic Understanding of Justice and Forgiveness

3. According to its most classic formulation, justice consists in the constant and firm will to give their due to God and neighbour. (Catechism of the Catholic Church, 1807) This understanding is paramount to the teachings of Jesus. In the Gospel, according to Matthew, Jesus explains the Christian understanding of crime in saying “you shall not murder; you shall not commit adultery; you shall not steal; you shall not bear false witness; honour your father and mother; also you shall love your neighbour as yourself”. (Mt 19:18-19). In other words, while Catholicism does not tolerate crime, it is vital to ensure justice is achieved through treating offenders (your neighbour) as one would treat his or herself.

4. The Bill is in conflict with the Catholic understanding of reconciliation. The Bill makes it clear that its purpose is to severely punish young offenders, committing serious crimes, as a means of deterring others and seeking justice for society. This understanding is flawed, from a Catholic point of view, because it does not uphold the process of reconciliation from both parties (offenders and victims). Reconciliation, according to Catholicism, involves (a) repentance from sinners and (b) forgiveness from victims. We therefore challenge the intent of the Bill because we believe it is a corruption of the meaning of forgiveness to suit the understanding of ‘an eye for an eye’.
5. Furthermore, we contend that the Bill is philosophically flawed from its inception. It appears that it has not been proposed for the purpose of achieving the objective of serving and saving people. “*The longing for reconciliation and reconciliation itself will be complete and effective only to the extent that they reach in order to heal it—that original wound which is the root of all other wounds: namely sin. Therefore every institution or organization concerned with serving people and saving them in their fundamental dimensions must closely study reconciliation in order to grasp more fully its meaning and significance and in order to draw the necessary practical conclusions.*” Pope John Paul II, 2 December 1984.

6. In being taught to *love thy neighbour*, Catholics learn the importance of never giving up on those in need. We believe that both victims and offenders are children of God that can always repent and be forgiven (so long as they are genuinely seeking reconciliation).

7. The use of legislation, no matter how tough, is not the best way to change the social behaviour of New Zealand’s youth. Messages of support and love are what can shape social interaction and help move towards peace (Compendium of the Social Doctrine of the Church, PP116-120).

8. The Bill will struggle to contribute to the good of society because it is seeking justice without forgiveness. “*Shattered order cannot be fully restored except by a response that combines justice with forgiveness*”. Pope John Paul II, 1 January 2002.

9. In order to be a good neighbour one must show others mercy and not act out of self-interest. A useful illustration of the meaning of this is the Parable of the Good Samaritan (Lk 10:25-37). In it Jesus tells us the importance of doing all one can to help a stranger.

### The United Nations Convention on the Rights of the Child (UNCROC)

10. Catholic social teaching on young people is based on the definition of UNCROC, which defines those under the age of 18 as children under the protection of the convention. Both the Holy See and the New Zealand government have ratified UNCROC.

11. Caritas supports the recommendation of the United Nations Committee on the Rights of the Child in 2003 that New Zealand should remove our current reservation concerning the criminal age of responsibility for offenders under 18. This Bill would move us further away from that goal, rather than towards it.

12. Caritas believes it is essential to make children the centre of policy that concerns their lives. This is the aim of UNCROC, Catholic social teaching and the New Zealand government’s agenda for children.

13. The proposed Bill breaches Articles 1, 3, 9, 28, 29, 37(b) and 40 of UNCROC.

- Article 1 recognises a child as a person under 18.
- Article 3 indicates that all actions involving children need to consider their best interests.
- Article 9 disputes children being removed from their families on the grounds that separation is only justified when it is in the best interests of the child.
- Article 28 outlines a child’s fundamental right to education and the importance of learning.
- Article 29 suggests that the development and preparation of children (for their futures) need to be the aims of education.
- Article 37(b) insists that punishment can only be justified as a last resort and for the shortest appropriate period of time.
- Article 40 indicates that juvenile justice must centre on a child’s reintegration into society.

14. We believe that if the Bill is passed into law, the international reputation of New Zealand will be damaged.

**Education not Punishment**

15. Results of the 1999 Prison Inmate Census revealed that, in total, over half the inmates were first imprisoned as teenagers. 65 percent of sentenced male and 46 percent of sentenced female inmates received their first custodial sentence before they turned 20 (Children in New Zealand, 2000). Results from 2003 show similar results. 60 percent of all male inmates had their first sentence by the age of 19 (Department of Corrections Census of Prison Inmates and home detainees, 2003). A change in law will worsen these statistics, not improve them.

16. Research indicates that young people are lacking maturity. Many come to a point where they find that they are not really used to relying on themselves (Youth Perspective, Prison Review, 1989). Placing children in prison will greatly affect the individual’s future and, in doing so, produce negative results for the offender and the public.

17. Children live, learn and grow, not in isolation, but as part of families, whanau and communities (Human Rights in New Zealand Today, Human Rights Commission, 2004, P51). Rehabilitation of child offenders needs to include education, and also assistance with drug and alcohol addictions, counselling and other support for psychological issues, and vocational guidance and training.

**The Real Problem of New Zealand’s Justice System**

18. We believe the Bill overlooks the real problem of New Zealand’s justice system. The proposed Bill will not make society safer because prison statistics indicate a staggering high rate of re-offending. Results from the 2003 prison inmate census reveal that 38 percent of female inmates and 60 percent of male inmates had served previous terms in prison (Department of Corrections Census of Prison Inmates and home detainees, 2003).
19. Prisons must be places where a person is sent as punishment, not for the purpose of punishment. The agenda is failing as evidenced by our prison rates. New Zealand presently has the second highest incarceration rate of all OECD countries after the U.S. New Zealand has more than twice the number of prisoners than Ireland who has a smaller population.

20. Young Māori are over represented in police apprehensions. Since the early 1990’s almost half of all police apprehensions of young people have involved young Māori. Māori are similarly over represented in youth court prosecutions. In 2003, 55 percent of cases involved a young Māori. In contrast the 2001 Census of Population Dwellings indicated that 21 percent of the population aged 14-16 were Māori (Children and Young People, Ministry of Social Development, PP105-107). The over representation of Māori is no of minor concern. The New Zealand government is responsible for working with Māori to ensure their interests are upheld. The Treaty of Waitangi (and UNCROC) require the Crown to work in partnership with Māori to protect and respond to collective and individual interests of Māori wellbeing and development (Whole Child Approach, Ministry of Social Development, P18). The statistics and the requirements of the government clash with the goals of the Bill. Māori interests will not be protected if the Bill is passed.

21. The intention of cleansing society of serious young offenders is likely to give a negative impression of New Zealand internationally. “No one truly knows a nation until one has been inside its jails. A Nation should not be judged by how it treats its highest citizens but how it treats its lowest ones” (Nelson Mandela).

22. “The bible promotes restitution, redemption and forgiveness as the pathways to healing when a crime has been committed” (The Salvation Army - Beyond the Holding Tank, 2006, P18). The concept of prison is that punishment and retribution will lead to change the nature and actions of offenders. In contrast, the focus of Catholic social teaching is the message of hope and love. In order to respond to crime, criminals need to repent and victims need to forgive.

23. New Zealand’s justice system is failing victims. Ten years ago the New Zealand Catholic Bishop’s Conference spoke about the same issue. “Too often, offenders repeat their crimes, regardless of the social mayhem this causes. Victims often become embittered and harbour their anger, grief and pain for a lifetime. The community hardens its heart to offenders by demanding longer and harsher penalties. As teachers of the Gospel of Jesus Christ, we hold that compassion, mercy, healing, sanction where appropriate, and forgiveness leading to reconciliation, lie at the heart of a fair and just criminal justice system. Even the worst offenders remain children of God.”

Conclusion

24. Caritas Aotearoa New Zealand opposes the intent of this Bill because:

- Reconciliation is a combination of a sinner’s repentance and a victim’s forgiveness, not a one way street;
- The Bill goes against New Zealand’s obligations to UNCROC;
- Research suggests punishment is not effective or appropriate for young people;
- Prisons are for justice not vengeance.