



How does the Bill contribute to preventing crime? How will it make us safer?

Correctly framed, the Child Justice Bill (CJB) will not only create a system for managing children when they come into conflict with the law, but it will also set in place principles for the broader social project of crime management in the country.

According to (Lab, 2004:23) “...crime prevention entails any action designed to reduce the actual level of crime and/or the perceived fear of crime”. Further to this “these actions are not restricted to the efforts of the criminal justice system and include activities by individuals or groups, both public and private. Although definitions for crime prevention differ, most definitions integrate the idea of lessening actual crime levels whilst preventing further increase in crime” (Council for Scientific and Industrial Research, 2004a:7).

The impact on our society of the sustained and widespread criminality that we experience, should neither be ignored nor under-estimated as a factor in developing, promulgating and implementing criminal justice policies. Typical responses to victimisation are a sense of loss, anger, sadness, anxiety, depression the need for revenge, an inability to look forward with optimism or to commit to long term plans and of course, increased levels of fear. These effects are seen in an increased demand for more punitive justice approaches, harsher sentencing and even the death penalty. Restorative justice is sometimes mistaken for a “soft” response to crime – it is vital that it is properly understood and valued as a tool that promotes accountability and consequence for the offender at the same time as creating the space for a positive future and thus reducing the risk of repeat offending.

Child justice promotes a safe South Africa for all, by intervening to break the cycle of crime and violence, preventing further criminal activity and victimisation through mechanisms that simultaneously reduce the pressure on the criminal justice system. In intervening for the whole child and not just in response to the behaviour of the child in conflict with the law, the CJB provides an opportunity to address the problem rather than to problematise the child. In so doing it breaks the cycle of crime and violence and initiates a new and more constructive cycle.

Keeping children out of incarceration should always be regarded as the solution of choice if we are to discourage future criminal activity through alternative positive intervention.

This Bill must that ensure children do not become further criminalised, as we hold them accountable and seek to prevent re-offending. The vast majority of child offenders (including sexual offenders) will not grow up to become adult offenders. It is equally important to note the damage that can be done by the criminal justice system in terms of creating or exacerbating the risk factors for offending.

Diversion from the criminal justice system is internationally accepted best practice in relation to child justice. It achieves two important goals: (1) limiting children's contact with the criminal justice system, and (2) channelling them into appropriate intervention programmes aimed at reducing the risks of re-offending.

This Bill, however, in its present form excludes many children from the assessment process and the possibility of being diverted. Children charged with an offence listed in Part 1 of Schedule 3, and items 2, 5, and 6 of Part 2 of Schedule 3 are not required to be assessed and cannot be diverted. This means that a 15-year old who shows a picture of a topless woman on his cellphone to his 15-year old consenting classmate could be charged with an offence under Schedule 3 of this Bill and not have access to assessment (as well as further provisions to which other children would have access such as the preliminary Inquiry or diversion).

The CJB in its current form is oriented towards the administration of justice and does not take advantage of opportunities for the promotion of crime prevention and reduction amongst child offenders.

The CJB provides vital tools in the management, reduction and prevention of crime; in an environment in which such tools are scarce in the face of massive and urgent need, it should be adopted and implemented with rigour and applied without exception to all children in conflict with the law. To ensure the achievement of crime prevention objectives, it is essential that the CJB should treat all children in conflict with the law in the same way.