

The Corrections component of the Criminal Justice System in Queensland in recent years has never enjoyed a reputation for ongoing reform and innovation. Rather it can be argued persuasively, since 1988 when ground breaking reforms to the corrections system were introduced as a result of the 1988 Kennedy Report that these have been significantly reversed particularly since the Peach Report in 1999. It is worth noting however that Peach in 1999 observed that the special needs of specific prisoner groups, including indigenous prisoners and prisoners with mental illness and intellectual disability were still not being met.

We have reached the position in Queensland in 2006 –

- that a new Corrective Services Bill now in the House at the second reading stage reduces further the classification of prisoners effectively to 2 – high and low;
- that programs designed for rehabilitative purposes are limited and difficult to access;
- that Ministerial directions to the Queensland Community Corrections Boards, which deals with the more serious offenders make parole an almost impossible dream;
- that a true corrections and rehabilitation system is effectively non-existent;
- that community based orders like Release to Work and Home Detention are to be abolished;
- that Judicial Review is to be denied to the prisoner population;
- that in spite of it costing \$70,000 per year to keep a prisoner in custody the prisoner population has almost doubled in the last 10 years and
- the government recently announced its intention to build a new super prison to house 4000 prisoners.

I leave it to your imagination then to consider the kind of emphasis which is or will be given to the position of those prisoners who suffer mental illness or intellectual disability.

This conference is therefore timely. Those responsible for its organisation deserve to be commended.

If the system here, as presently constituted, has so little to offer mainstream prisoners, in terms of rehabilitation and release policy and practice what hope have the mentally ill and those with intellectual disability who can expect nothing that is, nothing which will address the specific concerns for those with diagnosable and treatable mental illness or those with intellectual disability of whatever kind, be it genetic or from acquired brain injury or the increasingly exponential product of autism. The corrections system in Queensland has offered them nothing, now offers them less and will continue to see them as somebody else's problem.

This is a system in self-denial. Those of us who have an interest in and concern for the mentally ill and those with intellectual disability well know that the prison bureaucracy regards its core business simply as the detention of the offenders. If one or lots more of them has a mental illness or an intellectual disability requiring proper management and support then the plea of prison management is that this is not our core business. Our core business is numbers – making sure that the numbers are there at the next head count, and like all other prisoners, the prisoner with mental illness or with an intellectual disability has a number – and nothing else, if we exclude the so called crisis support units where many are often contained. If ever one wishes to find in legislation the warm and fuzzy aspirational stuff, and the *Corrective Services Bill 2006* is not different, then go to that part of it which states the “purpose” of the Act. In this Bill under that heading now before the House in its second reading, Section 3(2) states –

“This Act recognises that every member of society has certain basic human entitlements and that for this reason, an offender’s entitlements, other than those that are necessarily diminished because of the imprisonment or court sentence, should be safe guarded”

Those members of the society who suffer mental illness or have an intellectual disability have the basic human entitlement to proper care support and treatment and to have appropriate care and management for their mental illness or intellectual disability.

Are the basic human entitlements of the mentally ill person or the person with intellectual disability safeguarded by this legislation?

or

It is to be seriously suggested that these basic entitlements are necessarily diminished because of their imprisonment?

I have searched this legislation to try and find answers to these questions. But sadly there is no reference in the proposed Act which extends to 514 sections and covers 279 pages to prisoners with mental illness or with an intellectual disability and Section 3 – the purposes of the Act section – goes on to say that the Act recognises not only “the need to respect an offenders dignity“ but also the special needs of some offenders by taking into account inter alia, “any disability an offender has”. So far so good, but precisely what is the substance, what does that mean in a practical sense and to whom does it refer?

Firstly the term “disability” – the source of the so called “special needs” that the Act proposes to safeguard is not even defined in this voluminous piece of legislation. But secondly and more importantly one looks in vain for express provisions in this Act which determine how those special needs will be recognised and what specific provisions will apply to those with special needs because of their illness or disability.

Is there any special provision made for this cohort relating generally to their detention?

Is there any special statutory provision relating to their having access to specially designed rehabilitation programs?

Is the Parole Board empowered to give special consideration to those who may otherwise be disadvantaged on account of their mental illness or intellectual disability?

No there is not. Rather one might be forgiven for thinking that these “problem” persons might in the course of shallow and risk averse parole decision making, be regarded as the more dangerous and therefore even more disadvantaged?

One can only speculate whether the Minister when drawing guidelines about policy to be followed by the Queensland Parole Board when performing its functions, ever considered the 1948 UN Universal Declaration of Human rights or the 1971 UN Declaration of the Rights of the intellectually disabled person. One, I think can safely assume that the Minister's scribes, who probably wrote the policy documents, had never ever heard of them.

Besides bear in mind that these Declarations do not sit easily and comfortably beside that basic political imperative which drives the so called "law and order" political debate – "we are tougher on crime than you are".

You will not be surprised therefore if I tell you that the opening words to the third paragraph on page 1 of the Ministers 11 page speech to the Parliament when introducing the Bill are these –

"This Bill gets tough on prisoners....."

Finally, it has often been said that the real worth or intrinsic value of any society can only properly be judged by how well it treats its most vulnerable.

Surely those who are mentally ill or with an intellectual disability already bear a heavy cross.

Take away from them their liberty and require, them to live in an unnatural and often unfriendly community characterised by assault and various other forms of brutality – they must surely be regarded as among the most vulnerable. And how have we responded? Perhaps addressing our shame might be a good beginning.