



Policy on the use of Prison

Barristers are closely involved in the decisions regarding imprisonment. In their work in the Courts, in preparing pleas, prosecuting or representing the accused and assisting in the formation of laws and policies, they are exposed to both sides of the story and have a keen appreciation of the impact and consequences of imprisonment.

It is important to remember that imprisonment is the harshest penalty our system can impose. It needs to be used sparingly and in a way best suited to achieve the objectives of criminal justice.

The primary purpose of the criminal justice is the prevention of crime, the use of imprisonment must always be measured against the impact on this objective.

The expert and nuanced task of sentencing should, as much as possible, be left to the experts – judges. We have evolved over many hundreds of years, a criminal justice system that hears and decides cases on a case-by-case basis. This individual approach must apply to the entire trial – including the sentencing. It is appropriate to apply standardizing tools and to have ranges of sentencing for each crime but the decision should be left to the judge.

Mandatory sentencing is only an attractive solution at a very superficial level. It leads to longer trials, disproportionate outcomes and overseas experience has proven it does little to prevent or deter crime.

Imprisonment has a disproportionate impact on women, indigenous Australians and those with mental illnesses and acquired brain injuries.

Decisions regarding rates of imprisonment, penalties imposed and the “style” of prison must be evidence based and subject to rigorous analysis and evaluation.

Further resources:

Queensland

<http://www.balancedjustice.org/>

Victoria

<http://www.smartjustice.org.au/index.php>

USA

Balanced Justice: Cost-Benefit Analysis and Criminal Justice Policy

http://policyintegrity.org/files/publications/Balanced_Justice.pdf

Impact on Indigenous Australians

http://www.smartjustice.org.au/cb_pages/ending_over-representation.php

Impact on Women

<http://www.prisonreformtrust.org.uk/ProjectsResearch/Women/SmartJusticeforWomen>

Prisonomics: Behind Bars in Britain's Failing Prisons, by Vicky Pryce