

**Submission
No 28**

**SUPPORT FOR CHILDREN OF IMPRISONED PARENTS IN NEW SOUTH
WALES**

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**Parliamentary Submission by Bo Robertson to the Children's Committee
(Inquiry into the) Support for Children of Imprisoned Parents in New South
Wales**

**PARLIAMENT OF NSW — LEGISLATIVE COUNCIL
COMMITTEE ON CHILDREN AND YOUNG PEOPLE— INQUIRY**

*This inquiry has been established to look into the possible **impact** on children of imprisoned parents and **the adequacy of policies and services to assist [in doing what?] the children of imprisoned parents in New South Wales. In particular, it will examine what services are available, how effective they are, and whether improvements could be made.***

Terms of Reference:

That the Committee inquire into and report on the possible impact on children of imprisoned parents and the adequacy of policies and services to assist the children of imprisoned parents in New South Wales, with particular reference to:

- (a) **What policies exist and what services are available;**
- (b) **How effective these services are and identifying areas for improvement; and**
- (c) **Any other related matters.**

Submission

What happens to the children when their parents are sent to prison?

Enquiry into the compliance with The Declaration of the Rights of the Child in relation to the children of prisoners.

I am a daughter of an ex-prisoner. My father was a political prisoner. When my father was arrested and yanked out of our family home, we were left without the only bread-winner, and my mother was pregnant with the fourth child. Our poor mother was unable to find a job for a long time, being a wife of an accursed “enemy of the state”, especially with an infant and having suffered Caesarian section birth, caused by fright from the arrest. We suffered hunger, homelessness, persecutions, all manner of horrific living conditions, and above all else, long-term traumatic separation from our beloved father. The emotional wounds and scars are left for a lifetime. Our heroic mother worked three jobs just to feed four children, and as for shoes and clothes, school books and necessities, we only had them as hand-downs. We were always alone and had to cook for ourselves from the earliest age, mother was never home. There was nobody to help with schoolwork, or look after us, when we were sick. We were bullied at school and beaten by neighbourhood children. There was no one to defend us.

In 1997 I took part in a parliamentary conference “CHILDREN OF PRISONERS”, which took place in the State Library of NSW. About 300 children of prisoners were present, and many told their tragic stories. All of them went through the the same horrors I did, even though I grew up and suffered my fate in a different country. Australian children suffered the same atrocities, except they also had a drug, violence and sexual exploitation problem, in addition.

A most extraordinary occurrence took place during this conference.

A distinguished, then retired High Court QC Judge revealed with perplexity after having heard several heart-wrenching stories of abandonment, dispossession, physical, mental, and social abuse, that he has been sentencing people to prison for over thirty years but “*it never occurred to him that they had children*”.

There were about three hundred of us in the NSW State Library conference hall that day, and each of us heard the message: **we did not count**. We were not important. We did not exist to the authorities, who never even gave a single thought to the fact that we too were people, that we too had feelings, that we too were being sentenced, and that we too might have some rights. We were children, but together with our fathers and mothers we were given concurrent sentences even though we had done nothing wrong. Even the judges whose job it was to assess the life and character of the people whose fate they were deciding, in assessing this character not once have they given a thought to the existence of the children and what their fate will be as a consequence of their “wise and just” decisions.

The astonished nice sincere QC judge looked bemused, apparently so shocked by his own sudden realisation, that he giggled at his lectern, and mumbled some stunned apologies, looking us in the eye as if each one of us had horns and five heads which he did not notice before. He was not a fringe renegade of his profession – he was one of the most intelligent, eminent, articulate, distinguished people with an air of nobility who bore himself with dignity and self-respect. He was without a doubt the cream top of his peers – and this fact only added an insult to the injury, since no excuse could be leaned on for such selective blindness to reality. The reality did not bite this proud and successful judge until, almost by accident, he found himself face to face with his victims while speaking at a conference he benevolently attended.

He listened to the story after story of pain, torment, sexual, mental and physical abuse each and all of us suffered when our parents were torn out of our homes and locked up in jails and we were left alone, abandoned to our own fate and forced to fend for ourselves at various stages of childhood. His eyes were widening in bewilderment, that although he was instrumental for the major part of his life in causing the grief, pain, abandonment and abuse on us the children, not once a thought entered his mind that we existed. During thirty years of his daily work as a judge his mind never once entertained the idea that his decisions affect the children and what would be their fate with one or both of the parents gone, not dead to be mourned, but physically separated, isolated, disgraced, financially incapacitated, economically ruined and emotionally unavailable to the growing soul of a child.

About 25 years passed since that conference, but nothing much has changed in the lives of the children of prisoners.

The children of prisoners are still not protected. Deprived of their provider and protector, the children of prisoners still suffer hunger, homelessness, abuse, deprivation of access to education, health care, social facilities, and practically all areas of life. But most of all, they suffer trauma and emotional separation from the parent, deprivation of family care and denial of home upbringing.

Do the judges of today ask themselves “**What fate do I sentence the children of this person, that I am sending to prison today?**”

In view of the Geneva Declaration of the Rights of the Child, 1924:

“By the present Declaration of the Rights of the Child, commonly known as ‘Declaration of Geneva,’ men and women of all nations, recognising that mankind owes to the Child the best that it has to give, declare and accept it as their duty that, beyond and above all considerations of race, nationality or creed:

Article 1 — The child must be given the means requisite for its normal development, both materially and spiritually.

Article 2 — The child that is hungry must be fed; the child that is sick must be nursed; the child that is backward must be helped; the delinquent child must be reclaimed; and the orphan and the waif must be sheltered and succoured.

Article 3 — The child must be the first to receive relief in times of distress.

Article 4 — The child must be put in a position to earn a livelihood, and must be protected against every form of exploitation.

Article 5 — The child must be brought up in the consciousness that its talents must be devoted to the service of fellow men.

Q: How are the rights of the children upheld, guaranteed, protected and applied, when their parents are sent to prison?

Dear Committee, please answer this question. Please answer this question.

Violations of the rights of a child and harms that befall on children that take place when a parent is locked up in a prison:

1. The shock of separation
2. Immediate loss of a provider
3. Loss of a family member, little different from experiencing death in the family. It is indeed much worse than death, because there are no comforting community rituals, condolences, compassion,
4. Hunger, homelessness
5. Grief, physical and mental anguish
6. Lack of support, protection from harm
7. Lack of advice on problems and live issues
8. Persecutions and cruel teasing, including beatings by school and neighbourhood bullies
9. Vulnerability to sexual predators
10. Vulnerability to drug traffickers
11. Vulnerability to physical and emotional abusers
12. Lack of moral, religious, guidance
13. De-facto loss of a mother, who has to become an income earner, instead of being a mother/father

CONCLUSIONS

I am now making this submission to start real changes in the way **Australian children of prisoners are being treated. Children are human beings, not animals, they ought not be set aside and disregarded as if they have no HUMAN rights, when life-changing decisions are made about them.**

I am advocating that the judicial systems are obliged to take into consideration violation of the rights of the child automatically perpetrated by the courts when sentencing a parent to a prison term.

I insist on demanding that the Australian governments, state and federal, start respecting **The Declaration of the Rights of the Child** and stop legal destruction of children's well being, physical and mental health, education, home-life, and future chances to prosper, to fulfil their potential and live as equal to others.

OTHER URGENT RECOMMENDATIONS:

- 1). WRITING LETTERS FOR HELP — who will answer them?

Children need a body, where they could **write** of their problems, and ask for help or complain about what they perceive as wrong or unjust. Each child should be coached and informed, given a leaflet with information, and small children need someone to regularly check what they need, and whether they have problems that are causing pain and a sense of unhappiness. Such address and guidelines should be provided to each child capable of writing, or communicating, and to be able to ask someone else to write on their behalf.

2). LIFELINE — SPECIALISED IN CHILDREN OF PRISONERS' PROBLEMS

Children should have a **telephone** service similar to **lifeline**, where a well trained person, for example a psychologist, would be able to deal with their stress and crisis.

3). LAW FOR THE CHILDREN

Children must have some understanding of the reasons for imprisonment of their parent. Some materials explaining legal procedures and the law must be written especially for children and in such a way, that they can come to terms with the calamity that destroyed their family.

For this purpose, necessary is

A). a picture book "LAW FOR THE CHILDREN"

B). A group session with other children where they can ask questions

C). A drawing session during which children would have the opportunity to draw or paint what they have experienced

D). Periodical refresher sessions

E). Lawyers with child-sensitivity or other persons competent in providing information and sharing knowledge about the law to the children

4). A CONFERENCE

We need a **conference** with children participants, so that they have the opportunity to express their feelings and express their needs.

5). During the conference the children should have the opportunity to ask questions of judges, advocates, prison staff, their teachers, etc., who therefore ought to be invited to participate.

TO INVITE

— judges, advocates, etc..

— Some children colleagues from schools should be invited, especially "bullies", so that they could better understand the nature of the children of prisoners, their stories and their feelings.

— scientists from universities that study children issues.

— psychologists, especially trauma specialists.

The commission must look for alternative to imprisonment court solutions — in order to protect the children.

CHANGING THE LAW

CHANGING THE ANACHRONISTIC OBSOLETE FAILED HARMFUL UNECONOMIC SYSTEM OF USING PRISONS AS PUNISHMENT

POSTULATE FOR LAW DEVELOPMENT

Judges before sentencing ought to establish if the person before the court has children, and take records of them. Enquires are to be made about their welfare in compliance with the The Declaration of the Rights of the Child. No one ought to be sent to prison if there are children.

CONCLUSIONS

While this inquiry is not exactly the body responsible for creating new laws, it may have the competence to submit suggestions to such bodies.

We need to look for other ways to deal with criminals then imprisonments. Prisons are enormously costly and constitute serious economic burden on the taxpayer.

At the same time this system of alleged “social justice” proved totally ineffective over hundreds of years and it is time to find modern and effective solutions to crime.

Who is responsible for compliance with the Declaration of the Rights of the Child in Australia? In NSW?

I am submitting a PROPOSAL FOR NOMINATING A COMPLIANCE OFFICER OF THE NSW PARLIAMENT IN REGARD TO The Declaration of the Rights of the Child

In addition:

Most significant advances have been made especially in Spain, where Clara Martínez, director of the Santander Chair of Children's Rights at the Pontifical University of Comillas since 2011, is running

I support my SUBMISSION with examples of advances made in respect of upholding the RIGHTS OF CHILDREN TO BE TREATED AS HUMAN BEINGS by other countries, such as in European Union, by attached links to relevant materials. Spain seems to be leading in the field of

ATTACHMENTS 1—5

ATTACHMENT 1: (Inquiry into the) Support for Children of Imprisoned Parents in New South Wales

<https://www.parliament.nsw.gov.au/committees/inquiries/Pages/inquiry-details.aspx?pk=2572#tab-hearingsandtranscripts>

ATTACHMENT 2: UNICEF 2021 — Law on the Legal Protection of Minors: children

<https://www.unicef.es/blog/ley-de-proteccion-juridica-del-menor-los-ninos-seran-mas-tenidos-en-cuenta-con-la-reforma>

ATTACHMENT 3: Council of Europe issues policy guidelines to protect children of imprisoned parents 2018

https://www.coe.int/en/web/human-rights-rule-of-law/events/-/asset_publisher/E5WWthsy4Jfg/content/council-of-europe-issues-policy-guidelines-to-protect-children-of-imprisoned-parents?inheritRedirect=false

ATTACHMENT 4: Clara Martinez Garcia — interview

<https://elpais.com/sociedad/2021-04-16/los-ninos-que-denuncian-violencia-no-mienten-hay-que-saber-leer-y-entender-lo-que-dicen.html>

ATTACHMENT 5: "Dictamen de la Comision 14 abril 2021.PDF" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:92d250ad-fa51-445c-a6b1-c5f8d3479376>

I wish to attend the hearings of this Commission.

Bo Robertson 

