

**INQUIRY INTO SECURITY CLASSIFICATION AND
MANAGEMENT OF INMATES SENTENCED TO LIFE
IMPRISONMENT**

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Submission of Dr. Martin Bibby, philosopher, to the Legislative Council's Standing Committee on Law and Justice, (the Committee) inquiry into security classification and management of inmates sentenced to life imprisonment.

The author is a retired senior lecturer, formerly employed at the University of New South Wales, and Monash and Otago Universities. I discovered this inquiry only this weekend, and so this submission is necessarily brief. I should be glad to elaborate the arguments below, in writing or in response to questions from the Committee.

I support the submission (with minor reservations) that has been made by Justice Action. I am writing to add the following argument.

There has been an unfortunate tendency recently for the victims of crimes, especially serious crimes, to be encouraged to think that they are entitled to ongoing revenge. They are also encouraged to believe that the proper punishment for a crime is to be given a payment that is equal to their loss and suffering. Hence we get statements such as 'My daughter's life was taken away, and all the killer got was 15 years. Is that all her life was worth?'. Victims are encouraged to such attitudes by certain talkback hosts, but also by questions from representatives of the respectable media when the latter ask victims if they are satisfied with sentences.

I urge the Committee to explicitly reject this approach.

First, the indulged desire for revenge is can be boundless, both in severity and in time. Like the loss and suffering which gives rise to it, it is never satisfied. It is not a proper basis for determining a punishment, nor yet the treatment of prisoners. It also harms the one who has that desire.

Second, there is a right to justice. But there is no right to revenge. Revenge is not a natural right, nor a human right, nor a legal right, nor an institutional right. On no account of rights that I am aware of is there a right of a victim to determine a punishment, nor the treatment of prisoners.

Third, a purely retributive account of punishment leaves no room for mercy. That is a standard objection to it.

Fourth, the matters which properly influence a judgement as to punishment is properly influenced by a number of matters, including the repentance of perpetrators, influences upon them, the circumstances in which the punishment must be served, the effect upon society, as well as the severity of the individual crime. Such matters are not readily balanced by victims, nor by shock jocks. Nor are they readily considered by governments or parliament, years after the offences occurred. Interference in the treatment of prisoners should not be motivated by a desire to affect or change their punishment.

Fifth, the impact upon other prisoners and on society, of arbitrary, emotion generated, changes to a prisoner's penalty or treatment, is to foster the belief that all punishment is arbitrary. That will make rehabilitation less likely, and foster lawlessness in society.

Finally, saving money by treating prisoners serving life sentences as dross exemplifies and fosters the idea that people can be subhuman, with no rights whatever. We must fight with all our might against such views, not only in view of the Nazi past, but especially in the present circumstances in the ideological struggle against terrorism.

Thus I am not arguing that the decision of the Minister in the case of Andrew Garfirth is wrong because it is subjective. Rather it is objectively wrong--the values involved are objectively wrong.

Richard Martin Bibby