



**Community Justice Coalition**



**International Commission of Jurists**

# **Report Pre-Election Justice Forum 2019**

**Mitchell Theatre, Sydney Mechanics' School of Arts  
Monday 25<sup>th</sup> of February 2019**

The Community Justice Coalition and the International Commission of Jurists ran the 2019 Pre-election Justice Forum just as they had done previously in 2011 and 2015 NSW state elections.

There was a presentation of all parties' positions on justice issues, responding to a Questionnaire prepared by experts in the fields of interest. The Forum enabled the presentation of party positions, as well as the examination of responses to issues and policies that followed. An Analysis Paper of party positions and a Background Paper were distributed.

The following politicians presented: The Liberal & National Party Mr. Alister Henskens SC MP; The Greens Party represented by Mr. David Shoebridge MLC; and Legislative Council Candidate for The Social Alliance Party was represented by Ms. Rachael Evans. The ALP presented their apology. A spokesperson was invited but did not attend due to "unforeseen circumstances".

The issues discussed by the audience focused on: the effectiveness of imprisonment, the bail act & remand, indigenous inmates, women and juveniles in custody, education and training in custody, and the governance & transparency within prison privatisation.

Nearly all speakers and submissions supported the:

- Need to reform bail laws due to the increasing numbers on remand and serious encroachment on presumption of innocence.
- Problems of privatization, including privatisation of education.
- Concerns regarding increased numbers of women, especially indigenous women incarcerations.
- Need for more diverse programs especially for women, indigenous detainees and young people.
- The need to reduce or abolish strip searches

## Highlights from each of the Speakers:

**Mr. Henskens SC** said:

Attending as the Parliamentary Secretary for Finance and at the request of the NSW Premier, Mr Henskens highlighted the government's priority of "community safety" and reducing recidivism, which is to be achieved through 'evidence based programs that help break the cycle of crime'. To maximise the value of taxpayers' money, the evaluation and refinement of programs that deal with complex problems will be made through the investment of diversionary programs such as Justice Reinvestment.

He stated that the government is currently trialling the use of computers in two NSW prisons in the South Coast and Mid North Coast Correctional Centers.

The government's priorities of putting "community safety" first are also aligned with the Bail and Remand reformations. This has led to the appointment of additional district court judges and the instigation of an Early Pleas process to help reduce the court's backlog.

Henskens recognized that the under-representation of Indigenous issues is a 'national tragedy', and has taken the whole government approach across public service portfolios.

He also talked about the concerning increase in the number of NSW women inmates in recent years and indicated however that the government has introduced three high intensity units and the engagement of community programs.

Although he stated that the government does not currently wed to the privatisation of prisons and prisoner services, Mr Alister stated that the Koori Court help juveniles that are being entrenched in the system.

Corrective Services NSW have also responded to the education of prisoners by considering the expansion of the use of computers beyond the current two NSW prison upon the completion of the trial as security issues have to be considered in relation to the use of computers.<sup>1</sup>

'One aspect to look at when considering education is to prioritise quality over quantity'. 'What has been left out of the debate is.... one significant fact is that 40% of people studying numeracy and literacy complete their courses before government came into parliament in 2011. 'We also have a suite of work and vocationally related programs, and for some prisoners there is distance learning...we do need to provide educational opportunities and that is what the government is doing.'

**Mr. Shoebridge MLC** said:

At the forum, Mr Shoebridge acknowledged the 230 years of Australian Criminal Justice system's brutal enforcement towards the Aboriginal people and their lands. At the end of the day, polices are choices -what does the government want to fund, buildings or people?

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<sup>1</sup> Video Starts 22.40 sec Ends 23.47

Erring on the side of communities instead of prisons, he stated that the government should invest in people and giving them a second chance instead of imprisonment. In reality, both Labor and Liberals have been making more decisions about police, prisons beds etc. despite the fact that NSW prison population is at its highest while crime rates are at its lowest. Never have the NSW been physically safer while having so many people in jail.

He also referred to studies that have shown an increased length of prison time has been proven ineffective as a future deterrent unlike the success rate of having a supportive and positive community for offenders.

If government is about 'choices', stated government should be using evidence-based decisions in the long term, and we need the Greens reforms including bail laws. Fundamental to Greens Policy is the crisis in NSW Bail & Remand laws. 35% of all NSW prisoners by end of 2018 had been held on remand for between 18 months to two years, without being convicted of any offence. Hopelessly clogged system, because of the current, broken bail laws – a 'denial of bail because of broken bail laws'. A centerpiece is the Bail Laws, for the Greens is the need to reduce those in remand by 50% to get in line with many countries including the USA. Only 13.4% of people in Spain are in remand. We still need to respect the presumption of innocence. These Greens' choices can bring major economic savings and be good for society.

'Radical steps needed to stop Australian aboriginal people being the most imprisoned people on this planet.' 'The number of aboriginal people in NSW jails doubled in 2001 and 2015... doubled'. He stated that indigenous male prisoners made up 25% of the NSW male prison population, and indigenous women make up one third of all women in jail tonight. Sixty percent of all women prisoners have at least one dependent child, and the majority of women are in jail for non-violent offences. Intergenerational trauma of women in jail will also increase children forced into out of home care. Women are often victims and we are criminalising disadvantage even further, victims of disadvantage themselves. He announced that the Greens would introduce a bold package of wide-reaching reforms to address these issues after the election. 'We need to free people from jail, not just pass more laws to put more aboriginal people in jail.'

Greens commit to Justice Reinvestment, and to stopping the privatisation SERCO and private corporations that profit from our citizens. We want to stop privatization of our prisons. This government has signed a \$2.6 Billion contract to SERCO to profit from jailing our citizens- 'We are the biggest private jail junkies in the world.' 18 % of prisoners are in private jails – more than double the rate in the United States. Justice reinvestment projects are the first priority. We have seen that Justice Reinvestment works, but why is it an isolated project and not the basis for funding and service delivery now? The Greens Party want guaranteed state funding and community to control funding. Maranuka worked because the community went to the government and was able to control the funding.

'We need trauma-informed counseling for women in jail' to deal with major trauma. We need to change sentencing principles so that 'judges consider if parents have kids' – dependent kids - before they make a determination, and to support kids with mothers in jail. These changes do not involve more money but focusing on agencies working together and justice reinvestment. Making government deliver on the priorities of the community.'

We commit to continue to return public educators to NSW prisons, 100% commitment: 'we don't accept the government's statements that this sort of lowbrow basic literacy and numeracy education is anything needed by prisoners. We need fully-fledged, fully qualified and fully funded public teachers in our jails, and wide-ranging programs... and...we need to open the doors to education...Year round education in Juvenile education system'.

**Ms. Rachael Evans** said:

The Socialist Alliance Party is concerned that the government is on a conscious drive to try to intimidate marginalized communities further, waged both at state and federal levels. This party opposes the criminalization of poverty, the moves by major parties of the privatisation of prisons, and of its education services, and the current government's focus on deterrence rather than rehabilitation. All the evidence shows that diversionary programs that assist families with services and funding reduce imprisonment rates. Instead, we see the Neoliberal agenda in both the Liberal and Labor parties - engaging in the punitive practices, and imprisoning people at higher rates, especially aboriginal people.

From her own experience and reports occurring in Sydney, Ms. Evans referred to the unacceptable 47% increase in the last 4 years – mainly of young people – being strip searched, and its intended demeaning experience. She highlighted The Socialist Alliance Party's history and continuing activism about First Nations people's Deaths in Custody issues.

## **Question & Answer Session:**

Several concerns gained traction with the audience.

### **Computers in Cells**

Mr. Henskens stated that computers are now being trialed in two NSW prisons - in the south coast (Nowra Prison) and the mid north coast (Mid North Coast Correctional Centre). While this is good news, Mr. Henskens was informed that the ACT has had computers operating for over 10 years.

### **Education**

Questioner:

Why are both parties in NSW dependent on privatisation for profit? Completion is defined as turning up in class and quality is now defined as turning up for Certificate 1 in hygiene. Devastatingly good statistics about completions is not true.

Mr. Henskens: Statistics were on completion of literacy and numeracy. Position of government is 'neither philosophically opposed or with privatisation'

Mr. Shoebridge: 'It is a difficult education environment in prisons – but what does it take to get a tick – low level, what is asked is so little'. That is what we are saying. Also need independent peer review not current lack of scrutiny'. I was on the panel for Parklea Prison, and 'Parklea Prison has been a disaster for prisoners and officers - breaches plus violence were off the scale'. This government that says it wants to test this on the market got afraid of competition and refused to allow the public sector to compete against the

private sector. That was a fraud from day one, designed to provide another private prison, where profits [were] for large multinationals.

### **Fair dealings, Transparency and Good Governance**

Mr. Henskens stated that the current government did not hold to privatisation as its political position. However, this was questioned by Shoebridge, who described how the current government had not allowed the public sector to bid for the contract and therefore unfairly disallowing a potential role for government.

Questioner:

In the reforms listed there was a \$20 million funding for those imprisoned for less than 6 months. Was there a consideration given to providing diversionary programs and community support instead of imprisoning those who are sentenced to serve less than 12 months, as less than 12 months does not have mandatory custodial sentencing?

Mr. Henskens: The idea of the program is to get people out of incarceration and back into the community quicker.

### **NSW Bail & Remand Act**

Questioner: Is there consideration in providing effective and successful programs for those in remand?

Mr. Shoebridge: says 'should reduce people in remand – halving them, shortening period of time when delays longer and longer. Difficulty of being in remand is the unknown time length and court delays. Introducing educational programs is difficult in these cases but the best solution we should be targeting is reducing the number of people on remand.

Geoff Turnbull Official Visitor – Applaud The Greens, the Coalition and Socialist Alliance for sending representatives. It's disgraceful that Labor is not attending the forum.

I am philosophically opposed to privatisation. There is no place in our society to make a profit from incarcerated inmates.

It is now harder to get bail. Also former inmates on parole and on bail are being breached for seemingly the most insignificant reasons.

Around 60% of inmates have mental health issues. More resources should be allocated to mental health services.

In the current NSW Bail & Remand provisions were detailed, and the overall perception was that these provisions are gratuitously punitive and retrogressive, and with the effect of pitching people into a brutal/damaging system.

MT: Unacceptable risk and show cause clauses that contribute to increase imprisonment. 'There is a failure of a separation of powers - Statue of Blind Justice is based on the tests [bail system] that are the basis of democracy'

DS: We have a dysfunctional system. Acknowledged that Mark Speakman has been trying to make some modest changes of sentencing, showing a plateauing of our sentencing.

RE: Remand and bail should be easier to get, and should keep people out of prisons, especially reduce Aboriginal imprisonment rates and deaths in custody. Young now look at activism to deal with injustices

AH: Current Bail Act determined by judge of degree is of unacceptable risk. Holistic review of bail act.

DS: Half stating the bail act steps around section 7A radically amended about the presumption of innocence for bail

AH: These are at serious end of the scale of crime (no there is small subsection – DS)

### **Quality education & training in Custody**

There were a variety and repeated concerns about the urgent need for transparency and provision of fully qualified teachers, as the new system of privatized education compromises quality and is replaced with significantly less qualified teachers as ‘trainers’. The providers of this privatized training are given free reign to impose a curriculum without having to give the necessary information regarding to the specific educational and training needs of prisoners.

### **Juvenile Justice Solitary Confinement**

Questioner: Sydney Morning Herald article said that Juvenile Justice detainees being held in mainstream prison are a risk to guards and should be held in therapeutic communities – that means solitary confinement. If computers will go into adult prisons they should also be given to children for secure and trusted cultural report and links back to the community and families rather than locked in cells.

Mr. Shoebridge: Problems of chronic florid MH in prison crisis – defunding MH services, and single cells ARE isolated. Majority will have 3 or more MH conditions – that’s kinda criminal! Don’t accept Chisholm Behavioral Management Experiment for transition in 2015-6 kept in manacles for many weeks in solitary detention with brief caged cells and nothing else causing self-harm and the institutionalised torture with no elements in BSA/PSA who still want to return to this program. ‘We should never ever go back to.’

Mr. Henskens: Two outstanding questions includes juveniles given computers and laptops – short is I don’t know... great concern with security, trial is working through these issues... after the review the benefit should go to juveniles but ‘we have to be careful’

### **Women**

Mr. Shoebridge: The unnecessary cruelty of incarcerating women with children as a first response (that does not need to consider family ramifications) rather than as a last resort. Such a practice often results in the children in question being abandoned to the risks of Family and Community Services. The effect of incarcerating women who have been accused of noncriminal activity is of substantial societal concern, especially when women are young offenders and/or are mothers to dependent children.

## WRAP UP

The Hon John Dowd: The International Commission of Jurists is currently doing an examination on mandatory sentencing: probably the most devastating for Aboriginal communities... ‘Looks like it will only have one benefit – the benefit is to the politician who introduce it into the parliament and they only because it’s popular, and got bugger all to do with improving the community ... [relates to those who] would otherwise not be in jail and should not be in jail ‘

The Hon Elizabeth Evatt: Many issues, including ‘the failure of one of our major parties to turn up.’ Significant is the ‘failure of the presumption of innocence especially concerns for Aboriginal people.’ Privatisation in prisons and Megan Etheridge’s question about why are so many women in prison on short sentences who do not need to be there.

## Liberal National Party Coalition: Questions on Notice

### **The NSW Government has recently announced investment in mental health services. Does that include mental health services in correctional centers?**

The NSW Government is continually enhancing the State’s mental health services, including those in custodial and forensic mental health settings. Access to specialist mental health services is provided to all people in correctional centers and juvenile justice centers.

The \$700 million Statewide Mental Health Infrastructure Program, announced by the Minister for Mental Health last year, includes additional forensic mental health beds. In addition to existing specialist mental health services in custody, the Justice Health and Forensic Mental Health Network (the Network) has increased its use of on-site visits and telehealth services, allowing more patients to be seen by mental health clinicians regardless of their location. The Network also has a 24/7 on-call psychiatry service accessible by any site across the state, as well as a 24/7 mental health hotline number that staff, custodial patients or family and friends can call to seek advice from a specialist mental health clinician.

### **Are laptops available in Juvenile Justice facilities?**

Juvenile Justice NSW has an agreement with the NSW Department of Education regarding detainee access to the Internet for educational purposes. Students access the Internet for educational purposes using a dedicated computer while subject to one-on-one supervision.

Students may access other standalone computers or iPads to undertake work without access to the Internet.

Juvenile Justice is currently working with the Department of Education to review educational services provided within Juvenile Justice centers, including the secure use of technology.