



Uniting Church in Australia

Western Australia

Submission to the Senate Legal and Constitutional Affairs Committee

Value of a justice reinvestment approach to criminal justice in Australia

March 2013

Contact:

Rosemary Hudson Miller

Associate General Secretary (Justice & Mission)

Uniting Church in Australia, Synod of Western Australia

Address: GPO Box M952, PERTH WA 6843

Introduction

The Uniting Church in Australia, Synod of Western Australia welcomes the opportunity to make a submission to the inquiry into the “Value of a justice reinvestment approach to criminal justice in Australia”.

The Uniting Church, both through the actions and resolutions of the Western Australian Synod and through the research, actions and resolutions of its Social Justice Board, have been engaged in matters relating to the criminal justice system for many years.

According to its Basis of Union the Uniting Church in Australia is, “called to bear witness to a unity of faith ...which transcends cultural economic, national and racial boundaries” (*Paragraph 2*) and “declares its desire to enter more deeply into the faith and mission of the church in Australia”. It goes on to say that the church sees itself as, “an instrument through which Christ may work and bear witness to himself” (*Paragraph 3*).

In 1977 at the inauguration of the Uniting Church in Australia, in its *Statement to the Nation*, the Church identified as principles: integrity in public life, proclamation of truth and justice, right for each citizen to participate in decision making, religious liberty, and personal dignity. The Uniting Church pledged itself to seek correction of injustices, to work for the eradication of poverty and racism, and opposed all forms of discrimination which infringe on basic human rights.

In 1997 the Uniting Church reaffirmed this commitment in another *Statement to the Nation* - “to participate in the building of our nation” expressed in many attributes including truth, fair play, diversity and standing firm to our commitment to “human rights, even at cost to itself, as a responsible member of the international community.”

The preceding forms part of the basis on which the Uniting Church has consistently advocated for human rights in Australia and overseas. In this submission we seek to again raise issues of great concern to the Church.

The Uniting Church is concerned with the way in which individuals relate together in community. We are committed to ensuring the dignity, value and human rights of all are upheld in a compassionate way. This has implications for how both individuals and the community are protected. The Uniting Church takes seriously the need to provide services to the most vulnerable in our society and maintains a commitment to social justice by continuing its work as a justice advocate and community service provider. Within the prison justice system, the Uniting Church, through its prison chaplains and agencies, provides chaplaincy services, post-release support and has undertaken research projects. These have informed our work and advocacy in this area.

The Uniting Church has brought considerable resources and developed a depth of expertise in this area over the last decade. In 2000 the Western Australian Association of Heads of Churches held a

conference titled *Prison – the last Option: New Directions for the Millennium*. The Uniting Church was a key member of this conference. It is tragic to note that the one resolution and recommendation from this conference over 10 years ago — which is at the heart of the matters relating to the death in custody of Mr Ward¹ — recommends “that the WA Sentencing Act be modified so that prison is always a last resort”.

The Uniting Church is also an active member of the Community Justice Coalition, a coalition of community organisations ‘all of whom hold concerns about the way prisons and justice are being managed in the state of Western Australia’. The Community Justice Coalition ‘are collectively concerned about the ongoing focus of politicians on the punitive side of the ‘law and order agenda’, and while we understand that prisons have a role to play in contributing to a safe WA community, we believe that prisons need to be used as just one part of a broader range of methods to address criminal behaviour’.²

Regarding the Term of Reference of this inquiry, the Uniting Church in Australia, Synod of Western Australia submits the following. We have responded only to the areas of the terms of reference where we have had the most involvement and research:

(a) the drivers behind the past 30 years of growth in the Australian imprisonment rate;

Between June 30, 2001 and November 5, 2009, the adult prison population in Western Australia increased by 49%. This large increase of people in prison lead to large scale overcrowding, the need to increase the number of people per cell and the opening of five new units to house prisoners. Overcrowding such as this leads to a reduction in access to rehabilitation and education programs.

As far as the current situation in Western Australia we note:

- It costs \$100,000 to keep one adult in prison in WA for one year.
- In WA’s currently overcrowded prison system, prisoners have only limited access to rehabilitative programs — drug and alcohol rehabilitation, education and training, anger and domestic violence programs.
- In WA, 37.9% of adults in prison are Aboriginal. 65.2% of juveniles in custody are Aboriginal. Aboriginal and Torres Strait Islanders comprise approx. 6% of the Australian population.
- It is estimated that between 37% and 62% of prisoners in WA suffer from a mental illness.
- Between 37% and 52% of offenders in Australia report that their offending is attributable to their drug problem.
- Children of prisoners are five times more likely than other kids to end up in prison themselves.

¹ Uniting Church in Australia, Western Australia (2010) *Moderator Calls for Justice for Mr Ward*. Retrieved from: <http://www.wa.uca.org.au/blog/moderator-calls-for-justice-for-mr-ward/>

² Community Justice Coalition Paper (2012), Produced by CPSU/CSA, Perth. Retrieved from: http://buildcommunitiesnotprisons.org.au/?attachment_id=313

Australian statistics indicate that approximately 62% of prisoners have deficits in their literacy levels to the point of being classified as less than functional.

A 2007 study found that 80% of prisoners had had periods of unemployment immediately before their incarceration.

Prisons are full of people whose circumstances have led them to make bad decisions and bad choices. Many of the people who end up in prison will have a background of mental illness, drug and alcohol addiction, low levels of education and unsettled childhoods. It is also common to find people who, before becoming offenders, were victims of crime themselves.

We know that by far the majority of people who end up in prison come from disadvantaged backgrounds. We know that by far the majority of people who commit crimes have themselves been victims of crime.

(c) the over-representation of disadvantaged groups within Australian prisons, including Aboriginal and Torres Strait Islander peoples and people experiencing mental ill-health, cognitive disability and hearing loss;

The Uniting Church has, for many years, been energetically engaged in advocating that the incarceration of Aboriginal people should be only as a last resort. Program after program has come — and gone — in attempts to address this matter but no consistent, strategically funded, approach to reducing the rate of incarceration has been in place. The Uniting Church advocates an integrated approach by government in consultation with Aboriginal elders and communities to improve health, housing and community life for Aboriginal people in the metropolitan, rural and remote areas of Western Australia.

The institution of work camps in rural areas and increase in funding of outplacement programs delivered by the non-government and church sectors are welcome. Research has demonstrated a decrease in recidivism where a case management model is used.

The Current Situation:

- ABS 2012 estimates there are approximately 79,000 Aboriginal people (or 3.4% of the State population) living in Western Australia
- It is estimated that 43% of Aboriginal West Australians live in remote or very remote areas, 23% in regional centres and 34% in the metropolitan area
- One-third of the Aboriginal community in WA are under the age of 15
- There is a very serious over-representation of Aboriginal people in the justice system and prisons
- Only 62% of Aboriginal children in Year 10 attend school, compared to 88% of non-Aboriginal students.

A study by Dr Dorothy Goulding, co-sponsored by the Uniting Church, entitled *Severed Connections: An exploration of the impact of imprisonment on women's familial and social connectedness*³, was the result of a project to 'explore the experiences of women in prison and their broader connections with society and family'. The study looked at women in Western Australia from metropolitan and regional prisons, their families and recently released women. Of the women who were Aboriginal, from regional and remote communities Dr Goulding observed:

'...particular consideration ought to be given to the huge part that absolute poverty and destitution play in the lives of most of the Aboriginal people who live in these remote communities, and how these in turn contribute to high rates of Aboriginal imprisonment. It seems almost pointless to address criminal justice based rehabilitation programmes for the women when their communities lack even the most basic of services and third world conditions prevail. Rehabilitation cannot be effective unless these conditions are addressed as a priority.'

Dr Goulding goes on to acknowledge the difficulties for service and programme delivery, including a general lack of awareness of cultural protocols that can exist when working in these areas. She writes 'because of these factors, service provision needs to be based on full collaboration between government departments, non-government agencies and the communities themselves, with adequate ongoing funding and realistic supports in place.' The Uniting Church is consistent in emphasizing the need to work with Aboriginal people in culturally appropriate ways to address needs in the community.

In Western Australia, the nature of the recent prison intake seems to mirror the experience in the US and UK. The Chief Justice has confirmed that if there are any general characteristics of prisoners who constitute recent growth in the Western Australian prison system, they are "psychiatric disability, economic disadvantage (evidenced through an inability to pay fines), Aboriginality and offending at the lower end of the spectrum"⁴.

(d) the cost, availability and effectiveness of alternatives to imprisonment, including prevention, early intervention, diversionary and rehabilitation measures;

In order to begin creating safer communities, it's imperative that we start to focus on identifying and addressing the reasons why people commit crimes.

In September 2011 the Uniting Church in Western Australia noted:

³ Goulding, Dr Dorothy (2004), *Severed Connections: An exploration of the impact of imprisonment on women's familial and social connectedness*. Murdoch University.

⁴ Martin W., Chief Justice, *Popular Punitivism – The Role of the Courts in the Development of Criminal Justice Policies* speech to The Australian and New Zealand Society of Criminology Conference, 23 November 2009,

“Building communities — by addressing the underlying problems which often lead people to commit crimes — should be at the core of State Government policy. The State Government should encourage and support grass roots programs which seek to address those factors which lead to criminal behaviour.

The Uniting Church is seeking approaches which are effective, lead to real change, invest in the future and create safer communities. We want to see the current, and future, State Governments make a change: to work with us to build our communities, so we don’t need to build more prisons.”

We would be pleased to see national efforts to achieve these changes.

Justice Reinvestment – an option for Western Australia? by Paul Papalia CSC, MLA (p.6-8) points out the following successful initiatives at reducing recidivism in WA as follows⁵:

Current recidivism focus in Western Australia

Despite the pervasive “tough on crime” rhetoric employed by politicians in the public debate on “law and order” issues, Western Australia has many examples of successful or promising initiatives aimed at reducing recidivism. It is valuable to review a small sample of these initiatives to confirm the potential offered by a focus on reducing re-offending.

Boronia

Boronia pre-release Centre for Women is undoubtedly a world class, innovative response to preparing women prisoners for transition from prison to the community. The latest report on Boronia by the Inspector of Custodial Services confirmed recidivism rates had dropped by almost 4 percent (from 20 percent to 16.16 percent) since his previous inspection. Boronia also received a national award in recognition of its recidivism rate being one third of the national average.

Drug court

The Chief Justice confirmed in a recent speech that the WA Drug Court could achieve dramatic outcomes at substantial cost savings by comparison to imprisonment. Offenders who successfully completed Drug Court had recidivism rates about one-third lower than those who served terms in prison. The annual cost of an individual to complete Drug Court at \$16,000 stood in stark contrast to the annual cost of \$100,000 per prisoner.

Regional Youth Justice Centres

⁵ Papalia, P (2010) *Justice Reinvestment – an option for Western Australia?* Retrieved from: <http://www.rethinking.org.nz/assets/Justice%20Reinvestment/WA%20Discussion%20Justice%20Reinvestment%20June%202010.pdf>

Youth Justice Centres have been created in regional youth crime trouble-spots of Geraldton and Eastern Goldfields. These centres brought together a range of government departments with responsibility for dealing with at-risk and offending youth and housed these agencies together in a purpose-designed building. The concept relies on information sharing across departmental boundaries and links to the local community. It is supported by access to safe accommodation thereby avoiding juveniles being unnecessarily sent to Perth on remand. Anecdotal reports suggest the initiative is a success and has led the Department of Corrective Services to attempt to replicate the model elsewhere.

Prisoner employment program

Since 2008, prisoner employment officers have been appointed in prisons to prepare offenders nearing the end of their sentence for exit to employment. Eligible prisoners are awarded day release for work experience and even full-time paid employment prior to their release. Pay is retained by the Department and costs and board are extracted. Despite the early stage of the program and consequently only very low numbers of prisoners being enrolled, it offers hope for success. Evidence given to a recent parliamentary inquiry confirmed offenders participating in the prisoner employment program had a 13 percent recidivism rate (compared to around 40 percent for other prisoners).

Sycamore Tree Project

The Sycamore Tree Project operates under the auspices of Prison Fellowship Australia. It is a not-for-profit, volunteer operated program that was established in Western Australian prisons in late 2005. Many New Zealand, UK and US prisons employ the program. It takes victims of crime into the prison system where they participate in programs with select prisoners under direction of qualified volunteer facilitators. Proper analysis has not been funded in our State but a similar program in Texas, the Bridges to Life program, has resulted in recidivism rates of only 17 percent (the norm had been around 50 percent). Anecdotal reports suggest the Western Australian program is highly valued by victims, prison management and prisoners.

Justice Reinvestment for Western Australia

Although they accord with Justice Reinvestment principles, the positive initiatives discussed above do not individually or collectively represent Justice Reinvestment. Justice Reinvestment is a comprehensive government (at every level), non-government, business and community co-ordinated response that is funded through offsets from savings achieved by arresting and reversing prison population growth. Employing Justice Reinvestment in Western Australia would require the discipline to follow the process proven to work in the US.

All of the alternatives described above would contribute far more effectively to the long term well-being and safety of our community, unlike prisons which tend to impact community safety only in the short term.

It is important to be looking at ways that will strengthen communities – as a way of limiting the factors which lead people to commit crimes, which will in turn reduce the need for prisons.

(e) the methodology and objectives of justice reinvestment;

Mick Gooda, Aboriginal and Torres Strait Islander Social Justice Commissioner, in a speech during an ANTaR seminar in New South Wales, said in this context: “I believe that Justice Reinvestment also provides opportunities for communities to take back some control. If it is to work properly it means looking at options for diversion from prison but more importantly, it means looking at the measures and strategies that will prevent offending behaviour in the first place. The community has to be involved and committed to not only taking some ownership of the problem but also some ownership of the solutions... I think we need to change the narrative from one of punishment to one of community safety. Funding people to go to prison might make people feel safer, but a far better way would be to stop the offending in the first place, and Justice Reinvestment provides that opportunity.”⁶

(f) the benefits of, and challenges to, implementing a justice reinvestment approach in Australia;

Christians believe that the world is God's gracious gift to humankind and that God's offer of life is abundance for all. As recipients of this gift we have a responsibility to care for the planet and ensure that all can share in what it provides, but human society has failed to provide equitably for all people.

The ancient Hebrew prophets understood this failure as an offence to God and called on the people of God to end the exploitation of the poor and vulnerable. In Jesus, God's bias for the poor found its fullest expression. Jesus came to bring good news to the poor and freedom for the oppressed (Luke 4:16-19) and he spoke of God's kingdom to come in which the human order of life would be reversed: the poor will be rich, the hungry fed, the sorrowful will be filled with joy and the powerful will be the least. Christians are called to reflect this coming reign of God, to work for justice and serve those most in need.

The Uniting Church believes that people are entitled to a decent life, secure from poverty. This includes access to appropriate food, clothing, housing, health care, meaningful work in a safe environment and with decent wages, quality education and the opportunity to participate in society

⁶Gooda, M (2010) *Justice Reinvestment: a new solution to the problem of Indigenous over-representation in the criminal justice system*. Retrieved from:

http://humanrights.gov.au/about/media/speeches/social_justice/2010/20100320_justice_reinvestment.html

as members of harmonious communities. It also includes opportunities for rest and recreation. When all these basic needs are fulfilled, people flourish. The Uniting Church advocates for just economic, social and employment policies which fulfil Australia's international human rights obligations and serve, first and foremost the needs of those most vulnerable⁷.

We therefore applaud the potential results of the idea of Justice Reinvestment if it can bring vulnerable and disadvantaged people more resources to enable them to live well and with maximum opportunities to participate in our society. We want to point out however that people in Australia who live in disadvantaged communities have a right to fair treatment and services. It should not be necessary for communities to rely on the diversion of funds from criminal justice agencies in order to get those services. We do not resort to an argument about 'it is cheaper to reinvest in these communities rather than lock people up in jail' but assert that the aim should be to provide communities with resources because of their manifest need.

We recognised that there are many factors which relate to the high incidence of incarceration of Australia's first peoples, and that the Justice Reinvestment methodology will address some of these.

It will not, however, tackle the instances in which First Peoples are incarcerated as a result of over-policing, prejudice in the legal system, disadvantage as a result of culturally inappropriate practices, and other systemic issues not directly related to living in areas of economic disadvantage. These will also need to be addressed if we are to reduce the rate of indigenous incarceration.

Conclusion

The Uniting Church is committed to work with community and government to address the underlying problems which often lead people to commit crimes. The Church is seeking approaches which are effective, lead to real change, invest in the future and create safer communities.

The Uniting Church thanks the committee for its consideration of the matters raised above and would be glad, through its officers, to clarify or answer any further questions the committee may have.

⁷ Uniting Church in Australia, National Assembly (2009), *An Economy of Life – Re-imagining human progress for a flourishing world*. Retrieved from: <http://www.unitingjustice.org.au/just-and-sustainable-economy/about>