

Hi. I know you may be surprised to get an email opposing the measures in the *Crimes Legislation Amendment (Sexual Crimes Against Children and Community Protection Measures) Act 2017*, but here you are.

The WORST measure of this bill, in my opinion, is removing the critical distinction between "child pornography" and "child abuse material"

There is a very good reason for the distinction:

As currently defined, "child pornography" is where the crime is merely the use of the camera. There is obviously nothing criminal about a child taking a bath, showering, urinating, or changing clothes. There may be reasons for criminalizing recording of such activities, but the harm done to the child is distinctly low, by comparison.

Again, as per the current definition, "child abuse material" is a *totally different beast*. It involves material depicting children being raped, tortured, or otherwise subjected to abuse. The stuff where a serious crime is being committed against the child, camera or no camera.

Scrapping this distinction involves perversely treating the two the same! And under the current proposed act, whereby the judge *must* sentence the offender to a minimum of 5 years jail, can you imagine the headline? "Judge forced to jail man for 5 years for possessing images of children showering"!

The removal of the distinction should be scrapped. Treating the two the same will inevitably lead to perverse and unjust outcomes. Whilst there may be reasons for a presumption that "child abuse material" deserves a stiff sentence, judges need the leeway to treat "mere" "child pornography" differently. The difference in the harm caused in the creation of the two types of material is drastic, and the law needs to reflect that. To give an analogy, rapists (of adult women) are generally treated far more seriously than "gropers", even though both are rightly criminal.

The second part of the bill which I find troubling is minimum mandatory sentences. This sounds like "populist policy" rather than "good policy". I don't want to see us go down the American road, where possessing child porn gets a harsher sentence than actually molesting a child! Five years minimum for such offences is plain drastic, and, once again, severely undermines judicial discretion. Many such offences are routinely dealt with in the lower courts, which suggests a two year baseline is adequate. And, as above, it should be limited to "child abuse material" (not merely child pornography) and contact sex offences. The Government needs to respect the judiciary. Has the Government done any modelling on the increase to the prison population that this bill will cause??

I know Senator Hinch is very invested in this proposed law. But I urge the Government to think sensibly, and re-write this law. I'll probably get a spray from him, but I must express my thoughts.

Sincerely (but not very optimistically)

Elly Bromberg