

SECOND READING SPEECH

Cassy O'Connor MP

Police Offences Amendment (Begging) Bill 2018

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I move - That the bill be read a second time.

It is hard to believe that in 2018 begging remains an offence in five jurisdictions in Australia, including Tasmania. This is an antiquated offence that has no place in a contemporary, informed and just society.

The introduction of begging crimes has traditionally been justified as a mechanism to prevent more serious crime. Historically, begging has been suggested to be associated with laziness and moral shortcomings, which would inevitably lead to criminal behaviour or so the thinking was at the time. This legal provision is ripe with the judgment of a classist society. It clearly is no longer relevant in our society and it is clearly no longer a prevalent view in our society that begging leads to other criminal behaviours.

Further arguments such as the broken window theory have also been put forward. The theory suggests that begging contributes to a place's disorderly appearance. This signals to potential offenders that law enforcement has weak control and thus elicits crimes. This theory has also been widely debunked.

The final rationale for having the crime of begging in place is one that is less often spoken aloud but is most likely the true objection of those supporting begging and other vagrancy laws and that is community amenity.

Historically, it has been suggested that begging is a public nuisance. That is an unfortunate, selfish and elitist attitude. It also holds no empathy for those so destitute they feel they have no choice but to ask strangers for money.

It is worth noting that the provision that this offence falls under is titled 'drunkenness, vagrancy, indecency and other public annoyances'. In the past couple of decades, offences relating to vagrancy, public drunkenness, prostitution and games of hazard have been struck from the Act. This Government, when questioned on whether they would repeal this law, replied in the negative. The only rationale put forward at the time was 'we believe there are sufficient measures in place to ensure that disadvantaged people are not unduly caught up in the legal system'.

In the Magistrates Court last Thursday there was a Tasmanian person on five counts of begging. This law is capturing the destitute. The fact that the offence of begging exists and is being enforced is entirely contrary to this statement made by the Liberals in government in

the last term. We also know as a broad rule, it is not true. Disadvantaged people are decidedly more vulnerable to being unduly caught up in the legal system as they are more prone to profiling, more likely to be in situations that passively expose them to criminal activities and less equipped to provide a legal defence. Clearly, this evasive response was provided because there is no legitimate basis to support these laws. None. The crime of begging exists today. It should not but impoverished Tasmanians are being captured by it.

Even if we accept arguments that have been put forward as factual and look at these laws with cold hard pragmatism, the realities do not stack up with the intent. If we accept the argument of public amenity as legitimate, these laws still do nothing to prevent begging. Begging is a last resort. People will continue to beg through lack of available options.

If anything, financial sanctions only further impoverish people and drive people to seek financial aid for the same reason that even if the broken windows theory was accepted as factually sound the offence of begging does nothing to resolve the situation.

As the law currently stands someone who is found guilty of begging faces a fine of up to \$815 or six months in prison. The lack of logic there is quite breathtaking. If a person is so destitute they are asking strangers for money, how are they going to find \$815? Are we not then saying to that person if you cannot find the money you can spend some time at Risdon? That is no response to poverty.

Finally, even if we do accept that begging naturally predisposes people towards crime, it does not justify the inclusion of begging as an offence.

There are many socio-economic and behavioural factors that can predispose people towards crime. We do not as a society prosecute people based on these factors for preventative reasons. Even if we were so inclined, incarceration for minor offences increases the risk of reoffending in a more serious manner. The inclusion of this offence in statute is a relic of an unjust society. There is no public safety, moral or practical justification for begging to remain an offence.

The Police Offences Amendment (Begging) Bill 2018 will amend the Police Offences Act 1935 to ensure that begging is no longer an offence in Tasmania. The bill is straightforward and simply removes subsections 1 and 1(a)(a) in section 8 of the Police Offences Act of 1935. Sections 1 and 1(a)(a) set out the specifics of the offence and the penalty respectively.

Fortunately prosecution for begging appears far less prevalent than in other states such as Queensland, which has seen between 179 and 293 cases each year since 2009. In Tasmania, in our understanding, there have been three cases resulting in sentencing since 1 July 2013. Of these cases, two received probation orders and one received a partially suspended sentence of imprisonment. All the individuals involved faced multiple charges. It is unclear what other offences may have occurred. However, due to all individuals being issued with

multiple charges, it is clear that other offences exist in circumstances where the police feel that a charge needs to be issued in order to protect the public.

Regardless of the circumstances of any of these cases it is contrary to both the public interest and public sentiment to criminalise the begging element of their behaviour.

It is not a matter of public record however how many cases there have been that have not resulted in sentencing nor is the limited number of charges an excuse for inaction and our failure to remove a cruel law from the statutes.

In 2017 the homeless person's legal clinic Law Right published a paper on the crime of begging in Australia which found that the criminalisation of begging has a disproportionate impact on the most vulnerable member of society. There is a strong correlation between the practice of begging and several complex and interrelated individual factors. People who commit the crime of begging do so out of desperation and because their basic needs are not being met. Failure of government services contributes to incidents of begging, including inadequately funded welfare services, health care, housing and social security. Fraudulent or aggressive begging is rare and can be more appropriately prosecuted under other criminal offences and individuals charged are often poorly equipped to defend themselves.

That is the evidence of legal experts and we must heed this, take it seriously and deal with this anachronistic law.

Of these points put forward by LawRight, failure of government services to provide for the financially and socially disadvantaged should resonate strongly in the current climate. We currently have a situation where hundreds, if not thousands, of Tasmanians have been priced and squeezed out of the private rental market and a public housing waiting list at a record high of more than 3000 people. The average time to house priority applicants is nearly one-and-a-half years.

We can all agree that housing is the foundation of contemporary society and critical for mental wellbeing, acquiring or maintaining work and earning a living wage. Right now we have a situation where the Government has categorically failed to ensure that enough residential affordable housing, both public and private, exists to house our people.

This is a government which has shown itself to be willing to fine or imprison people for begging. Every member of this House will be familiar with correspondence from people who have not been able to access government services and who are desperate, lately often in relation to housing availability and affordability. Likewise, every member of this House would have experience with people who feel that nobody cares about them or their circumstances.

In this place it is not unusual for all parties to support a bill in order to send a strong message to society - that is when we are at our best. One such example is the tripartisan

action on family violence. In 2015 a message was sent to the community that the parliament and leaders of all political persuasions and genders do not accept family violence and that we stand alongside the victims of family violence.

I want to read into the Hansard a very strong letter of support that has come from Community Legal Centres Tasmania and Anglicare Tasmania, which I believe was sent to all members of parliament yesterday, 16 October, and I have a copy of the letter here that was sent to the Premier.

It reads:

Dear Will

Community Legal Centres Tasmania is writing to urge all members of the House of Assembly to support the Police Offences Amendment (Begging) Bill 2018. We strongly believe that homelessness and poverty cannot be addressed through the criminal justice system and call for the adoption of a more humane approach.

Currently section 8 of the Police Offences Act 1935 makes it an offence to beg, relevantly providing that a person shall not, in a public place, beg or expose wounds or deformities, or place himself or herself or otherwise act so as to induce or attempt to induce the giving of money or other financial advantage, or instigate or incite another person to do any of those things.

The penalty for begging has a fine of up to \$815 or imprisonment for a term not exceeding six months. The use of fines and imprisonment as a response to begging fails to address the underlying cause or causes of the behaviour. Research carried out by a number of Australian organisations indicates that people who beg are among the most marginalised, disadvantaged and disenfranchised in our society.

For example, Justice Connect interviewed 30 people over 2016-18 who beg or have begged and published the following results: 77 per cent were experiencing homelessness; 87 per cent had a mental illness; 80 per cent had been unemployed for 12 months or more; 33 per cent had experience family violence; and 37 per cent reported childhood trauma or abuse.

Importantly, the research points to begging being an action of last resort, meaning that people beg rather than resorting to more serious criminal offences such as stealing, drug dealing or prostitution.

Finally, an argument often raised for the criminalisation of begging is the need for public safety, namely that some persons that beg engage in standover tactics or threatening speech or behaviour. However the research finds that the incidence of aggressive begging is very low. It should also be noted that there are other offences currently provided in the act that could address violent or abusive conduct.

Our current criminal justice approach disproportionately impacts on persons who are without adequate food, shelter and health care. In criminalising begging, we are also denying them the right to communicate their need for assistance.

We urge you to support the passing of the Police Offences Amendment (Begging) Bill 2018, which will also bring us into line with Western Australia, New South Wales and the Australian Capital Territory who have decriminalised begging. If you have any queries please do not hesitate to contact us.

Yours faithfully

Benedict Bartl, Policy Officer, Community Legal Centres Tasmania

Dr Chris Jones, CEO, Anglicare Tasmania

I thank the Community Legal Centres Tasmania and Anglicare for their support for this amendment bill.

Mr Deputy Speaker, today we ask the parliament and leaders of all political persuasions to send a message that we do not victim blame, we do not consider begging an immoral or criminal activity and we care about people in extremely difficult circumstances. Today we ask that a message be sent that we will tackle poverty instead of attacking the impoverished.

I commend the bill to the House.