Transformative Justice – prison realities and alternatives

June 11th Wellington 2019

Seeing the wider picture: the social context of offending

Susan St John BSc MA PhD QSO
Hon Associate Professor of Economics
Auckland Business School
University of Auckland
Economics spokesperson, Child Poverty Action Group
s.stjohn@auckland.ac.
CPAG fights for better policies for families and children

- Large data base, regional branches, social media reach
- Technical research
- Submissions on bills and policies, lobbying politicians
- Annual budget analysis and breakfasts
- Annual welfare summits
- Multiple events and publications—see CPAG website
- Involved in Human Rights and welfare policy cases going through the appeals processes.
Social conditions have deteriorated for 3 decades making the operation of the law increasingly difficult.

In turn the operation of the law has often contributed to this deterioration.

But poor policies and bad law are at the heart of the problem.
• Why CPAG?
  - From post war egalitarianism
  - Policy shift 1984
  - Neoliberalism of the 1990s- captured hearts and minds
  - 25 years ago CPAG foresaw the progression to
    - social instability
    - Working poor and poverty traps
    - Tragic social statistics
    - Self-perpetuating poverty and abuse
    - Intractable inequality and poverty
    - Growth of the charity model
Neoliberal and trickle-down theories: 1990s

1980s
Unemployment
Rise of poverty

1991 budget
• Benefit cuts
• User pays/low tax
• Welfare confined to the poor
Redefining our values

“Fairness: People with genuine needs should have adequate access to state assistance- those who can look after themselves should be encouraged to do”
A long way from M J Savage

The inspiration for the Social Security Act 1938 was the determination to end poverty in New Zealand. –MSD website

Social Security Act 1964

“An Act to provide for …Superannuation Benefits and of other Benefits designed to safeguard the People of New Zealand from Disabilities arising from Age, Sickness, Widowhood, Orphanhood, Unemployment, or other Exceptional Conditions; . . . and, further to provide such other Benefits as may be necessary to maintain and promote the Health and General Welfare of the Community
NZ Poverty*: child vs whole population 1982-2016
*<60% median disposable household income after housing costs (AHC)

Tipping point 1991

Perry B. Ministry of Social Development 2017 F.4 & p 122 Table F.7
Hospital Admissions for all causes, children 0–14 Years
New Zealand 1991–2017

Children hospitalised with bronchiolitis (2015) by deprivation index (age adjusted)

Impact of Respiratory Disease 2016, Asthma and Respiratory Foundation
NZ Youth suicides
15-19 yrs – highest in OECD

UNICEF innocent report card 14, 2017
Housing at the heart of the problem: Waiting list for Social Housing more than doubled 2016-2018

Priority A:
“at risk…housing need that must be addressed immediately”
Mar 2018: 77% applicants Priority A, increased by 1556 from Dec 2017

Official count reveals 800 homeless people in Auckland

2000s The enormity of the social deficit

- Growing property/wealth divide
- Growing household debt
- Growing homelessness
- Growing poverty
- Negative indicators
  - Suicide rates
  - Hospitalisations
  - Family violence
  - Incarceration
  - **FOOD HUNGER**
Food insecurity in a rockstar economy?

Figure 2: Amount of quarterly hardship assistance payments, March 2013 to March 2018

Food has remained the main reason for needing hardship assistance over the last five years.
Canterbury residents struggling to make ends meet_ Dec 2018

• 44% increase 2017-2018

• Most increase is working families
There's been a 28 percent jump in demand - to about 1 million parcels. Chris Farrelly from the mission said while they were used to providing food, there is currently a huge demand.

"It's winter that really hits people, often health takes a bashing, something really happens," he said.... See More

Food parcel demand rises: 'Food can become a discretionary item'
Consequence: Rise of the charity model

50c a day helps a New Zealand child get to school warm and dry
High and compounding inequality

Top 20% have 70% of wealth
Tragedy of the housing bubble

The Economist house-price index

<table>
<thead>
<tr>
<th>House-price index</th>
<th>Prices in real terms</th>
<th>Prices against average income</th>
<th>Prices against rents</th>
<th>Percentage change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Q3 2002=100</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- Australia
- Belgium
- Brazil
- Britain
- Canada
- China
- France
- Germany
- Greece
- Hong Kong
- India
- Ireland
- Israel
- Italy
- Japan
- Mexico
- Netherlands
- New Zealand
- Russia
- Singapore
- South Africa
- South Korea
- Spain
- Sweden
- Switzerland
- Turkey
- United States

Sources: The Economist; OECD; ONS; Reserve Bank of New Zealand; national statistics
Imagine all the wealth in NZ as a ten-storey apartment building. Imagine half of NZ crammed in a tiny corner of the bottom floor.
"We heard from people who had interacted with the system in some way at some stage in their life and had a deep and profound knowledge of the system.

"Their stories were often harrowing, and we were shocked and saddened by the extent of the suffering and deprivation that is occurring."
How did safety net become so inadequate?: relativities 1983-2013

Adapted from Perry B. Ministry of Social Development, 2014, page 82, Figure C.8A
Reliance on second and third tier benefits

Brutal poverty traps

Sanctions

Stand-downs

Growth in debt

Can’t earn way out of poverty
Red is danger zone

Increasing numbers and % of children in the deepest poverty

Number of children below each poverty line (AHC)

(Note: Missing data value of the number of children below 40% poverty line, year 2014)

St John S & So Y. CPAG 2018
"And the wolf ate all children but it didn't matter because they were the children of People not like us."
Can children look to the law to protect them?

Discriminatory policies have seen poorest children denied a major part of family assistance on the grounds their parents needed a work incentive.
The Human Rights Case
CPAG v the Attorney General

- 1996 HR complaint against CTC rejected
- 2002 CPAG lodged complaint under Part 1A
- 2003 Crown Law objected
- 2005 Case taken on CPAG’s behalf by Office of Human Rights Proceedings
- June 2005 – Crown disputes right to take the case
- Sept 2005 Human Rights Tribunal rules in CPAG’s favour
- Oct 2005 Crown Appealed
- May 2006 Reserved decision dismisses appeal
- August 2006 goes to Judicial Review.
- November 2006 CPAG won right to take the case
The Human Rights Review Tribunal 2008
We are satisfied that the WFF package as a whole, and the eligibility rules for the IWTC in particular, treats families in receipt of an income-tested benefit less favourably than it does families in work, and that as a result families that were and are dependent on the receipt of an income-tested benefit were and are disadvantaged in a real and substantive way. (Human Rights Tribunal 2008: para 192)
Appeal in High Court 2011

Appeal in the Court of Appeal 2013
The decision: The Court of Appeal found...

... the IWTC part of Working for Families paid to the mother in a so called ‘working’ family was discriminatory and caused material harm to the beneficiary families who were excluded.

However the Court decided the harm to over 200,000 of NZ’s poorest children was justified.
What has been the cost to ‘non-deserving’ families

Since 1996 each year there has been a cumulative loss from poor families’ balance sheets of around $10 billion
2008-2017 No holds barred reforms

- Relentless focus on work
- Work work work work - any work so long as paid
- Tighter and tighter targeting of assistance
- Sanctions for non compliance
  - Poverty as a weapon

- **Ugly culture in WINZ**
  - Power to decide what is a relationship
  - To decide what is income
  - Appeals process stacked in MSD’s favour
  - Benefit fraud and disputed overpayments conflated
  - Incarceration of women with children
MSD operate outside the law creating a toxic climate of fear

MSD fraud investigations “intrusive, excessive and inconsistent with legal requirements” - Privacy Commissioner 2019

- Failing to ask beneficiary clients for information before seeking it from a third party leading to inaccurate assessments of the information;
- Overly broad requests leading to the provision of unnecessary and sensitive information (in one case a woman’s birthing records);
- Disproportionate and inappropriate requests for information (in some cases, every text message sent and received by an individual over lengthy periods);
Relationship “fraud”

- Jill is a sole a parent she gets SPS $340
- Jack is her boarder. He gets JS $218

Oops

- “relationships could develop quickly, and some people might not be aware of their obligation to tell Work and Income.” former MSD Minister Tolley.

Coupled they get $204 each - $150 less pw and have a joint income test of 70% on earned income over $80
The premise that women are dependents

To help distinguish the nature of a de facto relationship, Work and Income (2014) suggests that the beneficiary ‘thinks about these issues’:

- You live together at the same address most of the time.
- You live separately but stay overnight at each other’s place a few nights a week.
- You share responsibilities, for example bringing up children (if any).
- You socialise and holiday together.
- You share money, bank accounts or credit cards.
- You share household bills.
- You have a sexual relationship.
- People think of you as a couple.
- You give each other emotional support and companionship.
- Your partner would be willing to support you financially if you couldn’t support yourself.
Informants are requested to supply detailed information as detailed on the Work and Income website (2014): Information that helps us when you report a suspected fraud.

This includes:

- Do they live with a partner but say they're living alone?
- If you think they do then we'd like to know:
  - the full name of their partner and any other names they're known by
  - their partner's age and date of birth
  - their partner's address
  - whether their partner works and who employs them
  - why you think that they're a couple
  - how long they've been in a relationship
  - whether they have had children together
  - the names and ages of any children they have.
Kathryn’s Story

How the Government spent well over $100,000 and 15 years pursuing a chronically-ill beneficiary mother for a debt she should not have.

By Catriona MacLennan

- 2001 convicted of “relationship fraud”
- Prison 6 months
- Debt $120,000
- 2001-2016 fights in the courts against this debt
- 2016 sent back to SSAA
- Appeal to Supreme court disallowed
- 2019 sick and old she awaits MSD’s pleasure