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# Punishment should fit the crime, not the criminal.

A look at this statement in relation to youth offending.

Lloyd Gallagher

Utilitarian's argue that punishment of crime serves to exclude some greater evil and augment the total happiness of the community. Jeremy Bentham put this argument as the general object which all laws have, or ought to have in common.<sup>1</sup> Bentham suggests, "all punishment is a mischief: all punishment in itself is evil",<sup>2</sup> leaving society to weigh carefully the use of punishment over the mischief it serves to prevent. If punishment produces a greater evil, such as a violation of human rights or disproportionate sentence, than it seeks to exclude then have we truly prevented the mischief or have the punishers created a new victim becoming the offender? Examples of this disproportion can be seen through media reports with one teenager sent to prison for eight years after tagging, spray painting a public space, property in Texas.<sup>3</sup> An offender who commits murder is often jailed for less time as was seen in Brazos county Texas 2008 when a 53 year old was sentenced to 10 years probation after bludgeoning a couple to death when his shot gun failed to work.<sup>4</sup> These cases show a discontinuity between the offence and the punishment leaving society with a sense of confusion and outrage. However, sentencing to protect against deviant behaviour is difficult and jurists constantly have to weigh the mitigating circumstances. This information is not presented to the public and leaves society with a feeling that justice has begun to protect the criminal. Jurists, however, must face several questions when looking at an appropriate punishment: 1) is the deviant's actions a product of their background? 2) Should jurists' punish the crime based on the message to other criminals not to undertake the mischief? 3) Should jurists punish based on the reprehensibility of the mischief? 4) Should jurists punish based on the age of the perpetrator and their behaviour to date? or 5) should the punishment simply fit the crime? If jurists conclude that option 5 is the most appropriate then what message does this deliver to a child who may have impaired social standing and prenatal guidance? It is arguable that: kids will be kids and that background and social environment plays a large factor in the development of the deviant mindset.<sup>5</sup> While I have cited five questions the scope of this paper will focus only on question five trying to determine if the punishment should fit the crime or the criminal when pertaining to youth behaviour. Before

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<sup>1</sup> Jeremy Bentham "An Introduction to the Principles of Morals and Legislation" (1781) BLTC Chapter XIII at [I] <<http://www.utilitarianism.com/jeremy-bentham/index.html>>.

<sup>2</sup> Ibid, at [II].

<sup>3</sup> Will Sherman "Texas Graffiti Writer Gets 8 Years of Prison Without Parol" (2009) Animal New York <<http://animalnewyork.com/2009/12/texas-graffiti-writer-gets-8-years-of-prison-without-parole/>>.

<sup>4</sup> Meredith Stancik "Convicted Murderer Receives Light Sentence" (2009) KBTX.com <<http://www.kbtx.com/home/headlines/18808009.html>>.

<sup>5</sup> Cloward, R A and Ohlin, L E *Delinquency and Opportunity: A Theory of Delinquent Gangs* (Free Press, New York, 1960) at [85].

we begin to answer that question we must traverse the background of criminal theory and research that underpin policy considerations.

### **Does environment play a role?**

It is argued that environment is a primary producer for criminal deviancy and that this usually develops from antisocial behaviour beginning at childhood and persisting to adulthood.<sup>6</sup> This, it is argued, develops from environments with a wide range of risk factors such as delinquent friends or social groups that provide peer support for deviancy,<sup>7</sup> alcohol and drug use,<sup>8</sup> poor parenting,<sup>9</sup> unemployment and/or low income families.<sup>10</sup> Social theory develops this argument through a view that society has produced an environment where individuals are pushed to succeed then stacks the dice so that only the chosen few may do so.<sup>11</sup> However, the chosen few are set at random leaving youth believing they have a chance, regardless of their environment, while society continues to maintain its prejudices resulting in ultimate youth failure. This inequality is further developed through a driving need to obtain consumer product that are deliberately marketed as life enhancing and thereby creating happiness.<sup>12</sup> Clive Hamilton argues that this is unattainable due to the constant shifting of the goal posts by society and economic consumerism.<sup>13</sup> Laurie Taylor puts it as "the rigged fruit machine"<sup>14</sup> where players who are not within the social norm of acceptability, for example the well educated or well known, resort to innovation (the use of magnets or foreign coins), ritualism (mindless play with the hope of success), retreatism (*sic*) (give up) or rebellion (development of a new game) to try and win.<sup>15</sup> This is the creation of deviancy and often results in social groups being formed reacting to problems in the same way<sup>16</sup> as visible in

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<sup>6</sup> West, D J and Farrington, D P *Who becomes delinquent? second report of the Cambridge Study in Delinquent Development* (Heinemann Educational, London, 1973) cited in Robert Reiner (ed) *The Oxford Handbook of Criminology* (4th ed., Oxford University Press, Oxford, 2007) at [603].

<sup>7</sup> Reiss, A J and Farrington, D P "Advancing Knowledge About Co-Offending: Results from a Prospective Longitudinal Survey of London Males" (1991) 82 *J. Crim. L. & Criminology* 360 at [361].

<sup>8</sup> Robert Reiner (ed) *The Oxford Handbook of Criminology* (4th ed., Oxford University Press, Oxford, 2007) at [603].

<sup>9</sup> *Ibid.*

<sup>10</sup> *Ibid.*, at [606].

<sup>11</sup> Taylor, I, Walton, P and Young, J "The early sociologies of crime" in John Rex (ed) *The New Criminology: For a social theory of deviance* (Routledge & Kegan Paul plc, UK, 1973) 91 at 101.

<sup>12</sup> Clive Hamilton *Growth Fetish* (Allen & Unwin, NSW, 2003) at ch 2.

<sup>13</sup> *Ibid.*

<sup>14</sup> Taylor, I, Walton, P and Young, J "The early sociologies of crime" in John Rex (ed) *The New Criminology: For a social theory of deviance* (Routledge & Kegan Paul plc, UK, 1973) 91 at [101].

<sup>15</sup> *Ibid.*

<sup>16</sup> *Ibid.*, at [112].

gangs.<sup>17</sup> This knowledge and environment norm is then passed onto the children<sup>18</sup> as no other education is provided to help youth see that the fruit machine can be modified legally. This can be illustrated by a young person with a violent family upbringing, poor moral training, and/or lack of education as to social standards. The young person who has questionable knowledge of the wrong, either due to the youths limited understanding of whether the undertaking is criminal, or where the youth has some knowledge that the undertaking is criminal but considers that it is worth the risk due to a lack of being able to connect the activity with serious consequences, is likely to undertake the deviant activity regardless.<sup>19</sup>

Even where the youth has a parent or sibling in prison, showing the incorrect position of that action, the knowledge passed down is usually one of indigence and anger towards a lack of justice causing the youth to act out against the system that has created the social paradox of the fruit machine.<sup>20</sup> Further, as the youth does not want to be seen separate from the family unit,<sup>21</sup> with the families eyes cast down on whose side the youth will take, the youth, rather than upsetting the family, will often undertake the same behaviour to obtain acceptance in the family unit.<sup>22</sup>

Learning models emphasise the importance of parents as reinforces of acceptable social and moral behaviour.<sup>23</sup> Parental reinforcement of correct behaviour is arguably the strongest protection against deviant behaviour<sup>24</sup> and without this positive education from parents a youth who has undertaken a deviant act may be faced with condemnation by society through criminal conviction. This can result in social stigmatisation, despite the social environment being one of forgiveness after a criminal has done his or her time; society continues to shun those who have obtained the label criminal, resulting in the youth being left

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<sup>17</sup> Hood, R and Sparks, R. *Key Issues in Criminology* (Weidenfeld & Nicholson, London, 1978) at [87].

<sup>18</sup> Taylor, I, Walton, P and Young, J "The early sociologies of crime" in John Rex (ed) *The New Criminology: For a social theory of deviance* (Routledge & Kegan Paul plc, UK, 1973) 91 at [112].

<sup>19</sup> Robert Reiner (ed) *The Oxford Handbook of Criminology* (4th ed., Oxford University Press, Oxford, 2007) at ch 19.

<sup>20</sup> Robert Reiner (ed) *The Oxford Handbook of Criminology* (4th ed., Oxford University Press, Oxford, 2007) at [622].

<sup>21</sup> Howard S. Becker "Labelling Theory Reconsidered" in Rock and McIntosh (ed) *Deviance and Social Control* (Tavistock Publications, London, 1974) at [45].

<sup>22</sup> Robert Reiner (ed) *The Oxford Handbook of Criminology* (4th ed., Oxford University Press, Oxford, 2007) at [622].

<sup>23</sup> Patterson (1982) cited in van Voorhis, P., Cullen, F., Mathers, R. and Garner, C. "The Impact of Family Structure and Quality on Delinquency: A comparative assessment of structural and functional factors" (1988) 26 *Criminology* 235 at [239].

<sup>24</sup> Robert Reiner (ed) *The Oxford Handbook of Criminology* (4th ed., Oxford University Press, Oxford, 2007) at [615].

with possible inabilities to achieve goals through legal means.<sup>25</sup> A youth in this situation is likely to continue into adult crime as his only foreseeable career.<sup>26</sup>

### **Crime and the Unintelligent**

Before I begin it is important to say that studies on intelligence focus on the IQ test and only serve to prove that a person can achieve in the education environment.<sup>27</sup> It does not account for people with specific learning disabilities who score high on IQ tests but end up in crime.<sup>28</sup> It is argued that the causal link for this youth sector was a result of frustration with education. These offenders often scored high on intelligence tests despite their learning disability but were considered un-teachable due to an inability to connect in the same manner to the assigned education task. This resulted in teachers often refusing to teach them or labelling them as dumb, idiots or stupid. Peers would also apply this labelling continuing to tease the child through social interaction.<sup>29</sup> The result was that even though an IQ test may show the child as having above intelligence the youth was unable to learn education and/or social interaction due to isolation.<sup>30</sup> The youth would then act out from anger and anxiety through deviant behaviour such as bullying or through self isolation as a defence mechanism. This acting out or self isolation to protect from teasing or bullying was seen to result in more serious crime later in life.<sup>31</sup> Results also showed that youth who scored poorly on IQ tests undertook serious crime in later life.<sup>32</sup> Early studies from Goddard showed that the feeble-minded were concluded to be from bad stock and a high indicator of criminality due to an inability to understand right from wrong.<sup>33</sup> Cohen argued that the link between IQ and criminality was connected to the failure to understand abstract concepts and that this failure

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<sup>25</sup> Robert Reiner (ed) *The Oxford Handbook of Criminology* (4th ed., Oxford University Press, Oxford, 2007) at [622].

<sup>26</sup> Robert Reiner (ed) *The Oxford Handbook of Criminology* (4th ed., Oxford University Press, Oxford, 2007) at [615-625].

<sup>27</sup> Robert Reiner (ed) *The Oxford Handbook of Criminology* (4th ed., Oxford University Press, Oxford, 2007) at [609].

<sup>28</sup> Lee Ellis, Kevin Beaver and John Wright *Handbook of Crime Correlates* (Academic Press, Oxford, 2009) at [158].

<sup>29</sup> Bernice Wong, Lorraine Graham, Maureen Hoskyn, Jeanette Berman *The ABCs of Learning Disabilities* (2nd ed., Elsevier Academic Press, California, 2008) at [113].

<sup>30</sup> Norman A. White and Rolf Loeber "Bullying and Special Education as Predictors of Serious Delinquency" (2008) 45 *JRC and Delinquency* 380 at [382].

<sup>31</sup> *Ibid.*

<sup>32</sup> Robert Reiner (ed) *The Oxford Handbook of Criminology* (4th ed., Oxford University Press, Oxford, 2007) at [608].

<sup>33</sup> Goddard (1914) cited in Helmuth Nyborg (ed) *The Scientific Study of General Intelligence: Tribute to Arthur R. Jensen* (Elsevier Science Ltd, Oxford, 2003) at [344].

produced an inability to have concern for the future.<sup>34</sup> Morgan and Lilienfeld argued that low intelligence was the foundation to deficit of consequences for a youths actions resulting in poor understanding of responsibility and a lack of self monitoring of behaviour.<sup>35</sup> However, low intelligence by itself has been ruled out as a strong evidential factor in youth offending.<sup>36</sup> This was due to the advent of large scale mental testing for the armed services in World War I.<sup>37</sup> Results of this testing ranged from 37% in whites males and 89% of black males exhibiting feeble-mindedness; it was concluded from these results that there was clear biases in the administration of the tests and thus they were discarded.<sup>38</sup> Goddard was said to have changed his own learned position following these results arguing that education could serve to remedy any feeble-minded person.<sup>39</sup> It was not until 1977 in an article from Travis Hirschi and Michael Hindelang that the IQ debate was re-energised.<sup>40</sup> However, despite this criminologists continue to play down the role of intelligence as an indicator<sup>41</sup> seeking to focus on the education standpoint, which in my view is the correct position to take as I will discuss later.

As can be seen both high scorers, with learning disabilities, and low scorers are faced with ridicule and self loathing.<sup>42</sup> Social systems use negative sanctions labelling low intelligence as inadequate and unemployable. Becker argues that while behaviour might be labelled criminal this in itself does not constitute a crime.<sup>43</sup> What constitutes a criminal act or deviance is subject to historical and social variability which cannot be objectively defined due to the policies of law makers and enforcers of the day.<sup>44</sup> According to Becker, crime only exists when the label is applied by the agents of the law<sup>45</sup> and without the laws enactment

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<sup>34</sup> Cohen (1955) cited in Robert Reiner (ed) *The Oxford Handbook of Criminology* (4th ed., Oxford University Press, Oxford, 2007) at [609].

<sup>35</sup> Morgan and Lilienfeld (2000) cited in Robert Reiner (ed) *The Oxford Handbook of Criminology* (4th ed., Oxford University Press, Oxford, 2007) at [609].

<sup>36</sup> Helmuth Nyborg (ed) *The Scientific Study of General Intelligence: Tribute to Arthur R. Jensen* (Elsevier Science Ltd, Oxford, 2003) at [344].

<sup>37</sup> Ibid.

<sup>38</sup> Ibid.

<sup>39</sup> Vold & Bernard (1986) cited in Helmuth Nyborg (ed) *The Scientific Study of General Intelligence: Tribute to Arthur R. Jensen* (Elsevier Science Ltd, Oxford, 2003) at [344].

<sup>40</sup> Helmuth Nyborg (ed) *The Scientific Study of General Intelligence: Tribute to Arthur R. Jensen* (Elsevier Science Ltd, Oxford, 2003) at [344].

<sup>41</sup> Ibid, at [345].

<sup>42</sup> Robert Reiner (ed) *The Oxford Handbook of Criminology* (4th ed., Oxford University Press, Oxford, 2007) at [665].

<sup>43</sup> Becker (1963) cited by John Muncie *Youth & Crime* (2nd ed, Sage Publishing, California, 1999) at [117].

<sup>44</sup> Ibid.

<sup>45</sup> Ibid.

there would be no crime.<sup>46</sup> Therefore, a youth must be educated in the knowledge of the law and morals set by society of the time. As labelling theory argues when people are labelled by an enactment they would react to this new found identity by aligning their lifestyles to match<sup>47</sup> unless they are shown another way. Lemert, in 1951, published a research paper illustrating this effect using an example of an errant boy who commits a class prank. When berated by the teacher he then commits another prank to which a further reprimand is given. Then the boy is blamed, as sometimes happens, for a prank he did not commit the boy, feeling blocked from playing his expected role, is tempted to assume the role connected to the label.<sup>48</sup> Lemert argued that this is most significant where societal definitions and subjective counterparts become generalised causing choices to narrow into one general class.<sup>49</sup> This, Lemert suggests, was the case in a young girl whose father was a paroled convict. Lemert argued that this girl could only see herself on the other side of the railroad tracks, that is in the criminal sector, due to the simplification this would provide in her life thus saving her the constant struggle against the condemnation and treatment received from peers.<sup>50</sup> Without instruction of how to combat this environment the girl is pressured into assuming the negative role. In this way labelling theory provides a link to societies expectations, be it intelligence or condemnation through association, of normality. In recent times these labels have been extended to include hyperactivity, attention deficit disorder (ADD) and ADHD, restlessness, clumsiness, low self-control and many others that, it is argued, provide connection to deviant behaviour.<sup>51</sup> Children who are labelled with these societal disorders may very well consider themselves outside the norm and act according to the proposition placed on them. When a youth is provided an environment that seeks to exclude, thorough misunderstanding, intolerance or association, a youth could easily adopt the easy path seeking to accept his or her label as society has done. Parents also get duped into this label association, having relied on the doctor's diagnosis, with condemnation of a child when they act out with statements of "oh his ADD is acting up" or "watch my son as he has ADD" as though it is a label to be

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<sup>46</sup> Ibid.

<sup>47</sup> Ibid.

<sup>48</sup> Lemert, E. M. "Social pathology: Systematic approaches to the study of sociopathic behavior" in Charles C. Lemert and Michael F. Winter (ed) *Crime and Deviance: Essays and Innovations of Edwin M. Lemert* (Rowman & Littlefield. Oxford, 1951) at [38].

<sup>49</sup> Ibid.

<sup>50</sup> Ibid, at [39].

<sup>51</sup> Robert Reiner (ed) *The Oxford Handbook of Criminology* (4th ed., Oxford University Press, Oxford, 2007) at [611].

carried as an explanation and justification of bad behaviour.<sup>52</sup> Accordingly, deviant behaviour may be arguably something that is learnt either by negative reinforcement that concludes with the youth taking an easy path rather than fighting the label; or through environmental factors such as learning the criminal activity from associates and how to protect against the guilt.<sup>53</sup> Either way, it is arguable that education of societal norms and legal requirements will arm a youth to make the right choice in a legal and acceptable manner.

Regardless of the positions taken by IQ and labelling theories it is accepted by both that the education and environmental factors play a pivotal role in the deviant's development of criminal behaviour. It is argued that criminal behaviour is a product of normal social learning through interaction with friends or family and that this is consistent with differential association and learning theory.<sup>54</sup> Further, it is argued that intervention mechanisms in society base their position on the ideology that deviant behaviour can be changed by dealing with the conditions that produce them<sup>55</sup> and by dealing with the offenders emotional issues and personal motivations for committing the crime deviants can be motivated not to violate the law.<sup>56</sup> This again reinforces the need for education as to the societal point of view. It is clear that if the environment, such as family or education, is lacking then the youth will get caught up in the stigmatisation unless society provides the accepted social norms.

### **The deviant and society.**

As I have discussed the criminal mindset can be traced back to the environmental and educational factors facing our youth. Dysfunctional families and disjointed morality serves only to increase the deviant mindset. This is increased when society stigmatises the youth showing that fighting against this stigma will only provide hard work and lack of success and, therefore, youth should simply accept the easy path of criminalisation. Our society is not one of forgiveness as we can see time and time again via news reports of youth offenders who are

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<sup>52</sup> Paul Kelly *Making Minds: What's wrong with education - and what should we do about it?* (Routledge, New York, 2008) at [160].

<sup>53</sup> Robert Reiner (ed) *The Oxford Handbook of Criminology* (4th ed., Oxford University Press, Oxford, 2007) at [663].

<sup>54</sup> Edwin H. Sutherland, Donald R. Cressey and David F. Luckenbill *Principles of Criminology* (11th ed, General Hall, Oxford, 1992) at [457].

<sup>55</sup> Ibid.

<sup>56</sup> Edwin H. Sutherland, Donald R. Cressey and David F. Luckenbill *Principles of Criminology* (11th ed, General Hall, Oxford, 1992) at [457].

lumped together in distorted media information which provides only the worst view.<sup>57</sup> At no time has the media addressed the issues youth face seeking instead to keep society from taking responsibility for poor education of the lower class. This in turn provides the public with a sense of indignation seeking retribution against these horrific individuals and fuels the political arguments to be tough on crime to obtain election votes. How many would argue for tougher crime penalties for youth offender, such as eight years without parole for tagging bus shelters and buildings to a total damage value of \$7,500 US dollars,<sup>58</sup> if they knew that the youth had been repeatedly sexually violated? Would it make a difference if the teen was from a good home and no violation occurred? What about if the teen had undertaken consensual sex, as one 17 year old man did with a 12 year old woman believing her to be older, would we convict that person to sixty years as was done in Texas in 2010?<sup>59</sup> What if it was a first offence? These questions show how closely law, morality and society are connected and outline how moral, legal and self protection education of youth could have saved them from such high handed sentences. The criminal code, such as New Zealand's Crimes Act 1961, provides that ignorance of the law is no excuse.<sup>60</sup> But how can it not be when the code is set by the society of the day and has become technical and complicated. Without education of its fundamental ideology generations are left disjointed creating the very criminals legislators seek to deny. Philip Johnston argues that punishment should fit the crime due to most offenders reoffending within 12 months of release.<sup>61</sup> However, Mr Johnston ignores the lack of rehabilitation and education in both our criminal and education systems worldwide. If the theories of criminology are correct then we are enabling further crime through labelling and lack of education. Should we not work on resolving the issues faced by society including youth rather than simply condemning them and further isolating them from society?

This seems to be the position taken by New Zealand's Children, Young Persons, and Their families Act 1989 (CYPS). The preamble to the Act provides that the Act is designed to

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<sup>57</sup> Jessica M. Pollak and Charis E. Kubrin "Crime in the News: How Crimes, Offenders and Victims are Portrayed in the Media" (2007) 14 JCJPC 60 at [61-62].

<sup>58</sup> KIITV.com "Graffiti tagger sentenced to 8 years in prison - no chance of parole - Corpus Christi" (2009) YouTube < <http://www.youtube.com/watch?v=X6LY-clVpQE>>.

<sup>59</sup> Brandon "Texas Teen Sentenced To Sixty Years in Prison For Consensual Sex" (2010) School-survival.net < <http://www.school-survival.net/blog/p/texas-teen-sentenced-to-sixty-years-in-prison-for-consensual-sex/1890>>.

<sup>60</sup> Crimes Act 1961, s 25.

<sup>61</sup> Phillip Johnston " It's simple – punishment should fit the crime" (2010) Telegraph UK <<http://www.telegraph.co.uk/comment/columnists/philipjohnston/7445890/Its-simple-punishment-should-fit-the-crime.html>>.

advance the wellbeing of young persons who offend against the law.<sup>62</sup> This connects with the arguments from the above authors by confirming that young people need help and that their environment needs to be considered as part of the mechanism. This is reiterated under s 4 of the CYPS Act which outlines that despite youth offenders needing to be held accountable and responsible for their deviant behaviour the youth offender's needs and welfare must also be taken into consideration.<sup>63</sup> However, it is arguable that s4(a) does not go far enough in the realm of prevention and rehabilitation objectives. This is due to the interpretation focusing on the needs, values and beliefs of the youth rather than the reasons for the offence providing a direct focus on punishment rather than rehabilitation.<sup>64</sup> R Ludbrook argued in his submission to the Department of Social Welfare that the values in the legislation would be little more than window dressing as there was no way to apply the values in individual cases.<sup>65</sup> The Court of Appeal in *W v Registrar of the Youth Court, Tokoroa*<sup>66</sup> outlined that tensions arise between the interpretation of the CYPS Act and the principles relating to youth which continued to cause undue delays which need legislative attention.<sup>67</sup> These tensions are increased when economic factors are brought to bear through resource constraint and lack of funding resulting in punitive custody being favoured over rehabilitation.<sup>68</sup> Youth are, therefore, not given the benefit of education away from their environmental structures leading to further labelling, differential positioning and more deviant behaviour. Omaji argues that punitive action through penal punishment does not solve the issue providing only reoccurrence through the tyranny of treatment.<sup>69</sup> Omaji sees this as the crude modification techniques employed to redress individual pathology thought to be responsible for youth offending<sup>70</sup> and ignores the reality which shows that offenders undergoing incarceration are from the underclass of poorly educated and socialised families.<sup>71</sup> This, Omaji suggests, is

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<sup>62</sup> The Children, Young Persons, and Their Families Act 1989, preamble.

<sup>63</sup> *Ibid*, s 4(a).

<sup>64</sup> *Ibid*, ss 4(a-f).

<sup>65</sup> Ludbrook, R. for Youth Law Project "Youth Law Project's Submission to the Department of Social Welfare Working Party Report on Children and Young Persons Bill 1988, submission number SS/89/270" cited in Nessa Lynch "Youth justice" in Julia Tolmie and Warren Brookbanks (ed) *Criminal Justice in New Zealand* (LexisNexis, Wellington, 2007) 359 at [13.2.2].

<sup>66</sup> *W v Registrar of the Youth Court, Tokoroa* (1999) 18 FRNZ 433; [1999] NZFLR 1000.

<sup>67</sup> *Ibid*, at [33].

<sup>68</sup> Paul Omojo Omaji *Responding to Youth Crime" Towards Radical Criminal Justice Partnerships* (Hawkins Press, Sydney, 2003) at [81].

<sup>69</sup> Paul Omojo Omaji *Responding to Youth Crime" Towards Radical Criminal Justice Partnerships* (Hawkins Press, Sydney, 2003) at [81].

<sup>70</sup> *Ibid*.

<sup>71</sup> *Ibid*.

perpetrated by society excluding youth from interacting in education through programs that make them feel alienated<sup>72</sup> which results in deviant behaviour.

## **Conclusion**

Accordingly, until society provides clear and concise education of the moral and legal code in public schools punishing youth for offences in ignorance of their circumstances only seeks to further the divide of the lower classes. Youth who are faced with negative environments and no education of the opposing view will be pulled into the criminal way of life by family pressure resulting in a self fulfilling prophecy that society has created through labelling and stigmatisation branding these youth criminals for the rest of their lives to which they will ultimately follow seeing no other way forward. Punishing through harsh sentencing does not prevent an offender breaking the law as they do not know any better. Therefore, we have a responsibility to review each crime and perpetrator on a case by case basis sentencing youth according to the criminal circumstances not the crime itself.

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<sup>72</sup> Ibid.

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### **About the Author**

Lloyd Gallagher the founder of Gallagher & Co has had 18+ years experience in LAW and developing business solutions from IT and Marketing through to events and Project management.

In his early years Lloyd trained as a telecommunications technician in while working for Telecom then branched out into his own IT company now known throughout New Zealand and Australia as LG Holdings. Lloyd was instrumental in developing the first ISP and ADSL solutions for New Zealand, and has been featured in the Best of the Best 2 years running and countless computerworld magazines.

## Lloyd Gallagher

Lloyd has qualifications in Business Management and is a practicing Tax Agent for Inland Revenue in New Zealand.

Lloyd completed his four year degree in management in 2.5 years and his Bachelor of Laws in 3 years. Lloyd now embarks on a Masters in Law (LLM) and a Masters in Management Communications (MMS). Lloyd will then move to complete the degree with a Doctorate.

Adding to his credentials Lloyd has guest lectured at M.I.T (Manukau Institute of Technology) a prestigious Institute in Auckland. Through his involvement the Lecturers offered him a place on the advisory committee helping students to prepare for the real world.