

Sentencing overhaul needed to reduce crime and save taxpayer money

June 2 2014

Australia's ineffective sentencing laws are failing to reduce crime and wasting taxpayer money that could be better spent on improvements to health and education, according to Deakin University Dean of Law Professor Mirko Bagaric.

Professor Bagaric has called for an overhaul of [sentencing](#) law to start with reserving jail for the most serious criminals, including violent and [sex offenders](#).

Professor Bagaric has made the call in a paper that sets out the need for reform in a paper published in the current edition of the Michigan Journal of Race and the Law.

"Australia's justice system should aim to reduce crime, punish criminals appropriately, minimise the cost of the system and ensure that the system does not violate important moral prescriptions," Professor Bagaric said.

"These four aims should be the primary and only focus of the system, but our current laws do allow it primarily because they are unduly punitive; make no distinction between crimes that devastate the lives of victims and those which have far less impact on the community and attempt to pursue objectives that are unachievable, such as deterrence".

The paper, 'From Arbitrariness to Coherency in Sentencing: Reducing the Rate of Imprisonment and Crime While Saving Billions of Taxpayer Dollars', argues Australia should take a lead in developing a new

sentencing system that will reduce crime.

Professor Bagaric called for the following measures:

- Sentences should be adjusted so that the harshness of the sanction matches the harm caused by the crime;
- Sentencing premiums should not be added to pursue the aims of incapacitation or deterrence;
- The most severe punishments should be reserved for serious sexual and violent offenders;
- A recidivist premium of approximately 20% to 50% should be added to serious offenders;
- All sentences should be determined by way of pre-determined presumptive (not mandatory) grids; and
- Deviations should only occur from this for demonstrable reasons;

"The reforms should be based on two key aspects: Nearly all violent and sexual offenders should go to jail - and often for longer periods than at present - while most other types of offenders should rarely go the jail; and some of the [taxpayer dollars](#) saved on prisons from implementing this should be diverted to policing," Professor Bagaric said.

"We know that the best way to reduce crime is to increase visible police presence. These measures will result in a massive reduction in the expenditure of prisons, allowing more money to be spent towards productive community services, such as health and education.

"The current system has failed to reduce crime, while the nation has a burgeoning imprisonment rate and this is having a negative impact on public revenue as it shifts resources from health and education.

"Each person that is not sent to prison will enable \$79,000 annually to be

directed to socially worthwhile programs. Recent crime statistics from Victoria demonstrate that the system is profoundly failing.

"We have an increasing imprisonment rate and a sky-rocketing crime rate. Clearly the system is fundamentally broken.

"Crime is the most deliberately destructive behaviour in our society. It has a devastating impact on many people's lives, so reducing it should be a primary focus.

"The law, and the implementation of the law, should be based on science not judicial, political or community hunches.

"It is developed on an intuitive basis without regard to the science of what can be achieved through the deliberate infliction of criminal sanctions.

"Mistakes in sentencing can undermine the integrity of the entire criminal justice system."

Professor Bagaric, who completed his PhD in punishment and sentencing in 2000, has written 40 major papers in the area of the sentencing and his work is most recently and comprehensively set out in *Sentencing in Australia*, which is published by Thomson Reuters (2014).

"If the reforms are implemented they will constitute the most significant reform to the criminal justice system in Australia," he said.

Provided by Deakin University

Citation: Sentencing overhaul needed to reduce crime and save taxpayer money (2014, June 2) retrieved 28 June 2024 from <https://phys.org/news/2014-06-sentencing-overhaul-crime-taxpayer->

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