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Locking them up was not enough? We must lock them inside now?



By Rahym R. Augustin-Joseph

Recently, the Antigua and Barbuda Parliament made amendments to the **Small Charges Act**, prohibiting anyone under the age of 18 from being on the streets or in a public place between 10 p.m. and 6 a.m., unless accompanied by a parent or guardian. The penalties include the police taking the child home and warning the parents, taking the child to the police and having the parent collect them, or charging them with loitering. The parent would be responsible for paying a minimum of EC\$2 000 (US\$740/BDS\$1 480) and a maximum of EC\$5 000 (US\$850/BDS\$1 700) and imprisonment for a term of two years for a third or more offence.

The amendments are problematic for a litany of reasons, chief of which is the constitutionality. The amendment may contravene the protection of freedom of movement because it prohibits the free movement of a particular demographic at particular times, without declaring a state of emergency. It can even have the potential to infringe on freedoms of association, assembly, and protection of the law.

Our freedoms are exercisable to the extent that they do not infringe on the rights of others, and can be limited in the interests of defence, public safety or order. Of course, the Antigua and Barbuda government, if this is ever litigated – which it should be by some public-spirited attorney – will argue that it is either not an infringement or that it is justified by the exceptions. To do so, the government must show, as noted by *De Freitas v. Permanent Secretary* – a case which dealt with the inability of public servants to engage in politics – that the objective is sufficiently important to justify the limitation of the fundamental right, that it is connected to the objective, that a less intrusive measure could not have been used, and that there was a fair balance struck between the rights of the individual and the interests of the community.

The government would possibly argue that the objective is to reduce crime and violence among young people. Should they get past the first hurdle, they would have to prove that the limitation i.e., the curfew, is rationally connected to the objective i.e., the reduction of crime and violence among young people in the country. The government, through the police force, would therefore have to utilise data and intel to show that the curfew is the best mechanism to reduce crime and violence, explicating that it is during these curfew hours that the crimes are committed, that young people are the chief architects and perpetrators of these crimes, and that ensuring young people are inside during these times will reduce crime and violence. Is it

not possible, as I have articulated in commentary on this subject, that the artificial curfew would only cause these perpetrators to now commit crimes during the hours that they are outside? Would they institute a curfew during the day now, or pursue other mechanisms which should be contemplated now? The hypothetical is required to show the short-sightedness of this policy and legislative approach.

But the final two hurdles will be the most difficult, because there are always other less intrusive measures that could have been utilised, with this being the last resort. But there seems to be a pattern of our governments, shackled by a victimised electorate who want their representatives to seem tough on crime, trying the most punitive approaches first without pursuing other measures, and masking their ill-directed socio-economic policies as solutions to crime.

The solutions do not reside in locking young people inside or continuing to lock them up, but unlocking their potential by engaging in educational transformation which repositions values, morals, conflict resolution skills, hard work and diligence at the centre of the educational programme. As opposed to continuing to churn out our children in a manufacturing line, there is a greater need to retool young people with proper value systems rooted in community which has been eroded with individualism, a by-product of global capitalism.

But the agencies must understand that the data suggests that young people are not born as wanton criminals, but that economic disenfranchisement and necessity have fostered inclinations. As such, greater access must be given through education, vocational training and employment opportunities in traditional and emerging technologies. None of these solutions are easy and can be implemented in a snap of a finger, but it is what is required. The better utilisation of police resources should consider the establishment of massive Police Clubs, where police officers can engage with young people, harnessing their skills and talents in sports, among other areas, and attempting to steer them away from a life of crime.

But what is also troubling is the underlying philosophy of the approach of charging parents for the 'loitering' of their children, particularly where it seems to be at odds with the age of criminal liability of children of 10 years old.

While it is not disputed that parents must play an active role in shaping their children, there must be an ecosystem created to create functional citizens. It takes a village to raise a child, we have continued to preach. How is the government part of that

village culture? The problem is also that it is most likely, as the studies suggest, that young people within poorer families are more inclined to crime due to economic disempowerment. As such, increasing their parents' financial outputs through fines may only further worsen their economic conditions, causing further vulnerability. The approach of scaring people to take care of their children because they may be fined may not be the best approach. It is not sustainable and does not meet parents where they are or provide the investments required.

It would be wiser to invest in targeted parental support programmes which emphasise the basics of parenting, among other skills. There are much deeper questions, and the government should lead the charge about how we facilitate and enable an economic ecosystem, led by tourism, which does not provide for 'parental' time, and as such may be fuelling some of our problems. When others are preoccupied with economic issues in our hyper-capitalist environment, is there regard for value systems?

But, while there may be young people who are committing crimes during the night and there is discretion for the police in determining who the 'criminals' are, in effect, anyone who is 'liming' can be a criminal. Actually, anyone's parents. But there has been a steady decline of youth in organised groups, thereby rendering a large cross-section of young people affected by this law.

A better approach may be to increase investments in these organisations to sharpen their recruitment to entice young people so that engaging with them will not be an exception to loitering, but what young people do as second nature.

This amendment only fuels the Victorian and punitive approach towards resolving crime, as opposed to crime prevention and increasing investments in young people which can make crime and violence less desirable. It is as if locking up young people was not enough and locking them inside, as opposed to providing them with outlets to express their knowledge and creativity, is needed. There needs to be a revision of this policy if we are to see a reduction in crime.

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