

France's Delinquency Bill: A step towards totalitarianism

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The draft Prevention of Delinquency Law, presented to the French Senate on September 13, gives greatly increased powers to local officials to pry into the private lives of families and to punish and control them. It is particularly directed at children and parents in deprived areas.

In gestation for over three years, under the direction of Minister of the Interior Nicolas Sarkozy, it is the latest in a line of authoritarian legislative measures which the Gaullist government of President Jacques Chirac has put on the statute books since 2002.

The draft law adds to the repressive measures against children and families contained in the Equality of Opportunity Law, which was passed in the teeth of the mass opposition of students and workers last spring. It is a direct response to the unrest expressed in the riots of immigrant and working class youth in the deprived city suburbs (*banlieues*) in the autumn of 2005.

The preamble to the bill is littered with phrases like “making every citizen responsible” and “harsher sanctions.” Chapter VII states that “Punishment, for minors as for adults, has a highly educative and dissuasive function.”

Mayors of communes, already empowered to order the police to investigate any citizen they suspect of a misdemeanor and to act independently of their locally elected bodies, will have their duties and obligations of surveillance and control vastly increased; “... in line with the general police powers that he exercises in his commune, the mayor ‘activates and coordinates’ the prevention of delinquency programme.”

The mayor will chair a “Council for the Rights and Duties of Families,” which must be set up in all towns of over 10,000 inhabitants. He will be empowered to give official admonitions (*rappels à l'ordre*) for any disorderliness, and impose “parental supervision” (*accompagnement parental*) on parents he considers “failing” in their duties. This could involve compulsory parenting classes at their own expense and the placement of children in special institutions.

He will be able to request that the juvenile court (*le juge des enfants*) designate an official to administer the welfare payments of families.

The mayor will be able to commit to hospital for 72 hours, by decree and without a medical opinion, a person under his

jurisdiction “whose mental derangement needs attention and who endangers people or who seriously disturbs public order.” This power is at present restricted to 24 hours and is subject to immediate confirmation by a psychiatric hospital and the *préfet*.

Those working with families will be obliged to reveal information on difficult cases usually protected by professional secrecy regulations to this elected and often highly partisan official, who needs to prove no expertise in these matters.

Teachers and educational administrators will be required to provide the mayor with lists of children who miss classes and are in difficulty at school, and the welfare services must provide “useful information about named people.”

In earlier versions, the draft bill stipulated that children exhibiting rebellious or antisocial behaviour from the age of three should be singled out to the authorities and maintained under surveillance as potential criminals.

Educational, social and hospital workers have responded by forming the National Collective of Organisations in Resistance against Informing (*délation*). The word *délation* has a special resonance in France in relation to experiences during the Nazi occupation and the Vichy collaborationist regime, when widespread informing against opponents and designated victims was encouraged by the authorities.

As the collective's July 11 document points out, “Today, according to the bill, the authorities may be notified of any person as soon as that person experiences financial, educational, psychological difficulties... It gives the mayor personal powers to intervene in virtually all the situations which may come up in his commune... His decisions are unilateral and the citizens have no legal means of challenging them... It lays the basis for generalised suspicion and surveillance.”

Laurent Puech, the president of the ANAS (National Association of Social Service Workers), told *L'Humanité*, “It stigmatises people in difficulty, turning them into nests of potential delinquents, and organises around the families, held to be the only people responsible for delinquency, a real social control.”

Puech added: “Imagine that a couple goes to a drug addiction centre. The social worker informs the mayor. When it comes to allocating council houses, do you think that a couple thus

stigmatized will be given priority?”

The scope for blackmail, favouritism and corruption, already rife, will only be increased.

The Immigration Law passed in June already gave vast new powers to mayors to judge whether immigrants, wishing to be reunited with family members or extend their residence permit, fit into extremely subjective and arbitrary criteria, such as “integration into French society” and “personal commitment to respect the principles which regulate the French Republic.”

An important dimension of the draft law is its reduction in the safeguards for children who get into trouble with the police. These are enshrined in order 45-174 of February 1945, designed to make judgements for child offenders educational rather than punitive.

The bill’s preamble asserts that today there is a tendency to greater juvenile criminality, without attempting to give any account of the causes of this phenomenon (which according to the Magistrates Union is very much exaggerated): “More and more, some minors fall into delinquency before age 13 and get deeply into it for lack of a suitable response.”

While lamenting the fact that “minors under 13 cannot be given a prison sentence, nor be placed in provisional detention,” the preamble asserts that “it is necessary to broaden the range of measures applicable to children under 13” and proposes their placement in special schools or boarding establishments. Other measures for juveniles include forced community work.

The “scientific” justification for the Prevention of Delinquency Bill is the 2005 National Institute of Health and Medical Research (INSERM) report, “Behavioural Disorders in Children and Adolescents.”

Commissioned at the instigation of the health insurance organisation for independent professionals and business people, CANAM, it was drawn up by a panel of carefully selected experts with a heavy bias to genetic determinist rather than environmental factors in the conditioning of human behaviour.

The INSERM report provoked a widespread reaction amongst mental health workers in France, who organised behind the petition, “No Nought for Behaviour for Three-Year-Olds.” This is a reference to the old practice in the schools, now being reintroduced, of giving a mark out of 20 for good conduct. The protesting professionals announced at a press conference last March that they had collected 120,000 signatures, and they distributed a detailed critique of the report.

The critique pointed out that on the panel there figured neither experts in the social sciences nor the sciences of education, public health, law or ethics. There were no front line practitioners: paediatricians, child psychiatrists or clinical psychologists. None of the main associations of child psychiatry had been consulted.

The experts chosen wanted “to impose as a model certain Anglo-Saxon, essentially US practices... [which] rely essentially on the use of psychotropic drugs associated with a

very normative vision of psychotherapeutic practices. This medicated approach ignores the contribution of a humanistic and psychodynamic approach which considers the ‘child in its environment’ as a whole.”

The INSERM report puts the “rate of genetic inheritance” involved in an individual’s behaviour at around 50 percent. The opposing petitioners point out: “The presentation of this body of research, with a [genetic] determinist vision which leads to proposals for a predictive medical practice, brings back the dangerous 19th century theses where people spoke of ‘born criminals’ and the ‘dangerous classes.’”

The most disturbing points of the report identified by its opponents read, “It is recommended, at the age of 36 months, to note on the child’s medical record whether it feels ‘remorse,’ if ‘it does not modify its behaviour,’ if it is guilty of ‘biting’ or incriminated for ‘fighting;’ at four, whether it continues to lie; later, whether the child presents ‘a low index of affective morality...’”

Considered as possible risk factors that may herald later delinquent behaviour are “an attraction for novelty, the taste for exploration ... a diminished feeling of fear.”

Petitioners point out that opposition to authority, disobedience and kicking against social norms are not signs of sickness; “most often they are psychological shifts which accompany stages in the normal development of children.” Indeed, for subdued children affected by difficult conditions of life, the health professionals “are on the look out for the first signs of opposition and anger as evidence that they are on the mend.”

The preamble to the Prevention of Delinquency Bill blames delinquent behaviour on what it calls the “confusion of prevention and social policy,” i.e., on any attempt to examine the social cause of bad behaviour rather than the resort to punishments.

Speaking of the INSERM report, Sarkozy told the National Assembly on February 28, “As all the scientists and all the doctors say, the sooner we intervene, the better chance we have of avoiding the tragedy of a child developing towards delinquency.”



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