

1-1-2001

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Recommended Citation

Michelle Roy, "When All Else Fails, Blame the Parents: An Analysis of Parental Responsibility Laws in Canada" (2001) 10 Dal J Leg Stud 142.

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**WHEN ALL ELSE FAILS, BLAME THE PARENTS:
AN ANALYSIS OF PARENTAL RESPONSIBILITY
LAWS IN CANADA**

MICHELLE ROY[†]

ABSTRACT

On August 15, 2000, *The Parental Responsibility Act, 2000* became law in Ontario. This Act hold parents financially accountable for any property destruction or damage intentionally caused by their children who are under the age of 18. Three years earlier, in 1997, Manitoba was the first province in Canada to introduce a separate act which makes parents legally responsible for the wrongful acts of their children.

This paper compares the existing parental responsibility laws in Canada with those in the United States in an attempt to discern both the benefits and limitations of holding parents legally accountable for the actions of their children. On the one hand, parental responsibility laws may help to achieve greater justice for victims of crime. On the other hand, imposing a fine or jail term on a parent found civilly or criminally liable will only serve to exacerbate some of the problems at the root of youth crime, namely poverty and inadequate parental supervision and support. It is the author's opinion that parental responsibility laws are only "Band-Aid" solutions for combating youth crime. The parent-child relationship is not the only cause of youth delinquency. As a result, parental responsibility laws will only be effective in Canada as a means of addressing youth crime if they are combined with community based measures that address the root of youth delinquency.

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I. INTRODUCTION

On August 15, 2000, Ontario's *Parental Responsibility Act, 2000*¹ became law, holding parents financially accountable for any property destruction or damage intentionally caused by their children under the age of 18. Parents will be held liable for their children's action unless they can prove that the actions were unintentional or that the parents exercised reasonable supervision and made reasonable efforts to discourage the harmful behaviour. Manitoba was the first province in Canada to introduce this type of legislation. The purpose of Manitoba's 1997 *Parental Responsibility Act* is to "ensure that parents are held reasonably accountable for the activities of their children in relation to the property of other people."² While in the U.S. many states have adopted legislation holding parents criminally responsible for their children's actions, neither the provincial *Parental Responsibility Acts*, the *Criminal Code*³ nor the *Young Offenders Act*⁴ allow for any kind of vicarious liability on parents for their children's actions.

This paper will review the existing parental responsibility laws in Canada, examining the benefits and limitations of holding parents legally accountable for their children's behaviour. Parental responsibility laws may help to achieve greater justice for victims of crime, a rationale reflective of the more recent victim-centered approach emphasized by the Canadian Government. However, imposing damages, fines or even a jail term may only serve to exacerbate the problems at the root of youth crime: poverty and inadequate parental supervision and support. This paper will argue that parental responsibility laws are only "Band-Aid" solutions for combating youth crime. These laws will only be effective in Canada if they are combined with community-based measures to address the real causes of delinquency. In addition to looking at historical approaches to legislating parental responsibility, this paper will also consider the arguments of both supporters and opponents with respect to the true social effects of holding parents accountable.

¹ *Parental Responsibility Act, 2000*, S.O. 2000, c. 4.

² *Parental Responsibility Act*, S.M. 1996, c. 61, as am. by S.M. 1999, c. 22., s. 2.

³ *Criminal Code*, R.S.C. 1985, c. C-46.

⁴ *Young Offenders Act*, S.C. 1980-81-82-83, c. 110; R.S.C 1985, c. Y-1.

II. PARENTAL RESPONSIBILITY LAWS IN CANADA

While parents are not liable under the *Criminal Code* or the *Young Offenders Act* for their children's crimes, at one time parents could be charged under s.22(1) of the *Juvenile Delinquents Act*,⁵ the predecessor to the *YOA*. Section 22(1) allowed parents to be charged for contributing through act or omission to their children's delinquency. The case of *Re S (A.C.)*⁶ is one of the only known cases in which a parent was convicted under s.22(1). The parents of a youth convicted of mischief under the *JDA* were fined as a result of their failure to exercise due care with respect to their child. During sentencing the learned judge invited the youth's parents to show why s.22 of the *Act* should not be used against them and on appeal, Judge Long's order for a fine against the parents was upheld. Five years earlier, in the case *R v. Lee*,⁷ a juvenile court judge in British Columbia ordered both juveniles involved and their parents to each pay the sum of \$1,000 by way of restitution. On appeal, the restitution provisions of the juvenile court judge were set aside, while the remainder of the decision was affirmed.⁸

When the *JDA* was replaced with the *Young Offenders Act* in 1984, parents could not be held liable for the criminal acts of their children. In the book *Young Offenders Law*, Nicholas Bala argues that parental liability was removed from the *YOA* because the government believed that the effect of holding parents liable was to aggravate already disturbed family relationships.⁹ Moreover, holding parents liable goes against the premise of the *YOA*: to hold young persons accountable for their illegal acts. Presently, the only reference to parental responsibility in the *YOA* is found in s.3(1)(h), which states:

[P]arents have responsibility for the care and supervision of their children and, for that reason, young persons should be removed from parental supervision either partly or entirely only when measures that provide for continuing parent supervision are inappropriate.¹⁰

⁵ *Juvenile Delinquents Act*, R.S.C. 1952, c.160, as rep. by *Young Offenders Act*, S.C. 1980-81-82-83, c.110.

⁶ *Re S (A.C.)* (1969), 7 C.R.N.S. 42 (Q.S.W.Ct.), aff'd by *Regina v. Snarch* (1969), 7 D.L.R. (3d) 62 (Q. Sup.Ct.).

⁷ *R v. Lee* (B.C. Juv. Ct.) as reported in *R. v. Lee et al.*, [1964] 3 C.C.C. 200 (B.C.S.C.).

⁸ *R. v. Lee*, [1964] 3 C.C.C. 200 (B.C.S.C.).

⁹ N. Bala, *Young Offenders Law* (1997), "Chapter 2, Principles for Responding to Youth Crime" (Concord, Ontario: Irwin Law, 1997) at 5: online: QL (BYOL).

¹⁰ *Supra* note 4 at s. 3(1)(h).

While the rationale of the *YOA* shows that Canada has moved away from the position that parents should be held accountable for the actions of their children. The recent parental responsibility acts of Manitoba's and Ontario's regress toward the position of the *Juvenile Delinquency Act*. They are the only provinces/territories that have a separate statute dealing specifically with parental responsibility for youth crime. The *Parental Responsibility Act* in Manitoba holds parents civilly liable to a victim for deliberate property damages caused by their child. Under the heading "Parents Liability," s.3 of the *Act* states:

The parent of a child who deliberately takes, damages or destroys the property of another person is liable for the loss suffered by the owner of the property as a result of the activity of the child, and the owner of the property may commence a civil action under this Act against the parent of the child to recover damages, in an amount not exceeding \$7,500.00, in respect of the owner's loss.¹¹

Under s.7(1), a parent will be found liable unless he or she establishes to the satisfaction of the court that he or she:

- (a) was exercising reasonable supervision over the child at the time the child engaged in the activity that caused the property loss; and
- (b) made reasonable efforts in good faith to prevent or discourage the child from engaging in the kind of activity that resulted in the property loss.¹²

Section 7(3) outlines factors similar to those in the Manitoba act that the court is to consider in determining whether the parents should be held liable.

In Manitoba the *Parental Responsibility Act* was in large part a reaction to the case *D.C.B. v. Zellers*.¹³ D.C.B.'s son had been caught shoplifting merchandise from Zellers and in response to a letter from Zeller's legal counsel, D.C.B. paid \$225.00 as compensation for damages sustained by Zellers as a result of the shoplifting incident. D.C.B. later sued Zellers in small claims court to reclaim the money she had paid. In making his decision, the Judge of the small claims court remarked:

¹¹ *Supra* note 2 at s. 3.

¹² *Supra* note 2 at s. 7.

¹³ *D.C.B. v. Zellers* (1996), 111 Man. R. (2d) 198 (Q.B.).

There is no general rule that parents are liable for the torts of their children by virtue of their status as parents per se. The parents would only be liable if they, themselves, were in some way negligent or had engaged in tortious conduct in relation to the activities of their children.¹⁴

In this case, the Judge felt there was no authority allowing him to order compensation to the victim, in this case Zellers. The Manitoba government responded by implementing The *Parental Responsibility Act* one year later, thus formally imposing civil liability on the parents of young offenders.

Ontario's more recent act is very similar to Manitoba's law in holding parents financially accountable under s.2(1) for property loss, destruction or damage intentionally caused by their children. The bill was introduced as part of the Harris government's commitment to improving community safety. In a conference held in Toronto on August 15, 2000, Attorney General Jim Flaherty announced, "The *Parental Responsibility Act* reinforces our government's belief that people must demonstrate respect for others and take responsibility for harmful actions. This is an important lesson that young people must learn."¹⁵ Flaherty further stated that "[t]his law will help victims [of property crime] get the justice they deserve." Fred Chorley, Executive Director, of the Mississauga Crime Prevention Association, added "[v]ictims of youth property crime will have an easier way of obtaining compensation from the parents of the youth. If that causes parents and youth to think more about their actions, that is also a positive result of this legislation."¹⁶

The *Parental Responsibility Act, 2000* replaces s.68 of the Ontario *Family Law Act*¹⁷ requiring parents to show that they exercised reasonable supervision or control over their child or they will be held financially responsible. Section 2(2) of the *Parental Responsibility Act, 2000* places a similar burden on the parent, requiring they show that:

- (a) [they were] exercising reasonable supervision over the child at the time the child engaged in the activity that caused the loss or

¹⁴ *Ibid.* at 201 [citations omitted].

¹⁵ Ontario, Ministry of the Attorney General, "Attention News Editors: Law to Strengthen Parental Responsibility in Force Today" *NewsWire* (15 August 2000), online: Government of Ontario <<http://www.newswire.ca/government/ontario/english/releases/august2000/15/c0754.html>> at 1 (date accessed: August 21, 2000).

¹⁶ *Ibid.* at I.S.

¹⁷ *Family Law Act*, R.S.O. 1990, c. F. 3.

damage and made reasonable efforts to prevent or discourage the child from engaging in the kind of activity that resulted in the loss or damage; or

(b) the activity that caused the loss or damage was not intentional.

Similar to the Manitoba act, the legislation outlines in s. 2(3) the considerations to be taken into account when assessing the parent's responsibility: the age of the child, if the child was under the direct supervision of the parent when the child engaged in the activity, whether the parent acted unreasonably in failing to make reasonable arrangements for the supervision of the child, and whether the parent has sought to improve his or her parenting skills by attending parenting courses or otherwise.¹⁸

III. THE EFFECTIVENESS OF PARENTAL RESPONSIBILITY LAWS

The social and individual impact of parental responsibility laws on juvenile delinquency is still largely unknown. Proponents are convinced the deterrent effect of this legislation can positively impact juvenile crime rates, while opponents are more concerned with the potential for negative social consequences.

1. Proponents of Parental Responsibility Laws

In his paper *Parental Responsibility Legislation and Young Offenders*, Andrew McNaught states that proponents of parental responsibility laws support the use of such laws on the basis that juvenile delinquency to some extent originates with the family.¹⁹ Proponents claim that the failure of parents to correct the delinquent behaviour of their children leads to criminal activity, and that the threat of legal liability encourages parents to play a greater role in raising their children and to deal more directly with a child's offensive behaviour. Supporters of parental re-

¹⁸ *Supra* note 1 at s.2.

¹⁹ A. McNaught, "Parental Responsibility Legislation and Young Offenders" (1998), online: Legislative Research Service <<http://www.ontla.on.ca/library/b22tx.htm>> (date accessed: 27 September 2000).

sponsibility laws also argue that making parents liable for property damage is appropriate in that it prioritizes the rights of victims.²⁰

In his paper *Parental Responsibility Statutes and the Programs that Must Accompany Them*, Jason Emilios Dimitris outlines four main arguments used by proponents in support of parental responsibility laws:

1. The courts have limited and unsatisfactory alternatives;
2. Helpful legislation is needed;
3. Parental responsibility statutes will save the government money by avoiding the expense of the child's extended incarceration; and
4. Parents need to take a larger role in attempting to control their delinquent child's behaviour.²¹

While the 1996 Federal-Provincial-Territorial Task Force on Youth Justice ultimately opposed the idea of implementing parental responsibility laws, page 53 of their report stated:

...there are circumstances where some degree of parental responsibility can reasonably be attributed – for instance, where a parent commits an offence with, or in the presence of, a young person.²²

Although the majority of the Task Force agreed that neither a criminal offence of contributing to delinquency nor a parental, negligence-based criminal offence should be created, they did agree that civil remedies could be available. The Task Force recommended that consideration be given to drafting model provincial and territorial civil legislation that would facilitate civil recovery from grossly negligent parents for damages or losses arising from the criminal acts of their children.²³ In coming to the conclusion that civil liability may be a viable option, the

²⁰ *Ibid* at 4.

²¹ J.E. Dimitris, "Parental Responsibility Statutes – and the Programs that Must Accompany Them" (1997) 27 *Stetson L. Rev.* 655 at 670.

²² Canada, *Report of the Federal-Provincial-Territorial Task Force on Youth Justice: A Review of the Young Offenders Act and the Youth Justice System in Canada* (Kingston: QUICKLAW, 1996) online: QL (LNCR) at 53. The Task Force is a working document of officials developed to provide analysis, options and proposals for the consideration of the Governments and the Standing Committee on Justice and Legal Affairs of the House of Commons [hereinafter Task Force].

²³ *Ibid.* at 53 and 79.

Task Force recognized that a loss of parental discipline is a primary contributor to delinquency, particularly among aboriginal youth.²⁴

Many proponents of parental responsibility laws argue that the laws alone will not be effective in reducing juvenile delinquency. As Pamela Graham suggests, they must be accompanied by much more far-reaching programs that address the causes of delinquent behaviour.²⁵ For Graham, parental responsibility legislation “can and should be part of the solution” to youth delinquency.²⁶ Graham recognizes that one of the reasons why parental responsibility laws have thus far been ineffective is the legal system’s reluctance to enforce existing laws.²⁷ She recommends increased enforcement of offences, making parental responsibility legislation more than symbolic, especially for serious public misbehaviour.²⁸ Graham suggests that criminal sanctions can become more effective by “developing and implementing social programs to help parents foster more adequate parenting skills.”²⁹ For Graham, parental liability laws should be acknowledged only as a “partial solution” to youth delinquency.³⁰ Similarly, Dimitris believes that “parental responsibility statutes are merely one weapon in the arsenal to attack juvenile crime.”³¹ For Dimitris, these laws will fail unless they are backed by supportive social systems.

However, Dimitris does see the benefit in using parental responsibility laws to hold parents responsible for parental action or inaction that is directly responsible for their children’s delinquency. In his opinion:

...[P]arental responsibility statutes send the message that parents have freedom to raise their child as they see fit, but if the child becomes a burden to society, and the parents are contributing to the child’s unlawful behavior or are not attempting to prevent their child from becoming such a burden, the parents can be held criminally responsible.³²

²⁴ Task Force, *supra* note 22 at 60.

²⁵ P.M. Graham, “Parental Responsibility Laws: Let the Punishment Fit The Crime” (2000) 33 *Loy. L.A. L. Rev.* 1719 at 1746.

²⁶ *Ibid.*

²⁷ *Supra* note 25 at 1734.

²⁸ *Supra* note 25 at 1747.

²⁹ *Supra* note 25 at 1749.

³⁰ *Supra* note 25 at 1750.

³¹ *Supra* note 21 at 673.

³² *Supra* note 21 at 682.

Dimitris proposes that concerns about parental responsibility can be minimized if they are accompanied by properly administered social programs, such as free day care, after school activities and carefully drafted legislation.³³ For Dimitris, incarceration is a last resort.

Proponents of parental responsibility see weak or dysfunctional parent-child relationships as a primary cause of youth delinquency. Thus these laws are a means of placing the burden of the child's wrongdoing on the parents, rather than leaving the victim to bear the costs. For this reason, adherents believe that threatening legal liability encourages parents to strengthen the parent-child relationship, in turn leading to a reduction in juvenile delinquency. Most proponents of parental responsibility laws do recognize that the only way these laws will be effective is if they are accompanied by measures that address factors that directly contribute to juvenile crime.

2. Opponents of Parental Responsibility Laws

Nicholas Bala, skeptical of parental responsibility legislation, states in his book *Young Offender Law* that there is "considerable doubt that [these laws] will have any effect on reducing criminal behaviour. Indeed, this type of law may exacerbate some family situations and lead to situations where further criminal acts are committed."³⁴ One of the primary reasons why the Government of Canada eliminated parental liability when it created the *Young Offenders Act* is because it believed that such liability laws only aggravate already disturbed family relationships.³⁵

In *Responsibility Legislation and Young Offenders*, McNaught outlines some of the objections that have been raised in Canada against parental responsibility laws:

1. Imposing a fine that parents cannot afford will only further strain family relations. The real issue is the lack of effective parenting skills, resources and community support.
2. Juvenile delinquents will commit crimes regardless of parents' influence and efforts, as peer groups, videos, school and television also influence a young person's behaviour.

³³ *Supra* note 21 at 679-698.

³⁴ *Supra* note 9 at 10.

³⁵ *Supra* note 9 at 2.

3. Small claims courts with simplified court procedures may be unequipped to deal with subjective and contentious issues such as whether parents exercised adequate control over their children.
4. The effect of parental responsibility laws is largely unknown
5. Parental responsibility laws may violate the *Canadian Charter of Rights and Freedoms* by holding individuals vicariously liable for another's crimes.
6. Parental responsibility laws contradict one of the underlying principles of the *Young Offenders Act*, that young people must take responsibility for their behaviour.³⁶

In the U.S., where 17 states have passed some form of parental liability legislation, opponents have raised other concerns, focusing on the broader social implications of the laws.

1. Parental responsibility laws impose class-based ideals on families that cannot meet these goals;
2. Parental responsibility laws disproportionately affect women;
3. Parental responsibility laws will only further burden overwhelmed parents and possibly decrease the insufficient amount of time these parents spend with their children.
4. Costs of prosecuting parents under parental responsibility statutes could be better spent on supporting parents with programs to empower and enable them;
5. Parental responsibility laws are difficult to enforce because it is difficult for the state to determine when a parent has been negligent.³⁷

One of the presumptions of parental responsibility laws is that the threat of civil damages will encourage parents to better supervise their children, leading to a reduction in juvenile delinquency.³⁸ However, as Graham points out, "some parents will not be influenced by a money judgment since they have inadequate resources to compensate a vic-

³⁶ *Supra* note 19 at 4.

³⁷ *Supra* note 21 at 674.

³⁸ *Supra* note 25 at 1727.

tim.”³⁹ In support of this conclusion Graham sites Judge Sophia Hall of the Juvenile Section of Cook County in Illinois. According to Judge Hall, “we’re talking about dysfunctional families, frequently; and for the majority of folks, coming through juvenile courts, money is the issue in the first place.”⁴⁰

In enacting parental responsibility laws, the goal is that these laws will benefit society by deterring and rehabilitating parents, who will in turn prevent their children from committing criminal offences.⁴¹ However, as Scarola explains, “parental responsibility laws may be poor deterrents because the acts of parents are not necessarily the direct cause of the acts of their children.”⁴² Rather, parents are only one of the competing factors influencing children’s behaviour. According to Scarola, “if the parents are not the significant cause of juvenile crime, parental responsibility laws will have little deterrent effect on the juvenile delinquent’s behaviour.”⁴³ Moreover, Scarola recognizes that there are many instances when a parent is unable to control a child, even when the parent is aware of their child’s propensity for delinquency.⁴⁴ Scarola further suggests that penalties imposed under parental responsibility legislation may disrupt rehabilitative potential where economic disadvantage is the underlying problem as a heavy fine may “increase the family’s already unstable economic position.”⁴⁵ Further, if a parent was imprisoned the family would be broken up and the child would be left with even less guidance and supervision, which is viewed as one of the major causes of youth delinquency in the first place.⁴⁶ Imprisoning parents would have particularly egregious results for single parent families. Dimitris reiterates the arguments of opponents to these measures who believe that these statutes impose fines and imprisonment on parents who already have problems controlling their children in large part

³⁹ *Supra* note 25 at 1728.

⁴⁰ *Supra* note 25 at 1729.

⁴¹ T. Scarola, “Creating Problems Rather Than Solving Them: Why Criminal Parental Responsibility Laws Do Not Fit Within Our Understanding of Justice” (1997) 66 *Fordham L. Rev.* 1029 at 1056. In Silverton, Oregon the juvenile crime rate has dropped by almost 40% since the City adopted its parental responsibility ordinance.

⁴² *Ibid.* at 1057.

⁴³ *Supra* note 41 at 1059.

⁴⁴ *Supra* note 41 at 1061.

⁴⁵ *Supra* note 41 at 1058.

⁴⁶ *Supra* note 41 at 1058.

due to their financial shortcomings and lack of physical proximity to their children,⁴⁷ and Scorola suggests that a better approach would be to address the root causes of juvenile crime through preventive programs⁴⁸ that can consider all the societal influences that affect juvenile crime. These programs would likely be more successful and cost-effective than parental responsibility laws.⁴⁹

Scorola argues that one of the greatest limitations of parental responsibility laws is that they only focus on the family. She points out that “most criminology theories and empirical studies generally indicate that families, economic status, academic achievement, peer groups, community attachment and susceptibility to the media affect a child’s propensity to become delinquent.”⁵⁰ Scorola suggests the use of programs such as family training, mentoring, conflict resolution classes, community safe sanctuaries and public service announcements as an alternative to parental responsibility statutes.⁵¹

In his paper, *Visiting the Sins of the Child on the Parent*, Toni Weinstein suggests that the reason why legislators enact parental responsibility laws is because they assume the threat of prosecution will force parents to become concerned about the actions of their children, to discipline them “properly”, and thus prevent them from getting into trouble.⁵² However, Weinstein argues that “the family is just one of the many interrelated forces that influence whether or not a juvenile participates in gang-related crimes”.⁵³ He contends that gang violence, and youth violence in general, is a complex problem resulting from a number of different social and economic factors and thus cannot be solved by as simple an approach as parental responsibility laws.⁵⁴ Weinstein further argues that accomplice laws and criminal negligence laws for contributing to the delinquency of a minor are already in place to punish parents for their actions or inactions with respect to the acts of their children.⁵⁵

⁴⁷ Dimitris, *supra* note 21 at 676.

⁴⁸ *Supra* note 41 at 1064.

⁴⁹ *Supra* note 41 at 1065.

⁵⁰ *Supra* note 41 at 1065.

⁵¹ *Supra* note 41 at 1074.

⁵² T. Weinstein, “Visiting the Sins of the Child on the Parent: The Legality of Criminal Parental Liability Statutes” (1991) 64 S. Cal. L. Rev. 859 at 900.

⁵³ *Ibid.* at 900-901.

⁵⁴ *Supra* note 52 at 901.

⁵⁵ *Supra* note 52 at 901.

Weinstein is vehemently opposed to imposing criminal liability on parents for the crimes of their children. He argues that “[c]riminally punishing passive parents is contrary to common law and constitutional principles, and any statute that imposes criminal liability on parents solely for the acts of their children is unjustifiable.”⁵⁶

In rejecting the use of parental responsibility laws, Naomi Cahn maintains these statutes “impose class-based expectations on families that cannot meet those expectations.”⁵⁷ She argues in *Pragmatic Questions About Parental Liability Statutes* that “while jurisdictions should encourage parents to participate voluntarily in the juvenile justice system, they should not hold parents liable for the child’s acts nor mandate parental responsibility.”⁵⁸ For Cahn, appropriate solutions would be those that focus on early intervention and collaboration, rather than coercion and conflict.⁵⁹ According to Cahn, parental responsibility laws:

Have a disproportionate impact on single-parent households, further penalizing poor, often African-American women who are already over-burdened and who are acting in the most responsible manner of which they are capable, and yet who cannot meet middle-class defined parenting norms.⁶⁰

Cahn also believes that parental responsibility statutes “send a confusing message to juveniles, that they are, on the one hand, responsible for their actions, yet on the other hand, not fully culpable because it is their parents who have failed to exercise adequate supervision over them.”⁶¹

While there are proponents in favour of enacting parental responsibility laws, at least to the extent that these laws are supported by social programs, the majority of legal writers argue that parental responsibility laws are not and will not be effective as a means of controlling juvenile delinquency.

⁵⁶ *Supra* note 52 at 901.

⁵⁷ N.R. Cahn, “Pragmatic Questions About Parental Liability Statutes” [1996] *Wis. L. Rev.* 399 at 401.

⁵⁸ *Ibid.* at 402.

⁵⁹ *Supra* note 57 at 403.

⁶⁰ *Supra* note 57 at 416.

⁶¹ *Supra* note 57 at 445.

V. CONCLUSION

Both Manitoba and Ontario enacted their *Parental Responsibility Acts* guided by the rationales of helping to compensate victims of property crimes and encouraging parents to take their parental responsibilities more seriously. Supporters of the legislation argue that these laws have become necessary due to increasing youth crime and a lack of satisfactory alternatives in the criminal justice system. Maintaining that parenting has an influence on youth delinquency, proponents believe that parents should be held more accountable for the delinquent acts of their children, instead of leaving it to the courts. Most importantly, proponents view parental responsibility laws as a means of providing justice to victims of crimes, when justice is not otherwise available due to existing, yet inadequate young offender legislation.

Opponents of parental responsibility laws focus on the social realities of the youth that typically commit crime. A disproportionate number of young delinquents come from economically disadvantaged families, frequently single parent homes. Parents in these families cannot afford to pay damages or heavy fines, and often it is the family's economic position which may have encouraged the child to commit an illegal act. Although existing Canadian parental responsibility acts do not impose criminal responsibility on parents, imposing a custodial sentence on a child's parent would only hurt everyone in the end. Incarcerating a parent would lead to less supervision and control of children, which some argue is at the root of youth delinquency. As Scarola points out, if a parent in a single-family unit is imprisoned as a result of being convicted under a parental responsibility law, their children may become wards of the state.⁶² Lastly, according to Cahn, parental responsibility statutes assume that parents can and should have control over their children and that parents and children have a close enough relationship that parental liability will have an impact on a child's actions.⁶³ However, the reality is that parents do not always have such control and no matter how hard they try, they will never be able to stop their children from committing delinquent acts.

⁶² *Supra* note 41 at 1058.

⁶³ *Supra* note 57 at 415.

When viewed solely as a mechanism for combating youth crime, it is unlikely that parental responsibility laws will have the desired effect. However, if viewed as a means of compensating victims, parental responsibility laws are a viable option. Opponents of parental responsibility laws focus primarily on the law's ability to reduce the juvenile crime rate. In so doing, they overlook the dual purposes of these statutes. The Ontario legislation, for example, was implemented primarily to "help victims get the justice they deserve."⁶⁴ For the government of Ontario, any reduction in property crimes committed by minors would be a secondary benefit of the legislation.

Often individuals injured by crimes committed by minors feel frustrated with a criminal justice system that appears to be too easy on young people. Victims of youth crime feel even more frustrated when, because of their young age, the perpetrator of the crime is not subject to the *Young Offenders Act* (in Canada the minimum age for legal responsibility is 12 years old). When a child who commits a criminal act cannot be legally punished, punishing that child's parents whether by fine or incarceration provides victims with feelings of gratification and justice. Holding parents liable for the criminal acts of their children also provides both victims of crime and society with someone to blame.

Is it fair to blame parents? In reality, juvenile delinquency is not caused by one factor; it is a product of a multitude of overlapping causes. While a parent's inability to supervise and control their children has been noted by criminologists to be a major cause of juvenile delinquency, other factors such as poverty, peer pressure and the media contribute to its occurrence. One of the major difficulties with parental responsibility laws is that they focus solely on the parent-child relationship rather than using combined measures that directly address other causes of youth delinquency.

The imposition of parental responsibility laws in Canada should include the requirement that parents take part in parenting skills programs, conflict resolution classes and counseling with their children. Such programs can provide assistance and support to parents who are having difficulties raising their children. These programs can also encourage both children and their parents to search for non-aggressive means of resolving conflicts. As a disproportionate number of juvenile

⁶⁴*Supra* note 15.

delinquents grow up in single parent households, subsidized day care and after school programs should also be made available to parents who cannot afford these programs. While such programs are initially expensive to implement, in the long run, if these programs are successful in reducing juvenile delinquency, these costs will be offset by the reduced need for incarceration.

Manitoba's and Ontario's parental responsibility legislation, as well as the recommendations of the Federal-Provincial-Territorial Task Force on Youth Justice make it clear that Canada is not prepared to impose criminal liability on parents. Nevertheless, when combined with a variety of preventative programs, and when consistently enforced, parental responsibility laws that hold parents civilly liable for the crimes of their children have the potential to be an effective mechanism for compensating victims and reducing youth delinquency. Without such community-based programs however, parental responsibility laws will only serve as a "Band-Aid" solution for combating youth crime.