

Is Freedom the Ultimate Protection?

“Measures must always in a progressive society be held superior to men, who are after all imperfect instruments, working for their fulfilment” (Mahatma Gandhi). On December 15, 2020, Senate Bill 82 was introduced to the floor by Senator Skinner. After being introduced, it underwent two amendments but was ultimately rejected. However, while it was being discussed, it caused a wave of controversy among those who did not support changing the status quo. I oppose Senate Bill 82 because it does not consider the threat of death or “great bodily injury” as robbery, but rather as a “criminal threat,” and because the threshold “great bodily injury” is too strict as a condition for robbery. In all, this would decrease the safety of our neighborhoods and communities.

The bill does not consider using threats to instigate the fear of using a deadly weapon as robbery. However, this reduces the sentence from the status quo to that of a “criminal threat.” Currently, robbery is defined as “the felonious taking of personal property in the possession of another, from his person or immediate presence, and against his will, accomplished by means of force or fear” (CA Penal Code § 211). First-degree robbery is a felony punishable “by imprisonment in the state prison for three, four, or six years” (CA Penal Code § 213). However, SB-82 changes the definition of petty theft to allow “means of force or fear without the use of a deadly weapon or great bodily injury” (Petty Theft Act), with a punishment “by fine not exceeding one thousand dollars (\$1,000), or by imprisonment in the county jail not exceeding six months, or both” (CA Penal Code § 490). The status quo is that someone threatening death or injury to take someone’s property would be charged with robbery. With SB-82 in place, the convict would be charged with petty theft, a much lighter sentence and a misdemeanor instead of a felony. The “Criminal Threat” statute can charge the defendant with “imprisonment in the

county jail not to exceed one year, or by imprisonment in the state prison” (CA Penal Code § 422) for “willfully threaten[ing] to commit a crime which will result in death or great bodily injury” (CA Penal Code § 422). However, this still pales in comparison to the minimum sentence for robbery. Now, convicts can be released faster after using fear to take someone’s possessions. They would be more likely to become a repeat offender and use threats and fear again to take from our communities.

“Great bodily injury” is too severe of a consequence to charge someone with robbery. The definition of “great bodily injury” is “physical injury ... that causes a substantial risk of death, extended loss or impairment of a body part or function, or permanent disfigurement” (Webster). Robbery is “accomplished by means of force or fear” (CA Penal Code § 211). SB-82 aims to redefine petty theft to include incidents where the offender took a victim’s possessions “by means of force or fear without the use of a deadly weapon or great bodily injury” (Petty Theft Act). However, this means that even if the victim sustained injuries that led to urgent or even emergency treatment, if they were not disfigured or had “extended” loss of a function, the convict could be charged with petty theft. A convict could receive a misdemeanor rather than a felony for hurting someone without “seriously injuring” them, meaning that they could be released very soon and become repeat offenders, compromising the safety of our neighborhoods. The focus should be more on the use of fear or force to extort someone’s possessions, not the severity of injuries.

Petty theft should be where the victim is not cognizant that anything was stolen. SB-82 moves the border between petty theft and robbery, conceding our security and the security of those around us. Our society needs justice reform, but lifting many cases of extortion of property from a felony to a misdemeanor to decrease crime would, in reality, work counterproductively.

However, it begs the question: is there anything we can do to stop the human desire to take from others for personal gain?

Works Cited

CA Penal Code § 211.

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN§ionNum=211.

CA Penal Code § 213.

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=213.&lawCode=PEN.

CA Penal Code § 422.

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=422.&lawCode=PEN.

CA Penal Code § 490.

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=490.&lawCode=PEN.

Merriam-Webster. (n.d.). Great bodily injury legal definition. Merriam-Webster. Retrieved 2021, from <https://www.merriam-webster.com/legal/great%20bodily%20injury>.