

To:

The Hon. Mark Speakman, SC MP
Mr Michael Daley, DipLaw MP
The Hon. Dominic Perrottet, LLB BCOM MP
Mr Christopher Minns, MP

9 June 2022

Raising the age of criminal responsibility from 10 years to 14 years old

We the undersigned signatories are deeply concerned about the current minimum age of criminal responsibility (MACR) in NSW and all other states and territories across Australia. We were troubled to learn that the NSW State Parliament recently voted to reject a Bill to raise the age of criminal responsibility from 10 to 14 years old. We are particularly concerned by the disproportionate impact of this law on Aboriginal and Torres Strait Islander children.

Australia is a signatory to the United Nations Convention on the Rights of the Child,¹ alongside nearly 200 other State parties, who thereby recognise that childhood is entitled to special care, safeguards and assistance. By setting its MACR at only 10 years old, Australia is seriously lagging behind the international norm of 14 years old among signatory countries.

In 2019 the United Nations called all states to account on this matter, citing evidence in neuroscience and child development which shows limitations of a child's capacity to understand the impact of their actions or to fully understand criminal processes.² The UN encourages all State parties to increase the MACR **to at least 14 years old**.

The current law has a devastating and disproportionate impact on First Nations communities, who have a long history of being overrepresented in the youth justice system.³ Aboriginal and Torres Strait Islander peoples comprise 6% of Australia's population, yet this group accounted for 54% of young people in detention in the June quarter 2021.³ The current law is counter-productive and entrenches systematic discrimination against Aboriginal and Torres Strait Islander communities. This has been a matter of public and social concern for some years,⁴ and yet there has been no appreciable progress made.

Research shows that the current law, rather than acting as a deterrent, has the **opposite** effect and **increases** the likelihood of future offending.⁵ Early incarceration is linked to higher rates of criminalisation later in life. Furthermore, the majority of children being held in juvenile detention are on remand, not having been either convicted or sentenced. The majority of children who encounter the youth justice system have complex needs, and early support for children at risk can reduce the likelihood of offending.

Long term investment in early intervention and crime prevention along with a whole-of-system and whole-of-government approach was included in the recommendations provided to the NSW Minister for Juvenile Justice in a Strategic Review in 2010.⁶ More recently, a detailed report commissioned by the ACT Justice and Community Safety Directorate outlined possible responses that support a higher MACR.⁷ Alternative, community-driven solutions to incarceration have been proposed, including education and behavioural support, and fostering connections with community and culture.⁸

We, the undersigned, are calling on the NSW Government to raise the minimum age of criminal responsibility to 14 years. Not 12, but 14 years. We call on the government to invest in programs and support services as an alternative to incarceration of young children. We call upon our governments in all states and territories to honour the human rights principles of justice, democracy, non-discrimination and good faith outlined by the United Nations Convention on the Rights of the Child and the United Nations Declaration on the Rights of Indigenous Peoples.^{1,9} Change to this law is long overdue.

Yours sincerely,

Jews for Social Action, North Shore Temple Emanuel

Artarmon Muslim Association

Bennelong Reconciliation

Berowra Baptist Church

Common Grace

Epping Uniting Church

Harbour to Hawkesbury Australians for Reconciliation

Hornsby Area Residents for Reconciliation

Lane Cove Residents for Reconciliation

Leichhardt Uniting Church

Manly Warringah Pittwater Aboriginal Support Group

Mosman Reconciliation

Pitt St Uniting Church

Reconciliation Network: Northern Sydney Region

Roseville Uniting Church

Stand Up

Religious Society of Friends (Quakers), Wahroonga Local Meeting

Women's Reconciliation Network

References

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