

Tuesday, 17 December 2019

LCA and AMA call on Australian governments to raise the age of criminal responsibility to 14

Australia's peak legal and medical bodies are today calling on all Australian governments to increase the minimum age of criminal responsibility to 14.

In a powerful [joint statement](#), the Law Council of Australia (LCA) and the Australian Medical Association (AMA) are demanding action on the "national tragedy" of jailing children as young as 10.

The LCA and AMA believe the arrest, detention, or imprisonment of a child should be used only as a measure of last resort, and should only occur for the shortest appropriate period of time.

Prison should not be a rite of passage for any child.

Children who are forced into contact with the criminal justice system at a young age are less likely to finish school or find a job, and are more likely to die an early death.

Currently, the minimum age of criminal responsibility in all Australian jurisdictions is 10 years.

Raising the age to 14 would remove the need for courts to consider the complex "*doli incapax*" doctrine, under which anyone aged between 10-14 cannot be held responsible for a crime if they do not understand their behaviour is seriously wrong.

Law Council President, Arthur Moses SC, said that raising the minimum age of criminal responsibility would bring Australia in line with international human rights standards, and help to ensure that Australia's response to some of our most vulnerable children is health and welfare-based.

"It will maximise their chances of living productive and happy lives," Mr Moses SC said.

Mr Moses SC also noted the disproportionate impact that the minimum age of criminal responsibility has on First Nations children.

"Aboriginal and Torres Strait Islander young people are at least 23 times more likely to be in detention than non-Indigenous young people," Mr Moses SC said.

"Early contact with the criminal justice system increases the chances of reincarceration, leading to an almost-inevitable progression to the adult corrections system. It does not make communities safer. The Attorneys-General know this is the case. It is time that they showed some courage and leadership to implement these changes. There should be a bipartisan approach to this pressing issue by our politicians. Our children should not be used as political footballs in a law and order auction."

Media Release



“Very serious offences are rarely perpetrated by children. Moreover, more than half of children in detention are unsentenced, being either detained by police prior to court or on remand awaiting trial or sentencing.”

AMA President, Dr Tony Bartone, said that these children are often the victims of abuse and neglect, and many have mental health conditions, cognitive impairments, and other significant challenges.

“Raising the age of criminal responsibility will prevent the unnecessary criminalisation of vulnerable children,” Dr Bartone said.

“The AMA views the incarceration of children as unacceptable.

“Most children in prison come from backgrounds that are disadvantaged. These children often experience violence, abuse, disability, homelessness, and drug or alcohol misuse.

“Criminalising the behaviour of young and vulnerable children creates a vicious cycle of disadvantage and forces children to become entrenched in the criminal justice system.

“The AMA wants the Commonwealth and state and territory governments to support developmentally and culturally appropriate health, education, and rehabilitative-based alternatives to the criminal justice system.”

Mr Moses SC and Dr Bartone said the LCA and AMA are proud to be part of a broader national campaign to raise the age of criminal responsibility, and are working with First Nations and other leaders to have parliaments implement these changes.

The joint statement can be read in full [here](#).

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