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Consideration of raising minimum age of criminal responsibility doesn't go far enough

The Law Council of Australia welcomes the decision by Australia's State Attorneys-General to support development of a proposal to increase the minimum age of criminal responsibility (MACR) from 10 to 12 years of age, but believes an opportunity to bring Australia into step with international human rights standards has been missed.

"We, along with other medical and legal experts, have long condemned the fact the minimum age of criminal responsibility in Australia is currently 10 years of age," Law Council of Australia President, Dr Jacoba Brasch QC said.

"Therefore, we are pleased the State Attorneys-General have agreed to consider lifting the MACR to 12 but continue to call for it to be immediately lifted to 14 years of age. At 12, a child cannot lawfully sign onto Facebook but can be questioned, arrested, detained and imprisoned."

"The Law Council is concerned by the delays and short-changes inherent in the Attorneys-Generals' decision, including a preference to raise the age to 12 instead of 14, to consider carveouts, and the failure to take decisive action when the evidence is clear.

"The minimum age of criminal responsibility should be raised to 14, in all jurisdictions, for all offences, without exception."

A low minimum age of criminal responsibility is not in the public interest and does not make communities safer. Putting children in prison begins a cycle of criminalisation. Evidence shows children remain in cycles of disadvantage and imprisonment due to a lack of early critical support services including health, disability, rehabilitation and family supports.

Aboriginal and Torres Strait Islander children are affected at a grossly disproportionate rate. The factors driving these children into the criminal justice system include significant rates of mental health disorders, cognitive disabilities, and hearing and language impairments, as well as discrimination, socioeconomic disadvantage and intergenerational trauma, which are the products of colonisation and successive government policies.

The United Nations Committee on the Rights of the Child has called for all states parties to raise their minimum age to at least 14 years of age, taking note of recent scientific findings. Australia is a signatory to the Convention on the Rights of the Child.

In 2020, the Council of Attorneys-General (CAG) Age of Criminal Responsibility Working Group Review considered the issue of raising the minimum age of criminal responsibility. This report has never been released. Before the Attorneys-General embark on developing a new proposal, the Law Council calls for the public release and consideration of the original report.

The Law Council's policy statement on raising the minimum age of criminal responsibility to 14 years of age, published jointly with the Australian Medical Association, is available [here](#). Its submission to the CAG Working Group Review is available [here](#).

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