

To Parliament Committee,

I hope everyone is well.

I am confirming that I have made a submission on the Criminal Law (Raising the Age of Responsibility) Amendment Bill 2021. I support this Bill to be Amended due to the over-representation in the Indigenous population. It is quiet alarming and disturbing to see a very young person in the watch house and been treated as a full adult and incarcerated with adult male offenders. They have no support only a phone call for legal aid. There's parents, grandparents, or guardians, have no rights to support their children. There is no remorse when it comes to a child in a watch house a waiting for court hearing.

Introduction

My name is Eileen Clarke. I am 49-year-old Aboriginal woman from Butchulla Nation K'gari meaning Paradise. I am mother of five successful children. Proud Grandmother of two grandsons. I was born and raised in the Hervey Bay region. (I have attached my family tree with Albert Einstein genogram I studied).

Contact Details

[REDACTED]

[REDACTED]

[REDACTED]

Phone Number: Private for committee only

Education

I attended Pialba Pre-school in 1978, then onto Pialba Primary School. I attend Hervey Bay High and left in year 10. I decided to go back to school as my children have all growing up. I attended Tafe Queensland and graduated then onto University in Victoria. I graduated in the top three finalists for Queensland Training Awards Student of the Year in Mainstream while I attended Tafe Queensland. (Please see attached Resume)

I am a member in the International Golden Key Society and are waiting for my graduation in law in the top 15% in the world. I have won over dozen scholarships while my time at uni. I dream is to be successful and for my children, family and friends. I would like to make a change and be role model for everyone.

Qualifications and Experience

Please find attached resume. During my time as a Community Justice, I have accomplished over 100 criminal cases. The CJG are legislated in the *youth justice act 1999 QLD*. I did my training through DJAG. (please see attached certificate). I make submissions on behalf of our

client who are referred to the CJG for the courts. I also do Cell Watch and have seen young youth detain in the Watch House. The youth Indigenous and Non- Indigenous are treated poorly. I have completed children's trial in 2004 against the best in the Country and won. My dream is to help the vulnerable, the young and old. I love the people. Australia is a beautiful Country. I care. I have compassion. I am the founder of the Hervey Bay CJG and named it Marigurim Yalaam (Meaning 'Strong Voice') in Butchulla. My dream is to challenge the government in the High Courts of Australia.

The over-representation in the youth is currently 84% which 97% makes up of these youth is under the state Child Safety as their guardian. The Child Minister needs to answer these questions. These children are taken from their homes due to neglect or FDV. Drug's alcohol fuel arguments, lack of income. The youth accumulate from being in the Care of Child Safety at a very young age, some are newborn babies. This is then link to Youth Justice System then to Adult's prison which then most of these young youth especially Indigenous dies in custody, that is why the government recommended The Royal Commission into Black Deaths in Custody. The Australia Government must be question about the high rates of Black Death in Custody, and they have criminal records at the age of 10 maybe younger. There needs to be culture diversity and considering which links up to the over-representation, FDV, drugs, alcohol, mental Health issues, health, stability, education, homeless, lack of income, no self-esteem, lack of confidents in themselves, up bringing, making your home safety net, bringing families and children together again.

- The United Nations has recommended 14 as the absolute minimum age of criminal responsibility.
- Our current laws disproportionately impact First Nations children and contribute to the over-incarceration of First Nations adults and First Nations deaths in custody.
- The medical evidence says children under 14's behaviour should not be characterised as criminal, because their brains are still developing.
- Early contact with the criminal legal system has been shown to increase the likelihood of further offending.

In my submission, I have stated all my research and resources. The information is all there, you must put it into contents with a lot of hours work behind it. I have study on unlimited hours of research, history in law, which there is LORE for Aboriginal culture. I live and breath it everyday as educated Aboriginal Woman.

To amend this criminal law will make the Australia Government look good in resolving this problem which is costing Taxpayer's money. This will work as a solution to help assist everyone. The system is clearly not working and needs to be adjusted for all parties.

I have asked my elders, organisation to support my submission. I have been a part of these organisation's before they existed.

- Steve Vea Vea, retired Legal Aid lawyer for over 35years, Phone Number [REDACTED]
Korrawinga Aboriginal Corporation
- Kal'ang Elders Bonnie [REDACTED]
- Jade Gould [REDACTED] Scientist BAC Chairperson.
- Marj Speedy [REDACTED] Wide Bay Women's Health Centre

The future of our kids matters that's why this is so important to be considered. It must be put in place, so the people will then start to trust our system. Put strategies in place for programs on all

levels, spend money on resolving the issues, instead of creating this problematic situation. Queensland is the State to lead as a good example, families and children comes first.

I have good faith that this will work for Queensland Government that we are number 1. We care about our Sunshine State and lead a good example for all states in Australia.

This is my submission in support of organisations, I have proudly named.

A submission on the Criminal Law (Raising the Age of Responsibility) Amendment Bill 2021

By

Eileen. Clarke

This submission is support by Organisation's

Korrawinga Aboriginal Housing Corporation (Chairperson Steve Vea Vea),

Kal'ang aboriginal Elders (Bonnie),

Jade Gould (Chairperson B.A.C Butchulla Aboriginal Corporation) (Scientist for the Government.)

Marj Speedy (Indigenous children/youth families health care worker for over 20years WBWHC) Wide Bay Women's Health Centre.

Contents

INTRODUCTION	3
1. KEY ISSUES	4
a) INCIDENTS COVERED IN MEDIA REPORTING	4
b) KEY PERSPECTIVES FROM THE MEDIA COVERAGE	5
c) OPINIONS OF KEY JUSTICE EXPERTS	5
d) KEY POLICY RESPONSES SUGGESTED BY MEDIA.....	6
2. POLICY RESPONSES	7
a) DISCUSSION ABOUT THE POLICY RESPONSES OF MEDIA	7
b) YOUR PROPOSED POLICY DIRECTION	7
c) ANALYSIS OF THE EFFECTIVENESS OF THE POLICIES PROPOSED.....	8
CONCLUSION.....	9
REFERENCES.....	10

INTRODUCTION

According to statistics collected in December 2017, the rate of aboriginal prisoners was 2440 per 100000 populations as compared to 216 non-aboriginal prisoners per 100000 populations. Australia has been conducting various programs such as 'Safehouses', 'Women's shelters', 'Business watch', Shelters, etc. to prevent crime and enhance safety and security in buildings and streets (Creative Spirits, 2019). The following report describes the impact of crime on the Indigenous Australians and what steps must be taken for prevention and how it will affect the aboriginals. This would be done by covering major incidences, media coverage, policy responses, etc. to undertake the whole discussion effectively and attain better results.

1. KEY ISSUES

a) INCIDENTS COVERED IN MEDIA REPORTING

An incident was reported by a 12-year-old boy Djuwan Hoosan at Australia's Northern Territory to end the imprisonment of 10-year-old children in Australia. The boy was imprisoned to jail for running away from school due to frustration and skipped most of the classes. The boy addressed the harsh youth detention laws of Australia in the United Nations meeting held in Geneva (Clayton, 2019). Djuwan said that the aboriginal children were not treated equally by the teachers and suggested that the schools should be run by aboriginal people to secure the rights, dreams and future of the aboriginal children.

Don Dale Youth Detention Centre has detained many children from indigenous communities such as Trent, a young offender being suspended from school and was sitting at home doing nothing then. Trent started breaking car parts and was selling it for cash and got jailed at the age of 14 and was in detention after a week. Trent got addicted to drugs at the age of 17. Another boy named, Steve was given detention at the age of 11 as he got the habit of stealing. The environment of Don Dale was very inhumane (Terzon, 2019).

The aboriginal and Torres Strait Islander men, women and children have been suffering from over-imprisonment in Australia leading to the highest crime rates worldwide. This has damaged the whole system of criminal justice in Australia and made the indigenous community unsafe. The imprisonment of aboriginal men in Australia is 14.7 times more than that of non-aboriginal men and on the other hand, the imprisonment of aboriginal women in the country is 21.2 times more than that of the non-aboriginal women and these facts leave an irremovable stain on the heart and human rights record of Australia (Tickner, 2018).

The statistics state that around 600 children under the age of 14 are imprisoned in jail every year and 70% of them are aboriginals. About 9000 children under the age of 14 deal with broad criminal justice every year (AMA, 2019). The crimes committed by Australians include consumption of drugs, theft, armed robbery, assault, corruption, bribery, etc. that increases the crime rates of the country.

b) KEY PERSPECTIVES FROM THE MEDIA COVERAGE

Indigenous Australian Imprisonment Rates Are the Highest in The World: A Justice Reinvestment Approach is needed: The imprisonment for the crimes committed by the Indigenous Australians is the highest in the world which is impacting the country's social, economic and health cost. A justice reinvestment approach is to be adopted by Australia to reduce the funds incurred in correction and shift it to prevention solutions and addressing the causes of crimes and finding better and cheaper ways than imprisonment (OWP, 2019).

'Taking away basic rights of children': Calls for age of criminal responsibility be raised in Australia: The major perspective laid from the media coverage is about the imprisonment of indigenous children that it leads to vulnerable situations and the child could suffer from ADHD, thinking disabilities, depression, massive trauma, etc. and therefore, the children between the ages of 10-13 should be provided with adequate support, protection and care rather than detention (SBS, 2019).

AMA CALLS FOR AGE OF CRIMINAL RESPONSIBILITY TO BE RAISED TO 14 YEARS OF AGE: The UN Committee states that the minimum age of criminal responsibility in Australia should be increased to 14 and the special rapporteur says that the children should be given detention only as the case of last resort; otherwise they should be provided protection, care and support by undertaking special programmes for them. Therefore, the UN stops the government of Australia to lock the children below the age of 14 behind the bars for crimes committed by them (AMA, 2019).

c) OPINIONS OF KEY JUSTICE EXPERTS

Various experts like human rights advocates, lawyers and doctors in Australia agrees to the statement given by the United Nation that the minimum age of criminal responsibility in Australia must be raised to 14 years to secure the future of children in Australia and saving them from living behind the bars at such a young age (SBS, 2017) the doctors, paediatrician and adolescent physician has claimed that the children below the age of 14 years have an immature brain that is not developed yet and is the reason behind their poor decision-making and out of control behaviour. Therefore, the imprisonment of the children could lead to negative consequences affects the mental health and wellbeing of the individual.

A senior lawyer at Human Rights Law Centre, Shahleena Musk was against the harsh Australian Laws that are forcing many Aboriginal children into imprisonment. She raised the issue to make the government take some serious action against the rising imprisonment rates in Australia. The lawyer suggests that children between the ages of 10-14 must be provided with a helping hand instead of imprisonment to take them in the right direction (SBS news, 2019).

The head of Amnesty international stimulated Australian council to change its laws and raise the minimum age of criminal responsibility to 14 and stop discriminating between the people based on their culture and background. Therefore, everyone must be treating the whole Australian population comprising of the aboriginal and non-aboriginal people equally and fairly.

d) KEY POLICY RESPONSES SUGGESTED BY MEDIA

To reduce the crime rate in Australia and its impact on the indigenous population, certain measures must be taken in the country:

Firstly, the minimum age of criminal responsibility would be increased to 15 to align with many European countries. Secondly, the indigenous population of the country must be provided with support and various kinds of healing programs to manage their mental health and disabilities, cognitive impairment, brain injuries, etc.

The indigenous leaders of Australia have taken a huge step to shift the invested funds of government from building more prisons to reducing the need of imprisonment and preventing it by undertaking justice reinvestment policies and programs (Tickner, 2018). This policy would help take the initiative of investing government funds in prevention rather than detention.

The president of Australian Medical Association, Dr. Tony Bartone passed a new policy in the meeting of Federal Council held in Canberra in March 2019, for raising the age of criminal responsibility to 14 years in Australia. Also, AMA desires that the government should support the health and education of aboriginal and Torres Strait Islander children and therefore, set the cultural background of the country.

2. POLICY RESPONSES

a) DISCUSSION ABOUT THE POLICY RESPONSES OF MEDIA

The policies formed by the media are in the favour of the indigenous community of Australia and these policies must be focused upon by the government of the country to take into consideration the rights of the Aboriginal and Torres Strait Islander population of the country and treat them same as the non-aboriginal people are treated. The laws prevailing in the country should be similar for all the people of the population (OWP 2019).

Thus, the criminal justice system of Australia must increase the age of minimum criminal responsibility to 14 as it is stated from the record that 600 aboriginal children are imprisoned every year in the country and the rate of the imprisonment of the indigenous population in Australia is the highest in the world which must be reduced by taking preventive measures to improve the reputation of the country and consider the rights of the aboriginal population and maintain equality in Australia (SBS, 2017).

The justice reinvestment policy is a great initiative that must be taken by the government of the country to shift their investment of finance from building more prisons for the culprits to conducting programs that help in the prevention of crimes from the country. Australia must consider the demand of the United Nations Human Rights Council to increase the minimum age of criminal responsibility to 14 years instead of 10 as the children of the age of 10 have an underdeveloped mind and they need mental support and not detention (AMA, 2019).

Therefore, I believe that the policy responses suggested by media or experts must be considered as they would result in the favour of the Australian population and raise the living standards of the people.

b) YOUR PROPOSED POLICY DIRECTION

The following policies should be formulated in the Australian Justice System to resolve the problem of highest indigenous imprisonment rates prevailing in the country.

- **Introduction of rehabilitation programs:** The prisoners must be trained and educated effectively in the rehabilitation centres by undertaking different programs which provide support to the aboriginal prisoners and work on changing their mindsets and removing cultural differences from the country.

- The rights and needs of the prisoners must be considered in the detention centre or the jail and they must be placed in isolation with others if they are dealing with some mental disorder or intellectual disability. They must be treated with patience and provided immense care and aid to bring them back to a normal state.
- The children below the age of 14 years must be provided with a second chance and they should be sent for attending different support programs instead of imprisonment.
- The policies formulated by the criminal justice system must have a fair structure to reduce the chances of crime in the country and the government must motivate the public to cooperate with the police in case of situational crime.
- The availability of alcohol in the country must be banned or licences so that the number of children under the age of 18 consuming alcohol is reduced.

c) ANALYSIS OF THE EFFECTIVENESS OF THE POLICIES PROPOSED

The abovementioned policies are proposed to prevent the crime rate of Australia by taking corrective measures. These policies are formulated after conducting effective research along with evidence and identifying the right combination of preventing the social and situation crimes comprising of a drug crime, sexual abuse, cybercrime, terrorism, theft, family crime, etc. from the country. These policies are beneficial for aboriginal children as they will not be discriminated based on culture and background. The crime could be reduced from Australia if these policies are followed as there would be less discrimination between the aboriginal and non-aboriginal Australians and they would feel satisfied and not engage themselves in criminal activities.

CONCLUSION

Therefore, from the above incidents from the news articles, key perspectives from the media coverage, opinions of experts, and policy responses by media, etc. it can be stated that the aboriginal population of Australia has the highest rate of imprisonment which should be reduced. The minimum age of Criminal Responsibility in Australia is 10 which is one of the reasons behind the highest number of imprisonment of the aboriginal Australians. The country must take prevention measures like following the advice of UN and raising the minimum age of criminal responsibility by 4 years and making it 14 and sending children between the age of 10-13 who commits any crime to child protection centres instead of jail. Thus, the report explained the impacts of crimes and their prevention in indigenous communities.

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