



“A child that is not embraced by the village will burn it down to feel its warmth”

Committee Secretary
Community Support and Services Committee
Parliament House
George Street
Brisbane Qld 4000
Lodged by email: CSSC@parliament.qld.gov.au

Re: Criminal Law (Raising the Age of Responsibility) Amendment Bill 2021 (Bill)

29th November 2021

Dear Sir/Madam,

I am writing on behalf of Youth Affairs Network of Queensland (YANQ). We are the peak body for the youth sector and youth issues in Queensland and for the past 30 years have represented the interests of children and young people at policy and advocacy level. YANQ has a membership of over 700 individuals and organisations from across Queensland. Collectively, YANQ’s membership knowledge and experience runs into thousands of years. When it comes to dealing with young people and in particular vulnerable and marginalised young people we know what works.

For many years YANQ has been advocating and actively lobbying for the minimum age of criminal responsibility to be raised. Our position is not only informed by evidence-based research and monitoring progress in jurisdictions which have taken the lead in raising the minimum age of criminal responsibility, but is also a summary of our collective wisdom. As youth workers we have specific skill sets which allow us to build trusting relationships with young people who have lost trust with the community more broadly. These trusting relationships are earned by individual youth workers and should be acknowledged and valued in policy and decision-making processes if we are to find and implement genuine strategies that not only increase our community safety but also provide for a nurturing environment for all young people to become productive members of our society.

This submission is an appeal to the humanity of each member of the Community Support and Services Committee and the political/public service that supports them. We urge you, in consideration of your decision to raise the minimum age of criminal responsibility, to put the best interest of our children first and foremost. This is the only way for us to break the current cycle of neglect.

Young people are an honest reflection of our society. If we don't like what we see in young people's behaviour, it is up to us adults to change the environment and approaches which nurture such behaviour in our young people.

As we write this submission as a plea to your humanity, we exit from the convention of repeating what our colleagues will be saying in many other submissions. We have no doubt that there will be many submissions lodged which will highlight issues such as developmental brain capacity, discrepancies on how we treat young people based on their age, and so on. We also know that the Queensland Parliament would be aware of the views and recommendations of key bodies such as the United Nations, the Australian Medical Association, the Royal Australasian College of Physicians and the Law Council of Australia. Broadly we support these arguments, our aim in this submission is to speak more from the heart and we hope that it would be received by your heart.

We ask you to think about your own child, brother/sister, nephew/niece or someone who you have known since birth. We ask you to picture them when they are at the tender age of ten and focus on that picture each time we mention children and/or young people in our submission. We ask you to base your decisions as if you were deciding for the child that you know. We urge you to be honest in answering a simple question: If your own child did something wrong, how would you respond? Would you seek to find out why they behaved in such manner and what support is needed to bring the necessary change to their life, or would you want the "criminal justice system" to deal with them?

As you would be aware, the "youth justice" system in its current form is one of the most unjust systems possible. Unjust because it is mostly comprised of young people who have histories of neglect and abuse. Many young people with such histories resort to drug and alcohol to mask their pain. Many end up homeless and the only adults in their lives become older people who live in the shadows of our society and by this virtue get introduced to various criminal behaviours. The system is unjust because despite the knowledge and evidence that the earlier a child comes in contact with the "youth justice system", there is more likelihood of that child reoffending and eventually ending up in the adult "criminal justice system", the criminalisation of children continues. We know this vicious cycle and we, so cruelly, perpetuated it.

Contrary to this, we also know that the majority of children dealt with outside the formal "criminal justice system" do not reoffend. Further, we know that if young people live meaningful lives, are loved and cared for in a genuine way by significant adults in their lives, the vast majority of them never display anti-social behavior.

In Queensland, fewer than one percent of all 10-17 year olds are prosecuted in court for offending behaviour each year and this percentage continues to fall. Clearly there is no

youth offending crisis. Unfortunately, irresponsible politicians aided by some media outlets push the 'fear of youth crime' on our community and then present themselves as protectors of the community and tough on crime.

In 2018, Bob Atkinson, appointed by the Queensland Government as a Special Advisor on Youth Justice released a report based on his review of the youth justice system. Included in the recommendations of this report, Atkinson stated:

"That the Government advocate for consideration of raising the MACR to 12 years as part of a national agenda for all states and territories."

"That the Government support in principle raising the MACR to 12 years subject to: a) national agreement and implementation by State and Territory governments; b) a comprehensive impact analysis; c) establishment of needs based programs and diversions for 8-11 year old children engaged in offending behaviour."

"In the interim, that the Government consider legislating so that 10-11 year olds should not be remanded in custody or sentenced to detention except for a very serious offence."

The Queensland Government has neglectfully failed to respond to these recommendations and to date none have been implemented.

Young people in the youth justice system are characterised by disproportionate levels of economic disadvantage and face steep challenges including low education, disability and poor health. In addition to these challenges, criminalisation facilitates removal of these young people from their family, community and country.

We would like to highlight that for all intents and purposes, the youth justice system is a systemically racist system. Aboriginal and Torres Strait Islander people have been suffering from racism and discrimination since the invasion of Australia. This racism and discrimination continues and is evident by our acceptance of various disadvantages faced by the Aboriginal and Torres Strait Islanders and inequality at all levels education, health, housing, employment etc. Over-policing and criminalisation of Aboriginal and Torres Strait Islander young people, which has led to vast over representation in the criminal justice system, is accepted as the norm.

We strongly believe that raising the minimum age of criminal responsibility and diverting the resources to supporting Aboriginal and Torres Strait Islander young people, their families and communities is a necessary step towards reconciliation in Australia. We have a responsibility to provide hope and a positive outlook on life for all Australian children.

In recent years the Queensland Government has been seeking the advice of the police force to guide its approach to youth justice. Clearly this is for political reasons and mainly to neutralise the opposition's portrayal of the Government as 'soft on crime'. This approach by the Queensland Government has been nothing short of disastrous for children and young people whose rights and needs have been forsaken for political expediency.

The Queensland Police Force have been a proponent of criminalisation of children and their understanding of the needs and rights of children, young people and the community is limited. Police response is based on the proven failed efficacy of the criminal justice system.

In recent years we have also seen a growing number of groups advocating for the raising of the minimum age of criminal responsibility. The majority of individuals and organisations involved in this advocacy process have very limited hands on experience of working with children, young people and their communities. As a result, the alternative solutions which they are advocating for, similar to the Atkinson's recommendations, demonstrate a gross lack of knowledge on what is actually needed in a community setting.

Similar to the "Four Pillars" that underpinned Atkinson's supposed reform of the youth justice system, the solutions put forward by many legal and advocacy groups as well as political parties advocating for the age of criminal responsibility to be raised miss a crucial point about the need to focus on primary prevention. Atkinson did not even include the concept of prevention in his Four Pillars.

Atkinson and other proponents of interventions in children and their communities lives follow the same philosophy that informed the Northern Territory Intervention by the Army. The multidisciplinary panels, case managers and trauma informed practices all lay down the blame on children, young people and their communities. They all are highly patronising to people who fall victim to and are forced into these programs. Class ignorance is at the root of this problem with advocates of such approaches having never experienced the disadvantages faced by low socio-economic communities.

It is inconceivable that in this day and age, in a country as wealthy as Australia is, that the only place some children could experience having three meals a day, medical check up, dental care, supportive education tailored to their needs is in a prison. This is a sad indictment on our society.

If we are to gain broad support from the community for bringing an end to the shameful approach of incarcerating disadvantaged people, we need to demonstrate what can really reduce the engagement in criminal activity in the first place. This requires a total shift in policy and program design, development and implementation of a genuine whole of government children and youth strategy, significant redirection of investment into the primary prevention area and support for the Queensland youth sector to undertake the necessary work.

We propose a social health response focusing on supporting young people's family and strengthening connection with their community and country.

A well designed and resourced Primary Crime Prevention Program which adopts a Community Development Model is the best way to facilitate this process. There is ample evidence available about the efficacy of Primary Crime Prevention and Community Development Programs.

With consideration of the issues outlined above, we urge the Community Support and Services Committee to recommend to the Queensland Parliament to raise the minimum age of criminal responsibility not to the proposed 14 but to 18 years of age.

For further information and/or clarification contact:

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