

# Raising the Age of Criminal Responsibility: Advocates Perspectives and An Urgent Call for Action

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## Abstract

For over two decades, advocates have urged the Australian government to raise the age of criminal responsibility from 10 to 14 because Australia is failing to live up to the international agreements on children's human rights. Despite the amount of advocacy work around raising the age, minimal research has sought to understand the role of advocacy in this space. This social work research addresses this gap by gathering the perspectives of six social work and human service advocates regarding the challenges they face and what sustains them in their advocacy. The semi-structured interviews were thematically analysed and three key themes and eight sub-themes were found. The first key theme referred to the power of politics including a lack of political will and complexities of governments. The second theme on speaking to power illustrated how advocates demonstrated a significant emotional commitment to social justice, the personal aspects of advocacy, and highlights many forms of advocacy work. The third theme concerns advocates listening to the voices included the voices of First Nations Peoples as this issue predominantly affects First Nations children, the voices of young people with lived experience and the voices of evidence. This research highlights considerable social concerns about the impacts of this legislation and the tenacity and resilience of advocates in raising the age of criminal responsibility.

**Keywords:** *Advocacy; Criminal responsibility; Social work; Social justice; First Nations*

## Introduction

In Australia, for over two decades, advocates have argued to raise the age of criminal responsibility (Crofts, 2015). The age of criminal responsibility is defined as the age at which a child is considered by law to have committed a criminal offence (Young Offenders Act, 1993, s.5). In most Western democratic countries such as in the European Union and countries with a strong protection of human rights, the age of criminal responsibility is 14. However, in Australia's States and Territories, the minimum age is 10 – see Table 1 for a breakdown of the ages of criminal responsibility across the different States and Territories and potential reforms (Pickford et al., 2012; Urbas, 2000). Currently Western Australia and Tasmania are taking the steps to raise the age of criminal responsibility to 12 and introduce behaviour change programs to those under 12 to break the cycle of reoffending (Collard, 2022). Furthermore, the Australian Capital Territory (ACT) is likely to raise the age of criminal responsibility to 12 in the next few months as an outcome of community consultations since 2020 (ACT Government, 2021). This paper advocates for legislative changes and reports on a study of the perspectives of six social work and human service advocates for raising the age of criminal responsibility.

**Table 1**

*Ages of Criminal Responsibility Across Australia's States and Territories*

State or Territory	Age of Criminal Responsibility	Legislation	Reforms
Australian Capital Territory	10	Section 25 of the <i>Criminal Code 2022 (ACT)</i>	Working towards raising the age to 12.
New South Wales	10	Section 5 of the <i>Children (Criminal Proceedings) Act 1987</i>	Recommendations provided to raise the age to 14.
Northern Territory	10	Section 38 of the <i>Criminal Code Act 1983</i>	Passed a Bill to raise the age to 12.
Queensland	10	Section 4M of the <i>Crimes Act 1914 (Cth) (Crimes Act)</i>	A Bill was rejected in Queensland to raise the age of criminal responsibility to 14.
South Australia	10	Section 5 of the <i>Young Offenders Act 1993 (SA)</i>	A Bill has been introduced to raise the age to 14.
Tasmania	10	Chapter IV Section 18 <i>The Criminal Code Act 1924</i>	Working towards raising the age to 12.
Victoria	10	Section 344 Children, <i>Youth and Families Act 2005</i>	Working towards raising the age to 12.
Western Australia	10	Section 9 of the <i>Criminal Code Act Compilation Act 1913</i>	

In the Australian context, First Nations children and young people have a long history of being significantly over-represented in Australian youth justice systems (Blagg, 2008; Crofts, 2015). In 2021, 819 Australian children as young as 10 years old were incarcerated in a youth justice facility, of whom 91% were male and 50% were of Aboriginal and Torres Strait Islander background (Australian Institute of Health & Welfare [AIHW], 2021; Crofts, 2015).

In 2019-2020, 499 children aged between 10 and 13 were imprisoned, 65% of whom were Aboriginal or Torres Strait Islander children (Australian Medical Association, 2021; AIHW, 2021). Current Australian research highlights that Aboriginal and Torres Strait Islander children and young people are 17 times more likely to be incarcerated than non-Aboriginal children (AIHW, 2021; Amnesty, 2022). As noted by Narungga and Yorta Yorta First Nations advocates, "...the evidence shows once they're in, it's a life sentence" (Axleby & Waight, 2020, p. 3). If the age of criminal responsibility in Australia remains at 10 years of age, this further perpetuates the ongoing processes of colonisation and the cycle of incarceration amongst First Nations children and young people who are already disproportionately represented in Australia's youth justice system (Amnesty, 2022; Australian Bureau of Statistics [ABS], 2022).

There has been an active contestation in legal discourse regarding children and young people aged between 10 and 13 being held accountable for criminal offences, despite medical and other research indicating otherwise (Bartels, 2022; McAlister & Carr, 2014). International and national legal scholars have also outlined research regarding children's ability to comprehend and understand the multitude of consequences of their actions; this underpins advocacy to raise the age of criminal responsibility within Australia (Mathews, 2000; Bartels, 2022). In contrast, some legal scholars have argued that raising the age would not address the causes of juvenile crime, personal responsibility and the impact on victims (Goldsworthy, 2022). One influential principle that is discussed in legal discourse is the longstanding principle of *doli incapax* which originally derived from English common law (Crofts, 2003). *Doli incapax* refers to the presumption that children below the age of 14 lack the capacity to understand the consequences of their behaviour which impacts on children being held criminally responsible for their actions (Crofts, 2003; Davis, 2020). With the principle of *doli incapax* in place, the prosecution must prove that, at the time of the offence, the child understood that this was wrong (Davis, 2020). Therefore, the continued prosecution and incarceration of children under 14 years alludes to a stronger punitive and responsabilisation focus of legal youth justice discourse, rather than placing emphasis on the welfare needs of children and young people in Australia (McAlister & Carr, 2014; Phoenix & Kelly, 2013).

Social work advocates and human rights activists have continued to advocate for raising the age of criminal responsibility through their participation and support for the Raise the Age Campaign (Raise the Age, 2022). In social work, Hoefler (2019, p. 3) defines advocacy as:

... a part of social work practice in which social workers take action in a systemic and purposeful way to defend, represent, or otherwise advance the cause of one or more clients at an individual, group, organizational, or community level in order to promote social justice.

Social work advocacy plays a crucial role in achieving social justice, to ensure marginalised people's views are heard – especially those who are often silenced (Dalrymple & Boylan, 2013). Advocacy for raising the age of criminal responsibility is supported by medical and legal experts, First Nations organisations, Australian and International human rights organisations, and the global community, highlighting the vital role and need for social work advocacy within youth justice (AASW, 2020; Crofts, 2015; Raise the Age, 2022).

Previous research has examined the views of Victorian stakeholders from a legal perspective and their experiences in day-to-day practice in the youth justice field (O'Brien & Fitz-Gibbon, 2017). Inconsistencies were found with how the principle of *doli incapax* was applied in legal practice which undermined the legal safeguard that this principle offers to children who are faced with criminal charges, thus, advocating for raising the age of criminal responsibility to 14 (O'Brien & Fitz-Gibbon, 2017). This current study explores the perspectives and experiences of six social work and human service advocates who are engaged in advocating for raising the age of criminal responsibility in Australia. The participants have a range of professional backgrounds where advocacy is essential, these include social work, law, policy reform and sociology.

## Methodology

The main research question that guided this study is: What are the experiences and perspectives of social work and human service advocates when advocating for raising the age of criminal responsibility? This research draws on a social constructionist approach through investigating how meanings are created through the participants' experiences of advocacy in relation to raising the age of criminal responsibility in Australia. Social constructionism is based on the idea that knowledge is socially constructed and does not assume there is one single truth (Burr, 2015). This ontological position places great emphasis on how knowledge is understood and influenced through social relations (Burr, 2015). A social constructionist lens can be applied to unpack how social, cultural and historical understandings have shaped advocates concepts and practices of advocacy (Burr, 2015). As Galbin (2014) explained, social constructionism abandons the idea that our minds represent a mirror of reality because reality is constituted through our own experiences and how we perceive them. This study highlights how advocates construct meanings and understandings of advocacy, through their social interactions with their social and political environments.

## Method

This study was approved through the University of South Australia, Research Ethics Committee. After this approval, qualitative, semi-structured interviews were conducted through Zoom, which provided an opportunity for the researcher to explore participants' experiences and perspectives of their advocacy work (Neuman, 2014). Qualitative research helped gather the advocates emotions, viewpoints, and experiences of advocating for raising the age of criminal responsibility in Australia. Importantly, open-ended interview questions asked participants about their experiences of advocacy work, the challenges they have faced, what has sustained them and influenced them to continue to advocate, and any reflections that could help inform future social work advocacy practice.

Through purposive and snowball sampling (Neuman, 2014), the researcher invited advocates from non-government and government organisations who worked in the youth and legal justice sectors across Australia or who had made a submission to the Raise the Age Campaign.

Although the researcher aimed for 10 participants for this study, the researcher sent out 45 participant recruitment emails and received six responses over a period of three months.

This small sample size for qualitative research allowed for in-depth rich data analysis to answer the research question and address the research aims (Neuman, 2014).

Research participants were recruited via an email invitation and a copy of the Participation Information Sheet, Consent Form and the Interview Schedule were attached prior to the advocates' decision to participate. All interviews were audio-recorded and transcribed by the researcher and permission to record each interview was requested upon commencement of the data collection (Walter, 2019). Participants were provided with a copy of the transcript to approve before the final report was written to ensure participants consented to the data being used and to avoid misinterpretation of the data (Walter, 2019).

### **Data analysis**

The thematic data analysis was guided by Clarke and Braun's (2021) six-step framework for thematic analysis. Clarke and Braun (2021, p. 77) define a theme as capturing a wide range of data that is united by a shared idea and "a pattern of shared meaning organised around a central concept." The initial step of the analysis process involved familiarisation with the data and selective coding, by identifying regular occurrences in the data and then recording them as quotes in a table (Clarke & Braun, 2021). The researcher achieved this through re-reading the transcripts and re-listening to the audio recordings of the interviews which helped to generate initial codes (Clarke & Braun, 2021). These codes were then collated by the researcher to identify overarching themes and more specific sub-themes (Clarke & Braun, 2021). This paper presents three main themes and eight sub-themes that best articulate the answers to the main research question.

### **Limitations**

The findings of this study cannot be generalised beyond the perspectives and experiences of the six advocates interviewed. This research did not focus on the perspectives and experiences of First Nations advocates in youth justice. Further research on the experiences of First Nations advocates could uncover distinctive knowledge and insights into advocating for young First Nations children who are most impacted by this issue.

### **Sample**

From the total sample group, participants came from either a government or non-government organisation (see Table 2 for a breakdown of participant demographics of the sample group). To ensure privacy and confidentiality, pseudonyms were allocated to each participant. Four females and two males participated in the Zoom interviews. Participants' educational backgrounds varied but three out of the six were trained in social work and two out of the six had law qualifications. The participants interviewed ranged from 4 years to 20 years of experience in the field of youth justice, criminal justice or specific advocacy work for raising the age of criminal responsibility in Australia. The initial invitation to participate in this research was sent to organisations and advocates who have made a submission to the Raise the Age Campaign; the researcher received three responses from advocates who were willing to take part.

The researcher then expanded the criteria to individuals who have advocated for raising the age of criminal responsibility in youth and criminal justice. Three participants identified as either ‘Australian’, ‘Caucasian’, and ‘Anglo Saxon’. Three participants were from culturally and linguistically diverse backgrounds: one from a Malaysian Chinese background, one from a Vietnamese background, and one from an Indo-Fijian background. The geographical location was left out of the table because this would make the participants too identifiable.

**Table 2***Participant Demographics*

Pseudonym	Sex	Age	Cultural Background	Educational Background	Years of Experience	Current Position
James	M	40	Malaysian Chinese	Lawyer and Policy Maker	15 years + 3 years in youth justice advocacy	<i>Non-Government Organisation</i> Policy & Advocacy Lawyer & Public Sector Policy Maker
Phoebe	F	35		Policy & Sociologist	10 years + 1.5 years raise the age advocacy	<i>Non-Government Organisation.</i> Head of policy
Oliver	M	46	Anglo Saxon	Sociology & Legal Studies, Accounting, Public Sector Management & Social Work	20 years	<i>Government Organisation.</i> Corrections
Jane	F	40– 45	Australian	Law	15 years	<i>Non-Government Organisation.</i> Senior Lecturer and Director of an advocacy network
Willow	F	51– 55	Vietnamese	Social Work	4 years	<i>Non-Government Organisation.</i> CEO of an Advocacy Organisation
Mary	F	55– 60	Indo-Fijian	Social Work	12 Years	<i>Government Organisation.</i> Area Manager Corrections

**Findings and Discussion**

The data analysis found three main overarching themes and eight sub-themes. The most dominant overarching theme found concerned challenges associated with the “power of politics”, which related to the lack of political will and the complexities of federal–state governments.

The second main theme was “speaking to power”, which related to the emotions associated with advocacy and challenging unjust politics, as well as advocacy being personal and occurring in many different forms. The final theme was “listening to the voices”, which included listening to the voices of First Nations Peoples, listening to young people with lived experiences, and listening to the strong evidence base supporting raising the age of criminal responsibility from 10 to 14.

### **Challenges: Power of politics**

Advocates particularly referred to the challenges they faced regarding the power of politics within government structures and their lack of commitment to raising the age of criminal responsibility. Some participants reflected on the positives of being able to work with state and federal government leaders to share their opinions in hope for change. Others reflected on issues with government funding that silenced advocates and how advocacy work often relied on relationships within governments to achieve a desirable outcome.

#### *Lack of political will*

Advocates reflected on the importance of society and governments considering the proposal to raise the age of criminal responsibility and described that this was often the most challenging part of advocacy work. It was emphasised that no matter how much advocacy work is done on this issue, the “final decision will always be made by the government” (James). The different governments have the power to change the laws to raise the age, yet they often do not acknowledge the strong evidence base that advocates have continuously presented. The lack of political will was noted by one advocate: “the policy answer is obvious, raise it. And the implementation is very doable. But it’s the political difficulty... it’s the political will” (James).

The United Nations Convention on the Rights of the Child outlines that all States and political parties are accountable for establishing a minimum age of criminal responsibility. Previous Australian studies have found that there are inconsistencies between states and legislations, with considerable influence on legal practices (O’Brien & Fitz-Gibbon, 2017). The Australian Human Rights Commission (AHRC) have noted that the Australian government has been criticised for their refusal to raise the age of criminal responsibility and for the unjust treatment of children and young people in youth detention (AHRC, 2020). This was also mentioned by advocates, such as that there are: “multiple points of state failure” (Jane). This same advocate also highlighted:

I think we need the type of political leadership that actually says, the whole world, and all of the experts that we can find have said that this is a breach of human rights, and it doesn’t work.... We need someone who’s brave enough to say that, I’m not sure we’ve got that person yet. (Jane)

In December 2019, the Australian Council of Attorneys-General called for submissions on raising the age of criminal responsibility and for suggestions regarding alternative solutions (Raise the Age, 2022).

A total of 48 submissions were publicly released through the “Raise the Age” campaign, advocating for the Australian government to urgently raise the age of criminal responsibility from 10 to 14 years (Raise the Age, 2022). Advocates placed great emphasis in their interviews on previous failed responses, for instance, Jane stated that they are “cop outs.”

Advocates mentioned the idea that government members and people in power have a political agenda to not proactively become involved, Jane described this as a “disappointing kind of approach to leadership”. The advocates argued that if governments decide to change the legislation, all the other aspects that are hindering this decision, such as supports for young people, will fall into place.

One factor that could be influencing the governments’ hesitancy to raise the age of criminal responsibility is the persistent law-and-order and tough on crime ideology within Australian politics (Williams, 2000). This approach focuses on stronger punitive outcomes as a way to reduce crime, which can also be found in legal and youth justice discourse (Phoenix & Kelly, 2013; McAlister & Carr, 2014). However, this ideology fails to emphasise the social welfare needs of children and young people.

#### *The complexities of governments*

Advocates described many aspects of government leadership that both positively and negatively impact on their advocacy work. This sub-theme referred to government structures and government funding, as significant contributors to the challenges of advocacy work. One advocate discussed that working with different governments has been a positive part of their advocacy journey, as they have been given the opportunity to share their views and opinions on the issue and feel like they are respected as advocates in the area (Phoebe). Another advocate acknowledged the organisational differences and complexities of building relationships with government leaders:

Other organisations have a different model that is much more based on strong relationships with government... We are willing to be a bit provocative and possibly damage our relationship with government, which sometimes is good, but sometimes also reduces our influence. (James)

Another aspect discussed was the political changes in governments and how this can impact on policy implementation and outcomes. In contrast to the advocate who stated that “we have not found the right person in politics who is fully committed to raising the age and changing legislation” (Jane), another advocate highlighted the challenges of government restructures in the political process:

... every time there’s a ministerial reshuffle, you’ve got to get used to a whole new ministers approach, their advisors, and it has a ripple effect. And so you’ve just got to take a deep breath and almost start again. (Willow)



There is a great sense of disempowerment that arises when working within federal and state government politics due to the Federation system in Australia (Parliamentary Education Office (PEO), 2022). This is a major barrier when it comes to advocacy as law making in Australia is a complex process that involves both state and federal governments (PEO, 2022). For a Bill to be passed in parliament, there must be a majority vote in the Senate and the House of Representatives (PEO, 2022), which can be a lengthy and contested process.

Funding was a key political issue that was raised by some advocates as their organisations relied on government funding for their programs. Advocates mentioned that tensions arise when these organisations speak up against governments' actions or lack of actions for significant social justice issues in Australia. Government funding is an important source of financial support for nonprofit organisations through the provision of grants, contracts and service agreements, and accessing this money can be a complex process for nonprofit organisations whose funding is often constrained by "gag clauses" (Flack & Ryan, 2005; Jarldorn, 2020).

### **Speaking to power**

This theme of "speaking to power" referred to what advocacy work involves, which included sub-themes about emotions and advocacy, personal and professional advocacy, and that there are many different forms of advocacy within different relations of power.

#### *Emotions and advocacy*

This notable sub-theme was based on the emotions that drive advocates to continue the work that they do in this challenging space. Some of these emotions related to advocates having to be fearless: "we're an unusually vocal and fearless organisation, so we're willing to yell about things" (James). As well, feelings of anger motivating their advocacy work: "I think anger is the thing that sustains me, with most advocacy, I think it's probably true here" (Phoebe). However, they also stated that feeling positive and hopeful that an outcome is possible:

The other thing that sustains and drives me is just a genuine belief that we can do better. That you know, as a first world country with all the means in the world, there's just still too much inequity. And so a deep belief that it is possible. (Willow)

These findings resonate with the work of legal scholars Shepherd and Cherrick (2006) who explored the idea that advocacy is successful when advocates use their emotions in an effective way to persuade different audiences. In this case, advocates are often using persuasive and emotive advocacy techniques to persuade governments to raise the age. Emotions such as compassion can disrupt taken for granted neoliberal government welfare assumptions (Horsell, 2017).

Some advocates discussed feelings of disempowerment when being "knocked back", whilst also highlighting their resilience and tenacity in their advocacy work:

It's just the knock backs. And you just have to be so single focus on what you believe needs to change... it takes a lot of patience, a lot of tenacity. So the hard part about this is just in the knockbacks. (Willow)

In general, advocates argued that their commitment to challenging social injustices enabled them to continue their advocacy work. Advocates discussed having to confront government leaders in a fearless way to get their point across. Many advocates explored the role of emotions being a positive aspect driving their advocacy work.

Some advocates discussed that their advocacy is not only within their workplace but also a part of their personal life, as it has “blended into one” (Phoebe). The professional and personal commitments that advocates have can also contribute to experiences of workplace stress and burnout (Bemiller & Williams, 2011; Mueller & Morley, 2020). This is evident in this research study as one advocate noted that they are potentially at risk of burnout due to the strain of their emotional connection associated with their advocacy work (Willow). This is a notable finding, as social work ethics, values and action “[embrace] advocacy and policy reform initiatives” to influence systemic change and raise awareness for social injustices (AASW, 2020, p. 6). However, the emotional impact of constant advocacy work and lack of resources for advocates are often overlooked and can contribute to burnout (Bemiller & William, 2011; Mueller & Morley, 2020).

#### *Advocacy is personal*

Advocates discussed how their personal values aligned with their advocacy practice and professional practice, including as a social worker (Oliver, Willow, Mary). Social work advocates related personal values with the values of the profession of social work: “that’s what attracts me to this role. And as a social worker, for me that is truly valuable, because it sort of aligns with my values” (Mary). The concept of personal values influencing their advocacy work was also highlighted by an advocate with a legal background:

I shifted into advocacy that was driven by personal values by wanting to experience advocating strongly for issues rather than needing to weigh things up as you do in government and a social justice motivation is obviously underneath that... I guess a lot of this is personal values, I really believe in the issue. So that’s one thing, I have no hesitation. (James)

It is evident that advocates’ personal and professional values aligned heavily with the social justice aspects of raising the age of criminal responsibility.

Advocates were asked what sustains them in this area of advocacy work. Most advocates stated that what keeps them going is the belief that raising the age is possible (Phoebe). Some advocates also discussed the influence that other advocates have had on their work and how this has sparked their passions to advocate as a collective of concerned individuals: “I am very inspired by others... that’s definitely a big part of it. And I think it’s the collective energy of people who have shared values” (Willow).

*There is more than one type of advocacy*

Another sub-theme about speaking to power was related to different types of advocacy, including social media and academic advocacy. The role of social media advocacy was particularly emphasised: “I think I need to really grapple with social media... we cannot underestimate this, particularly at the moment, of course in terms of Twitter and how dynamic it is a forum for work like this” (Willow). Another advocate detailed the academic research that they have done about raising the age of criminal responsibility (Jane). Thus, advocacy does not just involve campaigning and lobbying.

An important finding is that social media is central to social work advocacy and activism (Boddy & Dominelli, 2017). Social media has been used as an advocacy tool by many social workers and organisations to draw attention to the age of criminal responsibility (Boddy & Dominelli, 2017). More specifically, in July 2021, proud Narungga Woman Cheryl Axleby, Co-Chair of “Change the Record”, asked members of the public and celebrities to post an image of themselves when they were 10 years old with #MeAtTen and #RaiseTheAge to help raise awareness (Axleby, 2021; National Indigenous Radio Service (NIRS), 2021). Change the Record is Australia’s only national First Nations led justice coalition of Aboriginal peak bodies and non-Indigenous allies (Change the Record, 2022). Change the Record works towards ending the incarceration of, and family violence against, Aboriginal and Torres Strait Islander children and young people and families (Change the Record, 2022). This social media campaign and the 2016 *Four Corners Documentary* detailing the experiences of incarcerated young people in the Don Dale Detention Centre highlighted how the public were unaware of the government’s lack of involvement and commitment to raising the age of criminal responsibility (Ferguson & Fallon, 2016; NIRS, 2021).

As well, advocacy occurs in an existing power structure and notions of power are important aspects of both social work and advocacy (Scourfield, 2021; Sosin & Caulum, 1983). Power can be defined as an individual having the capacity to influence change at interrelated levels, including personal, cultural and structural (Scourfield, 2021). This is important as these different levels influence which model of advocacy is most appropriate for certain situations (Scourfield, 2021). For example, advocating at a personal level would require an individual or self-advocacy model, and advocating at a structural and cultural level would require a systemic advocacy model (Scourfield, 2021). Advocates within this setting of unjust politics are using their power to advocate for governments to raise the age of criminal responsibility, empower children and young people and uphold their basic human rights (Raise the Age, 2022; Scourfield, 2021)

**Listening to the voices**

The tasks of advocacy work referred to the overarching theme of listening to the voices of people most affected. These include: listening to First Nations Peoples and working alongside First Nations organisations; listening to the young people with lived experience; and listening to the strong evidence base developed by many professionals.

### *Listening to First Nations Peoples*

During the interviews, many advocates discussed the importance of working with First Nations Peoples because Aboriginal and Torres Strait Islander children and young people are 17 times more likely to be incarcerated than non-Aboriginal children (AIHW, 2021; Amnesty, 2022). As one advocate stated: “my family does not have the experience of childhood incarceration. But sadly, many Aboriginal families do have that experience” (Jane).

One advocate explored the concept of organisations and advocates following the lead of Aboriginal advocacy groups:

I think it’s important that we follow the lead of Aboriginal advocacy groups... I think when it comes to identifying what the solutions are to breaking that cycle of disadvantage, antisocial behaviour and complex needs of young people, that is absolutely where Aboriginal organisations know, they know the answers to that for their community. They have the cultural authority to design their own solutions for their own children, and they need to be resourced to be able to do that. (Jane)

Another advocate unpacked the concept of “virtue signalling”, which is defined as an act of publicly expressing opinions and moral viewpoints intended to demonstrate good character (Bartholomew, 2013). When discussing elevating the voices of First Nations communities, James said that this is an ethical tension he faced within his advocacy work:

But there’s always this question of how are we a good ally? How do we make sure that we are really elevating the right voices, not accidentally taking oxygen, while also actually doing the work and being supportive, and not just virtue signalling. You know, there’s no point of us just retweeting stuff that “Change the Record” have said, but at the same time, we don’t want to be quoted ahead of “Change the Record”, when there’s a big moment. So that’s been an ethical challenge for us to grapple with. (James)

This is an important point to consider because social work as a profession is committed to “working alongside First Nations Peoples and supporting their rights for self-determination”, in partnership with First Nations communities, to enhance social justice and human rights and value the worldviews of First Nations Peoples in social work relationships (AASW, 2020, p. 6; Bennett et al., 2011; Calma & Friday, 2011).

### *Listening to young people with lived experiences*

Advocates mentioned that listening to children and young people who have experienced being incarcerated and have lived experience of the issues that are associated with youth justice is a significant factor that needs to be considered in this advocacy work: “I think it’s absolutely essential that the people with lived experience of the system that their voices are heard and that their voices are elevated” (Jane). Another advocate described listening to the voices of young people with lived experiences as “the most compelling voices” (James).

Children and young people who have become involved with the criminal justice system have the right to be heard, to be safe and to be treated in a way that promotes their basic human rights, dignity, and worth (Children and Young Persons Safety Act, 2017). The Australian Government's refusal to act upon the Royal Commission recommendations is clear, as November 2021 saw the first 10-year-old to be held in the Don Dale Detention Centre since the 2017 Royal Commission into youth detention (Commonwealth of Australia, 2017). Additionally, in 2019 the government allocated \$55 million towards a youth justice facility on a site next to Darwin's adult prison, despite the Royal Commission recommending against such a location (Commonwealth of Australia, 2017). Furthermore, a Bill was rejected in Queensland to raise the age of criminal responsibility to 14 despite a significant amount of community support advocating for this change (Holland & Toombs, 2022).

The findings about listening to the voices of those with lived experiences can be broken down into three parts: advocacy for young people; advocacy with young people; and advocacy by young people. The advocates described offering services and support to young people as part of advocacy for young people. One advocate explained that, in their day-to-day practice, children should be kept out of the prison system "for as long as possible, as best as possible" (Oliver) – which is advocacy for young people. Other advocates spoke about working with young people and listening to their voices about how they can be best supported. This was described by one advocate as being a rewarding part of the advocacy work that sustained her: "...being able to be with young people, hear their stories first hand is absolutely a big driver and motivator... that's what fuels all of us that we've got to do better, and we've got to keep up the fight" (Willow). The idea of advocacy by young people was further highlighted by an advocate who mentioned the movie and the star of *In My Blood It Runs*, 12-year-old Dujan Hoosan, an Arrernte and Garrwa boy from Alice Springs, who in 2019 addressed the United Nations Human Rights Council and the United Nations Committee on the Rights of the Child. He called on the Australian Government to raise the age of criminal responsibility from 10 to 14, so that Australia can be in line with international law (Human Rights Law Centre [HRLC], 2019).

### *Listening to the evidence*

Advocates explained that the challenging side of the advocacy work is that they know that there is a strong evidence base as to why the age should be raised to 14: "we must do the right thing by taking the human rights approach here by taking an evidence approach to justice. And that means raising the age" (Jane); and "we just have so much evidence that says that putting children in jail doesn't improve their outcomes at all or make the community safer" (Phoebe).

Incarceration can have a significant impact on children and young people's mental health because of the trauma that they experienced whilst incarcerated (Matthews, 2018). Deegan (2022) established that incarcerated children and young people are often the most disadvantaged and have experienced a history of poverty, domestic and family violence, neglect, and abuse. As there is a high rate of First Nations children who are incarcerated, it is important to also acknowledge the impact of colonisation, unjust colonial state policies and intergenerational trauma (Deegan, 2022). Research evidence has found that children and young people as young as 10 years old should not be incarcerated (Cunneen, 2017) and advocates are pleading for governments to take this evidence into consideration.

## Implications for social work practice

Social work is a profession that focusses on individual's personal values, morals and beliefs which can impact on their professional practice (AASW, 2020). Advocacy has been associated as being “at the heart of social work” and as contributing to promoting social change through helping vulnerable and marginalised members of society (Scourfield, 2021, p. 1). Raising the age of criminal responsibility is a human rights issue and social work and human service advocates around Australia are committed to addressing the social injustices that occur in the youth justice system (Crofts, 2015; Raise the Age, 2022). This research aligns with social work ethics and values of upholding a strong commitment to social justice and human rights as it acknowledges the importance of protecting children and young people's human rights and the inequality children and young people face in the criminal justice system; especially First Nations children and those who are most disadvantaged (AASW, 2020; Crofts, 2015). All the advocates had social justice as the centre of their advocacy work, even when they were not social workers. It is time for the “empty words” to be replaced with actions and progressive social change for the rights of children and young people in Australia. It is time for the United Nations Universal Declaration of Human Rights to be upheld and put into practice. This research contributes to the Raise the Age advocacy campaign, in social work, by advocating to raise the age of criminal responsibility in Australia (AASW, 2020; Thompson, 2002).

## Conclusion

There is clear evidence that the age of criminal responsibility in Australia should be raised to at least 14 years of age. However, advocacy occurs within the unjust power of politics, which posed challenges for advocates who are speaking to power. The advocates spoke of using different types of advocacies, including social media, and both personal and professional advocacy strategies. The tenacity and resilience of advocates within this area cannot be overlooked. Social workers and other advocates are committed to upholding social justice and human rights for and with young people at the forefront of this advocacy campaign. More research is needed to contribute to the success of future social work advocacy campaigns, including by highlighting the importance of different forms of advocacy, when addressing social justice issues such as raising the age of criminal responsibility in Australia.

## References

- Amnesty. (2022). *Why we need to raise the minimum age of criminal responsibility*. Amnesty, para. 5, 6. <https://www.amnesty.org.au/why-we-need-to-raise-the-minimum-age-of-criminal-responsibility/#:~:text=What%20is%20the%20age%20of,at%20only%2010%20years%20old>
- Australian Association of Social Workers. (2020). *Code of ethics*, 1(6). <https://www.aasw.asn.au/document/item/92>
- Australian Bureau of Statistics. (2022). Recorded crime – Offenders. Australian Government. <https://www.abs.gov.au/statistics/people/crime-and-justice/recorded-crime-offenders/latest-release>
- Australian Capital Territory Government. (2021). *Raising the minimum age of criminal responsibility*. <https://yoursayconversations.act.gov.au/raising-minimum-age-criminal-responsibility>
- Australian Human Rights Commission. (2020). *Review of the age of criminal responsibility: Submission to the council of Attorneys-General age of criminal responsibility working group*. Human Rights, 5. <https://humanrights.gov.au/our-work/legal/submission/review-age-criminal-responsibility-2020>

- Australian Institute of Health and Welfare. (2021). *Youth detention population in Australia 2021*. (Cat. no. JUV 136), 3. <https://www.aihw.gov.au/reports/youth-justice/youth-detention-population-in-australia-2021/contents/summary>
- Australian Medical Association. (2021). *Children as young as ten should not be incarcerated*. <https://www.ama.com.au/ama-rounds/30-july-2021/articles/children-young-ten-should-not-be-incarcerated#:~:text=In%202019-20%20alone%2C%20499%20children%20aged%20between%2010,Health%20and%20Welfare.%20Any%20further%20inaction%20is%20unacceptable>
- Axleby, C. [AxCheryl]. (2021, July 27). #MeAtTen [Twitter]. [https://twitter.com/search?q=%23MeAt10&src=typed\\_query](https://twitter.com/search?q=%23MeAt10&src=typed_query)
- Axleby, C., & Waight, N. (2020, June 29). We need to go beyond empty gestures if we're going to end Aboriginal deaths in custody. *The Guardian*. <https://www.theguardian.com/commentisfree/2020/jun/29/we-need-to-go-beyond-empty-gestures-if-were-going-to-end-aboriginal-deaths-in-custody>
- Bartels, L. (2022). Sentencing review 2020-21. *Criminal Law Journal*, 46(1), 8. <https://search.informit.org/doi/10.3316/agispt.20220428066055>
- Bartholomew, J. (2013). *The welfare state we're in*. Biteback Publishing. ISBN 9781842750636.
- Bemiller, M., & Williams, L. S. (2011). The role of adaptation in advocate burnout: A case of good soldiering. *Violence Against Women*, 17(1), 89–110. <https://doi.org/10.1177/1077801210393923>
- Bennett, B., Zubrzycki, J., & Bacon, V. (2011). What do we know? The experiences of social workers working alongside Aboriginal People. *Australian Social Work*, 64(1), 20–37. <https://doi.org/info:doi/>
- Blagg, H. (2008). *Crime, Aboriginality and the decolonisation of justice*. Hawkins Press. <https://nla.gov.au/nla.cat-vn4299740>
- Boddy, J., & Dominelli, L. (2017). Social media and social work: The challenges of a new ethical space. *Australian Social Work*, 70(2), 172–184. <https://doi.org/10.1080/0312407X.2016.1224907>
- Burr, V. (2015). *Social constructionism* (3rd ed.). Routledge. <https://doi.org/10.4324/9781315715421>
- Calma, T., & Priday, E. (2011). Putting Indigenous human rights into social work practice. *Australian Social Work*, 64(2), 147–155. <https://doi.org/10.1080/0312407X.2011.575920>
- Change the Record. (2022). *About us: Our team*. <https://www.changetherecord.org.au/about#:~:text=Change%20the%20Record%20is%20Australia's,and%20Torres%20Strait%20Islander%20people>.
- Children and Young People Safety Act 2017 (SA)*. [https://www.legislation.sa.gov.au/legislation/lz/c/a/children%20and%20young%20people%20\(safety\)%20act%202017/current/2017.25.auth.pdf](https://www.legislation.sa.gov.au/legislation/lz/c/a/children%20and%20young%20people%20(safety)%20act%202017/current/2017.25.auth.pdf)
- Clarke, V., & Braun, V. (2021). Thematic analysis: A practical guide. *Thematic Analysis*, 77. ISBN: 9781473953246
- Collard, S. (2022, October 13). Northern Territory moves to raise the age of criminal responsibility from 10 to 12. *The Guardian*. <https://www.theguardian.com/australia-news/2022/oct/13/northern-territory-moves-to-raise-age-of-criminal-responsibility-from-10-to-12>
- Commonwealth of Australia. (2017). *Royal commission and board of inquiry into the protection and detention of children in the northern territory, "Findings and Recommendations"*. <https://www.royalcommission.gov.au/system/files/2020-09/findings-and-recommendations.pdf>
- Crofts, T. (2003). Doli Incapax: Why children deserve its protection. *eLaw Journal: Murdoch University Electronic Journal of Law*, 10(3), 1–15. <https://search.informit.org/doi/abs/10.3316/agispt.20034565>
- Crofts, T. (2015). A brighter tomorrow: Raise the age of criminal responsibility. *Current Issues in Criminal Justice*, 27(1), 123–131. <https://doi.org/10.1080/10345329.2015.12036035>
- Cunneen, C. (2017). *Arguments for raising the minimum age of criminal responsibility*. [Research report, University of New South Wales]. Comparative Youth Penalty Project. <http://cyppt.unsw.edu.au/node/146>
- Dalrymple, J., & Boylan, J. (2013). Effective advocacy in social work. In *Effective advocacy in social work*. SAGE Publications. <https://doi.org/10.4135/9781473957718>
- Davis, L. (2020). Youth justice: An overview of the youth court: An essential and potentially transformative jurisdiction. *Bulletin (Law Society of South Australia)*, 42(10), 28–34. <https://search.informit.org/doi/10.3316/informit.573317911270008>
- Deegan, S. J. (2022). Appetite for destruction: Food-related experiences of incarcerated children and young people. *Incarceration*, 3(2). <https://doi.org/10.1177/26326663221104998>

- Ferguson, S. (Presenter) & Fallon, M. (Producer). (2016). Australia's Shame (Season , Episode). [TV series episode]. In S. Neighbour (Executive Producer), *Four Corners*. Australian Broadcasting Corporation. <https://www.abc.net.au/4corners/australias-shame-promo/7649462>
- Flack, T., & Ryan, C. (2005). Financial reporting by Australian nonprofit organisations: Dilemmas posed by government funders. *Australian Journal of Public Administration*, 64(3), 69–77. <https://doi.org/10.1111/j.1467-8500.2005.00453.x>
- Galbin, A. (2014). An introduction to social constructionism. *Social Research Reports*, 26, 82–92. ISSN: 2067-5941
- Goldsworthy, T. (2022). *Why we should not rush to raise the age of criminal responsibility in Australia*, 2. <https://theconversation.com/why-we-should-not-rush-to-raise-the-age-of-criminal-responsibility-in-australia-189463>
- Hoefler, R. (2019). *Advocacy practice for social justice*. Oxford University Press.
- Holland, L., & Toombs, M. (2022). *Raising the age of criminal responsibility is only a first step. First Nations kids need cultural solutions*. The University of Queensland. <https://theconversation.com/raising-the-age-of-criminal-responsibility-is-only-a-first-step-first-nations-kids-need-cultural-solutions-186201>
- Horsell, C. (2017). A politics of compassion: Informing a new social policy for homelessness? *International Social Work*, 60(4), 966–975. <https://doi.org/10.1177/0020872815594228>
- Human Rights Law Centre. (2019). *The speech 12 year old Aboriginal child, Djujan, delivered at the UN Human Rights Council*. HRLC. <https://www.hrlc.org.au/news/2019/9/11/the-speech-12-year-old-dujuan-delivered-at-the-un-human-rights-council#:~:text=Djujan%2C%20the%20young%20star%20of,for%20Aboriginal%2Dle d%20education%20models>.
- Jarldorn, M. (2020). Radically rethinking social work in the criminal (in)justice system in Australia. *Affilia*, 35(3), 327–343. <https://doi.org/10.1177/0886109919866160>
- Mathews, B. (2000). Children's criminal responsibility in Australia: Some legal, psychological and human rights issues. *Australia and New Zealand Journal of Law and Education*, 5(2), 27–45.
- Matthews, S. (2018). *Girls in juvenile detention: Deprioritised and re-traumatised*. *Precedent*, (147), 14–18.
- McAlister, S., & Carr, N. (2014). Experiences of youth justice: Youth justice discourses and their multiple effects. *Youth Justice*, 14(3), 241–254. <https://doi.org/10.1177%2F1473225414549694>
- Mueller, V., & Morley, C. (2020). Blaming individuals for burnout: Developing critical practice responses to workplace stress. *Social Alternatives*, 39(3), 20–28.
- National Indigenous Radio Service (NIRS). (2021). *Lack of progress on raising the age slammed*. <https://nirs.org.au/news/lack-of-progress-on-raising-the-age-slammed/>
- Neuman, L. (2014). *Social research methods: Qualitative and quantitative approaches / W. Lawrence Neuman*. (7th ed.). Pearson Education. <https://ebookcentral.proquest.com/lib/unisa/reader.action?docID=5175740>
- O'Brien, W., & Fitz-Gibbon, K. (2017). The minimum age of criminal responsibility in Victoria (Australia): Examining stakeholders' views and the need for principled reform. *Youth Justice*, 17(2), 134–152. <https://doi.org/10.1177%2F1473225417700325>
- Parliamentary Education Office. (2022). Making a law in the Australian Parliament. <https://peo.gov.au/understand-our-parliament/how-parliament-works/bills-and-laws/making-a-law-in-the-australian-parliament/>
- Phoenix, J., & Kelly, L. (2013). “You have to do it for yourself”: Responsibilization in youth justice and young people's situated knowledge of youth justice practice. *British Journal of Criminology*, 53(3), 419–437. <https://doi.org/10.1093/bjc/azs078>
- Pickford, J., Dugmore, P., Parker, J., & Bradley, G. (2012). *Youth justice and social work* (2nd ed.). SAGE Publications. <https://ebookcentral.proquest.com/lib/unisa/detail.action?docID=5397116>.
- Raise the Age. (2022). *CAG Submissions*. <https://www.raisetheage.org.au/cag-submissions>
- Scourfield, P. (2021). *Using advocacy in social work practice: A guide for students and professionals*. Routledge. <https://doi.org/10.4324/9781003041122>
- Shepherd, J. C., & Cherrick, J. B. (2006). Advocacy and emotion. *Journal of the Association of Legal Writing Directors*, 3, 154–165.
- Sosin, M. & Caulum, S. (1983). Advocacy: A conceptualization for social work practice. *Social Work*, 28(1), 12–17. <https://doi.org/10.1093/sw/28.1.12>



Thompson, N. (2002). Social movements, social justice and social work. *British Journal of Social Work*, 32(6), 711–722.  
<https://doi.org/10.1093/bjsw/32.6.711>

Urbas, G. (2000). *The age of criminal responsibility: Trends and issues in crime and criminal justice* (no. 181). Australian Institute of Criminology. <https://search.informit.org/doi/epdf/10.3316/agispt.20005185>

Walter, M. (2019). *Social research methods* (4th ed.), Oxford University Press. <https://ebookcentral.proquest.com/lib/unisa/detail.action?docID=5979410&pq-origsite=primo>

Williams, J. (2000). Getting tough on crime: will it win the war? *Agenda: A Journal of Policy Analysis and Reform*, 33–45.  
<https://www.jstor.org/stable/43199059>

*Young Offenders Act 1993* (SA), s. 5. <https://www.legislation.sa.gov.au/legislation/lz/c/a/young%20offenders%20act%201993/current/1993.57.auth.pdf>