



SCHOOL OF LAW AND SOCIAL JUSTICE

INTERNATIONAL CRIMINOLOGICAL RESEARCH UNIT (ICRU): RESEARCH SEMINAR

WEDNESDAY NOVEMBER 4, 2015: 4.00 p.m - 5.30 p.m

RENDALL BUILDING - SEMINAR ROOM 4

Protections for children before the law: A re-examination of the age of criminal responsibility and the abolition of doli incapax in England and Wales

Dr Kate Fitz-Gibbon

School of Humanities and Social Sciences, Deakin University, Australia

Abstract: The law's response to child offenders has long animated debate and sparked doctrinal law reform in England and Wales. The provision of legal protections for children in trouble with the law has been central to such debates, and questions surrounding the age at which a child should be held criminally responsible remain a contested area of law both domestically and internationally. In 1998 England and Wales abolished the presumption of doli incapax and retained the minimum age of criminal responsibility at ten years old; two years below the United Nations' recommended standard. This paper will examine the legal protections provided for child offenders under English criminal law with a focus on the adequacy of the age of criminal responsibility, the now abolished presumption of doli incapax and the merits of a developmental immaturity defence. Drawing on data obtained from interviews conducted with members of the English criminal justice system, this paper will analyse the extent to which legal practitioners perceive that the existing provisions are adequate and concludes by reinvigorating debate surrounding the need for future review and reform.

Dr Kate Fitz-Gibbon is a Lecturer in Criminology in the School of Humanities and Social Sciences at Deakin University (Victoria, Australia). Her previous research examines legal responses to lethal violence, the law of homicide and the impact of criminal law reform across Australian and international jurisdictions. This research has been undertaken with a focus on gender, responsibility and justice. Dr Fitz-Gibbon has advised on homicide law reform reviews in several Australian jurisdictions. Recent publications include: 'Homicide Law Reform, Gender and the Provocation' Defence (2014, Palgrave Macmillan) and 'Homicide Law Reform in Victoria: Retrospect and Prospects' (edited with Arie Freiberg, 2015, The Federation Press).