

SUBMISSION TO THE UN SPECIAL RAPPORTEUR ON THE RIGHTS OF INDIGENOUS PEOPLES

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Contents

Acknowledgement.....	3
About SNAICC.....	3
Executive Summary.....	4
Invitation for Engagement.....	8
Context: Aboriginal and Torres Strait Islander Peoples and Structural Conditions.....	9
Legal, Policy and Institutional Frameworks Affecting First Nations Children	10
Child Removal and Over-Representation in Out-of-Home Care.....	12
Child Justice - Child Detention and Justice System.....	15
Structural Barriers, Self-Determination, and Preventative Investment.....	19

Acknowledgement

SNAICC shows respect by acknowledging the Traditional Custodians of Country throughout Australia and their continuing connections to land, waters and communities. SNAICC pays respects to Elders past and present and we acknowledge and respect their continued connection to Country, care for community and practice of culture for generations uncounted. SNAICC's head office is located on the lands of the Wurundjeri People of the Kulin Nation, and SNAICC operates nationally.

About SNAICC

SNAICC is the national non-government peak body for Aboriginal and Torres Strait Islander children. Our work is concentrated on the fulfilment of the rights of our children, to ensure their safety, development, and well-being. At the heart of SNAICC's work is championing the principles of community control and self-determination as the means for sustained improvements for children and families – whether in child protection and wellbeing or early childhood education and development. SNAICC has a dynamic membership of Aboriginal and Torres Strait Islander community-based child care agencies, Multi-functional Aboriginal Children's Services, crèches, long day care child care services, pre-schools, early childhood education services, early childhood support organisations, family support services, foster care agencies, family reunification services, family group homes, services for young people at risk, community groups and voluntary associations, government agencies and individual supporters.

As the national peak body for Aboriginal and Torres Strait Islander children, SNAICC consults with its member organisations and Aboriginal and Torres Strait Islander leaders to ensure the experiences, needs and aspirations of our leaders, our sector and ultimately, our children and families are the foundation for our submissions and recommendations. SNAICC's work in the Child and Family Wellbeing sector is critical in transforming Australia's systems to better foster strong, healthy, thriving Aboriginal and Torres Strait Islander children who are connected to family and culture and part of self-determining communities. We also endorse the importance of family, community, culture and country in child and family welfare policy, legislation and practice. Our work comprises policy, advocacy, and sector development. We work with non-Indigenous services alongside Federal, State and Territory Governments to improve how agencies design and deliver supports and services for Aboriginal and Torres Strait Islander children and families.

SNAICC's work is grounded in the principles contained in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the Convention on the Rights of the Child (CRC), particularly the rights of Aboriginal and Torres Strait Islander children to culture, family, identity and self-determination. Consistent with the mandate of the Special Rapporteur on the Rights of the Child, this submission focuses on the systemic conditions that affect the collective and individual rights of First Nations children, particularly where government laws, policies, and institutional arrangements impact their rights to family integrity, cultural identity, self-determination, and

freedom from discrimination. SNAICC respectfully submits this document to support constructive engagement during the Special Rapporteur’s visit and welcomes opportunities for direct dialogue with First Nations children, families, community leaders, and organisations across Australia.

Executive Summary

Aboriginal and Torres Strait Islander peoples are the First Peoples of Australia, maintaining continuous cultural, spiritual, and social connections to Country for more than 65,000 years across hundreds of distinct Nations with their own governance systems, laws, and languages. SNAICC recognises that despite Australia’s ratification of the CRC, endorsement of UNDRIP, and ratification of OPCAT, structural barriers continue to limit the realisation of Aboriginal and Torres Strait Islander children’s rights. The absence of constitutional recognition, enforceable participation mechanisms, and Aboriginal and Torres Strait Islander–led decision-making significantly limits Australia’s capacity to fulfil its international obligations. This includes obligations under UNDRIP (Articles 3, 4, 18, 19, 21, 22, and 23) and the CRC (Articles 3, 7, 8, 9, 12, 18, 20, and 30), which collectively guarantee children’s rights to family, culture, community, and participation. These structural gaps contravene core UNDRIP principles, particularly those relating to self-determination and autonomy (Articles 3 and 4), participation in decision-making, and free, prior and informed consent (Articles 18 and 19), as well as the right to maintain institutional structures. Together, they underscore the persistent disconnect between Australia’s international commitments and its domestic practice.

Historical and ongoing policies of dispossession, forced child removal, and institutional control have produced intergenerational trauma and entrenched disadvantage, which continue to be reproduced through contemporary systems. Despite decades of policy reform, current approaches remain largely punitive and reactive, reinforcing structural inequality, undermining family and kinship systems, and failing to uphold children’s rights to culture, identity, participation, and self-determination. These outcomes are not incidental; they reflect systemic and enduring policy failure that continues to place Aboriginal and Torres Strait Islander children at risk of harm.

Key Areas of Concern

Aboriginal and Torres Strait Islander children are significantly over-represented across both child protection and child justice systems. SNAICC is deeply concerned that, despite commitments under the National Agreement on Closing the Gap, including Priority Reform targets, this over-representation is not improving and is worsening in many jurisdictions. Current systems continue to fail to address the underlying drivers of this disparity and instead perpetuate cycles of intervention, separation, and criminalisation. These systems operate as a connected pipeline, where child protection involvement particularly in out-of-home and residential care too often leads to involvement in the child justice system, entrenching disadvantage and lifelong harm.

1. Child Removal and Out-of-Home Care

Aboriginal and Torres Strait Islander children remain significantly over-represented in out-of-home care (OOHC)¹, including infant removals, reflecting systemic and biased decision-making within child protection systems. SNAICC is concerned that children are too often removed not as a last resort, but in response to structural disadvantage, including poverty, housing insecurity, and lack of access to culturally safe supports. These decisions sever children's connections to family, kinship systems, culture, and Country, causing profound and lasting harm to identity, wellbeing, and mental health, and entrenching cycles of disadvantage. The impact of removal is particularly severe for infants, where the loss of kinship connection and cultural grounding has lifelong consequences. OOHC, particularly residential care, continues to function as a pathway into the child justice system, exposing children to further trauma, instability, and criminalisation.

2. Child Justice and Detention²

Aboriginal and Torres Strait Islander children are significantly over-represented in child justice systems and detention, including children as young as 10 years of age. SNAICC is alarmed by the continued use of harmful practices in detention settings, including isolation, restraints, denial of basic needs, and restricted contact with family and legal representatives. These practices are inconsistent with Australia's obligations under CRC, UNDRIP, and OPCAT, and may constitute cruel, inhuman or degrading treatment or punishment. Detention exposes already vulnerable children to further harm, exacerbates trauma and mental health impacts, and increases the likelihood of reoffending. It is not a safe or effective response and entrenches long-term disadvantage.

3. Structural Barriers to Self-Determination

SNAICC believes that structural barriers continue to limit Aboriginal and Torres Strait Islander self-determination across child protection and child justice systems. Government control over funding, service design, and commissioning processes constrains the role of Aboriginal Community Controlled Organisations (ACCOs)³, despite their proven

¹ *Out-of-home care (OOHC) includes foster care and residential care placements provided when children are removed from their families.*

² SNAICC mirrors the Australian Human Rights Commission terminology in the *'Help way earlier!'* report by referring to 'child justice systems', rather than 'youth justice systems.' We also use the term children rather than young person or people. As the Tasmanian Custodial Inspector noted in their 2025 report on children in Tasmania's Prisons, "The terms 'young person' and 'youth' suggest a level of maturity that most of the children in conflict with the law do not have. It is well accepted that the developmental age of most children appearing in the courts is significantly lower than their chronological/birth age, and that most have backgrounds of trauma, disability and disengagement." (Office of the Custodial Inspector, Tasmania 2025). The UN Convention on the Rights of the Child defines a child as someone below the age of 18 years. In Australia, children as young as 10 can be arrested and incarcerated. Referring to children as 'youths' or 'juveniles' is unclear and misleading. Where we cite secondary sources that refer to 'youth justice,' we retain that term. The fact that the Productivity Commission reports on "youth justice" under Community Services rather than Corrective Services underlines this.

³ Aboriginal Community Controlled Health Organisations (ACCHOs) are a specialised subset of ACCOs focused primarily on health service delivery.

effectiveness in delivering culturally safe and community-led services. These constraints contravene key articles of the UNDRIP, including Articles 3 and 4 (self-determination and autonomy), and likely also Articles 18, 19 and 34 (participation in decision-making, free, prior and informed consent, and the right to maintain and develop institutional structures). They undermine the implementation of UNDRIP and restrict the ability of communities to determine priorities for their children and families.

4. Investment Imbalance

Current funding models prioritise crisis-driven responses over prevention. A disproportionate share of resources is directed toward statutory intervention and out-of-home care, rather than early intervention and family support. This imbalance contributes directly to family separation and continued over-representation. SNAICC emphasises that redirecting investment toward ACCO-led, culturally safe early intervention programs is critical to strengthening families, improving outcomes, and reducing long-term system involvement. This is particularly evident across both child protection and child justice: while state and territory governments are cutting juvenile diversion programs, they continue to invest in building new youth detention facilities, and the Australian Government largely refrains from intervening in this policy space. This reinforces a system-wide focus on punitive responses rather than preventative, culturally-informed supports, further entrenching over-representation and systemic disadvantage for Aboriginal and Torres Strait Islander children.

5. Institutional Accountability and Oversight

SNAICC is concerned that Aboriginal and Torres Strait Islander-led oversight and accountability mechanisms remain fragmented across jurisdictions, resulting in inconsistent monitoring of children's safety and rights. The lack of strong, independent Indigenous oversight limits accountability and undermines compliance with CRC, UNDRIP, and OPCAT obligations. The establishment of the National Commission for Aboriginal and Torres Strait Islander Children and Young People with a strong legislated mandate represents significant progress. However, the absence of Aboriginal and Torres Strait Islander Children's Commissioners with legislated authority in multiple states and territories, and gaps in Aboriginal and Torres Strait Islander-led systems governance limit effective oversight and accountability.

SNAICC Perspective and Solutions

The solutions to the over-representation and ongoing harm experienced by Aboriginal and Torres Strait Islander children already exist within communities. Aboriginal and Torres Strait Islander-led, culturally grounded approaches consistently deliver better outcomes for children, strengthening family and kinship systems, supporting cultural continuity, and preventing unnecessary system involvement. Programs and services delivered through ACCOs, including

ACCO integrated early years services,⁴ community-led family support programs,⁵ Connected Beginnings⁶, HIPPY⁷, and the Australian Nurse–Family Partnership Program⁸, demonstrate the effectiveness of early, culturally safe, community-led support. SNAICC members are already delivering these solutions, demonstrating that when communities are resourced and empowered to lead, children are more likely to remain safely connected to family, culture, and Country.

SNAICC calls for a decisive shift away from punitive, crisis-driven, and system-controlled approaches toward Aboriginal and Torres Strait Islander-led systems that prioritise prevention, cultural safety, and self-determination. This requires transferring decision-making authority and investment to ACCOs and ensuring that services are designed, governed, and delivered by communities. The continued reliance on late intervention systems reflects a policy failure, not a lack of solutions.

Australia’s current investment in crisis responses rather than prevention undermines family preservation, interrupts the maintenance of Aboriginal and Torres Strait Islander cultures, and perpetuates long-term harm to children, families and communities. Redirecting investment toward early, ACCO-led supports is essential to breaking this cycle and realising children’s rights under the CRC and UNDRIP. Sustained investment in early, culturally safe interventions is both a human rights obligation and a sound economic strategy. Current approaches impose a significant financial burden while failing to deliver long-term outcomes for children and families. A shift toward prevention and early support will reduce reliance on costly tertiary systems while strengthening families and improving outcomes for children.

⁴ SNAICC – National Voice for our Children (2024). *Funding Model Options for ACCO Integrated Early Years Services Final Report*. <https://www.snaicc.org.au/resources/funding-model-options-for-acco-integrated-early-years-services-final-report/>

⁵ See for example: SNAICC (2023) *Waminda – South Coast Women’s Health and Welfare Aboriginal Corporation: Nabu Aboriginal family preservation and restoration program*. <https://www.snaicc.org.au/resources/doing-it-our-way-aboriginal-and-torres-strait-islander-led-early-intervention-program-waminda/>; SNAICC (2023) *Townsville Aboriginal and Islander Health Service: Yamani Meta Family Wellbeing House*. https://www.snaicc.org.au/wp-content/uploads/2023/09/220201_7_Early-Intervention-Profile-TAIHS-1.pdf

⁶ SNAICC – National Voice for Our Children. (2025). *2025–26 Pre-Budget Submission to the Australian Government*. [SNAICC 2025-26 Pre-Budget Submission | Submission | SNAICC](https://www.snaicc.org.au/resources/2025-26-pre-budget-submission)

⁷ The Home Interaction Program for Parents and Youngsters (HIPPY) is a fun, free, home-based early learning and parenting program. HIPPY is an effective way to support early-childhood learning in the home – delivering great outcomes for children, parents and the community. It works with families with young children in the pre-school years. <https://hippyaustralia.bsl.org.au/how-it-works/about-the-program/>

⁸ Australian Nurse–Family Partnership Program (ANFPP) supports women who are pregnant with an Aboriginal or Torres Strait Islander baby to help them become the best mum possible. Nurses make home visits to provide guidance during early pregnancy, the baby’s infancy and into toddlerhood. <https://www.health.gov.au/our-work/australian-nurse-family-partnership-program?language=en>

Invitation for Engagement

SNAICC respectfully invites the Special Rapporteur to meet with SNAICC leadership to discuss systemic findings and reform priorities.

The Special Rapporteur may also find it useful to visit locations where rights concerns are acute, including:

- Child detention centres and residential care facilities with high Aboriginal and Torres Strait Islander representation
- Communities experiencing barriers to culturally safe early intervention and family support and resulting high rates of child removal.
- Isolated, remote and regional communities facing limited service support availability, limited education, economic and employment opportunities, food insecurity, poverty and linked high rates of child protection and child justice intervention

Additional engagement opportunities that the Special Rapporteur may consider include:

- First Nations representative bodies such as the Coalition of Peaks leadership;
- First Nations representatives within the Australia and New Zealand Children's Commissioners and Guardians network
- Aboriginal Community Controlled Organisations and peak bodies across jurisdictions

Such engagement will support inclusion of First Nations perspectives and lived experience in international reporting and recommendations.

Context: Aboriginal and Torres Strait Islander Peoples and Structural Conditions

Aboriginal and Torres Strait Islander peoples are the First Peoples of Australia, maintaining continuous cultural, spiritual, and social connections to Country for over 65,000 years. These diverse Nations have distinct governance systems, laws, and languages that continue to guide community life and decision-making. Approximately 983,700 people identified as Aboriginal and Torres Strait Islander in 2021 (3.8% of the population), with a median age of 24 years and a significantly higher proportion of children. Over 150 languages remain in use, reflecting the strength and continuity of culture despite sustained structural pressures⁹.

Despite this enduring strength, Aboriginal and Torres Strait Islander peoples experience entrenched systemic disadvantage because of historical and ongoing policies of dispossession, forced child removal, and institutional control. These structural conditions continue to shape contemporary systems and outcomes for children and families, actively reproducing disadvantage and undermining children's connection to family, kinship systems, and Country through current policy and practice.

Australia ratified the Convention on the Rights of the Child (CRC) in 1990, endorsed the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2009, and ratified the Optional Protocol to the Convention against Torture (OPCAT) in 2017, which requires the prevention of cruel, inhuman or degrading treatment or punishment, including through independent monitoring of places where children are deprived of their liberty. However, implementation remains inconsistent and fragmented. SNAICC believes that the absence of constitutional recognition, including the failure of the 2023 referendum to enshrine a Voice to Parliament¹⁰, reinforces the ongoing exclusion of Aboriginal and Torres Strait Islander peoples from national decision-making. The absence of enforceable participation mechanisms and Aboriginal and Torres Strait Islander-led decision-making continues to constrain the realisation of rights under UNDRIP, including self-determination, participation, and protection from forced assimilation, as well as the protections afforded to children under the CRC.

These structural inequities are directly reflected in the disproportionate representation of Aboriginal and Torres Strait Islander children in child protection and child justice systems. These systems continue to operate in ways that reinforce disadvantage, including through structurally biased decision-making, culturally unsafe practices, and insufficient recognition of family, kinship systems, and connection to Country.

⁹ Australian Bureau of Statistics (ABS). (2021). *Aboriginal and Torres Strait Islander Peoples, Australia*. <https://www.abs.gov.au/statistics/people/aboriginal-and-torres-strait-islander-peoples/aboriginal-and-torres-strait-islander-people-census/2021>

¹⁰ Australian Human Rights Commission (AHRC). (2026). <https://humanrights.gov.au/know-your-rights/rights-of-individuals/aboriginal-and-torres-strait-islander-peoples-rights/articles-aboriginal-and-torres-strait-islander-peoples/about-constitutional-recognition>

Aboriginal Community Controlled Organisations (ACCOs)¹¹ provide culturally safe, community-led services that strengthen families and improve outcomes for children. However, their capacity is constrained by funding, governance, and legislative frameworks that limit Aboriginal and Torres Strait Islander control over services affecting their communities. Understanding these structural conditions is essential to assessing Australia's compliance with its obligations under the UNDRIP – as well as the CRC and OPCAT – and to identifying the systemic reforms required to uphold the rights of Aboriginal and Torres Strait Islander children and strengthen their connection to family, kinship systems, and Country.

Legal, Policy and Institutional Frameworks Affecting First Nations Children

1. National Agreement on Closing the Gap

The National Agreement on Closing the Gap¹², developed in partnership between Australian governments and the Coalition of Peaks, is Australia's primary framework for addressing inequality experienced by Aboriginal and Torres Strait Islander peoples. The Agreement recognises that meaningful and sustained improvement requires structural reform and commits governments to four Priority Reforms:

1. Formal partnerships and shared decision-making
2. Building the community-controlled sector
3. Transforming government organisations
4. Shared access to data and information at a regional level.

The Priority Reforms set out the fundamental systems change required to achieve the nineteen Outcome Area targets under the National Agreement on Closing the Gap¹³. These reforms reflect core principles of the UNDRIP, including participation, self-determination, and autonomy. However, the Productivity Commission's 2025 Annual Data Compilation Report and related Closing the Gap data consistently show that progress since the current Agreement was signed in 2020 has been limited, with only four of nineteen targets on track and outcomes worsening in key areas, including child protection and justice. For example, the Productivity Commission's 2024 Review of the National Agreement on Closing the Gap makes clear that governments have failed to deliver the fundamental system changes required under the Agreement and continue to default to business-as-usual approaches, demonstrating that they have not yet grasped the scale of transformation needed to implement the Priority Reforms¹⁴. This is reinforced by the Coalition of Peaks' Independent

¹¹ Aboriginal Community Controlled Health Organisations (ACCHOs) are a specialised subset of ACCOs focused primarily on health service delivery.

¹² Coalition of Peaks & Australian Governments (2020). *National Agreement on Closing the Gap*. <https://www.closingthegap.gov.au/national-agreement>

¹³ Productivity Commission. (2025). *Closing the Gap Data Dashboard – Child Protection (Target 12)*. [Socio-economic outcome area 12 - Aboriginal and Torres Strait Islander children are not overrepresented in the child protection system - Dashboard - Closing the Gap | Productivity Commission](#)

¹⁴ Productivity Commission (2024) *Review of the National Agreement on Closing the Gap*, <https://www.pc.gov.au/inquiries-and-research/closing-the-gap-review/>

Review¹⁵, which calls out the ongoing failure to share power and emphasises the need for governments to invest in community-controlled sectors and move beyond rhetoric to genuine partnership and shared decision-making. Together, these reviews highlight persistent structural inequities and uneven jurisdictional performance, demonstrating that governments have not implemented the systemic reforms required to support community control and shared decision-making.

This lack of progress has direct consequences for children. Child protection and child justice systems remain largely government-controlled, restricting the role of Aboriginal and Torres Strait Islander-led approaches that evidence demonstrates are more effective in improving outcomes and strengthening family and kinship systems. Without meaningful implementation of the Priority Reforms, these systems will continue to reproduce structural disadvantage rather than address it. Full and genuine implementation of the Priority Reforms including the transfer of decision-making authority, sustained investment in ACCOs, and strengthened accountability mechanisms is essential to meet Australia's obligations under UNDRIP Articles 3, 4, and 23, and to ensure culturally safe, community-led systems that uphold the rights and wellbeing of children.

2. Child and Family Policy Frameworks

Australia's national child and family wellbeing framework, *Safe and Supported: The National Framework for Protecting Australia's Children 2021–2031*, prioritises Aboriginal and Torres Strait Islander children and emphasises self-determination and cultural connection. Central to this framework is the Aboriginal and Torres Strait Islander Child Placement Principle (*here in referred to as CPP*)¹⁶, developed by Aboriginal and Torres Strait Islander leaders and community-controlled organisations in response to historical harms from child removal policies. The CPP affirms that culture, family, community, and Country are fundamental to children's safety, wellbeing, and identity, recognising that Aboriginal and Torres Strait Islander communities are best placed to make decisions about children's care. It is structured around five interrelated elements:

- Prevention
- Partnership
- Placement
- Participation
- Connection

The CPP is a foundational rights-based framework for protecting Aboriginal and Torres Strait Islander children's rights to culture and family integrity and is consistent with Articles 8, 9, and 30 of the CRC and Articles 7 and 22 of the UNDRIP¹⁷. However, despite being embedded in legislation, policy, and practice across all jurisdictions, implementation remains inconsistent, fragmented, and

¹⁵ Coalition of Peaks (2023/2024) Independent Review of Closing the Gap, <https://www.coalitionofpeaks.org.au/independent-review-of-closing-the-gap>

¹⁶ Department of Social Services (DSS). (2023). *Safe and Supported: Aboriginal and Torres Strait Islander First Action Plan 2023–2026*. https://www.dss.gov.au/system/files/resources/final_aboriginal_and_torres_strait_islander_first_action_plan.pdf

¹⁷ <https://www.snaicc.org.au/our-work/child-and-family-wellbeing/child-placement-principle/>

inadequate¹⁸. These failures reflect systemic shortcomings in accountability, governance, and resourcing rather than a lack of evidence about what works. Several key barriers to meaningful implementation have been identified across jurisdictions¹⁹, including, but not limited to:

- Ongoing and entrenched over-representation of Aboriginal and Torres Strait Islander children in out-of-home care
- Inconsistent involvement of Aboriginal and Torres Strait Islander families and community organisations in decision-making
- Limited quality cultural care planning
- Systemic gaps in understanding and measuring progress across all five elements of the CPP

Current progress reporting, coordinated by the Australian Institute of Health and Welfare, shows that available, nationally consistent data relate primarily to only the Placement and Connection elements, while Prevention, Partnership and Participation remain underdeveloped. Governments must fully implement all five elements of the CPP and transfer decision-making authority to ACCOs to ensure culturally safe, rights-based care and accountability.

Child Removal and Over-Representation in Out-of-Home Care

Aboriginal and Torres Strait Islander children continue to face significant structural inequities within Australia's child protection and care systems²⁰. Each year SNAICC documents the evidence and data on the experiences of children and families in contact with child protection services and the solutions to the crisis of over-representation in child protection intervention in the Aboriginal and Torres Strait Islander led *Family Matters Report*. This report is included as Appendix 1 to this submission and recommended as an essential reference point to inform the visit of the Special Rapporteur.

Despite comprising only around 6% of the child population, Aboriginal and Torres Strait Islander children represent approximately one-third of all children in out-of-home care nationally²¹. This disproportionate representation reflects systemic failures rather than deficiencies within families or communities. Research consistently shows that inadequate implementation of the Aboriginal and Torres Strait Islander Child Placement Principle, including limited involvement of ACCOs in decision-making, is associated with poorer outcomes and the continued over-representation of Aboriginal and Torres Strait Islander children in out-of-home care. Reviews such as *Family is Culture*²² highlight that failures to embed community control and culturally informed practice contribute to

¹⁸ <https://www.snaicc.org.au/our-work/child-and-family-wellbeing/child-placement-principle/>

¹⁹ Australian Institute of Health and Welfare (AIHW). (2025). *Child protection Australia 2022–23*. <https://www.aihw.gov.au/reports/child-protection/child-protection-australia-2022-23/contents/about>

²⁰ SNAICC – National Voice for Our Children (2025), *Family Matters Report 2025*. <https://www.snaicc.org.au/resources/family%E2%80%91matters%E2%80%91report%E2%80%912025/>

²¹ SNAICC – National Voice for Our Children (2025), *Family Matters Report 2025*. <https://www.snaicc.org.au/resources/family%E2%80%91matters%E2%80%91report%E2%80%912025/>

²² Davis, M 2019. 'Family is Culture: Independent Review into Aboriginal Children and Young People in OOHC; and <https://aifs.gov.au/resources/policy-and-practice-papers/enhancing-implementation-aboriginal-and-torres-strait-islander>

high rates of child removal, underscoring the critical role of ACCO-led decision-making in protecting family and cultural integrity²³.

The legacy of the Stolen Generations continues to shape contemporary child protection practices, reinforcing an enduring assumption that the State is better placed to make decisions about Aboriginal and Torres Strait Islander children than their families and communities. This assumption underpins current patterns of intervention and contributes to ongoing removals that replicate historical harms and entrench intergenerational trauma. In many jurisdictions, prior experience of child removal is also a key risk factor for future intervention, meaning that parents who were removed as children are more likely to have their own children removed, perpetuating cycles of family separation. This infringes directly on Aboriginal and Torres Strait Islander children's fundamental rights to culture, identity, and community connection²⁴.

The lack of investment in early intervention and prevention further perpetuates cycles of removal and family disruption²⁵. Evidence demonstrates that culturally grounded, community-led programs that integrate health, social, and cultural supports for families significantly reduce the likelihood of child protection intervention. However, funding for these programs remains limited, and child protection responses continue to focus narrowly on risk mitigation rather than addressing broader social determinants such as housing, health, education, and economic insecurity. Scaling up early intervention and family preservation initiatives is essential to reducing unnecessary removal, supporting family integrity, and strengthening children's connection to culture and community, which are central to their rights under CRC Articles 3 and 18 and UNDRIP Article 23.

Unnecessary removal of children remains a pervasive issue. Children are frequently taken from their families for reasons that could be addressed through early intervention, such as housing insecurity, income support gaps, or limited access to culturally safe family services. Once removed, children are often placed in care environments that fail to provide consistent kinship connections, culturally appropriate programming, or trauma-informed support. This approach not only breaches their rights to family, culture, and community under the Convention on the Rights of the Child (CRC Articles 7, 8, 9, 30) and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP Articles 7, 21, 23), but also undermines the principles of the Aboriginal and Torres Strait Islander Child Placement Principle, which affirms that communities are best placed to make decisions about children's care.

The increasing use of residential care continues to pose serious risks to Aboriginal and Torres Strait Islander children. Reports have documented high rates of abuse, neglect, isolation, and punitive practices, including lockdowns and restraint, which can have long-term developmental,

²³ Queensland Government (2025), *Commission of Inquiry into Child Safety System*, reporting high rates of physical abuse, emotional abuse and neglect among children entering out-of-home care. <https://statements.qld.gov.au/statements/102583>

²⁴ SNAICC – National Voice for Our Children (2025), *Family Matters Report 2025*.
<https://www.snaicc.org.au/resources/family%E2%80%91matters%E2%80%91report%E2%80%912025/>

²⁵ National Child and Family Investment Strategy (Australian Government Department of Social Services):
<https://www.dss.gov.au/child-protection/safe-and-supported-implementation/national-child-and-family-investment-strategy>

psychological, and educational impacts²⁶. In some jurisdictions, the number of children being placed in residential care is growing at much faster rate than other placement types, when this should always be a measure of last resort²⁷, and independent Aboriginal-led oversight capable of monitoring compliance with children's rights is largely absent. These settings are highly disruptive to children's education, connection to culture, and ties to community, exacerbating intergenerational harms stemming from historical removal practices. The persistence of residential care as a common intervention demonstrates a failure to uphold the rights of Aboriginal and Torres Strait Islander children to protection, family integrity, and cultural identity, as mandated by CRC Articles 19, 20, 30 and UNDRIP Articles 7 and 21.

In the Northern Territory and Queensland, the increasing use of 'pop-up' residential care facilities where a registered but unlicensed private provider takes out a residential lease and is given the care of vulnerable children raises further concerns. These placements are often far from children's home communities, lack cultural safety, and do not provide an appropriate out-of-home care option. Unlicensed, for-profit providers cannot deliver care to the same standard as licensed services and present significant risks to children's safety and wellbeing.

In Queensland, as at 30 April 2025:

- 42.6% of all Aboriginal and Torres Strait Islander children in residential care are in Queensland
- 118 organisations are providing residential care services
- 81 unlicensed providers deliver 31% of all residential care placements
- 83% of these providers are for-profit²⁸

These figures demonstrate a systemic reliance on unregulated and for-profit providers, raising serious concerns about safety, oversight, and accountability.

Australia's current reliance on crisis-driven responses is also economically and socially costly. The Cost of Late Intervention Report²⁹ estimates that governments spend approximately \$22.3 billion annually on reactive services for children and young people, highlighting the inefficiency of responding to harm after it has occurred rather than investing in culturally grounded prevention and early support. Taken together, these patterns indicate that Australia has not effectively

²⁶ Queensland Government (2025), *Commission of Inquiry into Child Safety System*, reporting high rates of physical abuse, emotional abuse and neglect among children entering out-of-home care. <https://statements.qld.gov.au/statements/102583>

²⁷ SNAICC – National Voice for Our Children (2025), *Family Matters Report 2025*. <https://www.snaicc.org.au/resources/family%E2%80%91matters%E2%80%91report%E2%80%912025/>

²⁸ Queensland Family and Child Commission (2025) *Buyer Beware: How economic forces are shaping Queensland's residential care market*.

²⁹ The Front Project. (2025). *The Cost of Late Intervention in 2024 (COLI Report)*. [coli--2024-e-report-190925-86.pdf](https://www.frontproject.org.au/coli-2024-e-report-190925-86.pdf)

operationalised its international commitments under the CRC and UNDRIP. Addressing these failures requires significant structural reform that prioritises family preservation, culturally safe service delivery, and the transfer of decision-making authority to Aboriginal Community Controlled Organisations.

When children are removed without culturally safe support, they experience cumulative trauma, which can manifest in complex behavioural, educational, and social challenges. This trauma is often compounded by the phenomenon of “care criminalisation,” particularly in some jurisdictions, where behaviours arising from instability are addressed through punitive child justice responses rather than therapeutic or family-focused interventions³⁰. Evidence from the *Family is Culture* review³¹ indicates that systemic failures within child protection systems directly contribute to the over-representation and criminalisation of Aboriginal and Torres Strait Islander children. These dynamics create a strong link between child protection and justice system involvement, with children who have experienced out-of-home care significantly more likely to enter the justice system. These patterns underscore the critical importance of ACCO-led, culturally safe early intervention and family support programs: when communities are empowered to make decisions and provide support, the cycle of trauma, over-representation, and justice system involvement can be significantly reduced.

Child Justice - Child Detention and Justice System

Aboriginal and Torres Strait Islander children continue to experience profound systemic inequities within Australia’s child justice system. Although they represent only approximately 5.7% of 10–17-year-olds nationally, they are vastly over-represented in detention and court processes across every jurisdiction³². In New South Wales, Aboriginal children comprise 41% of 10–13-year-olds involved in police proceedings, despite making up just 6% of the child population³³. In Queensland, they are 30 times more likely than non-Indigenous children to be detained and 27 times more likely to be remanded³⁴.

These disparities are further compounded by the intersection of child protection and child justice systems³⁵. In 2023, Aboriginal and Torres Strait Islander children in Queensland³⁶ were almost three times more likely than non-Indigenous peers to be subject to both child protection and child justice

³⁰ McFarlane, K. (2018). Care-criminalisation: The involvement of children in out-of-home care in the New South Wales criminal justice system. *Australian and New Zealand Journal of Criminology*, 51 (3), 412–433; and McCausland, R and Dowse, L. (2022). “From ‘at risk’ to ‘a risk’: The criminalisation of young people with cognitive disability in residential care.” *Incarceration* 3 (2), pp. 1-17.

³¹ Davis, M 2019. ‘Family is Culture: Independent Review into Aboriginal Children and Young People in OOHC.

³² SNAICC (2025) Submission to the Australian Senate Inquiry into Australia’s Youth Justice and Incarceration System (December 2025).

³³ SNAICC (2025) Submission to the Australian Senate Inquiry into Australia’s Youth Justice and Incarceration System (December 2025).

³⁴ Queensland Department of Youth Justice and Victim Support (2024) Youth Justice Pocket Stats September 2024.

³⁵ Australian Institute of Health and Welfare (AIHW) (2025), *Youth justice in Australia 2023–24*, Canberra. <https://www.aihw.gov.au/reports/youth-justice/youth-justice-in-australia-2023-24/contents/about>

³⁶ QFCC (2024) *The crossover cohort: The extent of the crossover between the Queensland youth justice and child protection systems*.

orders. The overlapping impact of these systems amplifies trauma, disrupts family and community connections, and entrenches cycles of disadvantage, creating a landscape where Aboriginal and Torres Strait Islander children are disproportionately exposed to state intervention from multiple points. These patterns cannot be explained by individual behaviour alone. They are the result of intergenerational trauma, structural inequality, and both systemic discrimination and individual racism embedded across institutions and decision-making processes. Limited access to culturally safe diversion programs, under-resourced legal representation, punitive legislation, and fragmented oversight further exacerbate these inequities. Collectively, these systemic failures undermine Aboriginal and Torres Strait Islander children's rights to participation, protection, and rehabilitation, as articulated under the CRC Articles 12, 37(d), 40, the UNDRIP Articles 18, 27, 40, and the OPCAT.

To prevent ongoing rights violations, partnerships with ACCOs who support children and young people, as well as Aboriginal and Torres Strait Islander legal services,³⁷ are essential. These organisations play a critical role in delivering culturally safe legal representation, advocacy, and diversionary supports tailored to the needs of Aboriginal and Torres Strait Islander children. Meaningful reform requires an urgent, nationally coordinated approach led by the Commonwealth to address the systemic failures driving the criminalisation of Aboriginal and Torres Strait Islander children. This must include legislating a nationally consistent minimum age of criminal responsibility of at least 14 years, with strong consideration of raising the age to 16, embedding the principle that detention is a measure of last resort, and ensuring bail is the default position for children. Governments must prioritise diversion at every stage of the justice process and invest in ACCOs to deliver culturally safe, therapeutic, and community-led responses to children's behaviour. Harmful detention practices must be abolished, and all laws, policies, and practices must be aligned with Australia's obligations under the CRC, the UNDRIP, and the OPCAT. Without these actions, Aboriginal and Torres Strait Islander children will continue to be subjected to systemic discrimination, unnecessary criminalisation, and treatment that places their safety, wellbeing, and lives at risk.

1. Age of Criminal Responsibility and *Doli Incapax*

Australia's minimum age of criminal responsibility remains well below international standards, with children as young as 10 years subject to criminal proceedings³⁸. This exposes Aboriginal and Torres Strait Islander children to early criminalisation, compounding intergenerational trauma, structural disadvantage, and the cumulative impacts of contact with child protection systems. Closing the Gap data for 2023–24 shows that over one-third (34.7%)³⁹ of Aboriginal and Torres Strait Islander

³⁷ National Aboriginal and Torres Strait Islander Legal Services (NATSILS) (2025). <https://www.natsils.org.au/natsils-media-release-prime-minister-must-show-leadership-on-youth-justice-as-nsw-makes-it-easier-to-lock-children-up/>

³⁸ United Nations Committee on the Rights of the Child. (2019). *Concluding observations on the combined fifth and sixth periodic reports of Australia (CRC/C/AUS/CO/5-6)*. https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/AUS/CO/5-6&Lang=En

³⁹ SNAICC (2025) Submission to the Australian Senate Inquiry into Australia's Youth Justice and Incarceration System (December 2025).

children in detention first entered detention between the ages of 10 and 13⁴⁰. In total, 385 children within this age group were incarcerated across Australia in 2023–24 equivalent to nearly 17 full school classes⁴¹.

The principle of *doli incapax*⁴², which presumes that children lack the capacity to form criminal intent, is applied inconsistently and has been widely criticised as ineffective in practice. Rather than operating as a meaningful safeguard, it often places a practical burden on children to demonstrate incapacity, leaving many exposed to criminalisation despite well-established evidence about child development, trauma, and cognitive immaturity.

This is particularly concerning in the context of the increasing criminalisation of poverty-related offences, such as shoplifting, where children experiencing economic disadvantage are drawn into the justice system for behaviours closely linked to structural deprivation. In such cases, state responses tend to be punitive rather than preventative, despite the fact that these harms could be more effectively addressed through social supports for families facing economic exclusion. As a result, vulnerable children are subjected to criminal justice intervention instead of therapeutic, developmentally appropriate responses.

This results in vulnerable children being subjected to punitive responses instead of therapeutic, developmentally appropriate interventions.

Evidence demonstrates that early contact with the criminal justice system is often criminogenic rather than preventative. Longitudinal research from Queensland shows that young people whose first youth justice contact occurs at earlier ages (10–13 years) are more likely to persist in offending and experience more serious outcomes into adulthood, suggesting that early punitive system involvement may entrench rather than reduce future justice involvement^{43,44}. For many Aboriginal and Torres Strait Islander children, incarceration becomes part of a broader trajectory shaped by removal from family, placement in out-of-home care, and ongoing system contact.

Recent legislative and policy changes have further eroded protections for children. Several jurisdictions have introduced or expanded punitive measures, including lowering or maintaining the age of criminal responsibility at 10, expanding the use of adult sentencing for children, restricting access to bail, and weakening the principle that detention should be a measure of last resort. These

⁴⁰ SNAICC (2025) Submission to the Australian Senate Inquiry into Australia's Youth Justice and Incarceration System (December 2025).

⁴¹ SNAICC (2025) Submission to the Australian Senate Inquiry into Australia's Youth Justice and Incarceration System (December 2025).

⁴² *Doli incapax* is a common law principle in Australia establishing that children aged 10–13 are presumed incapable of criminal intent.

⁴³ Ogilvie, J. M., Thompson, C., Lockwood, K., Little, S., Allard, T., Thomsen, L., & Dennison, S. (2024). *Examining the characteristics of children who experience contact with the youth justice system in Queensland: Implications for the minimum age of criminal responsibility* (CrimRxiv preprint). CrimRxiv, <https://www.crimrxiv.com/pub/t1ebtp0v/release/1>

⁴⁴ Queensland Department of Youth Justice and Victim Support (2024) Youth Justice Pocket Stats September 2024.

approaches disproportionately impact Aboriginal and Torres Strait Islander children and are inconsistent with international human rights standards⁴⁵.

2. Conditions of Detention and the Impact on Children

Detention environments themselves pose serious risks to children's safety and wellbeing. Oversight bodies and inquiries across jurisdictions have documented harmful practices at facilities such as Don Dale Youth Detention Centre in the Northern Territory, including prolonged isolation, use of mechanical restraints and spit hoods, and denial of adequate healthcare, education, and contact with family⁴⁶.

There have also been deaths of children in custody, highlighting the severe and, in some cases, fatal consequences of current approaches. These conditions raise serious concerns regarding compliance with Australia's obligations under the OPCAT, which requires the prevention of cruel, inhuman or degrading treatment or punishment in places of detention.

Aboriginal and Torres Strait Islander children continue to face profound inequities within Australia's child detention system. Detention facilities frequently fail to meet international human rights standards, exposing children to neglect, abuse, and punitive practices that exacerbate trauma and compromise mental health. Documented practices, including prolonged isolation, shackling, and the use of spit hoods, cause long-lasting psychological harm and undermine children's rights to safety, dignity, and protection from cruel, inhuman or degrading treatment, contrary to Articles 19 and 37(a) of the CRC. In addition, these practices also raise serious concerns under Article 16 of the Convention Against Torture (CAT) and engage Australia's obligations under the OPCAT.

Inquiries and investigations across jurisdictions have found a range of abuses in these systems, including:

- Human rights abuses such as extended isolation, denial of food and medicine as a coercive strategy, and the use of spit hoods, dogs, and restraints in child detention⁴⁷
- Deaths in custody⁴⁸
- Assaults, overcrowding, and understaffing leading to lockdowns for up to 22 hours a day⁴⁹.

The developmental vulnerability of children aged 10–14 intensifies the impact of incarceration. At this critical stage of cognitive, emotional, and social development, detention increases the likelihood of self-harm, suicide, disengagement from education, and ongoing involvement with the child justice

⁴⁵ SNAICC SUBMISSION (2025)- Senate Inquiry into Australia's Youth Justice and Incarceration system-December 2025.

⁴⁶ Royal Commission into the Protection and Detention of Children in the NT, 2017; NT Children's Commissioner, 2019, https://occ.nt.gov.au/_resources/documents/occ-publications/other-reports/2019-05-02-DDYDC-Monitoring-Report-FINAL.pdf

⁴⁷ NT Office of the Children's Commissioner 2025; Boffa and Mackay 2025

⁴⁸ Office of the Inspector of Custodial Services Western Australia 2024

⁴⁹ Yoorrook Truth Commission 2023

system⁵⁰. These impacts are inconsistent with Articles 3, 6, and 39 of the CRC, which require that the best interests of the child are a primary consideration, that children’s survival and development are protected, and that recovery from trauma is supported. Research demonstrates that justice-involved children experience lower educational attainment, higher unemployment, homelessness, recidivism, and premature mortality compared with their peers⁵¹. These outcomes reflect the long-term consequences of detention environments that fail to safeguard children’s rights to protection, safety, and dignity, including the requirement under Article 37(b) of the CRC that detention be used only as a measure of last resort and for the shortest appropriate period of time.

Legal and procedural frameworks further compound these harms. Underfunded legal services limit timely and culturally safe advocacy, while legislative reforms, such as Queensland’s “adult crime, adult time” and Victoria’s expansion of adult sentencing for children, restrict diversionary and restorative justice options. These policies disproportionately impact Aboriginal and Torres Strait Islander children and undermine Articles 37(b) and 40 of the CRC, which guarantee fair treatment, diversion, and rehabilitation. SNAICC emphasises that culturally grounded, community-led alternatives⁵² are critical to mitigating these harms and ensuring compliance with Australia’s human rights obligations.

Structural Barriers, Self-Determination, and Preventative Investment

The evidence presented in preceding sections demonstrates that child protection and child justice systems continue to disproportionately intervene in the lives of Aboriginal and Torres Strait Islander children through removal, detention, and other statutory measures. While these systems are intended to safeguard children, they are harmful, remain predominantly government-controlled and heavily oriented toward tertiary responses rather than early, culturally grounded supports. This approach reinforces cycles of child removal, family disruption, and child detention. Meaningful participation of Aboriginal and Torres Strait Islander families, communities and organisations is central to fulfilling international human rights obligations under the CRC and the UNDRIP, which recognise the rights of children and Indigenous peoples to participate in decisions affecting their lives and to maintain cultural identity and community connection. In practice, however, decision-making authority remains overwhelmingly concentrated within statutory government agencies rather than community-controlled structures.

1. Structural Barriers to Self-Determination

Although the National Agreement on Closing the Gap formally commits governments to shared decision-making and community control through its Priority Reforms, independent reviews and available data consistently indicate a lack of meaningful progress in achieving the Agreement’s targets and outcomes. For example, the latest Closing the Gap reporting shows that progress on key outcomes remains limited, with only a small number of targets being met or on track, reflecting the

⁵⁰ SNAICC SUBMISSION (2025)- Senate Inquiry into Australia’s Youth Justice and Incarceration system-December 2025

⁵¹ SNAICC (2025) Submission to the Australian Senate Inquiry into Australia’s Youth Justice and Incarceration System (December 2025).

⁵² SNAICC (2025) Submission to the Australian Senate Inquiry into Australia’s Youth Justice and Incarceration System (December 2025).

ongoing failure to shift decision-making authority and resources to Aboriginal and Torres Strait Islander communities⁵³. Consultation mechanisms often enable Aboriginal and Torres Strait Islander communities to be “heard” but do not confer binding authority over decisions relating to child protection interventions, family support services, or child justice responses. As a result, ACCOs frequently participate in advisory roles without the statutory authority required to implement culturally safe practices or locally designed prevention strategies.

Structural constraints within government funding arrangements further limit ACCOs’ ability to exercise self-determination in service delivery. Short-term funding cycles, prescriptive program design, and competitive tendering processes restrict long-term planning and undermine the sustainability of community-led initiatives. For example, the Productivity Commission’s 2024 implementation review of the National Agreement on Closing the Gap found that governments have largely failed to fully grasp the nature and scale of systemic change required to implement the Priority Reforms, often relabelling “business-as-usual” approaches rather than transforming how they work in partnership with Aboriginal and Torres Strait Islander communities⁵⁴.

These arrangements inhibit the development of integrated, culturally grounded services that respond flexibly to community priorities and support families before crises occur. In the absence of greater authority, sustained resourcing, and genuine transfer of decision-making power, policy commitments to partnership and shared decision-making risk remaining largely symbolic rather than transformative, with limited impact on closing the gap in outcomes.

2. Investment Imbalance in Child and Family Systems

Australia’s child protection investment continues to prioritise tertiary responses, including investigation, removal, and out-of-home care, over early, preventive, and family support. According to National Child and Family Investment Strategy (NCFIS) (2025)⁵⁵ and *Family Matters 2025*⁵⁶, only around 16% of recurrent child protection expenditure is directed to early support and family preservation, while 84% is spent on statutory interventions and high-cost residential placements. Reunification rates highlight the human impact of this imbalance: only approximately 7% of Aboriginal and Torres Strait Islander children in out-of-home care are reunited with family, compared with 10% for non-Indigenous children.

Evidence shows that early, culturally safe interventions delivered through ACCOs effectively reduce family crises, prevent unnecessary child and infant removal, and improve child wellbeing. Programs

⁵³ Productivity Commission. (2025). *Closing the Gap Data Dashboard – Child Protection (Target 12)*. [Socio-economic outcome area 12 - Aboriginal and Torres Strait Islander children are not overrepresented in the child protection system - Dashboard - Closing the Gap | Productivity Commission](#)

⁵⁴ <https://www.pc.gov.au/inquiries-and-research/closing-the-gap-review/report/>

⁵⁵ National Child and Family Investment Strategy (Australian Government Department of Social Services): <https://www.dss.gov.au/child-protection/safe-and-supported-implementation/national-child-and-family-investment-strategy>

⁵⁵ SNAICC – National Voice for Our Children (2025),

⁵⁶ SNAICC – National Voice for Our Children (2025), *Family Matters Report 2025*.

<https://www.snaicc.org.au/resources/family%E2%80%91matters%E2%80%91report%E2%80%912025/>

and services such as ACCO integrated early years services,⁵⁷ community-led family support programs,⁵⁸ Connected Beginnings⁵⁹, HIPPY⁶⁰, and the Australian Nurse–Family Partnership Program⁶¹ demonstrate the value of culturally grounded, community-led approaches in supporting family cohesion and child development. Scaling up such initiatives strengthens communities’ capacity to exercise self-determination in child and family services.

Economic analyses reinforce the urgency of redirecting investment toward early, ACCO-led supports. The Cost of Late Intervention Report (2024⁶²) estimates that Australia spends \$22.3 billion annually on late intervention services, including child protection and child justice, with avoidable costs exceeding \$40 million from preventable hospitalisations alone⁶³. Redirecting funding toward early, culturally safe interventions is not only a social imperative, but also a more efficient and sustainable use of resources, reducing long-term reliance on costly tertiary services while supporting children’s rights to family, culture, and community under the CRC and UNDRIP.

To operationalise international human rights obligations and ensure Aboriginal and Torres Strait Islander children grow up safe, culturally connected, and supported within their families and communities, it is essential to:

1. Reorient Commonwealth and state-based child and family funding toward early, targeted supports delivered by ACCOs;
2. Invest in ACCO capability and service integration as a core prevention mechanism;
3. Formally recognise ACCOs as preferred partners for delivering prevention and early support services, progressively transitioning funding and commissioning arrangements from non-Indigenous NGOs; and

⁵⁷ SNAICC – National Voice for our Children (2024). *Funding Model Options for ACCO Integrated Early Years Services Final Report*. <https://www.snaicc.org.au/resources/funding-model-options-for-acco-integrated-early-years-services-final-report/>

⁵⁸ See for example: SNAICC (2023) *Waminda – South Coast Women’s Health and Welfare Aboriginal Corporation: Nabu Aboriginal family preservation and restoration program*. <https://www.snaicc.org.au/resources/doing-it-our-way-aboriginal-and-torres-strait-islander-led-early-intervention-program-waminda/>; SNAICC (2023) *Townsville Aboriginal and Islander Health Service: Yamani Meta Family Wellbeing House*. https://www.snaicc.org.au/wp-content/uploads/2023/09/220201_7_Early-Intervention-Profile-TAIHS-1.pdf

⁵⁹ SNAICC – National Voice for Our Children. (2025). *2025–26 Pre-Budget Submission to the Australian Government*. [SNAICC 2025-26 Pre-Budget Submission | Submission | SNAICC](https://www.snaicc.org.au/resources/2025-26-pre-budget-submission)

⁶⁰ The Home Interaction Program for Parents and Youngsters (HIPPY) is a fun, free, home-based early learning and parenting program. HIPPY is an effective way to support early-childhood learning in the home – delivering great outcomes for children, parents and the community. It works with families with young children in the pre-school years. <https://hippyaustralia.bsl.org.au/how-it-works/about-the-program/>

⁶¹ Australian Nurse–Family Partnership Program (ANFPP) supports women who are pregnant with an Aboriginal or Torres Strait Islander baby to help them become the best mum possible. Nurses make home visits to provide guidance during early pregnancy, the baby’s infancy and into toddlerhood. <https://www.health.gov.au/our-work/australian-nurse-family-partnership-program?language=en>

⁶² The Front Project. (2025). *The Cost of Late Intervention in 2024 (COLI Report)*. [coli--2024-e-report-190925-86.pdf](https://www.frontproject.org.au/coli-2024-e-report-190925-86.pdf)

⁶³ The Front Project. (2025). *The Cost of Late Intervention in 2024 (COLI Report)*. [coli--2024-e-report-190925-86.pdf](https://www.frontproject.org.au/coli-2024-e-report-190925-86.pdf)

4. Fully implement the ACCO Integrated Early Years Services Funding Model over the next five years, formally recognising ACCOs as the primary early childhood providers for Aboriginal and Torres Strait Islander children aged 0–4 years.

3. Institutional Accountability and Oversight

Australia lacks nationally consistent, Indigenous-led oversight mechanisms capable of monitoring compliance with children’s human rights across child protection and child justice systems. Oversight arrangements remain fragmented across jurisdictions and are generally government-appointed, rather than Indigenous-governed, limiting independent scrutiny of systemic rights violations, including detention practices, residential care environments, and family separation decisions.

National research analysing over 3,000 recommendations from 61 inquiries into child protection and child justice systems highlights persistent governance failures, including inadequate monitoring, limited transparency, weak coordination, and insufficient partnership with First Nations organisations⁶⁴. The absence of culturally safe complaint pathways further restricts access to justice for Aboriginal and Torres Strait Islander children whose rights have been breached.

The establishment of the National Commission for Aboriginal and Torres Strait Islander Children and Young People represents a major step toward national, independent oversight⁶⁵. The recently passed legislation for the National Commissioner established its independence and powers in strong alignment with the Paris Principles on the status and functioning of National Human Rights Institutions and in line with nationally agreed minimum requirements for Commissioners for Aboriginal and Torres Strait Islander Children and Young People that were developed and negotiated by Aboriginal and Torres Strait Islander representatives. The establishment of this Office has been widely celebrated and welcomed by Aboriginal and Torres Strait Islander people as the result of decades of community-led advocacy for increased oversight and accountability of the systems impacting children and families.

Coordination with state and territory Aboriginal and Torres Strait Islander Children’s Commissioners, as well as ACCOs, is essential to ensure consistent, Indigenous-led oversight. Currently, several jurisdictions do not yet have any standalone Aboriginal and Torres Strait Islander Children’s Commissioner (NSW, NT, WA), and of those that do, not all have legislated powers (Victoria and Queensland notably fall short). Implementing the National Minimum Standards for Aboriginal and Torres Strait Islander Children’s Commissioners across all jurisdictions would provide a clear benchmark for independence, oversight powers, and culturally safe practices, and should be adopted immediately. Effective operation of NCATSICYP will strengthen accountability in line with CRC monitoring obligations and uphold UNDRIP principles of Indigenous participation, self-

⁶⁴ Stevens, E., & Gahan, L. (2024). *Improving the safety and wellbeing of vulnerable children: A consolidation of systemic recommendations and evidence*. Melbourne: Australian Institute of Family Studies & Australian Human Rights Commission. <https://aifs.gov.au/research/research-reports/improving-safety-and-wellbeing-vulnerable-children>

⁶⁵ National Commission for Aboriginal and Torres Strait Islander Children and Young People (NCATSICYP). (2026). *Historic legislation passed to strengthen protection for First Nations Children*. <https://www.ncatsicyp.gov.au/news/historic-legislation-passed-strengthen-protections-first-nations-children>

determination, and child-centred decision-making. Robust Indigenous-led oversight is also critical to enable preventive, community-controlled investment that reduces reliance on crisis-driven statutory interventions.

Conclusion

Australia's current child protection and child justice systems continue to produce profoundly unequal outcomes for Aboriginal and Torres Strait Islander children, reflecting systemic and structural failures to uphold their rights under the Convention on the Rights of the Child, the United Nations Declaration on the Rights of Indigenous Peoples, and the Optional Protocol to the Convention against Torture. The persistent over-representation of children in out-of-home care and detention, alongside the continued reliance on punitive and crisis-driven responses, demonstrates a clear and ongoing gap between Australia's international obligations and its domestic implementation. These outcomes are not incidental. They are the direct result of entrenched structural inequities, historically rooted policies of dispossession and child removal, and the continued exclusion of Aboriginal and Torres Strait Islander peoples from decision-making authority in systems that profoundly affect their children. Current approaches undermine children's rights to family, culture, identity, and participation, and in many cases perpetuate the very harms they are intended to prevent.

The evidence is clear that more effective, rights-aligned solutions already exist. Aboriginal and Torres Strait Islander community-controlled organisations consistently deliver better outcomes through culturally safe, community-led approaches that strengthen families, maintain cultural connections, and prevent unnecessary system involvement. However, these approaches remain constrained by limited authority, inadequate and short-term funding, and system structures that prioritise government control over community leadership.

SNAICC emphasises that incremental reform is insufficient. A fundamental shift is required to align Australia's systems with its human rights obligations. This must include the transfer of decision-making authority to Aboriginal and Torres Strait Islander communities, sustained and equitable investment in prevention and early intervention delivered through community-controlled organisations, and the establishment of strong, independent, Indigenous-led oversight and accountability mechanisms.

The realisation of Aboriginal and Torres Strait Islander children's rights requires urgent, coordinated, and sustained action. Ensuring that children grow up safe, connected to family, culture, and Country, and supported within self-determining communities is both a legal obligation and a moral imperative. Without decisive structural reform, Australia will continue to fall short of its commitments and perpetuate cycles of harm. With it, there is a clear pathway to achieving lasting, generational change grounded in rights, equity, and self-determination.



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