

COMMITTEE ON THE ELIMINATION  
OF RACIAL DISCRIMINATION

ADVANCE UNEDITED VERSION

**Statement 1 (2026)**

**Overrepresentation of Indigenous children in Australia's criminal justice system**

*The Committee on the Elimination of Racial Discrimination,*

*Acting under its Early Warning and Urgent Action Procedure;*

*Alarmed* about the reported persistent overrepresentation of Indigenous children in the criminal justice system as a result of systematic and structural racial discrimination against Indigenous communities in Australia;

*Recalling* the Committee's [letter](#) to the State Party, dated 12 May 2025, and the response received on 10 November 2025;

*Recalling* the International Convention on the Elimination of Racial Discrimination (hereinafter "the Convention"), to which Australia is a party and in particular the obligations contained in articles 2, 4, 5 and 6 as well as the concluding observations of 7 December 2017 on Australia issued by the Committee ([CERD/C/AUS/CO/18-20](#)), particularly paragraphs 18, 20, 24 and 26;

*Further recalling* the Committee's general recommendations [no. 23 \(1997\) on the rights of Indigenous Peoples](#), [no. 31 \(2005\) on the prevention of racial discrimination in the administration and functioning of the criminal justice system](#) and [no. 36 \(2020\) on preventing and combating racial profiling by law enforcement officials](#);

*Gravely concerned* that the reported structural racial discrimination faced by Indigenous children and communities in accessing and enjoying of their economic, social and cultural rights protected under the Convention, which is reflected in the low attendance rates and high dropout rates in education, inadequate and limited access to healthcare and social security, and poor housing conditions, is a key factor contributing to their heightened vulnerability to arrest, incarceration and re-offending;

*Deeply concerned* that the legislative frameworks in several states and territories, which provide for a lower minimum age of criminal responsibility than the threshold under international human rights law and standards and in some cases as young as 10 year-old, apply harsh adult penalties on Indigenous children, including life imprisonment in some cases, and permit the detention of children on remand, exacerbate these disparities and results in Indigenous children being placed at a heightened risk of incarceration;

*Deeply concerned* about the reported racial profiling in law enforcement operations and the over-policing that lead to higher incarceration rates among Indigenous children;

*Gravely concerned* about the reported inadequate conditions and healthcare services in detention facilities for children, detention of Indigenous children with adults and holding them in solitary confinement for prolonged duration, ill-treatment and the use of spit hoods, and cases of self harm and suicide by Indigenous children in detention;

*Welcoming* the information by the State Party on measures taken to address the disproportionate representation of Indigenous children in the criminal justice system, including the establishment of the

National Commission for Aboriginal and Torres Strait Islander Children and Young People in January 2025, the implementation of the National Justice Reinvestment Program to enable Indigenous communities to establish locally tailored initiatives that address the underlying causes of incarceration among Indigenous children and the implementation of the Indigenous Advancement Strategy that focuses on early interventions;

*Concerned* about the lack of information on the factors that are impeding the effectiveness of the measures taken to address the overrepresentation of Indigenous children in the criminal justice system;

*Concerned* about the reported delays in the consideration and the adoption of effective measures by the Commonwealth Government to implement the recommendations contained in the National Children's Commissioner report on transforming the youth justice system and to address the overrepresentation of Indigenous children, which was tabled in the Parliament in August 2024;

*Further concerned* about reports on the limited progress in the implementation of the National Agreement on Closing the Gap 2019–2029, signed in July 2020, that includes targets to reduce the rates of Indigenous children in detention by at least 30 per cent by 2031;

*Noting* that two U.N. Special Rapporteurs<sup>1</sup> expressed their concerns in a [joint letter](#) to the State Party in May 2025 regarding the high rates of incarcerated Indigenous children who are exposed to serious harm;

*Also noting* the [statement](#) of the U.N. Working Group on Arbitrary Detention, following the visit to the State Party in December 2025, expressing concern regarding the detention of Indigenous children;

*Further noting* the concluding observations on Australia ([CRC/C/AUS/CO/5-6](#)), adopted on 10 September 2019 by the U.N. Committee on the Rights of the Child, pursuant to the Convention on the Rights of the Child, to which Australia is a party, in particular paragraphs 6, 19 and 48 thereof and the concluding observations on Australia ([CAT/C/AUS/CO/6](#)), adopted on 23 November 2022 by the U.N. Committee against Torture, pursuant to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which Australia is a party, in particular paragraphs 32, 34, 36 and 38 thereof;

**Calls upon** Australia to fully respect its international law obligations and standards, in particular those arising from the Convention, to which it is a party;

**Urges** the State Party to strengthen its efforts in combatting structural discrimination, including addressing its root causes, faced by the Indigenous communities, particularly by developing and implementing special measures, to ensure their access to education, employment, healthcare and housing without discrimination;

**Calls upon** the State Party to intensify and accelerate its efforts to eliminate racial discrimination against Indigenous children, including its institutional and systemic dimensions, in the administration of criminal justice and to address the persistent overrepresentation of Indigenous children in the criminal justice system, including by conducting a human rights-based review to its legislative framework, particularly at the states and territories level, to repeal legislations with possible discriminatory effects and prevent any further discriminatory impact on the rights of Indigenous children, to guarantee their full conformity with international human rights principles and the objectives and purposes of the Convention, particularly to raise the minimum age for criminal liability in accordance with international human rights law, establish human rights-based non-custodial alternatives to detention, advance alternatives to arrest and incarceration for minor offences and guarantee that children are not prosecuted as adults;

**Urges** the State Party to review its legislative framework on law enforcement to explicitly prohibit racial profiling by law enforcement officials and to avoid over policing and ensure that law enforcement

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<sup>1</sup> The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on the rights of Indigenous Peoples.

operations are conducted in a non-arbitrary and non-discriminatory manner, on the basis of reasonable suspicion, and with rigorous monitoring and review mechanisms;

**Calls upon** the State Party to promptly adopt measures to improve detention conditions in accordance with international standards and ensure that Indigenous children deprived of their liberty have access to medical care, legal counsel, adequate food and social services and to their families;

**Urges** the State Party to implement effectively its policies on addressing the overrepresentation of Indigenous children in the criminal justice system, particularly the National Agreement on Closing the Gap 2019–2029, and adopt measures to implement the recommendations contained in the National Children’s Commissioner’s report on transforming the youth justice system, while allocating adequate resources, ensuring the full implementation at the states and territorial levels, and ensuring the effective monitoring and evaluation of these measures;

**Calls upon** the State Party to provide detailed information on measures taken and their impacts to address the concerns expressed and recommendations made in this statement in its combined twenty-first and twenty-second periodic reports overdue since 30 October 2020.

29 April 2026