Listen to Children

2011
Child Rights
NGO Report
Australia

Key issues affecting Aboriginal children[i]

Saying 'Sorry' is only a word! Actions speak louder than words - 15 YEAR OLD ABORIGINAL GIRL, LA PEROUSE, NEW SOUTH WALES

Australian has failed to effectively address the significant disadvantage and the persistent, systematic and structural discrimination experienced by many Aboriginal children, families and communities. This situation is particularly disappointing in light of the Australian Government's apparent support for the Declaration on the Rights of Indigenous Peoples since 2008.

The rights and experiences of Aboriginal children are discussed throughout the *Listen to Children* Report and the supporting Fact Sheets. This Fact Sheet focuses on key issues, including an overview of Aboriginal disadvantage; the federal policies of *Closing the Gap* and the *Northern Territory Emergency Response;* and the failure to adequately consult with communities.

ABORIGINAL DISADVANTAGE

The *Listen to Children* Report highlights many examples of the disadvantage and discrimination experienced by Aboriginal children.

These experiences are compounded by:

- multiple disadvantage, including limited access to services, experiences of racism and intergenerational trauma;
- a population characterised by high growth and a younger age structure;
- barriers preventing Aboriginal families and children engaging with support services; and
- a lack of adequate support for self-governance by Aboriginal peoples and community-driven initiatives.

Main Concerns

- Aboriginal children aged 10–17 are 24 times more likely to be jailed than non-Aboriginal children.
- Aboriginal children are almost 10 times more likely to be in out-of-home care than non-Aboriginal children.
- There is a need for more adequate, culturally appropriate services for Aboriginal children and families.
- Aboriginal children experience lower levels of overall health and wellbeing than non-Aboriginal children.
- The Aboriginal infant mortality rate is 3 times that of non-Aboriginal children.
- Hearing loss conditions experienced by Aboriginal children are three times the amount experienced by non-Aboriginal children.
- Almost 1 in 7 Aboriginal Australians report not being able to see a doctor when they need one.
- Aboriginal youth suicide rates are estimated to be 3-5 times higher than, for non-Aboriginal young people.
- A large population of Aboriginal children living in rural and remote areas, and people in rural and remote areas experiencing a higher level of disadvantage than their urban counterparts.
- Aboriginal children are more likely to experience homelessness than non-Aboriginal children.
- Considerable gap between Aboriginal and non-Aboriginal developmental outcomes, education and employment levels.
- Children in remote communities, including Aboriginal children are less likely to have access to preschool.
- Aboriginal children's exposure to racism remains a serious concern.

Recommendation: Australia should invest in compulsory cultural competency training for all police.

Recommendation: Australia should establish mother and baby clinics throughout Australia, in consultation with local Aboriginal peoples, so that every Aboriginal mother has access to a clinic.

Recommendation: Australia should review and renew its efforts to address the homelessness of children and young people, with a commitment to the development and implementation of a framework built on the specific experiences and needs of children and young people and with particular strategies for Aboriginal children, children from newly arrived communities, children leaving care, children in regional and remote communities, same-sex attracted or questioning or gender diverse children.

Recommendation: Australia should address the concern raised in the Committee's *Concluding Observations* by providing for better research, support and evaluation of suicide prevention programs for children and young people.

Recommendation: Australia should urgently take all necessary action, in consultation with Aboriginal people and communities, to build an evidence base of measures that are effective in reducing the rate of detention of Aboriginal children including considering inviting the ongoing advisory contribution of international experts such as the UN Special Rapporteur on Indigenous Peoples.

THE NEED FOR EFFECTIVE AND MEANINGFUL CONSULTATION

Despite efforts to provide for the rights of Aboriginal children, there are far too many human rights abuses continuing to occur in Australia.

The Australian Federal Government's policy goals specific to Aboriginal children remain closely aligned with a largely non-Aboriginal policy agenda of education and workforce participation. One of the core reasons for this inadequacy is Australia's failure to consider its obligations under Articles 30 and 12 to undertake special measures for the protection of Aboriginal children **in consultation with the communities concerned and with the participation of children in the consultation process**. Consultation and engagements processes are also clearly detailed in the Declaration on the Rights of Indigenous Peoples, which the Australian Government now claims to support and implement in its policies affecting Aboriginal peoples.

Effective and meaningful consultation with Aboriginal children, families and communities is required for:

- identifying and providing effective service delivery and engagements models;
- consistently transferring decision-making responsibility to Aboriginal communities;
- building on the resilience, strength and vision of Aboriginal children, families and communities; and
- aligning with the Australian Government's policy platform of 'partnerships' with Aboriginal peoples.

Recommendation: Australia should commit to working with Aboriginal children and communities to develop a policy agenda which recognises the unique predictors of health and wellbeing for Aboriginal peoples and facilitates the implementation of culturally sensitive and effective special measures to address the significant disadvantage and inequality that Aboriginal children suffer.

THE NORTHERN TERRITORY EMERGENCY RESPONSE

While the Australian Government is recognising the urgent need to address the unacceptable living conditions and violence experienced by its Aboriginal children, its failure to listen to children and communities affected by the *Northern Territory Emergency Response* represents a culture of decision-making that is not informed and underpinned by the rights and principles enshrined in the Convention.

The legislative measures implemented under the *Northern Territory Emergency Response* target Aboriginal peoples in designated communities in the Northern Territory. These measures initially involved the suspension of the *Racial Discrimination Act 1975* (RDA). Although the RDA has since been reinstated, these measures remain, now characterised as 'special measures'.

Main Concerns

The justification of the *Emergency Response*'s measures as 'special measures' is weak, as:

- they lack proportionality, reasonableness, attention to human dignity;
- they fail to build the capacity of care givers; and
- there is no evidence base to demonstrate its effectiveness.

> *If the NT Intervention is something that is going to stay in place, we need feedback and consultation. This is affecting our youth in communities who do not understand the policies* – 16 YEAR OLD ABORIGINAL BOY, DARWIN, NORTHERN TERRITORY

The *Northern Territory Emergency Response* indicates an ongoing failure of the Australian Federal Government to:

- **adequately consult** with Aboriginal peoples;
- **consistently transfer decision-making responsibility** for the design, development and delivery of services for Aboriginal children and families to Aboriginal communities; and
- **consistently promote and recognise the enjoyment of cultural rights** as integral to the enjoyment of all rights under the Convention.

This is of particular concern given the fact that the Government is continuing to fail in the above ways whilst currently developing their strategy for what will replace the *Emergency Response* once the legislation governing it expires next year.

CLOSING THE GAP

Australia has made an important commitment to *Closing the Gap* on Aboriginal health and education through a policy of reconciliation and collaborative partnerships with Aboriginal communities. It makes policy and funding commitments to Aboriginal disadvantage across key areas of early childhood, schooling, health, economic participation, housing, safe communities and governance and leadership.

Reconciliation can work towards closing the gap between Aboriginal people and other Australians
16 YEAR OLD ABORIGINAL DHARAWAL BOY, LA PEROUSE, NEW SOUTH WALES

Main Concerns

- The Government's initiatives are widely criticised for undermining self-determination and Aboriginal community control of land.
- There is limited access of Aboriginal children to education compared with non-Aboriginal children.
- Attendance, literacy and attainment levels for Aboriginal students continue to be significantly lower than for non-Aboriginal students.
- The National Indigenous Education Action Plan 2010–2014 has still not been signed off by the Council of Australian Governments.

Recommendation: that within the *Closing the Gap* policy framework, the Australian Federal Government work with state and territory governments to ensure that individual Aboriginal education strategies are founded on previous policy success, that a long-term approach is taken and that genuine partnerships are fostered between Aboriginal communities, the education sector, community organisations and professional groups such as social workers, researchers, health workers and police.

Recommendation: Australia should adopt the recommendations made by the UN Special Rapporteur on the Right to Health and develop a long-term, comprehensive plan of action to achieve equality in health status and health services for Aboriginal children by 2030 under the framework of *Closing the Gap.* This must be done with the full participation and partnership of Aboriginal children and their communities and representative bodies, recognising that mainstream health service delivery is often not the answer to better health outcomes for Aboriginal children.

Recommendation: Australia should work across all jurisdictions to increase education programs amongst secondary school students about sexually transmitted infections, and increase efforts to promote protected sex.

Recommendation: that the Australian Federal Government work with state and territory governments in committing to the protection and promotion of, and adequate funding for, bilingual models of education.

Recommendation: Australia should increase funding and availability of programs in schools and local communities that promote positive images of culturally diverse young people and combat racism and discrimination. This should be developed in consultation with children and young people, parents and leaders within the education sector.

Recommendation: Australia should develop a National Partnership Agreement between the Commonwealth, State and Territory governments to address the over-representation of Aboriginal children in the criminal justice system in a strategic and coordinated way.

For more information see the full *Listen to Children* Report at **www.childrights.org.au**

[i] Throughout the NGO Report, Aboriginal and Torres Strait Islander children are referred to as 'Aboriginal children.' The authors acknowledge the diversity in culture, language, kinship structures and ways of life within Aboriginal and Torres Strait Islander, and recognise that Aboriginal peoples and Torres Strait Islander peoples retain their distinct culture, irrespective of whether they live in urban, rural, regional or remote areas of the country.

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