

Input to the Special Rapporteur on the rights of Indigenous Peoples: Country Visit to Australia

March 2025



Acknowledgement of Country

The land we work, live, and learn on is unceded Aboriginal land. We acknowledge all First Nations workers in our sector across a great many Aboriginal lands on this continent and its surrounding islands.

Introduction

About us

The **National Community Legal Centres Aboriginal and Torres Strait Islander Men's Network** is open to all Aboriginal and/or Torres Strait Islander men who work in the national community legal sector. It is a non-carceral First Nations justice network that prioritises:

- safety for victims of violence
- healing and restoration for all
- keeping our kids safe, well, and supported
- justice, needs and rights in regional, rural, remote and very remote areas, and
- the expansion and use of Alternative First Responders.

About this submission

This submission outlines several pressing human rights and justice barriers experienced by Aboriginal and Torres Strait Islander people in Australia:

- The mass incarceration of First Nations children and young people
- Australia's regression against several Closing the Gap targets including rates of children in out of home care, adult incarceration, and suicide
- The need for Alternative First Responders
- Geographic discrimination and geographic inequity experienced by First Nations communities
- Democratic participation for First Nations people.

Recommendations throughout are directed at the Federal Government.

This submission is grounded in the knowledge that Australia was established based on the false claim of terra nullius, which was used to justify colonisation and genocide. The ongoing impacts of dispossession, the Stolen Generations, and systemic racism mean First Nations people experience much higher rates of poverty, gender-based violence, housing insecurity, physical and mental ill-health, and child removals than non-Indigenous people. Combined with over-policing, these factors also increase the chance of contact between First Nations people and the criminal legal system.

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Recommendations

The Federal Government must:

1. Raise the minimum age of criminal responsibility to at least 14 years old nationally.
2. Redesign the youth justice system to more heavily invest in prevention and early intervention measures.
3. Work with state and territory governments and the Aboriginal community-controlled sector to develop culturally appropriate frameworks for assessing actual risk to children, to ensure First Nations people aren't unjustly prevented from becoming kinship carers.
4. Work with state and territory governments and the Aboriginal community-controlled sector to develop a framework to support First Nations people leaving prison. Ensure support ahead of release to access ID, and to arrange income, a safe place to live, and access to health, legal, and financial counselling services. Implement clear and consistent rules of access to prisons for organisations delivering critical services, including legal assistance. This includes facilitating continuity of casework support for people leading up to, and following, release.
5. Significantly increase funding for Aboriginal community-controlled mental health services and appropriate housing.
6. Work with state and territory governments and the Aboriginal community-controlled sector to develop and adopt evidence-based, culturally appropriate alternative first responder approaches.
7. Remove legislation that deprives people who are incarcerated of the right to vote.

Youth justice

As of June 2024, First Nations young people were 27 times more likely than non-Indigenous young people to be in detention. Of the young people aged 10–17 in detention, about 65% were First Nations, despite making up only 6.6% of the Australian population in that age group.¹ On average, First Nations children in prison are younger than non-Indigenous children: over 6% of First Nations children in prison are aged 10-13 years old – compared 2% of non-Indigenous children in prison.

In most jurisdictions, the age of criminal responsibility is just 10 years old. Despite clear evidence that imprisoning kids does not address or reduce youth offending, the treatment of children as adults in the eyes of the law has escalated in the past year. Jurisdictions, including Victoria and the Northern Territory, have walked back commitments to raising the age to 14 and 12 respectively. Queensland is implementing 'Adult Crime, Adult Time' laws that see children eligible to receive adult penalties for 33 offences.² Victoria has recently followed suit, passing new adult sentencing laws for children.

The United Nations and national and international human rights groups have consistently criticised Australia for having one of the lowest ages of criminal responsibility in the world.³ During its third Universal Periodic Review in 2021, 30 individual member-state parties to the UN called on Australia to raise the age. At Australia's most recent UPR in 2026, this increased to 40.

Holding children as young as 10 criminally responsible and incarcerating them causes extreme harm. This can irrevocably alter children's life course. In prison, many children are kept in cells for many hours a day, sometimes in adult facilities, and denied access to regular schooling, time outside, contact with family and friends, adequate health and mental healthcare, and connection to family, friends and community.

Most children leave prison with compounded trauma and mental distress and are at increased risk of becoming trapped in a cycle of poverty, criminalisation and incarceration into adulthood. The younger a child is the first time they're locked up, the more likely they are to be further criminalised as they get older.⁴

Raising the age of criminal responsibility to 14 would result in around 8,000 children being diverted from the criminal legal system. To successfully divert these young people from the criminal legal system, the government would also need to work with communities to design and adequately fund developmentally appropriate and community-based alternative responses.

Legal advice released by the National Aboriginal and Torres Strait Islander Legal Service (NATSILS) in September 2024 makes clear that the Commonwealth government has the constitutional power to

¹ Australian Institute of Health and Welfare (AIHW), Youth Detention population in Australia 2024, 13 Dec2024. <https://www.aihw.gov.au/reports/youth-justice/youth-detention-population-in-australia-2024/contents/summary/first-nations-young-people-in-detention> (accessed 9 December 2025)

See also: Koorie Youth Council, Submission 142, p. 2; Attorney-General's Department (AGD), Submission 204, pp. 2–3, which noted that the states and territories are responsible for criminal law policy and enforcement (such as policing and prosecutorial decisions).

² Youth Law Advocacy Centre, 'Adult Crime, Adult Time' laws *About the 'Adult Crime, Adult Time' laws in the Making Queensland Safer Bill 2024*. 10 September 2025, <https://yac.net.au/legal-info/adult-crime-adult-time-laws/>, (accessed 18 December 2025)

³ Amnesty International, *Why we need to raise the minimum age of criminal responsibility*, 25 January 2022, <https://www.amnesty.org.au/why-we-need-to-raise-the-minimum-age-of-criminal-responsibility/>, (accessed 11 December 2025)

⁴ Victorian Government Sentencing Advisory Council, *Reoffending by Children and Young People in Victoria* December 2016, pg. 25

raise the minimum age of criminal responsibility to 14 nationally and set minimum legislated standards for the treatment of children and young people in state and territory criminal legal systems.⁵

Section 51 (xxix) of the Australian Constitution (the external affairs power) empowers the Australian Government to make laws to give effect to international treaty obligations. The Government has such an obligation under the UN Convention on the Rights of the Child, to protect children and young people against harm, including in detention.

The release of this legal advice makes clear that the Australian Government can no longer ‘hide’ behind the argument that states and territories are solely responsible for criminal legal systems. The Australian Government has a responsibility to step up and keep kids safe.

Instead of pursuing cruel, racist ‘tough on crime’ policy approaches, governments must address the root causes of involvement in criminalised behaviours. Governments must ensure that communities support thriving children, young people and families. This involves significant diversion of funding away from criminalising and jailing children, and towards evidence-based prevention and early intervention approaches that centre child and family wellbeing.⁶

Recommendation 1:

Raise the minimum age of criminal responsibility to at least 14 years old nationally.

Recommendation 2:

Redesign the youth justice system to more heavily invest in prevention and early intervention measures.

⁵ NATSILS, Explainer: The Commonwealth Government’s constitutional power to protect children, 16 September 2025, <https://www.natsils.org.au/resources/explainer-the-commonwealth-governments-constitutional-power-to-protect-children/>

⁶ See: Kiss, K., 20 July 2024, A Statement by Aboriginal and Torres Strait Islander Social Justice Commissioner on Item 10, 17th Session of the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP), <https://humanrights.gov.au/about-us/media-centre/speeches/aboriginal-and-torres-strait-islander-peoples/emrip-impacts-first-nations-engagement-justice-systems>

Closing the Gap

Content in this section draws on the First Nations Justice Network's 2025 [submission to the senate inquiry into *Measuring outcomes for First Nations communities*](#). Please read this submission for more detail and for many direct stories and quotes from Aboriginal and Torres Strait Islander frontline community legal sector workers.

Australia is regressing on several Closing the Gap Targets, including to reduce the number of First Nations children in out-of-home care, rates of adult suicide, and the over-incarceration of adults. Under Closing the Gap Priority Reform 3, the Federal Government has an obligation to commit to “systemic and structural transformation of mainstream government organisations to improve accountability, and to respond to the needs of Aboriginal and Torres Strait Islander people”.⁷ It is not meeting this obligation. Governments continue to drive systemic inequity.

Legal assistance services are chronically under-funded, with Aboriginal community-controlled legal assistance service providers often suffering most from legal assistance underfunding.⁸ Legal need in the community is growing in volume and complexity. These combine to cause access to justice failures which are disproportionately experienced by First Nations communities.⁹

Rates of First Nations children in out of home care

The 1997 *Bringing Them Home* report concluded that forcible child removal was an act of genocide and that the treatment of First Nations people represented a gross violation of human rights.² It made 83 recommendations to the Federal Government, of which just five have been clearly implemented.¹⁰

There are a range of ways in which current frameworks drive disproportionate removal of First Nations children from their families, communities and culture, including¹¹:

- Government workers regularly fail to meet their obligations to First Nations families. Parents are often not served with documents they are entitled to or informed of child safety investigations until the last minute when it is too late to access legal assistance.
- Decision-making about the removal of First Nations children is not culturally appropriate.
- Over-criminalisation of First Nations communities creates systemic barriers to kinship care. Many First Nations people are denied kinship care because of irrelevant, pending, and non-conviction charges and other disciplinary records. For example, an Aboriginal woman victim of family violence who the police misidentify as the aggressor then may become ineligible to become a kinship carer.

⁷ Closing the Gap, Priority Reform 3 – Transforming Government Organisations, <https://www.closingthegap.gov.au/sites/default/files/files/priority-reform-3.pdf>

⁸ Mundy, W., March 2024, *Independent Review of the National Legal Assistance Partnership 2020-25 – Final Report*, <https://www.ag.gov.au/sites/default/files/2024-06/NLAP-review-report.PDF>

⁹ *Independent review of the National Legal Assistance Partnership 2020–25: Final report*. Australian Government. <https://www.ag.gov.au/sites/default/files/2024-06/NLAP-review-report.PDF>.

¹⁰ *The Healing Foundation*, 2025, ‘Are you waiting for us to die? The unfinished business of Bringing Them Home’, <https://healingfoundation.org.au/resources/are-you-waiting-for-us-to-die/>

¹¹ For further detail and case studies please see: National Community Legal Sector First Nations Justice Network, March 2025, submission to the Senate Inquiry into *Measuring Outcomes for First Nations Communities*, pp. 5-14, <https://clcs.org.au/wp-content/uploads/2025/05/2025-05-21-Measuring-outcomes-for-First-Nations-Communities.pdf>

- Governments' double-punishment policy when a child is removed prevents restoration with families. Government policies economically punish parents whose kids are removed, through stripping tax benefits or access to appropriate social housing, and this sets parents up to fail in their efforts towards restoration.
- Government workers often move the goalposts: parents will work hard to meet reunification goals only to have workers then inform them of additional requirements.

Adult incarceration

First Nations people in Australia are the most imprisoned people in the world.¹² Adult incarceration is largely driven by trauma, poverty, and systemic racism, all of which are disproportionately experienced by First Nations people.

People stolen from their families as children are more likely to become imprisoned as adults.¹³ First Nations people stolen from their families as children often experience trauma, disconnection from community and support, and financial inequity. All these factors can contribute to higher rates of criminalisation and imprisonment.

Over-policing

Over-policing disproportionately impacts First Nations people. Police powers are unevenly applied.

For example, the 'trifecta' refers to the three charges of offensive language, resisting arrest and assaulting police. Disproportionately, police charge First Nations people with this trifecta. The trifecta is so readily laid as a combination that many people charged with these may not have committed any or all offences. However, as First Nations people often have less access to resources to dispute charges, they are more likely to end up with convictions for all.

The NSW Police Force Suspect Targeting Management Plan (STMP) encouraged police to use 'proactive policing' strategies like home visits and repeated stop and searches to 'prevent crime before it occurs'.¹⁴ The STMP included kids as young as 10. Police had discretion on who to place on the list, and it was unclear exactly how a person came to be on the list or how they could have their name removed. In practice, the STMP targeted overwhelmingly First Nations people for unfair and sometimes unlawful police attention. Following sustained community advocacy, the NSW Police Force claims to have stopped using the STMP since December 2023.¹⁵

The STMP was replaced by the Prevention Disruption Response (PDR), which is a police local area command version of STMP. It is rebranded and localised, and is promoted as a referral program, but the fundamental problems remain. The rebrand has not solved anything for First Nations communities harmed by the program. As it is localised, statistics are not available, making it even less transparent than its predecessor and harder for families to understand or challenge the program.

¹² Anthony, T., and Wilson, K. May 2024, 'First Nations imprisonment is already at a record high. Unless government policy changes, it will only get worse', *The Conversation*, <https://theconversation.com/first-nations-imprisonment-is-already-at-a-record-high-unless-government-policy-changes-it-will-only-get-worse-226612>

¹³ Judicial Commission of New South Wales, November 2024, *Cross-over kids*, https://www.judcom.nsw.gov.au/publications/benchbks/children/cpm_cross-over_kids.html#id-1.5.2.4.3

¹⁴ Law Enforcement Conduct Commission, October 2023, *Operation Tepito – an investigation into the application of the NSW Police Force STMP policy on children and young people*, <https://www.lecc.nsw.gov.au/news-and-publications/publications/operation-tepito-factsheet.pdf/@@download/file>

¹⁵ Ibid.

The Moree Police Drone Trial is a new development for the NSW Police Force. Under a new collaboration between Aviation Command and Technology and Communication Services Command, remotely piloted drones are being used to police the Moree community. Drones are piloted from Sydney, with real-time video fed to regional police on the ground.¹⁶ The first arrest using this new technology was made in March 2026.¹⁷ It is very unlikely a coincidence that the NSW Police Force chose Moree, a community with a high First Nations population, to begin this trial. This development is an extremely worrying indication of the trajectory and intentions of the NSW Police Force. However, at the time of writing, there is little community awareness of this program and its extremely damaging implications.

These are just some of the examples of over-policing directed at First Nations people. Policies and programs that give the police the power to profile and target people are disproportionately used against First Nations people, and this drives higher rates of incarceration.

Imprisonment

Prisons exacerbate trauma and set people up to fail when they leave. The experience of imprisonment is traumatising and yet access to culturally appropriate mental healthcare is often completely unavailable for First Nations people in prison.

First Nations people in regional and remote areas often experience additional harm from being imprisoned. People can be moved to prisons long distances away from their community and Country, leaving them with less access to family and community contact and support, and experiencing cultural harm. The housing and cost-of-living crises in regional and remote areas, and the lack of properly resourced and diverse support services in those areas, exacerbate the already significant barriers that people face when leaving prison and returning home.

The process of leaving prison is not supportive. Many people leave prison with no ID, no housing, no employment and no access to social security. If a person has been in prison for some time, the bank might have closed their accounts, so they can't access social security payments. Without a place to live or ID, it can be impossible to open a bank account. But without any way of getting money, it can be impossible to find a place to live or get an ID.

There is often no continuity of casework support for people leaving prison. Some may have casework support in prison, and some may access it following release, but too many fall through the gap between. Without ID, support, or money, everything is harder. People leaving prison are set up to fail and too many end up in an ongoing cycle of release without support, minor reoffending, and re-incarceration.

Rates of suicide

First Nations people experience suicide deaths at a far higher rate than non-Indigenous people. This is true across all ages and genders. In 2022, suicide accounted for 4.6% of all deaths among First Nations people, with men experiencing a greater proportion of deaths from suicide than women.¹⁸

¹⁶ Smith, D., 26 February 2026, 'Moree drone trial officially takes flight', *The Narrabri Courier*, <https://narrabricourier.com.au/2026/02/26/moree-drone-trial-officially-takes-flight/>

¹⁷ 7NEWS Australia, 11 March 2026, 'NSW police make first arrest using rooftop drone system', <https://www.youtube.com/watch?v=mbwUIdSsD4Q>

¹⁸ Australian Institute of Health and Welfare, *Deaths by suicide among First Nations people*, <https://www.aihw.gov.au/suicide-self-harm-monitoring/data/populations-age-groups/suicide-indigenous-australians>

The experiences of being removed as a child, having your own children removed, being incarcerated as a child or adult, or being in close community with people who have these experiences, all cause trauma. Disconnection from Country and culture, as well as financial, housing, education and employment inequity, drive poorer mental health outcomes. Yet, mainstream mental health systems are not set up to meet the needs of First Nations people experiencing mental illness and suicidality.

The mental health system across this continent is significantly under-resourced. This leaves people waiting for long periods and receiving improper care. First Nations people are disproportionately impacted by these shortcomings, as well as by the lack of culturally appropriate care. When First Nations people go to emergency departments for support, even where there are Aboriginal Liaison Officers present, they are often told they cannot get help. This results in people walking away still with suicidal thoughts.

Suicide contagion is heightened in First Nations communities. Suicide contagion can lead to a 'suicide cluster', where other connected suicides take place after the initial death. Suicide clusters are more prevalent for young people, and in rural and remote areas.

First Nations people who are using criminalised substances to self-medicate can be arrested rather than provided with mental health support. Even the threat or potential for criminal charges are barriers to reaching out for mental health help. The stigma associated with criminalised substances combined with systemic racism means that some medical professionals refuse to treat, or provide poorer treatment to, First Nations people who use drugs.

Recommendation 3:

Work with state and territory governments and the Aboriginal community-controlled sector to develop culturally appropriate frameworks for assessing actual risk to children, to ensure First Nations people aren't unjustly prevented from becoming kinship carers.

Recommendation 4:

Work with state and territory governments and the Aboriginal community-controlled sector to develop a framework to support First Nations people leaving prison. Ensure support ahead of release to access ID, and to arrange income, a safe place to live, and access to health, legal, and financial counselling services. Implement clear and consistent rules of access to prisons for organisations delivering critical services, including legal assistance. This includes facilitating continuity of casework support for people leading up to, and following, release.

Recommendation 5:

Significantly increase funding for Aboriginal community-controlled mental health services and appropriate housing.¹⁹

¹⁹ Australian Institute of Health and Welfare, March 2022, *Indigenous mental health, housing and homelessness: summary paper*, <https://www.aihw.gov.au/getmedia/972b5b31-e5cc-49a3-a939-697dd765b930/aihw-imh-mental-health-housing-and-homelessness-summary-paper.pdf>

The need for alternative first responders

Governments' over-reliance on police as first responders has expanded their role into areas better suited to mental health and social support services. The outcomes can be harmful and, at times, fatal.

In times of crisis, or even in everyday situations where a social or health response is required, too often the default response is the police. The default police-first response has led to their growing presence in roles traditionally reserved for care and support, like in schools, residential care facilities, nursing homes, hospitals, people's homes, and public spaces where communities gather or people seek shelter. This is increasing people's encounters with the police and resulting in harm due to police practice and operational frameworks. Groups that experience systemic discrimination – including First Nations people – face an increased risk of police harm.

The reliance on police-led responses is the result of a longstanding failure from governments to appropriately fund health, social and community support services; to commit to and support alternative models; or to properly address police malpractice.

There is a wealth of research and demonstrated best practice, both in Australia and internationally, that exemplifies the potential and real effectiveness of alternative first responders to the police. Leading the way are community-based models.²⁰ And yet, despite overwhelming support from research and communities, governments have failed to commit to alternative first-response models.

The default police-first response causes significant harm to individuals, their families and entire communities. The impact is profound and long-lasting. Community-based alternative first responders make more sense, are safer, and are more culturally right. A commitment to alternative first responder models would improve progress against Closing the Gap targets, especially in relation to rates of First Nations people experiencing incarceration, and rates of suicide.

Recommendation 6:

Work with state and territory governments and the Aboriginal community-controlled sector to develop and adopt evidence-based, culturally appropriate alternative first responder approaches.

²⁰ National Justice Project, February 2025, *Alternative First Responders*, pp. 11-14, https://www.justice.org.au/wp-content/uploads/NJP_AFR_PositionPaper2025-1.pdf

Geographic discrimination and inequity experienced by First Nations communities

First Nations people living in remote communities experience heightened systemic disadvantage. Health impacts are profound. Food insecurity, poor water quality, intergenerational trauma, mass incarceration, racism, and inequitable access to healthcare including mental healthcare, are among the many drivers of poorer health outcomes and lower life expectancy.²¹

Most First Nations people live in metropolitan areas; however, the proportion of First Nations people within the population increases with distance away from metropolitan areas.

For many First Nations people, geographic location can be an intrinsic aspect of identity.

June Oscar AO, when in the role of Aboriginal and Torres Strait Islander Social Justice Commissioner, authored the *Wiyi Yani U Thangani (Women's Voices) Report*, in which she wrote:

"Understanding First Nations' Law takes a lifetime of deep listening and immersion within our country, and even then, we can never know the Law in its entirety.

*There are different systems of Law for different parts of the country."*²²

Professor Megan Davis, when Chair of the Permanent Forum on Indigenous Issues, wrote of First Nations women living in regional and remote communities:

"They are discriminated as women, They are discriminated as Indigenous. And they are discriminated as rural".²³

Remote communities often experience government neglect of infrastructure, overcrowded housing, poverty, inconsistent telecommunications and power, and unmaintained roads and airstrips.²⁴ Government decisions leave people in remote and very remote communities with very high food,²⁵ fuel and utility prices, low incomes, insufficient access to employment or education, disproportionately

²¹ National Rural Health Alliance. (2025). *Latest snapshot of rural Australia paints grim picture of higher deathrates and dismal healthcare access*. <https://www.ruralhealth.org.au/media-release/latest-snapshot-of-rural-australia-paints-grim-picture-of-higher-deathrates-and-dismal-healthcare-access>; Thurber, K. A. et. al. (2022). Population-level contribution of interpersonal discrimination to psychological distress among Australian Aboriginal and Torres Strait Islander adults, and to Indigenous–non-Indigenous inequities: cross-sectional analysis of a community-controlled First Nations cohort study. *The Lancet*, 400(10368) 2084 - 2094; Australian Institute of Health and Welfare, National Indigenous Australians Agency. (2023). *Aboriginal and Torres Strait Islander Health Performance Framework - Summary report*. Australian Government. <https://www.indigenoushpf.gov.au/Report-overview/Overview/Summary-report>.

²² Oscar, J. (2020), *Wiyi Yani U Thangani (Women's Voices) Report*, Australian Human Rights Commission, p. 74, <https://humanrights.gov.au/resource-hub/by-resource-type/publications/uncategorised/wiyi-yani-u-thangani>

²³ Davis, M. (15 October 2015), 'Woman, Rural and Indigenous – Breaking Triple Layers of Discrimination', *United Nations Department of Economic and Social Affairs: Social Inclusion*, <https://social.desa.un.org/issues/indigenous-peoples/news/woman-rural-and-indigenous-breaking-triple-layers-of-discrimination>

²⁴ Australian Institute of Health and Welfare (2025, March 6). *Closing the Gap targets: key findings and implications*. Australian Government. <https://www.aihw.gov.au/reports/indigenous-australians/closing-the-gap-targets-key-findings-implications/contents/housing>; Tanton, R., Dare, L., Miranti, R., Vidyattama, Y., Yule, A. and McCabe, M. (2021). *Dropping Off the Edge 2021: Persistent and multilayered disadvantage in Australia*. Jesuit Social Services. <https://jss.org.au/dropping-off-the-edge-2021/>; Moskos, M., Isherwood, L., Dockery, A.M., Habibis, D., Grealy, L., Benedict, R., Harris, M., Singh, R. and Lea, T. (2024). *Indigenous people's mobility and its impact on remote infrastructural needs: an exploratory study*: Final Report 42. Australian Housing and Urban Research Institute Limited (AHURI). <https://www.ahuri.edu.au/sites/default/files/documents/2024-06/AHURI-Final-report-423-Indigenous-peoples-mobility-and-its-impact-on-remote-infrastructural-needs-an-exploratory-study.pdf>.

²⁵ Blakkarly, J, 31 October 2024, 'Groceries cost more than twice as much in remote First Nations communities', *CHOICE*, <https://www.choice.com.au/shopping/everyday-shopping/supermarkets/articles/remote-first-nations-grocery-stores>

high rates of health issues and disabilities, child removals, housing stress, transport injustice, and other social issues – these are human rights issues.

The justification for these government failings can often involve normalising location-based disparity because the people experiencing these human rights violations are not living in urban areas. In this way, location can be used as a proxy for racism. Decision-makers and powerholders can say to First Nations people in isolated, remote and rural areas “we are not discriminating against you on the basis of your race; the problem is your location”. Geographic location is an excuse, and the greater the distance from metropolitan areas, the stronger the excuse that’s used. All people must be guaranteed safety nets for human rights, wellbeing, and inclusion, and for First Nations people living in regional and remote areas, sufficient safety nets aren’t being ensured.

Legislative expression of human rights in Australia rarely includes any geographic orientation or context. In terms of visible orientation and implementation, human rights in Australia are too ‘urbanist’. There is a view among many who live in metropolitan areas, including decision-makers, that socio-economic disadvantage in non-urban areas is ‘natural’ or to be expected. People living in non-urban areas can be blamed for their own needs not being met. Urban areas are treated as the norm, and non-urban areas are seen as unimportant or expendable.

As of 2021, 55% of First Nations people living in very remote communities were living in overcrowded housing.²⁶ Though the Commonwealth announced additional investment in remote housing in 2024 to deliver 2,700 new homes in remote communities across the Northern Territory, this does not go far enough.

As climate change progresses, disasters are becoming more frequent and growing in intensity. The disproportionate impact of climate disasters on regional and remote communities exacerbates the systemic disadvantages experienced by First Nations people in those areas.²⁷

These many systemic challenges are exacerbated by punitive and racially targeted policies, such as the Cashless Welfare Card, Income Management, and the Community Development Program with mutual obligations and financial penalties.²⁸ The Department of Social Security published a report in 2025 on Compulsory Income Management (‘CIM’) which shows broad geographic patterns.²⁹ Although the Australian Government terminated the dramatically disproportionate conditionalities and penalties applied to remote area ‘work for the dole’ in 2022, no legal guarantees to prevent repetition have been implemented.³⁰

²⁶ Commonwealth of Australia, Commonwealth Closing the Gap Implementation Plan 2025 National Indigenous Australians Agency <https://www.niaa.gov.au/sites/default/files/documents/2025-02/NIAA%20CTG%20Combined%20Report.pdf>

²⁷ National Rural Health Alliance. (2021). *Position paper: Rural health policy in a changing climate – three key issues*. <https://www.ruralhealth.org.au/media-release/position-paper-rural-health-policy-changing-climate-three-key-issues/>

²⁸ Walters, A. (2019, August 21). *Experimenting with People's Lives: Jobs, income management and the cashless welfare card*. Human Rights Law Centre, <https://www.hrlc.org.au/updates/2019-8-21-experimenting-with-peoples-lives/>; Aboriginal Peak Organisation of the Northern Territory. (2023). *Fair Work Strong Communities, A Refreshed Summary Of The APO NT Fair Work Strong Communities Proposal To Address Remote Employment*. <https://apo.org.au/sites/default/files/resource-files/2023-10/apo-nid326718.pdf>

²⁹ Australian Government. (2025, February 28). *Income Management (IM) and enhanced IM – Participant Data*. Department of Social Services. <https://www.dss.gov.au/income-management/resource/income-management-im-and-enhanced-im-participant-data>

³⁰ Staines, Z. (2022). Work and wellbeing in remote Australia: Moving beyond punitive ‘workfare’. *Journal of Sociology*, 59(4), 808-827. <https://doi.org/10.1177/14407833221114669>

Democratic participation of First Nations people

The Australian Constitution and its political and judicial institutions remain imbued with systemic racism against First Nations people.³¹ Australia has failed to establish a Makarrata Commission to enact truth-telling and negotiate a treaty. Consequently, Australia fails to meet its UNDRIP obligations.³²

Despite compulsory voting, Australia excludes thousands of people from voting, including people in prison and people with disabilities.

Disenfranchisement of people in prison varies by jurisdiction: while South Australia and the ACT protect prisoners' right to vote regardless of sentence length, federal law and most state and territory laws remove voting rights for people with sentences over specified periods (three years federally and varying from one to five years in different states and territories). This impacted approximately 10,000 people in prison in the 2022 federal election. In the Northern Territory – where more than 1 per cent of the total population is currently imprisoned, and 84 per cent of adult prisoners are First Nations – people serving a prison sentence of three years or more are ineligible to vote.³³

Many people who are eligible to vote experience significant barriers to voting. This includes First Nations people, people with disabilities, people in aged care or hospital, and people in prison. While 97.8% of eligible Australians are enrolled to vote, as of 20 June 2025 only 93% of First Nations Australians are enrolled to vote – significantly lower in Western Australia and the Northern Territory.³⁴

Many First Nations people in Australia are unable to exercise their right to vote because of requirements for identification documents that some First Nations people do not have. The Australian Electoral Commission does not use auto-enrolment processes for parts of remote Australia, creating a further barrier to voting that disproportionately impacts First Nations people.

For a considerable proportion of First Nations people, especially those in remote communities, English is not the language spoken at home. These people may be additionally excluded from voting due to varying levels of English literacy. In the 2021 Census, almost 90,000 First Nations people (11.4% of the population) reported speaking a language other than English at home.³⁵

³¹ Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples. (2015) *Chapter 1: Achieving constitutional recognition*. Australian Government.

³² United Nations General Assembly, 2007, *United Nations Declaration on the Rights of Indigenous Peoples (A/RES/61/295)*, Article 1, United Nations. https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf

³³ Brennan, D., 31 December 2024, 'Shocking numbers reveal NT's record prison population', National Indigenous Times, <https://nit.com.au/31-12-2024/15594/shocking-numbers-reveal-nts-record-prison-population>

Northern Territory Attorney-General's Department, 2021, *Pathways to the Northern Territory Aboriginal Justice Agreement 2021-27*, <https://agd.nt.gov.au/media/docs/justice-agreement/aja-draft/aim1-Reduce-reoffending-and-imprisonment.pdf>

³⁴ Australian Electoral Commission, 2024, Indigenous enrolment rate, https://www.aec.gov.au/Enrolling_to_vote/Enrolment_stats/performance/indigenous-enrolment-rate.htm.

³⁵ NLAS, 2025, *NLAS (Aboriginal & Torres Strait Islander peoples)*, https://lawfoundation.net.au/wp-content/uploads/2025/02/NLASAboriginal-and-Torres-Strait-Islander-peoples_for-publication.pdf

These barriers and more meant that many First Nations people could not vote in the referendum on the Voice to Parliament. At the time of the referendum, there were an estimated 13,000 First Nations people incarcerated, many of whom were serving sentences more than three years. Many more First Nations people were impacted by barriers to voter enrolment, including requirements for identification documents. Following the referendum, racism targeting First Nations people has increased.³⁶

Recommendation 7:

Remove legislation that deprives people who are incarcerated of the right to vote.

³⁶ Collard, S., March 6, 2025, 'Voice referendum normalised racism towards Indigenous Australians, report finds', *The Guardian*, <https://www.theguardian.com/australia-news/2025/mar/06/voice-referendum-normalised-racism-towards-indigenous-australians-report-finds>