

# Aboriginal and Torres Strait Islander Peoples

First Nations peoples still experience significant and disproportionate disadvantage across all areas, including child protection, justice, health, housing and education.

- Racism against First Peoples has increased over the last decade, particularly following the failed Voice Referendum in 2023.
- There has been some positive progress, including new national leadership on First Nations children’s wellbeing, state-based treaty and truth-telling processes, and modest improvements toward a small number of Closing the Gap targets.
- First Nations voices remain largely excluded from national decision-making, with the absence of a national representative mechanism to support participation, self-determination and shared decision-making.
- First Peoples-led initiatives continue to lead to positive outcomes, while lack of community control continues to result in governments’ failure to achieve most Closing the Gap targets.
- Despite some positive developments, systemic inequities persist and the bigger picture reforms which could bring about real change remain outstanding.
- Strong national action is still needed, including independent accountability for Closing the Gap, reform of native title and heritage laws, national truth-telling and treaty processes, and full implementation of the United Nations Declaration on the Rights of Indigenous Peoples.

## The National Commission for Aboriginal and Torres Strait Islander Children and Young People

### First Peoples' justice

#### Recent human rights advances

The Australian Government established the National Commission for Aboriginal and Torres Strait Islander Children and Young People to protect and promote the rights, interests and the wellbeing of First Peoples' children.

Aboriginal and Torres Strait Islander children experience significant and disproportionate disadvantage across key life areas — including child protection, education, health, disability and youth justice. Despite making up only 5.7% of the child population in Australia, they represent over 40% of children in out-of-home care. They are also around 26 times more likely to be in youth detention than non-Indigenous children. Rates of suicide and self-harm are also higher among First Peoples children than any other group of Australian children.

Following longstanding calls from First Peoples leaders and organisations for a dedicated national advocate to elevate the rights, interests and voices of Aboriginal and Torres Strait Islander children and young people, the Australian Government established an independent National Commission for Aboriginal and Torres Strait Islander Children and Young People as an Executive Agency under the Public Service Act 1999. The Commission became operational on 13 January 2025 and in September 2025, the first permanent Commissioner's tenure commenced. To promote the effectiveness of this Commission and ensure its independence and functions, the Australian Government established it as a statutory body through the [\*National Commission for Aboriginal and Torres Strait Islander Children and Young People Act 2026\*](#).

The new Commission should improve accountability for upholding and protecting the rights and wellbeing of First Nations children.

## Racism against First Peoples

### Racism and migration

#### Recent human rights advances

The Australian Parliament established the Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs inquiry into racism, hate and violence directed at Aboriginal and Torres Strait Islander people

First Peoples' experiences of racism, racial hatred and violence involve interpersonal experiences on a daily basis, including in online forums, as well as structural and systemic racism at the heart of discriminatory policies and laws which result in disadvantage.

On 26 January 2026, a homemade 'fragment bomb' was allegedly thrown into a crowd of approximately 2,500 at the Boorloo (Perth) Invasion Day rally; it did not detonate. After 9 days, that act was declared an attempted terrorist attack. Police allege a racist, nationalist motivation and have referred to online access to 'pro-white male' material.

That attempted terrorist attack followed an increase in racism against First Peoples over the last decade, and particularly since the failed 2023 Voice Referendum. Shortly before the Perth attack, in August 2025 a group of Neo-Nazis attacked a peaceful protest gathering of First Peoples at 'Camp Sovereignty' in Melbourne.

On 4 March 2026, the parliamentary inquiry into racism, hate and violence directed at Aboriginal and Torres Strait Islander people was announced.

## Racial discrimination has increased in Australia

### Racism and migration

#### Urgent human rights issues

Racism experienced by First Nations peoples is rising, especially connected to the failed Voice referendum. In January 2026, a homemade bomb was thrown into a crowd of Aboriginal people and supporters in an alleged terror attack.

In 2024, Reconciliation Australia's Barometer found that 54% of Aboriginal and/or Torres Strait Islander People reported experiencing at least one form of racial discrimination within the past six months. This is a significant increase over the last decade from 39% in 2014.

In particular, First Peoples report that the mis- and dis-information disseminated during the campaign leading up to the 2023 Voice Referendum has resulted in an increase in racism both in person and online.

Also, since the referendum, some state and territory governments have explicitly used the referendum result to justify regressive discriminatory policies such as repealing truth and treaty legislation and processes, and 'tough on crime' approaches which disproportionately impact First Peoples children and young people.

## Voice, Treaty, Truth

### First Peoples' justice

#### Recent human rights advances

Victoria negotiated its first statewide treaty with First Peoples in 2025. Outcomes include establishing Gellung Warl, an ongoing elected Aboriginal representative body, an Infrastructure Fund, ongoing truth telling as well as education, cultural and place-naming reforms. The treaty outcomes build on Victoria's 4-year truth-telling inquiry through the Yoorrook Justice Commission. South Australia has a representative Voice body and is progressing its treaty process. NSW and ACT have commenced First Peoples treaty consultations.

## Voice, Treaty and Truth are essential to realising First Peoples' human rights in Australia

### First Peoples' justice

#### Urgent human rights issues

There are insufficient representative structures for First Peoples to participate in law and policy development at the national level and through regional mechanisms. Progress nationally on representation, truth-telling and treaty has not advanced since the failure of the Voice referendum.

In 2017, First Peoples leaders issued the Uluru Statement from the Heart. The statement called for three key reforms: Voice, Treaty and Truth. All three elements – representation, agreement-making and truth telling – are essential to reconciliation and realising First Peoples' human rights in Australia.

In 2023, the Australian Government held a referendum on a proposal to enshrine a First People's consultative and representative body – known as the 'Voice' – in the Australian Constitution. The referendum was not successful. Given the failure of the

referendum, an alternative national representative mechanism for Aboriginal and Torres Strait Islander people is needed.

The Uluru Statement from the Heart also states:

Makarrata is the culmination of our agenda: the coming together after a struggle. It captures our aspirations for a fair and truthful relationship with the people of Australia and a better future for our children based on justice and self-determination.

We seek a Makarrata Commission to supervise a process of agreement-making between governments and First Nations and truth-telling about our history.

In 2022, an election promise was made by the Australian Labor Party (ALP) to commence work on establishing an independent Makarrata Commission to oversee processes for national-level agreement making and truth telling. The ALP was elected to form government but has not progressed this work, although the Minister for Indigenous Australians has made positive statements about the need for truth-telling.

At the state and territory level, there has been a mix of progress and regression in relation to truth-telling, treaty and representative bodies:

- Victoria has the first state-wide treaty with the First Peoples' Assembly of Victoria, after creating a formal legislated framework for negotiation, self-determination, and truth-telling between the state government and Aboriginal Victorians.
- The South Australian Voice to Parliament body was established in 2023. The South Australian Government is developing a formal truth-telling and treaty process, with plans to consult with the newly established body.
- Treaty Commissioners were appointed in New South Wales in 2024. They are responsible for leading consultations with Aboriginal communities to explore the possibility of a treaty or other formal agreement with the state government. They are also tasked with understanding the role of truth-telling in this process.

- In 2025 the Tasmanian Government said it will no longer pursue a treaty with Tasmanian Aboriginal people, instead funding the establishment of truth-telling and healing commissioners.
- Although there are some local initiatives, a jurisdiction-wide truth and treaty process is yet to take shape in Western Australia.
- The truth telling and treaty process in Queensland was dismantled by the newly elected Government in 2024.
- The Northern Territory treaty process was dismantled by the newly elected Government in 2025, 7 years after it was first announced.

## Priority action

**The Australian Government should establish national truth-telling and treaty processes and ensure the participation of First Nations Peoples in decisions that affect them.**

## First Peoples Women and Girls

Aboriginal and Torres Strait Islander women and girls face intersectional discrimination and inequalities which prevent the full enjoyment of their human rights.

Between 2017 and 2024, the Australian Human Rights Commission undertook the *Wiyi Yani U Thangani (Women's Voices) Project*, that elevated women and girls' voices regarding their rights, aspirations, and solutions. The Australian Government funded this process.

In 2020, the [\*Wiyi Yani U Thangani Report\*](#) was tabled in Parliament and set out First Nations women and girls' aspirations for structural reform. The Australian Government has taken some actions aligned with its recommendations. However, there is no comprehensive government-endorsed national plan to ensure equality for First Peoples women and girls as recommended by the *Wiyi Yani U Thangani* report.

In 2024 the *Wiyi Yani U Thangani* First Nations Gender Justice Institute was established. The Institute has received Government funding to support its operations.

### Priority action

**The Australian Government should develop a national action plan to ensure equality for First Nations women and girls.**

## Close The Gap

### First Peoples' justice

#### Recent human rights advances

There has been progress on some of the Closing the Gap targets, particularly early childhood education, jobs and land rights. Other measures - like year 12 and tertiary education completion - are improving but not fast enough to meet targets.

The National Agreement on Closing the Gap, signed in 2020 between Australian governments and the (First Peoples) Coalition of Peaks, aims to achieve equality in life outcomes for Aboriginal and Torres Strait Islander peoples.

The Agreement includes four Priority Reforms to change the way governments work with First Peoples, new government accountability measures, shared monitoring and implementation arrangements and 19 socio-economic targets across health, education, justice and employment. The Agreement is an important commitment and was welcomed as a step forward in shared decision-making and genuine partnership.

## Significant improvement is still needed across Closing the Gap targets

### First Peoples' justice

#### Urgent human rights issues

Only 4 of the 19 Closing the Gap targets are on track. Overimprisonment and child removal are going backwards. There is a lack of accountability for failures to meet targets or taking actions that undermine commitments. Independent monitoring mechanisms for every government in Australia have not been established, despite the Productivity Commission identifying these as critical to Closing the Gap.

Under Priority Reform Three, governments agreed that by 2023 they would each identify, develop or strengthen an independent mechanism, or mechanisms, that would support, monitor and report on the transformation of mainstream agencies and institutions. These mechanisms would assist in giving effect to the UNDRIP and in particular rights to participate in decision-making, exercise self-determination and be actively involved in program development.

These mechanisms have still not been developed.

In their absence, the implementation of the Agreement has faced major challenges. These include inadequate transparency, inconsistent reporting across jurisdictions, the marginalisation of Aboriginal and Torres Strait Islander voices in evaluation and monitoring processes and inadequate consequences for failing to meet targets.

In 2025, the Productivity Commission reported that governments' progress in collectively acting on the Priority Reforms has been very limited. Across 19 socio-economic outcome areas, only four targets are on track to be met (green), six targets are improving but not on track (blue), one target has not changed from the baseline (orange), four targets are worsening (red). Due to a lack of reported data, the Productivity Commission is still unable to assess progress against four targets.

<b>1</b> - Aboriginal and Torres Strait Islander people enjoy long and healthy lives.	<b>2</b> - Aboriginal and Torres Strait Islander children are born healthy and strong.	<b>3</b> - Aboriginal and Torres Strait Islander children are engaged in high quality, culturally appropriate early childhood education in their early years.	<b>4</b> - Aboriginal and Torres Strait Islander children thrive in their early years.
<b>5</b> - Aboriginal and Torres Strait Islander students achieve their full learning potential.	<b>6</b> - Aboriginal and Torres Strait Islander students reach their full potential through further education pathways.	<b>7</b> - Aboriginal and Torres Strait Islander youth are engaged in employment or education.	<b>8</b> - Strong economic participation and development of Aboriginal and Torres Strait Islander people and communities.
<b>9</b> - Aboriginal and Torres Strait Islander people secure appropriate, affordable housing that is aligned with their priorities and need.	<b>10</b> - Aboriginal and Torres Strait Islander people are not overrepresented in the criminal justice system.	<b>11</b> - Aboriginal and Torres Strait Islander young people are not overrepresented in the criminal justice system.	<b>12</b> - Aboriginal and Torres Strait Islander children are not overrepresented in the child protection system.
<b>13</b> - Aboriginal and Torres Strait Islander families and households are safe.	<b>14</b> - Aboriginal and Torres Strait Islander people enjoy high levels of social and emotional wellbeing.	<b>15</b> - Aboriginal and Torres Strait Islander people maintain a distinctive cultural, spiritual, physical and economic relationship with their land and waters.	<b>16</b> - Aboriginal and Torres Strait Islander cultures and languages are strong, supported and flourishing.
<b>17</b> - Aboriginal and Torres Strait Islander people have access to information and services enabling participation in informed decision-making regarding their own lives.			

The establishment and operation of robust and independent accountability mechanisms is essential to shift Australian governments' Closing the Gap commitments from rhetoric to meaningful action to delivering on the agreement.

## Priority action

**The Australian Government should ensure that robust and independent accountability mechanisms are in place to meet Closing the Gap targets for all governments.**

## Native Title

### First Peoples' justice

#### Other priority human rights issues

Reform to the Native Title Act as well as heritage protection laws are required to ensure that First Peoples have an effective voice and control over actions on their traditional lands. The Australian Law Reform Commission is finalising an inquiry into the future acts regime of the Native Title Act that will identify necessary reforms.

Australia's native title system is inconsistent with its human rights obligations, including under the International Convention on the Elimination of All Forms of Racial Discrimination and the UNDRIP.

As stated in its preamble, the stated intent of the Native Title Act 1993 (Cth) is to:

- ‘rectify the consequences of past injustices by the special measures’... ‘for securing the adequate advancement and protection of Aboriginal peoples and Torres Strait Islanders’; and
- ensure that Aboriginal peoples and Torres Strait Islanders receive the full recognition and status within the Australian nation to which history, their prior rights and interests, and their rich and diverse culture, fully entitle them to aspire.

Since its commencement in 1994, various amendments to the Native Title Act have undermined its capacity to deliver a just, fair, independent, impartial, open and transparent process that gives due recognition to the laws, traditions, customs and land tenure systems of traditional owner groups. In particular, the 1998 Native Title Amendment Act 1998 (Cth), enacted in response to the Wik High Court decision, reduced the common law native title rights and interests to a bundle of rights, overrode the application of the Racial Discrimination Act 1975 (Cth) limiting access to equality before the law, and subjugated the status of native title to one that is considered inferior compared to other rights over lands.

Key human rights issues include inequitable evidentiary requirements for connection to country, lack of necessary supports and procedural protections for native title parties and inadequate legislative protections for First Nations cultural heritage.

If the Native Title Act and intersecting legislative regimes such as cultural heritage are to comply with Australia’s human rights obligations, significant reform will be required.

In 2024, Australia’s Attorney-General requested the Australian Law Reform Commission (ALRC) to review the future acts regime in the Native Title Act. The Review issued an Issues Paper and Discussion Paper and received submissions from stakeholders on each. The ALRC’s final report was provided to the Attorney-General on 31 March and is awaiting tabling in Parliament, after which a response from the Australian Government is expected.

The Australian Government is also currently working with the First Nations Heritage Protection Alliance to develop advice on reforms to strengthen First Nations cultural heritage protections. It will be critical that that this is resolved as a priority and harmonised with native title reforms to ensure that the rights and interests of Aboriginal and Torres Strait Islander peoples to their cultural heritage is maintained and protected in accordance with the international standards.

## **Priority Action**

**The Australian Government reform the Native Title Act and heritage legislation to protect sacred sites, traditional lands and the cultural estate of First Nation's Peoples.**

## United Nations Declaration on the Rights of Indigenous Peoples

### First Peoples' justice

#### Urgent human rights issues

It has been 17 years since Australia committed to implement the United Nations Declaration on the Rights of Indigenous Peoples and 2.5 years since the Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs recommended further actions to achieve this with no response from the Australian Government.

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) is the most comprehensive international instrument on the rights of Indigenous peoples. It was adopted by the United Nations General Assembly in 2007 and formally endorsed by the Australian Government in 2009. The UNDRIP pulls together existing legal obligations sourced in international human rights treaties and provides a lens through which to apply these rights and standards to the lives and circumstances of Indigenous peoples and their communities.

In 2023 the Australian Parliament's Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs published a report on its Inquiry into the application of the UNDRIP in Australia. The report made 6 recommendations to implement the UNDRIP in Australia, including the development of a National Action Plan in consultation with Aboriginal and Torres Strait Islander peoples.

The Australian Government is yet to respond to these recommendations.

## **Priority action**

**The Australian Government should develop a national program to implement UNDRIP and include it in the definition of human rights in the Human Rights (Parliamentary Scrutiny) Act 2011 (Cth) and the Australian Human Right Commission Act.**