



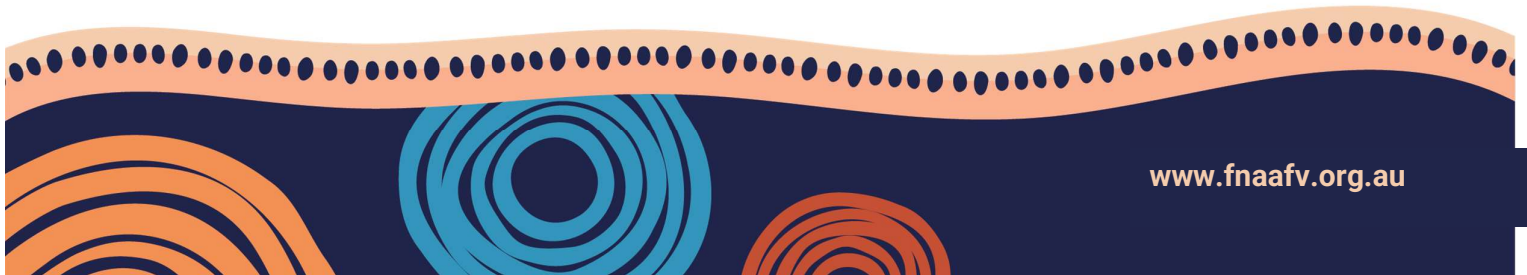
The First Nations Advocates Against Family Violence  
submission to the Joint Standing Committee on Aboriginal  
and Torres Strait Islander Affairs regarding the Truth and  
Justice Commission Bill 2024





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## About the First Nations Advocates Against Family Violence

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Until the 1<sup>st</sup> of July 2024, FNAAFV was formerly known as the National Family Violence Prevention and Legal Services Forum (NFVPLS). FNAAFV is the National Peak Body for Family Violence Prevention Services (FVPLS) around Australia that provides culturally safe and holistic services to First Nations people affected by family violence – predominantly women and their children. FNAAFV provides expert national advice in areas of policy, planning and law reform, and advocates for safety and justice for First Nations peoples affected by family violence.

FNAAFV represents 16 FVPLSs, with 14 FVPLSs who are members of FNAAFV. The FVPLSs span more than 30 office locations across all jurisdictions. FVPLSs provide culturally safe and specialist legal and non-legal family and domestic violence assistance to more than 250 Aboriginal and Torres Strait Islander communities. FNAAFV members include:

- Aboriginal Family Law Service Western Australia (Perth Head Office, Broome, Carnarvon, Kununurra, Geraldton, Kalgoorlie, Port Hedland)
- Aboriginal Family Legal Service Southern Queensland (Roma)
- Binaal Billa Family Violence Prevention Legal Service (Forbes)
- Central Australian Aboriginal Family Legal Unit Aboriginal Corporation (Alice Springs Head Office, Tennant Creek)
- Djirra – formerly Aboriginal Family Violence Prevention and Legal Service Victoria (Melbourne Head Office, Mildura, Gippsland, Barwon South-West, Bendigo and shortly also Echuca-Shepparton, La Trobe Valley and Ballarat)

- Family Violence Legal Service Aboriginal Corporation (Port Augusta Head Office, Ceduna, Pt Lincoln)
- Many Rivers Family Violence Prevention Legal Service (Kempsey Head Office, Grafton)
- Marninwarnitkura Family Violence Prevention Legal Service (Fitzroy Crossing)
- Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council Domestic and Family Violence Service (Alice Springs, NPY Tri-state Region)
- Queensland Indigenous Family Violence Legal Service (Cairns Head Office, Townsville, Rockhampton, Mount Isa, Brisbane)
- Thiyama-li Family Violence Service Inc. NSW (Moree Head Office, Bourke, Walgett)
- Warra-Warra Family Violence Prevention Legal Service (Broken Hill)
- North Australian Aboriginal Family Legal Service (Darwin Head Office, Katherine)
- SiSTAS (Hobart Head Office, Tasmania)

FNAAFV works with its members, communities, governments, and other partners to raise awareness about family violence affecting First Nations people, and it also advocates for culturally safe legal and holistic responses to this issue. FNAAFV provides a unified voice for its FVPLS members in areas of national policy, planning and law reform, and representation as a member of the national Coalition of Peaks. FNAAFV's work is informed by evidence, and we aim to ensure that all strategic planning and policy positions link to the Closing the Gap Agreement and Priority Reforms; National Plan to End Violence against Women and Children and associated Aboriginal and Torres Strait Islander Action Plan 2023-2025.

## **Historical Systemic Injustices Perpetrated by the Commonwealth Government and Non-Government Bodies Since Pre-Colonial Times**

The systemic injustices committed against First Peoples in Australia began with the arrival of British settlers in the late 18th century. These injustices were institutionalised through government policies and practices that profoundly disrupted the lives of Aboriginal and Torres Strait Islander peoples. Central to these historical injustices was the **dispossession of land**, under the legal doctrine of *terra nullius*, which declared Australia as “land belonging to no one.” This paved the way for the expropriation of Indigenous land without consent or compensation, disrupting complex socio-economic and cultural systems, leading to long-term poverty, displacement, and cultural disconnection.

Policies such as the forced assimilation of our communities into white society exacerbated these problems. **The Stolen Generations**, for instance, is emblematic of these policies, where government-sanctioned practices forcibly removed our Aboriginal children from their families to assimilate them into colonial society. This caused irreparable damage to family structures, culture, and individual identity, the effects of which are still deeply felt today.

Aboriginal and Torres Strait Islander peoples were not even counted as part of the national population until after the Constitution was altered in 1967.

These policies inflicted **cultural violations** on our communities, banning traditional languages, ceremonies, and practices, with the objective of eradicating our Indigenous cultures entirely.

## **Ongoing Systemic Injustice Perpetrated by the Commonwealth Government, Commonwealth Bodies, and Non-Government Bodies**

While various reconciliation efforts have been initiated in recent decades, ongoing systemic injustices remain entrenched in Australian society and the current Constitution still does not recognise Aboriginal and Torres Strait Islander peoples as the First peoples of Australia. First Nations peoples still experience substantial inequality across key socio-economic indicators such as health, housing, education, income and employment. These injustices are not simply the remnants of historical wrongs, they continue to be perpetuated by the policies and practices of the Commonwealth government, Commonwealth bodies, and non-government bodies.

One of the most prominent areas of ongoing injustice is the **criminal justice system**, where our people are disproportionately over-policed and over-incarcerated. They represent 3% of the Australian population yet make up more than 29% of the prison population. The statistics are even worse for youth with young First Nations peoples comprising 6% of the Australian population but making up 48% of the youth prison population. Mandatory sentencing laws and punitive policies disproportionately affect our people, leading to further disenfranchisement and marginalisation.

Additionally, the **health inequities** between Indigenous and non-Indigenous Australians remain stark. Indigenous Australians experience significantly lower life expectancy and higher rates of chronic diseases such as diabetes and heart disease. These health disparities are closely linked to systemic failings in providing culturally safe healthcare services and addressing the social determinants of health, such as poor housing, lower education outcomes, and limited access to employment opportunities.

The **Closing the Gap initiative** was launched as a national framework to address these injustices and disparities. Established in 2008, the initiative originally focused on closing the gap between Indigenous and non-Indigenous Australians across key areas such as life expectancy, infant mortality, education, and employment. However, despite over a decade of efforts, the gaps in many of these areas remain substantial. The **National Agreement on Closing the Gap (2020)** sought to recalibrate efforts by shifting more power and decision-making to our Aboriginal and Torres Strait Islander communities. Under this framework, governments committed to working in genuine partnership with First Nations peoples to address entrenched, systemic inequalities.

## **The Causes and Consequences of Historical Injustice**

The root cause of the historical injustices committed against our people is colonisation and its associated policies of dispossession, racial discrimination, and forced assimilation. Colonisation involved the seizure of Indigenous lands, resources, and sovereignty, all justified by the legal fiction of *terra nullius*. British colonists viewed our people as inferior, and this view became enshrined in the laws and policies of both colonial and Commonwealth governments.

As a result, Indigenous peoples were denied basic human rights, stripped of their cultural practices, and relegated to the margins of society.

The consequences of these historical injustices have been profound and far-reaching. The **intergenerational trauma** caused by colonisation, dispossession, and the Stolen Generations continues to affect our First Nations communities today. Many Aboriginal and Torres Strait Islander peoples continue to experience ongoing challenges with poor social and emotional wellbeing / mental health, substance misuse, family violence, and poverty, all of which are linked to the historical legacies of trauma and displacement and disconnection to culture. Social and economic disparities between Indigenous and non-Indigenous Australians are a direct consequence of these injustices. Many of our Indigenous communities face entrenched poverty, unemployment, and poor housing conditions. These challenges have been perpetuated by policies that fail to adequately address the systemic barriers faced by First Nations peoples. This is where the **Closing the Gap** strategy becomes crucial in focusing on practical, outcome-based efforts to reduce these inequalities. The National Agreement on Closing the Gap highlights the importance of shared decision-making between governments and Aboriginal and Torres Strait Islander communities as a fundamental step in addressing these deep-rooted disparities.

## **How Historical Injustice Can Be Effectively and Fairly Acknowledged and Redressed in a Culturally Appropriate Way**

Acknowledging and redressing historical injustices requires a comprehensive approach centred around **truth-telling, reparations, and culturally appropriate mechanisms.**



The **Truth and Justice Commission Bill 2024** offers an essential avenue for addressing historical wrongs by establishing a formal process for investigating the injustices perpetrated against our First Nations peoples. Truth-telling allows for the public acknowledgment of past wrongs, providing a platform for Aboriginal and Torres Strait Islander peoples to share their experiences of colonisation, dispossession, and racial discrimination.

For truth-telling to be effective, it must be **designed and led by our First Nations peoples**. This includes ensuring that First Nations voices are central in shaping the design, leadership, and implementation of truth-telling processes.

The **National Agreement on Closing the Gap** emphasises the importance of shared decision-making in all processes that affect First Nations communities. This principle should guide the Truth and Justice Commission to ensure that First Nations legal and cultural frameworks are respected throughout the process.

Redress should involve more than symbolic recognition. It requires **material reparations** including the return of sacred sites to our communities, and **financial compensation** for the social and economic harms caused by historical policies. Moreover, **cultural restitution**—the restoration of Indigenous cultural practices, languages, and traditions—is vital in addressing the cultural loss inflicted by colonisation. For example, initiatives that promote the revitalisation of our Indigenous languages or that support the recovery of cultural artifacts stolen during colonisation are critical to healing and restoring cultural identity.

Equally important is the concept of **data sovereignty**, which asserts that our communities should have ownership and control over any data collected during these processes. This ensures that any information shared through truth-telling is managed in accordance with our values and practices.

## **How Ongoing Injustice Can Be Addressed or Redressed**

Addressing ongoing systemic injustices requires a shift in how governments interact with us, emphasising **self-determination** and **power-sharing**. The National Agreement on Closing the Gap represents a crucial framework for addressing these issues by fostering **genuine partnerships** between us and governments. This agreement outlines four priority reforms aimed at shifting power into Aboriginal and Torres Strait Islander hands, which is a critical step in addressing ongoing injustices.

One of the most significant areas requiring attention is the **criminal justice system**, where our people are disproportionately represented. Ongoing justice reform must prioritise **community-led justice solutions**, such as **Indigenous courts**, **diversion programs** and **restorative justice programs**, which take into account the social and cultural context of offenders. By implementing justice systems that reflect our values and practices, governments can reduce recidivism rates and build trust within our communities.

Another critical area is **health equity**. The health disparities experienced by our people are a direct result of systemic neglect and underfunding of Indigenous health services. Governments must ensure that healthcare services are culturally safe and accessible, particularly in remote communities. **Community-controlled health organisations** play a pivotal role in providing culturally appropriate care, and they should be adequately funded and empowered to take the lead in addressing health disparities.

Education and employment programs also require significant reform. **Culturally tailored educational programs** that respect and incorporate First Nations knowledge systems are essential to improving educational outcomes for Indigenous youth. Truth telling should also form a part of the Australian educational curriculum to ensure that the true history of our country is known which promotes understanding, empathy, builds pride in our First Nations cultures which in turn, reduces racism. Similarly, targeted employment programs that provide meaningful job opportunities for First Nations Australians must be expanded, particularly in regions where economic opportunities are limited due to historical and ongoing marginalisation.

Finally, the success of any efforts to address ongoing injustice depends on governments' willingness to **share decision-making power** with our communities. By giving Aboriginal and Torres Strait Islander peoples a greater say in the policies and laws that affect their lives, governments can work towards creating a fairer and more just society for all Australians.

## **Historical Systemic Injustices and Their Connection to Domestic, Family, and Sexual Violence (DFSV) and Child Protection Issues**

Historical systemic injustices against our communities have significantly impacted the prevalence and nature of domestic, family, and sexual violence (DFSV) within Aboriginal and Torres Strait Islander communities. Colonial policies, including dispossession, forced assimilation, and the disruption of cultural practices, have created a legacy of trauma that continues to affect our communities today.

**Colonial Legacies and DFSV:** The violent dispossession of land and disruption of traditional kinship systems during colonisation fractured community structures that were integral to the cultural and social fabric of Aboriginal and Torres Strait Islander societies. These kinship systems included mechanisms for conflict resolution and social regulation, which were disrupted by colonial intervention. The imposition of foreign legal and social systems invalidated Indigenous ways of managing social and familial relationships, leading to a breakdown of traditional protective structures. This disintegration has contributed to the increase in DFSV within Indigenous communities, as these traditional safeguards have been undermined.

**Impact on Child Protection:** The historical removal of children from their families, most infamously known as the Stolen Generations, has left an indelible mark on the psyche of our communities. This practice not only caused immediate trauma to those directly affected but also led to intergenerational cycles of trauma and displacement. The separation of children from their cultural heritage and community ties disrupted the transmission of parenting knowledge and practices, which has had long-term effects on family structures and child-rearing practices.

Today, our children are significantly overrepresented in the child protection system, with systemic factors such as poverty, discrimination, and cultural misunderstanding contributing to this disparity.

## **Ongoing Systemic Injustice in DFSV and Child Protection**

**Domestic, Family, and Sexual Violence (DFSV):** Indigenous women are disproportionately affected by DFSV. They are more likely to experience violence at a higher rate and with greater severity compared to non-Indigenous women. This elevated risk is a direct consequence of the compounded effects of historical injustices, ongoing discrimination, and socio-economic disadvantage. Factors such as systemic racism, poverty, lack of access to culturally appropriate services, and ongoing intergenerational trauma exacerbate the vulnerability of Indigenous women and children to DFSV.

Government responses to DFSV in Indigenous communities have often been inadequate, frequently adopting a one-size-fits-all approach that fails to consider the unique cultural, historical, and social contexts of our peoples. Mainstream legal and support services are often not culturally safe or accessible, and there is a significant gap in services specifically designed to address the needs of Indigenous women and children experiencing violence.

**Child Protection:** Aboriginal and Torres Strait Islander children continue to be overrepresented in the child protection system. They are nearly 10 times more likely to be removed from their families than non-Indigenous children. This overrepresentation can be attributed to a range of factors, including systemic racism within the child protection system, socio-economic disadvantage, and the impact of intergenerational trauma.

The child protection system has been criticised for its failure to engage with Indigenous families in culturally appropriate ways and for prioritising removal over family support and preservation.

Many of children are placed in out-of-home care environments that do not reflect their cultural heritage, which can lead to further disconnection from their culture and community. This perpetuates a cycle of trauma and loss of cultural identity. Moreover, the lack of culturally appropriate support services means that many Indigenous families are not provided with the necessary resources and assistance to keep children safely within their family networks.

## **The Causes and Consequences of DFSV and Child Protection Issues**

**Causes of DFSV in Indigenous Communities:** The high rates of DFSV in Indigenous communities are rooted in the historical context of colonisation, dispossession, and cultural dislocation. The breakdown of traditional kinship systems and cultural norms that once provided social cohesion and conflict resolution has contributed to the vulnerability of our communities to DFSV. Additionally, the ongoing socio-economic marginalisation of our peoples—characterised by poverty, unemployment, lack of housing, and limited access to education and healthcare—creates an environment where DFSV is more likely to occur and persist.

Systemic racism and discrimination within mainstream institutions also play a role. Our people often face barriers to accessing support services due to cultural insensitivity, lack of understanding of Indigenous perspectives on family and community, and mistrust of government institutions due to historical mistreatment.

**Consequences of DFSV:** The consequences of DFSV are severe and far-reaching. For individuals, it leads to physical and psychological trauma, and for communities, it undermines social cohesion and well-being. Indigenous women who experience violence often suffer from mental health issues such as depression, anxiety, and post-traumatic stress disorder (PTSD). Additionally, DFSV can have intergenerational impacts, as children who witness or are subjected to violence are at higher risk of experiencing or perpetrating violence in the future.

**Child Protection Issues:** The removal of children from their families has both immediate and long-term consequences. Children placed in out-of-home care often experience a loss of connection to their culture, community, and identity. This disconnection can have detrimental effects on their mental health and well-being. Furthermore, the disruption of family and community ties perpetuates the cycle of intergenerational trauma, as these children are more likely to experience poor outcomes in education, employment, and health.

### **How Historical Injustice Can Be Effectively and Fairly Acknowledged and Redressed in the Context of DFSV and Child Protection**

To address the legacy of historical injustices in DFSV and child protection, it is essential to engage in **truth-telling and acknowledgment**. Establishing a formal process like the **Truth and Justice Commission** is a critical step in this direction. Such a process would provide a platform for our people to share their experiences of DFSV and the impact of child removal policies, helping to uncover the systemic failures and biases that have contributed to these issues.

**Culturally Appropriate Responses to DFSV:** Redressing historical injustices in DFSV requires culturally tailored interventions that recognise and respect our cultural practices and perspectives.

This involves:

- **Supporting ACCO-led Initiatives:** Aboriginal Community-Controlled Organisations (ACCOs) play a vital role in providing culturally appropriate services and support to Indigenous communities. These organisations should be at the forefront of DFSV prevention and intervention efforts, providing culturally safe spaces for women and children to seek help.
- **Community-Led Programmes:** Programmes that are designed and led by Indigenous communities are more likely to be effective in addressing DFSV. These programmes can integrate traditional cultural practices and community-based approaches to conflict resolution and healing, offering alternatives to mainstream interventions.
- **Restorative Justice Approaches:** Incorporating restorative justice approaches that focus on healing and restoring relationships can be more effective than punitive measures. These approaches allow for the community to be involved in the resolution process, prioritising the safety and well-being of victims while holding perpetrators accountable in a way that promotes healing.

**Child Protection and Cultural Connection:** For Indigenous children in the child protection system, maintaining a connection to culture and community is crucial for their identity and well-being. To effectively redress the historical and ongoing injustices in child protection:

- **Prioritise Family Preservation:** Whenever possible, child protection policies should focus on supporting families to keep children safely within their homes and communities.



This includes providing culturally appropriate family support services and early intervention programmes.

- **Kinship Care:** When out-of-home care is necessary, placing children with extended family or within their community should be prioritised. Kinship care arrangements help maintain cultural continuity and a sense of belonging for Indigenous children.
- **Cultural Safety in Child Protection Services:** Child protection services must be culturally competent and respectful of Indigenous perspectives on family, child-rearing, and community. This includes training for child protection workers on cultural awareness and the involvement of Indigenous representatives in decision-making processes.

## **How Ongoing Injustice in DFSV and Child Protection Can Be Addressed or Redressed**

Addressing ongoing systemic injustices requires systemic change that prioritises Indigenous self-determination, cultural safety, and equitable access to services.

### **Enhancing the Role of ACCOs in DFSV Prevention and Response:**

- **Funding and Support for ACCOs:** Governments should prioritise funding for ACCOs to lead DFSV prevention and response efforts. These organisations are best positioned to deliver culturally appropriate services and to develop community-led initiatives that address the unique needs of Indigenous women and children.

- **Collaboration and Co-Design:** Governments and mainstream organisations should collaborate with Indigenous communities and ACCOs in the co-design and implementation of DFSV programmes and policies. This ensures that interventions are culturally appropriate and responsive to the specific contexts of Indigenous communities.

### **Reforming the Child Protection System:**

- **Cultural Competence and Safety:** The child protection system must be reformed to become culturally competent and safe for Indigenous families. This includes training for child protection workers, the involvement of Indigenous community representatives in decision-making, and policies that prioritise cultural connection for children in care.
- **Early Intervention and Family Support:** To prevent unnecessary child removals, there should be a focus on early intervention and support services that address the underlying factors contributing to child protection issues, such as poverty, housing instability, and family violence. Providing culturally appropriate support to families can help prevent the escalation of issues and keep children safely within their communities.

### **Legislative and Policy Reforms:**

- **Culturally Informed Legislation:** Legislation related to DFSV and child protection must be informed by Indigenous perspectives and experiences. This includes recognising the importance of cultural practices and community involvement in the resolution and healing process.

- **Data Sovereignty and Accountability:** Indigenous data sovereignty should be respected in the collection and use of data related to DFSV and child protection. Indigenous communities should have control over how data is collected, interpreted, and used to inform policies and programmes. Additionally, there should be mechanisms for holding governments and agencies accountable for the outcomes of Indigenous children and families within the child protection system.

## Conclusion

The legacy of colonisation continues to shape the experiences of Aboriginal and Torres Strait Islander peoples in Australia. Historical injustices, including dispossession, forced assimilation, and cultural violations, have had long-lasting impacts that continue to manifest in the form of socio-economic and health disparities. Ongoing injustices, such as over-representation in the criminal justice system and inequitable access to services, perpetuate these violations of human rights.

The **Closing the Gap framework** represents a critical tool for addressing these injustices by emphasising **partnerships and shared decision-making** between governments and Indigenous communities. The **Truth and Justice Commission Bill 2024** offers a pathway for truth-telling and reparations, which are essential for acknowledging and redressing historical wrongs.

To achieve meaningful reconciliation, governments must commit to sustained efforts to empower our communities, address the structural barriers that perpetuate inequality, and ensure that redress efforts are guided by the principles of **self-determination** and **cultural respect**.

## End notes

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FNAAFV thanks the Senate Legal and Constitutional Affairs Committee for the opportunity to provide this submission. For any further information, please contact FNAAFV at [info@fnaafv.org.au](mailto:info@fnaafv.org.au).



**FIRST NATIONS**  
ADVOCATES AGAINST  
FAMILY VIOLENCE

