

22nd Session, New York
17-28 April, 2023



United Nations Permanent Forum on the Rights of Indigenous Peoples

Item 4: Discussion on the six mandated areas of the Permanent Forum with reference to the United Nations Declaration on the Rights of Indigenous Peoples and the 2030 Agenda for Sustainable Development

INTERVENTION by the New South Wales Aboriginal Land Council, delivered by Councillor Grace Toomey for the Central Region, and member of the Wiradjuri people

Thank you Madam/Mister Chairperson,

We pay our respects to the Elders and Ancestors, past and present, and give our appreciation to Indigenous experts and participants at this session.

The NSW Aboriginal Land Council makes the following recommendations to the Permanent Forum including that all States:

- Must comprehensively implement the Declaration within domestic legislation and policies at all levels
- Advance our rights and facilitate our self-determination, including the right to autonomy and self-government in line with Articles 3, 4 and 18 of the Declaration
- Recognise that Indigenous people have better life outcomes when self-determination is exercised, and that connection to culture is key
- Invest, with confidence, in existing structures like Aboriginal Land Councils that have the expertise to deliver these outcomes. There must be greater innovation and investment for new and existing Indigenous-centric initiatives.

The NSW Aboriginal Land Council is concerned that the Australian Government is yet to truly engage with Aboriginal communities as equals, and as the rightful determiners of our futures. We draw the Forum's attention to the lack of a human rights-based approach to addressing Aboriginal people's disadvantage in Australia.

Despite living on one of the most resource rich lands in the globe, Aboriginal peoples remain severely disadvantaged in life outcomes compared to non-Aboriginal Australians. This includes: education, health, employment, access to land and waters, interaction with the criminal justice system, and the strength of our cultures and languages. Aboriginal peoples in Australia remain among the most incarcerated groups in the world and continue to suffer significant disadvantage in relation to discrimination within the justice system and in society at large.

While the Australian government has adopted policies which aim to address these disadvantages specifically under its Closing the Gap program beginning in 2005, the most recent Closing the Gap annual data report, released July 2022, found only four of the 17 targets are on track. Of the 13 targets that aren't improving, some targets have worsened: Aboriginal children are now more likely to be taken into out-of-home care than they were three years ago.

The Bringing Them Home Report was finalised on the 26 May 1997, with a total of 54 recommendations made to redress the impacts of the removal policies and ongoing trauma. Almost 26 years after the report, it is unacceptable that Aboriginal and Torres Strait Islander children continue, increasingly, to be removed from their families. There has been very limited implementation of the recommendations outlined in the report. Without any formal monitoring process, it took NGOs to assess and find that 20 years after the report, less than one in 10 were identified as having been fully implemented¹. It is clear that the Government's ad hoc approach to partially implement recommendations of previous inquiries does not work. Fundamental structural change must happen to improve outcomes for Aboriginal children and their families.

The 2022 Family Matters Report stated a "crucial need" for child protection systems to dramatically reduce the rates at which our children are removed, and focus efforts on providing "therapeutic,

¹ <https://healingfoundation.org.au/app/uploads/2017/05/Bringing-Them-Home-20-years-on-FINAL-SCREEN-1.pdf>

holistic and culturally safe supports to families to reduce any risks to child wellbeing"². There is a systemically low expenditure into early intervention family support services. Governments must support our communities to keep our children home. Aboriginal peoples have better life outcomes when self-determination is exercised and there is genuine partnership and shared decision making with governments. The Aboriginal and Torres Strait Islander Community Controlled Organisation sector is in community doing what they can, but without more support from government, they cannot improve on targets. The Government's approach continues to undermine the key role of Aboriginal representative bodies, by reducing adequate support and resources, and is contradictory of the principles of self-determination.

NSWALC reminds States that the full implementation of the Declaration will improve any engagement between Governments and Indigenous peoples. The Declaration provides a framework and accountability mechanism for the recognition and protection of the rights of Indigenous peoples, particularly the right to self-determination, and we continue to advocate its implementation for the betterment of our peoples.

We acknowledge that the Australian Government is taking steps to enshrine a Constitutionally recognised First Nations Voice to Parliament, and that certain states are forming processes towards Treaty. While these appear to be steps in the right direction, future engagement with First Nations peoples must be genuine and centre the self-determination of our peoples.

² <https://nit.com.au/23-11-2022/4375/indigenous-children-104-times-more-likely-to-be-in-out-of-home-care-more-likely-to-be-abused-in-out-of-home-care-new-report-reveals>