



NATSILS
National Aboriginal and
Torres Strait Islander Legal Services



Community Legal Centres
Australia



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Joint Media Release: United Nations slams Australia's treatment of First Nations people and calls on Australia to Raise the Age in Universal Periodic Review

The Australian Government has had their human rights record against First Nations people criticised and questioned by United Nations members during the United Nations Universal Periodic Review, with Australia under pressure to raise the age of criminal responsibility to at least 14 years.

Australia's historic partnership with First Nations people in the new Closing the Gap National Agreement, racism and discrimination towards First Nations people, as well as the high rates of violence against First Nations women and children, were repeatedly mentioned in recommendations. UN Members encouraged Australia to genuinely consult with First Nations organisations on issues such as Constitutional recognition, a Voice to Parliament, codifying the UN Declaration on the Rights of Indigenous Peoples and justice reform.

The [Universal Periodic Review \(UPR\)](#) is a unique process which involves a periodic review of the human rights records of all 193 UN Member States. It provides an opportunity for all States to declare what actions they have taken to improve the human rights situations in their countries and to overcome challenges to the enjoyment of human rights. The UPR also includes a sharing of best human rights practices around the globe.

Australia's youth justice and age of criminal responsibility was a strong focus for scrutiny, with approximately 31 UN member states recommending the age be raised, with 19 countries calling specifically for a minimum age of at least 14 years old. It is currently 10 years in every state and territory, well behind the rest of the world.

Australia's treatment of First Nations people was repeatedly chastised, with Azerbaijan recognising that "racism towards Indigenous people is deep rooted," Belarus raised concerns that Australia is "dodging its obligations to Indigenous people," El Salvador urged Australia to "step up your action to promote the Human Rights of Indigenous people." While the Holy See commended Australia's commitment to Closing

the Gap, they recommended that Australia "redouble" the efforts to ensure the rights and protections of Indigenous people.

Aboriginal and Torres Strait Islander rates of incarceration and deaths in custody was also examined by the United Nations members, who highlighted the police brutality against Indigenous people and questioned how Australia was working to bring perpetrators of these unlawful acts to justice. Iran called on Australia to "enact measures to end systematic police brutality against Indigenous people by police."

While many countries commended Australia's ratification of the Optional Protocol to the Convention Against Torture (OPCAT), Australia was also questioned by Ukraine and the Phillipines on the implementation of National Preventative Mechanisms, which seeks to improve oversight and conditions for people in detention. Australia has previously postponed their compliance with OPCAT by delaying implementation to January 2022.

The Australian Government's response focused on its commitments to working in partnership with the Coalition of Peaks on Closing the Gap and the process towards a Voice to Parliament. The Government noted that deaths in custody and reducing young Indigenous people in prison were key concerns. However, the Government suggested that raising the age of criminal responsibility was a state and territory issue, and that the doctrine of *doli incapax* protected children under 14 in the justice system, noting that the Council of Attorney Generals' Working Group was looking into the issue.

However, the justice targets in Closing the Gap are not ambitious enough and urgent national leadership is needed, particularly to end Black deaths in custody, to raise the age and stop violence against Indigenous women. *Doli incapax* has been critiqued by the United Nations, with 600 children in Australia under 14 years behind bars ample evidence that it is not working.

NATSILS, NFVPLS and CLCs Australia have lauded the Universal Periodic Review for shining a light on Australia's commitment to human rights, particularly those of Australia's First Nations people, who consistently suffer injustices from discriminatory policies, systemic racism, over-policing, deaths in custody and Australia's ongoing history of colonisation and dispossession.

The UPR Working Group will hand down its final recommendations to the Australian Government on 22 January.

Quotes Attributed to Spokespeople:

"It is embarrassing for Australia that five years since the last Universal Periodic Review, Aboriginal and Torres Strait Islander people remain the most incarcerated people on earth. With over 441 Aboriginal deaths in custody since 1991, the death penalty has never ended for our people. The Universal Periodic Review is a critical opportunity for the Australian Government to reimagine the justice system and commit to ending the over-incarceration and deaths in custody of our people, including raising the age of

criminal responsibility to at least 14 and implementing the recommendations of the Royal Commission into Aboriginal Deaths in Custody, 30 years on from it being handed down. The world is watching.”

- Priscilla Atkins, Co-Chair at NATSILS

“CLCs Australia calls on the Australian government to continue to engage Aboriginal and Torres Strait Islander human rights defenders and communities in meaningful conversations and processes about human rights. We also join other voices calling for ending systematic human rights violations against Aboriginal and Torres Strait Islander peoples. Urgent actions must include the elimination of mass imprisonment, accountability for racist policing and raising the age of legal responsibility.”

- Nassim Arrage, CEO CLCs Australia

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