

# Aboriginal and Torres Strait Islander children

## NGO Coalition Fact Sheet 12

### Children in out of home care (OOHC) (pages 62-63)

At 30 June 2015, the rate of Aboriginal and Torres Strait Islander children on child protection orders was 9 times than that for non-Indigenous children.

The Aboriginal and Torres Strait Islander Child Placement Principle is a key policy measure with a fundamental goal to enhance and preserve an Aboriginal and Torres Strait Islander child's connection with family, community, identity and culture.

It outlines that where children are removed from their home, their placement must be determined with regard to the following order of priority: within family and kinship networks, with a non-related carer from the child's community or with carer in another Aboriginal Community.

However, Only 50.9% of Aboriginal and Torres Strait Islander children in OOHC are placed with Aboriginal and Torres Strait Islander kin or other family. The failures of the current system raise issues under article 24.1, that every child shall have the right to such measures of protection as are required by his [or her] status as a minor, on the part of the State.

#### **Australia should:**

- **develop a national target and strategy to address over-representation of Aboriginal and Torres Strait Islander children in out of home care.**
- **establish a national target to eliminate the over-representation of Aboriginal and Torres Strait Islander children in OOHC by 2040, supported through a resourced national strategy developed in partnership with Aboriginal and Torres Strait Islander peoples.**
- **increase its investment for early intervention family support services; Aboriginal and Torres Strait Islander family and community participation in decision-making; the development and resourcing of Aboriginal and Torres Strait Islander community controlled services; reforms to permanency planning measures that strengthen families and protect children's rights to family, community, culture, and country; and full and proper implementation of the Aboriginal and Torres Strait Islander Child Placement Principle.**

### Aboriginal and Torres Strait Islander children in the criminal justice system (page 63)

Aboriginal and Torres Strait Islander children are highly disadvantaged within the criminal justice system and disproportionately over-represented in custody. In 2016, Aboriginal and Torres Strait Islander children were imprisoned at 25 times the rate of non-Indigenous youth.

Children are imprisoned for relatively minor offences that are non-violent. Data shows that there is an inextricable link between the child protection and youth justice systems, including the increased likelihood of simultaneous contact with both systems.

This situation demands urgent attention and action.

### Punitive bail conditions (page 63)

Aboriginal and Torres Strait Islander children often face punitive bail conditions which are in contravention of article 9(3); that it shall not be the general rule that persons awaiting trial shall be detained in custody.

The bail laws are discriminatory as social, economic and cultural factors can at times make onerous bail conditions difficult to abide by and can increase the risk of young people breaching those conditions and being taken to custody.

This is particularly concerning in light of recent figures showing that Aboriginal and Torres Strait Islander young people in detention on remand increased from 32.9% in 1994 to 55.1% in 2008.

**Australia should amend bail laws to exempt children from the offence of breach of bail. A child-specific pro-bail provision should be inserted to guide decision-making and ensure age-appropriate bail conditions.**