

**Mandate of the Special Rapporteur on extreme poverty and human rights and the Special Rapporteur on the rights of Indigenous Peoples**

Ref.: JAL AUS 6/2025  
(Please use this reference in your reply)

13 October 2025

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on extreme poverty and human rights and Special Rapporteur on the rights of Indigenous Peoples, pursuant to Human Rights Council resolutions 53/10 and 51/16.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of the **ongoing widespread and discriminatory removals of Aboriginal children from their families by child protection authorities in Western Australia**. While the practices have deep historical roots, dating back to systemic removal policies of previous decades, the concern remains highly relevant today. Despite the national apology nearly two decades ago—a significant moment in acknowledging the profound trauma caused by such practices—Australia's First Nations children continue to be removed from their families of origin at alarming rates. The ongoing overrepresentation of Aboriginal children in out-of-home care suggests that the process of healing and reform remains incomplete. Such decisions to separate children from their families allegedly take place routinely in response to conditions of structural poverty and housing insecurity, and without adequate procedural safeguards. These practices appear incompatible with Australia's obligations under international human rights law, in particular the Convention on the Rights of the Child (CRC), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

According to the information received:

Poverty, homelessness, and domestic violence experienced by parents and particularly Aboriginal mothers are routinely treated as factors constituting neglect, thus justifying the removal of children, even in the absence of any evidence of actual abuse. Reports indicate that children are often separated from their families solely due to unstable housing situations, exposure to violence suffered (not perpetrated) by the parent, or extreme financial hardship, in the absence of meaningful support measures from the authorities concerned.<sup>1</sup>

In 2023, Aboriginal children reportedly accounted for approximately 59 percent of all children in out-of-home care, while representing only 7 percent of the child population in Western Australia. This extreme and persistent overrepresentation is the highest of any state or territory in Australia, and echoes the historical legacy of child removals under the “Stolen Generations” policies. It would appear from official data that less than 5 percent of Western Australia's

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<sup>1</sup> See for example CRC, Concluding Observations Australia, [CRC/C/AUS/CO/4](#), para 51-52; CRC, Concluding Observations Australia [CRC/C/AUS/CO/5-6](#), para. 33-34 and A/HRC/36/46/Add.2, para 8, 31-36, 55, 87-96 pp 2-5.

child protection budget is allocated to family support services, the lowest share of any state or territory in the country.<sup>2</sup>

Reportedly, families consistently state that they were offered no meaningful support before the removal of their children, or that they were told it was “too late” for any intervention other than removal. In practice, parents report that they are thus punished not for harming their children, but for being poor. Children are taken from parents who, with minimal and appropriate support, such as access to stable housing, culturally safe family support, or trauma-informed services, could have continued to care for them.

### *Poverty as a ground for removing children from their families*

According to the information received, the child protection system in Western Australia continues to routinely remove Aboriginal children from their families, not for proven abuse, but for structural reasons such as poverty, homelessness, or exposure to domestic violence. Data from the Department of Communities indicates that “exposure to family violence” and “neglect” are the most frequently cited grounds for substantiating harm in Aboriginal families.<sup>3</sup> However, these grounds frequently overlap with conditions of socio-economic hardship rather than deliberate parental wrongdoing.

In multiple cases children were reportedly removed solely on the basis of unstable housing or recent eviction from domestic violence shelters. In one instance, the department offered a pregnant woman a tent as an alternative to shelter accommodation, later using her housing precarity to justify the removal of her infant. Although homelessness is not legally defined as a form of neglect in Western Australian law, departmental policy documents were found to conflate poverty-related conditions with neglect.

Victims of domestic violence reported that they avoided seeking help, including medical treatment, for fear that contact with the authorities would lead to the removal of their children.<sup>4</sup> In this context, the removal of children appears to operate as a punitive response to conditions of deprivation, rather than as a protective measure. Moreover, information indicates that reunification is rarely achieved. Out of 114 children removed from their families in the cases reviewed by Human Rights Watch in a recent 2025 report, only 18 have been reunited with their parents.<sup>5</sup> According to other sources, many of these children suffered long-term emotional and psychological consequences in care.<sup>6</sup>

### *Structural discrimination against Aboriginal families*

The overrepresentation of Aboriginals in out-of-home care has reportedly grown significantly over the past two decades. Today, Western Australia records the highest level of Aboriginal overrepresentation in care across the country.

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<sup>2</sup> <https://www.ourstatebudget.wa.gov.au/2025-26/communities.html>.

<sup>3</sup> [The ongoing removal of Aboriginal children from their families of origin in Australia - Humanium](#)

<sup>4</sup> SNAICC – National Voice for Our Children, “Family matters report 2023,” (2023), p. 87.

<sup>5</sup> <https://www.snaicc.org.au/wpcontent/uploads/2024/07/20240731-Family-Matters-Report-2023.pdf>

<sup>6</sup> Human Rights Watch report 2025, p. 35.

<sup>6</sup> [https://humanrights.gov.au/sites/default/files/telethon\\_kids\\_institute\\_submission\\_redacted\\_0.pdf](https://humanrights.gov.au/sites/default/files/telethon_kids_institute_submission_redacted_0.pdf)

It is our understanding that this situation fits within the broader historical context of the Stolen Generations. Until the 1970s, Aboriginal children were forcibly removed under assimilationist policies. No redress mechanism, it would seem, has ever been implemented for survivors in Western Australia. Today, many of the parents affected by removals are themselves descendants of those earlier policies. The persistence of removals with a disparate impact on Aboriginals contributes to intergenerational trauma and undermines Aboriginal families' trust in state institutions.

Reports also show that Aboriginal children are frequently placed in settings that disregard their cultural identity, including non-Indigenous foster homes or group homes lacking cultural support.<sup>7</sup>

#### *Lack of procedural safeguards and access to justice*

Equally troubling are the systemic procedural failures that characterize the child protection process in Western Australia. We have been presented with information indicating that numerous parents have testified to being excluded from critical decisions affecting their children. Reportedly, some report not being informed of their rights, not being granted access to legal representation, or not being given a chance to respond to the allegations before their children were removed.

Access to legal representation is neither automatic nor guaranteed, especially at the early stages of intervention, when parents are most vulnerable and the stakes are highest. Parents without resources, particularly those dealing with housing instability, mental health challenges, or past trauma, are left to navigate an opaque and complex legal system alone. This situation is especially acute for Indigenous Peoples families, who face both historical mistrust and structural racism within child protection institutions.

Although we do not wish to prejudge the accuracy of the information made available to us, we are deeply concerned that reported practices may place affected families — especially Indigenous families experiencing poverty and housing insecurity — at a serious risk of violations of their human rights, including the right to family life, the right to non-discrimination, the rights of the child, and the right to an adequate standard of living, as protected under international human rights law.

The failure to provide sufficient support to families, resulting in a disproportionate reliance on child removal within Aboriginal communities, betrays a failure of social protection, but also a distortion of the child protection mandate which some see as having turned into a mechanism of punitive surveillance. We fear that when the State fails to fulfill its duty to support families and instead removes children due to circumstances rooted in structural disadvantage, it may transform social vulnerability into parental culpability, thereby exposing families to further trauma and long-term harm.

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<sup>7</sup> Australia Human Rights Commission (2024), “Help way earlier!’: How Australia can transform child justice to improve safety and wellbeing,” p. 13.  
[https://humanrights.gov.au/sites/default/files/document/publication/1807\\_help\\_way\\_earlier\\_-\\_accessible\\_0.pdf](https://humanrights.gov.au/sites/default/files/document/publication/1807_help_way_earlier_-_accessible_0.pdf)

The punitive and discriminatory use of child protection powers against structurally disadvantaged families, in our view violated the principle that family separation must be a measure of last resort and that poverty as such cannot be considered a cause of child neglect justifying removing a child from his or her family.

We are also concerned that the child removal policy of the child protection services has been designed in the absence of meaningful consultation with Aboriginal communities and has serious procedural deficiencies, including: lack of timely legal representation; opaque decision-making processes; long-term and sometimes indefinite placements; limited reunification efforts; and placement of children in care settings far from their families and communities.

In the absence of clear procedural safeguards, the rights of parents and children are systematically curtailed, undermining not only the fairness of the process but its very legitimacy. Moreover, the chronic lack of legal aid and culturally competent advocacy leave Aboriginal families particularly vulnerable to permanent separation without recourse. For these reasons, we are concerned that the current practices in Western Australia may amount to a denial of justice, in contravention of Australia's obligations under both the Convention on the Rights of the Child and the International Covenant on Civil and Political Rights.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it our responsibility, under the mandate provided to us by the Human Rights Council, to seek to clarify all cases brought to my attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please confirm under which guidelines the child protection system in Western Australia operates, and whether such guidelines contain an explicit prohibition from treating poverty, homelessness or lack of adequate housing as a potential cause of "neglect" of the child, justifying removal of the child from his or her parent(s).
3. Please explain which measures are adopted, or will be adopted, in Western Australia to ensure that the child removal policy will not have a disproportionate impact on Aboriginal families and will respect the prohibition of forced assimilation and the destruction of culture, as stipulated in the UN Declaration on the rights of indigenous peoples.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please accept, Excellency, the assurances of our highest consideration.

Olivier De Schutter  
Special Rapporteur on extreme poverty and human rights

Albert K. Barume  
Special Rapporteur on the rights of Indigenous Peoples

## **Annex**

### **Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards.

We would like to draw the attention of your Excellency's Government to its obligations under the Convention on the Rights of the Child, and in particular article 9(1), which provides that a child shall not be separated from his or her parents against their will, unless such separation is necessary for the best interests of the child and is determined by competent authorities subject to judicial review. General comment No. 21 further states that "financial and material poverty, or conditions directly and uniquely imputable to such poverty, should never be the only justification for the removal of a child from parental care but should be seen as a signal for the need to provide appropriate support to the family" (CRC/C/GC/21, para. 46).

We also wish to recall article 3(1) of the Convention on the Rights of the Child which provides that in all actions concerning children, the best interests of the child shall be a primary consideration. Article 18(2) further provides that States shall render appropriate assistance to parents in the performance of their child-rearing responsibilities. A failure to provide such assistance prior to the removal of a child may amount to a breach of this obligation. Article 12(2) provides that children must be given the opportunity to be heard in all judicial and administrative proceedings affecting them. The absence of procedural safeguards, including timely legal representation and participation rights, may thus result in violations of this provision.

We further refer to article 30 of the Convention on the Rights of the Child, which affirms that Indigenous children shall not be denied the right, in community with other members of their group, to enjoy their culture, to profess and practice their religion, and to use their language. The removal of Aboriginal children to non-Indigenous settings without cultural continuity safeguards may violate this provision.

Additionally, we wish to recall the obligations of your Excellency's Government under the International Covenant on Economic, Social and Cultural Rights, and in particular article 10(1), which provides that the widest possible protection and assistance should be accorded to the family. Article 2(2) of the Covenant prohibits discrimination in the exercise of Covenant rights. In its general comment No. 20, the Committee on Economic, Social and Cultural Rights clarified that the concept of discrimination includes both direct and indirect discrimination, and extends to social origin, economic status, and place of residence. Measures that appear neutral but disproportionately affect Aboriginal families facing poverty and housing insecurity may thus amount to indirect discrimination under the Covenant.

We also recall article 11(1) of the International Covenant on Economic, Social and Cultural Right, which recognizes the right of everyone to an adequate standard of living, including adequate housing. In its general comment No. 4, the Committee affirmed that adequacy of housing includes elements such as legal security of tenure, affordability, habitability, cultural adequacy, and accessibility. In general comment

No. 7, the Committee stated that forced evictions are prima facie incompatible with the Covenant and must be strictly limited to exceptional circumstances. Procedural safeguards - including genuine consultation, notice, provision of alternative accommodation, and access to legal remedies - must be guaranteed. Where the removal of children is based on inadequate housing without addressing housing needs, such action may constitute an indirect form of forced eviction.

We further draw attention to article 14(1) of the International Covenant on Civil and Political Rights, which guarantees the right to a fair and public hearing by a competent, independent and impartial tribunal. The Human Rights Committee has emphasized that effective access to justice must include the right to legal assistance where necessary to ensure fairness. Inadequate access to legal aid and the exclusion of parents from key decisions affecting their children may breach this obligation.

In addition, we would like to bring to the attention of your Excellency's Government the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which Australia endorsed in 2009. Article 7 affirms the rights of Indigenous individuals to life, physical and mental integrity, liberty and security of person. Article 8(1) provides that Indigenous peoples have the right not to be subjected to forced assimilation or the destruction of their culture. The disproportionate and persistent removal of Aboriginal children from their families, particularly in Western Australia, raises serious concerns in this regard.

In this regard, article 22(1) of the Declaration affirms that particular attention shall be paid to the rights and special needs of Indigenous children in the implementation of the Declaration. Article 18 affirms that Indigenous peoples have the right to participate in decision-making in matters affecting their rights, through representatives chosen in accordance with their own procedures. The absence of meaningful consultation with Aboriginal communities in the design and implementation of child protection policies is incompatible with this provision.

We would also like to recall that several Special Procedures of the Human Rights Council have addressed the discriminatory and disproportionate impact of child removals on Indigenous communities. We would also like to refer to the 2017 report of the Special Rapporteur on the rights of Indigenous Peoples following her visit to Australia (A/HRC/36/46/Add.2), in which she expresses serious concern regarding the rapidly escalating rates of Aboriginal child removals, incarceration, and continuing structural disadvantage. The Special Rapporteur on the right to adequate housing has likewise underlined that evictions resulting from homelessness or inadequate housing, without access to alternatives, may amount to a violation of the right to housing and family life (A/HRC/43/43, paras. 35-38). Such interpretations underscore that States must prevent removals based on structural disadvantage, and prioritize culturally appropriate support to families.

Taken together, these international standards require that child protection measures respect the rights of the child, protect family integrity, prohibit discrimination, ensure procedural fairness, and guarantee the cultural rights of Indigenous peoples. The practices reported in Western Australia appear to contravene these obligations, particularly when removals are carried out as a response to poverty, housing precarity or victimhood of domestic violence, rather than as a measure of last

resort based on demonstrated risk and supported by adequate social assistance.