



Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples

Submission to the Joint Select Committee on
Constitutional Recognition Relating to Aboriginal
and Torres Strait Islander Peoples

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About UNICEF

1. UNICEF is a multilateral organisation that works in over 190 countries to promote and protect the rights of children. UNICEF supports child health and nutrition, clean water and sanitation, quality basic education for all boys and girls, and the protection of children from violence, exploitation, abuse, HIV, discrimination and social exclusion. UNICEF is unique among world organisations for our rights based and participatory approach to working with children and young people.
2. UNICEF Australia is a national committee of UNICEF which advocates for the rights of all children and works to improve public and government support for child rights and international development.

Executive summary

3. UNICEF Australia welcomes the opportunity to make a submission to the Joint Select Committee on Constitutional Recognition Relating to Aboriginal and Torres Strait Islander Peoples. This short submission will outline why we support the Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples as outlined in the *Uluru Statement from the Heart*.ⁱ
4. UNICEF Australia supports the Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples as aspired in the *Uluru Statement from the Heart* because of our view that the proposals is consistent with a child rights-based approach to policy development. In short, this refers to developing policy consistent with the key guiding principles of the *Convention on the Rights of the Child*ⁱⁱ (the ‘Children’s Convention’) including non-discrimination, the best interest of the child, survival and development, and accountability to, and respect for, the voice of the child.
5. It is UNICEF Australia’s position that the profound disadvantage experienced by many Aboriginal and Torres Strait Islander children and young people cannot be properly addressed without their voices being included in decision making processes that impact on them, and their families. The right to participation (Article 12, of the Children’s Convention) is a gateway to all other rights and therefore serves a critical role in the realisation of all child rights.
6. UNICEF Australia supports measures for the voices of Aboriginal and Torres Strait Islander children and young people – and their families and community leaders – to be heard in good faith by the Australian Parliament. However, we do not provide

specific advice on the design or model of the Voice to Parliament. In our view, the a model should be co-designed by Aboriginal and Torres Strait Islander community leaders in cooperation with the Australian Parliament so that it is appropriately legitimate in its establishment and function. We note and support the recommendations of the Referendum Council in this regard.ⁱⁱⁱ

7. UNICEF Australia considers that the proposals of the *Uluru Statement from the Heart*, including a Voice to Parliament, have a convincing rationale - both instrumental and intrinsic.^{iv} In summary, we believe these are as follows:

1) **Instrumental rationale –**

- a. A human rights-based approach, including mechanisms for participation, self-determination and free, prior and informed consent, have been found to lead to better and more sustainable human development outcomes.^v A mechanism that allows for the participation of Aboriginal and Torres Strait Islander Peoples in decisions that affect them through dialogue created by a Voice to Parliament will better enable Federal Parliament to make more sustainable, effective and efficient decisions on issues that affect Aboriginal and Torres Strait Islander members of the community; and
- b. A Voice to Parliament will enable parliamentarians to have expert and culturally sensitive advice about how to better protect the best interests of Aboriginal and Torres Strait Islander children, and better protect their rights to culture, family, land, education, health and participation. It will help ensure that policy formulation and legislation at the federal level will be informed by the cultural, spiritual, emotional, historical and practical knowledge that is unique to Aboriginal and Torres Strait Islander communities and leaders.

2) **Intrinsic rationale –**

Recognising Aboriginal and Torres Strait Islander Peoples in our Constitution in the form desired by them is the right thing to do, morally and legally.

UNICEF Australia's view is that the proposal would:

- a. more accurately reflect Australia's long-standing and rich cultural identity, and foster a sense of belonging and safety for Aboriginal and Torres Strait Islander children. Australia's Constitution does not currently recognise the foundational and continuing role of First Nations Australians. This is so despite Aboriginal and Torres Strait Islander Peoples being custodians of this land for over 60,000 years, and being the oldest continuing living culture on the planet.^{vi} Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples in a form desired by them holds huge potential to

- set a tone of respect and reverence for Australia’s First Nations Peoples, and build cultural and attitudinal understanding within the community of their special place in Australia’s past, present and future. In turn, this will foster a sense of belonging and safety of Aboriginal and Torres Strait Islander children, with the protective factor of culture being well recognised; and
- b. help address past and present discrimination and racism experienced by Aboriginal and Torres Strait Islander children and adults in Australia.
8. All children have the right to survive, thrive and be supported to reach their full potential. However, it is widely recognised that the disparities experienced by Aboriginal and Torres Strait Islander children indicate we are failing to do this for help First Nations Children, and business as usual is no longer an option. It is UNICEF Australia’s view that implementing the recommendations put forward in the *Uluru Statement from the Heart*, including a referendum for a Voice to Parliament in the Australian Constitution, would set Australia on a path to acknowledging and healing past and continuing wrongs, and improve practical outcomes for Aboriginal and Torres Strait Islander children, families and communities.

Current outcomes and experiences of Aboriginal and Torres Strait Islander children in Australia

9. The historical and current experiences of Aboriginal and Torres Strait Islander children has been of significant concern to UNICEF Australia for many years.^{vii} As convenor of the Australian Child Rights Taskforce, UNICEF Australia has worked in coalition with a group of civil society organisations, service delivery agencies, academics and individual experts since 2011. Most recently, this Child Rights Taskforce produced a report to mark the 25th anniversary of the *Convention on the Rights of the Child* in Australia in 2016.^{viii} Working with SNAICC – National Voice for Our Children, this report highlighted notable disparities and shortcomings in the outcomes for Aboriginal and Torres Strait Islander children as follows:

Where we stand

Critical failures to protect the rights of Aboriginal and Torres Strait Islander children and young people.

FAMILY AND CARE

Aboriginal and Torres Strait Islander young people are



as likely to be receiving child protection services (AIHW 2015a, pp. viii and 5).

as likely to be in out of home care compared to non-Indigenous people

LEARNING AND DEVELOPMENT



69.9 per cent of Aboriginal and Torres Strait Islander children were attending a preschool program, compared to 88.7 per cent for non-Indigenous children (SCRGSP 2014, p. 4.18, Table 4A.3.3).

HEALTH



11.1 per cent of babies born in 2011 were of low birthweight, compared to 4.5 per cent of babies born to non-Indigenous mothers (SCRGSP 2014, p. 6.29, Table 6A.4.).

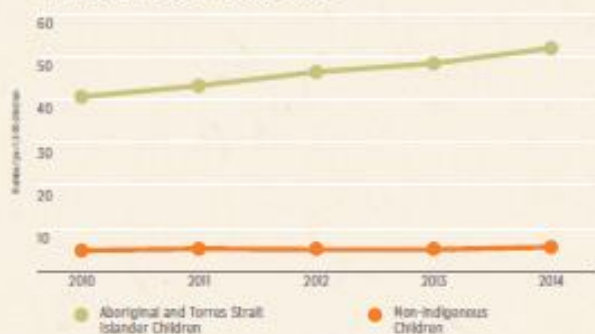
JUSTICE

From June 2011 to June 2015, the level of over-representation of Indigenous young people aged 10-17 in detention increased from 19 to 26 times the rate of non-Indigenous young people (AIHW 2015b, p 2).

19x
(2011)

26x
(2015)

Children in Out-of-Home Care



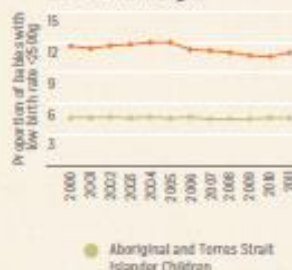
(Data used to generate graph taken from AIHW 2015a, p.108)

Child Development

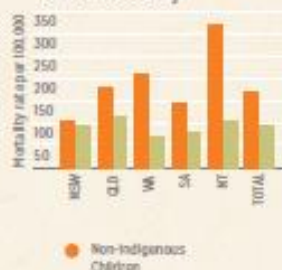


(Australian Government 2012)

Low Birthweight



Child Mortality



(Steering Committee for the Review of Government Service Provision 2014)

Young People in Detention



(AIHW 2014)

Source: Australian Child Rights Taskforce, *CRC25 Australian Child Rights Progress Report* UNICEF Australia and National Children's and Youth Law Centre (2016) 42 <<https://www.unicef.org.au/Upload/UNICEF/Media/Documents/CRC25-Australian-Progress-Report.pdf>>.

10. The same report also included a powerful statement from Melinda who reflected on her childhood experiences:^{ix}

My childhood was very unstable. My family moved around a lot. I went to around four schools before Year 1. This unstable life was a result of my parents abusing drugs and alcohol. Police were present often, which led to my dad being incarcerated most of my life. When I was 5 the State removed me and my siblings. We were lucky enough to have a grandmother and aunts who sacrificed so much to raise us so we wouldn't disappear into foster care and grow up not knowing each other. As a young adult I now know why I couldn't stay at home, but throughout my childhood I wanted to know, which is why I returned home at 13. Living with my parents was not easy as it was when I was younger. Eventually after a year I returned to my aunt and she helped me finish school. My family stuck by me as I worked out who I was.

Family and community are so important to who I am, to who we are as Aboriginal people. Removing children from their parents and family should only ever be a last resort. I would like to see more done to help keep Aboriginal children including those with disabilities, keep their identity and sense of belonging to their family and community. It is important to keep our children strong in their culture, something I am passing onto my own children.

It is also important, particularly for Aboriginal children, that families are able to participate in decisions about their care and upbringing. This is also essential for children just like me. I would like to see children have more involvement in what's happening with their lives, and for adults to listen to them and take them seriously.

Lastly I would also like to see more support for families to stay together, particularly for parents to get back on track, so that children are able to return home to where we belong.

11. It is clear through statistics and the life experiences of Aboriginal and Torres Strait Islander children and young people that Australia needs to fundamentally reconsider our current approach, and what we need to change.

The significance of the *Uluru Statement from the Heart*

12. UNICEF Australia notes with significance the unique, unprecedented consensus reached by Aboriginal and Torres Strait Islander Peoples in the *Uluru Statement from the Heart* in May 2017, and the process of consultation that the Referendum Council undertook to reach that milestone. We note in particular the following:

- a) The process was designed, led and attended by Aboriginal and Torres Strait Islander peoples.

- b) The dialogues and proposals in the *Uluru Statement from the Heart* were informed by, and had to satisfy 10 Guiding Principles, including, significantly, that the proposal must:^x
- a. *Contribute to a more unified and reconciled nation;*
 - b. *Involve substantive, structural reform;*
 - c. *Be of benefit to and accord with the wishes of Aboriginal and Torres Strait Islander peoples;*
 - d. *Be capable of being supported by an overwhelming majority of Australians from across the political and social spectrums; and*
 - e. *Be technically and legally sound;*
- c) The consultation process was ‘bottom up’, allowing for members of the community to genuinely participate and shape the outcome of the consultations; and
- d) The decision to call for a Voice to Parliament, Treaty and Truth through a Makarrata commission was a unified position reached by First Nations Peoples themselves, and is said to be an expression of their own self-determination.

13. Noting of course that there is and will continue to be a variety of views, opinions and priorities within Aboriginal and Torres Strait Islander communities – as indeed there is in non-Indigenous communities – we believe that this was a robust, inclusive and considered process and outcome.

14. For the reasons outlined below, UNICEF Australia supports the *Uluru Statement from the Heart*, including a referendum for a Voice to Parliament.

Instrumental rationale of a Voice to Parliament

a) Participation of Aboriginal and Torres Strait Islander children and communities in decisions that affect them in order to make better decisions

15. Australia has expressed support for the *United Nations Declaration on the Rights of Indigenous Peoples*^{xi}, and has ratified the *Convention on the Rights of the Child*^{xii} (‘Children’s Convention’). These two important international instruments outline the rights of indigenous children, including rights to participation, self-determination, culture, family and language.

16. A human rights-based approach, including mechanisms for participation, self-determination and free, prior and informed consent, is not only consistent with

Australia's international commitments, but has been found to lead to better and more sustainable human development outcomes.^{xiii}

17. However, there is considerable evidence indicating that Australia has not adequately integrated avenues and structures to enable participation and self-determination of Aboriginal and Torres Strait Islander communities. For example, in 2012 the United Nations Committee on the Rights of the Child raised concern about Australia's current approach, noting '[i]nadequate consultation and participation of Aboriginal and Torres Strait Islander persons in the policy formulation, decision-making and implementation processes of programmes affecting them'.^{xiv} The Committee went on to recommend that Australia '[e]nsure the effective and meaningful participation of Aboriginal and Torres Strait Islander persons in the policy formulation, decision-making and implementation processes of programmes affecting them'.^{xv}

18. In UNICEF Australia's view, acting on the considered and consensus recommendations articulated by Aboriginal and Torres Strait Islander Peoples in the *Uluru Statement from the Heart* through a referendum on a Voice to Parliament would be a way to better integrate effective and meaningful participation of Aboriginal and Torres Strait Islander Australians in the development of federal policy and law as recommended by the Committee on the Rights of the Child.

19. It is important to note that the consensus aspirations expressed in the *Uluru Statement from the Heart* were the culmination of the time, expertise and consideration all contributed in good faith by the participants in the 12 regional dialogues, and the 250 Aboriginal and Torres Strait Islander leaders and community members that convened in Uluru in May 2017. We also note that the proposal of a Voice to Parliament creates a mechanism for dialogue, with decision-making powers remaining with Parliament.

20. In the *Guide for Adolescents on the United Nations Declaration on the Rights of Indigenous Peoples* produced by UNICEF, Global Indigenous Youth Caucus, Secretariat of the Permanent Forum on Indigenous Issues, self-determination is described as follows:^{xvi}

[w]hile there are different interpretations, self-determination generally means that indigenous peoples have the right to decide what is best for them and their communities. For example, they can make their own decisions on issues that concern them and carry them out in the way that will be meaningful to

indigenous peoples, while being respectful of the human rights of their community members (including children) and other peoples as well.

21. As such, UNICEF Australia notes with significance the view that the proposals outlined in the *Uluru Statement from the Heart* are an expression of self-determination by Aboriginal and Torres Strait Islander Australians, and that the proposals for Constitutional Recognition in the *Uluru Statement from the Heart* was determined through an Aboriginal led, bottom-up process. UNICEF Australia is concerned that Australia will be acting inconsistently with the right of Aboriginal and Torres Strait Islander Peoples to self-determination if it does not seek to realise and action in good faith the aspirations such as those expressed in the *Uluru Statement from the Heart*.

b) To better understand and protect the best interests of Aboriginal and Torres Strait Islander children

22. Through ratifying the Children’s Convention, Australia committed to protect the best interests of children as a primary consideration. This specifically obliges legislators to consider and protect the best interests of children when developing policy and law, including to protect the best interests of specific groups of children. The Committee on the Rights of the Child has explained:^{xvii}

*...the term “children” implies that the right to have their best interests duly considered applies to children not only as individuals, but also in general or as a group. Accordingly, States have the obligation to assess and take as a primary consideration the best interests of children as a group or in general in all actions concerning them. This is particularly evident for all implementation measures. **The Committee underlines that the child's best interests is conceived both as a collective and individual right, and that the application of this right to indigenous children as a group requires consideration of how the right relates to collective cultural rights** (emphasis added).*

23. The UN Committee on the Rights of the Child has also outlined that Governments should:

- Consult with indigenous communities and ensure they are given an opportunity to participate in the process on how the best interests of indigenous children in general can be decided in a culturally sensitive way when legislation, policies and programmes that affect indigenous children are being developed and decided.^{xviii}

- Ensure that consultation is culturally appropriate, allow for interactive communication and dialogue, and also include indigenous children where appropriate.^{xix}
- Closely consider the cultural significance of traditional land and the quality of the natural environment in order to ensure the development of indigenous children and their enjoyment of culture.^{xx}

24. We note that the aspirations of Aboriginal and Torres Strait Islander Australians expressed the *Uluru Statement from the Heart* have been very much informed by a motivation to help improve the life experiences and outcomes of Aboriginal and Torres Strait Islander children, with the statement itself stating ‘[i]t captures our aspirations for a fair and truthful relationship with the people of Australia and a better future for our children based on justice and self-determination.’^{xxi}

25. In the view of UNICEF Australia, a Voice to Parliament for Aboriginal and Torres Strait Islander Peoples has the potential to provide expert and culturally sensitive advice to policy makers so that the best interests of Aboriginal and Torres Strait Islander children can be better understood and more effectively protected by our federal legislators and policy-makers, and provide a mechanism for meaningful dialogue and consultation with Aboriginal communities as recommended by the UN Committee on the Rights of the Child.

Intrinsic rationale of a Voice to Parliament

a) To more accurately reflect Australia’s long-standing and rich cultural identity, and foster belonging and safety of Aboriginal and Torres Strait Islander children

26. UNICEF Australia acknowledges the foundational and continuing role of First Nations Australians in the history and current identity of Australia, having been custodians of this land for over 60,000 years. We believe that it should be a source of national pride that we are home to the oldest continuing living culture on the planet.^{xxii}

27. The UN Committee on the Rights of the Child has articulated that: ‘the Committee... supports the Committee on the Elimination of Racial Discrimination in its call upon States parties to recognize and respect indigenous distinct cultures, history, language and way of life as an enrichment of the State’s cultural identity and to promote its preservation.’^{xxiii}

28. Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples in a form desired by them holds huge potential to set a tone of respect and reverence for Australia's First Nations Peoples, and build cultural and attitudinal understanding within the community of their special place in Australia's past, present and future. In turn, this will foster a sense of belonging and safety of Aboriginal and Torres Strait Islander children, with the protective factor of culture being well recognised.^{xxiv}
29. UNICEF Australia believes there is also a broader public interest to be gained from the Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples; namely, that it would provide a more accurate reflection of Australia's long-standing and rich cultural identity in our nation's foundational document. The evolution of a country's constitution is an important exercise of nation-building, and this important document can lay the foundation of a multicultural Australia.

b) As a means to help address racism and discrimination

30. Discrimination and racism experienced by Aboriginal and Torres Strait Islander communities in Australia also justifies structural reform to help change the relationship between Aboriginal and Torres Strait Islander Australians and non-Indigenous Australians. We believe there is significant need for cultural, social and structural change in order to address all forms of racism in Australia - internalised, interpersonal, institutional and structural.
31. Discrimination and racism experienced by First Nations Peoples have been extensively evidenced in recent decades by *Bringing Them Home*^{xxv}, the *Royal Commission into Aboriginal Deaths in Custody*^{xxvi}, the *Royal Commission into the Protection and Detention of Children in the Northern Territory*, as well as parliamentary inquiries,^{xxvii} Government policies,^{xxviii} coronial inquests^{xxix} and case law including *Mabo v Queensland [No. 2]*^{xxx}. In 2012, the UN Committee on the Rights of the Child raised specific concern about the impacts of discrimination on Aboriginal and Torres Strait Islander children, noting in particular:^{xxxi}
- (a) *The serious and widespread discrimination faced by Aboriginal and Torres Strait Islander children, including in terms of provision of and accessibility to basic services and significant overrepresentation in the criminal justice system and in out-of-home care;*
 - (b) *The absence of an independent evaluation of the effectiveness of programmes for the 'Closing the Gap' targets in the specific context of child protection, development and well-being;*

(c) The punitive nature of the State party's Northern Territory Emergency Response Bill (2007), including the student enrolment and attendance measure which allows for punitive reductions to welfare payments for parents whose children are truant...

32. When children experience racism it has a real and detrimental impact on their life chances. Dr Naomi Priest has explained:^{xxxii}

[c]hildren and young people who are targets of racial discrimination are at higher risk of increased anxiety and depression, behavior difficulties, suicide and self-harm. Sleep difficulties, systemic inflammation, and risk factors for cardiovascular disease have also been linked with racial discrimination experiences among children. Young people who experience high levels of racial discrimination have also been found to have increased cellular aging, inflammation, and physiological wear and tear. Racial discrimination quite literally can get under the skin and make our children and young people sick.

33. UNICEF Australia supports measures that can symbolically and practically help address policies, practices and attitudes that perpetuate discrimination and racism in Australia. We believe that a First Nations Voice to Parliament can be one such measure.

34. In addition, UNICEF Australia supports a Makarrata Commission to supervise a truth-telling process about Australia's history and treatment of First Nations People – including many babies and children adversely affected by official policies and practices. This is an important measure for healing purposes, and for community education; namely, to help remedy the discrimination, exclusion and disempowerment experienced by Aboriginal and Torres Strait Islander Peoples through raising public awareness and understanding about these issues, and the on-going impact on children, families and communities adversely affected by official policies and practices.

35. Children and young people in Australia have also told UNICEF Australia that they are concerned about the experiences of Aboriginal and Torres Strait Islander children. In 2014 for example, UNICEF Young Ambassadors consulted with children and young people across the country. An extract of their comments and concerns regarding Aboriginal and Torres Strait Islander children is below:

Aboriginal and Torres Strait Islander children



ARTICLE 30: Children have the right to learn and use the language and customs of their families, whether or not these are shared by the majority of the people in the country where they live, as long as this does not harm others.

Some children told us that they are concerned about the respect for the rights of Aboriginal and Torres Strait Islander children. In particular, children were concerned that Aboriginal and Torres Strait Islander children are sometimes socially excluded - and that they may experience racism. Children were particularly worried about the barriers some Aboriginal & Torres Strait Islander children may face in accessing quality education. It was emphasised that all children in Australia need to be treated fairly and equally, including Aboriginal & Torres Strait Islander children and young people.

Children were also aware and concerned that too many Aboriginal and Torres Strait Islander children are not living with their families.

The Indigenous population. Reasons: historical killings; haven't noticed any at school; not as much access to resources; treated unfairly in past and now tribes are disappearing; they are poorly represented - only got the vote recently and people are racist to them; Australia Day being Invasion Day; people taking over their land; bullying because of their skin colour; exclusion. *Primary school student, ACT*

I feel Indigenous people are sometimes neglected in society. *High school student, TAS*

Aboriginal or Torres Strait Islanders who are in remote locations because they can't get access to healthcare or much education. Particularly for the kids, if they grow up there and that's all they know, then they'd be quite isolated. *Year 8 student, VIC*

I worry about people who are Indigenous. I feel that a lot of them are disadvantaged - although some of them aren't - a lot of them who take opportunities still have stigmas attached to them. Like the idea of being Indigenous is still quite a thing in Australia. As well - people who struggle with their gender identity. I don't feel there's any mainstream way to explore that or ratify that, which is something we should work on. *Ben, 16, TAS*

Aboriginal children worries me, because the gap between Indigenous and non-Indigenous in education is still enormous and the results are still currently appalling. *Annie, 16, NSW*

I worry about the indigenous Australians as I am of Aboriginal descent and I know I have had it lucky, but others that I have met haven't so I try to help them as much as possible. *AJ, 12, NSW*

Racism is a big thing in our school. There are lots of stereotypes against stuff Aboriginal people and Islanders stuff like that. So it's actually really bad for people's self-esteem and who they are. And it actually is a really big thing in our school and we have talked about it. I think it's really bad and we have right to be who we are and our race is who we are. And people are not letting it happen. *High school student, WA*

Source: UNICEF Australia Young Ambassadors, *Things That Matter*, UNICEF Australia (2014) 42
<<https://www.unicef.org.au/Upload/UNICEF/Media/Documents/UNICEF-Australia-Things-That-Matter.pdf>>.

Conclusion

36. The process of Constitutional reform and referenda in Australia is undoubtedly a technically and socially complex undertaking. However, decisive leadership is required to ensure that historic disadvantage is addressed and that children from Aboriginal and Torres Strait Islander backgrounds have a fair chance at life.

37. UNICEF Australia believes there is a compelling intrinsic and instrumental rationale for the Federal Parliament and the Australian community to realise the aspirations of Aboriginal and Torres Strait Islander Peoples as expressed in the *Uluru Statement from the Heart*, commencing with a referendum to establish a First Nations Voice to Parliament in the Australian Constitution. We believe that doing so will further promote the best interests of Aboriginal and Torres Strait Islander children, and help ensure our foundational document more accurately reflects Australia's rich and long cultural identity. We encourage all members of Federal Parliament to continue to work in good faith and in a non-partisan manner to help realise the aspirations of

Australia's First Nations Peoples, and the many members of the community that support these aspirations also.

Contact

If you have any questions or if we can be of further assistance, please contact Alison Elliott, Senior Policy Adviser, at UNICEF Australia, on (02) 8917 3247 or aelliott@unicef.org.au.

- ⁱ Referendum Council, *Uluru Statement from the Heart* (2017) <https://www.referendumcouncil.org.au/sites/default/files/2017-05/Uluru_Statement_From_The_Heart_0.PDF>.
- ⁱⁱ Opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990).
- ⁱⁱⁱ Referendum Council, *Final Report* (2017) 30-31 <https://www.referendumcouncil.org.au/sites/default/files/report_attachments/Referendum_Council_Final_Report.pdf>.
- ^{iv} The Office of the United Nations High Commissioner for Human Rights has identified that there is both an intrinsic rationale and an instrumental rationale for adopting a human rights based approach. See Office of the United Nations High Commissioner for Human Rights *Frequently Asked Questions on a human rights-based approach to development cooperation* (2006) 16 <<https://www.ohchr.org/Documents/Publications/FAQen.pdf>>.
- ^v The Office of the United Nations High Commissioner for Human Rights has identified that there is both an intrinsic rationale and an instrumental rationale for adopting a human rights based approach. See Office of the United Nations High Commissioner for Human Rights *Frequently Asked Questions on a human rights-based approach to development cooperation* (2006) 16 <<https://www.ohchr.org/Documents/Publications/FAQen.pdf>>.
- ^{vi} Australian Geographic, ‘DNA confirms Aboriginal culture one of Earth’s oldest’, 23 September 2011 <<http://www.australiangeographic.com.au/news/2011/09/dna-confirms-aboriginal-culture-one-of-earths-oldest/>>.
- ^{vii} See, for example, Australian Child Rights Taskforce, *Listen to Children*, UNICEF Australia and National Children’s and Youth Law Centre (2011) <<https://www.unicef.org.au/Upload/UNICEF/Media/AboutUs/Publications/PUB-2011-Listen-to-Children-Report.pdf>>; Australian Child Rights Taskforce, *CRC25 Australian Child Rights Progress Report* (2016) UNICEF Australia and National Children’s and Youth Law Centre <<https://www.unicef.org.au/Upload/UNICEF/Media/Documents/CRC25-Australian-Progress-Report.pdf>>; UNICEF Australia, *Submission to the Royal Commission into the Protection and Detention of Children in the Northern Territory* (29 November 2016) <https://www.unicef.org.au/Upload/UNICEF/Media/Our%20work/UNICEF-Australia-Submission-to-the-NT-Royal-Commission-29-11-16-FINAL_1.pdf>; and UNICEF Australia, *Inquiry into the incarceration rate of Aboriginal and Torres Strait Islander Peoples* (28 September 2017) <<https://www.unicef.org.au/Upload/UNICEF/Media/Our%20work/UNICEF-Australia-submission-to-the-ALRC-inquiry-into-the-incarceration-rate-of-ATSI-peoples-28-09-17-FINAL.pdf>>.
- ^{viii} Australian Child Rights Taskforce, *CRC25 Australian Child Rights Progress Report*, UNICEF Australia and National Children’s and Youth Law Centre (2016) <<https://www.unicef.org.au/Upload/UNICEF/Media/Documents/CRC25-Australian-Progress-Report.pdf>>.
- ^{ix} Australian Child Rights Taskforce, *CRC25 Australian Child Rights Progress Report* UNICEF Australia and National Children’s and Youth Law Centre (2016) 43 <<https://www.unicef.org.au/Upload/UNICEF/Media/Documents/CRC25-Australian-Progress-Report.pdf>>.
- ^x Referendum Council, *Role of the Referendum Council* (2017) 22-28 <<https://www.referendumcouncil.org.au/get-the-facts#collapse21>>.
- ^{xi} General Assembly, *United Nations Declaration on the rights of indigenous peoples*, GA Res 61/295, UN GAOR, 61st sess, 107th plen mtg, Supp No 49, UN Doc A/RES/61/295 (13 September 2007).
- ^{xii} Opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990).
- ^{xiii} The Office of the United Nations High Commissioner for Human Rights has identified that there is both an intrinsic rationale and an instrumental rationale for adopting a human rights based approach. See Office of the United Nations High Commissioner for Human Rights *Frequently Asked Questions on a human rights-based approach to development cooperation* (2006) 16 <<https://www.ohchr.org/Documents/Publications/FAQen.pdf>>.
- ^{xiv} United Nations Committee on the Rights of the Child, *Consideration of reports submitted by States parties under article 44 of the Convention - Concluding observations: Australia* (28 August 2012), UN Doc. CRC/C/AUS/CO/4 [29].
- ^{xv} *Ibid*, [30].
- ^{xvi} Global Indigenous Youth Caucus, Secretariat of the Permanent Forum on Indigenous Issues and UNICEF, *Know Your Rights! United Nations Declaration on the Rights of Indigenous Peoples for indigenous adolescents* (2013) <http://files.unicef.org/policyanalysis/rights/files/HRBAP_UN_Rights_Indig_Peoples.pdf>.
- ^{xvii} United Nations Committee on the Rights of the Child, *General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1)** (29 May 2013), UN Doc. CRC/C/GC/14 [23] <http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f14&Lang=en>.

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