



Berry Street
CHILDHOOD
INSTITUTE

DISCUSSION PAPER

**A good childhood for Aboriginal and Torres
Strait Islander children**

**By Julian Pocock
Director Public Policy &
Practice Development,
Berry Street and Associate,
Berry Street Childhood Institute**

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The destiny of the nation will unfold once we can see the potential in all of our children. As parents, as peoples, we are the guardians of the future through infant dreaming. Our greatest assets are our children. Our greatest achievement is bringing about their wellbeing throughout life and development. We can be caught up looking ahead when we should be taking care of the present. Together we must gaze upon the infant with love and understanding, watch the child grow with encouragement and admiration, and stand beside our youth with humility and pride. Above all we must respect their fundamental right to live out their story as it should be. Protected, nurtured yet free to dream dreams and achieve brilliance. Dr Helen Milroyⁱ

Dr Helen Milroy challenges us to be concerned for the well being of all children and remain mindful of the greatest achievement we can accomplish – to support the fundamental right of all children to live out their story as it should be.

This paper has been written to accompany the discussion paper ***The Changing Conditions of Childhood: Is a good childhood now at risk?*** published by the Berry Street Childhood Instituteⁱⁱ.

Berry Street is interested in what contributes to and constitutes a good childhood and why, as the majority of children in Australia are flourishing, the wellbeing of an increasing number of Australian children appears to be in decline. At the broadest level our observation is that childhood is itself in decline. As a consequence more children are not having a good childhood with lifelong implications for those children and intergeneration impacts on the health of the nation.

Issues and challenges documented in ***The Changing Conditions of Childhood*** impact on all children across all cultural groups. Aboriginal and Torres Strait Islander families and children face not only the contemporary challenges of childhood that their non-Indigenous counterparts face but the added challenge of inter-generational trauma, the ongoing impact of colonisation, severe levels of economic disadvantage and the challenge of sustaining their unique Indigenous cultures from a minority position within their own traditional lands.

Exploring, discussing and understanding what the essential elements are of a good childhood is a necessary step in arriving at some view regarding the current status of childhood in Australia. Helen Milroy tells us that above all, we must respect the right of children to live out *their story as it should be*. This suggests that we should be careful not to disrupt their story so as to prevent it from being as it should be.

For Aboriginal and Torres Strait Islander children the story of their childhood since colonisation has included deliberate intervention by colonial authorities for the purpose of disrupting their story, their culture and their future. For most of the twentieth century child welfare policy was a key instrument in this disruption and was used to assist in the process of removing Indigenous families from their lands and Indigenous children from their families.

Having been a part of the child welfare system for over 130 years Berry Street is conscious that we were part of a system that quite deliberately set out to change the story of Aboriginal and Torres Strait Islander children's lives. As noted for a considerable portion of those 130 years the system sought to change the story of Aboriginal and Torres Strait Islander children's lives by denying them their right to be raised as Aboriginal or Torres Strait Islander children. It sought to extinguish their cultural identity.

In 2006 Berry Street, and agencies across the child welfare sector, apologised for their part in this period in child welfare, for contributing to a system that created the *Stolen Generations*, and

committed themselves to supporting self determination for Aboriginal and Torres Strait Islander people, families and children. Now it is acknowledged within child welfare legislation in all States and Territories that for Aboriginal and Torres Strait Islander children their Indigenous cultural identity is the foundation of life-long wellbeing.

With the ascendancy of Indigenous culture it is possible that rather than a good childhood for Aboriginal and Torres Strait Islander children being in decline **Indigenous childhood** is experiencing something of a renaissance. The extraordinary resistance to and rejection of colonisation by Aboriginal and Torres Strait Islander families and communities has secured the place of Indigenous culture as central to the well being of their children.

Securing a good childhood for Aboriginal and Torres Strait Islander children

From the earliest days of colonisation what type of childhood Aboriginal and Torres Strait Islander children should have has been contentious. Concern for the place and wellbeing of their children was central to the resistance shown by Aboriginal and Torres Strait Islander people to the invasion of their lands and country.

Amongst the first formal demands and petitions to parliaments from Aboriginal political organisations were demands that the family life of Aboriginal people be held as sacred.

In 1927 the NSW based Australian Aborigines Progressive Association sent the NSW Premier a petition calling upon the NSW Government to *“restore to us that share of our country of which we should never have been deprived” and requesting that “the family life of the Aboriginal people shall be held as sacred and free from invasion and that the children shall be left in the control of their parents”ⁱⁱⁱ.*

The (Victorian) Aborigines Advancement League was formed in 1932 and in 1937 sent a petition addressed to King George VI to Prime Minister Joseph Lyons calling for representation for Aboriginal people in the Federal Parliament and for the King’s intervention to secure the future of the Aboriginal race.

Frustrated at the lack of response, the NSW Aborigines Progressive Association and the Victorian Aborigines Advancement League joined forces to declare a national day of mourning on January 26th 1938, the 150th anniversary of colonisation. Material released for the day of mourning lamented the continued intrusion into the lives of Aboriginal families and the resultant harm:

“The Aboriginal Protection Board... has ‘protected’ the full-bloods of New South Wales so well that there are now less than a thousand of them remaining... Its powers are so drastic that merely on suspicion or averment it can continue its persecuting protection unto the third, fourth and fifth generation of those so innocently unfortunate as to be descended from the original owners of this land...

The Board may cause the child of any Aborigine to be apprenticed to any master, and any child who refuses to be so apprenticed may be removed to a home or institution. The Board may assume full control and custody of the child of any Aborigine.... Give our children the same chances as your own, and they would do as well as your children! “^{iv}

During this period an Indigenous child’s cultural identity was viewed as a threat to the child’s wellbeing. This racist belief was at the core of the state sanctioned break up of Aboriginal and Torres Strait Islander communities, the coercive and brutal controls imposed upon families and the forced

removal of children. Children that were then placed within non-Aboriginal families with the expressed purpose of accelerating and 'breeding out' the remnants of their cultural identity thereby accelerating the decline of Indigenous lore, languages, and customs and eventually destroying Aboriginal and Torres Strait Islander cultures. As the Human Rights and Equal Opportunity Commission (HREOC) reported in the *Bringing Them Home Report*, these practices constituted genocide.

In 1979 the Victorian Aboriginal Child Care Agency, (VACCA), convened the "First Aboriginal Child Survival Seminar" at which families moved to establish a national advocacy group to protect the rights of Aboriginal and Torres Strait Islander children and ensure that children removed by child protection authorities were only placed with their appropriate Aboriginal family and kin.

By 1983 that organisation, SNAICC, the Secretariat of National Aboriginal and Islander Child Care, had secured agreement from all State and Territory Governments to the Aboriginal Child Placement Principle. Under the principle Indigenous cultural identity is seen as the foundation of children's wellbeing rather than an inhibitor of wellbeing. In a period of less than fifty years the advocacy of Aboriginal agencies saw the prevailing view regarding what was necessary for Aboriginal and Torres Strait children to have a good childhood completely reversed.

Human rights, Indigenous rights and a good childhood

Concerns for the rights of children and for childhood as a distinct period in human development influenced the development of the earliest United Nations international human rights agreements.

The United Nations (UN) Declaration on Human Rights, developed in response to gross violations of human rights during the World War II, was formally agreed at a meeting of the UN General Assembly on December 10th 1948. The declaration specifically proclaims that childhood is entitled to special care and assistance.

Motivated by the belief that children need particular care and protection that adults do not and a desire to ensure that the world recognized that children have human rights, the UN established the Convention on the Rights of the Child (CROC) in 1989.

CROC was the first legally binding human rights instrument to include all areas of human rights - civil, cultural, economic, political and social rights. The convention spells out that children have a right to survival; to develop to their fullest potential; to protection from harmful influences, abuse and exploitation; and to participate fully in family, cultural and social life.

Over the past two decades Aboriginal leaders in Australia have argued that international human rights frameworks should be given greater prominence in policy and programs aimed at securing the rights and wellbeing of Aboriginal and Torres Strait Islander children.

Speaking during his term as Australia's first Aboriginal and Torres Strait Islander Social Justice Commissioner, Mick Dodson, highlighted that not only do Indigenous peoples, including their children, have the same rights as all other people they have ***inherent rights*** as Indigenous people and ***distinct rights***.

"First of all, our rights, including our rights to our land, to practice our law, and to maintain and develop our cultures are inherent. They are not given by anyone or any government. Nor can they be taken away. Sadly, they can be abused.

Secondly, we have distinct rights. It is too often mistakenly asserted that equality means treating everyone in the same way. Equality without a cultural context can itself become a form of discrimination and a violation of rights. To assert that we are different or that our distinct status demands different conditions is not a matter of charity or welfare, it is a simple recognition of who we are.

Thus, when the high court recognised native title as uniquely applying to Indigenous people, it did not discriminate against any other group. Nor did it add to the welfare of Indigenous people. It recognised that only Indigenous people possess the particular relationship with land which has been called native title, and that we must be permitted to enjoy the associated rights.

From the recognition of our distinct status there must also follow a respect for that distinct status. It is crucial that Indigenous peoples be allowed and supported to maintain and develop our distinct identities, and that we be able to practice and revitalise our cultural traditions and spirituality. Any derogation from this right, including policies of forced assimilation is cultural genocide.”^v

Australia is a signatory to the United Nations Convention on the Rights of the Child (CROC) which includes the rights of Indigenous children to grow up with members of their own cultural group. Within all Australian States and Territories, the Aboriginal Child Placement Principle outlines the preferred placement options for Indigenous children at risk of abuse or neglect. Consistent with the UN CROC the principle prioritises safe placement with the cultural group to which an Indigenous child belongs.

The UN Declaration on the Rights of Indigenous Peoples was adopted by the United Nation in September 2007 with only four member states opposed to the declaration, Australia was one of those four states. The adoption of the declaration was the outcome of 20 years of international advocacy by Indigenous people including Indigenous leaders from Australia. Following the election of the Rudd Labor Government in 2009 the Australian Government reversed its earlier decision and agreed to the declaration. It secures rights to self determination, to the protection of culture and that Indigenous peoples shall not be subjected to the forced removal of their children to another group.^{vi}

Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group. (UN Declaration on the Rights of Indigenous people, Article 7.2)

Further discussion on how Australia can sustain a good childhood for all its children must consider the unique place of Aboriginal and Torres Strait Islander children in the nation – including respecting their inherent and distinct rights and their right to self-determination.

Closing the gap

Alongside developments in the human rights field, (and at times as an alternative agenda), Australian governments have sought to promote ‘practical’ solutions to persistent issues impacting on the health, welfare and well being of Aboriginal and Torres Strait Islander people. On most socio-economic and health indicators, Aboriginal and Torres Strait Islander people fall well behind their non-Indigenous counterparts.^{vii}

Focusing on 'practical' issues has been put forward by some governments as more important than a focus on 'philosophical' issues such as reconciliation and human rights^{viii}. The Howard Coalition Government coined the term 'practical reconciliation' arguing that pursuing practical measures was more important than issues such as making a formal apology to the *Stolen Generations*.

Closing the gap in health and wellbeing between Indigenous and non-Indigenous Australians is now a central feature of government policy. Governments at all levels and of all persuasions are seeking, with mixed results, to 'close the gap' between Indigenous and non-Indigenous people including the closing the gap for Indigenous children.

In 2008 the Council of Australian Governments (COAG) agreed to six targets to address the disadvantage faced by Indigenous Australians in life expectancy, child mortality, education and employment.

They are to:

- close the gap in life expectancy within a generation (by 2031);
- halve the gap in mortality rates for Indigenous children under five by 2018;
- ensure access to early childhood education for all Indigenous four year olds in remote communities by 2013;
- halve the gap in reading, writing and numeracy achievements for children by 2018;
- halve the gap for Indigenous students in Year 12 (or equivalent) attainment rates by 2020; and
- halve the gap in employment outcomes between Indigenous and other Australians by 2018.

COAG funding agreements were developed in 2008 with all State and Territory governments incorporating specific targets to improve health, education and socio-economic outcomes for Indigenous people, including children. Governments report annually on progress towards these targets and the Prime Minister provides a consolidated annual report to the Federal Parliament.

Key findings in the most recent report, *Closing the Gap: Prime Ministers Report 2013* include that:

- the target to ensure that all Indigenous four year olds in remote communities have access to early childhood education will be met
- the target to halve the gap in mortality rates for Indigenous children by 2018 is on track
- life expectancy for Aboriginal and Torres Strait Islander people has significantly improved since 2008 however the mortality rate will need to fall faster to meet the 2031 target
- significant improvement has been made in improving year 12 retention of Aboriginal and Torres Strait Islander people^{ix}

Berry Street is heartened by these improvements. However as noted in *The Changing Conditions of Childhood* in recent years there has been an alarming and sustained escalation in the numbers of children coming to the attention of child protection authorities. This escalation is particularly acute for Aboriginal and Torres Strait Islander children. Aboriginal and Torres Strait Islander children continue to be grossly over represented in child protection notifications, substantiations and placement in Out-of-Home Care.

Conclusion

Since the earliest days of colonisation what constitutes a 'good childhood' for an Aboriginal or Torres Strait Islander child has been contentious. Aboriginal and Torres Strait Islander families and agencies have succeeded in turning back the tide of colonisation that threatened to destroy the cultural identity of their children. Reflecting on that alone it is arguable that childhood for Aboriginal and Torres Strait Islander children is stronger than at any time since colonisation. Combined with the

embodiment of Indigenous rights within various UN human rights instruments and modest improvements in key aspects of health and wellbeing Aboriginal and Torres Strait Islander children might yet live out their story, their Indigenous childhood, as it should be.

ⁱ As cited in, Freemantle, J. Stanley, F., Read, A., de Klerk, N. (2004) *The First Research Report: patterns and trends in mortality of Western Australian infants, children and young people 1980-2002*. Advisory Council on the Prevention of Deaths of Children and Young People. The Department for Community Development, Government of Western Australia

ⁱⁱ Green, D (2013), *The Changing Conditions of Childhood: Is a good childhood now at risk?* See <http://www.childhoodinstitute.org.au/home>

ⁱⁱⁱ See <http://www.aiatsis.gov.au/collections/exhibitions/dayofmourning/background.html>

^{iv} See <http://www.aiatsis.gov.au/collections/exhibitions/dayofmourning/background.html>

^v *Social justice for Indigenous peoples* Speech by Michael Dodson, Aboriginal and Torres Strait Islander Social Justice Commissioner at the Third David Unaipon Lecture, October 1993 As accessed at <http://www.humanrights.gov.au>

^{vi} *Indigenous Self Determination and the Charter of Human Rights and Responsibilities – A framework for discussion* Victorian Equal Opportunity and Human Rights Commission Occasional Paper 2010, prepared by Professor Larissa Behrendt and Alison Vivian; Jumbunna Indigenous House of Learning, University of Technology, Sydney ISBN 978-0-9807850-0-5. Available at: <http://www.humanrightscommission.vic.gov.au>

^{vii} Australian Institute of Health and Welfare (2012) *A Picture of Australia's Children 2012*. Cat.No. PHE 167. Canberra ISBN 978-1-74249-357-2

^{viii} B.H. Hunter and R.G. Schwab (2003), Practical reconciliation and continuing disadvantage in Indigenous education. *The Drawing Board: An Australian Review of Public Affairs*, Volume 4, Number 2: November 2003, 83–98 University of Sydney

^{ix} *Closing the Gap Prime Ministers Report 2013*. Available at http://www.fahcsia.gov.au/sites/default/files/documents/02_2013/00313-ctg-report_accessible11.pdf