Submission on Australia's Seventh Periodic Report under the Convention Against Torture

National Aboriginal and Torres Strait Islander Women's Alliance

Submitted to	Attorney-General's Department
Consultation	Australia's draft seventh periodic report under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
Closing date	18 September 2026
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Purpose of this submission

The National Aboriginal and Torres Strait Islander Women's Alliance (NATSIWA) welcomes the opportunity to comment on Australia's draft seventh periodic report under the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. This submission focuses on the parts of the List of Issues Prior to Reporting that directly affect Aboriginal and Torres Strait Islander women and girls, particularly gender-based violence, detention, deaths in custody, independent investigation, access to redress, missing and murdered women and children, and the prevention of enforced disappearance.

The draft report describes programs, legislation and oversight arrangements, but it does not yet provide a sufficiently clear account of whether those measures are protecting Aboriginal and Torres Strait Islander women in practice. A list of initiatives is not the same as evidence of safety, accountability or effective remedy. The final report must identify continuing failures, include nationally comparable gender-disaggregated data, and set out measurable actions and timeframes.

About NATSIWA

The National Aboriginal and Torres Strait Islander Women's Alliance (NATSIWA) is the national peak body representing Aboriginal and Torres Strait Islander women across Australia. NATSIWA provides a collective national voice to ensure that women's leadership, lived experience and policy priorities are centred in government decision-making.

NATSIWA is funded through the Australian Government's Gender Equality Strategy, administered by the Office for Women, and works to strengthen the participation, safety, wellbeing and leadership of Aboriginal and Torres Strait Islander women and girls. As a national alliance, NATSIWA engages with women across urban, regional, rural and remote communities, bringing their voices, lived experience, cultural authority and leadership into national policy, law reform and decision-making.

NATSIWA works across policy reform, systemic advocacy and community engagement to address structural barriers experienced by Aboriginal and Torres Strait Islander women, including in safety, health, housing, employment, education and justice. This work is grounded in self-determination, cultural authority and community-led solutions, and recognises the diversity of Aboriginal and Torres Strait Islander women, including women with disability; women in or leaving prison; older women; young women; and women experiencing poverty, homelessness, violence and systems abuse.

Consistent concerns raised by advocates

NATSIWA's concerns are consistent with those raised by Aboriginal legal services, First Nations justice advocates, women's services and human rights organisations. These organisations have repeatedly warned that policy commitments are not translating into consistent safety, accountability or access to justice. Their work reinforces the need for the final report to respond to systemic failures and measurable outcomes, rather than relying on descriptions of existing frameworks.

The Victorian Aboriginal Legal Service has called for a nationally consistent system for recording missing and murdered First Nations women and children, governed by Indigenous Data Sovereignty and Indigenous Data Governance and accessible to Aboriginal community-controlled organisations. It has also identified inconsistent jurisdictional definitions, incomplete recording of Indigenous status and the absence of consistent data about First Nations children missing from out-of-home care.

The Aboriginal Legal Service NSW/ACT has emphasised that government must demonstrate that it has heard and values the voices of families and communities by resourcing and implementing inquiry recommendations. ANROWS has similarly identified colonisation, dispossession, distrust of legal systems, incarceration, housing insecurity and barriers to culturally safe services as interconnected drivers of violence and barriers to help-seeking.

The Human Rights Law Centre, Change the Record and the National Aboriginal and Torres Strait Islander Legal Service have raised concerns about jurisdictions where little or no work had been undertaken to establish OPCAT-compliant oversight, as well as systemic, chronic and escalating human rights concerns in detention. The Australian Human Rights Commission has also called for independent complaints and investigation mechanisms, a national database on First Nations deaths in custody, justice reinvestment and full implementation of the Royal Commission into Aboriginal Deaths in Custody recommendations.

Summary of recommendations

Recommendation 1 Revise the draft report so it separately identifies the experiences and outcomes of Aboriginal and Torres Strait Islander women and girls across every relevant section.

Recommendation 2 Include nationally comparable, gender-disaggregated data on detention, use of force, strip-searches, isolation, complaints, deaths in custody, missing persons, suspicious deaths and access to redress.

Recommendation 3 Establish enforceable national minimum standards for the treatment of women in police and correctional custody, including health care, family contact, legal assistance, searches, restraints and notification.

Recommendation 4 Require genuinely independent investigation of deaths, serious injuries, alleged ill-treatment and unexplained disappearance following contact with police, corrections, health, mental health, child protection or other government systems.

Recommendation 5 Create a national, culturally safe mechanism for families seeking review of unresolved or mishandled cases involving missing or murdered Aboriginal and Torres Strait Islander women and children.

Recommendation 6 Publicly report implementation of the Senate inquiry into missing and murdered First Nations women and children, including progress on police practices, past-case review, data and independent oversight.

Recommendation 7 Complete implementation of the Optional Protocol to the Convention against Torture through properly funded and independent National Preventive Mechanisms with unrestricted access to all places of detention.

Recommendation 8 Provide accessible, culturally safe complaints, legal assistance, healing, compensation and other remedies that do not depend on a criminal conviction.

Recommendation 9 Fully implement and independently assess the recommendations of the Royal Commission into Aboriginal Deaths in Custody, with public reporting on continuing gaps and outcomes for women.

Recommendation 10 Ratify the International Convention for the Protection of All Persons from Enforced Disappearance and incorporate its protections into Australian law.

Recommendation 11 Raise the minimum age of criminal responsibility to at least 14 years in every jurisdiction without exception, ensure detention of children is used only as a genuine last resort, prohibit solitary confinement and the use of force as discipline for children, and require children to be held separately from adults in every form of detention.

Recommendation 12 Prohibit non-consensual sterilisation and other non-consensual medical interventions on women and girls with disability in law nationally, move away from involuntary institutionalisation, and fully implement the recommendations of the Disability Royal Commission relevant to restrictive practices, supported decision-making and redress for Aboriginal and Torres Strait Islander women and girls with disability.

1 The draft report must show outcomes not only activity

NATSIWA acknowledges the policies and investments described in the draft report, including Our Ways – Strong Ways – Our Voices, investment in Aboriginal community-controlled family safety services, justice reinvestment initiatives and legal assistance. These are important foundations. However, the report too often treats the existence of a policy, program, training package or complaints body as evidence that Australia has met its obligations.

The final report should state what has changed for Aboriginal and Torres Strait Islander women: whether women are safer; whether reports of violence and missing persons are acted on earlier; whether deaths and serious harm are decreasing; whether complaints are independently resolved; whether coronial recommendations are implemented; and whether families receive truth and justice. Where evidence is unavailable, the report should identify that absence as an accountability gap and explain how and when it will be corrected.

2 Gender-based violence and missing and murdered women

Paragraph 5 of the List of Issues asks Australia to explain how it prevents and combats violence against women and girls, with a focus on Aboriginal and Torres Strait Islander peoples. The draft report recognises disproportionate violence and describes national plans and funding. It does not sufficiently address the institutional and systemic failures that increase the risk of women being harmed, murdered or disappeared.

The 2026 Missing and Murdered Indigenous Women and Children Roundtable described this as a national human rights crisis. It identified failures across policing, justice, child protection and service systems; racism and harmful stereotyping; misidentification of victim-survivors as perpetrators; inadequate investigations; data gaps; and unsafe institutional responses. It also emphasised that missing and murdered Aboriginal and Torres Strait Islander women and children cannot be understood only through a domestic and family violence lens. Risks also arise from institutional violence, homelessness, incarceration, exploitation, child removal and systemic neglect.

The final report should:

- treat missing and murdered Aboriginal and Torres Strait Islander women and children as a distinct human rights and state-accountability issue;
- explain the action taken on every recommendation of the 2024 Senate inquiry, including recommendations that were only supported in principle or noted;
- report progress against the proposed harmonisation of police practices and guidelines for reviewing past cases where families seek review;
- identify how police responses will be monitored for racism, stereotyping, delay, victim misidentification and failure to investigate; and
- include Aboriginal and Torres Strait Islander women's organisations and affected families in governance, monitoring and evaluation.

3 Aboriginal and Torres Strait Islander women in detention

The draft report responds to the Committee's questions about overrepresentation, legal services and detention conditions. It does not provide a sufficiently gendered account of why Aboriginal and Torres Strait Islander women enter custody or what they experience once detained. Women's imprisonment is closely connected with family and domestic violence, poverty, homelessness, disability, poor health, child removal, fines, short sentences, remand and a lack of culturally safe community-based alternatives.

National reporting must examine the treatment of Aboriginal and Torres Strait Islander women in police cells, watch houses, prisons, youth detention, court cells, transport and health or mental health detention. It must include access to physical, reproductive and mental health care; medication continuity; pregnancy and postnatal care; disability support; family and child contact; legal advice; interpreters; cultural support; and safe release planning.

The final report should also provide sex- and Indigenous-status-disaggregated data on strip-searches, restraints, spit hoods, tasers, chemical agents, isolation and use of force. It should explain what independent scrutiny exists and what consequences follow unlawful or disproportionate treatment. Policies stating that force or restraint is used only when necessary are not sufficient without data, oversight and enforceable remedies.

4 Deaths in custody and preventable harm

The draft report states that coronial investigations are mandatory but also acknowledges that coronial information is not routinely reported by states and territories. It refers to the 2018 review of implementation of the Royal Commission into Aboriginal Deaths in Custody. Reliance on whether recommendations were described as fully or partially implemented does not show whether those measures are effective, consistently applied or preventing deaths.

The final report should provide nationally consistent information on deaths of Aboriginal and Torres Strait Islander women in police custody, prisons, youth detention and other forms of state detention. It should include the circumstances of death, known health or safety risks, notification failures, the time taken to investigate, whether family members received timely information, coronial findings, disciplinary or criminal outcomes, recommendations made and whether each recommendation was implemented.

Families must not be required to navigate several agencies to obtain basic information. They should receive early, accurate and culturally safe communication, access to records and legal support, and an identified contact person. Confidentiality clauses in settlements must not be used to conceal systemic risks or prevent public accountability.

5 Independent investigation and complaints

The draft report describes a mixture of internal complaint systems, police professional standards processes, ombudsmen, integrity bodies and external oversight. This does not answer the central question of independence. A complaint is not independently investigated

where the investigating body belongs to, reports to, or depends on the same institution whose officers or practices are in question.

Aboriginal and Torres Strait Islander women may face barriers to making complaints, including fear of retaliation, lack of privacy, low literacy, disability, limited phone access, geographic isolation, distrust of institutions, previous racism and the risk that they will be disbelieved or punished. Complaint pathways must be available in custody and in the community, be accessible without staff permission, and include support from Aboriginal community-controlled legal and advocacy services.

The final report should identify which bodies can conduct a fully independent investigation, compel evidence, protect complainants, make binding findings or recommendations, refer criminal conduct for prosecution, and publish outcomes. It should provide data on the number, nature, duration and outcome of complaints made by Aboriginal and Torres Strait Islander women.

6 Missing persons and enforced disappearance

Not every missing-person case is an enforced disappearance under international law. Enforced disappearance generally involves deprivation of liberty by agents of the State, or by persons acting with State authorisation, support or acquiescence, followed by refusal to acknowledge the deprivation of liberty or concealment of the person's fate or whereabouts, placing that person outside the protection of the law.

This framework is relevant to safeguards that Australia should maintain whenever police, corrections, hospitals, mental health facilities, child protection authorities or other state bodies take control of a person. Accurate custody registers, immediate notification, documented transfers, access to lawyers and families, independent monitoring and prompt disclosure of a person's whereabouts are fundamental protections.

The final report should address the prevention of disappearance and concealment in all places where a person may be deprived of liberty. Australia should also commit to ratifying the International Convention for the Protection of All Persons from Enforced Disappearance. Ratification would strengthen the right to truth, investigation, justice, reparation and guarantees of non-repetition.

7 National data and Indigenous Data Sovereignty

The draft report repeatedly states that information is not collected nationally in a uniform or comparable form. This is not a minor technical issue. Without nationally consistent data, governments cannot identify patterns of harm, compare jurisdictions, evaluate reforms or be held accountable. Data gaps also keep the deaths, disappearances and experiences of Aboriginal and Torres Strait Islander women out of public view.

The Australian Government should lead agreement with states and territories on a minimum national dataset covering:

- deaths, serious injuries and medical emergencies in custody;

- missing-person reports and the timeliness and outcome of police responses;
- use of force, restraint, strip-search, isolation, tasers, chemical agents and spit hoods;
- complaints, investigations, findings, disciplinary action, prosecutions and remedies;
- access to legal assistance, health care, interpreters, disability support and family notification; and
- implementation of coronial, inquiry and oversight recommendations.

All data should be disaggregated by sex, age, Aboriginal and Torres Strait Islander status, disability, location and type of detention. Collection, interpretation, access and publication must respect Indigenous Data Sovereignty and include Aboriginal and Torres Strait Islander women in governance and decision-making.

8 National Preventive Mechanisms

NATSIWA notes the draft report's statement that Australia now has a multi-body National Preventive Mechanism network. Designation alone does not establish effective prevention. Each mechanism must be independent, adequately funded, culturally capable and able to enter every place of detention without obstruction, speak privately with detained people, obtain records and publish findings.

The final report should state which places of detention remain outside effective inspection, what resources have been provided to each mechanism, whether Aboriginal and Torres Strait Islander women and organisations participate in inspection design, and how recommendations are tracked. It should also explain the practical steps taken to ensure that a future visit by the United Nations Subcommittee on Prevention of Torture can proceed without the barriers that led to termination of the 2022 visit.

9 Redress rehabilitation and healing

The draft report refers to state and territory victims' compensation schemes, civil remedies and specialist services. These pathways are fragmented and may be difficult to access, especially for women in custody, women living remotely, women with disability and families pursuing truth about a death or disappearance. General victims' schemes do not necessarily provide an effective remedy for institutional ill-treatment, negligent investigation or systemic failure.

Redress should include access to information, acknowledgement of wrongdoing, apology, compensation, culturally safe healing and rehabilitation, review of an unsafe decision or investigation, restoration of dignity, and guarantees that the harm will not recur. It should not depend on the identification or criminal conviction of an individual perpetrator where state or institutional failures are established. Aboriginal community-controlled legal and healing services must be funded to assist women and families through these processes.

10 Aboriginal and Torres Strait Islander girls in youth detention

Paragraph 18 of the List of Issues asks Australia to raise the minimum age of criminal responsibility, ensure detention of children is used only as a last resort, prohibit the use of force for discipline, investigate abuse in youth detention, separate children from adults, and ban solitary confinement for children. The draft report describes reform commitments but does not adequately address the specific circumstances of Aboriginal and Torres Strait Islander girls.

Aboriginal and Torres Strait Islander children are around 6.6 per cent of the population aged 10 to 17 but make up 60 per cent of young people in detention nationally, and are 21 times as likely as non-Indigenous children to be detained. On an average night in the June quarter of 2025, 45 Aboriginal and Torres Strait Islander girls were in youth detention. Girls in detention frequently have histories of family violence, sexual abuse, child protection involvement, disability and trauma, and are often detained for behaviour connected to that trauma rather than serious offending.

The final report should:

- confirm a nationally consistent minimum age of criminal responsibility of at least 14 years, without exception, in every jurisdiction;
- provide disaggregated data on the detention of Aboriginal and Torres Strait Islander girls, including offending profile, remand status, length of stay, and the use of force, isolation and strip-searching;
- report on implementation of the recommendations of the Royal Commission into the Protection and Detention of Children in the Northern Territory and other jurisdictional inquiries into youth detention, and identify which remain unimplemented;
- explain how children are kept separate from adults in every form of detention, including police cells and watch houses; and
- confirm that solitary confinement and the use of force as discipline are prohibited for children in law and in practice, with independent monitoring.

11 Women and girls with disability deprived of liberty

Paragraph 19 of the List of Issues asks Australia to report on the number and conditions of people deprived of liberty in psychiatric and disability settings, measures to move away from involuntary institutionalisation, regulation of restraint and force, prohibition of forced medical interventions and sterilisation, and implementation of the Disability Royal Commission's recommendations. The draft report does not adequately address the situation of Aboriginal and Torres Strait Islander women and girls with disability, who experience the combined effects of disability discrimination, racism and gender-based violence.

The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability heard evidence that women and girls with disability, including children as young as seven, have been subjected to sterilisation and other reproductive interventions without their

free and informed consent. This amounts to a serious human rights violation and is inconsistent with Australia's obligations under the Convention. Aboriginal and Torres Strait Islander women and girls with disability face additional barriers to raising these harms, including distance from services, distrust of institutions, and a lack of culturally safe advocacy and legal support.

The final report should:

- state the current legal status of non-consensual sterilisation of women and girls with disability in each jurisdiction, and set out a timetable to prohibit it in law nationally, other than in a genuine medical emergency;
- provide disaggregated data on the number of Aboriginal and Torres Strait Islander women and girls with disability in psychiatric facilities, disability accommodation and other closed settings, and the use of restraint, seclusion and chemical restraint on them;
- report on progress implementing the recommendations of the Disability Royal Commission relevant to restrictive practices, supported decision-making and redress; and
- fund Aboriginal community-controlled disability advocacy and legal support so that Aboriginal and Torres Strait Islander women and girls with disability can report abuse and access redress safely.

12 Required changes to the final report

Before Australia submits its seventh periodic report, NATSIWA recommends that the Attorney-General's Department:

- include a dedicated section on Aboriginal and Torres Strait Islander women and girls across gender-based violence, custody, deaths, complaints and remedies;
- include a dedicated response on missing and murdered Aboriginal and Torres Strait Islander women and children and implementation of the Senate inquiry recommendations;
- clearly identify limitations, incomplete reforms and unavailable data instead of presenting the existence of programs as proof of compliance;
- provide measurable commitments, responsible agencies, timeframes and public reporting arrangements;
- include a dedicated response on the treatment of Aboriginal and Torres Strait Islander girls in youth detention, and on the institutionalisation and sterilisation of Aboriginal and Torres Strait Islander women and girls with disability;
- include the voices and cultural authority of Aboriginal and Torres Strait Islander women and affected families; and
- commit to continuing engagement with NATSIWA and other Aboriginal and Torres Strait Islander women's organisations after the report is submitted.

Conclusion

Australia cannot demonstrate full compliance with its obligations to prevent torture and other cruel, inhuman or degrading treatment while Aboriginal and Torres Strait Islander women continue to experience preventable deaths, unsafe detention, institutional violence, inadequate investigations and barriers to justice. Families have a right to know what happened to their loved ones.

The final report must do more than describe laws, policies and investments. It must confront where systems continue to fail, provide transparent evidence of outcomes and commit governments to measurable reform. Truth, accountability, justice, healing and guarantees of non-repetition must be central to Australia's response.

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