

Submission to the Senate Legal and Constitutional Affairs References Committee Inquiry into Australia's Youth Justice and Incarceration System

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Introduction

This submission addresses the Senate Legal and Constitutional Affairs References Committee's inquiry into Australia's youth justice and incarceration system. It focuses on the disproportionate incarceration of First Nations children, the outcomes of youth incarceration, and Australia's obligations under international law. An urgent call is made for systemic change, which includes the need for the colonizers—the governments and institutions built on colonization—to come to the table, listen to the voices of First Nations communities, and learn from their perspectives and lived experiences in creating a just and equitable system.

b) Over-Incarceration of First Nations Children

The over-incarceration of First Nations children is a profound injustice that is inextricably linked to the legacy of colonization in Australia. Despite being a small percentage of the youth population, Indigenous children are grossly over-represented in the criminal justice system, often due to systemic biases and the failure of policies to address underlying social, cultural, and economic factors.

- **Systemic Inequities:** The over-representation of First Nations children in youth detention is not just a symptom of poverty or individual behaviour but a direct result of systemic inequities perpetuated since colonization. The continued marginalization of Indigenous peoples and the breakdown of traditional social and family structures have contributed to a cycle of disadvantage.
- **Role of Colonization:** It is vital to recognize that many of the issues affecting First Nations children stem from colonization's ongoing impact. These include intergenerational trauma, disconnection from culture, and the imposition of laws and systems that fail to account for Indigenous ways of living and justice.

For meaningful reform, the colonizers—those who control the systems of law, governance, and policy—must come to the table and genuinely listen to First Nations communities. The knowledge, traditions, and practices of Indigenous peoples offer vital insights into justice, healing, and rehabilitation. In order to move forward, it is essential that these voices are centred in discussions about youth justice reform.

e) The Need for Colonizers to Listen and Learn

True reconciliation and reform cannot occur without a fundamental shift in how the systems of power engage with First Nations communities. The colonial structures that underpin Australia's legal and justice systems must acknowledge their role in perpetuating harm and actively work to dismantle the systemic biases that disproportionately affect Indigenous children.

- **Listening to First Nations Voices:** The voices of First Nations leaders, elders, and community members must be heard and respected in conversations about youth justice reform. Their lived experiences and cultural understanding offer essential solutions to problems created by colonial systems.
- **Learning from Indigenous Knowledge:** Indigenous approaches to justice, which emphasize restoration, healing, and community accountability, provide valuable alternatives to punitive detention. Colonizers must be willing to learn from these models and implement them in ways that are culturally appropriate and responsive to the needs of Indigenous communities.

This requires more than symbolic gestures; it demands a genuine commitment to rethinking and reshaping the justice system in partnership with First Nations communities. It is only by listening, learning, and acting on the wisdom and experience of Indigenous peoples that we can create a system that truly serves all young Australians.

Conclusion

Australia's youth justice system must undergo profound reform to address the over-incarceration of First Nations children, comply with human rights standards, and fulfil the nation's international obligations. This cannot happen without confronting the ongoing effects of colonization and ensuring that the colonizers—the institutions and governments that uphold these systems—come to the table, listen to the voices of Indigenous communities, and learn from their knowledge. Only through such engagement can we build a justice system that is fair, equitable, and capable of supporting the rehabilitation and healing of all young people.

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