

# Aboriginal and Torres Strait Islander Stolen Generations and descendants

## Executive Summary

The forcible removals of Aboriginal and Torres Strait Islander children have had long-term, intergenerational traumatic impacts on individuals and their families and descendants.<sup>1</sup>

In 2018, the [Bringing Them Home 20 Years On: An Action Plan for Healing](#) report observed that

[m]ost Aboriginal and Torres Strait Islander people have been affected by the Stolen Generations. The resulting trauma has been passed down to children and grandchildren, contributing to many of the issues faced in Indigenous communities, including family violence, substance abuse and self-harm.<sup>2</sup>

Recent research has documented adverse consequences experienced by both members of the Stolen Generations and their descendants,<sup>3</sup> who, compared with Aboriginal and Torres Strait Islander people who were not removed or who did not have family members removed, experience:

- higher rates of incarceration, interaction with police and arrest;<sup>4</sup>
- higher rates of institutional abuse, including sexual abuse;<sup>5</sup>
- poorer physical and mental health outcomes;<sup>6</sup>
- lower rates of employment, financial security and home ownership;<sup>7</sup>
- higher rates of homelessness;<sup>8</sup>
- higher rates of discrimination;<sup>9</sup>
- weakened connection to culture, including lower rates of speaking an Indigenous language;<sup>10</sup>
- higher rates of violence;<sup>11</sup> and
- lower levels of trust in the general community.<sup>12</sup>

The 1997 [Bringing Them Home](#) report found that any treatment and healing for survivors of forcible removal must emphasise local Indigenous healing and well-being perspectives.<sup>13</sup>

Peeters et al emphasise that ‘the pathway to recovery involves mind, body and spirit and is holistic in that culture, identity and reconnecting with family, community and country are central to the healing journey’.<sup>14</sup>

The potential relevance of evidence of membership of, or being a descendant of, Aboriginal and Torres Strait Islander Stolen Generations in sentencing proceedings includes an assessment of *moral culpability*; moderating the weight to be given to *general deterrence*; and determining the weight to be given to *specific deterrence* and *protection of the community*. There may also be issues relating to the likelihood of *hardship in custody*, a finding of *special circumstances* and the shaping of conditions to enhance prospects of *rehabilitation*.

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<sup>1</sup> Human Rights and Equal Opportunity Commission, [\*Bringing Them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families\*](#) (April 1997) 4; Australian Law Reform Commission, [\*Pathways to Justice – An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples\*](#) (Report No 133, 27 March 2018) 74 [2.71]; Secretariat of National Aboriginal and Islander Child Care (SNAICC) et al, [\*Family Matters Report 2019\*](#) (2019) 5.

<sup>2</sup> Aboriginal and Torres Strait Islander Healing Foundation, [\*Bringing Them Home 20 Years On: An Action Plan for Healing\*](#) (Report, 2018) 4.

<sup>3</sup> Aboriginal and Torres Strait Islander Healing Foundation, [\*Bringing Them Home 20 Years On: An Action Plan for Healing\*](#) (n 2); Thalia Anthony, Gemma Sentance and Lorana Bartels, ‘Transcending Colonial Legacies: From Criminal Justice to Indigenous Women’s Healing’ in Lily George et al (eds) *Neo-colonial Criminal Justice: The Mass Imprisonment of Indigenous Women* (Palgrave Macmillan, forthcoming); Australian Institute of Health and Welfare, [\*Aboriginal and Torres Strait Islander Stolen Generations and Descendants: Numbers, Demographic Characteristics and Selected Outcomes\*](#) (Report, August 2018).

<sup>4</sup> Aboriginal and Torres Strait Islander Healing Foundation, [\*Bringing Them Home 20 Years On: An Action Plan for Healing\*](#) (n 2) xiv.

<sup>5</sup> Anthony, Sentance and Bartels (n 3).

<sup>6</sup> Aboriginal and Torres Strait Islander Healing Foundation, [\*Bringing Them Home 20 Years On: An Action Plan for Healing\*](#) (n 2) xiv.

<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

<sup>10</sup> Ibid xvi.

<sup>11</sup> Ibid.

<sup>12</sup> Ibid.

<sup>13</sup> Human Rights and Equal Opportunity Commission, [\*Bringing Them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families\*](#) (n 1) 345.

<sup>14</sup> Lorraine Peeters, Shaan Hamann and Kerrie Kelly, ‘The Marumali Program: Healing for Stolen Generations’ in Pat Dudgeon, Helen Milroy and Roz Walker (eds), [\*Working Together: Aboriginal and Torres Strait Islander Mental Health and Wellbeing Principles and Practice\*](#) (Commonwealth of Australia, 2<sup>nd</sup> ed, 2014) 493, 502.