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'Never again'? Resonances of the Past in Contemporary Aboriginal and Torres Strait Islander Child Removal

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Abstract

Kevin Rudd's 2007 *Apology to Australia's Indigenous Peoples* acknowledged the devastating impact of child removal on Aboriginal and Torres Strait Islander families and communities and included a commitment that 'the injustices of the past must never, never happen again' (Parliament of Australia 2008). Today however, while First Nations children comprise 6% of the total child population in Australia, they make up 41% of children in out-of-home care (SNAICC 2024b). This article explores the history of Aboriginal and Torres Strait Islander child removal during the Stolen Generations era, considering the ongoing impacts of this history on First Nations families today. While there have been changes, I identify significant continuities between past and contemporary child removal. These disturbing resonances of the past highlight the failed promise of Australian governments to deliver meaningful change in contemporary First Nations child removal policies and practices and to ensure that the mistakes of the past are not being repeated.

Keywords

Stolen Generations; Aboriginal And Torres Strait Islander Child Removal; Child Welfare; First Nations Families; Intergenerational Trauma

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Introduction

In 2008, more than a decade after the *Bringing Them Home* Inquiry concluded its investigation into the forcible removal of Aboriginal and Torres Strait Islander children from their families, newly elected Prime Minister Kevin Rudd offered an historic apology to Australia's Indigenous Peoples on behalf of the Australian government, marking a distinct shift from the Howard government's hostility to and denial of the Inquiry's findings. Although avoiding any reference to genocide[1] or compensation, Rudd's Apology acknowledged the devastating impact of child removal on Aboriginal and Torres Strait Islander families and communities, included a strong expression of regret, and contained a clear statement of intent for changed relations between the federal government and First Nations peoples in the future (Parliament of Australia 2008). Today however, despite Rudd's commitment that 'the injustices of the past must never, never happen again' (Parliament of Australia 2008), Aboriginal and Torres Strait Islander children remain disproportionately over-represented in out-of-home care (OOHC). While making up 6% of the total child population in Australia, First Nations children currently comprise 41%[2] of children in OOHC (SNAICC 2024b); far from 'closing the gap', the over-representation of First Nations children in out-of-home care (OOHC) is increasing (Productivity Commission 2024, p. 29).

This paper explores the history of Aboriginal and Torres Strait Islander child removal during the Stolen Generations era, considering the ongoing impacts of this history on First Nations families today. In discussing the history of the Stolen Generations, I draw on my PhD research, which involved analysis of 134 interviews[3] with removed children, Aboriginal mothers[4], and non-Indigenous Australians involved in various ways in the removal of First Nations children,[5] as well as Aboriginal women's autobiographical accounts of experiences of child removal. In discussing contemporary removals of First Nations children, I focus on the extensive body of data, reports and scholarship which has been produced on this topic in the 16 years since Rudd made the commitment that the past injustices of child removal would 'never happen again', and seek to foreground the voices, experiences, research and solutions of First Nations people and organisations.

There have undoubtedly been changes in First Nations child removal policy and practice since the Stolen Generations era, not least the significant role played today by Aboriginal and Torres Strait Islander community organisations in advocating for and supporting First Nations children and families. However, in her Foreword to the 2019 *Family is Culture* report, Megan Davis pointed to the ongoing need to recognise

1 One of the most widely reported and controversial findings of the Inquiry was that the forcible removal of Indige-nous children constituted genocide, based on Article II (e) of the Genocide Convention relating to the forcible transfer of children. The Inquiry was also criticised for its 'extraordinarily wide conception of 'forcible removal'' and for failing to distinguish sufficiently between the 'the prewar policy of biological absorption and the postwar policy of sociocultural assimilation' in making its claim of genocide (McGregor 2004, p. 292). The apology was also notably silent on the issue of financial compensation for the victims of child removal policies.

2 This paper draws primarily on SNAICC data. SNAICC includes children on long-term third- party parental responsi-bility orders in their count of removed children, on the basis that these children have been removed from their families by child protection authorities and therefore governments should be held accountable for them (SNAICC 2024a, p. 14).

3 130 of these interviews were drawn from the National Library of Australia's *Bringing Them Home* Oral History archive and were either publicly accessible for researchers or I was granted permission to access these. Additionally, I undertook four in-depth interviews myself.

4 While I use the terms First Nations or Aboriginal and Torres Strait Islander peoples throughout this paper as collective nouns to refer to both First Peoples of Australia, all of the mothers whose accounts of child removal I considered identified as Aboriginal people.

5 A detailed account of this research was published in my book, *Stolen Motherhood: Aboriginal Mothers and Child Removal in the Stolen Generations Era* (Payne 2021).

'the manifestations of state policies and laws' in the daily lives of Aboriginal people, noting, 'We know the child protection system today has resonance with historical practice because Aboriginal people have said so and we must not only listen but hear what they are saying' (Independent Review of Aboriginal Children in OOHC 2019, p. xvi). As I will argue, these disturbing resonances of the past highlight the failed promise of Australian governments to deliver meaningful change in contemporary First Nations child removal policies and practices and to ensure that the mistakes of the past are not being repeated.

The removal of Aboriginal children in the Stolen Generations era

This section provides a brief overview of the history of the Stolen Generations, the term commonly used to describe the discriminatory removal of successive generations of First Nations children from their families in Australia from the late 19th century, continuing in some states and territories until the late 1960s.[6] The first phase of Stolen Generations-era child removals, covering the period approximately from 1900-1950 (the height of the era of the White Australia policy and the eugenicist movement), was primarily motivated by attempts to address the 'half-caste problem' (Evans 2004, p. 118). In some states and territories this resulted in government-led efforts to encourage 'half-caste' Aboriginal women to marry white men (Manne 2004, pp. 227-228). In other regions, the focus was on racial segregation combined with other strategies to discourage miscegenation; these efforts nearly always focused mainly on controlling the sexuality and reproduction of First Nations women and girls (Goodall 1995, p. 82; Manne 2004, p. 234). In most states and territories, removed First Nations children were institutionalised in segregated facilities during this phase,[7] despite declining rates of institutionalisation for non-Indigenous children at this time (Swain 2014, p. 11). The second phase of removals, dating from around the 1950s onwards, focused on the assimilation of Aboriginal and Torres Strait Islander people into the wider community. Child removals in this era were primarily justified utilising child welfare discourses (Swain 2014, p. 9). The assimilation phase also saw a focus on Aboriginal and Torres Strait Islander women, whose key role as mothers and homemakers was identified as a critical point of state access to and intervention in First Nations families (Goodall & Huggins 1992; Goodall 1995).

Despite claims made by the Howard government in responding to the findings of the *Bringing Them Home* Inquiry that Aboriginal and Torres Strait Islander child removals in the Stolen Generations Era may have been justified according to 'the child protection standards of the day' (see, for example, Herron 2000, p. 3), key differences existed between removals of Aboriginal and Torres Strait Islander children and those of other children taken from their families at this time. A study of adoption trends in Australia in the late 1960s revealed that half of all non-Indigenous adoptees were adopted by a relative (Winkler & van Keppel 1984, p. 5); this contrasts with the total removal from family and community experienced by many First Nations children. Relinquishing white birth mothers in this era were most likely to be single parents, often teenagers, whose contact with their children did not extend beyond pregnancy/birth or the neo-natal period (Winkler & Van Keppel 1984, p. 4). In contrast, 40% of Aboriginal and Torres Strait Islander children in my sample who were removed during the decades of the Stolen Generations were aged five years or over at the time of their removal, with several children (all female) removed in their teens (see Payne 2016, p. 313). Lack of family support was a significant factor behind many of the forced adoptions experienced by young white mothers at this time (Inglis 1984, p. 190), whereas only one Aboriginal research participant in my

6 Although First Nations children were removed from their families in a range of circumstances from the earliest days of colonisation (Atkinson & Swain 1999, p. 221; HREOC 1997, p. 22; Robinson 2008, p. 18), the Stolen Generations period is typically seen as dating from the passage of the first state-based Aboriginal 'protection' legislation in the late 19th century until its eventual dismantling, which occurred as late as 1969 in some states.

7 Victoria and Tasmania were the exceptions as they did not develop segregated facilities for Aboriginal children (Swain 2014, p. 17).

sample indicated that her removal resulted from a lack of extended family support for keeping her (Payne 2016, p. 43). Indeed, accounts from Stolen Generations survivors have indicated that their extended family sought to care for them but were refused by welfare authorities, who were seemingly intent on assimilation (Payne 2021, pp. 95-6).

Most non-Indigenous children made available for adoption up to the late 1960s were the children of unmarried mothers (Inglis 1984, p. 4); yet nearly one third of Aboriginal research participants in my sample who were removed as children came from two-parent families (Payne 2016, p. 43), with interviewees commenting that the absence of their father due to itinerant work or the death or illness of a parent were frequent triggers for welfare intervention (Payne 2016, p. 159). First Nations children were frequently institutionalised, a practice that persisted even when institutionalisation was no longer considered appropriate in mainstream child welfare practices (Parry 2007, p. 327). The *Bringing Them Home* report noted the minimal government funding provided for Indigenous families living in settlements, missions and institutions; 'people forced to move to these places were constantly hungry, denied basic facilities and medical treatment and as a result were likely to die prematurely' (Human Rights and Equal Opportunity Commission (HREOC) 1997, p. 26).[8] At least in the case of children removed by welfare processes in NSW, gender was also a significant factor in the removal of Aboriginal children; girls were predominantly removed by the Aboriginal Protection Board (Goodall 1990), 'whereas boys predominated in all forms of care offered by other state welfare agencies' (Parry 2007, pp. 327-328).

Systemic issues contributing child removal in the Stolen Generations era

This section provides an overview of the significant and widespread systemic issues impacting on the capacity of Aboriginal families to care for and retain custody of their children during the Stolen Generations era. In *Decolonizing Methodologies*, Māori scholar Linda Tuhiwai Smith calls for researchers to avoid the assumption 'that the locus of a particular research problem lies with the indigenous individual or community rather than with other social or structural issues' (Smith 2012, p. 95). Rather than seeing child removal arising from the 'problem' of First Nations parenting, this section focuses on the impact of institutionalised racism on First Nations families, expressed through legislation and the policies and practices of government departments, welfare agencies, police, mission officials and other agencies involved in the administration of Aboriginal Affairs during the Stolen Generations era. We see the ongoing impacts of these systemic issues on First Nations families today.

DEPRIVATION OF PARENTAL RIGHTS

Any consideration of the history of First Nations child removal must be grounded in an understanding of the deprivation of First Nations parental rights throughout much of the twentieth century. Deprived of any legal authority in relation to their children in some states and territories, frequently living on missions and reserves where decisions about everyday matters had to be deferred to white authorities, living under the constant threat of child removal, the authority of Aboriginal and Torres Strait Islander parents to make decisions in relation to the care of their children was severely diminished. In an historical overview of Australian child protection legislation written to inform the work of the Royal Commission into Institutional Responses to Child Sex Abuse, Shurlee Swain describes an uneasy fluctuation within this legislation generally between 'punishing parents' and 'preserving families' (Swain 2014, p. 14). As I will detail

8 As one example, payments made by the Queensland state government to support children living in institutional care were made differentially on the basis of a child's race, with the rate for First Nations children being around one-third of that for non-Indigenous children (Kidd 1997, p. 58).

below, the balance of Aboriginal protection legislation in the Stolen Generations era fell heavily on the 'punishing parents' side of the ledger.

The *Bringing Them Home* Report addressed the impact of 'Deprivation of parental rights' on child removal, noting that contrary to established common law principles, First Nations parents were stripped of their parental rights in Western Australia from 1905 – 1963; the Northern Territory from 1910 – 1964; South Australia from 1911 – 1962; and in Queensland from 1939 – 1965 (HREOC 1997, p. 255), with a state-appointed 'protector' assuming wardship of all First Nations children in these jurisdictions. From 1890 the Board of Protection oversaw arrangements for the care of Aboriginal children and were empowered to remove Aboriginal children without the need of a court process in Victoria (Swain 2014, p. 18); and from 1915 the Aboriginal Protection Board had the power to remove all Aboriginal children without parental consent or court process in New South Wales (Swain 2014, p. 18). The Australian Capital Territory came under the provisions of the *NSW Aboriginal Protection Act* until 1954, when the ACT *Aborigines Welfare Ordinance* came into effect; its provisions included authorisation for the Minister to 'provide for the maintenance, welfare and training' of Aboriginal children 'on the application of their parent or guardian'. Only in Tasmania did Aboriginal child removals take place under mainstream child welfare legislation.[9] The *Bringing Them Home* Report identified that from the 1940s, some states (New South Wales, Tasmania and Victoria) applied the same laws and standards to both Aboriginal and non-Aboriginal families, although in a discriminatory and unfair manner, while others (Western Australia, Northern Territory, South Australia and Queensland) continued to operate separate Indigenous administrations and legislative frameworks, eventually dismantling these from the 1950s onwards (HREOC 1997, p. 250).

While all parental rights are subject to suspension or termination by legal process, the *Bringing Them Home* Report highlighted that the rights of First Nations parents were removed indiscriminately on the basis of parents' status as Aboriginal and Torres Strait Islander people (HREOC 1997, p, 255). The legislation that appointed the Protector of Aborigines (or equivalent position) the legal guardian of *all* First Nations children in Queensland, South Australia, Western Australia and the Northern Territory was grounded in the assumption that in *every* case, First Nations parents were incapable of performing their parental duties themselves.

Aboriginal 'protection' legislation had a range of other detrimental impacts on First Nations parental rights in various states and territories, including disallowing the testimony of First Nations women about the paternity of their children; removing the requirement for judicial review of child removal decisions; limiting parents' ability to communicate with their removed children; preventing First Nations parents from 'obstructing' officials enforcing the legislation; and requiring parents to pay maintenance to support their removed children (Payne 2020).

RACIAL DISCRIMINATION IN ACCESS TO SOCIAL SECURITY

During the Stolen Generations era, Aboriginal and Torres Strait Islander families' access to maternity and other family-related social security benefits was frequently restricted on a racially discriminatory basis, directly contributing to the circumstances of deprivation which then led First Nations children to be removed on the grounds of 'neglect'. Anna Haebich argues that child removal was a preferred policy option in some states and territories at this time because it was cheaper and easier to administer than the significant expenditure that would have been required to address Aboriginal and Torres Strait Islander disadvantage (Haebich 2000, pp. 34-5).

9 No specific Tasmanian legislation relating to the removal of Aboriginal children was passed because the state 'did not acknowledge that it still had an Aboriginal population' (Brock 1995, p. 29).

Scholars have pointed to the inter-relationship in Australia between the denigration of Aboriginal motherhood and the promotion of white motherhood, or what Fiona Paisley describes as the difference in status between being 'race mothers' and 'mothers of the race' (Paisley 1995, p. 269):

> In pronatalist white Australia, white mothers and children, and Aboriginal mothers and children, were oppositely positioned, the former relationship idealized and the latter routinely torn apart. (Paisley 1999, p. 141)

When the Commonwealth government first introduced a Maternity Allowance in 1912, the payment was denied to 'Aboriginal natives of Australia', as well as mothers from other 'undesirable' ethnic groups (Lake 1993, p. 379). However, Aboriginal women deemed to have 'a preponderance of white blood' were eligible to receive the allowance. First Nations mothers who had been exempted from state-based Aboriginal protection legislation were eligible to receive the maternity payment from 1942; such exemptions required families to move away from missions and reserves and attempted to restrict their contact with their extended families (Brock 1995, p. 147). In 1959, eligibility for the maternity payment was extended to other First Nations women, except those deemed 'primitive' or 'nomadic'; this exclusion highlights the racialised underpinnings of maternity payments, as nomadic First Nations groups would surely have been prioritised if the economic need of recipients was a primary consideration. Rosalind Kidd's research has demonstrated that Queensland authorities 'routinely and unlawfully' co-opted federal maternity payments, using them to offset the level of funding provided to missions from state government coffers rather than providing the benefit directly to families as intended (Kidd 1997, p. 166).

Similarly, access to child endowment payments was restricted on racially discriminatory grounds. Heather Goodall highlights that when first introduced in NSW in 1927, child endowment did not impose a blanket exclusion on Aboriginal recipients, and initially payments were made directly to Aboriginal mothers. However, in 1930 the NSW Aboriginal Protection Board (APB) co-opted all Aboriginal women's family endowment payments to compensate for cuts to its rations budget during the Depression; the NSW Treasury then cut the APB budget again by the amount it had coopted from endowments. Goodall details that individual Aboriginal women could eventually receive the child endowment payments directly if they were deemed 'competent,' which provided an opportunity for the APB to surveil Aboriginal families (Goodall 1995, p. 93). In her autobiography, Ella Simon described the indignity of having to apply to the APB for her endowment payment, with the mission manager controlling how it was spent and at one stage cutting her off from receiving it; Simon commented, 'I had to fight six months to get it back' (Simon 1978, pp. 98-99). When a national child endowment scheme was introduced in 1941, 'nomadic' or 'dependent' Aboriginal and Torres Strait Islander people were ineligible to receive payments (Rowley 1971, p. 38). In most states and territories, child endowment payments were coopted by the state-based Aboriginal Affairs administration; ultimately these funds 'contributed to the continued removal and institutionalisation of Aboriginal children – in express contradiction to stated policies of keeping children with their families' (Haebich 2000, p. 451).

In terms of access to other social security benefits, 'Aboriginal natives of Australia' were explicitly excluded from the *Invalid and Old Age Pensioners Act* when it was introduced in 1908 (Commonwealth of Australia 1908). In 1937 the Commonwealth Conference on Aboriginal Welfare determined that 'all natives of less than full blood' could receive invalid and old-age pensions and maternity payments on the recommendation of state authorities, who would hold the funds 'in trust for the individual' (Commonwealth of Australia 1937, p. 4). 'Aboriginal natives of Australia' were also excluded from the Widows Pension when this was introduced in 1942 (Commonwealth of Australia 1942). Full equality in payment of a range of Commonwealth social security benefits to Aboriginal and Torres Strait Islander peoples was not achieved until 1966 (Markus 1995, p. 250).

Where Aboriginal and Torres Strait Islander families were able to access state-provided benefits at this time, these were often issued in the form of rations rather than as cash payments (see Payne 2021, pp. 73-4). Some First Nations families also experienced strange anomalies due to eligibility for some state welfare systems being determined on the basis of supposed 'blood quantum', resulting in some children having a different 'racial' classification to their parents and so differential access to benefit payments (see Payne 2021, pp. 74-5).

'FORCIBLE REMOVAL THROUGH EMPLOYMENT'

The *Bringing Them Home* report identified the impact of being sent out to work on First Nations children, labelling these practices 'forcible removal through employment' (HREOC 1997, p. 75). As the report also acknowledged, employment obligations impacted on mothers living on missions and settlements as well, placing their children at heightened risk of removal (HREOC 1997, p. 76).

The types of work frequently undertaken by Aboriginal and Torres Strait Islander women during the Stolen Generations era, such as domestic service or station work, often required workers to live-in or spend extended periods of time away from home, irrespective of their carer's obligations. The seasonal nature of the work often available to First Nations men at this time also led to extended absences from home; accounts from removed children often highlighted that child welfare authorities would intervene to remove children in their father's absence (Payne 2021, p. 90).

Aboriginal protection legislation contained clauses regulating the work of Aboriginal and Torres Strait Islander minors; in some states it also regulated Aboriginal women's employment until they turned 21 (Payne 2016, p. 123). In the case of the NT, all First Nations people who were not exempted from the legislation were wards of the state and subject to its authority (Payne 2021, p. 136). Where state authorities were the legal guardians of First Nations children and adults, they controlled apprenticeships, licensing and domestic service arrangements; work assignments could not be refused (Payne 2021, p. 77).

First Nations women living on missions could be sent on a work assignment irrespective of their carer's responsibilities, leading to the institutionalisation of their children or forcing single mothers to make alternative care arrangements for their children. Kylie Cripps highlights the tragic irony of these women being deemed ' "unfit" to care for their own children but used to perform childcare and domestic tasks for dominant "white" mothers' (Cripps 2012, p. 28). Families were also sometimes compelled by mission requirements to place children in institutional care in mission dormitories once they reached a certain age, described by the *Bringing Them Home* Report as 'forcible separation through the dormitory system' (HREOC 1997, p. 75). Ruth Hegarty's autobiography describes these practices leading to her placement in the dormitory system at Cherbourg:

> When the children of dormitory mums reached school age, they were removed from their mother's care … Because Mum was no longer responsible for me in the government's eyes, she was free to go out to work. Most of the mothers who no longer had children to care for were required to go away to work. Often they would be sent a long way off, their children would not see or hear from them for many months (Hegarty 1999, pp. 22, 29).

After becoming pregnant as a young domestic worker, Hegarty lost two of her own children to the dorm system before eventually marrying and leaving the mission. Her autobiography (2003) emphasises the cycle of early pregnancy, child removal due to mothers being sent on work assignments and the subsequent impact on parent-child bonds, a pattern that repeated throughout several generations. Hegarty's account, and those of other First Nations mothers during the Stolen Generations era, highlight the powerlessness of these women to control many aspects of their lives, as well as the constraints on their ability to meaningfully determine the care arrangements for their children. Elsewhere, I have characterised the limited options

available to some Aboriginal and Torres Strait Islander mothers at this time as 'choiceless choices'; denied the opportunity to care for their children themselves by circumstances beyond their control, First Nations mothers tried to negotiate the best possible outcome for their children from the constrained possibilities open to them (Payne 2021, pp. 140-6).

STATE SURVEILLANCE AND THE FEAR OF CHILD REMOVAL

During the Stolen Generations era, First Nations families living on missions and reserves were subject to ongoing surveillance and intervention by state authorities. The many challenges and indignities associated with these interventions are graphically described in a number of autobiographical accounts written by Aboriginal authors (see, for example, Simon 1978; Nannup, Marsh, & Kinnane 1992; Crawford 1993; Hegarty 1999, 2003; see also oral history accounts in Read 1984). Heather Goodall has demonstrated how the threat of child removal was used to control the movement of Aboriginal people and force their concentration onto missions and reserves in NSW (Goodall 2001, p. 23). Those who could left to seek their own life free of state control, bringing a sense of liberation powerfully evoked in Evelyn Crawford's description of her first home, a tent on the riverbank on the outskirts of town:

> **For the first time I had something of my own. It was mine, my husband, my little girl, my baby, my kitchen, my tent, my little bit of ground … In that bend in the river I wanted nothing else, needed nothing else. Everything in the world that was of value to me was there. I was very independent then, and didn't think I'd ever have to ask anyone for anything, or depend on anybody outside my family any more. Not that I ever had. It was home, really home (Crawford 1993, p. 201).**

While the *Bringing Them Home* Report estimated that between one in three and one in ten First Nations families had been impacted by child removal (HREOC 1997, p. 31), it is clear from a range of sources that the fear of child removal impacted on many more First Nations families at this time. Analysing accounts provided to the National Library as part of the *Bringing Them Home* Oral History project, Mellor & Haebich identified 'the ubiquitous shadow' that the possibility of child removal cast over First Nations families at this time (Mellor & Haebich 2002, p. 46). In her autobiography *Too Many Tears*, Heather Vicenti, who had already had five children removed by authorities, described the dread she experienced when 'the Welfare' became aware of the existence of her two most recently born children:

> **Every knock on the door, every strange voice, and every official letter that I received filled me with an absolute terror. My life would not be the same again for many years (Vicenti & Dickman 2008, p. 129).**

Parents implemented a range of strategies in their efforts to protect their children, ranging from hiding them from welfare authorities (see, for example, Tucker 1977, p. 19) to ensuring they were always immaculately attired and presented (see Payne 2021, pp. 89-90). Goodall describes the 'turmoil of movement' experienced by Aboriginal families in NSW trying to escape from managed stations, facing widespread racism in country towns including the exclusion of their children from schools, forced 'to decide whether to try another town or seek asylum on a pastoral camp at the cost of no schooling at all and so an increased risk of accusations of neglect' (Goodall 1996, pp. 131-2).

Many of the systemic issues I have identified in this section were interrelated and combined to result in more First Nations families living in poverty, subject to state surveillance and intervention, and therefore at increased risk of child removal – issues which continue to impact on Aboriginal and Torres Strait Islander families today.

Non-Indigenous attitudes towards Aboriginal mothers

Writing in 1999, Sue Atkinson and Shurlee Swain identified the strengths of First Nations families, including the social and emotional support provided via extended family, kinship and community networks, the guidance and support of Elders, and the valuing of Indigenous identity and culture, essential to surviving the racism of the wider community (Atkinson & Swain 1999). They observed however that these strengths are not always recognised by the dominant culture, resulting in First Nations families 'being seen as aberrant, increasing the risk of welfare intervention' (Atkinson & Swain 1999, p. 219).

Atkinson and Swain's observations resonate strongly with my research findings about the attitudes of non-Indigenous people who were involved in First Nations child removal during the Stolen Generations era. I analysed interviews and other sources by and about the people involved in these removals, considering accounts from missionaries, patrol officers, police officers, medical staff, cottage mothers, adoptive and foster parents, Aboriginal Affairs bureaucrats and child welfare workers, as well as descriptions drawn from correspondence, submissions, parliamentary debates, inquiries and reports. Aboriginal mothers of Stolen Generations children were characterised by many of the white perpetrators of child removal as neglectful and inadequate parents; this characterisation was necessary to support the claim that the removal of First Nations children was 'for their own good' (Payne 2021, pp. 93-115). While my research focused on attitudes towards Aboriginal mothers, other scholars have identified the persistence of derogatory settler-colonial stereotypes about 'neglectful' First Nations fathers and the impact of these stereotypes in pathologising First Nations families (see, for example, Carlson & Frazer 2021, pp. 182, 184).

An alternative perspective to these views is provided by the autobiographical and biographical narratives of Aboriginal women, who relate their experiences as mothers or of being mothered during the Stolen Generations era. In these accounts, Aboriginal mothering is described as a constant struggle against poverty and the impact of racism, but is socially inclusive – no one gets turned away, resources are shared. These mothers had intimate knowledge of tragedy, and their autobiographical narratives often include accounts of the death of their children. Single motherhood is a key theme – partners are frequently absent through work, early death, or desertion. Mothers in these accounts are imperfect, sometimes putting their own needs or the needs of their community ahead of their own children, but honest in recognising this. Resilience is another key theme, as is the strength drawn from their cultural identity. The authors' own mother is often a pivotal figure in these writings, even in her absence (see, for example, Langford 1988; Crawford 1993). These autobiographical narratives highlight the resilience of Aboriginal mothers and provide an important counter-narrative to white categorisations of Aboriginal motherhood in the Stolen Generations era as uncaring or 'neglectful'.

Accounts of non-Indigenous people describing their involvement in Stolen Generations-era child removals typically emphasise social disadvantage, parental neglect or the 'voluntary' surrendering of children as key factors leading to the removal of Aboriginal and Torres Strait Islander children; those involved in removal frequently highlight what they describe as the 'positive benefits' to children resulting from their removal (Payne 2021, pp. 109-11). In contrast, only a minority of the accounts from people who were removed as children identified parental neglect as the major factor in their removal. Instead, they attributed their removal to the death or illness of a parent or parents; their 'half-caste' status; the divorce or separation of their parents; or their removal to a mission or reserve dormitory. First Nations people saw few benefits resulting from their removal and many harms, including 'loss of language, cultural knowledge and identity; damage to self-esteem; physical and sexual abuse; sub-standard material provisions for their care; and poor educational and work opportunities' (Payne 2021, p. 12).

The argument that the removal of Aboriginal and Torres Strait Islander children was 'for their own good' does not explain nor justify many of the documented child removal practices used during the Stolen Generations era specifically in relation to First Nations families. Aside from the enormous emotional pain

and suffering caused by removal children from family, other damaging practices included some children being removed as far as possible from their families, even interstate; being denied contact or communication with family members; punished for speaking their language; taught to be ashamed of their identity; forced to work; receiving a sub-standard education; being separated from their siblings; being physically, emotionally and/or sexually abused; inadequately fed, clothed and housed; the refusal of authorities to allow extended family members to care for removed children; and the ongoing commitment to the institutionalisation of First Nations children, even when the harmful impacts of this on child development were well recognised.

In the following section, I consider the extent to which some of the features I have identified in Stolen Generations era child removals remain in contemporary practice.

'Sorry means you don't do it again': Contemporary child removal

Grandmothers Against Removals, a grassroots group founded by First Nations grandmothers directly impacted by child removals, have emphasised in their advocacy against the overrepresentation of Aboriginal children in out of home care that 'Sorry means you don't do it again' (Grandmothers Against Removals NSW n.d.). This slogan calls out federal and state governments, who publicly apologised for their past actions in relation to Aboriginal and Torres Strait Islander child removal, for their failure to deliver real change and to ensure the well-being and integrity of First Nations families. Guarantees of non-repetition are also a key aspect of the United Nations Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross and Serious Violations of International Humanitarian Law, adopted by the UN General Assembly in 2006.[10]

In its most recent report, issued 27 years after the *Bringing Them Home* Report's findings and wide-ranging recommendations were delivered to the federal government, SNAICC (the Secretariat of National Aboriginal and Islander Child Care), the national voice for Aboriginal and Torres Strait Islander children, identified that the number of First Nations children in out-of-home care in 2023 was 'the highest number ever recorded' (SNAICC 2023, p. 5). Currently, First Nations children are 10.8 times more likely to be in out-of-home care than non-Indigenous children (SNAICC 2024a, p. 2). The rate of over-representation of Aboriginal and Torres Strait Islander children in out-of-home care has been steadily increasing across all states and territories over the past 10 years (SNAICC 2024a, pp. 18, 20). Aboriginal-led research has identified a range of factors contributing to these increasing rates, including 'over-surveillance of First Nations families and systemic racism leading to social disadvantage, service and structural inequalities and mandatory reporting' (Newton et al. 2023).

Nationally, 63.2% of First Nations children living in OOHC are being cared for by First Nations or non-Indigenous relatives or kin, or Aboriginal and Torres Strait Islander carers in 2023 (SNAICC 2024a, p. 32). However, disaggregating these figures, SNAICC highlights that less than one-third (32.2%) of Aboriginal and Torres Strait Islander children in OOHC are living with *First Nations* relatives or kin (SNAICC 2024a, p. 33), and identifies a long-term trend over the past 20 years of First Nations children increasingly being placed with non-Indigenous relatives (SNAICC 2024a, pp. 32-33). This is inconsistent with the Aboriginal

10 These Principles and Guidelines require states to make reparation to victims of gross human rights violations 'for actions or omissions which can be attributed to the State'. Reparation measures include *restitution*, designed to restore the victim to their original situation before the gross violation of human rights occurred; *compensation* for 'economically assessable damage'; *rehabilitation* in the form of medical and psychological care and legal and social services; *satisfaction*, incorporating remedies such as public apology, commemorative initiatives, and educational programs; and *guarantees of non-repetition* (UN 2006, pp. 7-8). While *restitution* is not usually possible in cases of historical injustice, Rudd's Apology to the Stolen Generations falls into the category of *satisfaction*, and *rehabilitation* measures have also been implemented in the form of services and support to Stolen Generations survivors and descendants. However, the federal government has not offered *compensation* to date; and Australian governments at all levels have demonstrably failed to ensure *non-repetition* of the harms caused by First Nations child removal.

and Torres Strait Islander Child Placement Principle's[11] key emphasis on maintaining children's cultural connections (SNAICC 2024a, p. 33).

A ground-breaking report produced by the Independent Review of Aboriginal Children in Out-Of-Home Care (OOHC) in NSW in 2019 identified an entrenched culture of non-compliance in the Department of Communities and Justice, which has oversight of child protection services. The *Family is Culture* report identified numerous examples of 'insensitive and punitive removal practices', particularly in the removal of newborn Aboriginal children, sometimes without warning (Independent Review of Aboriginal Children in OOHC 2019, p. 221). Highlighting the continuing disproportionate impact of child welfare policies, practices and legislation on Aboriginal children, the report found a lack of independent public accountability and oversight in child removal processes (Independent Review of Aboriginal Children in OOHC 2019, pp. 93-142). Damningly, it argued that the large-scale bureaucracy regulating child protection had ' "lost sight" of the actual goal of protecting children in its day-to-day operations' (Independent Review of Aboriginal Children in OOHC 2019, p. 31). Criticising the ongoing lack of self-determination and autonomy for First Nations' families (Independent Review of Aboriginal Children in OOHC 2019, pp. 83-6), the report found a culture of non-compliance with the implementation of the Aboriginal Child Placement Principle (Independent Review of Aboriginal Children in OOHC 2019, pp. 252-4). Noting the important grassroots advocacy work being undertaken by community groups such as Grandmothers Against Removals (Independent Review of Aboriginal Children in OOHC 2019, p. 30), the report also noted 'the often-implicit assumption made by stakeholders in the child protection system that removal will result in better outcomes for a child' (Independent Review of Aboriginal Children in OOHC 2019, p. 34). This latter finding has strong resonance with the views expressed by many non-Indigenous people involved in Stolen Generations Era removals, as I outlined earlier.

The impact of intergenerational trauma

The *Bringing Them Home* Report highlighted the ongoing effects of past policies on First Nations families today:

> The impacts of the removal policies continue to resound through the generations of Indigenous families. The overwhelming evidence is that the impact does not stop with the children removed. It is inherited by their own children in complex and sometimes heightened ways. (HREOC 1997, p. 222)

Aunty Glendra Jackson, former CEO of family reunification support organisation Link-Up NSW, powerfully explains the impact of intergenerational trauma arising from child removal:

> There is the grief of parents, interruption of family and community structures and ties of children to their family and culture. We see the turmoil of people trying to fit back into their families' lives and the pain when this does not happen. It impacts on family structure, on parenting skills and social behaviour. It has long been known to Indigenous communities that this effect is intergenerational (Quoted in Butler & Bond 2021, p. 167).

The Healing Foundation emphasises that 'The consequences of removal – poor physical, social and emotional wellbeing, a loss of identity, greater susceptibility to addiction, diminished capacity to gain employment and earn a reasonable living – create environments of disadvantage for descendants that many Stolen Generations survivors struggle to address through their lives' (The Healing Foundation 2021, p. 55). Adult Stolen Generations descendants were twice as likely to report experiences of discrimination,

11 This Principle explicitly recognises 'the value of culture and the vital role of Aboriginal and Torres Strait Islander children, families and communities to participate in decisions about the safety and wellbeing of children' (SNAICC undated).

1.9 times as likely to have experienced physical violence or the threat of physical violence, 1.5 times as likely to experience difficulties accessing services, 1.4 times more likely to have been charged by the police, and 1.6 times more likely to have poor health than other adult Aboriginal and Torres Strait Islander peoples (The Healing Foundation 2021, p. 57). 36% of the current adult Aboriginal and Torres Strait Islander population is estimated to be either a Stolen Generations survivor or the descendant of a Stolen Generations survivor (SNAICC 2023, p. 47), highlighting the potential reach of intergenerational trauma arising from child removal in First Nations families and communities.

The impact on parenting skills

In her autobiography, Ruth Hegarty reflected on the impact of growing up in the dormitory system on Cherbourg Mission:

> **I lived my life under a system whose history was notorious for the deprivation of liberty of its inmates. I had not ever experienced a normal family life, the bonding, the socialisation, things that are the accepted norm. (Hegarty 2003, p. 10)**

While many Stolen Generations survivors and descendants are highly capable and loving parents,[12] the *Bringing Them Home* Report identified the impact of being raised in institutional care or in abusive or unloving foster care on some removed children, who subsequently struggled to develop intimate relationships as adults or to function effectively in family life (HREOC 1997, p. 222). Recommendation 36 of *BTH* Report specifically related to parenting skills, calling on the Council of Australian Governments to 'ensure the provision of adequate funding to relevant Indigenous organisations in each region to establish parenting and family well-being programs' (HREOC 1997, p. 658). However, SNAICC has identified that Aboriginal and Torres Strait Islander children and families are underrepresented in universal prevention and early intervention services, due to the lack of 'culturally safe and responsive services' (SNAICC 2023, p. 19). SNAICC's consultations with First Nations families identified 'a fundamental lack of trust in non-Indigenous service providers' due to the legacy of the Stolen Generations and colonisation (SNAICC 2023, p. 42), with families fearing to access support services because 'of an interventionist system that drives towards the removal of children without offering sufficient supports to families, even when they are actively reaching out for help' (SNAICC 2023, p. 19). Despite the over-representation of First Nations children in OOHC and the known reluctance of First Nations parents to access 'mainstream' family support services, in 2023 Aboriginal community-controlled services received only 17% of the funding available for child protection services (SNAICC 2023).

The impact of racism and structural disadvantage

In an extensive body of work, researchers have identified the systemic racism inherent in the supposedly 'race-neutral' policing and welfare approaches to First Nations families (see, as just some examples, Carrington 1990; Beresford & Omaji 1998; Cunneen & Libesman 2000). Writing more than two decades ago, Linda Briskman argued that 'the manner in which welfare intervention operates today still arguably has a 'race' focus, underpinned by assimilationist ideologies' (Briskman 2003, p. 8). These issues have been well canvassed over decades, however in its most recent *Family Matters* report, SNAICC found that 'inequitable outcomes continue to be inherent to child protection systems and practice nationally' (SNAICC 2024a, p. 2).

12 The *Bringing Them Home* Report noted comments by a community health nurse's comment that 'despite all the odds and despite the pain, so many people function. They manage to keep families together' (HREOC 1997, p. 194).

Recent interviews undertaken with Aboriginal parents who had experienced child removal identified their perception that child protection caseworkers held racist attitudes and were biased against younger Aboriginal parents (Newton et al. 2024, p. 3). Cultural differences in perceptions of neglect and a lack of understanding of First Nations child rearing practices were also identified as factors increasing the likelihood of removal (Newton 2019, p. 220). Again, there are significant parallels here with the Stolen Generations era.

In defining types of neglect, Wiradjuri scholar BJ Newton describes 'environmental neglect', which arises from a broader community's lack of resources to provide for children rather than the failings of individual parents. Newton notes that this form of neglect receives less attention than other types, due to the 'parent-focused' approach taken by child welfare services in identifying neglect. As Newton also notes, child welfare services 'are not resourced to address structural disadvantage' (Newton 2019, pp. 219-20) – another point of continuity with past practices.

Palawa scholar Kyllie Cripps' research highlights the correlation between domestic violence and the substantiation of child abuse allegations in Indigenous families, with poverty and social isolation seen as 'risk factors' by child protection agencies rather than as systemic factors underpinning child neglect (Cripps 2012, p. 30). Cripps argues that 'It is easy to blame the mother and/or the Indigenous community for the dysfunction that exists', while the role of the state in enabling the conditions of systemic poverty and neglect is ignored (Cripps 2012, p. 31).

Permanent removal

In another parallel with the Stolen Generations era, the focus of child protections systems continues to be on the permanent removal of Aboriginal and Torres Strait Islander children. SNAICC reports that 73% of First Nations children in OOHC are on long-term child protection orders and so are not considered candidates for reunification (SNAICC 2024a, p. 37). Newton et al. argue that the reunification of removed children with their parents is 'largely overlooked in child and family welfare practice' (Newton et al. 2023). Aboriginal and Torres Strait Islander children today are 'severely over-represented in permanent care arrangements', a significant concern in jurisdictions where data relating to children transferred into permanent care are no longer included in OOHC reporting, rendering these children statistically invisible (SNAICC 2023, pp. 21, 36). Although the ratio of reunifications in comparison with non-Indigenous children has been gradually increasing since 2016 (SNAICC 2023, p. 33), the 2024 data indicate that in all states and territories except Western Australia, Aboriginal and Torres Strait Islander children are less likely than non-Indigenous children to be reunified with their families[13] (SNAICC 2024a, p. 40).

Recent legislative changes in NSW require child protection authorities to determine whether 'a realistic prospect of restoration' of removed children exists within two years of their removal (Newton et al. 2024, p. 2). However, in another significant parallel with the past, SNAICC finds that 'structural barriers such as poverty and homelessness impede the likelihood of reunification occurring within a short time frame' (SNAICC 2023, p. 36). The timeframe in which permanent removals are processed in jurisdictions such as NSW does not allow sufficient time 'for birth parents, usually mothers, to deal with problems such as homelessness, family violence and drug and alcohol abuse' (Libesman & McGlade 2018; Newton et al. 2023 also highlight that the two-year timeframe in NSW is insufficient for parents to address 'structural challenges'). Newton emphasises the impact of circumstances beyond an individual parent's control, 'such as waitlists for housing, drug and alcohol treatment, even the grieving process and potential shame of having

13 SNAICC indicates the national reunification rate for First Nations children in out-of-home care or on Third-Party Parental Responsibility Orders is 7.5% for First Nations children, compared to a 10% reunification rate for non-Indigenous children (SNAICC 2024a, p. 38).

your children removed' (quoted in Harrison 2022); parents lack the time and skills needed to navigate 'the interpersonal, social and bureaucratic systems' involved in child protection (Newton et al. 2024, p. 2). Parents' feelings of powerlessness after children are removed and the challenges of maintaining relationships with their removed children (Newton 2020, pp. 818-19, 821) have strong parallels with my research findings about the experiences of Aboriginal mothers in the Stolen Generations era (see Payne 2021, pp. 139-59).

Failure to implement First Nations-led solutions

First Nations community organisations have identified a range of structural changes that are urgently needed to address the increasing rates of First Nations child removal. SNAICC have mapped the four building blocks needed to achieve real change: providing families with access to 'high quality and culturally safe supports'; empowering communities to make decisions about their children; culturally safe and responsive laws, policies and practices; and measures to hold governments accountable (SNAICC 2023, p. 7). The need for a National Commissioner for Aboriginal and Torres Strait Islander Children to hold governments to account was a key demand (SNAICC 2023, p. 5). Earlier this year, the federal government committed to establishing this position, as well as making structural changes to the way it works with community organisations (Australia, Department of Prime Minister and Cabinet 2024b). The new National Commission for Aboriginal and Torres Strait Islander Children and Young People is due to commence operations in January 2025 (Australia, Department of Social Services 2024a). While this is a positive development, the need for further structural change is a pressing priority, with SNAICC reporting that on current trends, the number of Aboriginal and Torres Strait Islander children in OOHC is expected to increase by 38% over the next 10 years, compared to a 5% increase for non-Indigenous children (SNAICC 2024a, p. 53).

In their Foreword to the 2023 *Family Matters* report, SNAICC Co-Chairs Catherine Liddle and Paul Gray commented, 'governments continue to disappoint us…We are frustrated by the limited commitment to back [community-based] solutions' (SNAICC 2023, p. 5). Similarly, in highlighting the 'disappointingly and unjustifiably slow' progress in implementing the recommendations of the *Family is Culture* report in NSW, AbSec[14] and the Aboriginal Legal Service excoriate the 'notable lack of commitment to Aboriginal community-led system transformation' (AbSec & Aboriginal Legal Service 2024, p. 10). Lamenting the lost opportunity to empower community-led change due to the failure of the Voice Referendum in 2023, Liddle and Gray echoed the Uluru Statement from the Heart: 'when our communities have power over our destiny, our children will flourish' (SNAICC 2023, p. 5).

Conclusion

This paper has highlighted the systemic barriers impacting on First Nations families in the Stolen Generations era, including legal inequalities in parental rights; discrimination in access to family-based social security payments; the impact of mission policies requiring parents to work irrespective of their carer responsibilities, or compelling the removal of children to mission dormitories; and the heightened surveillance and supervision of Aboriginal families living on missions and reserves, leading to increased likelihood of child removal. While the regime of 'protection' legislation which restricted many aspects of the lives of Aboriginal and Torres Strait Islander people has now been dismantled and direct racial discrimination in access to social security removed, troubling resonances of the past are evident in contemporary First Nations child removal. Governments and welfare agencies remain unwilling or unable to identify and address structural and systemic disadvantages arising from issues such as poverty and the

14 Absec is the peak body advocating for Aboriginal children, young people and families in NSW (AbSec undated).

impacts of racial discrimination, to the ongoing detriment of First Nations families. Welfare approaches continue to focus on the failings of individual parents and take a deficit rather than strengths-based approach to First Nations families and child rearing practices. There is continuity in the lack of culturally appropriate support services to preserve First Nations families, in a range of 'insensitive and punitive' removal practices, in the lack of independent oversight of child removals, in First Nations parents' sense of powerlessness in the face of child removal, in the lack of commitment to family reunification, and in the assumption that removal is in the 'best interests of the child' – despite overwhelming evidence of the harms caused by removing First Nations children from their families.

Despite Rudd's commitment of 'never again' in his Apology to Indigenous Australians, this paper has highlighted significant continuities between past and contemporary First Nations child removal policies and practices, and Rudd's promise of changed relations between the federal government and First Nations peoples in the future remains largely unfulfilled. However, despite the alarming trends in child removal which have been identified, First Nations organisations remain hopeful that change is possible if the structural factors leading to child removal are addressed, if investment in culturally-appropriate support for families is increased, if greater government accountability and independent monitoring is put in place, and if measures are grounded in self-determination for First Nations organisations (SNAICC 2024a, p. 53). First Nations organisations have been calling for these changes over many years; the time to act is now.

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