Aboriginal Child Protection Business: The Significance of Aboriginal Self-Determination in NSW Child Protection policies

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Abstract

"The right to sustain the cultural identity of Aboriginal children is a commitment to human rights, culture and self-determination" (Bamblett, 2013).

Current NSW child protection statistics suggest that Australia's Aboriginal babies[1], children and young people are still overwhelmingly the subjects of state intervention, disproportionate to that of other children, despite the ongoing development of new policies, initiatives and programs specifically targeted for this group in the NSW child protection system. Indeed, the statistical count for Aboriginal babies, children and young people involved in the NSW child protection system is reflected in State and Commonwealth child protection welfare data reports across the country. Thus, the 'problem' of statistical overrepresentation carries with it serious issues concerning service system failure.

In my paper, I consider the significance of the inclusion of Aboriginal people in determining the development and implementation of Aboriginal child protection policies in the NSW child protection system. Introducing the concept of Aboriginal self-determination in Australia was intended to empower Aboriginal Australians in the management and delivery of Aboriginal affairs or business. Thus, a point of reference for my paper is the belief that an Aboriginal self-determination policy approach would provide 'cultural substance' - a term that recognises that all aspects to do with Aboriginal culture is embedded into the life of an Aboriginal person. Underpinning this point of reference is the management of Aboriginal child protection business

[1] I include the word 'babies' in my writing on Aboriginal child protection for a specific reason. I like to ensure that the language reflects the relevant statistics on the actual ages of the children subject to statutory care removal in Australia. Statistical analysis shows that infants or children under 1 year old (babies) are the age group most likely to be the "subject of a substantiation to be removed from their families across Australia" (AIFS, 2016-17, p. 55).

and how it encapsulates the cultural identity of an Aboriginal baby, child or young person who has been removed from their family.

Keywords

Aboriginal self-determination; Aboriginal child protection business; human rights; cultural substance; Aboriginal-led policy instruction[2]; Aboriginal babies, children and young people.

[2] Aboriginal-led policy instruction' is a term I use to describe a new way forward in implementing the concept of Aboriginal self-determination in the Governments' management of Aboriginal child protection business policies.

Relevance of the paper:

My paper adds to previous research, reports and brief summaries of problems associated with the over-representation of Aboriginal families involved in the NSW child protection system. It provides insight into the historical concepts of what "Aboriginal self-determination" means; the success of Aboriginal Community Controlled Organisations; and the significance of the NSW Department of Community Services making a shift in how it manages Aboriginal child protection policy, to including an Aboriginal-led policy instruction framework.

Background

My commitment to contribute to the mass of research that has been conducted by many scholars, academics and government agencies to do with Aboriginal child welfare has motivated me to add to that previous scholarly material. As an Aboriginal person that worked within the NSW child protection system by day and then returned to my Aboriginal community at the end of each working day, I provide an insight that is not only based on relying on the written words of others, but broadens into a perspective from an Aboriginal professional person.

I am a Gamilaroi woman. My work in the social welfare area spanned 26 years in the New England region of NSW and also at a state-wide level through my employment with the NSW Government and from networking with peak Non-government agencies that have the responsibility to deliver essential services to communities. During this time, I was committed to supporting families, local communities and organisations and at the same time fully aware of the policies that sustained the overrepresentation of Aboriginal babies, children and young people in the NSW child welfare system. Thus, I fully understand how systemic absence of Aboriginal decision-making; Aboriginal self-determination and Aboriginal-led policy teams impact on, and indeed not limited to: a majority of Aboriginal people having difficulty in achieving basic living standards; quality educational and health care outcomes; locally driven Aboriginal social enterprise business; improvement in unemployment, particularly for young Aboriginal people; and finally, how systemic absence of Aboriginal involvement feeds into the ongoing problem of the overrepresentation of Aboriginal babies, children and young in the NSW child protection system.

During my thesis journey, my thoughts took me back to the late 19th Century in Australia, when Australia was colonised by the British and dual child protection policies, one for Australia's

Aboriginal children and one for non-Aboriginal children, were first adopted. In NSW, the implementation of discriminatory practices commenced with the establishment of the Aborigines Protection Board in 1883 and then the Aborigines Protection Act in 1909. A shift occurred in the Act that gave the Aborigines Protection Board the control and custody of Aboriginal children. This period was a tumultuous time for all Aboriginal Australians and most Aboriginal people today have not escaped experiencing an era that saw the establishment of policies that could remove an Aboriginal child because of their Aboriginality.

Indeed, embedded are the structural discriminatory and social injustices that were propelled into the lives of Aboriginal Australians from an onset of colonisation in Australia; thus, implicating multitude of indicators that influence social disadvantage for Aboriginal people, brought upon by the general order of an enforced lifestyle that pitted one group against another – black against white within Australian society. The most powerful and manipulative 'winner' were the policies that were developed and implemented by government. Thus, systemic rule can be traced back to the 19th Century.

The power of government policies has instilled in me the significance of Aboriginal governance and the input from Aboriginal People in policies to do with the removal of Aboriginal children; the cultural safety and care of Aboriginal children when they are placed under the care of the Minister for Community Services; and the inclusion of Aboriginal people self-determining the governance of Aboriginal family and child welfare policies. In addition to finding solutions to serious issues that impact on the dysfunction of an Aboriginal family unit. Consequently, I recognise that government child protection policies have consistently sustained one of the most serious problems that Aboriginal people are faced with today and that I believe must be transitioned into the responsibility of Aboriginal community members.

The next stage of my paper provides an overview of Aboriginal self-determination; the success of ACCO's; significance of the relinquishment of DoCS managing the Aboriginal child welfare system and how an Aboriginal-led policy instruction framework can be implemented by the NSW Government.

The operational fundamentals of Aboriginal self-determination

The Commonwealth Labor Government (led by Gough Whitlam)[3] "adopted self-determination as the key term that underscored Australian Indigenous affairs policies in late 1972" (Sanders, 2002, p. 1). This idea brought to the forefront the concept of Aboriginal governance – a policy that would recognise Aboriginal people self-determining a future based on a governance system managed by Aboriginal people for Aboriginal people. Whitlam's adoption of the policy "alluded to developments in international law that was recognised in the *United Nations Charter of 1945;* the UN General Assembly Declaration on the *Granting of Independence to Colonial Countries of 1960;* and the *UN International Covenants on Civil and Political Rights and Economic, Social and Cultural rights of 1966*" (Sanders, 2002, p. 1). Indeed, Whitlam acknowledged that Australia had failed to "meet its fundamental international obligations to end racial discrimination and to meet its domestic responsibilities" (Hocking, 2018, p. 7) in accordance with the above international declarations.

Adding to Whitlam's Aboriginal self-determination policy from the early 1970s, the meaning of self-determination has over time developed into emphasising the empowerment of Aboriginal people to manage their business within their communities. For example, Coombs et.al (1983) in the article *A certain heritage: Programs for and by Aboriginal families in Australia*, included phrases such as "programs should be compatible with Aboriginality" and the entitlement to "determine what they incorporate from [*non*-Aboriginal] society and the rate of change which they can accommodate" and in the 1997 *National Inquiry into the Separation of Aboriginal Torres Strait Islander Children from Their Families Report* (Bringing Them Home Report) it was recognised that "the right of self-determination is the right to make decisions for Aboriginal people to determine and control their lives through having input to the design, implementation, management and control of service delivery for and by Aboriginal people" (Wilson, 1997, p. 276).

Furthermore, in the *Bringing Them Home Report* a discourse of autonomy, self-rule, freedom and independence that went beyond simply participating, consulting and being part of the decision-making process is visible. The rationale given for attention to inclusion in governance was to emphasise the "enjoyment and exercise of the full range of freedoms and human rights of Indigenous peoples" (Wilson, 1997, p. 320), extending the meaning to include that in practice the term 'Aboriginal self-determination' also fostered the inclusion of decision-

[3] Mr Gough Whitlam was the Federal Government's Labor Party leader from 1972-1975.

making by and for Aboriginal people. Furthermore, the Report urged the need for "national legislation establishing a framework for negotiations at community and regional levels for the implementation of self-determination in relation to the well-being of Indigenous children and young people" (Wilson, 1997, p. 580). Consequently, these recommendations added a systematic approach to recognising Aboriginal people's involvement in the management of Aboriginal child protection.

Patrick Dodson[4] and Adjunct Professor Muriel Bamblett[5] followed the pursuit of the meaning of Aboriginal self-determination as included in the 1997 *Bringing Them Home Report*, to encapsulate the significance of respecting input from Aboriginal people in policy and service delivery initiatives, across all spectrums of socio-economic standards of living; such as in health, education and social welfare. Dodson extended the meaning further in stating that "Aboriginal Peoples have the right to self-determination, a right to negotiate our political status and to pursue economic, social and cultural development" (cited in Behrendt, 2003, p. 90). Likewise, Bamblett focussed on the action of empowerment, which embedded the fundamental belief that "self-determination is the over-arching right of Indigenous people to exercise control over the decisions that affect their lives" (Bamblett, 2013, p. 10). Consequently, enabling increased participation of Aboriginal people in decision-making thus further adding cultural substance[6] to the development of government policy that recognises Aboriginal self-determination. That is, ensuring that all cultural aspects of an Aboriginal child who has been removed from their family, community and traditional country will be recognised through the development and implementation of policies.

Therefore, the problem is situated in the implementation of policies, particularly in how those policy practitioners manage government policies. Policies generally, are anchored by "what governments do, why and with what consequences" (Fenna, 2004, p. 3), that require operating with an institutional governance framework where public policy is generally understood as being developed to "deal with problems" (p.6).

[4] Mr Patrick Dodson is a Federal Government Labor Party Senator.

[5] Adjunct Professor Muriel Bamblett, Chairperson – Secretariat of National Aboriginal & Torres Strait Islander Child Care.

[6] Cultural substance is a term that I use to recognise that all aspects to do with Aboriginal culture is embedded into the life of an Aboriginal person.

Key policy makers such as politicians, ministerial staff and senior public servants are placed within an authoritarian position, thus the development and implementation of government policy is underpinned by authority, power and control (Althous, Bridgman & Davis (2007), Policies are instruments of governing that shape the lives of all populations. However, they have a profound effect on the lives of Aboriginal Australians, particularly when basic living standards are compounded by institutional power, such as that provided to State and Commonwealth Governments in Australia. This problem has been inherited by previous well-organised policies specifically developed for Australia's Aboriginal people; such as protection policies (1883-1937); assimilation policies (1937-1969) and integrationist policies (Goodall, 1996; Lock, 1997; Parbury, 1988; Wilson, 1997). The integration era was a period that represented an attempt to recognise Aboriginal culture and the basic human right to sustain language and recognise traditional country through policy, while not putting into practice the objective of Aboriginal self-determination (Patrick & Moodie, 2016, p. 168), nor indeed recognising international conventions to do with the human rights of Indigenous people across the world. Thus, understanding the key mechanisms of Aboriginal self-determination can raise questions about the rights of Australia's Aboriginal people to govern their own business.

Human rights and the sustainment of the cultural identity of an Aboriginal baby, child or young person

Following the 10-year anniversary of the release of the 1997 HREOC *Bringing them Home* Report, Libesman (2008) identified two things: first, the need for a 'human rights framework' that was centred on the wellbeing of an Aboriginal child before and after separation from their parents; and second, the need to address the structural and social disadvantage through Aboriginal self-determined solutions to Aboriginal child welfare issues. A human rights approach "addresses the structural inequality and poverty experienced by Aboriginal people… in addition to recognising the cultural identity of an Aboriginal child placed in statutory care" (Libesman, 2008, pp. 68-73). Indeed, for Indigenous babies, children and young people, Article 30 of the *United Nations Convention of the Rights of a Child* (UNCROC) stipulates that Indigenous children have a right to "enjoy his or her culture" and Article 20 refers to the "temporary or permanent deprivation of a child's culture not being allowed" (p. 164) after cultural control has transitioned from the parents to government authority.

In addition, the November 2020 Family Matters Report emphasised that:

> Permanently removing our children from family and ties to community is not the answer to a happy, healthy and safe upbringing. We have learnt from the Stolen Generations that removal leads to continued disadvantage and intergenerational trauma for our children. – connection to culture is crucial for our children to develop their own sense of identity, connection and belonging. (Hunter, 2020)

Similar to **Recommendations 43a – 43c** of the 1997 *Bringing Them Home* Report, Bamblett, has consistently put forward robust commentary to include self-determined Aboriginal models of service provision, stating that "to do otherwise is to ignore the basic human rights of Aboriginal Australians which is recognised through the UNCROC and the *United Nations Declaration on the Rights of Indigenous Peoples"* (Bamblett, 2013, pp. 6-7). Thus, the right to sustain cultural substance within the identity of an Aboriginal child is accepting those significant international declarations that have been in place for many years. Consequently, the cultural needs of an Aboriginal child rely on the ongoing delivery of an Aboriginal culturally defined care service that includes Aboriginal people managing the culturally appropriate learning of Aboriginal children who are removed from their parents, their community and their traditional country.

The delivery of Aboriginal child protection services and the involvement of Aboriginal people in controlling the decisions made about their children would be at the forefront of an Aboriginal self-determination model because it prioritises the cultural ownership and best interests of an Aboriginal child. Thus, if child protection policies applied an Aboriginal self-determining human-rights-based service delivery for Aboriginal families, the sustainment of cultural substance within the identity of Aboriginal children would hold a priority position in child protection service delivery. It would also have the potential to address systemic poverty and inequality. Consequently, the belief that an Aboriginal child's cultural identity must be contained within a holistic Aboriginal self-determined management process, that is, Aboriginal people controlling the care of Aboriginal children prior to and in the event of being removed from their parents, is paramount for the cultural wellbeing and recognition of basic human rights for Indigenous Aboriginal babies, children and young people involved in the child protection system. This cannot be achieved without the involvement of Aboriginal people.

To achieve a self-determining future within the framework of child protection policies therefore, a complete handover of government responsibility to Aboriginal people is required. This concept is not new. It was established in the early 1970s and Aboriginal Community

Controlled Organisations (ACCO), have sustained capacity to operate successfully within government and community governed systems.

Indeed, Bamblett and Lewis (2010) claimed that government generally has "dis-invested" (p.7) in Aboriginal communities, which has been an anchor of frustration for key Aboriginal child and family services and other Aboriginal organisations that are cultural service delivery hubs for Aboriginal communities. Disinvestment has impacted on sustaining the capacity of Aboriginal self-determination at the community level. Indeed, the recommendations in the 1997 *Bringing Them Home Report* set the benchmark for Australia's Aboriginal population to be involved in decisions and governance control. The report emphasised that:

> Our principal finding is that self-determination for Indigenous peoples provides the key to reversing the over-representation of Indigenous children in the child welfare and juvenile justice systems of the States and territories and to eliminating unjustified removals of Indigenous children from their families and communities. (Wilson, 1997, p. 15)

Thus, for many years, key Aboriginal child safety and family wellbeing organisations have advocated for more involvement of Aboriginal people in the decision-making process. A key point in discussions of self-determination is that it is critical for Aboriginal people to be involved at the point of making judgement in how child protection authorities develop and implement policy/ies for this group. Thus, a major shift is required by government to invest in more funding opportunities to ACCOs so they can implement appropriate infrastructures to undertake this responsibility, including investment in Aboriginal-led initiatives in developing sustainable intervention services to prevent removal.

Aboriginal Community Controlled Organisations

The NSW Aboriginal Children's Service, NSW Aboriginal Legal Services (ALS), NSW Aboriginal Medical Services (AMS), Link-Up (NSW), the Secretariat of National Aboriginal and Islander Child Care (SNAICC), and the Aboriginal Child Family and Community Care State Secretariat (AbSec) fit the key attributes of self-determination, as defined by the Whitlam government (Coombes, 1983; Mick Dodson, 1997; Parbury, 1988; Sanders, 2002, as cited in *Bringing Them Home*, Ah Kee & Tilbury, 1999; Bamblett and Lewis, 2010; Hytten, 2012;

Wilson 1997). The establishment of these organisations brought with it a focus on specific funding allocation to ACCOs that involved governance and management by and for Aboriginal and Torres Strait Islander People in Australia.

The belief that Aboriginal organisations and people are unable to manage the child protection platform for Aboriginal families should *not* be included in any discussion about the inclusion of an Aboriginal self-determination approach in the child protection system. In fact, in the past, robust conversations and recommendations have been put forward by many advocates for the inclusion of Aboriginal self-determination in the NSW child protection system. To add to this, Aboriginal people must have input into the management of policies that affect the lives of Aboriginal babies, children and young people.

One key driver of change in what can be considered a westernised bureaucratic monopoly (on the delivery of child protection services for Aboriginal families), has been the promotion of the governance and incorporation of ACCOs such as AbSec and SNAICC. The most pivotal objective of AbSec and SNAICC is the significance of recognising the rights of Aboriginal people to self-determine the cultural care of Aboriginal children that are placed in statutory care. The SNAICC provides a national focus on Aboriginal child protection, thus, incorporating a view that includes all States and Territories Governments in Australia. It is the national representative in Aboriginal child protection and Out-of-Home Care (OOHC) and has led the challenge at the national level for change in incorporating a culturally appropriate systematic approach to working with Aboriginal families.

The organisation was established in 1981, thus, has for many years advocated for an increase in Aboriginal controlled child welfare organisations to supervise the care of Aboriginal babies, children and youth (https://www.snaicc.org.au/about/vision-and-purpose/goal). In addition, it has lobbied relevant national government agencies to recognise the significance of culturally appropriate control of Aboriginal child welfare services that would "work with, strengthen and support a child's family of origin after the child has been removed to maintain connection to their family and hopefully be reunited with them" (Pocock, 2008, p. 4). The Organisation has also advocated for partnerships between "Aboriginal and Torres Strait Islander organisations, and mainstream service providers to provide opportunities for mutual capacity building benefits" (Hytten, 2012, p. 12). However, whilst mainstream non-Aboriginal organisations have a role to play in service delivery, SNAICC believes that they cannot "replicate the benefits of community-led and culturally appropriate service provision through Aboriginal community-

controlled organisations" (Hytten, 2012, p. 12). This observation presents also the organisation's view on funding allocation or the 'disinvestment' (Bamblett & Lewis, 2010) of financially resourcing Aboriginal organisations. Thus, Aboriginal people cannot build capacity within Aboriginal communities, to do what the concept of self-determination espouses or to achieve the original platform as developed by Gough Whitlam in 1972 and as further developed since then. Another main advocacy voice for Aboriginal child protection policy is AbSec. This organisation gained 'full independence in 2003' (AbSec Submission, 2008, p. 11). AbSec "provides child protection and out-of-home care policy advice on issues affecting Aboriginal children, young people, families and carers, and are informed by a membership base and community to ensure that Aboriginal perspectives are included in government policy and reform directions" (https://www.absec.org.au/about.html).

Consequently, the SNAICC and AbSec organisations have close affiliation with a view to Aboriginal people determining the decision-making process in relation to finding solutions to the extremely serious problem for Aboriginal families coming into contact with child protection authorities; a system that has presented the management of Aboriginal child protection business[7] in Australia since the establishment of the NSW 1883 *Board for the Protection of Aborigines*, and which has not shifted from government control and judgement of Aboriginal families coming into contact with the NSW child protection system. That does not infer that the NSW Government has not attempted to include an Aboriginal self-determining approach to managing child protection problems for Aboriginal families. It does reiterate however that what the Government has previously implemented for Aboriginal families, does not change the current serious problems of overrepresentation of Aboriginal babies, children and young people in the NSW child protection system; nor its failure to implement a fair and equitable support system that ACCOs could lead. Unfortunately, it has become an entrenched motif in advocacy from organisations' dialogue on this issue.

What represents an Aboriginal Self-Determination approach in the NSW Child Protection System?

The *Aborigines Welfare Board* (which was underpinned by a British system of policy reform that was entrenched into the governance and management of Aboriginal children placed in

[7] The term "Aboriginal child protection business" is used within similar context to "Aboriginal Men's business" and Aboriginal Women's Business".

statutory care), was abolished in 1969 and up to 1,000 Aboriginal children foster and institutional care records were transferred from the Board to the *Department of Child Welfare and Social Welfare* (Community Services Commission, 2000; Lock, 1997, Wilson, 1997) the now NSW Department of Communities and Justice. For example, in 1983 at Redfern NSW (100 years after the establishment of the *Aborigines Protection Board*), the NSW Youth and Community Services (YACS) child protection management system included an initiative to employ Aboriginal people in what was known as The Gullama Aboriginal Services Centre. The key objective of transferring the files of Aboriginal babies, children and young people was "to re-establish contact between Aboriginal wards and ex-wards with natural families and to ensure Aboriginal input regarding decisions affecting the placement of Aboriginal children" (Community Services Commission, 2000). Indeed, it was similar to the key aims and objectives of the already established NSW Children's Service and Link-Up NSW ACCOs. However, rather than increase the development of these ACCOs, the establishment of Gullama by YACS enabled the continuation of government-led control of Aboriginal child protection business, just as had happened with past policies and practices that were responsible for the development and implementation of the *Board for the Protection of Aborigines* in 1883.

Indeed, in a similar context to Gullama, more Aboriginal-focused initiatives were implemented from within the NSW Department of Community Services (DoCS) system. In 2003 the government increased the number of Aboriginal caseworkers (Wood, 2008, pp. 49 & 770) and established the NSW Community Services Aboriginal Services Branch (ASB). In 2010, Aboriginal Child and Family Centres were developed as a result of a partnership approach between State and Commonwealth Governments (NSW FACS, 2011/12). In addition, initiatives such as cultural care plans were included in casework practice to provide an "opportunity to build a nurturing network" (Libesman, 2011, p. 23) and not necessarily from within the child protection framework but rather that "communities need more support to look after their own children' (Libesman, 2015/16, p. 53). Hence, subtly introducing policies underpinned by neo-liberal policy development. That is, welfare reforms have been driven by "personal moral failings rather than systemic inequality founded in historic experiences" (p.46), totally ignoring the impact of past policies and practices and totally ignoring that the best outcomes are achieved through an Aboriginal self-determined framework. Indeed, cultural plans were an attempt to recognise the cultural identity of an Aboriginal child, within the NSW child protection system, however again without the involvement of Aboriginal people. The AbSec emphasised that a cultural care plan is "aimed at maintaining a child's cultural identity,

connection and sense of belonging to family and community while they are in OOHC" (AbSec, 2011, p. 31). An outcome that is impossible to achieve without the cultural leadership of ACCO's with expert child protection and OOHC knowledge.

In addition to the above, a myriad of government prevention and early intervention (EI) programs aimed at improving the welfare of Aboriginal children have been introduced to lessen the number of Aboriginal children removed. For example, the Intensive Family Based Services (IFBS) offers intensive support within a 12-week timeframe to Aboriginal families on the verge of having their children taken away permanently.

Another government-led initiative was a collaborative approach between the NSW Health maternal and infant health clinicians and NSW Community Services to target Aboriginal parents of newborn children. Those identified by the public hospitals maternal and infant health support workers, as needing support for the baby, are provided extra support for the family, such as referral to the DoCS Brighter Futures EI program for intensive family support (NSW FACS, 2011/12). Again, a government controlled initiative which in fact heightens the probability of removal. Furthermore, millions of dollars have been spent on programs within the Government's Aboriginal Child, Youth and Family Strategy (ACYFS) policy framework.

Notwithstanding the above initiatives, disproportionate levels of removal rates between Aboriginal and non-Aboriginal children, as exposed in Commonwealth and State Governments' statistical data reports continue. For example, in 2008 in NSW, in a group that held 2.1% of the total NSW population, within that cohort Aboriginal babies represented 10%, but made up approximately 65% of the total reports to the DoCS Helpline for this age group (Wood, 2008, p. 741). Indeed previous 2006/07 statistical reports suggested that, "for every 1,000 children in NSW aged less than one year, around seven entered care and in comparison, for every 1,000 Aboriginal children aged less than one year, 50 entered care" (Wood, 2008, p. 600). Furthermore, within the 12 months to March 31 2008 "Aboriginal children and young persons accounted for 28.7% (1,346) of all those entering OOHC" (Wood, 2008, p. 601).

Coming forward to 2020, national statistics suggest that:

> Over the 5-year period, the number of Indigenous children on care and protection orders rose steadily, from 18,400 on 30 June 2016 to 23,300 on 30 June 2020, with rates rising from 57 to 70 per 1,000 Indigenous children. Moreover, in 2019–20, about 4,600 Indigenous children were admitted to out-of-home care at a rate of 14 per 1,000

> Indigenous children, 10 times the rate for non-Indigenous children (1 per 1,000 non-Indigenous children). (AIHW, 2021, p.vi)

and that "1 in 18 Indigenous children (around 18,900) were in out-of-home care at 30 June 2020, almost two-thirds (63%) of whom were living with relatives, kin or other Indigenous caregivers" (AIHW, 2021, p.vi).

Thus, statistics are consistent with vigorous commentary from Aboriginal leaders to empower Aboriginal people to manage the current statistical nightmare of an extremely problematic situation for Aboriginal children, families and communities not only in NSW but across the nation of Australia. Hence, the era of 'file transferral' for Aboriginal babies, children and young people in 1969, was an opportunity to incorporate an Aboriginal Self-determination model, that could have involved already established ACCOs but was lost to an historically entrenched government-controlled policy system.

Subsequently, despite policy changes over time, government-controlled child protection and family initiatives and services have not stopped removal, thus have not reduced the over-representation of Aboriginal children in the NSW child protection system. Indeed, the government recognises the concept of Aboriginal self-determination *within* the operational framework of NSW Community Services, rather than external involvement of the Aboriginal community. Furthermore, policies of 'Aboriginal self-determination' have in fact been misrepresented by a policy system that has unfortunately continued since the *Board for the Protection of Aborigines* was established in 1883 and thereafter when the NSW Government introduced the *Aborigines Protection Act* in 1909.

Consequently, there has been a proliferation of government policies and provisions for Aboriginal babies, children and young people removed from their families, and these are systematically entrenched within the NSW child protection system. In other words, the government's management of Aboriginal child protection business has expanded significantly. Therefore, although there is evidence to suggest that in practice Aboriginal determined governance can be successful such as with the ALS, AMS, Linkup NSW, SNAICC and AbSec; it is not an ongoing feature of Aboriginal service delivery, nor is it a well-resourced approach to Aboriginal child protection service business in NSW by the NSW Government. Rather it is a system of disinvestment consequently disempowering the capacity for Aboriginal people's involvement in managing Aboriginal child protection business; decision-making; and having

input into policy development and implementation, whilst, in the meantime, the removal rate for Aboriginal babies, children and young people increases.

Aboriginal-led policy instruction

Aboriginal self-determination has never been implemented in accordance with the true implication of what 'Aboriginal self-determination' means. In compromising the original concept of Aboriginal self-determination perhaps it's time to extend its definition to encapsulate an Aboriginal-led policy instruction framework within child protection and OOHC policies procedure for Aboriginal babies, children and young people. It would loosen the constraints of government control, thus positioning relevant ACCO experts, within the decision-making process during the development and implementation of NSW child protection policies.

Indeed, Aboriginal people have argued for many years that change will not happen unless Aboriginal people are involved. An Aboriginal-led policy instruction framework would recognise the significance of what underpins the concept of Aboriginal self-determination and how Australia generally has failed to meet international obligations of recognising the basic human rights of Australia's Indigenous peoples. It would also recognise the benchmark set in key recommendations of the 1997 *Bringing Them Home Report,* that emphasised the significance of involving Aboriginal people and in respecting the level of expertise within ACCOs to do Aboriginal child protection business.

Aboriginal voices in policy process and procedures have been silenced for too long, to the extent that the seriousness of Aboriginal child removal has become the most prominent issue for Aboriginal Australians. The inclusion of Aboriginal people is therefore critical and an essential part of the way forward. An Aboriginal-led policy instruction framework would recognise the leadership of key Aboriginal ACCOs to direct the development and implementation of child protection policies for Aboriginal babies, children and young persons. It would increase the responsibility of already established Aboriginal child and family ACCOs. Thus, investing in the inclusion of Aboriginal-led policy development and implementation could be a significant systematic change that would guarantee the sustainability of cultural substance within the identities of Aboriginal babies, children and young persons, who have been removed from their parents; and of opportunities in establishing removal prevention initiatives, again led by ACCOs to stop removal and thus decrease the serious overrepresentation of this group; and it would

provide a presence of Aboriginal people that would inform policies for Aboriginal families. Thus, it is paramount to achieving better outcomes for Aboriginal families currently involved in a system that was first introduced in 1883 in NSW, Australia.

In conclusion, this paper adds to finding ways to decrease the over-representation of Aboriginal families involved in the NSW child protection system. It argues that 'Aboriginal self-determination' must be implemented through the auspice of ACCOs, which will introduce a systematic shift in the management process from a non-Aboriginal system of empowerment to an Aboriginal-led decision-making process. It has provided explanation of the introduction of the concept of an Aboriginal self-determination procedure that includes the expertise of Aboriginal people, communities and organisations. It has emphasised the significance of sustaining the identity of an Aboriginal child's cultural identity, particularly after removal from their parents and placement into statutory care. Although the NSW child protection system has, since the handing over of the personal files of Aboriginal children that were in care up to 1969, attempted to incorporate an Aboriginal self-determination service delivery model, it has failed to decrease the removal of Aboriginal babies, children and young people; to increase funding to ACCOs that have the responsibility of child welfare; and empower Aboriginal people to have input into relevant child protection policies. Finally, in moving forward, for what is an extremely serious situation for Aboriginal families and communities, the incorporation of an Aboriginal-led policy instruction framework within the general management of child protection will provide a more equitable system of decision-making rather than a system that is controlled and managed by Government and *non*-Aboriginal mainstream service providers that are continually empowered through government policy and funding allocation, to the detriment of disempowering the skills and knowledge of Aboriginal people.

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