



Submission: Review of particular criminal defences

Queensland Aboriginal and Torres Strait Islander
Child Protection Peak Limited

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Introduction

The Queensland Aboriginal and Torres Strait Islander Child Protection Peak (QATSICPP) is the Peak Body for youth justice and child protection in Queensland. Along with our 38 member organisations and numerous partners, QATSICPP are committed to creating safer communities by fostering strengthened partnerships with government, service providers, and community organisations.

Over its 16 years of operation, QATSICPP has worked alongside Aboriginal and Torres Strait Islander leaders and the Queensland Government to foster partnerships and approaches aimed at creating communities and services that meet the needs of Aboriginal and Torres Strait Islander children and families. QATSICPP's core goal is to empower families and communities to care for their children in a way that is rooted in culture, ensuring Aboriginal and Torres Strait Islander children achieve positive outcomes that equip them for success in life. With a proven track record of productive collaboration with government, QATSICPP has consistently developed and implemented community-led solutions to address the complex challenges faced by Aboriginal and Torres Strait Islanders communities in raising strong, resilient children within their families and communities.

QATSICPP welcomes the opportunity to provide feedback on the Queensland Law Reform Commission's (QLRC's) review of the domestic discipline defence under section 280 of the *Criminal Code*. This submission highlights our critical concerns regarding the impacts of domestic discipline, outlines our support for Option 1 of the QLRC discussion paper and calls for both a culturally safe implementation of, and a comprehensive community education campaign about the removal of a domestic discipline as a defence in Queensland.

Background

As outlined in the QLRC's consultation paper, the defence of domestic discipline allows parents, caregivers (such as step-parents or foster carers), and teachers to use physical force on a child, as long as it is deemed "reasonable" and intended for correction, discipline, management, or control. While community attitudes have shifted over time towards domestic discipline, this shift has not occurred uniformly across all households. In Australia, many children continue to suffer harm, abuse, and maltreatment disguised as discipline, with the lasting impacts of these harmful parenting practices often carried by survivors well into adulthood¹.

A wide variety of research suggests corporal punishment (such as smacking or hitting), is both a harmful and ineffective as a way to discipline children. Evidence from more than 75 studies involving over 160,000 children has found no proof that physical punishment leads to improved behaviours in children. In fact, evidence strongly support that physical punishment often results in more negative behaviour over time². Research over many years has linked corporal punishment to a range of negative outcomes, including increased aggression, poor emotional control, anxiety, depression, and substance abuse later in life³. It can also harm a child's development, damage their relationship with their parents, and increase the risk of suicide. The World Health Organisation recognises it as a form of violence that can affect both a child's physical and mental health, including brain development. Because of the overwhelming evidence of harm, many experts now consider corporal punishment to be an adverse childhood experience, similar to other forms of trauma that can have long-term effects on a child's wellbeing⁴.

Key Issues

Risk of Harm and Inconsistency with Child Protection Principles

As detailed in Professor Haslam's research, the use of corporal punishment is closely associated with an increased risk of child maltreatment, which continues to be a significant concern in Australia. Research indicates that six in ten Australians have experienced some form of maltreatment in their lifetime⁵. Corporal punishment not only has the potential to escalate into physical abuse but also functions as a risk factor for both abuse and neglect. For instance, studies show that mothers who report using corporal punishment are nearly three times more likely to also report physically abusing their children. Given these risks, it is neither safe nor justifiable for the law to permit practices that increase the likelihood of harm to children⁶.

In Queensland, the legal defence of domestic discipline which allows the use of corporal punishment stands in direct contradiction to the core objectives of the *Child Protection Act 1999 (Qld)*. Section 5A prioritises the safety, wellbeing, and best interests of the child, while Section 5B(1)(a) affirms every child's right to protection from harm or the risk of harm⁷. Allowing corporal punishment undermines these principles by exposing children to practices known to cause physical and psychological damage. Alarming, the defence has reportedly been invoked in approximately 40% of cases involving serious physical harm, such as grievous bodily harm, indicating its misuse and the urgent need for reform. While it is not currently known how many of these children may be Aboriginal or Torres Strait Islander, the scale and severity of these cases raise significant concerns. In particular, it casts doubt on whether the proposed legislative adjustments as noted in the QLRC's discussion paper under Option 2 would adequately address the misuse of this defence or offer stronger protections for vulnerable children. Maintaining the domestic discipline defence fails to encourage the adoption of safe, non-violent, and developmentally appropriate parenting methods and approaches that align with the principles of the *Child Protection Act* and are essential for fostering healthier family environments and breaking cycles of violence.

Cultural Parenting Practices

QATSICPP and its member organisations represent the richness and effectiveness of traditional child rearing practices that have thrived in Aboriginal and Torres Strait Islanders communities for over 60,000 years. QATSICPP's Centre for Excellence has partnered with ANROWS on a significant research initiative that draws on knowledge of local communities about parenting practices. This project explores the strength and protective value of cultural parenting practices, highlighting the critical role that culture plays in raising children who are safe, supported, and connected to their families and communities.

Traditional Aboriginal and Torres Strait Islander parenting practices are diverse and deeply rooted in cultural values. While these practices vary between families and communities, they consistently prioritise the child's social and emotional wellbeing and the emotional health of the caregiver. These methods have been passed down through generations via storytelling, kinship structures, and community connection and continue to hold profound cultural significance, despite the ongoing impact of past government policies aimed at dismantling traditional parenting. To support the promotion and embedding of positive cultural parenting practices in Aboriginal and Torres Strait Islanders communities, QATSICPP has developed a framework to 'address the impacts of domestic and family violence' with a strong focus on the care and protection needs of children and young people. This framework is grounded in principles that recognise and respect the unique cultural protocols, strengths, and knowledge systems of each community, and can be drawn upon to inform and guide the implementation of this proposal⁸.



Further to this, the framework supports the concept of shared responsibility in a parenting context to ensure that extended family members and community figures step in to offer care and support, particularly in times of difficulty. This culturally embedded system of care often negates the need for formal government intervention and reflects the strengths of kinship networks in providing safety, stability, and emotional nurturing. In the context of the current legal framework that continues to permit corporal punishment under section 280 of the *Criminal Code*, it is essential to recognise that traditional Aboriginal and Torres Strait Islander parenting approaches do not rely on physical discipline. Instead, disciplining methods foster positive behaviour through guidance, role-modelling, and connection. The continuation of a legal defence that permits physical punishment risks undermining culturally safe approaches and may contribute to further mistrust between Aboriginal and Torres Strait Islander families and the child protection system.

Research highlights the protective factors contributing to strong social and emotional wellbeing among Aboriginal and Torres Strait Islander children, particularly a strong cultural identity, positive child rearing practices, and close ties to family and community. These elements form a powerful foundation for a child's confidence and lifelong resilience. For these reasons, it is vital that any reform of corporal punishment laws acknowledges and supports the right of Aboriginal and Torres Strait Islander children to grow up safe and connected to culture, family and community. Furthermore, meaningful reform must extend beyond legal changes to include practical support for parents and caregivers, specifically those navigating the child protection system in Queensland⁹.

Mitigating unintended consequences

Latest available data from the Australian Institute of Health and Welfare (AIHW) shows Aboriginal and Torres Strait Islander children in Queensland:

- are 9.3 times more likely to be in out-of-home care (OOHC) than non-Indigenous children.
- Represent 49 percent of Queensland's 10,092 children living in out-of-home care (OOHC)¹⁰.

As noted in Queensland's strategy to eliminate the disproportionate representation of Aboriginal and Torres Strait Islanders children in care, *Our Way*, it is "*unacceptable that Aboriginal and Torres Strait Islander children are disproportionately represented in the tertiary child protection system at concerning levels.*"¹¹ Whilst acknowledging there are times when some families and children will need help in a crisis and in some cases statutory child protection services will be required, *Our Way* represents a joint commitment from the Queensland government and community to ensure parents are empowered by systems and services that are accessible, culturally respectful and safe, as it is in this environment that Aboriginal and Torres Strait Islander children and families are more likely to thrive.

As outlined earlier in this submission there are a range of reasons supporting the removal of the domestic discipline criminal defence from the criminal code. However, when considering legislative reform in this area it is also critical to identify possible unintended consequences, and how these consequences might be mitigated against. As noted above, whilst there are situations where corporal punishment involves serious physical harm, there also incidents which are less serious in nature and do not occur as part of an ongoing pattern of abusive and/or neglectful behaviour. The removal of the domestic discipline defence from Section 280 of the Criminal Code should not be misinterpreted by child protection and law enforcement authorities as a blanket endorsement of criminal charges (and potentially child removal), when in the vast majority of cases, despite parenting challenges, children will grow up stronger and healthier in their family and not in out-of-home care. To assist with the mitigation of such potential negative consequences, QATSI CPP provides a number of specific suggestions below in the Recommendations section.



Other Jurisdictions

While there is strong consensus across the child protection sector in support of repealing legislation that permits the ongoing abuse, harm, or maltreatment of children; perspectives remain divided among some sector experts. Anecdotal concerns have been raised by Aboriginal and Torres Strait leaders in relation to how the protection of children under Queensland law will be enforced by authorities once corporal punishment law has been repealed. This ambiguity has led to calls for more nuanced, culturally informed approaches to both policy and practice that directly impact Aboriginal and Torres Strait Islander children. One organisation actively addressing this issue is SNAICC – National Voice for Our Children, Australia's peak advocacy body for Aboriginal and Torres Strait Islander children and families. SNAICC works to advance the rights and wellbeing of Indigenous children through policy development, resource creation, and the delivery of community-led services. Through its *Indigenous Parenting Project*, SNAICC has engaged with government authorities to clarify the definitions and boundaries between physical abuse, discipline, and corporal punishment. The project also promotes culturally appropriate education and messaging, empowering families to adopt safe, nurturing, and culturally responsive parenting practices¹².

Internationally, a number of countries have taken decisive action to eliminate corporal punishment. The United Kingdom, including Scotland and Wales, has implemented comprehensive bans, affording children the same legal protection from physical punishment as adults. These reforms have been supported by leading organisations such as the Royal College of Paediatrics and Child Health, which have emphasised the harmful psychological and developmental impacts of physical punishment on children¹³. Furthermore in 2007 New Zealand became one of the first English-speaking countries to enact full legal reform in this area through the *Crimes (Substituted Section 59) Amendment Act*. This legislation removed the legal defence of "reasonable force" for parents and caregivers, effectively banning corporal punishment in all contexts. The reform was grounded in a commitment to promoting positive, non-violent parenting, and aligning domestic law with international human rights standards, including the United Nations Convention on the Rights of the Child¹⁴.

Recommendations

QATSICPP, alongside other peak bodies and organisations, remains deeply committed to promoting the wellbeing and development of all children, particularly Aboriginal and Torres Strait Islander children, so they can grow up safe, strong, and connected to their culture and communities. **In line with this commitment, QATSICPP supports the full repeal of section 280 of the *Criminal Code*** (Option 1 as identified in the QLRC's Discussion Paper). It should be noted that our support for the repeal of section 280 is conditional on this repeal being accompanied by;

1. Comprehensive, state wide and culturally responsive public health campaign to educate and support families about the repeal of domestic discipline as a domestic defence, and the reason behind this change to the law. This includes access to evidence-based parenting strategies and diversionary supports that guide parents and caregivers towards non-violent, nurturing approaches to discipline. QATSICPP welcomes the opportunity to partner with government to co-design training and educational resources tailored to both Aboriginal and Torres Strait Islander communities and families. Educational resources should provide information about what is classified as corporal punishment under the law, any changes to the law, the risks of corporal punishment to the child and the child parent relationship, and promote safe, evidence-based parenting strategies. Parents should also be directed to where they can access help and support. This aligns with



recommendations from the Queensland Family and Child Commission and the University of Queensland.¹⁵

2. The introduction of diversionary approaches in cases where the defence might have otherwise applied. This includes the provision of culturally safe parenting programs and support to foster the development of non-violent parenting skills. As stated in the joint submission led by Professor Haslam: *“The introduction of diversion approaches will enable parents who engage in corporal punishment but do not show other high-risk patterns of harm and violence to avoid criminal charges but instead receive parenting support and education in effective non-violent discipline approaches.”* These programs can help parents learn non-violent and effective discipline strategies with a cultural element that supports learning in a safe space. This approach will ease pressure on the justice system and ensure that families most in need get the support and help they require. QATSI CPP supports Professor Haslam’s recommendation that data regarding diversion measures be monitored for a period of two years to track the impact of diversionary approaches and uptake and intervention services.

3. Specific and detailed cultural training for people enforcing the law: It is essential that police officers responsible for applying and enforcing the law receive specific and comprehensive cultural training to complete their role. This is critical to mitigate against unintended consequences arising from the repeal, including the repeal contributing to the over-representation of Aboriginal and Torres Strait Islander people involved in the child protection and justice systems. To prevent unjust enforcement and ensure culturally safe practices, this training should be mandatory and completed as part of an officer’s initial induction. The training must also include guidance on how the legislation intersects with the *Child Protection Act*, to ensure a consistent and informed approach that respects the rights and needs of Aboriginal and Torres Strait Islander families. Without culturally informed and transparent application of the law, there is a risk that enforcement of such laws may further marginalise Aboriginal and Torres Strait Islander families and undermine efforts to build trust and support within these communities with state and federal Government.

Conclusion

It is evident that the defence of domestic discipline is not only incompatible with universally accepted child protection principles but also perpetuates harm and undermines efforts to support families in adopting safe, nurturing, and developmentally appropriate parenting practices. Reform is essential to ensure that Queensland’s legal framework reflects contemporary understandings of child development and upholds every child’s right to grow up in an environment free from violence and fear. As outlined in this submission, while it is vital to acknowledge the concerns of Aboriginal and Torres Strait Islander children and families who often face disproportionate scrutiny and intervention from government agencies the retention of this defence in any form risks providing legal endorsement for behaviours that are widely discouraged by health and child welfare experts. Eliminating the defence of domestic discipline is a critical step toward aligning the law with best practice in parenting, strengthening protections for all children, and breaking intergenerational cycles of trauma and harm. While QATSI CPP supports the repeal of the corporal punishment legislation, the organisation acknowledges ongoing concerns raised by the community regarding institutionalised racism that continues to impact Aboriginal and Torres Strait Islander children and families. These concerns stem from a persistent lack of cultural understanding shown by Government at a system level, particularly in relation to how traditional practices and values influence parenting approaches. It is for this reason that QATSI CPP supports an Aboriginal and Torres Strait Islander



specific co-designed public awareness campaign on the topic of nonviolent parenting practices.

Contact

For questions about this submission, please contact [REDACTED], DCEO Policy and Strategy on [REDACTED] or [REDACTED]

¹ [Queensland Law Reform Commission consultation paper unpublished.](#)

² <https://insightplus.mja.com.au/2023/11/australian-child-maltreatment-study-the-shocking-findings/>.

³ <https://onlinelibrary.wiley.com/doi/epdf/10.1002/ajis4.301>.

⁴ [The prevalence of corporal punishment in Australia: Findings from a nationally representative survey.](#)

⁵ [The prevalence of corporal punishment in Australia: Findings from a nationally representative survey.](#)

⁶ [The prevalence of corporal punishment in Australia: Findings from a nationally representative survey.](#)

⁷ https://classic.austlii.edu.au/au/legis/qld/consol_act/cpa1999177/s5b.html.

⁸ [Queensland Aboriginal and Torres Strait Islander Child Protection Peak. Healing our children and young A framework to address the impacts of domestic and family violence. \(2023\). COE Practice-Framework Healing-our-Children-and-YP.pdf.](#)

⁹ [QATSI CPP-literature review cultural parenting practices 2025.](#)

¹⁰ <https://www.pc.gov.au/ongoing/report-on-government-services/2025/community-services/child-protection>.

¹¹ https://www.families.qld.gov.au/_media/documents/aboriginal-torres-strait-islander-families/supporting-families/our-way.pdf.

¹² https://www.snaicc.org.au/wp-content/uploads/2023/09/040701_8_Indigenous-Parenting-Project-Main-Report.pdf.

¹³ https://www.independent.co.uk/news/uk/northern-ireland-england-royal-college-of-paediatrics-and-child-health-wales-scotland-b2529885.html?utm_source=chatgpt.com.

¹⁴ https://www.endcorporalpunishment.org/wp-content/uploads/country-reports/NewZealand.pdf?utm_source=chatgpt.com.

¹⁵ <https://www.qfcc.qld.gov.au/sites/default/files/2025-03/Corporal%20punishment%20-%20Research%20review.pdf>.

