

14 September 2026

Legal and Constitutional Affairs Legislation Committee

Department of the Senate
PO Box 6100
Parliament House
CANBERRA ACT 2600

Phone: +61 2 6277 3560

Email: legcon.sen@aph.gov.au

Dear Committee Secretary,

CALL FOR SUBMISSIONS: Inquiry into the Crimes Amendment (Prohibiting Shackling During Childbirth) Bill 2026

The National Justice Project thanks the Legal and Constitutional Affairs Legislation Committee for the opportunity to put forward a submission to the Inquiry into the *Crimes Amendment (Prohibiting Shackling During Childbirth) Bill 2026*.

The National Justice Project (NJP) is a not-for-profit human rights legal service delivering strategic legal action, social justice education, advocacy, and collaborative projects on issues related to First Nations justice, health justice, policing and prison reform, and disability justice. Our mission is to fight for justice, fairness, and inclusivity by eradicating systemic discrimination.

Through our participation in the [Partnership for Justice in Health](#), an alliance of Aboriginal and Torres Strait Islander academics, legal experts, and organisations, we work to address racism and its impact on health and justice outcomes for First Nations people. Our work also includes [Call It Out](#), Australia's first Indigenous-led national register for reporting racism and discrimination against First Nations people, developed in partnership with the Jumbunna Institute for Indigenous Education and Research at the University of Technology Sydney (UTS). We lead the [Alternative First Responders](#) campaign, a national coalition of more than 36 organisations calling for community-led responses to health and social crises in place of default police attendance.

We strongly support this Bill. Through our legal work, advocacy and partnerships with communities across Australia, we have seen how coercive and punitive practices are too often imposed on people at their most vulnerable, particularly First Nations people and those already experiencing discrimination and systemic disadvantage.

Our position

We support the Bill in full. Shackling a person during labour and childbirth is not a grey area under international law. It is a clear breach of settled human rights standards and violates the rights of two people at once: the mother giving birth and the child being born. The practice subjects women to coercion and control at one of the most vulnerable moments of their lives, undermining their dignity, safety and humanity while placing the wellbeing of both mother and child at risk.

This practice breaches Australia's obligations under the Bangkok Rules and the Convention Against Torture

Rule 24 of the *United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders* (the Bangkok Rules) provides that instruments of restraint must never be used on women during labour, childbirth or immediately after birth. The *United Nations Standard Minimum Rules for the Treatment of Prisoners* (the Mandela Rules) adopt the same prohibition. Together, these standards reflect a clear and longstanding international consensus that the use of restraints during childbirth is incompatible with the dignity, health and safety of women and infants, and cannot be justified on security grounds.

The practice also engages Australia's binding obligations under the United Nations *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, ratified by Australia in 1989. Shackling a person during labour can cause significant physical pain, restrict movement necessary to manage labour and respond to medical complications, and inflict profound psychological distress at one of the most vulnerable moments in a person's life. When restraints are imposed by state officials in the absence of a legitimate and proportionate justification, they may amount to torture or, at a minimum, cruel, inhuman or degrading treatment. International law absolutely prohibits such treatment, without exception, including in custodial settings.

Shackling during childbirth also violates the rights of the child

Discussion of shackling during childbirth often focuses solely on the rights and wellbeing of the mother. However, the practice also engages the rights of the child. Australia ratified the United Nations *Convention on the Rights of the Child* in 1990, which requires that the best interests of the child be a primary consideration in all actions concerning children and protects every child's right to the highest attainable standard of health from the moment of birth.

A child born while their mother is restrained is exposed to foreseeable and preventable risks. Restricting maternal movement during labour can increase the risk of complications, delay urgent medical intervention if something goes wrong during delivery, and may also impede a mother's ability to safely hold, comfort, feed and bond with her newborn during the critical period immediately after birth. These are not merely indirect consequences for the mother; they are harms to the child from the very beginning of life and are fundamentally inconsistent with the child's rights to health, safety and protection.

Why this Bill is necessary

There is no credible security justification for this practice. A person in active labour is not a flight risk, nor do the circumstances of childbirth support the use of restraints as a safety measure.

This practice does not operate within a neutral system. Aboriginal and Torres Strait Islander women are the fastest growing prison population in Australia and are imprisoned at more than 21 times the rate of non-Indigenous women,¹ despite making up under 4 per cent of the female population nationally. Most women in custody are mothers. As a result, the harms of shackling during childbirth fall disproportionately on First Nations women and their children. A practice that contravenes the Bangkok Rules and Australia's obligations under the Convention Against Torture is being imposed within a system marked by profound racial disparities. It reinforces and compounds existing patterns of harm and disadvantage, rather than sitting apart from them.

This is consistent with what we hear through the Call It Out register and observe through our broader legal casework. First Nations people are more likely to experience the criminal legal system at its most coercive, including in health settings where care, dignity and support should be paramount. Our Alternative First Responders campaign highlights the same underlying dynamic: an overreliance on control, restraint and surveillance in situations that call for care. The result is severe and preventable harm to individuals, families and communities.

¹ Australian Law Reform Commission, *Pathways to Justice: Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples* (Report No 133, 2018), ch 11: <https://www.alrc.gov.au/publication/pathways-to-justice-inquiry-into-the-incarceration-rate-of-aboriginal-and-torres-strait-islander-peoples-alrc-report-133/11-aboriginal-and-torres-strait-islander-women/incidence/>.

Recommendation

We recommend that the Committee support the Bill without amendment, ensuring the use of any form of restraint during labour, childbirth and immediate postnatal recovery is prohibited in all circumstances, with no discretion afforded to custodial or transport authorities. Anything less would leave Australia in ongoing breach of its obligations under the Bangkok Rules and the Convention Against Torture, while failing to protect the rights, dignity and wellbeing of both mother and child at the moment of birth.

We welcome the opportunity to provide evidence to the Committee on the health, human rights and systemic justice implications of this practice.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'G. Newhouse', with a stylized, flowing script.

George Newhouse | CEO
Email: georgen@justice.org.au