From Mary Ivec and Valerie Braithwaite

The following paper, along with previous research that has shown a persistent gap between child protection authorities and the families and communities whose lives they affect, has raised questions for us about what our next steps should be as researchers and concerned citizens. The Australian Capital Territory (ACT), our home state, has recently introduced a Charter for Parents and Families involved with ACT Child Protection Services, along with a Charter for Rights of Kids in Care. But will either of these Charters make a difference and close the gap that exists between government authorities and community, particularly the gap with the Aboriginal and Torres Strait Islander community? As the following paper shows, there are institutional barriers that create strife between Anglo-Saxon child protection authorities and Aboriginal and Torres Strait Islander peoples. We see the problem as less to do with individuals, who generally care about what happens to children, and more to do with embedded institutional pathways that are steeped in racism and domination.

Our current thinking involves approaching the matter through a healing from trauma lens, drawing on Judith Herman's (1992) Trauma and Recovery work: Trauma creates disconnection, reconnection involves dealing with the trauma.

Like traumatised people, we need to understand the past in order to reclaim the present and the future. Therefore an understanding of psychological trauma begins with rediscovering history (Herman p.2)

We welcome ideas from others and to learn new ways forward based on your experiences.

Mary and Valerie

Indigenous third parties in Australia's child protection system: a journey of defiance

Abstract

Australian Indigenous children are 12 times more likely to be in out-of-home care than non-Indigenous children (AIHW, 2023). Indigenous peak bodies have called for self-determination to stop this over-representation (SNAICC, 2021). 2011 survey data, collected from those working alongside authorities, reveal emerging differences between Indigenous and non-Indigenous third parties. Indigenous third parties were stronger critics of the child protection system than non-Indigenous third parties using quantitative data, distancing themselves with motivational postures of resistance and gameplaying, expressing greater mistrust and calling out performance failures. Qualitative data reveal differences not just in degree, but also in kind. Institutional racism permeated Indigenous experiences. Voice and deep listening are required around failure to embrace reforms against the backdrop of institutional racism. The findings are consistent with Hamilton et al.'s (2022) "Birdiya with Birdiya", boss with boss, framework and the Makarrata ambitions of the Uluru Statement from the Heart.

Keywords: child protection, reform, motivational postures, trust, intermediaries, Indigenous

Running title: Indigenous defiance in Australian child protection

Authors:

Valerie Braithwaite
College of Asia and the Pacific
Australian National University
Valerie.Braithwaite@anu.edu.au

Mary Ivec
College of Asia and the Pacific
Australian National University
Mary.Ivec@anu.edu.au

1 Introduction

Demands for child protection reform have grown among researchers and practitioners who have been concerned about injustice and ineffectiveness in child protection systems, particularly in the English-speaking developed economies of the USA, UK, Canada, Australia and New Zealand (Burford, Braithwaite and Braithwaite, 2019; Dettlaff et al., 2020; Featherstone et al., 2018; Lonne et al., 2008; Merkel-Holguin et al., 2022; Morris and Featherstone, 2010). Critics have focused on the decision-making process and actions of child protection authorities as they pursue their institutional mission of keeping children safe. Child protection authorities consistently fall short in terms of accountability for their use of coercive powers, their transparency and their inclusion of families and support workers in case management. Case management practices are reported as being stigmatising, unreasonable and unfair. Most damning are the outcomes for children. On average, child protection services do not redress former harms and may add to them. Children who have experienced the child protection system are disadvantaged in terms of education, health, housing, and financial support (Australian Centre for Child Protection, 2020; Bywaters, 2015; Malvaso et al., 2022; Pelton, 1989, 2015; Smales et al., 2020; Trout et al., 2008), and are more likely to cross-over into the criminal justice system (Cashmore, 2011; Sentencing Advisory Council, Victoria, 2019).

One path to advancing reform is to improve child protection authorities' relationships with third parties. Third parties refer to intermediaries contracted to deliver services as well as public organizations and voluntary groups working alongside child protection authorities (e.g. in housing, welfare, police, justice, health, education, foster care, out-of-home care). Previous

research has shown that relational tensions exist for third parties in their dealings with child protection authorities (Braithwaite and Ivec, 2022; Hamilton, Cleland and Braithwaite, 2020), the exception being police (Braithwaite and Ivec, 2022). At one level, these tensions are so well documented and so longstanding that they may be seen as "normal" (Coates, 2017; Holland, 2014; Humphreys et al., 2018; Krumer-Nevo, 2020; Marsh et al., 2015). At another level, however, reform demands rapprochement; but with such entrenched narratives of mistrust, it is difficult to know where conversations of reconciliation might start.

This article uses quantitative and qualitative survey data to analyse the relational tensions experienced with Australian child protection authorities by Aboriginal and Torres Strait Islander (ATSI) third parties compared with other third parties. At a time when self-determination on child protection issues for Aboriginal and Torres Strait Islander communities is on the policy agenda in Australia (SNAICC, 2021), the data probes the experiences and ideas of Indigenous third parties when the first steps toward system reform were taking place. Where do the issues of Indigenous and non-Indigenous third parties overlap and where do they differ? How do we gain a deeper understanding of the pathway toward Aboriginal and Torres Strait Islander self-determination in child protection?

2 The aloof and powerful authority

Recommendations of over 40 Australian government inquiries along with international research evidence point to the importance of the inclusion of family members in child protection decision making (Australian Centre for Child Protection, 2021; Burford and Pennell, 1998; Council of Australian Governments, 2009; Lonne, Harries and Lantz, 2013; Morris and Featherstone, 2010). Yet child protection authorities have held tightly to the

powers they have, be those powers of a legal, informational, social or psychological kind. Despite all policy directives to the contrary (e.g., from Council of Australian Governments (2009) through World Health Organization (2023)), they have continued to remain aloof from children, families and communities and dominate their lives. "Oppressive" (Merkel-Holguin et al., 2022), "authoritarian" (Parton, 2014), "bureaucratic-professional domination" (Adams and Chandler, 2004), "bureaucratic neglect" (Yang and Ortega, 2016), "formalistic" (Harris, 2011) and "technocratic" (Lonne et al., 2013) are some of the terms used to describe child protection's relationships with families, and with professionals, community workers and informal carers on whom child protection authorities depend for assessment, monitoring, interventions and day-to-day care.

Child protection authorities are structurally and ideologically designed to preserve psychological distance from and power over those whose lives they affect (Braithwaite, 2021; Merkel-Holguin et al., 2022; Parton, 2014; Yang and Ortega, 2016). Child protection culture aligns more closely with police than welfare and family workers (Braithwaite and Ivec, 2022; see also Edwards (2019) for a discussion of police-child welfare interdependence). Police and child protection favour a security frame for decision making when they fear the consequences of failure to intervene. Those providing support to families become bystanders who disapprove of the authority's unilateral action. They see such action as based on limited information, without consultation with support workers, and worse, without listening to families and those who can help address problems (Hamilton and Braithwaite, 2014; Hamilton, Cleland and Braithwaite, 2020; Braithwaite and Ivec, 2022).

Warner (2015) views these dominating and self-protective actions of child protection authorities through the lens of emotional politics. When a child dies, the media whips up

moral panic, emotional contagion raises the stakes for everyone involved. Politicians and senior officials either sack or reprimand the heads of child protection agencies, while demanding staff do more to stop the scourge of child abuse and neglect. All this happens as a media spectacle with dim recognition of the difficulty of the task at hand. Fear among workers and pressure from above to stop the harm means that no one wants to engage in complexity and uncertainty. This lessens the likelihood of consultation with families and support workers.

Deepening the relational tensions is class and race-based stigmatization that has been exacerbated by populist neoliberal politics (Burford et al., 2019; Krumer-Nevo, 2020; Lonne et al., 2008; Parton, 2014). A tome of research has documented the targeting and subsequent unfair treatment of parents who are single, young, non-white, on welfare, homeless, with histories of domestic violence or poor mental health or drug use. Risk models have targeted these groups in the name of efficiency and effectiveness, alienating families and underestimating their capacities for change (Harris, 2011; Harris and Gosnell, 2012; Ivec, Braithwaite and Harris, 2012; Morley et al., 2022; Purtell, Mendes and Saunders, 2021). Targeting has led to oppression rather than understanding the issues and interventions that would help these families. The Australian Centre for Child Protection (2021) has reviewed child protection case files and shown the unsuitability of many interventions: Interventions do not match needs.

Merkel-Holguin et al. (2022) argue that the system perpetuates structural oppression through institutional practices that dehumanise and punish those already stigmatised. Mandatory reporting feeds on prejudice in so far as it is easier to both see, interpret and report threatening actions in persons who are not liked or misunderstood. When a report is made and

investigated, the process of substantiation is oppressive for families because it focuses on parenting deficits. Substantiation is a process that is experienced negatively by families because it is designed to gather evidence that supports disrupting the relationship of parents with their children. The third oppressive aspect of child protection systems is the data registry that tallies the encounters of child protection services with families and stigmatises repeat offenders. Finally, Merkel-Holguin et al. point to confidentiality as an institutional practice that cuts families off from those who could support them and in effect gives families secret files that are held by the state for use against them if they do not do as they are told.

Support workers have made known to researchers and governments the deleterious effects that child protection's oppressive and stigmatising practices have on families (Broadhurst and Mason, 2013; Buckley, Carr and Whelan, 2011; Harris, 2011, 2012; Ivec et al., 2012; Ross, Cocks, Johnston and Stoker, 2017). Third parties have the task of rallying around families to explain child protection processes, win family cooperation, and help make the changes that authorities are demanding (Braithwaite and Ivec, 2021a, 2021b, 2022; Hamilton et al., 2020). Programs that have been shown to assist families and children depend on third parties (Burford and Pennell, 1998; Pennell, 2022; Melton and McLeigh, 2020). All the while, these third-party support workers risk experiencing stigma by association. Relevant information is withheld from them, their voices are silenced, and their contributions devalued (Hamilton, Cleland and Braithwaite, 2020).

3 Australian child protection: Self-determination journey for Indigenous Australians

Child protection authorities in the Anglosphere have had a particularly damaging effect on Indigenous communities that extends across generations (see, for example, Nogrady, 2019). In 1997, the Australian Human Rights and Equal Opportunity Commission published the "Bringing Them Home" report, documenting the laws, policies and practices that enabled government to remove Aboriginal and Torres Strait Islander children from their families with disastrous consequences.[1] In 2008, then Prime Minister Kevin Rudd gave a formal apology to the 'Stolen Generations' on behalf of the Australian Parliament. The apology not only recognised past harms but "embrace[d] the possibility of new solutions to enduring problems where old approaches have failed" (Rudd, 2008).[2] The intent was to change the trajectory of disproportionate child removals from Indigenous families, recognise intergenerational trauma, and acknowledge the importance of connection to country and culture for healing and thriving.

Child protection is the responsibility of Australia's 8 states and territories. All worked together under the auspices of the federal government to develop two long-term action plans, the National Framework for Protecting Australia's Children 2009-2020 (Council of Australian Governments, 2009) and 2021-2031 (Department of Social Services, 2021).[3] Consultation with families, collaborative evidence-based practice, and preservation of family and cultural connections featured prominently in both plans, with particular reference to Aboriginal and Torres Strait Islander children.

To date, these laudatory policy initiatives have not translated into practices that make a difference. Latest data from the Australian Institute of Health and Welfare (AIHW 2023)

---

[1] https://aiatsis.gov.au/explore/stolen-generations
[2] https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id:%22chamber/hansardr/2008-02-13/0003%22
[3] Subsequently referred to as the first 2009-2020 Framework and the second 2021-2031 Framework.

reveal that Indigenous children are 7 times more likely than non-Indigenous children to be subject to substantiation of maltreatment, 11 times more likely to be on care and protection orders where the government has assumed some responsibility for their care, and 12 times more likely to be in out-of-home care.[4]

Reviews of the first 2009-2020 Framework revealed that hoped-for improvements in how child protection authorities engaged with third parties and with families and children were not achieved (Davis, 2019; Department of Social Services, 2020). There was reluctance to open up processes to families and children and their support workers. Most egregious was a breach of good faith to adhere to the Aboriginal and Torres Strait Islander Child Placement Principle with its five elements of prevention, partnership, participation, placement and connection (Department of Social Services, 2021; SNAICC, 2021; Davis, 2019). At a practice level, the principle obliges case workers to talk to family and find safety for the child within the extended family or with an Indigenous carer. At an administrative level, child protection authorities across the country were expected to share power and open communication pathways in the spirit of self-determination. In response to the failures of the 2009-2020 Framework, the 2021-2031 Framework has gone further to develop a separate Aboriginal and Torres Strait Islander plan in consultation with Aboriginal and Torres Strait Islander communities.

Aboriginal and Torres Strait Islander peak bodies are actively pursuing self-determination in dealing with child protection matters (SNAICC, 2021). Sharynne Hamilton and her colleagues (Hamilton et al., 2022) have paved the way for the next steps along this path with

---

[4] https://www.aihw.gov.au/reports/child-protection/child-protection-australia-2021-22/contents/about

the Ngulluk Koolunga Ngulluk Koort (Our Children Our Heart) project in Western Australia. Hamilton et al. (2022) co-designed with Elders and senior Aboriginal community leaders a set of socially inclusive principles and practices for child protection decision making that meant the community voice would no longer be subordinate within the child protection system. Hamilton et al. (2022) advocate for a responsive regulatory approach to child protection – a partnership with authorities in which all structures and processes are reviewed through a lens that recognises historical injustice and Indigenous knowledge about how child protection matters might be best addressed. They advance an argument for child protection authorities setting up a "forum to work with Elders "Birdiya with Birdiya" (boss with boss) on ways to work with the families and communities toward recovery, which are solution-focused and culturally relevant" (p. 9).

The present article explores the kind of conversations that child protection agencies must be open to having with Indigenous third parties (and all third parties) to action the vision of "Birdiya with Birdiya". Implicit in Hamilton et al.'s (2022) description is mutually earned trust and acceptance of different contributions while sharing goals and resources for thriving children.

4 Theoretical approach: motivational posturing theory

Conversations seem like such simple things to have over matters of importance, but so often they are supplanted by formal meetings with pre-determined outcomes, overly structured plans and templates for problem definition and analysis, time-constrained exchanges of 'dos' and 'don'ts', and email correspondence that over-regulates the information shared and the feedback that may be on offer. Conversations on matters of substance may be avoided by

child protection authorities because they are uncontrollable, unpredictable and time-consuming, even dangerous. Through providing insights into the shared and different perspectives of third parties, we hope to open the doors to overdue conversations for reluctant child protection authorities.

4.1 Social distancing with motivational postures

Building trust is integral to improving third-party relationships with child protection (Hamilton et al., 2020). A theoretical approach that provides insight into how and when this might be done is motivational posturing theory. This is a theory of the signals that one partner sends to the other about willingness to comply with the other's requests and expectations. The assumption is that one partner has some kind of power over the other and can pose a threat to the other's freedom. Through mutual signalling, partners negotiate their relationship – do they like each other? Will they defer to the wishes of the other?

The theory has been applied mainly to cases of regulatory compliance in which authorities have powers of coercion. Motivational postures have been used in contexts as varied as prisons (Barkworth and Murphy, 2021), hospitals (Smith-Merry, Walton, Healy and Hobbs, 2017), nursing homes (Braithwaite, Makkai and Braithwaite, 2007), taxation (Braithwaite, 2009), regulating environmental use (Bartel and Barclay, 2011), and policing (McCarthy, Murphy, Sargeant and Williamson, 2021). The theory is equally applicable to contexts where entities work alongside each other and rely on the other for cooperation, for example, in peacebuilding (Braithwaite et al., 2010). Motivational posturing theory has been used successfully to understand how different professional and volunteer third parties align or distance themselves from child protection authorities (Braithwaite and Ivec, 2022).

The central concept in motivational posturing theory is social distance in relationships (Braithwaite, 1995, 2009, 2017). Social distance is a commonly used term in the social sciences since it was popularised by Bogardus (1928) in his work on the comfort zone of people when asked to participate in activities, of ever-increasing closeness, with different racial and ethnic groups. When applied to the current child protection study, the question to third parties is how close are you prepared to be to child protection authorities in your working relationship, how willing are you to support and stand by authorities, or is your comfort zone more distant, more wary, and possibly even defiant? The concept of social distance is not applied in a unidimensional way. Bogardus' dimensions of liking and deference are both important in the motivational posturing context. Role definitions and expectations mean that sometimes we can't escape from the powerful actors that constrain what we can do. We may dislike an authority but feel forced to defer.

Five motivational postures have been identified through a body of empirical work. Two postures express liking and deference: Commitment captures a belief in the mission of an authority and an obligation to pursue that mission (*e.g. I am committed to ensuring that children and families access the support they need to prevent harm and promote safety*). Capitulation is less concerned with what the authority stands for, and more concerned with staying on the right side of authority and doing what authority asks (*e.g. Child protection agencies are supportive as long as we try to do the right thing and learn from our mistakes*).

Three postures represent defiance of authority. The first, resistance, is a form of defiance that expresses grievance and unfairness toward an authority and a desire for the authority to do better. As such, those with the posture of resistance signal dislike, but they also feel under

control of the authority. They show begrudging deference. This is called resistant defiance because a relationship is still intact, albeit an oppressive one, that can be improved with better treatment from the authority (*e.g. Child protection authorities are more concerned about making their own job easier than making things easier for others*).

The remaining postures of disengagement and gameplaying signal a lack of deference. A posture of disengagement signals that the authority and its rules are irrelevant, and not worth the time of day (*e.g. If I find out that I am not doing what child protection authorities want, I'm not going to lose any sleep over it*). Those with a posture of gameplaying are astute to the rules and how they are being enforced and compete against the authority to win and assert their freedom (*e.g. I will tick the boxes to please a child protection authority and make the paperwork look good but I will not do anything else to help them*). Disengagement and gameplaying are postures that reflect dismissive defiance, a form of defiance where ties with the system have been broken, at least for purposes of good faith cooperation.

Government authorities in democratic societies operate most successfully when the public expresses commitment to the authority's mission and capitulates to the authorities' requests and enforcement policies. These tend to be the dominant postures to government in democratic societies and allow states to lead, coordinate and implement policy, particularly in times of change (Braithwaite, 2009). When support is lost, however, the defiant postures of resistance, disengagement and gameplaying will strengthen, threatening authorities' capacity to gain voluntary cooperation. It is at these times, that trust in authority declines.

All five postures are in play when child protection authorities and third parties interact. While most power resides with the child protection authority, both have power to threaten the other

at a micro level of interaction. Thus, both sides are capable of posturing. Their relationship can escalate to mutual gameplaying and resistance fuelled by entrenched mistrust or it can de-escalate. Motivational posturing theory is used to guide us to an answer to the question: How do we de-escalate? How do we build a trusting, cooperative relationship?

4.2 The threatened selves behind motivational postures

Motivational postures are composites of values, beliefs, attitudes, habits and norms, expectations and aspirations. They have their origins in a series of factor analytic studies of individuals' descriptions of their reactions to the demands of authorities. Developmental work took place in the fields of nursing home regulation and taxation compliance (Braithwaite, 1995, 2009). The posturing of authorities to those they regulate has been investigated in the field of work health and safety (Braithwaite and Cleland, 2017a, 2017b), among others.

Postures inform on visible social distancing: They are the tip of the iceberg. Theory building around motivational postures has identified three selves that when threatened by an authority, trigger postures of different kinds (Braithwaite 2009, 2017). When authorities assert their power, they are speaking to citizens' "moral self", a self-confessed "good" self that is in tune with what is legally and morally expected by the authority. This is the self that delivers willingness to comply and follow the rules. But authorities, if they are to win cooperation, also need to be mindful of a "democratic collective self" that can recoil when an authority behaves unfairly or inappropriately. The third self is a "status-seeking self" that can be provoked by an authority's actions that interfere with freedom and appear to have no useful

purpose. Threat to these selves by those with power invites protective action in the form of motivational posturing.

In earlier research on the posturing of third parties in child protection, scales were developed with connections to moral, democratic collective or status-seeking selves (Braithwaite and Ivec, 2022). When used in conjunction with motivational postures, a richer picture emerged of issues that were likely to cause divisions within the child protection community. These scales and some that address specific issues associated with Indigenous child protection are included in the current study. All measures are described in detail in the method section.

5 Method

5.1 Study design

This study uses 2011 survey data that were collected in the early years of implementation of the 2009-2020 National Framework to Protect Australia's Children. The survey was designed to capture diverse third-party voices from across Australia as the first steps of reform using the new Framework were taking place.

A web-based survey was completed by 387 participants. The survey was open to those who worked alongside or engaged with statutory child protection authorities on a paid or unpaid basis, either inside or outside government. Participants were invited to express their views on how ready child protection authorities were to comply with the first 2009-2020 Framework – how they were operating, how they believed child protection authorities should operate, and how fairly and reasonably authorities were dealing with third parties, families, carers and

children. Most questions were close-ended, designed to collect quantitative data for the attitude scales described below, but five open-ended questions yielded surprising insights on how Indigenous third parties were seeing their future.

Those who worked alongside child protection authorities were contacted through email networks that the researchers were able to access either directly, or indirectly through colleagues. The goal of the survey was to capture as much diversity as possible across the country and third parties and to do so outside formal workplaces that might inhibit willingness to respond openly. As the project gained momentum, snowballing was encouraged, with survey contacts invited to widen the web by forwarding details to those in other relevant networks. In effect, responses were collected from a snowball sample of third parties – people who worked alongside child protection agencies and were part of child protection-related email networks. Given how the sample was collected, there is a bias toward participants who are signed up or connected in some way to these electronic networks. Further details about the survey and descriptive statistics are available online (Ivec, Braithwaite and Reinhart, 2011).

The sample comprised 29 Indigenous and 355 non-Indigenous third parties. In terms of social-demographic differences, the major finding was about completion of secondary school. Indigenous third parties were statistically less likely to have completed secondary school (50% compared with 85% of non-Indigenous) (chi-square (df= 1) = 22.11, p = .000). The average age of each group was 44 years, both groups were predominantly female (79%), the majority in both groups had mandatory reporting obligations (70% for Indigenous, 75% for non-Indigenous), and both groups spanned all occupational identities (police, lawyers, health professionals, education professionals, social workers and general welfare/family support workers, and special third-party services (e.g. crisis accommodation, family and domestic

violence, rape and sexual assault, and substance misuse services). The largest occupational group was social workers and general welfare/family support workers (46%). Six of the seven jurisdictions were represented in both Indigenous and non-Indigenous groups. There was no Indigenous third-party participant from Tasmania.

5.2 Measures

This section details the scales that were formed to measure motivational postures and the democratic collective self, moral self, and status-seeking self. All scales were formed by adding the ratings that participants gave to the selected items (giving the items unit weights) and dividing the sum by the number of items in the scale.

Cronbach's alpha reliability coefficients for the scales, indicating the degree to which each scale has internal consistency among the items, are satisfactory, most with values in the .7s or .8s. The lower coefficients for the motivational postures of commitment and disengagement are less of a concern because alpha coefficients are sensitive to the number of items in the scale and these two scales have only three and two items respectively. The internal consistency of the items was optimised following a confirmatory factor analysis of each set of proposed items.

5.2.1 Motivational postures

Participants used a five-point Likert rating scale to indicate how strongly they agreed or disagreed with items representing the five motivational postures (see Braithwaite and Ivec (2022) for details on psychometric development).

Commitment (Alpha = .60, Mean (SD) = 4.56 (.49)) was measured by three items: (a) For me there is nothing more important than doing child protection work that respects families and communities but at the same time protects the rights of children; (b) I am committed to ensuring that children and families access the support they need to prevent harm and promote safety; (c) I am committed to ensuring that the children I come in contact with in my work are safe and have every chance of developing into healthy and happy adults.

Capitulation (Alpha = .72, Mean (SD) = 2.90 (.73)) was measured by four items: (a) Child protection agencies are supportive as long as we try to do the right thing and learn from our mistakes; (b) The child protection system may not be perfect, but it works well enough for most of us; (c) Child protection authorities are encouraging to people who have difficulty meeting their obligations through no fault of their own; (d) I think of child protection authorities as looking out for the safety of Australian children.

Resistance (Alpha = .75, Mean (SD) = 3.16 (.78)) was measured by four items: (a) Child protection authorities are more concerned about making their own job easier than making things easier for others; (b) Once child protection authorities have you branded as someone who won't comply, they will never change their mind; (c) It's impossible to satisfy child protection authorities completely; (d) If you don't cooperate with child protection authorities, they will get tough with you.

Disengagement (Alpha = .59, Mean (SD) = 2.46 (.80)) was measured by two items: (a) If I find out that I am not doing what child protection authorities want, I'm not going to lose any sleep over it; (b) I don't care if I am not doing the right thing by child protection authorities.

Gameplaying (Alpha = .77, Mean (SD) = 2.00 (.62)) was measured by four items: (a) If child protection authorities get tough with me, I will become uncooperative with them; (b) I do the minimum when it comes to the legal requirements imposed by child protection authorities; (c) I will tick the boxes to please a child protection authority and make the paperwork look good but I will not do anything else to help them; (d) I do what I am legally required to do to get child protection authorities off my back, but nothing more for them.

5.2.2 Scales to measure the democratic collective self

Core elements of the democratic collective self are trust and procedural justice. In the context of child protection, being consulted and listened to and being able to have decisions reviewed were also critically important. When these expectations are not met, an authority is causing offence to the democratic collective self. Three scales measured this threat to self:

Trust (Alpha = .87, Mean (SD) = 2.66 (.81)) was measured through these six items with higher scores indicating greater trust: [The child protection authorities] …. (a) take advantage of people who are vulnerable (reverse score); (b) fail to deliver on their responsibilities to the community (reverse score); (c) can be relied on to do what they say they will do; (d) do not mislead people; (e) are open and honest in their dealings with people; (f) can be trusted to administer child protection laws and rules fairly. Items were rated on a five-point 'strongly disagree' to 'strongly agree' Likert rating scale.

Accountability (Alpha = .84, Mean (SD) = 2.32 (.76)) was measured through four items with higher scores indicating greater procedural justice and greater opportunity to have decisions reviewed: [The child protection authorities] …. (a) go to great lengths to consult with the community over changes to their systems; (b) respect the individual's rights as a citizen; (c) accept responsibility when they make a mistake; (d) are open to reviewing their decisions when challenged. Items were rated on a five-point 'strongly disagree' to 'strongly agree' Likert rating scale.

Engagement (Alpha = .79, Mean (SD) = 3.07 (1.01)) with families and support groups is measured through five items with higher scores indicating greater engagement. Two items use ratings on a seven-point 'extremely poorly' to 'extremely well' Likert rating scale: (a) How well do child protection authorities engage with NGOs and other services they deal with? (b) How well do child protection authorities engage with families? The remaining three items were: (c) Statutory child protection authorities use their coercive powers to intervene (e.g. monitoring or removing children) .... 'Without enough consultation with other support agencies (1)' through 'With more than enough consultation with other support agencies (7)'; (d) Statutory child protection authorities use their coercive powers to intervene (e.g. monitoring or removing children) .... 'Without enough consultation

with families (1)' through 'With more than enough consultation with families (7)'; (e) Statutory child protection authorities use their coercive powers to intervene (e.g. monitoring or removing children) .... 'Without sufficient understanding of the situation (1)' through 'With a great deal of understanding of the situation (7)'.

5.2.3 Scales to measure the moral self

The moral self was measured by asking about the alignment between third-party moral convictions and the reform ethos expressed in the first 2009-2020 Framework. A scale to represent reform performance taps into how third parties perceived authorities' readiness to adopt the National Framework. Three regulatory philosophy scales (punish or persuade, family inclusion, and rulishness) were used to capture best practice guidelines that had been debated in the lead-up to the release of the first 2009-2020 Framework document.

Reform performance (Alpha = .87, Mean (SD) = 3.68 (1.22)) is measured by four items with higher scores indicating better performance. Using a seven-point 'extremely poorly' to 'extremely well' rating scale, participants indicated how much child protection was: (a) basing interventions and policies on experience of best practice; (b) preferring for children to be reunited with their natural parents; (c) using out-of-home care as the last resort; (d) basing interventions and policies on evidence.

Punish or persuade (Alpha = .81, Mean (SD) = 3.45 (.71)) is a seven-item regulatory philosophy scale. Three items represented tough enforcement and four items represented education and persuasion: (a) People who harm their children are not going to cooperate with a child protection authority unless they are forced to; (b) It is better for a child protection authority to be a tough enforcer of the legislation, even at the risk of being considered punitive; (c) Without the power to take legal action families would ignore a child protection practitioner's requests for them to meet parenting expectations; (d) It is best for child protection authorities to obtain compliance through advice and encouragement rather than taking legal action; (e) Child protection authorities who rely on their legal authority are less effective than those who rely on persuasion; (f) Only by understanding a parent's perspective can workers be effective; (g) It is better to try to persuade families to do the

right thing voluntarily even at the risk of being considered 'soft'. Items were rated on a five-point 'strongly disagree' to 'strongly agree' Likert rating scale. The three tough enforcement items were reverse scored so that high scores indicated preference for a supportive and educational approach to child protection work.

Family inclusion (Alpha = .76, Mean (SD) = 4.14 (.61)) is a five-item regulatory philosophy scale. Items were rated using five points from 'strongly disagree' to 'strongly agree'. A high score on these items indicated support for an inclusive family approach: (a) Parents should be involved in making decisions about their children in the child protection context; (b) Negotiation and compromise are effective when working with families in child protection; (c) Parents should be given a chance to make changes that show they are good parents; (d) The support of the family is critically important in child protection; (e) Parents should always be listened to.

Rulishness (Alpha = .75, Mean (SD) = 2.34 (.68)) is a four-item regulatory philosophy scale with items rated on a five-point 'strongly disagree' to 'strongly agree' Likert rating scale: (a) To avoid errors in judgement, child protection workers should stick strictly to the rules; (b) Rules are there only as a guide; each child protection case should be considered on its merits (reverse score); (c) Sometimes child protection authorities should bend the rules to suit special situations (reverse score); (d) It is desirable for child protection authorities to use discretion in their administration of the legislation where permitted (reverse score). Higher scores reflected the desirability of a more rulish approach, low scores a more flexible approach.

5.2.4 The status-seeking self

Rules and regulations can interfere with the performance of third parties, preventing them from achieving their goals and frustrating their efforts to support families. In these circumstances, the status-seeking self of third parties is offended. Two scales, ritualism and unresponsive avoidance, were used to represent the degree to which the intrusive powers of child protection undermined the meaningful or beneficial activity of third parties. The items in these scales reflect criticisms of child protection authorities that shaped the first 2009-2020 Framework (Braithwaite and Ivec, 2021).

Ritualism (Alpha = .82, Mean (SD) = 3.13 (.79)) was measured through four items with responses made on five-point 'never' to 'almost always' rating scales: (a) Child protection authorities use coercive powers to intervene without enough thought as to the next steps; (b) Child protection workers mechanically follow processes and ignore outcomes; (c) Child protection authorities rely too much on rules for making decisions; and (d) Child protection authorities lose sight of the goal of keeping children safe as they work through their procedures and rules. A high score indicated that the authority was undergoing its functions mindlessly and not advancing efforts to protect children.

Unresponsive avoidance (Alpha = .89, Mean (SD) = 3.69 (.86)) comprised six items that reflected obstacles to child protection authorities implementing the first 2009-2020 Framework. Third parties rated the following: (a) Too much resistance to working with others who might be able to help; (b) Too narrow thinking, not making connections between issues; (c) Too risk averse to trying new things; (d) Too hesitant to deal with the problem; (e) Too much distancing, discouraging contact and engagement; (f) Too little creativity in thinking of new ways to solve old problems. Items were rated on a five-point 'no obstacle' to 'huge obstacle' Likert rating scale. Higher scores reflected greater unresponsiveness and avoidance of addressing problems in the child protection system.

6 Results

6.1 Quantitative survey

The results of the quantitative survey are presented first, comparing Indigenous and non-Indigenous third parties. Qualitative responses are subsequently used to shed further light on the quantitative findings. The qualitative responses are important for answering the question: Do Indigenous third parties simply experience a more extreme form of the offences experienced by non-Indigenous third parties or are there special elements to the offences they experience?

Table 1 compares mean scores of Indigenous and non-Indigenous third parties on the scales measuring motivational postures and indicators of moral, democratic collective and status-seeking selves. Independent t-tests were used to test for significant differences between means for Indigenous and non-Indigenous third parties on each of the measures.

INSERT TABLE 1 HERE

Differences on motivational postures

No significant differences emerged for commitment, capitulation or disengagement. Indigenous third parties expressed the posture of resistance more forcefully than non-Indigenous third parties (M = 3.707 compared with M = 3.103). Indigenous third parties were more open to the posture of gameplaying than non-Indigenous third parties (M = 2.359 compared with M = 1.968).

The relative strength of the five motivational postures for Indigenous and non-Indigenous third parties is shown in a bar graph in Figure 1. Commitment is very strong for both groups with average scores above 4.5. This means that both groups were close to the top score of 5 meaning 'strongly agree' with all statements. Thus, both groups were strongly committed to keeping children safe.

It was in relation to the next posture, capitulation, that scores dropped to below the midpoint of 3. Three is the midpoint meaning 'neither agree nor disagree' on the 1 ('strongly disagree') to 5 ('strongly agree') Likert rating scale. Average scores below 3 mean that both groups were on the disagreement side of the scale: They were inclined not to capitulate to authority. Instead, both groups scored above the midpoint of 3 on resistance, meaning both groups had

criticisms of child protection and wanted to keep their distance from them. While non-Indigenous third parties just edged over the midpoint, Indigenous third parties were more forthright in expressing a posture of resistance to authority.

Disengagement and gameplaying were relatively poorly endorsed postures among Indigenous and non-Indigenous groups (below the midpoint of 3). This is probably because those who took part in the survey cared about legal obligations to children. Defiance in this sample was tempered. After all, both groups' commitment to keeping children safe was strong. Even so, the Indigenous group was inclined to entertain dismissive defiance of the gameplaying kind more than the non-Indigenous group. This appeared to take the form of ticking boxes to be legally compliant while holding back cooperation when child protection was seen to be making poor decisions. As will become evident with the qualitative data, Indigenous third parties had well thought out positions on best practice in child protection that were at odds with authorities.

INSERT FIGURE 1 HERE

Differences on democratic collective self, moral self and status-seeking self
Just as Indigenous and non-Indigenous third parties were similar in their posturing to authorities, they were similar in reporting offence to their democratic collective, moral and status-seeking self at the hands of child protection authorities.

Both groups had a negative view of child protection on trust, accountability, engagement, and reform performance (see means in Table 1, all of which are below scale midpoints). Both groups rated child protection authorities as ritualistic in performing their duties, being

unresponsive and failing to find new ways of addressing old problems. There was evidence that the child protection authority performed its duties in ways that threatened self for both groups.

However, independent t-tests revealed significantly greater offence was experienced by Indigenous third parties, not so much on regulatory philosophy (what should happen), but rather on regulatory practices (what does happen).

From Table 1, Indigenous third parties had a significantly more negative view than non-Indigenous third parties on child protection trustworthiness (M = 2.325 compared with M = 2.695), engagement (M = 2.641 compared with M = 3.105), and performance in rolling out the 2009-2020 Framework (M = 3.216 compared with M = 3.726). Indigenous third parties were more critical than non-Indigenous third parties of child protection authorities' capacities to respond effectively to their challenges. For Indigenous third parties, authorities were judged higher on ritualism (M = 3.440 compared with M = 3.099).

In sum, independent t-tests revealed that Indigenous grievances compared with non-Indigenous grievances were related to the democratic collective self (low trustworthiness and poor engagement with families and support groups), the moral self (child protection not executing the new government Framework), and the status-seeking self (ritualism).

6.2 Qualitative survey

The open-ended questions used for this analysis asked about excellent uses of third parties, how could third parties be better used, how families with different cultural and linguistic

backgrounds fare in the child protection system, and what were participants' ideas for change. In the combined Indigenous and non-Indigenous sample, 176 participants responded to the open-ended questions and 87% had a positive story to tell about effective third-party intervention (Braithwaite and Ivec, 2021a). Both Indigenous and non-Indigenous third parties had a strong sense of collective efficacy (Braithwaite and Ivec, 2021b, 2022). They told stories of how their involvement in child protection cases helped families be heard, helped families understand what was happening to them and what was expected of them, to accept child protection decisions, to meet care plan responsibilities, or to improve their situation to keep their children. Third parties did emotional work with families, often out of hours, or when a child or parent went missing. Third parties helped with transition to out-of-home care, preparing children as well as families.

Indigenous and non-Indigenous third parties agreed about failures in communication and engagement (Braithwaite and Ivec, 2021a, 2021b). Third parties were frustrated in their efforts to provide input or feedback to child protection authorities, even on matters relating to what kind of support might benefit families and children. Both groups saw child protection authorities operating in their bubble of assessments, toolkits, decision-making protocols and internal hierarchical accountability (Hamilton and Braithwaite, 2014). Yet Indigenous third parties added a new dimension to why they experienced offence to their moral, democratic and status-seeking self – institutional racism.

Twenty-five of the 29 Indigenous third parties responded to the qualitative questions. The views that were most distinctive concerned their vision of the future. Importantly, getting child protection to do more was not as strong a theme as expanding the role of Indigenous third parties. At this point in 2011, Indigenous third parties were not shy about calling out

problems in their communities, problems that child protection did not understand, nor were proving capable of addressing. The group was articulate about the ways forward. Their varied positions were honest, original and thoughtful and are presented in some detail here because they deserve to be part of deeper conversations with grassroots stakeholders. The authors have added bold type in the quotes below to draw out key concepts.

Offence to the 'democratic collective self' was most forcefully expressed as condemnation of the institutional racism that was directed to Indigenous communities and third parties. Racism was embedded in procedural unfairness, failure to engage and distrust:

"*As for our Indigenous community, systems just need to learn **basic respect** and stop using child protection as the focus for **racist**, social welfare type practice in the absence of concrete child protection concerns*" (Therapist)

"*Most of our (ATSI) families with children are instantly **'labelled'** as possibly potentials for [child protection]. Staff are very quick to judge how a family is coping by their dress standards, language, smell and how they are presenting at the time. Notifications have been made for [child protection] and possible removal **without consultation with Aboriginal workers or the family** to identify alternative relative care options!*" (Hospital acute care health worker)

"***Assumptions** [are] made by some [child protection] workers that Aboriginal families and counsellors **do not have the capacity for change** and [workers] continue to **seek advice or clarification from other counsellors** before accepting the report or recommendations from the Aboriginal Counsellor.*" (Child protection counsellor)

Offence to the 'moral self' was evident in stories where Indigenous third parties failed to prevent poor decisions by child protection and thereby failed to protect children. Racism also featured in these responses:

*"More often than not child protection workers **devalue the indigenous family and community structure**; the impact of their behaviour is causing more harm to families. There are some children that need separating and then there are those that need support - more often than not **those in need of support are removed and those at risk are still living in the situation**"* (foster carer)

Offence to the 'moral self' also emerged in ways that were not predicted through the quantitative analysis. It is worth recalling that Indigenous third parties did not differ from non-Indigenous third parties on the regulatory philosophy scales of punish or persuade, family inclusion or rulishness. They did differ on performance, however.

*"**The Act sets down processes** for dealing with Aboriginal people. The Dept **is inconsistent with following the Act** by either mostly ignoring it or by following it so stringently that families and children are left without a service.*" (Community health worker)

References to how 'the system', in its efforts to be responsive to Indigenous families, was doing harm and not helping keep children safe was an unexpected finding:

*"Perhaps understandably, Community Services has **a guilt-driven approach to developing policy and practice for Aboriginal child protection**. For good reason, policy encourages*

*cultural sensitivity and relationship building with communities. Unfortunately, in some practical senses, it is too cautious about causing offence or attracting criticism of being paternalistic. **Policy and practice avoid intervention in some types of cases where the protection of the child certainly justifies more intrusive intervention**.”* (Police investigator)

“ ***Improvements could be obtained if the entire system was overhauled** instead of a simple focus on [child protection authorities] - the legal system needs to be better able to work in the best interests of the child rather than scoring points and winning cases against other legal practitioners; Magistrates need to be better trained to take the best interests of the child into consideration rather than a very narrow 'keep the family together at all costs' mentality; courts need to be able to **take on board community knowledge** to build a better picture of the situation rather than simply relying on which solicitor presents the best case; [Persons with mandatory reporting responsibilities] need to think about the best interests of the child when they see a presentation that concerns them rather than looking for an easy way out/not wanting to ‘rock the boat’/having the family ‘out to get them’/having to appear in court to give evidence/having to write reports or make verbal reports to notification lines/think that it is a cultural issue when children are obviously neglected or abused ... families need to be better educated about their responsibilities as parents/carers and early intervention programs that have ‘teeth’ put into place as soon as an issue involving the care of a child is noticed*.” (Program manager, family services organization, with experience on the frontline across a range of services)

Offence to the ‘status seeking self’ was inferred from reports of frustration in working with a system that was not capable of preventing harm, but instead caused harm. The Program

Manager, quoted above, provided two cases of ritualistic practices by child protection workers that undermined the achievements of her staff and community:

This case involved a 12-year-old boy who was physically abused by his step-father and almost lost sight in one eye:

There was an extensive history of abuse and substance abuse in the family. ... a child and his younger sibling had not been collected from school. ... The school had been told by the [child protection] worker involved that even though the mother was stating (in a very drunken manner) to keep the 'f.... kids', this did not constitute grounds for a notification. **We picked the children up and put them in our Family Group Home for the night for their care and protection**, *against the [child protection authority] telling us to take them home*. **We were then ordered to take the children to the child protection office (6 pm) and let them take them home** *...[The child protection authority] completely* **disregarded our community knowledge, the knowledge of the school workers and made a decision based on this being OK or normal for Indigenous families**. **Within two weeks the stepfather had caused the injuries to the eye** *mentioned above. When the case went to court* **the Magistrate accepted that the Tongan culture of the stepfather was to severely beat children when they 'misbehaved' and left the children in the care of the family**. *The department did not have a strong enough case (as community knowledge is not accepted in the courts and cumulative harm was not presented) to argue against the family's legal representative."*

And then a more recent experience,

"*Last Friday we had a [child protection] worker come into our Community hall and remove a child from the arms of his mother in front of a number of Community members - including elders who are survivors of the 'Stolen Generation'.* **The mother and the child were both screaming and the grandmother ran after them outside and grabbed the child and told the worker to let his mother kiss him good bye - the grandmother calmed the child and the mother down - we had to get two of our elders, the mother and the grandmother seen by our doctor as they were so upset and traumatised by what had occurred - the worker does not understand or comprehend Stolen Generation … or how to relate to Indigenous families** *- we have been required to submit* **(yet another) Incident Report that will also probably never see the light of day** *or be acted on.*"

An analysis of the qualitative data revealed stories of offence to self that were consistently imbued with the experience of racism. It was therefore not surprising that the motivational posture of resistance toward the child protection authority was strong, a signal of non-alignment with the way that child protection thought and worked. But the qualitative stories were not just about pushing back against authorities as resistance implies. Indigenous third parties acted to change the course mapped out by child protection. The above narrative of the grandmother intervening to calm mother and child and insisting that the child protection worker allow the mother to say good-bye is a small example of the exertion of Indigenous power, of reasserting Indigenous values and authority in a situation where it was not respected. This kind of defiance, relatively rare no doubt, was nevertheless distinctive of Indigenous third parties, and was consistent with Indigenous third parties' stronger endorsement of the posture of game playing. Gameplaying was a form of defiance that was dismissive of child protection attempts to subjugate and control Indigenous families.

The qualitative data provided by Indigenous third parties who took part in this study revealed confidence in knowing how to move things forward. Indigenous third parties had a moral self that was less aligned with how child protection authorities operated, and more aligned with the higher mission of keeping children safe and caring for community on their terms. The following quotes illustrate constructive and practical defiance among Indigenous third parties. This knowledge was circulating before the government stepped up to launch new Indigenous policy initiatives in its second 2021-31 Framework (Department of Social Services, 2021).

The especially important and novel aspect of these data is the combination of defiance against child protection authorities with an appetite for acting outside child protection control to pursue a higher moral mission of protecting children from abuse and neglect. Indigenous third parties were not in conflict with the moral purpose of child protection authorities but were in conflict with - if not rejecting - the formal system's ritualism and ineffectiveness.

"*The use of third parties in Aboriginal Family Decision Making (AFDM) programs is also of benefit to families* **- this program brings together all the related family members to help make decisions that will help to protect the children - again this works well if the [child protection] worker is willing to trust advice from the Indigenous workers** *involved and not discredit them by assuming they are not professional and will collude with the family - it often appears that this assumption is made about our professional workers but discounted as an issue with [child protection authority's] 'trusted' third parties outside our services*."
(Program Manager)

*"In most Aboriginal families, it's the Nannys that are on-call care-workers 24 hours for their grandchildren, with often very little support, no transport, and quite often overcrowding overnight arrangements. **The 24 Hours Aboriginal Nanny care has limited funding and is based on the Aboriginal Value System of Caring for Country**. The benefits that an Aboriginal Nanny receives are much Love, Joy, Laughter, Companionship, Humour and a student to pass on knowledge of Language, Culture and Stories. **The Aboriginal Nanny is a true hero**.*" (Family support worker, currently training to be a child focus educator in an Aboriginal service)

Indigenous third parties were well aware of what a quality service would offer:

*"1. Specific **services dedicated to support** and advocate the needs of parents and families, and to ensure that actions taken by [child protection] workers are **based on evidence rather than assumption/in crisis**.   2. An **external body that governs the actions of [child protection] workers.**   3. Compulsory use of **Family Group Conferencing**.   4. Learn from past errors resulting in the 'Stolen Generations' and the 'Forgotten Australians' **and ensure these mistakes aren't repeated**. Currently they are being [repeated]!!*" (Support worker)

*"The best services (there are a handful...) have one common theme.... **well trained/ supported management and staff who understand what causes welfare issues, and how to intervene while being inclusive and respectful. They can maintain boundaries while working with the families/ children**; and also due to their training/ experience **they know sometimes things take time** and that it won't always be smooth; but that this is to be expected. These types of service providers are 'one off' across government and the NGO sector.*" (Therapist)

Indigenous third parties were aware of the pitfalls:

"*Third parties sometimes act as proxies for abusive parents who have been discredited.* ***Placement of 'at risk' children with third parties*** *such as grandparents or other extended family sometimes* ***weakens the protection offered to the child if the third party does not intend complying with access restrictions*** *or feels unable to refuse access to the abusive parent.*" (Consultant)

And how they would manage the problem:

"***By checking the credibility of the third party prior to involvement - community knowledge about a third party in our (Koori) community can inform a child protection worker whether the person is 'safe' and credible to become involved in a case.***" (Program Manager)

Indigenous third parties saw a role for child protection authorities and the legal system, but the territory of support and care they claimed as their own.

One Indigenous police officer favoured limiting the role of child protection:

"***Child protection authorities should only focus on the protection of the child*** *and not supporting the family, to maintain impartiality and not lose perspective on the safety of the child.* ***Third parties should be responsible for support and assistance*** *of families and parents.*"

Another advocate and foster care coordinator wanted more power to be returned to communities:

*"Government must commence to consider a new case management framework. In other words, a case management framework that is managed by the non-government sector. ... **Government authorities are not the only decision makers in this country**. Other sectors can be responsible for making decisions for children and young people. I firmly believe this would work well as well as being financially clever….. **For me the solution rests with our own people and we should be enabled to continue to build our workforce throughout the country instead of being dictated to by government** - there have been no tangible nor decent outcomes for our children in the past generations, yet still we a consistently mocked and ridiculed and must forever bow to the supremacy of the Anglo-Saxon in this country."*

This was the strongest declaration of self-determination among participants. Other Indigenous third parties understood the importance of engaging with mainstream institutions while pursuing their plans. With regard to the legal system:

*"I've been involved in many cases where due to safety issues, the child must go into care (either relative or foster), but with legal representation the Department will adhere to regular visits/ help with transport etc etc. ... Without legal representation, the child will basically go into care and vanish ... **The use of lawyers in legal aid/Aboriginal legal services DOES keep system much more accountable.**"* (Therapist)

And with regard to child protection:

"*Allow workers the opportunity to employ common sense on more occasions rather than bogging them down in policy. **Many workers start out trying to do the right thing but are either forced into complicity with the system or forced out of the job**.* …

"*I would like to say that the majority of child protection workers would like the opportunity to work proactively in more preventative programs but the [child protection] agencies still operate on a [reactive] model which obviously doesn't and can't work. If it did work notifications would be declining instead of sky rocketing. Give the workers the opportunity to use judgement and provide them with alternatives to removal.*" (Community health worker)

6.3 Summary of findings

The quantitative data tell a story of distancing from and offence by child protection authorities among both Indigenous and non-Indigenous third parties, but more so for the Indigenous group. Indigenous third parties were more resistant in their motivational posturing and more open to gameplaying. Offence was felt at the level of the moral self. Child protection was not doing the right thing, and yet made the decisions that affected children and families. Offence was also taken at the level of the democratic collective self. The knowledge and expertise of third parties was discounted and efforts were not made to consult or include them in decisions or engage with them in a positive way. The status-seeking self is driving third parties to seek a meaningful contribution through their work. This was too frequently thwarted by a powerful authority that had lost sight of the needs of children, families, and communities.

The qualitative data provide narratives from Indigenous third parties to demonstrate the depth and breadth of the offence they felt and their determination to find a way of helping their

communities. The theme that cut across the stories of Indigenous third parties was the experience of racism and its ever-present and far-reaching impact on efforts to protect children.

7 Discussion

This research provides a window into the experiences and ambitions of Indigenous third parties working alongside child protection authorities just over a decade ago. Currently, Aboriginal and Torres Strait Islanders are making successful inroads into achieving self-determination on child protection matters.[5] Australia is preparing for a referendum on Aboriginal and Torres Strait Islander recognition in the Constitution with a constituted "Voice to Parliament." The intention is for "The Voice" to advise government on matters that affect Indigenous peoples. Around half of Australians view these developments with suspicion and fear.[6] These research results offer reasons for tempering those fears. Indigenous third parties in child protection have more than a decade of experience in building knowledge and ideas for finding new ways of giving Indigenous children a better start in life than they currently have. A "Voice to Parliament" offers a novel way for their expertise to be heard. It is in the nation's interest to implement these ideas and test their worth. To date, governments have shown neither curiosity nor inclination to listen or act. The "Voice to Parliament" compels that openness.

[5] https://www.niaa.gov.au/2023-commonwealth-closing-gap-implementation-plan/delivering-outcomes-and-targets/outcome-12-aboriginal-and-torres-strait-islander-children-are-not-overrepresented-child-protection-system
https://www.abc.net.au/radio/programs/speakingout/speaking-out/102486508
Kolovos, Benita (2023) Victorian child protection cases to consider past Aboriginal mistreatment under landmark bill, Guardian Australia, 21 February.
https://www.theguardian.com/australia-news/2023/feb/21/victorian-child-protection-cases-to-consider-past-aboriginal-mistreatment-under-reform-of-landmark-bill
[6] https://www.theguardian.com/news/datablog/ng-interactive/2023/jun/15/indigenous-voice-to-parliament-referendum-tracker-how-many-people-support-or-oppose

The quantitative data comparing Indigenous and non-Indigenous third parties demonstrated considerable overlap in the two groups. There was no evidence at the quantitative level that hurts to the moral, democratic collective or status-seeking selves were present in one group and not the other. Both groups felt hurt, but the Indigenous group felt the hurt more deeply: They expressed more resistant defiance, they were less trusting, they were more critical of lack of engagement with family and support workers, they decried ritualism more strongly and failure to action the 2009-2020 Framework. Some might argue that data such as these provide an argument for why a special Indigenous voice to parliament is not fair: The data show that non-Indigenous third parties need a voice too. Structural reforms that make child protection more accountable and that empower community through compulsory family group meetings and child-centred courts can address the power imbalances that dehumanise so many child protection interactions. But these changes will not advantage Indigenous families in the same way as non-Indigenous families.

The qualitative data provided contextual meaning to the quantitative findings. The differences between the Indigenous and non-Indigenous groups were not just a matter of degree. A qualitatively different dimension emerged: The experience of institutional racism that Indigenous third parties perceived is at best failing to help their children, and at worst harming their children, their families and their communities. Of the 25 Indigenous third parties who provided qualitative responses, only one denied institutional racism. Institutional racism is unconsciously practised not only throughout the child protection system but also the legal, education, health and welfare systems. The perception of harm through institutional racism empowered Indigenous third parties to step outside child protection control, to be open to a gameplaying mindset, and find ways to help their children themselves.

Indigenous third parties' ideas for reform varied. It is important to emphasise that the purpose of this article is not to look for consensus, nor even to propose ways forward. The purpose is to underline the knowledge that has grown out of experience among Indigenous third parties, that has given rise to defiance that is child-centred, family-centred and community-centred, and that is being actioned by "heroes," oftentimes against the harmful actions of the state. One purpose of this article is to say these voices are worthy of respect and attention by the state.

Persistent failure by successive governments to listen – or even to want to listen to proposals for different solutions to age-old problems because of institutional racism is the most powerful argument for why the Voice to Parliament is needed and should be enshrined in the Australian constitution.

7.1 Limitations

The major limitation of this research is a small sample of Indigenous third parties from across the country and from a variety of occupations. The sample size is small, limiting the sophistication of the quantitative analyses. By the same token, the authors believe there is value in bringing a diverse array of experienced and thoughtful Indigenous voices to the fore as the thorny issue of a dysfunctional child protection system persists in both Indigenous and non-Indigenous communities throughout the world.

A more serious limitation is that no claims can be made of representativeness in either the Indigenous or non-Indigenous samples. The problem is exacerbated by recognition that biases

in the Indigenous sample may be different from biases in the non-Indigenous sample. For instance, the methodology adopted for the third-party survey was not tailored to what is regarded as culturally attuned methodology for Indigenous communities. This paper is the result of serendipity, a realization at the stage of data analysis that Indigenous third parties who answered the survey had a different perspective and their voices warranted attention. Further investigation is warranted of the visions of Indigenous and non-Indigenous third parties for reform of the child protection system.

7.2 Implications

The implications of these findings have a bemusing simplicity about them. It is time for policymakers and child protection authorities to listen to the voice of Indigenous third parties on how best to protect children and create a space for Indigenous communities to create solutions. This does not mean that child protection authorities and the legal system have no role. Most participants in this research envisaged mainstream institutions continuing to play a role. The vision of Indigenous third parties in this study resonates with Hamilton et al.'s (2022) Framework, "Birdiya with Birdiya", boss with boss.

The stories told by Indigenous third parties in 2011 in child protection were prescient of landmark events of the next decade. Their vision foreshadowed the sentiments of the Uluru Statement from the Heart at the 2017 National Constitution Convention:

"Makarrata is the culmination of our agenda: the coming together after a struggle. It captures our aspirations for a fair and truthful relationship with the people of Australia and a better future for our children based on justice and self-determination."

It is time for Australia's child protection system to start a conversation that is truthful and fair, where fears of all parties are openly shared and respected, and where reform can begin "Birdiya" with "Birdiya".

References

Adams, P. & Chandler, S. M. (2004). Responsive regulation in child welfare: Systemic challenges to mainstreaming the family group conference. *Journal of Sociology & Social Welfare*, 31, 93–116.

Australian Centre for Child Protection (2020). Response to the Parliament of New South Wales Committee on Children and Young People Inquiry into Child Protection and Social Services System, Submission 50. Accessed 16 July 2023, https://www.parliament.nsw.gov.au/committees/inquiries/Pages/inquiry-details.aspx?pk=2620#tab-submissions

AIHW (Australian Institute of Health and Welfare) (2023). *Child Protection Australia 2021– 22*. Accessed 15 July 2023, https://www.aihw.gov.au/reports/child-protection/child-protection-australia-2021-22/contents/about

Bogardus, E. (1928). *Immigration and race attitudes*. Boston, MA: D. C. Heath & Co.

Barkworth, J.M. & Murphy, K. (2021). Procedural justice, posturing and defiant action: Exploring prisoner reactions to prison authority. *Justice Quarterly*, 38(3), 537-564.

Bartel, R., & Barclay, E. (2011). Motivational postures and compliance with environmental law in Australian agriculture. *Journal of Rural Studies*, 27(2), 153-170.

Braithwaite, J., Braithwaite, V., Cookson, M., & Dunn, L. (2010). *Anomie and Violence: Non-truth and Reconciliation in Indonesian Peacebuilding*. Canberra: ANU E-Press.

Braithwaite, V. (1995). Games of engagement: Postures within the regulatory community. *Law and Policy,* 17, 225-255.

Braithwaite, V. (2009). *Defiance in Taxation and Governance: Resisting and Dismissing Authority in a Democracy*. Cheltenham, UK and Northampton, USA: Edward Elgar.

Braithwaite, V. (2017). Closing the gap between regulation and the community. In P. Drahos (Ed.), *Regulatory Theory: Foundations and Applications*. Action: ANU Press (pp. 25-41).

Braithwaite, V. (2021). Institutional oppression that silences child protection reform. *International Journal on Child Maltreatment,* 4(1), 49-71.

Braithwaite, V. & Cleland, D. (2017a). Compliance and Defiance in Work Health and Safety Regulations. Report to WorkCover Queensland, Queensland Government.

Braithwaite, V. & Cleland, D. (2017b). Regulating for Workplace Health and Safety in Queensland: The Regulators' Perspective. Report to WorkCover Queensland, Queensland Government.

Braithwaite, V. & Ivec, M. (2021a). National Framework for Protecting Australia's Children:Fixing Problems with Collective Hope? Regulation and Social Capital Working Paper 2, School of Regulation and Global Governance (RegNet), Australian National University.

Braithwaite, V. & Ivec, M. (2021b). Listening, learning and collaborating through an inclusive National Framework for Protecting Australia's Children. *International Journal on Child Maltreatment: Research, Policy and Practice,* 4, 455–47.

Braithwaite, V. & Ivec, M. (2022). Policing child protection: Motivational postures of contesting third parties. *Asian Journal of Criminology*, 17, 425–448.

Broadhurst, K., & Mason, C. (2013). Maternal outcasts: raising the profile of women who are vulnerable to successive, compulsory removals of their children–a plea for preventative action. *Journal of Social Welfare and Family Law*, 35(3), 291-304.

Buckley, H., Carr, N., & Whelan, S. (2011). 'Like walking on eggshells': Service user views and expectations of the child protection system. *Child and Family Social Work,* 16(1), 101-110.

Burford, G., & Pennell, J. (1998). *Family Group Decision Making Project: Outcome report*, Vol. I. St. John's, Newfoundland: Memorial University.

Burford, G., Braithwaite, J. & Braithwaite, V. (2019). *Restorative and Responsive Human Services*. London: Routledge.

Bywaters, P. (2015). Inequalities in child welfare: Towards a new policy, research and action agenda. *British Journal of Social Work*, 45, 6–23.

Cashmore, J. (2011). The link between child maltreatment and adolescent offending: Systems neglect of adolescents. *Family Matters*, 89, 31-41.

Coates, D. (2017). Working with families with parental mental health and/or drug and alcohol issues where there are child protection concerns: inter-agency collaboration. *Child and Family Social Work,* 22, 1-10.

Council of Australian Governments. (2009). *Protecting children is everyone's business : National Framework for Protecting Australia's Children 2009-2020 : an initiative of the Council of Australian Governments*. Canberra, A.C.T : Dept. of Families, Housing, Community Services and Indigenous Affairs. Accessed 15 July 2022, https://www.dss.gov.au/sites/default/files/documents/pac_annual_rpt_0.pdf

Crawford, A., & L'Hoiry, X. (2017). Boundary crossing: networked policing and emergent 'communities of practice' in safeguarding children. *An International Journal of Research and Policy*, 27(6), 636-654.

Davis. M. (2019). Family is Culture, Independent Review into Aboriginal Out-of-home- care in NSW. Sydney, New South Wales: Department of Family and Community Services.

Department of Social Services. (2020). *Evaluation of the National Framework for Protecting Australia's Children 2009-2020*. Canberra: Australian Government. Accessed 15 July 2023, https://www.dss.gov.au/sites/default/files/documents/11_2020/evaluation-national-framework-pwc-report-12-july-2020-updated-oct-2020.pdf

Department of Social Services. (2021). *Safe amd Supported:the National Framework for Protecting Australia's Children 2021-2031*. Canberra: Commonwealth of Australia. Accessed 15 July 2023, https://www.dss.gov.au/our-responsibilities/families-and-children/programs-services/protecting-australias-children

Dettlaff, A.J.; Weber, K., Pendelton, M., Boyd, R., Bettencourt, B., & Burton, L. (2020). It is not a broken system, it is a system that needs to be broken: the upEND movement to abolish the child welfare system, *Journal of Public Child Welfare,* 14(5), 500-517.

Edwards, F. (2019). Family Surveillance: Police and the Reporting of Child Abuse and Neglect. *The Russell Sage Foundation Journal of the Social Sciences* 5(1): 50–70.

Featherstone, B., Gupta, A., Morris, K. & White S. (2018). *Protecting children: A social model*. Bristol: Policy Press.

Hamilton, S. & Braithwaite, V. (2014). Complex lives, complex needs, complex service systems, Regulatory Institutions Network Occasional Paper 21, Australian National University.

Hamilton, S., Cleland, D. & Braithwaite, V. (2020). 'Why can't we help protect children too?' Stigma by association among community workers in child protection and its consequences. *Community Development Journal, 55* (3), 452-472.

Hamilton, S., Maslen, S., Farrant, B., Ilich, N. & Michie, C. (2022). 'We don't want you to come in and make a decision for us': Traversing cultural authority and responsive regulation in Australian child protection systems. *Australian Journal of Social Issues*, 57(2), 236-51.

Harris, N. (2011) Does responsive regulation offer an alternative? Questioning the role of formalistic assessment in child protection investigations. *British Journal of Social Work*, 41(7), 1383-1403.

Harris, N. (2012). Assessment: When does it help and when does it hinder? Parents'
experiences of the assessment process. *Child and Family Social Work,* 17(2), 180-
191.

Harris, N., & Gosnell, L. (2012). *From the Perspective of Parents: Interviews Following a
Child Protection Investigation*. Regulatory Institutions Network Occasional Paper 21.
Canberra: Australian National University. Accessed 15 July 2023,
http://regnet.anu.edu.au/research/publications/3094/no-18-perspective-parents-
interviews-following-child-protection

Holland, S. (2014). Trust in the community: Understanding the relationship between formal,
semi-formal and informal child safeguarding in a local neighbourhood. *British
Journal of Social Work,* 44(2), 384-400.

Humphreys, C., Healey, L., Kirkwood, D., & Nicholson, D. (2018). Children Living with
Domestic Violence: A Differential Response through Multi-agency Collaboration.
Australian Social Work, 71(2), 162-174.

Ivec, M., Braithwaite, V., & Harris, N. (2012). "Resetting the Relationship" in Indigenous
Child Protection: Public Hope and Private Reality. *Law & Policy, 34* (1), 80-103.

Ivec, M., Braithwaite, V. & Reinhart, M. (2011). *A national survey on perceptions of how
child protection authorities work 2010: The Perspective of Third Parties –
Preliminary findings*. Regulatory Institutions Network Occasional Paper 16,
Australian National University. Accessed 15 July 2023,
https://regnet.anu.edu.au/research/publications/3096/no-16-national-survey-
perceptions-how-child-protection-authorities-work

Krumer-Nevo, M. (2020). *Radical Hope: Poverty-aware practice for social work*. Bristol:
Policy Press.

Lonne, B., Harries, M., & Lantz, S. (2013). Workforce development: A pathway to reforming child protection systems in Australia. *British Journal of Social Work,* 43(8), 1630-1648.

Lonne, R., Parton, N., Thomson, J., & Harries, M. (2008). *Reforming Child Protection.* London: Routledge.

Malvaso, C., Montgomerie, A., Pilkington, R.M., Baker, E. & Lynch, J.W. (2022). Examining the intersection of child protection and public housing: development, health and justice outcomes using linked administrative data. *BMJ Open*;12:e057284. doi:10.1136/bmjopen-2021-057284

Marsh, C. A., Browne, J., Taylor, J., & Davis, D. (2015). Guilty until proven innocent? – The assumption of care of a baby at birth. *Women and Birth*, 28, 65–70.

Melton, G. B., & McLeigh, J. D. (2020). The nature, logic, and significance of strong communities for children. *International Journal on Child Maltreatment: Research, Policy and Practice*, 3, 125-161.

Merkel-Holguin, L., Drury, I., Gibley-Reed, C., Lara, A., Jihad, M., Grint, K., & Marlowe.K. (2022). Structures of oppression in the U.S. child welfare system: Reflections on administrative barriers to equity. *Societies*, 12, 26; https://doi.org/10.3390/soc12010026

Morley, C., Clarke, J., Leggatt-Cook, C., & Shkalla, D. (2022). Can a paradigm shift from risk management to critical reflection improve child-inclusive practice? *Societies*, 12, 1. https://doi.org/10.3390/soc12010001

Morris, K. & Featherstone, B. (2010). Investing in children, regulating parents, thinking family: A decade of tensions and contradictions. *Social Policy and Society*, 9(4), 557-566.

Nogrady, B. (2019). Historical separations still affect Indigenous children. *Nature*, 570, 423-424.

Parton, N. (2014). *The Politics of Child Protection*. Hampshire: Palgrove MacMillan.

Pelton, L. H. (1989). *For reasons of poverty: A critical analysis of the public child welfare system in the United States*. Praeger Publishers.

Pelton, L.H. (2015). The continuing role of material factors in child maltreatment and placement. *Child Abuse & Neglect*, 41:30-9.

Pennell, J. (2022). *A restorative approach to family violence*. London:Routledge.

Purtell, J., Mendes, P., & Saunders, B.J. (2021). Where is the village? Care leaver early parenting, social isolation and surveillance bias. *International Journal on Child Maltreatment*, 4, 349–371.

Ross, N., Cocks, J., Johnston, L., & Stoker, L. (2017). 'No voice, no opinion, nothing': Parent experiences when children are removed and placed in care. Research Report. Newcastle, New South Wales: University of Newcastle.

Sentencing Advisory Council, Victoria (2019).'Crossover Kids': Vulnerable Children in the Youth Justice System Report 1: Children Who Are Known to Child Protection among Sentenced and Diverted Children in the Victorian Children's Court. Melbourne, Victoria: Sentencing Advisory Council.

Smales, M., Savaglio, M., Morris, H., Bruce, L., Skouteris, H., & Green, R. (2020). "Surviving not thriving": experiences of health among young people with a lived experience in out-of-home care. *International Journal of Adolecence and Youth*, 25(1), 809-823.

Smith-Merry, J., Walton, M., Healy, J. & Hobbs, C. (2017). Responses by hospital complaints managers to recommendations for systemic reforms by health complaints commissions. *Australian Health Review*, 41(5), 527-532.

SNAICC (2021). National Frammework for Protecting Australia's Children 2021-2030:

     Successor Plan Consultation Report. Collingwood, Vic: SNAICC.

Trout, A. L., Hagaman, J., Casey, K., Reid, R. & Epstein, M. H. (2008). The academic status

     of children and youth in out-of-home care: A review of the literature. *Children and*

     Youth Services Review, 30(9), 979–94.

Warner, J. (2015). *The Emotional Politics of Social Work and Child Protection*. Bristol UK:

     Policy Press.

World Health Organization (2023). WHO guidelines on parenting interventions to prevent

     maltreatment and enhance parent–child relationships with children aged 0–17 years.

     Accessed 16 July, 2023, https://www.who.int/teams/social-determinants-of-

     health/violence-prevention/parenting-guidelines

TABLE 1: Mean differences and t-statistics for Indigenous and non-Indigenous third parties on scales measuring motivational postures and threatened self

Scales (Range of scores)	Indigenous (N=29)	Non-Indigenous (N=355)	Independent t-test
	Mean (SD)	Mean (SD)	
Motivational postures			
Commitment (1-5)	4.615(.518)	4.557(.485)	-.610
Capitulation (1-5)	2.750(.837)	2.916(.712)	1.187
Resistance (1-5)	3.707(.824)	3.103(.756)	-4.102***
Disengagement (1-5)	2.625(.968)	2.443(.781)	-1.161
Gameplaying (1-5)	2.359(.715)	1.968(.606)	-3.291***
Democratic collective self: trust & justice			
Trust (1-5)	2.325(.803)	2.695(.806)	2.379*
Accountability (1-5)	2.086(.887)	2.335(.749)	1.696
Engagement (1-7)	2.641(.928)	3.105(1.017)	2.373*
Moral self: moral convictions			
Reform performance (1-7)	3.216(1.423)	3.726(1.193)	2.180*
Punish or persuade (1-5)	3.425(.854)	3.453(.693)	.200
Family inclusion (1-5)	4.138(.805)	4.143(.594)	.044
Rulishness (1-5)	2.440(.767)	2.326(.670)	-.865
Status-seeking self: benefits & meaning			
Ritualism (1-5)	3.440(.839)	3.099(.774)	-2.261*
Unresponsive avoidance (1-5)	3.971(.803)	3.662(.867)	-.854

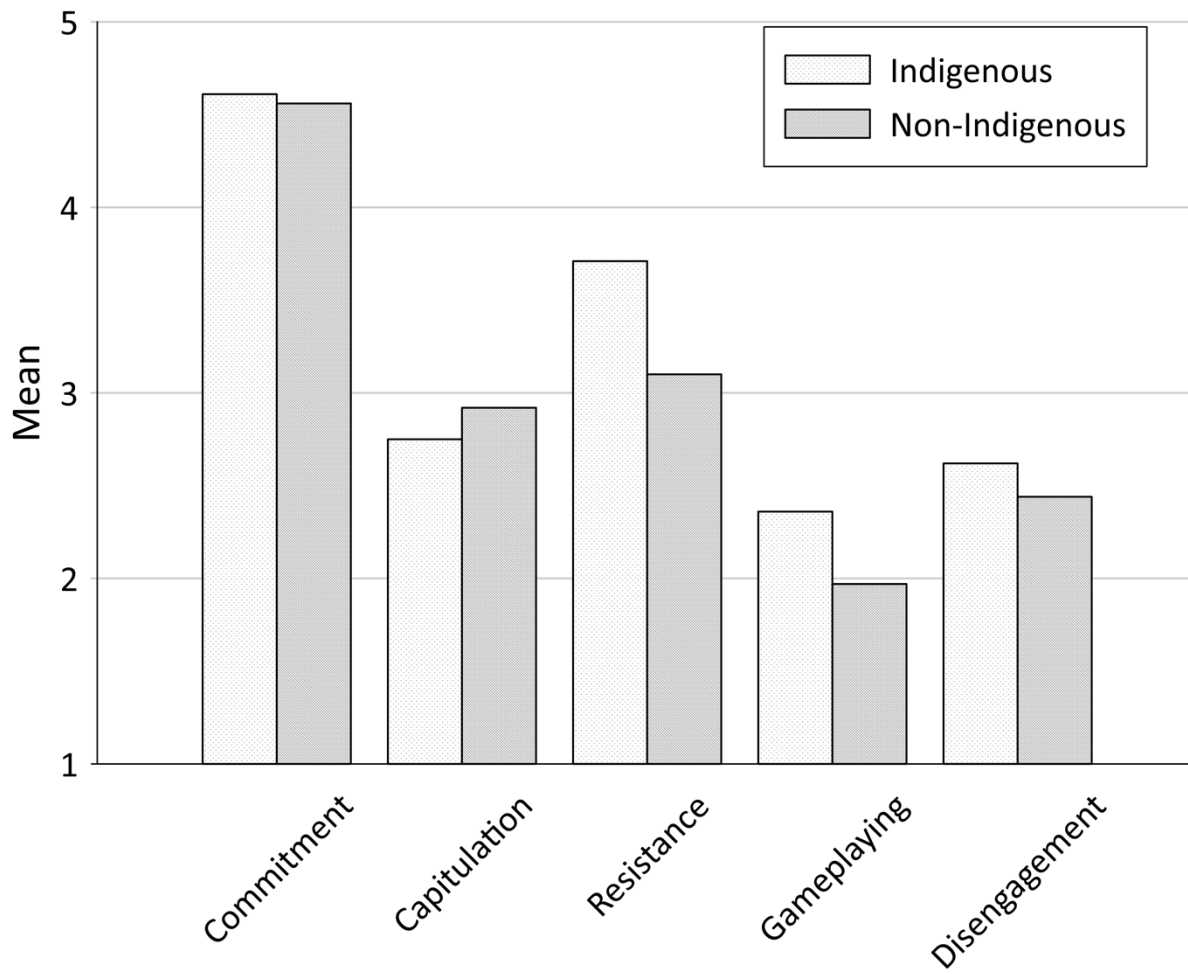*p is less than or equal to .05; *** p is less than or equal to .001.

Figure 1. Mean scale scores indicating the strength of motivational postures for Indigenous and non-Indigenous third parties.