

HUMAN RIGHTS

This section will look at Australia's position on the world stage during important international advancements in human rights, and how this has shaped local decision-making. It is important to note that Australia has been a member of the United Nations (UN) since 1945 and is therefore affected by the decisions, conventions and declarations made by the international community. There is, however, no universal definition or rule of law on what constitutes human rights and it is ultimately up to each individual society to determine their principles. The progress made in Aboriginal rights since the Referendum will be explored by looking at the 1997 Bringing Them Home Report, in which 2017 marks its 20th anniversary, and the Closing the Gap campaign.

List of Definitions

Human rights: Human rights are rights inherent to all human beings, regardless of nationality, place of residence, sex, national or ethnic origin, religion, language, race, or any other status. Everyone is equally entitled to human rights without discrimination. These rights are all interrelated, interdependent and indivisible. This means whether they are civil right such as equality, or social or collective rights such as education or self-determination, the improvement of one right facilitates the advancement of others, and on the contrary, a deprivation of another right adversely affects the others.

Civil and political rights: Civil and political rights refer to a class of rights that protect individuals' freedom from infringement by government, social organisations and other members of society from the threat of persecution, discrimination or repression.

Inalienable human rights: Something that is not transferable from one person to another, or capable of being repudiated is inalienable. That which is inalienable cannot be bought, sold or transferred. Human rights are seen as inalienable. They should not be taken away except in specific situations and according to due process. For example, the right to liberty may be restricted if a person is found guilty of a crime by a court of law

Treaty: Treaty refers to a formally ratified agreement between countries or states. It is a legally binding document. Treaties within a country are generally made between the government and the Indigenous peoples. Therefore, to achieve a treaty in this sense, the Indigenous peoples of a nation must first be considered an independent nation or people.

Eurocentric: A focus on European culture and history, with the exclusion of worldviews that are not in line with European culture. Dominated Colonial era thinking, particularly in the eighteenth and nineteenth centuries.

INTERNATIONAL CONTEXT

The United Nations Universal Declaration on Human Rights (UDHR)

The Universal Declaration of Human Rights (UDHR) is a milestone document in the history of human rights and was adopted by the UN General Assembly in Paris on 10 December, 1948. It was formally drafted by members of the UN with different legal and cultural backgrounds. The UDHR deals with the protection of human rights and has been translated into more than 500 different languages.

The UDHR is not a treaty and therefore has no legally binding status. In effect it cannot create legal obligations for nations to uphold its principles. It is however an expression of the fundamental values shared by all members of the international community, ensuring that UN member states uphold moral and ethical obligations. The UDHR was unanimously supported by Australia and forty-seven other countries in 1948, even though Australia did not immediately adopt all thirty of its principles.

The UDHR is available [online](#).

"As an international instrument, the Declaration (UDHR) provides a blueprint for Indigenous peoples and governments around the world."

Mick Gooda, descendent of the Gangulu people of central Queensland, 2010

Upon Australia's ratification of the UDHR in 1948, the Department for the Interior claimed that the declaration would compromise the way the Australian government could exercise statutory power and policy over Aboriginal people. As a response the Australian government identified inconsistencies with at least five of its obligations, being the power to:

remove children under the 'half-caste' policy (Aborigines Act 1905);

restrict movements of Aboriginal people in the Northern Territory;

control/permit marriages between Aboriginal and non-Aboriginal persons;

deny Aboriginal people **voting rights**; and

control the right of Aboriginal people to **work** in licensed premises and the mining industry.

The UDHR has influenced the creation of a range of international agreements that are legally binding for the countries ratifying them, such as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). These two covenants were raised for discussion with the UN General Assembly in 1954 and at the 10th UN General Assembly the following year. During the proceedings Australia's delegates contended that these covenants would **not** be applied to the Aboriginal population.

International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR)

The ICESCR came into force on 3 January 1976, committing all parties to work towards the granting of economic, social, and cultural rights including the rights to health, education, and an adequate standard of living. Australia signed the covenant on 18 December 1972 and ratified it on 10 December 1975.

The ICCPR came into force on 23 March 1976. It commits signatory parties to respect the civil and political rights of individuals, including the right to life, freedom of religion, speech and assembly, and the rights to due process and fair trial. At the federal level, Australia remains the only democracy not to have passed a law directly implementing the ICCPR.

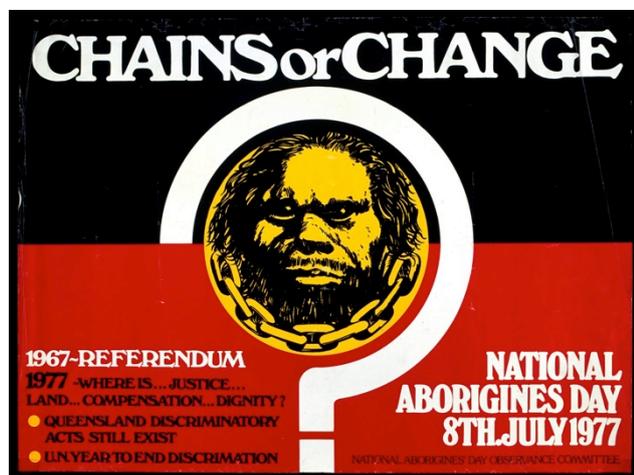


Image: Museum Victoria, Item XM 5119

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

The UDHR implemented global human rights standards, which paved the way for the creation of the United Nations Declaration for the Rights of Indigenous Peoples (UNDRIP). In September 2007, the UN General Assembly adopted the UNDRIP. This was the culmination of more than 20 years of negotiation between the Indigenous peoples and governments of the world. It draws existing rights from other international laws and conventions such as the UDHR and explains how these apply to Indigenous peoples, including rights to culture, identity, language, land, employment, education and health. The UNDRIP affirms the minimum standards for the survival, dignity, security and wellbeing of Indigenous peoples worldwide and enshrines Indigenous peoples' rights to be different. The Declaration is a framework for countries to help reduce levels of disadvantage and discrimination experienced by many of the world's 350 million Indigenous peoples.

"The value of human rights is not in their existence; it is in their implementation. That is the challenge for the world and for Australia with this Declaration."

Mick Dodson, Yawuru Elder, 2010

The UNDRIP covers all areas of human rights as they relate to Indigenous people and can be categorised into four key principles:

1. Self determination
2. Participation in decision making
3. Respect for and protection of culture
4. Equality and non-discrimination.

These principles provide guidance on how the Australian government [at all levels] can apply the Declaration to help fully realise the human rights of Aboriginal and Torres Strait Islander peoples.

When the UNDRIP was adopted by the UN General Assembly in 2007 a majority of 144 countries were in favour. Australia was one of only four votes against the UNDRIP [Australia, Canada, New Zealand and the United States].

In a speech to the Australian Senate in September 2007 [the same month the UNDRIP was adopted by the UN General Assembly], Marise Payne, Liberal Party Senator for New South Wales, outlined the Australian government's objections to the Declaration, being:

- Concerns about references to self-determination and their potential to be misconstrued.
- Ignorance of contemporary realities concerning land and resources.
- Concerns over the extension of Indigenous intellectual property rights under the declaration as unnecessary under current international and Australian law.

- The potential abuse of the right under the Declaration for indigenous peoples to unqualified consent on matters affecting them.
- The exclusivity of Indigenous rights over intellectual, real and cultural property that "does not acknowledge the rights of third parties – in particular, their rights to access Indigenous land and heritage and cultural objects where appropriate under national law."
- Furthermore, that the Declaration "fails to consider the different types of ownership and use that can be accorded to Indigenous people and the rights of third parties to property in that regard."
- Concerns that the Declaration places Indigenous customary law in a superior position to national law.

On the 3 of April 2009, following a change of government, Australia formally endorsed the UNDRIP. Each of the forty-six articles listed in the UNDRIP provide clear guidance to advancing reconciliation between Aboriginal peoples and the wider Australian community.

The UNDRIP is accessible [online](#).

NATIONAL CONTEXT

"[The Referendum] will contribute to Australia's international standing by demonstrating to the outside world our overwhelming desire to give full acceptance to the Aboriginal people within our community."

Prime Minister Harold Holt, 28 May 1967

Although inhabited by Aboriginal people for approximately 50,000 years, Australia was colonised by the British in 1788, from which point it developed upon transnational colonial ideals. Social ideals paralleled the Eurocentric worldviews of the time. Certain laws and policies were enacted, which are now seen to have been attempts to keep the nation 'as white as possible'. Due to the policies at the time [see 'White Australia Policy' in Introduction], the lives of Aboriginal people were increasingly controlled and oppressed, and subjected to inhumane living and working conditions imposed by the government of the day. Throughout the eighteenth and nineteenth centuries, some Australians chose to 'look the other way', and the plight of Aboriginal people was overwhelmingly ignored. In 1901, the major political parties united to support and create a 'White Australia' policy.

Such policies, practices and beliefs have resulted in intergenerational disadvantage for Aboriginal people. In the past decade a number of significant events have worked to repair the trauma caused by the exclusionist legislation of the state and federal governments, and to promote a deeper understanding of the issues facing Aboriginal people.

In 1991 the report of the Royal Commission into Aboriginal Deaths in Custody revealed a complex and devastating picture of the effects of dispossession, colonisation and institutional racism on Aboriginal people. Partly in response to the findings of the Royal Commission, the Federal Parliament established the Council for Aboriginal Reconciliation which had as its goal the 'transformation of Aboriginal and non-Aboriginal relations in this country'.

LOCAL CONTEXT

The *Aborigines Act 1905* WA signified a change in government policy for Aboriginal people in WA. The Act appointed a Chief Protector of Aborigines, who enforced protectionist policy over the lives of Aboriginal people. A.O. Neville became the third appointee in 1915. During his time in the role he enforced the controversial policy of removing Aboriginal 'half-caste' children under 16 years of age and becoming their legal guardian. This resulted in many children being taken from their families and kept in Missions, or other institutions. Today, these people are known as the Stolen Generations. The intergenerational social and cultural trauma caused by the Stolen Generations still greatly impacts on the community [see '*The WA Aborigines Act 1905*' in Introduction].

During this time the government ignored the basic human rights [as listed in the UDHR] of Aboriginal people.

The 1960's saw the beginnings of social change. By this time, the Aboriginal community had begun to demand equality and rights, advocating for a referendum became a realistic objective. Activists from WA were extremely influential in the national campaign for Aboriginal rights, and the journey to the 1967 Referendum. The heroes mentioned in the previous section are significant Australians (mostly West Australians) who have played a key role in raising awareness for Aboriginal rights and equality. These heroes campaigned for the 'Yes' vote in the Referendum. More recently, other Aboriginal people have carried on the work of early heroes and activists to seek further recognition for Indigenous peoples today.

Timeline

Below is a timeline that presents the milestones in Aboriginal affairs from a human rights perspective. The following points are mostly WA specific:

- 1904** Royal Commission into the 'condition of the natives' found abuse of Aboriginal people was widespread, and recommended the protection of Aboriginal people by strict controls. The report detailed the criminal justice system operating in the Kimberley as 'a brutal and outrageous' state of affairs. This report led to the *WA Aborigines Act 1905*.
- 1905** *WA Aborigines Act 1905* is passed by the WA State government.
- 1908** Royal Commission to inquire into the treatment of Natives by the Canning Exploration Party on the Canning Stock Route in the East Kimberley.
- 1927** Royal Commission into the Killings and Burning of Bodies of Aborigines in the East Kimberley.
- 1928** The first WA Aboriginal deputation to the Premier, Philip Collier, to demand better rights for Aboriginal people and the repealing of The *WA Aborigines Act 1905*. The group included William Harris, Edward Harris, Norman Cleaver Harris, Algernon Kickett, Edward Jacobs, Wilfred Morrison and William Bodney. They were not successful.
- 1934** Royal Commission into Aboriginal Affairs lead by Mr. M D Mosely inquired into the 'social and economic conditions of Aborigines; the law relating to Aborigines; the administration of the Aborigines Department; and allegations of ill-treatment of Aboriginal people.' Known as the Mosely Royal Commission.
- 1962** *Commonwealth Electoral Act 1918* was amended, giving all Aboriginal people in WA the right to vote in federal elections.
- 1972** *Aboriginal Heritage Act 1972* was proclaimed in WA.
- 1972** *Aboriginal Affairs Planning Act 1972* was proclaimed in WA.

- 1973** Aboriginal Land Commission or Woodward Royal Commission investigated the various ways to recognise Aboriginal Land Rights in the Northern Territory.
- 1975** *Racial Discrimination Act 1975* was passed in Federal Parliament.
- 1975** Laverton Royal Commission was established to inquire into and report upon certain incidents involving Aboriginal people and the police in the North-East Goldfields region.
- 1979** *Aboriginal Communities Act 1979* was proclaimed, enabling the establishment of by-laws that govern conduct on an access to community lands.
- 1982** Noongar Elder, Ken Colbung, received the Order of Australia Medal for his services to the Aboriginal community.
- 1984** Report of the Aboriginal Land Inquiry by Paul Seaman [Seaman Report] was tabled in the State Government.
- 1985** *Aboriginal Land Bill 1985* that would create Aboriginal Land Rights was tabled in State Legislative Assembly but defeated in the Legislative Council.
- 1987** Royal Commission into 'Aboriginal Deaths in Custody' instituted in response to the high rate of Aboriginal incarceration and deaths in custody.
- 1987** Commonwealth Government launched the Aboriginal Employment Development Policy to assist Aboriginal people to achieve equity with other Australians in terms of employment and economic status.
- 1990** *Inquiry into Service and Resource Provision to Remote Communities* was conducted by Mr Peter Alexander.
- 1991** Royal Commission into "Aboriginal Deaths in Custody" was tabled to Federal Parliament.
- 1991** Both houses of Federal Parliament unanimously passed the *Council for Aboriginal Reconciliation Act 1991*.
- 1992** High Court Mabo Decision ruled in favour of Edie Mabo and other Meriam people in the landmark Mabo vs Queensland [No. 2] case, legally confirming Native Title rights.

- 1992** The Council of Australian Governments endorsed a *National Commitment to Improved Outcomes in the Delivery of Programs and Services for Aboriginal Peoples and Torres Strait Islanders*.
- 1993** Dr Richard Walley, Noongar Elder, awarded the Order of Australia Medal for his services to the community and contribution to Noongar culture.
- 1995** *National Enquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families* is established.
- 1995** *Purnululu Claim*, in the East Kimberley, became WA's first positive determination of Native Title.
- 1995** Under Section 5 of the *Flags Act 1953*, the Aboriginal flag was proclaimed by the Australian government as an official 'Flag of Australia'.
- 1995** The Human Rights and Equal Opportunity Commission (HREOC) launched its Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families.
- 1997** *Bringing Them Home Report* was tabled in Federal Parliament.
- 1997** *Provision of services to Aboriginal people in Western Australia - an action plan and proposed legislation* was released in January.
- 1998** First *Sorry Day* was commemorated on 26 May.
- 1999** Federal Parliament issued a statement of sincere regret over the forced removal of Aboriginal children from their families.
- 2001** Carol Martin, of Noongar/Yamatji heritage, became the first Aboriginal woman to be elected to the parliament of an Australian state when she won the seat of Kimberley.
- 2002** The Aboriginal and Torres Strait Islander Social Justice Commissioner, Dr William Jonas, presented the *Social Justice Report 2001* and *Native Title Report 2001* to the Federal Parliament.

- 2003** In July the report, *Putting the Picture Together: Inquiry into response by government agencies to complaints of family violence and child abuse in Aboriginal Communities* [The Gordon Inquiry] was tabled in Federal Parliament.
- 2004** The National Indigenous Council was appointed to be an advisory body to the Australian government, chaired by Dr Sue Gordon, a WA magistrate.
- 2005** The Single Noongar Claim was the first successful determination over a capital city in Australia.
- 2008** For the first time in history, Aboriginal people performed a Welcome to Country at the opening of the Federal Parliament.
- 2008** On 13 February, the Australian Government publicly apologised to the Stolen Generations.
- 2009** The WA Government announced the formation of the Indigenous Implementation Board to improve social and economic outcomes for Aboriginal people.
- 2009** Australian supported the UN Declaration on the Rights of Indigenous Peoples [UNDRIP].
- 2009** The Australian Government allocated \$4.8 billion to Aboriginal affairs, the largest amount of funding for a single year since Federation.
- 2010** Aboriginal academic and Cobble Cobble woman, Megan Davis, became the first Aboriginal person appointed to a UN body when the Australian government nominated her for the UN Permanent Forum on Indigenous Issues.
- 2010** Noongar/Yamatji man, Ken Wyatt, became the first Aboriginal Australian elected to the House of Representatives in the federal parliament, after successfully contesting the seat of Hasluck.
- 2011** Australia appeared before the UN Human Rights Council's first Working Group on the Universal Periodic Review. It received 145 recommendations covering a wide range of human rights issues including the treatment of asylum seekers, Aboriginal peoples, multiculturalism and racism, and the status of Australia's obligations under international human rights law.

- 2012** WA renamed the '*Foundation Day*' public holiday as '*Western Australia Day*', the first time that Aboriginal people were formally recognised as the original inhabitants and traditional custodians of the state.
- 2013** The Australian Parliament passed the *Aboriginal and Torres Strait Islander Peoples Recognition Bill 2012*.
- 2013** The WA Government replaced the word 'Indigenous' with 'Aboriginal' following consultation with the WA Aboriginal Advisory Board.
- 2015** Noongar Elder, Dr Robert Isaacs, was named Western Australian of the Year.
- 2015** Legislation recognising Aboriginal people as WA's first people passed by State Parliament and incorporated into the preamble of the constitution.
- 2016** A record number of 13 Aboriginal candidates ran in the federal election, with Linda Burney a Wiradjuri woman from NSW elected as Australia's first Aboriginal female Member of Parliament.
- 2017** The City of Fremantle became the first city to move Australia Day celebrations to the 28 January.
- 2017** Noongar/Yamatji man Ken Wyatt became the first Aboriginal Australian Minister elected to the frontbench of the Australian parliament.
- 2017** June Oscar AO, a Bunuba woman from Fitzroy Crossing became the first female Aboriginal and Torres Strait Islander Social Justice Commissioner.
- 2017** Noongar/Yamatji man Ben Wyatt became the first Aboriginal Treasurer and Minister for Aboriginal Affairs in an Australian state or federal government following the WA state election in March.

THE BRINGING THEM HOME REPORT (1997)

The rights of Aboriginal Australians were recognised by the revealing 1997 *Bringing Them Home Report* (the Report), a national inquiry commissioned by the Australian Government into the '*Separation of Aboriginal and Torres Strait Islander Children from Their Families*' (the Inquiry). The Inquiry was a response to rising concerns that the forced removal of children who are known as the Stolen Generations had never been formally recognised or investigated, and its long-term effects had never been analysed. 2017 commemorates the 20th anniversary of the Report.

The Inquiry visited every state and territory capital and most regions of Australia, and took evidence in public and private sittings from various stakeholders, including Aboriginal people, government and church officials, health professionals, police, missions and foster staff. A total of 777 people and organisations provided evidence or a submission and 535 Aboriginal people gave evidence or submissions about their experiences.

The Inquiry found that the removal of Aboriginal children was usually authorised by law, but that those laws violated fundamental common law rights which should have been enjoyed equally by all Australians. As subjects to the British Crown, Aboriginal people should have been allowed the same freedoms and protections that are fundamental to the Australian constitution.

The Report made fifty-four recommendations for reconciliation, of which twenty-three dealt with family history, reunion, information collection and access to records. The Report acknowledged that '*Indigenous children have been forcibly separated from their families and communities since the very first days of the European occupation of Australia*'.

In July 1997, in response to one of the Report's recommendations, the WA Department of Aboriginal Affairs expanded their Aboriginal History Research Unit that uses archival records to assist Aboriginal people in accessing their heritage information.

These services are critical in supporting the healing within the community and helping to mitigate the effects of past government policies that displaced Aboriginal people.

On 13 February 2008 Prime Minister Kevin Rudd delivered a formal apology to the Stolen Generations, their families and communities on behalf of the Commonwealth Government. National Sorry Day, held annually in Australia on 26 May since 1998, acknowledges the Stolen Generations and marks the important date that the Report was released.

To see the full list of recommendations made by the *Bringing Them Home Report*, visit the [Australian Human Rights Commission website](#).

CLOSING THE GAP

Closing the Gap is a government strategy, which began in 2008, that aims to reduce disadvantage among Aboriginal and Torres Strait Islander peoples with respect to life expectancy, child mortality, education and employment. It is a commitment made by all Australian governments to achieve Aboriginal health equality by 2030. The following statistics were taken from the Australian Bureau of Statistics (ABS) and offer a useful indicator of where Australia is at with regard to Aboriginal disadvantage and the challenges still faced today.

"Closing the gap between Indigenous and non-Indigenous Australia is not just about grand speeches or moving Australia Day, it is about empowering Aboriginal communities to make their own changes and overcoming racism — one bigot at a time."

Kia Dowell, a Gija woman, 2016

Health

- In 2012-2013, Aboriginal Australians were 4 times more likely to be hospitalised for chronic conditions compared with non-Aboriginal Australians.
- In 2012 the rate of disability for Aboriginal Australians was 1.7 times the rate for non-Aboriginal Australians.
- In 2012-2013, Aboriginal Australians were 3 times more likely to suffer from diabetes compared with non-Aboriginal Australians, and the death rate for diabetes among Aboriginal people was 7 times higher.
- The maternal death rate for Aboriginal women was almost 3 times the rate for non-Aboriginal women who gave birth between 2006- 2010.
- The suicide rate in Aboriginal people has increased from 5% of total Australian suicide in 1991, to 50% in 2010, despite making up only 3% of the total Australian population.
- For young people, aged 10-24 years old, Aboriginal youth suicide rose from 10% in 1991 to 80% in 2010.
- The hospitalisation rate for intentional self-harm for Aboriginal Australians increased by almost 50% from 2004-05 to 2012-13.
- Aboriginal adults were 3 times more likely to experience high/very high levels of psychological distress in 2012-13 compared with non-Aboriginal adults.
- In 2010 it was estimated that up to 40% of Aboriginal youth aged 13-17 will experience some form of mental illness.

Life Expectancy

- In 2008-2012, infant mortality rates for Aboriginal children was almost double that for non-Aboriginal children (6.2 infant deaths per 1,000 live births, compared with 3.7 per 1,000 live births).
- Non-Aboriginal women born in 2010-2012 in Australia can expect to live a decade longer than Aboriginal women born the same year (84.3 years and 73.7 years respectively).
- The gap for men is even larger, with a 69.1 year life expectancy for Aboriginal men and 79.9 years for non-Aboriginal men.
- Death rates for Aboriginal Australians in some age groups were 5 or more times higher than for non-Aboriginal Australians between 2009-2013 in South Australia, Western Australia and the Northern Territory.

Education and Employment

- The proportion of Aboriginal 20-24 year olds who completed year 12 or equivalent was 59 per cent in 2012-13 compared with 86 - 88 per cent for non-Aboriginal Australians.
- In 2013, 7.3% of the Aboriginal potential year 12 population achieved an ATAR of 50.00 or above, compared with 44.3 per cent non-Aboriginal young people.
- In 2012, the unemployment rate for Aboriginal Australians was around five times the rate for non-Aboriginal Australians.

Family and Community

- In 2011, 19.3% of Aboriginal people were living below the poverty line, compared with 12.4% of other Australians.
- 23% of Aboriginal Australians lived in overcrowded households in 2012-13. In very remote areas the proportion was 53-63%.
- The proportion of Aboriginal households living in houses of an acceptable standard (including structural issues and working facilities) was just 78% in 2012-13.
- The median income for Aboriginal households was just over half that of non-Aboriginal households in 2011-13 [\$465 compared with \$869].
- Between 2004-05 and 2012-13, hospitalisation rates for family violence-related assault for Aboriginal Australians in NSW, Victoria, Queensland, WA, SA and the NT were between 25.1 and 32.8 times the rates for other Australians.
- The rate of Aboriginal children on care and protection orders was 49.3 per 1000 children at 30 June 2013, compared with 5.7 per 1000 non-Aboriginal children.

Incarceration

- Although Aboriginal Australians make up only 3% of the adult Australian population, they accounted for over a quarter (27.4%) of the adult prison population in 2013.
- In 2013, Aboriginal adults were 13 times more likely to be imprisoned than non-Aboriginal adults.
- In 2012-13, the average detention rate for Aboriginal young people was around 24 times the rate for non-Aboriginal young people.
- In 2008, almost half of Aboriginal males (48%) and 21% of females aged 15 years or over had been formally charged by police [over their life time].

CONSTITUTIONAL RECOGNITION

Constitutional recognition is a movement to recognise Aboriginal and Torres Strait Islander peoples in the Australian Constitution.

The Australian Constitution currently does not contain any reference to the First People of Australia. No Aboriginal people were consulted during the drafting of the Constitution in 1901, and were not permitted to be involved in the ratification process.

Since then, many Australians have advocated for changes to the Constitution and much work has been done on what form recognition should take.

In 2011 the Commonwealth Government appointed an Expert Panel to report to the Government on the options for constitutional change and approaches to a referendum that would be most likely to obtain widespread support across the Australian community. In 2015 a Parliamentary Joint Select Committee, chaired by the Hon Minister Ken Wyatt completed its work.

On 7 December 2015, in a bipartisan agreement, Prime Minister, Malcolm Turnbull, and Leader of the Opposition, Bill Shorten appointed a Referendum Council to consult widely throughout Australia and move towards achieving constitutional recognition of Aboriginal and Torres Strait Islander peoples.

The guiding principles of the Council's assessment of proposed models for constitutional recognition must:

1. Contribute to a more unified and reconciled nation;
2. Be of benefit to and accord with the wishes of Aboriginal and Torres Strait Islander peoples;
3. Be capable of being supported by an overwhelming majority of Australians from across the political and social spectrums; and

4. Be technically and legally sound.

Constitutional Recognition is distinct from a treaty or treaties, and the two are not exclusively mutual. Constitutional Recognition gives Aboriginal people recognition in the nation's law-guiding document. Regardless of a call for Treaties, Constitutional Recognition is an important step forward in progressing rights for Aboriginal and Torres Strait Islander people.

TREATY/MAKARRATA

Makarrata is a Yolngu word that is applied to describe a process of peacemaking and conflict resolution.

The term Makarrata was first applied to describe the concept of a treaty in 1979, by way of resolution of the National Aboriginal Conference (NAC) committee whom requested that a 'Treaty for Commitment' [Makarrata] be executed between Aboriginal Australia and the government.

The Makarrata proposal put forward included provision for matters such as:

- the protection of Indigenous identity, language, law and culture
- the recognition and restoration of rights to land
- the conditions governing mining and exploration of natural resources on Indigenous land
- compensation to Indigenous Australians for the loss of traditional lands and to their traditional way of life
- the right of Indigenous Australians to control their own affairs and to establish their own associations for the purpose.

The 1979 Makarrata was discussed by the

Commonwealth Cabinet in 1981, however 'put on hold to await more positive proposals from NAC' to resume future discussions. The discussions did not progress.

In 2017 the Referendum Council presented its final Makarrata report to the Prime Minister, reviving the tenets of the original 1979 Makarrata. Commonly known as the *Uluru Statement from the Heart* it called for a Makarrata Commission to supervise the process of agreement making between Aboriginal people and the government, in addition to a constitutionally enshrined 'Voice to Parliament' in the form of a national Aboriginal and Torres Strait Islander representative body.

It was finalised following nation-wide consultation by the Referendum Council, which undertook 13 regional dialogue forums from December 2016 with a final national convention held at Uluru in May 2017. The report also states that the preceding work of the Expert Panel and Parliamentary Joint Select Committee, since 2011, largely informed its recommendations.

For more information on the Uluru Statement, visit: [Referendum Council website](#)

For more information on treaty campaigns in Australia, visit: [AIATSIS treaty page](#)

Research Questions:

What are some examples of human rights?

What is the United Nations Declaration on Human Rights?

Do you think intergovernmental organisations such as the UN are important? Why/ Why not?

Why do you think Australia voted against the UN General Assembly adopting the UNDRIP?

Why is acknowledgement of the Stolen Generations still important today?

Do you think the Closing the Gap campaign has succeeded? Why/Why not? What would you do if you were a Minister for Health or Education in Australia?

Why do you think the 1979 Makarrata agreement was not adopted by Cabinet in 1981?

Activities:

Listen to Paul Kelly's "From Little Things, Big Things Grow." This song was written about Vincent Lingiari and the Wave Hill Walk Off. How do you think Kelly's message could be applied to the issues presented by the Closing the Gap campaign?

Explore the Universal Declaration of Human Rights and create a list of those rights that the Australian government were breaching pre-1967.

Further resources for teachers on Human Rights, Civics and Citizenship, can be found at the Australian Human Rights Commission's [Human rights in the classroom](#) website.

Please see 'Teachers Resource' section for more resources and project suggestions.

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