

Dear Members of Parliament,

Re: Implementation of the UN Declaration on the Rights of Indigenous Peoples in Australia

Following Australia's failed referendum for Constitutional recognition through an Aboriginal and Torres Strait Islander Voice to Parliament, it is important that the momentum for advancing First Peoples' justice in Australia is not lost. Rather, we must harness this opportunity to continue striving for meaningful progress to improve the lives of the First Peoples of this land.

The [United Nations Declaration on the Rights of Indigenous Peoples \('the UNDRIP'\)](#) is a key element of the roadmap towards a rights-based approach for First Peoples' justice following the failed referendum. It is a landmark instrument for advancing international human rights law that was presented to the global community in 2007 after decades of negotiation and development by Indigenous Peoples from around the globe.

The UNDRIP is both significant and necessary not only to redress the lack of Indigenous representation in international human rights law, but also to use the language and mechanisms of such law to counter both the historical and ongoing impacts of settler colonisation in respective Indigenous territories and promote the aspirations and values of Indigenous Peoples globally. Rather than creating new rights specifically for Indigenous Peoples, the UNDRIP enshrines existing human rights within an Indigenous context, with a focus on, and consideration for, aspects such as Self-determination, cultural rights and the rights of the collective. Importantly, given the UNDRIP embodies many human rights principles already protected under international customary and treaty law, it sets the *minimum standard* of human rights for First Peoples and State Parties' interactions with their First Peoples.

First Peoples in Australia have repeatedly called upon the colonial government to recognise their rights, with the 1963 Yirrkala Bark Petition, the 1988 Barunga Statement and the 1993 Eva Valley Statement just being some of the more prominent requests. UNDRIP provides an opportunity to address these requests and for a new relationship between the colonial government and First Peoples to create a harmonious coexistence through a rights-based approach.

Significantly, Australia was one of the so-called CANZUS cohort – Canada, Australia, New Zealand and the United States – which delayed endorsing the UNDRIP. All four are settler colonial states. Unlike extractive colonies where a minority of colonisers exploit resources to send home, settler colonies are characterised by an ongoing project to establish a new society on Indigenous land. This causes significant, ongoing harm to Indigenous populations, who face attempts to dispossess, eliminate and assimilate them. All four of the CANZUS states have significant Indigenous populations with parallel historical and contemporary human rights abuses enacted upon First Peoples. While Australia endorsed the Declaration in 2009, over a decade later we are yet to see any tangible actions to comply with its principles in Australia, including its incorporation into domestic law.

This settler-colonial violence towards First Peoples continues to this day, and the UNDRIP is a critical instrument to prevent ongoing harm. While colonial government agencies such as the National

Indigenous Australians Agency and the Attorney General's Office point to vague observations of the 'principles' of the UNDRIP, the reality shows soaring incarceration rates and deaths in custody; increasing numbers of Indigenous children in youth detention and out-of-home care; and the ongoing destruction of Country and cultural heritage. These are all due to the failure to observe even the most basic principles of the UNDRIP, being the right to Self-determination, application of cultural rights, and the requirement to seek Free, Prior and Informed Consent.

The Australian Parliament's Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs has conducted an [inquiry into the application of UNDRIP in Australia](#). Throughout this inquiry, we heard about international experiences of implementing the UNDRIP. There was ample evidence from First Peoples, civil society organisations, community members and international human rights experts about Australia's terrible track record in violating the rights of First Peoples and the need for urgent action.

There was overwhelming agreement among witnesses on the benefits of pursuing a legislative approach to UNDRIP's implementation in Australia. Legislative implementation of the UNDRIP is a fundamental principle of applying international law and this approach has also been recommended by member states of the United Nations. There is currently a Private Senator's Bill before Parliament, the [United Nations Declaration on the Rights of Indigenous Peoples Bill \(2022\)](#). We understand this Bill is due to be debated and voted on on Wednesday 6 December, 2023.

This Bill proposes three basic legislative responsibilities on the Commonwealth, in summary being that the Commonwealth Government must:

- Take measures to ensure consistency between Commonwealth law and UNDRIP;
- Prepare and implement an action plan to achieve the objectives of UNDRIP; and
- Mandate that the Prime Minister must, each financial year, present a report to each House of the Parliament on the progress of those actions.

This is consistent with international examples in similar jurisdictions. Notably, Canada legislated UNDRIP in 2021 and has developed an Action Plan and a review of the compliance of existing laws and policies with the principles of UNDRIP.

Enshrining the UNDRIP in domestic law will have tangible and lasting benefits for First Peoples in this country. Following the failure of this year's referendum for constitutional recognition and a Voice to Parliament, many people are wondering what the pathway forward is for improving the lives of First Peoples. Legislating UNDRIP is an immediate action the Australian Government can take to fulfil its promises to strengthen First Peoples rights, including the right to Self-determination and cultural rights.

We therefore implore the Australian Parliament to end its ongoing violations of First Peoples' rights and enshrine UNDRIP into domestic law by:

- Passing Senator Thorpe's Private Senators UNDRIP Bill currently before parliament.

- Failing the passage of Senator Thorpe’s Bill, the Australian Government must commit to legislating UNDRIP in this term of government and ensure this legislation achieves the above requirements.

The Australian Parliament has a critical decision before it that will have a substantial influence on the colonial state’s relationship with First Peoples and the pursuit of justice. We trust that this decision will be a divergence from the status quo and that Australia will hold itself to a higher standard by observing, upholding and strengthening the rights of First Peoples as set out in UNDRIP.

Yours Sincerely,

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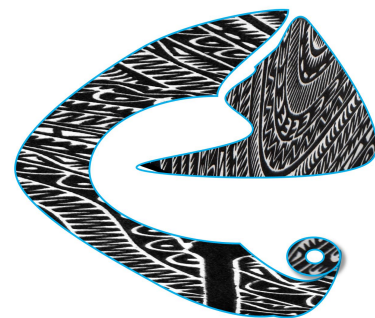
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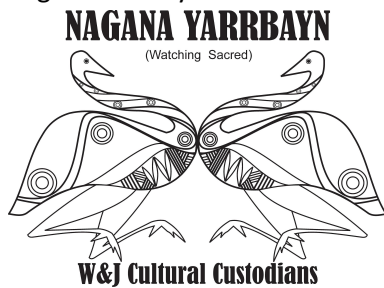
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