

Backgrounder

Understanding Self-Determination 2026

ANTAR



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Acknowledgement of Country

ANTAR is proud to acknowledge and pay respect to First Nations people as the Traditional Custodians of the lands and waters on which we work across the continent.

This backgrounder paper has been written across Gadigal, Darkinyung, and Darug lands. We pay deep respect to all Gadigal, Darkinyung, and Darug people who have maintained and cared for their lands and waters since time immemorial, lands and waters which we now work, live, and play on and in.

Our particular respect is extended to the Elders of these Countries, past and present, and that respect is extended to Elders across the continent. We acknowledge their unique roles in caring for Country, community, language, and culture.

Finally, to any Aboriginal and/or Torres Strait Islander readers, we would like to extend our respect to you, your families, and your communities.

We recognise that sovereignty was never ceded. This always was, and always will be, First Nations land.

What is self-determination?

Self-determination has been central to the political consciousness and ethos of First Nations justice movements for decades, both in Australia and abroad. But what does it actually mean? And how is self-determination being fought for by First Nations communities in Australia today?

Self-determination is a concept that is frequently invoked in discussions about First Nations rights, yet is often poorly understood or mischaracterised. In public and political debate, it is sometimes framed as abstract, radical, or even destabilising. In reality, self-determination is a well-established principle of international law and a practical framework for governance, policy-making and community empowerment. At its core, it concerns who holds decision-making authority, whose knowledge systems are recognised, and whose voices shape the laws and policies that affect people's lives.

The origins of the term

Before considering how 'self-determination' manifests in contemporary society, it is valuable to first consider the origins of the term. Many historians give the concept of self-determination a genesis in various historical decolonisation movements. For example, Sterio (2018) explains self-determination as being a principle developed to ensure democratic consent of individuals to the newly established statehoods and collective identities that were borne out of the French and American revolutions in the 18th century¹. The concept of self-determination was also key to decolonisation movements in Latin America, and the eventual independence of South and Central American nation states

¹ Sterio, "Self-Determination: Historical Underpinnings.", 13.

from their Spanish and Portuguese colonisers in the early 19th Century². A similar decolonial movement was also seen across Africa in the 1950s³.

As an affirmation of the power of the term, the concept of self-determination was eventually popularised through the rhetoric of international politics in the early 20th century. One of the most famous early invocations can be found in a speech to the US Congress in 1918, by former US President Woodrow Wilson:

"self-determination is not a mere phrase; it is an imperative principle of action which statesmen will henceforth ignore at their peril."⁴

As a concept and practice, self-determination was emphasised in various political movements of the early and mid-20th century, including by Lenin in his thoughts on class, and by Nazi Germany when it invaded Poland and much of Europe under the guise of a pan-German nationalism⁵. These abuses of the concept underscore the importance of grounding self-determination in international law and human rights frameworks, rather than nationalist ideology or state-centric power. The term was eventually codified through the enactment of the Charter of the United Nations in 1945⁶ and was central to the establishment of the international rules-based order that developed following the end of World War II. During this period, the United Nations and its founding charter was influential in the reformation and dissolution of many of Europe's largest empires, and was instrumental in the post-war decolonisation of various colonised and invaded lands⁷.

² Ibid.

³ Ibid.

⁴ Ibid., 14.

⁵ Ibid

⁶ [Article 1\(2\) of the Charter of the United Nations](#), 1 UNTS XVI, 24 October 1945.

⁷ United Nations, ["The United Nations and Decolonization"](#), 2025.

Despite increased international understanding and uptake of the term following WWII, almost all Western governments, including Australia, have historically resisted formal incorporation of self-determination into their domestic First Nations' rights frameworks. The most prominent example of this was the refusal of Australia, Canada, the United States and New Zealand, to support adoption of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2007⁸. These UN Members – (unsurprisingly) all settler-colonial nation States – voted against UNDRIP's adoption, on the grounds that it posed a threat to the "territorial and political integrity of a State". Importantly, this is a claim that has found no evidentiary support to date, and whilst these nations all eventually endorsed UNDRIP, Canada is notably the only one to have codified the UN instrument into domestic law.

How might we define and conceive of self-determination?

The term self-determination is inherently complex, multifaceted and capable of both narrow and expansive interpretation. This complexity is not a weakness of the concept, but a reflection of the diverse political, legal and cultural contexts in which peoples have asserted the right to determine their own futures. As a threshold matter, it is essential we recognise and respect that the term can be interpreted variably, and that in practice it often manifests differently across different peoples. It is also important to conceptualise self-determination as dynamic rather than static in definition, reflecting immense diversity of perspectives, evolving identities and lived experiences between First Nations peoples in Australia and worldwide⁹. For example, Lumbee man and Canadian

⁸ Larissa Behrendt, Miriam Jorgensen & Alison Vivian. 2017. [*Self-Determination: Background Concepts scoping paper 1 for the Victorian Department of Health and Human Services*](#). Sydney, NSW. University of Technology Sydney, Jumbunna Indigenous House of Learning (Report).

⁹ David E Wilkins. "Indigenous Self-Determination: A Global Perspective." In *Foundations of First Peoples' Sovereignty*, ed. Ulrike Wiethaus, New York: Peter Lang Publishing, 2008. 15-16.

scholar David E Wilkins makes the point that community decisions about how to pursue self-determination...

"... will depend on the First Nation involved – the extant values, lands, traditions, religious beliefs, languages and so on, that distinguish one First Nation from another."¹⁰

Whilst this paper primarily focuses on self-determination in the Australian settler-colonial context, it is essential that sweeping generalisations and general categorisations are avoided when engaging with self-determination and its contents¹¹.

Maguire (citing Kirgis) describes self-determination as enveloping a "right with many "faces"", with these faces including "freedom from colonialism, secession, reunification of formerly divided states, limited autonomy within the state, protection as a minority group and choice of form of government"¹², shifting between contexts of the claimant group¹³. Alternatively, the National Aboriginal Community Controlled Health Organisation (NACCHO) defines self-determination simply as:

"The ability of Aboriginal people to determine their own political, economic, social and cultural development as an essential approach to overcoming Indigenous disadvantage."¹⁴

However one might conceive of self-determination in theory and practice, it is without question a foundational human right that belongs to all First Nations

¹⁰ Wilkins, "Indigenous Self-Determination: A Global Perspective", 15.

¹¹ Ibid.

¹² Amy Maguire, "The UN Declaration on the Rights of Indigenous Peoples and Self-Determination in Australia: Using a Human Rights approach to promote accountability" *The New Zealand Yearbook of International Law* 12, (2014), 109.

¹³ Ibid.

¹⁴ Larissa Behrendt et al, "Self-Determination", 11.

peoples. Beyond its original articulation in the UN Charter, self-determination is central to several other core UN instruments, including the International Covenant on Civil and Political Rights (Article 1), the International Covenant on Economic, Social and Cultural Rights (Article 1), and the United Nations Declaration on the Rights of Indigenous Peoples (Articles 3 and 4). From an academic perspective, this international human rights framework treats self-determination as an ongoing process, rather than any singular outcome for an individual or collective. For example, in a First Nations context, human rights advocacy is often underpinned by efforts towards achieving sovereign recognition, constitutional recognition, representative governance, treaty, native title and land rights¹⁵ – rights that carry from birth to death, across the continent, and across generations.

Adding to the definitional complexity of self-determination, as Hobbs (2022) explains, the right of self-determination also has both an external and internal dimension in the context of international law. The external condition of self-determination, relates to decolonisation as a structural process, whereas the internal condition can be thought of as “the right for all citizens to participate freely without discrimination in the public affairs of the state”¹⁶. Both of these dimensions are of significant importance to First Nations peoples, who have experienced a long – and in many respects ongoing – history of dispossession and subsequent exclusion.

Outside of a human rights framing, many experts, academics and First Nations advocates prefer to adopt a practical reconciliation or welfare framing of self-determination. This kind of framing is most often characterised by a focus on socio-economic aspirations of First Nations peoples, and of monetary drivers of self-determination¹⁷. However, rather than preferencing one way of

¹⁵ Maguire, “UN Declaration”, 107.

¹⁶ Harry Hobbs. 2022. [Self-Determination 2022 \(Factsheet\)](#), 1-2. Sydney: ANTAR, 1.

¹⁷ Larissa Behrendt. “Indigenous Self-Determination : Rethinking the Relationship between Rights and Economic Development.” *University of New South Wales Law Journal* 24, no. 3 (2001), 851.

framing self-determination over the other, Euahleyai and Gamillaroi woman Larissa Behrendt argues that economic investment and empowerment can and should exist within a broader human rights framework, that focuses on foundational structural reform¹⁸. Behrendt highlights an under-researched link between “economic status and the ability to access human rights frameworks”¹⁹, which further indicates the need for a nuanced and holistic approach to conceiving of and pursuing self-determination for First Nations peoples.

In addition to a human rights framing, or a welfare framing, self-determination can also be examined through a lens of ‘individual capabilities’, commonly referred to as the Capabilities Framework. This approach should not be understood as displacing collective self-determination, but rather as an alternative framework that interrogates how power, exclusion and inequality operate within communities as well as between peoples and the state. Based on the work of economist Amartya Sen in the 1980s and the ideas of philosopher Martha Nussbaum²⁰, put simply, the Capabilities Framework is an evaluative tool wherein a person’s welfare or quality of life is measured by their ‘capability’ or their ability to achieve or do certain things²¹. The Capabilities Framework recognises that traditional utility-based indicators, for instance GDP, personal assets, productivity or national economic trends (primary measures in the welfare framing), sometimes fail to address the intersection of other non-economic factors such as education, health, race or gender. In theorising the capabilities approach, Sen aimed to transform the field of welfare economics away from an emphasis on utility and towards a model that promotes “the freedom that a person *actually* has to do things”²², ideas that are also found at the core of self-determination.

¹⁸ Ibid., 861.

¹⁹ Ibid., 859.

²⁰ Davis. “Aboriginal Women : The Right to Self-Determination”, 82.

²¹ Ross G White, Maria Grazia Imperiale, and Em Perera. [“The Capabilities Approach: Fostering Contexts for Enhancing Mental Health and Wellbeing across the Globe.”](#) *Globalization and Health* 12, no. 1 (2016).

²² Ibid., 3.

In a speech in 2017, Cobble Cobble woman and human rights lawyer Prof. Megan Davis made a strong case for why the Capabilities Framework should be included alongside a human rights approach to self-determination. It recognises that much of the existing normative discourse, whilst indeed striving for the right to self-determination, has arguably overlooked the voices and interests of Aboriginal women, the most marginalised group in Australian society²³. Davis argues:

"[the] right to self-determination as configured in international law, translated by the state and adopted by Indigenous communities has been skewed in a way that actually impedes the capacity of Aboriginal women and girls to freely determine their political status and their economic, social and cultural destiny."²⁴

Davis points to how the state-centrism of the political right in tandem with powerful Western institutions with entrenched patriarchal values have affected First Nations polity and structures themselves, in turn excluding Aboriginal women²⁵. Specific instances that Davis highlights include marginalisation from "the development of land rights legislation and land councils", the privileging of male perspectives in anthropological research and policy-making, and structural flaws within the legal system and domestic violence practice itself²⁶. Davis draws these ideas together by arguing that a sole human rights frame, derived from international law, is not prescriptive enough, lacking specificity while often being employed as a political football.

In going forward, an inability to consider the individual perspective of First Nations women, in favour of a reductionist "collective" narrative in

²³ Davis. "Aboriginal Women : The Right to Self-Determination.", 79.

²⁴ Ibid.

²⁵ Ibid., 80.

²⁶ Ibid.

self-determination advocacy, risks entrenching “the subtle and insidious way in which sex discrimination – direct and indirect – operates to marginalise and exclude women”²⁷. To address this, Davis again points to the Capabilities Framework, highlighting how it complements existing and developing policy, and how greater uptake of a ‘capabilities’ framing would “enliven rights advocacy”, directly shaping the “vocabulary” of self-determination²⁸.

Finally, rather than conceiving of self-determination through either a human rights, welfare or capabilities frame, many prefer an entirely subjective framing – allowing those claiming the right to self-determination, to define what it means to them and how it should be conceived of in their own terms. For example, Maguire (2014) makes the argument, that broadly academic examinations of self-determination have “typically been highly doctrinal” and fail to adopt a bottom-up approach, which is necessary for ensuring prioritisation of the voices of groups claiming their right to self-determine²⁹. Maguire further argues, that this fourth potential framing of self-determination, must involve a privileging of the perspective of First Nations groups in research, as a “means of talking back to international law”³⁰. After all, the international human rights system is largely built on the foundations of colonialism, with its implicit and explicit bias against First Nations peoples³¹.

Irrespective of whether one adopts a human rights, welfare, capabilities or subjective framing of the concept and practice of self-determination – arguably, we should be leveraging all of them – we must, in each case, consider self-determination within the context of the settler-colonial state. To do this, it is imperative that we take full and proper account of historical and current government policy decisions that have served to undermine First Nations sovereignty and autonomy³². Hobbs (2021), for example, examines the

²⁷ Ibid., 81.

²⁸ Ibid., 79.

²⁹ Maguire, “UN Declaration”, 108.

³⁰ Ibid.

³¹ Behrendt, “Indigenous Self-Determination”, 861.

³² Wilkins, “Indigenous Self-Determination: A Global Perspective”, 15.

parliamentary systems of Aotearoa (New Zealand), Turtle Island (Canada) and Australia across multiple legal case studies, finding that these colonial frameworks still permeate the “legal imagination” of these nation states “by establishing and maintaining a hierarchical relationship between the state and Indigenous peoples”³³. Hobbs emphasises this point by highlighting the perspective of Palawa man and lawyer Michael Mansell:

“Aboriginal sovereignty does exist. Before whites invaded Australia, Aborigines [sic] were the sole and undisputed sovereign authority. The invasion prevented the continuing exercise of sovereign authority ... [but] has not destroyed the existence of Aboriginal sovereignty.”³⁴

Bringing it all together, we can look again to Mansell who offers a poignant holistic definition of First Nations self-determination, one that is applicable to all the definitional contexts and conceptual framings that we have explored. Masterfully, Mansell describes self-determination as the:

“river in which all rights swim... This is because, at its most basic, self-determination ‘is the right to make decisions...’ The right flows from and is connected to Indigenous peoples’ status as prior self-governing communities who have not ceded their sovereignty.”³⁵

It is this broader conception of self-determination that will serve as the definitional thread winding throughout the remainder of this paper. Critically, this definition allows for variable understandings of the term, recognising that

³³ Harry Hobbs. [“First Nations, Settler Parliaments, and the Question of Consultation: Reconciling Parliamentary Supremacy and Indigenous Peoples’ Right to Self-Determination.”](#) *Osgoode Hall Law Journal* (1960) 58, no. 2 (2021), 340.

³⁴ *Ibid.*, 350.

³⁵ Hobbs. “First Nations, Settler Parliaments”, 350.

First Nations people can, and do, pursue self-determination in a myriad of ways.

Self-determination outside Australia

In Aotearoa (New Zealand), self-determination is closely entwined with the Maori concept of *tino rangatiratanga*, which roughly translates to 'absolute chiefly authority'³⁶. For former Maori Party MP Te Uroora Flavell, *tino rangatiratanga* has both a literal meaning related to the governing authority of chieftainship, but also a more abstract personal understanding which holds much similarity with the Australian concept, relating to one's self as Maori and the ability to make decisions about oneself and one's life³⁷. Flavell also dismisses right-wing critics of the Maori fight for *tino rangatiratanga*, arguing that being involved in the decision-making process on issues concerning Maori does not equate to "control over Aotearoa" or negative outcomes for pakeha (non-Indigenous New-Zealanders)³⁸.

In Northern Europe, the Sámi peoples, Indigenous to the Nordic countries of Norway, Sweden, Finland and parts of North-Western Russia (the Kola peninsula), are an interesting case study of how self-determining advocacy can translate into institutional structures. These nations recognise the Sámi at varying capacities, with constitutional recognition of certain rights in Finland, Norway and Sweden, and direct recognition as an Indigenous people in Norwegian and Finnish Constitutions³⁹. This constitutional recognition is again in stark contrast to Australia, which is, as Linda Burney has highlighted, the only western democratic colonial nation with a constitution that does not

³⁶ Ropata Paora, Teanau Tuiono, Te Uroora Flavell, Charles Hawksley, and Richard Howson. ["Tino Rangatiratanga and Mana Motuhake: Nation, State and Self-Determination in Aotearoa New Zealand."](#) *AlterNative: An International Journal of Indigenous Peoples* 7, no. 3 (2011). 249.

³⁷ Paora et al, "Tino Rangatiratanga", 250.

³⁸ Paora et al, "Tino Rangatiratanga", 250-251.

³⁹ Nordic Policy Centre. 2021. ["Sami Parliaments"](#). The Australia Institute.

recognise its First Peoples⁴⁰. Russia is the most regressive on Sámi rights, and also has the smallest Indigenous population, with approximately 1,500 Sámi remaining and only 200 with the ability to speak their language⁴¹. Advocacy for Sámi self-determination in Russia is also heavily repressed, with the ministry of justice listing 55 Indigenous organisations as terrorists and extremists, meaning links with these groups could result in significant prison time⁴².

Putting Russia aside, Finland, Sweden and Norway all have established Sámi Parliaments, which act as decision making voices on First Nations issues. Much like the proposed Voice to Parliament in the Australian context, the Sámi Parliaments do not create standalone self-government, but act as consultative bodies on areas including 'language, traditional livelihood, land rights and social wellbeing', as well as Sámi interests internationally⁴³. The systems are legislatively established with elected members by Sámi voters. Whilst these parliaments vary in their scope, they represent a significant structural reform promoting self-determination for Indigenous peoples under a European colonial system⁴⁴.

Finally, Canada provides a useful comparative example of how First Nations self-determination can be expressed through a combination of constitutional recognition, treaty-making and negotiated self-government arrangements within an existing colonial nation state. Indigenous peoples in Canada are recognised in the Canadian Constitution as "Aboriginal peoples," and this recognition has provided a legal foundation for the development of modern treaties, self-government agreements and Indigenous jurisdiction across a range of policy areas. Whilst these arrangements vary significantly between

⁴⁰ RMIT ABC Fact Check. 2019. ["Linda Burney says Australia is the only first world nation with a colonial history that doesn't recognise its first people in its constitution. Is she correct?"](#). ABC News. October 10, 2019.

⁴¹ Miranda Bryant. 2024. ["'They want total control': how Russia is forcing Sami people to hide their identity."](#) *The Guardian*. September 20, 2024.

⁴² Ibid.

⁴³ Nordic Policy Centre. "Sami Parliaments".

⁴⁴ Églantine Jamet. 2021. ["Sámi Rights: Self-Determination Of The Only Indigenous People In Europe"](#). *Human Rights Pulse*. May 21, 2021.

Nations, they reflect a shared acceptance that Indigenous peoples possess inherent rights to self-government and decision-making authority over matters central to their communities, lands and cultures. Importantly, the Canadian experience demonstrates that self-determination need not take a single institutional form; rather, it can be realised through diverse, negotiated mechanisms that respond to the distinct histories, priorities and governance systems of different First Nations peoples.

Examples of self-determination in action in Australia

In the Australian context, from the first days of invasion in 1788, the colonial project has worked ad nauseam to dispossess First Nations peoples of their Country and of their rights as sovereign peoples. It is only in relatively recent decades that we have seen somewhat of a shift in First Nations policy in Australia, wherein governments and the broader population have begun to acknowledge the importance of the concept and practice of self-determination for First Nations peoples. Whilst government and public receptiveness to self-determination for First Nations peoples may have progressed over time, the journey has been a tumultuous one, as demonstrated by disjointed and inconsistent federal, state and territory government policy platforms across a range of political eras in Australia⁴⁵. Despite significant uptake of the term self-determination in the early 21st century, the term has more recently seemingly been, in the words of Prof. Megan Davis, “eviscerated from the lexicon” of Australian politics, journalism and policymaking... yet it remains a central component of advocacy within First Nations communities⁴⁶.

Self-determination is being pursued by First Nations peoples in Australia today through a diverse range of mechanisms, and with great perseverance. The

⁴⁵ (see eras section) Hobbs. ‘*Self-Determination 2022*’, 3-6.

⁴⁶ Megan Davis. “Aboriginal Women : The Right to Self-Determination.” *Australian Indigenous Law Review* 16, no. 1 (2012), 78.

defeat of the Voice to Parliament proposal in the 2023 Referendum was a devastating blow to First Nations peoples and their allies, advocates who were ultimately fighting to advance self-determination through constitutional reform. However, this result was far from a death knell for the wider movement for self-determination, with individuals and representative entities continuing to advocate for the advancement of First Nations peoples' rights and interests across the continent. What follows is an overview of several prominent such examples of First Nations self-determination in action in Australia today.

Aboriginal Community-Controlled Organisations (1960s onwards)

Aboriginal community-controlled organisations (ACCOs) represent an important example of what self-determination can look like for First Nations peoples in practice. In addition, the outcomes achieved by many ACCOs – that often face severe under-funding as well as structural and systemic barriers – show how self-determined practices consistently provide substantially better outcomes for First Nations communities.

Crucially, ACCOs give practical effect to self-determination by relocating authority over program design, delivery and accountability from governments to First Nations communities. They embody a shift away from paternalistic service provision toward governance models grounded in cultural legitimacy, lived experience and collective decision-making. Through ACCOs, First Nations people can exercise control over priorities, resources and outcomes in ways that are responsive to local needs and strengths, rather than externally imposed policy settings. In this sense, community control is not simply a preferred service delivery model, but a concrete expression of self-determination in action – one that challenges governments to move from 'managing' disadvantage to sharing power.

In Australia, the Coalition of Peaks represents over 80 ACCOs and members and has a significant role in promoting self-determination for First Nations

peoples. Established by the National Agreement on Closing the Gap (2020), the Coalition works in formal partnerships with local, state and federal governments⁴⁷. In addition to housing a mesh of key government performance indicators across First Nations affairs, the National Agreement also sets out four priority reforms:

- Priority Reform One: Formal partnerships and shared decision-making
- Priority Reform Two: Building the Community Controlled Sector
- Priority Reform Three: Transforming government organisations
- Priority reform four: Shared access to data and information at a regional level⁴⁸

In many respects, the key to progress lies in affording First Nations peoples genuine control over their own affairs and resources, rather than governments continuing to adopt harmful paternalistic or token consultative engagement models⁴⁹. The National Agreement represents a long overdue policy shift, wherein all governments in Australia are finally required to embrace the reality, that First Nations community control is a core component of self-determination, and is essential to achieving better outcomes for First Nations peoples⁵⁰. Beyond governments genuinely and wholly embracing this policy shift, for community control to be effective and sustainable, it must also be paired with efficient and reliable mechanisms of self-governance, accountability to internal and external stakeholders, cultural legitimacy, public spirited leadership and actions that are based on long-term, systemic strategy⁵¹.

⁴⁷ Coalition of Peaks. 2025. ["Welcome To The Coalition of Peaks"](#).

⁴⁸ Coalition of Peaks. 2025. ["Priority Reforms"](#).

⁴⁹ Behrendt et al, "Self-Determination: Background Concepts", 16.

⁵⁰ Coalition of Peaks. 2025. ["National Agreement on Closing the Gap"](#).

⁵¹ Behrendt et al, "Self-Determination: Background Concepts", 16.

Gellung Warl and Treaty in Victoria (2019-2025)

Whilst the concept of self-determination is deeply complex and somewhat difficult to define, the institutional frameworks and government policies that influence whether and how First Nations peoples experience self-determination are fairly visible and well-understood. For example, in addition to constitutional recognition, treaty is widely accepted as a primary and essential vehicle for promoting self-determination – something that First Nations peoples have been pursuing in Australia for decades.

Similar to self-determination, the term 'treaty' can be defined either specifically or broadly, and can mean different things to different people. To Ngarra Murray, Wamba Wamba, Yorta Yorta, Dja Dja Wurrung and Dhudhuroa woman and member of Gellung Warl (formerly the First People's assembly of Victoria), treaty is a legislative agreement that:

"... recognises that Aboriginal people are the experts when it comes to our Country, culture and communities – and makes sure we can use our local knowledge to come up with and deliver practical solutions to improve health, education and housing outcomes for our communities."⁵²

Importantly, Australia is an outlier in the international context with regards to our lack of treaty with First Nations peoples. Most notably, the political and national history of Aotearoa (New Zealand) was built upon the foundations of the 1840 Treaty of Waitangi, and in North America, at least 370 treaties were signed with First Nations peoples between 1788 and 1871⁵³. However, the former First Peoples Assembly of Victoria (now Gellung Warl), an independent

⁵² First Peoples' Assembly of Victoria. 2025. ["Treaty, It's Here"](#).

⁵³ University of Melbourne Indigenous Studies Unit. 2020. ["Agreements, Treaties and Negotiated Settlements"](#).

body democratically elected by First Nations peoples in Victoria, was instrumental in changing this reality. In 2025, after years of negotiations, the first Statewide Treaty was signed between the Aboriginal peoples of Victoria and the Victorian Government – a monumental step towards First Nations self-determination. The Victorian treaty agreement was multifaceted, including the following core elements:

- Making the First Peoples' Assembly of Victoria a permanent body, with a continuing responsibility to work with the Victorian Government in the pursuit of Aboriginal people's interests in Victoria (re-named Gellung Warl, meaning 'tip of the spear/pointed spear' in Gunaikurnai language)⁵⁴
- Establishing a permanent truth-telling and healing body, called Nyerna Yoorrook Telkuna (meaning 'to sit/listen/hear/remember, to truth and to cure/heal')
- Establishing a new Outcomes and Justice Commission called Nginma Ngainga Wara (meaning 'you will do'), acting as an independent accountability and oversight body for the Victorian Government
- Ensuring truth-telling about First Nations cultures and histories in Victorian schools
- Establishing a First People's Infrastructure Fund to support and upgrade facilities and infrastructure used by community and services
- Establishing a First People's institute, geared towards building knowledge, skills and leadership⁵⁵.

It is hoped that the Victorian Treaty represents a new wave of progress on self-determination in Australia. Hobbs (2025), in citing Keith Cherry (2025), argues that treaty at its highest level promotes a vision of a pluralist Australia, where government and First Nations sovereignty can see a peaceful co-existence. Rather than First Nations and non-Indigenous sovereignties living in direct contestation, they can exist in unison through a "layered and patterned

⁵⁴ First Peoples' Assembly of Victoria. 2025. ["Treaty in Language"](#).

⁵⁵ Ibid., ["Treaty, It's Here"](#).

landscape of engagement, dialogue and negotiation”⁵⁶. The Uluru Statement from the Heart also embraces this pluralist Australia model, acknowledging the coexistence between unceded and un-extinguished First Nations sovereignty and the sovereignty of the Crown⁵⁷.

In other states and territories throughout Australia, progress on treaty has been considerably slower. However, with treaty representing a primary vehicle to achieve self-determination for First Nations peoples, First Nations advocates and allies will undoubtedly continue to push for further treaties at the local, state and Federal levels – what remains to be seen is whether and how governments will respond.

South Australia’s First Nations Voice to Parliament (2023)

South Australia’s First Nations Voice to Parliament represents a significant structural and institutional reform that is paving the way for self-determination for First Nations peoples in South Australia. In 2023, South Australia became the first Australian jurisdiction to legislate a First Nations Voice to parliament, a spark of hope in the wash-up of the 2023 Voice Referendum. The significance of the establishment of the SA First Nations Voice, did not go unnoticed by Presiding Member and Barngala, Kuprun, Wirangu, Kokatha, Mirning and Noongar man Leeroy Bilney, when he delivered the historic first address⁵⁸. Across a powerful speech, Bilney highlighted how the body represented a symbol of hope for First Nations peoples in South Australia⁵⁹, transcending a parliamentary and policy foundation that historically has been “...about us, not with us...”. Further, Bilney declared:

⁵⁶ Keith Cherry, *Sovereignty and Contestation: Practices of Pluralism in Canada and the European Union* (University of Toronto Press: 2025), quoted by Harry Hobbs. 2025. [“Pluralism exists; we just need to accept it”](#). Inside Story. August 27, 2025.

⁵⁷ The Uluru Statement. 2025. [“The Statement”](#).

⁵⁸ Stephanie Boltje. 2024. [“South Australia’s Voice to Parliament body delivers historic first speech”](#). ABC News. November 27, 2024.

⁵⁹ Ibid.

"We are determined to prove you wrong, because we believe in a better future, a future where we can each put our differences aside and work together constructively."

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The South Australia's First Nations Voice is an advisory body structured on two levels. The first level involves six local First Nations Voices, representing six separate regions across South Australia⁶¹. These local voices then elect representatives to sit on the State Voice, which meets regularly with their respective Local Voices and wider communities, and deals directly with the South Australian Premier and Cabinet and other SA Government departments as required⁶². In addition to working directly with government, the SA First Nations Voice publishes important resources and statements on a wide range of socio-economic, political and cultural matters affecting First Nations peoples in South Australia⁶³.

Both the South Australian and Victorian models of political First Nations representation are perhaps examples that other jurisdictions across Australia should follow in pursuit of greater self-determination for First Nations peoples.

Council of First Nations and the National Gathering (2025)

Political representation is essential to the fabric of democracy. For too long, First Nations peoples in Australia have been underrepresented in parliament and in politics generally, their voices being largely ignored on the issues that affect them. Internationally however, there are many different examples of democratically elected First Nations representative bodies. These bodies act as strong united political platforms, through which First Peoples are able to engage governments with a greater degree of parity.

⁶⁰ Ibid.

⁶¹ South Australian First Nations Voice to Parliament. 2025. ["How does the Voice Work"](#).

⁶² Ibid.

⁶³ South Australian First Nations Voice to Parliament. 2025. ["News"](#).

Unfortunately, there have been very few large-scale democratically elected First Nations political representative bodies in Australia over the years. Having said that, there have been several moves to establish such bodies in recent years. In 2019, we saw the establishment of the First Peoples Assembly of Victoria (made a permanent representative body in 2025 under the Treaty agreement and renamed Gellung Warl). In 2023, we saw the establishment of the South Australian First Nations Voice to Parliament. Later in 2023, Australia held a referendum proposing the establishment of a national First Nations Voice to Parliament. And most recently, in 2025, we saw First Nations peoples come together to explore the appetite for a traditional owner-based national representative body. This initiative is being driven by the recently formed Council of First Nations. The Council is derived from Australians for Indigenous Constitutional Recognition, which was the fundraising vehicle of the Yes23 campaign during the 2023 Voice Referendum⁶⁴. The Council of First Nations operates as an independent, First Nations-led initiative focused on long-term political representation beyond the referendum process.

In September 2025, the Council held its first landmark national gathering in Port Douglas, Queensland. Across three days, this gathering brought together 300+ delegates representing 150+ traditional owner groups and representative bodies⁶⁵. Speakers included international First Nations leaders and activists who spoke to models and experiences in their own countries⁶⁶. A statement issued by the Council, announced three outcomes that were agreed upon by the delegates that attended the gathering:

1. Delegates would take information from the National gathering back to their communities for wider consideration;

⁶⁴ Paige Taylor. 2025. ["Council of First Nations: New name and renewed aim for Indigenous voice lobby"](#). *The Australian*. June 6, 2025.

⁶⁵ The National Gathering. 2025. ["Statement from The National Gathering"](#).

⁶⁶ Ibid., ["Program"](#).

2. The Council would prepare an information kit to assist delegates to discuss the outcomes of the national gathering with their respective communities⁶⁷;
3. Delegates agreed in principle to support establishment of a new national representative body (*the details of which would be figured out through future deliberations*).

Depending on whether and how such a national representative body might be established permanently, this initiative holds the potential to be a significant self-determining means for First Nations peoples in Australia. One thing that will be interesting to see, is the degree to which such a body might sit entirely outside government, free from legislative repeal, policy interference or defunding. Should the initiative receive grassroots community support, and should governments choose to engage with it constructively and in good faith, then this initiative may have transformative power.

Opportunities to promote greater self-determination in Australia

There are many and varied inspiring initiatives that promote self-determination for First Nations peoples in Australia – this paper has barely scratched the surface. Yet despite this miasma of national, state and local First Nations-led activity, there remains a great deal more that we should be doing to better support First Nations peoples to realise genuine self-determination. What follows are several examples of major initiatives that could be progressed in the short to mid-term, to promote and progress self-determination for First Nations peoples in Australia.

⁶⁷ Ibid., [“Statement from The National Gathering”](#).

National Treaty and Truth-Telling

As discussed earlier in this paper, the 2025 Victorian Statewide Treaty represents a significant moment in the history of self-determination in Australia. Not only was it a transformative moment for Aboriginal peoples in Victoria, but it should act as a springboard for similar such treaty outcomes across Australia in the years to come.

The reaching of a treaty agreement between First Nations and non-Indigenous peoples in Victoria is also reflective of another important force. In 2025, Yiman and Bidjara woman Prof. Marcia Langton highlighted that the passing of the Bill marked the entering of a new era for self-determination and shared decision making in Australia, and that it represented the “architecture of a renewed relationship”⁶⁸. Cautiously optimistic, Langton rightly called for the impending passing of the Bill as a cause for celebration, beautifully describing the landmark moment:

“This is the sovereignty that is truly Indigenous, not one derived from slogans based on a poor understanding of the Westphalian concept, shouted at protests at Flinders Street Station. It is drawn from the dust of ancestors in the land and from the spiritual connection that holds Aboriginal people to that line of descent from the ancients.”⁶⁹

Unfortunately, at the federal level and since the loss of the referendum in 2023, the Australian Government has largely walked back its commitment to the Uluru Statement from the Heart. Most notably, the Government has withdrawn its

⁶⁸ Marcia Langton. 2025. [“How Victoria’s Treaty could change Australia”](#). *The Saturday Paper*. October 4, 2025.

⁶⁹ Ibid.

support for a Makaratta Commission – a body which would have facilitated processes of national truth-telling and treaty and agreement-making. As it stands, the Government has indicated a preference for leaving such processes to state and territory governments alone.

When one considers the reality of Aboriginal and Torres Strait Islander nationhood, entailing hundreds of independent sovereign nations, each carrying their own unique cultures and histories, and all of which manifest at the regional rather than national level, the need for local and state or territory-based treaty and truth-telling becomes obvious. However, given the federalist system that all dispossessed First Nations peoples in Australia are forced to exist within, localised and state-based processes are not sufficient in isolation. For First Nations peoples to be truly represented in Australian society, for Australia's first peoples to have a voice, and to pursue genuine self-determination, the truth must be told at a local, state and federal level, and First Nations peoples should have culturally or democratically elected representative bodies at all levels of government.

If the Australian Government is not yet prepared to pursue a national treaty, then taking a lead from Victoria's landmark truth-telling Commission, Yoorrook (Wemba Wemba/Wamba Wamba word for 'truth')⁷⁰, it should proceed with a national process for investigating the truth of historical and contemporary injustice against First Nations peoples across Australia since colonisation.

Following through on the Uluru Statement from the Heart

Despite the defeat of the 2023 referendum, the Uluru Statement from the Heart remains a vital and living roadmap for advancing First Nations self-determination in Australia. The Statement was never intended as a single policy proposal tied to one political moment, but as a considered and collective invitation to structural reform, grounded in truth, justice and sovereignty.

⁷⁰ Yoorrook Justice Commission. ["About the Yoorrook Justice Commission"](#).

Central to that invitation is the call for constitutional recognition – not as a symbolic gesture, but as a foundational act that would permanently acknowledge First Nations peoples as the First Peoples of this continent, and provide a stable platform upon which self-determining institutions and processes can be built.

Australia's failure to constitutionally recognise its First Nations peoples is increasingly stark in a comparative international context. Australia remains the only western democratic nation with a colonial history that is yet to recognise its First Peoples in its founding legal document. This absence reflects a deeper unwillingness of many Australians to confront the reality of invasion, dispossession and unceded sovereignty – what W.H. Stanner coined 'the Great Australian Silence' – and it continues to leave First Nations peoples politically marginalised within the constitutional order that governs them. In this sense, constitutional recognition is not an end in itself, but a necessary condition for durable self-determination – providing a degree of institutional stability that helps protect First Nations voices, agreements and representative structures from political volatility, legislative repeal and policy backsliding.

As respected Aboriginal academic Prof. Bronwyn Fredericks (2025) has argued in the wake of the referendum, more could be done across the remainder of Australia in the spirit of the Uluru Statement. Fredericks makes it clear that the campaign is still very much alive, and that many First Nations leaders are still putting in the work⁷¹. Fredericks has criticised the post-referendum silence on revitalising the campaign, raising the following question:

“if you work in government, at a university, for a granting authority, in research, the justice system or

⁷¹ Bronwyn Fredericks. 2025. [“Haunting words from a health advocate: are you keeping silent?”](#). *Croakey Health Media*. September 26, 2025.

anywhere in the health sector: when are you speaking up and when are you keeping silent?"⁷²

Reflecting on these words, it is important to realise that advocacy for self-determination and its embeddedness into the Uluru Statement mustn't fall into complacency. Developments such as Treaty and Voice in Victoria and South Australia are a cause for celebration, but advocates and allies must keep the momentum going to recognise these rights for all First Nations peoples in Australia.

Enacting human rights in Australia

The enactment of a comprehensive Federal Human Rights Act, would represent a significant structural mechanism through which First Nations peoples' right to self-determination could be better recognised, protected and given practical effect in Australia. A human rights act is a legislative charter of rights that explicitly articulates every individual's basic rights and freedoms in a jurisdiction⁷³. A Federal Human Rights Act would have significant legislative and normative impact. It would place political and social pressure on governments to centre human rights in their legislative and policy decision making. It would also provide individuals with a mechanism through which they can seek accountability and remedy, if they believe their rights have been diminished or not upheld⁷⁴. As it stands, Queensland, Victoria and the ACT are the only jurisdictions to have a Human Rights Act. Federally, Australia has no bill or charter of rights, nor statutory protections for our human rights as defined in international law⁷⁵.

As noted earlier, a human rights framework is a key lens through which self-determination can be articulated and pursued, particularly in international

⁷² Ibid.

⁷³ Australian Lawyers for Human Rights. 2025. ["A Human Rights Act for New South Wales"](#).

⁷⁴ Ibid.

⁷⁵ Ibid.

law. In the Australian context, the enactment of robust human rights legislation would provide an additional and tangible mechanism for assessing – and where necessary challenging – government decisions, laws and policies that undermine First Nations peoples' autonomy, cultural rights and participation in public life. Rather than existing in abstraction, a legislated human rights framework would require governments to actively consider the impacts of their actions on First Nations peoples, embedding rights-based reasoning into everyday decision-making.

Importantly, human rights legislation also interacts directly with international frameworks specific to First Nations peoples, including the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). By giving domestic legal effect to rights recognised at the international level, such legislation would strengthen protections around core self-determination principles, including Free, Prior and Informed Consent. In jurisdictions where human rights acts already exist, these frameworks have begun to provide a clearer legal basis for scrutinising government conduct and improving accountability. Extending similar protections across all Australian jurisdictions would therefore represent a meaningful step towards translating the right to self-determination from principle into practice.

First Nations economic self-determination/empowerment

Economic self-determination is a core dimension of First Nations self-determination more broadly. It concerns the ability of First Nations peoples and communities to exercise genuine control over economic decision-making, to participate meaningfully in economic life on their own terms, and to do so free from discrimination and structural exclusion. Importantly, economic self-determination is not limited to income generation or commercial success alone, but encompasses the broader capacity of communities to determine

how economic activity aligns with their cultural obligations, social priorities and responsibilities to Country⁷⁶.

Historically, economic policy and practice in Australia have systematically excluded First Nations peoples from economic opportunities, whilst extracting vast wealth and resources from First Nations lands. The ongoing impacts of dispossession, restrictive land tenure regimes, discriminatory financial systems and chronic underinvestment in community infrastructure, continue to constrain First Nations economic participation. First Nations entrepreneurs and businesses face compounded barriers, including limited access to capital and markets, systemic racism within financial and corporate institutions, and a lack of enabling infrastructure – particularly in regional and remote communities. Addressing these barriers requires more than improving access to existing systems; it requires those systems themselves to be reshaped around First Nations governance, consent and long-term community benefit, rather than narrowly defined risk-adjusted returns.⁷⁷

In response, First Nations-led initiatives are increasingly reframing economic development as a self-determining project rather than a welfare or market-inclusion exercise. The First Nations Economic Empowerment Alliance provides a clear example of this shift. As a coalition of First Nations-led organisations and policy experts, the Alliance advances economic frameworks grounded in the principles of UNDRIP. Its work on the First Nations Economic Partnership, alongside international collaboration with First Nations institutions in Canada, demonstrates how economic engagement can be pursued through First Nations-led diplomacy, governance and innovation, rather than imposed or extractive development models⁷⁸.

Critically, First Nations conceptions of prosperity and economic success often diverge from narrow Western capitalist metrics. For many communities, economic self-determination is inseparable from cultural continuity,

⁷⁶ Bethany Dance. 2025. [“The importance of Indigenous Economic Self-Determination within Investment Strategies”](#). First Australians Capital.

⁷⁷ Ibid.

⁷⁸ First Nations Economic Empowerment Alliance. 2025. [“About the Alliance”](#).

environmental stewardship and collective wellbeing. In this context, Free, Prior and Informed Consent operates not merely as a procedural safeguard, but as a substantive economic protection – often guarding against development pathways that transfer wealth away from First Nations peoples whilst entrenching long-term social, cultural and environmental harm⁷⁹.

Regarding economic self-determination, it is worth highlighting three interlinked priorities: treaty, as a mechanism for recognising sovereignty and re-setting the economic relationship between governments and First Nations peoples; the implementation of UNDRIP and its core principle of Free, Prior and Informed Consent; and sustained investment in First Nations-community controlled organisations⁸⁰. Programs such as the Indigenous Rangers exemplify economic self-determination in practice, delivering environmental protection and climate resilience whilst strengthening employment pathways, cultural connection and community governance.

Taken together, these approaches demonstrate that economic self-determination is not a peripheral or optional reform, but a central pillar of First Nations self-determination. When First Nations peoples have the authority to decide whether, how and on what terms economic activity occurs, economic development becomes a vehicle for strengthening sovereignty, culture and collective wellbeing – rather than another site of extraction and control⁸¹.

Conclusion

Self-determination is not an abstract concept or a rhetorical aspiration. It is a well-established principle of international law, a practical framework for better policy and governance, and a necessary condition for justice, equity and meaningful reconciliation. For First Nations peoples, self-determination speaks to the fundamental right to exercise authority over decisions that affect their

⁷⁹ Jessica Johnston. 2024. [Economic self-determination and opportunities for First Nations Australians 2024 \(Submission\)](#). Sydney: ANTAR National.

⁸⁰ Ibid.

⁸¹ Ibid.

lives, lands, cultures and futures – a right that has been systematically denied since colonisation and remains only partially realised in Australia today.

As this paper has outlined, advancing First Nations self-determination requires sustained and coordinated systemic and structural reform. This includes constitutional recognition that provides stability and protection beyond political cycles; the enactment of comprehensive human rights frameworks capable of giving domestic effect to internationally recognised rights (e.g. UNDRIP); and genuine commitment to treaty-making and truth-telling processes at the local, state and national level that acknowledge sovereignty and reset relationships. It also demands a reorientation of economic policy and practice away from extractive and paternalistic models, and toward First Nations-led approaches that centre consent, governance, cultural integrity and collective wellbeing.

Crucially, self-determination is not a threat to social cohesion or national unity. On the contrary, it offers a pathway to a more honest, inclusive and durable Australian democracy – one that confronts its colonial history, respects the status of First Nations peoples as sovereign peoples, and enables shared decision-making grounded in justice and equity rather than control. When First Nations communities are empowered to define and lead their own affairs through their own socio-political and cultural systems, community outcomes improve substantially.

The challenge, then, is not a lack of clarity about what self-determination means or why it matters. The challenge is social and political will. Advancing First Nations self-determination requires governments, institutions and civil society to move beyond short-termism and symbolic gestures, and to commit to long-term structural change. The Uluru Statement from the Heart remains an invitation to do exactly that. Responding to it with seriousness, courage and persistence, is not only a matter of policy reform, but a test of Australia's willingness to reckon with its past and to shape a more just and equitable future.

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With thanks:

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**ANTAR is proud to acknowledge and pay our respects
to First Nations Peoples as the traditional owners
of the lands on which we work across the continent.**