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Published

2023

Journal Title

Australian Journal of International Affairs

Version

Version of Record (VoR)

DOI

[10.1080/10357718.2023.2268022](https://doi.org/10.1080/10357718.2023.2268022)

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## Indigenous Australian diplomacy and the United Nations declaration on the rights of Indigenous peoples

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### ABSTRACT

The Australian National University's inaugural Coral Bell Lecture on Indigenous Diplomacy introduced philosophical perspectives that could underpin Indigenous Australian diplomacy. This piece uses the lecture as a starting point to discuss the possibilities and tensions of using a relationist ethos to pursue an Indigenous Australian Diplomacy approach within a survivalist system, drawing on the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). First, I provide a brief history of Indigenous peoples in the survivalist international political order, then I explain what can be learnt from relational Aboriginal societal structures, and finally I use UNDRIP as a potential form of diplomatic machinery for supporting Indigenous diplomacy. This shows that an Indigenous relationalist approach to diplomacy and foreign policy that is guided by UNDRIP has the potential to transform the way in which states deal with Indigenous peoples and each other.

### KEYWORDS

UNDRIP; Indigenous Australian diplomacy; relationist ethos

The Australian National University's inaugural Coral Bell Lecture on Indigenous Diplomacy introduced philosophical perspectives that could underpin Indigenous Australian diplomacy. Aunty Mary Graham and Morgan Brigg argue that Aboriginal political order came into existence by using landscape as a template (Graham and Brigg 2023, 592). This enabled our ancestors to relate to the land as Country and each other through kinship (Graham and Brigg 2023). Aunty<sup>1</sup> Mary and Morgan (Graham and Brigg, 2023) note that modern Australia was built on a 'survivalist ethos' through the deployment of violence and Eurocentric systems. The challenge they set Australia, then, is to counteract this survivalism 'to develop a proper sense of its place and history ... [by pursuing] relational Aboriginal diplomacy or First Nations Foreign Policy' (Graham and Brigg 2023, 597).

A relationalist approach to diplomatic relations requires drawing on a 'relationalist ethos' which derives from what Aunty Mary terms autonomous regard, in turn deriving from the autonomous self as a self-regulating being (Graham and Brigg 2023). At the core of this ethos are responsibilities to ourselves, to others, and to Country.<sup>2</sup> I am going to examine the possibilities and tensions of using a relationist ethos to pursue Indigenous

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Australian Diplomacy in an international survivalist system through the example of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). First, I provide a brief history of Indigenous peoples in the survivalist international political order, then I explain what can be learnt from relational Aboriginal societal structures, and finally I consider UNDRIP as a potential form of diplomatic machinery required to support relational diplomacy. Overall, I argue that an Indigenous relationalist approach to diplomacy and foreign policy through UNDRIP could reshape Australia's domestic and international engagement with Indigenous peoples.

### **Indigenous peoples in the (survivalist) international political order**

The current international political order has a history of excluding and erasing Indigenous peoples. Domestically, the intentional absence of Indigenous peoples from the political space has occurred as part of attempts to legitimise our domination and assimilation into non-Indigenous, colonial, liberal societies. It is unremarkable, then, that the discipline of International Relations (IR) has 'a set of enshrined, fundamental assumptions that are highly problematic for Indigenous peoples' (Lightfoot 2016, 5; see also Beier 2009). These assumptions relate to conceptions of the state, Westphalian sovereignty, territoriality, liberalism, diplomacy, and human rights (Lightfoot 2016, 5). At the core of this issue is the primacy afforded to the sovereign nation state. Moreover, IR theories reflect and tend to reinforce this dominant political order. The current world order does not accommodate Indigenous nations as being independent, sovereign groups. Despite this, as Lightfoot points out, critical IR scholars are questioning and challenging state-centric IR (Lightfoot 2016, 6).

Tickner and Blaney (2012) write that 'the state remains the nearly singular legitimate form of political organization worldwide and much IR production globally is linked to it' (Tickner and Blaney 2012, 4). Furthermore, Keal (2003) raises the issue of the moral illegitimacy of states that have been created through Indigenous dispossession, decimation, and the destruction of cultures (Keal 2003, 2). In recent decades formal Indigenous rights have slowly emerged and are being incorporated into international norms and international law. Given the current fragile state of global affairs and the planet's foundational ecological systems, it is timely that Australia and other states seriously consider the value of Indigenous peoples and what our histories, cultures, and perspectives can offer IR. One of the contributions we can make to international affairs is through First Nations diplomacy.

### **Relational Aboriginal societal structures: a foundation for informing international affairs**

Hundreds of markings approximately delineate nations, languages, and clans that existed across this continent before invasion (Horton 1996). Remarkably, despite all of the atrocities our people have endured, Aboriginal and Torres Strait Islander peoples have managed to survive colonisation and maintain our distinct groups, identities, and lore. At the heart of our socio-political orders is Country and entwined with this is clan autonomy and sovereignty. While being incredibly diverse, Indigenous groups across Australia share commonalities, including the protocol of only speaking for Country that you have bloodline connection to and belong to. I am not permitted to speak for Country outside

of the geographical area now known as the Gold Coast, for areas beyond this are the responsibility of other Aboriginal groups. Clans are connected with their neighbouring clans, and so on throughout the region and continent, resulting in a wide system of kinship and connection. The autonomy and sovereignty of each Country primarily lies with the clan. Generally speaking, clans spoke their own unique dialect/language, similar yet different to their neighbours. These formed (and still do form) larger language areas which share cultural similarities.

Our responsibilities as Aboriginal peoples are to care for the Country your clan is connected to (including the plants and animals), yourself, your people, and your neighbours. Caring for both one's self and those outside one's self is underpinned by relational autonomy that informs Aboriginal governance (Graham and Brigg 2023, 592–93). This way of being has sustained Indigenous groups for tens of thousands of years and enabled them to co-exist amongst significant diversity. The accompanying relational ethos (Graham and Brigg 2023), which is embedded with a deep respect that Indigenous peoples continue to embody and enact, is at the core of what our people and cultures can bring to IR. In particular, a relational understanding and approach has valuable implications for the practice of diplomacy and the substance of foreign policy. The challenge, though, is how to achieve this amidst a survivalist international order.

### **The United Nations declaration on the rights of Indigenous peoples**

UNDRIP is a framework of minimum standards and rights for aspects of Indigenous peoples' lives spanning 46 Articles about but not limited to matters of self-determination, free, prior and informed consent (FPIC), land, language, education, cultural and spiritual identity, and self-governance. The Declaration has been identified as informing the Department of Foreign Affairs and Trade's (DFAT's) Indigenous foreign policy approach (Department of Foreign Affairs and Trade 2021). How might UNDRIP promote a relational approach to Indigenous Australian diplomacy? First, we need to establish Australia's relationship with the Declaration since its promulgation.

While the Declaration is endorsed by states operating in a survivalist order, it was created by Indigenous peoples and embodies Indigenous values and worldviews. Interest in Indigenous peoples in international affairs has grown since the Declaration passed the United Nations General Assembly in 2007 with overwhelming support after decades of Indigenous advocacy. One of the reasons for its creation was the protection of the *collective* rights of Indigenous peoples worldwide.

Initially, Australia was one of four states (the others being Canada, New Zealand, and the United States, commonly referred to as the CANZUS countries) to vote against the Declaration, and was a 'persistent objector', opposing UNDRIP since its first drafting (Gómez Isa 2019, 12). Despite initially rejecting the Declaration, Australia endorsed the document under Prime Minister Kevin Rudd's government in April 2009 (Pulitano 2012). Yet successive governments have continuously reiterated UNDRIP's non-legally binding status (Macklin 2009; DFAT n.d.a). To date, formal implementation within Australia is inadequate and incomplete—it has not been formalised into Australian law at the federal or state level.

Scholars in the fields of international law and human rights have discussed the strengths and weaknesses of the Declaration, showing the existing contentions regarding

the document. On the one hand, UNDRIP presents an opportunity for Indigenous representation and recognition of Indigenous knowledges, cultures, and traditional practices. Adherence to the Articles would help to build respectful relationships between Indigenous peoples and the government. Cobble Cobble woman Megan Davis who was involved in the drafting of UNDRIP reinforces this when stating that it ‘provides a framework that states can adopt to underpin their relationship with [I]ndigenous peoples and may guide them in the development of domestic law and policy’ (Davis 2008, 465). Similar to the argument that more gender equal states are more likely to support feminist foreign policy (UN Women 2022), more application of Indigenous relational practices at the domestic level could have the potential to reshape the way nation states deal with each other. In other words, more Indigenous representation at a national level could mean an increase in support of Indigenous foreign policy and diplomatic approaches.

On the other hand, UNDRIP operates within a system that was not designed to be relational, and this generates inevitable tensions and limitations. The imperialist origins of the contemporary international system have been used by some academics to criticise the Declaration’s incompatibility between self-determination for Indigenous peoples and a state-based system (e.g. see Moreton-Robinson 2011; Watson 2011). This is most problematic with regard to Articles 3, 4 and 5 concerning self-determination. Article 3 outlines Indigenous peoples’ right to self-determination in terms of political status, economic, social, and cultural development (UNGA 2007). Article 4 focuses on the right to autonomy or self-government (UNGA 2007). Article 5 refers to the right to maintain distinct political institutions while also retaining the right to participate fully in the state in which they reside (UNGA 2007). The tension between the self-determination of Indigenous peoples and the sovereignty of nation states with colonial histories (particularly the CANZUS states) in which they reside, is evident in their initial decision to vote against the Declaration.

For instance, Goenpul scholar Aileen Moreton-Robinson is sceptical of the role of states in shaping international human rights law applied to Indigenous peoples’ self-determination. She argues that ‘patriarchal white sovereignty’s possessive logic determines what constitutes Indigenous peoples’ rights, and what they will be subjected to in accordance with its authority and law’ (Moreton-Robinson 2011, 656). In other words, the survivalist inclinations of the Australian state, among others, are a major barrier to relations on equitable terms.

Another issue concerns the legal scope of the Declaration. As it is not legally binding, the processes surrounding its implementation and the accountability of the states who endorsed the Declaration remain unclear. While Australia reversed its initial decision not to endorse the Declaration, successive governments have failed to fully commit to and realise the Declaration in practice. In 2021 the Australian Human Rights report revealed Australian governments’ failure to progress implementation, develop a national action plan, or audit existing laws and policies, highlighting its inaction and lack of intent to commit to the Declaration in practice (Australian Human Rights Commission 2021).

In recent years Indigenous leaders have attempted to bring the issue of adopting legislation that enshrines the Declaration into the mainstream spotlight. Notable advocates include Bunuba woman and Aboriginal and Torres Strait Islander Social Justice Commissioner June Oscar who recommended the federal government commit to a co-

design process to progress implementation (Oscar 2021). Additionally, Gunnai, Gunditj-mara and Djab Warrung Senator Lidia Thorpe, and Yamatji–Noongar Senator Dorinda Cox passed a motion to establish a Legal and Constitutional Affairs References Committee inquiry that will investigate how UNDRIP is to be implemented (Gregoire 2022). In September 2022, the Senate motion led to the establishment of the first Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs (JSCATSIA), established to receive submissions on the domestic application of UNDRIP (Parliament of Australia 2022). What may the full application of UNDRIP mean for Australia’s foreign policy principles and approach?

DFAT’s current publicised stance on UNDRIP can be seen on its webpage which states:

Australia supports the Declaration on the Rights of Indigenous Peoples and welcomes the continued, full and effective participation by all indigenous peoples in achieving the ends of the Declaration which, while not legally-binding, helps inform the direction of policy, programs and legislation. (Department of Foreign Affairs and Trade n.d. (a))

The Department’s ‘Indigenous Diplomacy Agenda’ also briefly reaffirms support for UNDRIP’s objectives (Department of Foreign Affairs and Trade 2021). DFAT states that ‘We continue to engage in discussions around strengthening our policy position to support the Human Rights Council’s consideration of the most effective approach to monitor, evaluate and improve the achievement of the ends of the Declaration’ (Department of Foreign Affairs and Trade n.d. (a)). These references are vague and make it difficult to measure progress in implementing UNDRIP.

Vague ‘in principle’ commitments are not all UNDRIP affords. The Declaration actually provides concrete mechanisms to build respectful, relational approaches with Indigenous peoples. There are particularly relevant Articles within UNDRIP for informing Australia’s Indigenous Diplomacy Agenda. I highlight two here:

Under Article 36, UNDRIP calls on states to recognise that:

1. ‘Indigenous peoples, in particular those divided by international borders, have the right to maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with their own members as well as other peoples across borders.
2. States, in consultation and cooperation with indigenous peoples, shall take effective measures to facilitate the exercise and ensure the implementation of this right’ (UNGA 2007).

Meanwhile, Article 32 outlines that states will obtain the FPIC of Indigenous peoples prior to any project affecting their Country (UNGA 2007). These principles are grounded in civility, respect, fairness, and cooperative relations. Importantly, these Articles introduce relational ways of negotiating policy, instead of resorting to survivalist tendencies of acquisition, domination, and exploitation.

If Australia wants to be seen as pursuing an Indigenous foreign policy, its serious commitment to UNDRIP internally will be judged and evaluated by the international community. Failure to align domestic and international practices poses a contradiction between Australia promoting a positive public image of supporting Indigenous interests abroad (for example through the First Nations Ambassador role) and its failure to adhere

to fundamental Indigenous human rights standards internally (Department of Foreign Affairs and Trade n.d. (b)). One step forward would be DFAT conducting a review on its operational engagement with UNDRIP.

DFAT has an opportunity to meaningfully embrace the Declaration and be informed by its Articles on cultural recognition, respect, and consultation to underpin the government's Indigenous Diplomacy Agenda. UNDRIP promotes the acceptance of differences, harmonious and cooperative relations, consultation, and ongoing negotiations. These Indigenous values and relational ways of doing may create long-term solutions to address global issues we are facing today including material inequality, climate instability, and great power rivalry.

Indigenous Australian diplomacy provides an opportunity for Australia to implement the relationalist ethos to influence international norms and standards to the benefit of both Aboriginal and Torres Strait Islander peoples as well as the wider Australian population and the international system if enacted using a relationalist ethos. The current survivalist international political order is uncivilised and unsustainable. Relationalist Aboriginal societal structures are based on respectful co-existence, connection, and responsibility to one's self and others. Amidst dominant survivalism there are mechanisms, such as UNDRIP, that can be leveraged. Despite the tensions that exist between the Declaration and the state-dominated global system, there are possibilities for Australia to utilise UNDRIP to inform relational engagement. A relationalist ethos has the potential to transform the way in which nation states deal with each other, allowing for multipolar relations to gradually emerge. Aunty Mary and Morgan state in concluding their lecture, 'First Nations people tend to look for ways to face the future together' (Graham and Brigg 2023). UNDRIP provides a mechanism to begin practicing Indigenous-centred diplomacy on Country in Australia and beyond.

## Notes

1. The term 'Aunty' is a respectful term used in Aboriginal cultures for individuals who are held in high regard by the community.
2. I am a Kombumerri woman from what is now known as the Gold Coast. My Country spreads from the Coomera River to the north, the Tweed River to the south, the foothills of the Hinterland to the west, and the ocean to the east.

## Disclosure statement

No potential conflict of interest was reported by the author(s).

## Notes on contributor

*Madeleine* is a Kombumerri woman of the Gold Coast and PhD Candidate in the School of Government and International Relations, Griffith University. She holds a BA, MIR and GradDipEd (Secondary). Her research is focusing on UNDRIP, specifically cultural rights, and the struggle of identity and recognition of her people as the Traditional Custodians of their Country. As a previous high school English Teacher, she is interested in Indigenous education as well as Indigenous history and Indigenous politics.

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