



## **PROCLAMATION: FIRST NATIONS' SOVEREIGNTY**

We proclaim that:

1. *Whereas* Australia has always been and continues to be an island continent consisting of Sovereign independent Aboriginal Nations and Peoples of diverse languages, all operating within very defined territories, exercising culture and customs, according to our Laws, and observing our own spirituality and religious orders, in accordance with our Creations;
2. *And whereas* Aboriginal Peoples' Laws, culture, spirituality and religious practices establish our continuing sovereignty, which underpins the ancient continental common law of this island continent now known as Australia;
3. *And whereas* Aboriginal Peoples' sovereignty has, at all material times, existed as a matter of settled legal fact and law prior to 1788. *Mabo v Queensland (No. 2)* judgement confirmed Blackstone's *Commentaries on the Laws of England*, 1765, when the High Court of Australia ruled that Law and customs 'survived British Sovereignty';
4. *And whereas* upon invasion, the existing Laws of the Aboriginal Nations and Peoples have been systematically violated, due to wilful wrongful acts of denial and non-recognition. This non-recognition and denial is a continuous blight on the Australian political and legal system, covered up by institutionally widespread racist processes, which are historically unique to the legal and political establishment;
5. *And whereas* the illegal processes and denial commenced in earnest during Cook's scientific expedition in 1770, when he wilfully breached his Orders by fraudulently pretending that he had obtained the consent of the natives of the east coast of Australia to take possession of lands. Cook's actions were and are by law, then and now, criminal acts of fraud;
6. *And whereas* we assert that the British invasion was contrary to the established international law at the time. Moreover, it was *ultra vires* (outside of the law) and there exists a legal contradiction that is contrary to the original British Admiralty's Instruction to Captain James Cook when, in 1770, he was sent out to explore the great south land and to take possession of any such lands:

*With the consent of the Natives, to take possession of convenient situation in the country in the name of the King of Great Britain, or if the country [is] uninhabited take possession for his Majesty by setting up proper marks and inscriptions as first discoverers and possessors*

[ Cook's Journal; Diary Entries, <http://southseas.nla.gov.au/journals/cook> ];

7. *And whereas* in 1788 Governor Arthur Phillip continued this fraud when he falsely pretended to be welcomed on country with his armed forces. By Phillip's own admission he landed several convict prisoners and instructed them to go into the bush and wait for his and his armed

forces' arrival, at which time the convicts were instructed to come out of the bush, ask him of his intent and the convicts then welcomed him onto the land. This act by Phillip constitutes a major criminal fraud against First Nations Peoples, because he was never invited, nor welcomed onto the land by the original owners. This began dispossession, usurpation, ethnocide and genocide, and other crimes against humanity;

8. *And whereas* by virtue of First Nations Peoples' continental common Law, natural, international and constitutional law, the imported legal and political establishments of Australia are now, and at all material times have been, incapable of usurping First Nations' sovereignty and jurisdiction. In the absence of a Sovereign Treaty or Treaties or other formal international legally binding instruments, there cannot be a legitimate arrangement for inter-jurisdictional co-existence between the ancient continental common law and the law of the illegal occupying power of Britain, the Crown;

9. *And whereas* in the High Court case *Coe v Commonwealth* [1979] HCA 68; Justice Murphy concluded:

*Whether the territory is treated as having been acquired by conquest or peaceful settlement, the plaintiff is entitled to argue that the sovereignty acquired by the British Crown did not extinguish "ownership rights" in the aborigines and that they have certain proprietary rights (at least in some lands) and are entitled to declaration and enjoyment of their rights or compensation;*

10. *And whereas* in its 1983 report to the Australian Federal Parliament, *Two Hundred Years Later*, the Senate Standing Committee on Constitutional and Legal Affairs on the feasibility of a compact or 'Makarrata' between the Commonwealth and Aboriginal people, acknowledgement was given to this disputed question:

*It was further stated, that some would say that sovereignty inhered in the Aboriginal people inhabiting Australia at the time of settlement by the Europeans and that sovereignty still subsists even though not recognised by the occupying power or its legal system;*

11. *And whereas* Sir Owen Dixon said of the Australian Constitution in *The Law and the Constitution* (1935) 51. *Law Quarterly Review* 590, [as cited in *Australian Constitutional Law and Theory: Commentary and Materials*, 2nd ed. Blackshield and Williams 1998:65]:

*It is a supreme law purporting to obtain force from the direct expression of a people's inherent authority to constitute a government. It is a Statute of the British Parliament enacted in the exercise of its legal sovereignty over the law everywhere in the Kings dominions,;*

12. *And whereas* Dixon continues by extorting the truth:

*In the interpretation of our constitution this distinction has many important consequences. We treat our organs of government simply as institutions established by law, and we interpret their powers simply as belonging to them by law;*

13. *And whereas* G. J. Lindell in his article 'Why is Australia's Constitution Binding? The Reason in 1900 and now, and the effect of independence' (1986) 16 FLR 29, (as cited in *Australian Constitutional Law and Theory: Commentary and Materials*, 2nd ed. Tony Blackshield

and George Williams, at p. 66) argued that, there were two fundamental characters associated with the enactment of Australia's Constitution:

*Its political status was derived from the fact that it was contained in an enactment of the British Parliament, and its Constitution ...*

*Its political legitimacy or authority was based on the words contained in the preamble to that enactment, which refer to the people of the Australian colonies having agreed to unite in a 'Federal Commonwealth'. Whatever the legal position, these words draw attention to the political reason for this enactment. ... The document having been in large measure approved by the people of Australia even if the number of persons who actually voted was only 60% of eligible voters;*

14. *And whereas* historical documents of Australia clearly inform us that Aboriginal Peoples were excluded from this process and at no time were our ancestors invited to participate in the formative stages associated with the development of Australia becoming a Commonwealth Federation. By virtue of this, the *de jure* sovereignty and independent jurisdiction of Aboriginal Nations and Peoples are legal facts;
15. *And whereas* to this day, Aboriginal Peoples continue a process of resistance. Incarceration records clearly demonstrate the level of resistance and civil disobedience. This resistance is, and will remain, justifiable acts of resistance, upon a national enemy as in [*Regina v Tunkoo Mahomed Saad*. Int. Cth. Law Cases. 1 I.C.I.C. (vol.1)] Aboriginal Nations and Peoples now argue that the British common law that is based on Roman law no longer has any effect and is null and void. This is confirmed in the decision dated 12 July 2016 in the South China Sea Arbitration Award of the Permanent Court of Arbitration in the Hague;
16. *And whereas* in recognising the pre-existing Laws of the Aboriginal Nations and Peoples, the Proclamation and Laws relating to the Aboriginal Peoples by the British Governors and subsequent legislative regimes of the self-governing colonies could not bind the subjects of an original Nation State to an occupying power, without their free prior informed consent;
17. *And whereas* Australian Governments continue to operate *ultra vires* (outside the law) and in violation of the international law as it was in 1788 and as it is today. To legalise Australia's political and legal systems, Australia must enter into meaningful negotiations with the Aboriginal Nations and Peoples and conclude Sovereign Treaties with the different and various pre-existing and continuing sovereign Aboriginal Nations;
18. *And whereas* no amount of judicial *ratio decidendi* (reasoning by judges for their rulings) can take away the legal fact that, as was found in *Mabo (No. 2)*, Aboriginal Law and culture survived imposed British sovereignty, and thus places a caveat over all British land tenure titles across the continent;
19. *And whereas* Aboriginal Nations and Peoples argue that at the time of invasion there was no legal acquisition of land and/or of any 'convenient situations'. Usurping and taking lands of other First Peoples, whose title is now proven to be legal under the *ratio decidendi* of the judges of the High Court in *Mabo (No. 2)* must also be found to be illegal since the usurpation was done without their informed consent, thus confirming Blackstone's legal interpretations of English law as it stood in 1788;

20. *And whereas* Aboriginal Peoples therefore assert and argue that the Commonwealth of Australia has been in continual violation of international law since the colonisation of this country, according to the Blackstone's Commentaries that read:

*English law becomes the law of another country either upon settlement by English colonialists of a desert uninhabited country or by the exercise of legislative power by the sovereign over a conquered or ceded country;*

21. *And whereas* the *Mabo (No.2)* judgement concluded that the legal fiction that this continent was desert and uncultivated land belonging to no-one (*terra nullius*) was a lie. The High Court ruled this is a racist notion and cannot remain in Australia's legal system. This now raises the obvious question that no-one in the Aboriginal Affairs in this country dares to raise: What is the true legal status of Australia as a Nation and what is the status of the Aboriginal Nations and Peoples. Why? Because many in the pretended Aboriginal leadership are being paid a great amount of money to tow the political and legal lines, this also includes the academics who refuse to discuss the real issue, arguing that the issue is a *fait accompli*. This provides the vehicle for the legal eagles and the politicians to hide and shield themselves from the issue that must be dealt with;

22. *And whereas* Australia was built on the foundation of a legal fiction, *terra nullius*, resulting in captive Aboriginal Nations and Peoples and shattered sovereignties, the consequences of which saw the imposition of imported laws of the British, thereby imposing the interests of the white invaders at the expense of Aboriginal Peoples and our country. At the same time, Aboriginal Nations and Peoples were denied any national, territorial proprietary, political, legal, spiritual, religious and economic rights. This resulted in the establishment of the framework for an all-pervasive discriminatory legislative regime that resulted in a rule of 'apartheid', thus segregating Aboriginal Peoples from the white society. At the same time the killing of Aboriginal Peoples was legalised, in particular, those who asserted sovereign rights and who chose to defend their right to retain ownership of country and territory;

23. *And whereas* these apartheid regimes were later legalised through respective State and Territory legislation, which marginalised and disenfranchised Aboriginal Peoples. We have been, and continue to be, progressively and intentionally displaced from our Country; subjecting our Peoples to great mental suffering and torture. The government Mission Stations and Church-controlled Missions deprived of our national identity, ended our economic independence, and destroyed our religious and spiritual connections;

24. *And whereas* our Peoples became enslaved to a welfare system under the guise of 'protection';

25. *And whereas* Aboriginal Peoples were denied freedom of movement and association; denied the right to live on our ancient lands, observing our Laws, culture, customs, our religion and spirituality, in accordance with the Creation;

26. *And whereas* Aboriginal Peoples continue to be disproportionately incarcerated and are being killed in custody; abused in youth detention centres, which ultimately results in the highest youth suicide in the world;

27. *And whereas* in the political and legal arenas these policies and practices continue to this day, thereby intensifying the gross violations of our basic human rights, while abrogating the rule of law and criminalising 'Aboriginality' and 'otherness';

28. *And whereas* we assert that we remain independent sovereign Aboriginal Nations and Peoples. We assert that we have never ceded, nor relinquished, our sovereignty, under any terms or conditions to the occupying, colonising power;
29. *And whereas* Australia continues to this day to compel illegally our Peoples to accede to the extinguishment of our inherent sovereign rights through the native title processes under the Indigenous Land Use Agreement (ILUA) regime;
30. *And whereas* the legal view of wars of national liberation is that they constitute a category of internal wars and as such are not subject to international legal regulations. From the early 1960s, however, in a number of international legal fora, but more significantly in the United Nations General Assembly, a growing majority support the view that struggles against colonialism and other forms of oppression, in pursuance of the legal right of self-determination, has an international character;
31. *And whereas* the point of departure for most ex-colonial States in the United Nations was their recognition that this principle imposed an obligation on the colonising power and established the right of all Peoples to the exercise of self-determination. This trend culminated in the United Nations General Assembly Resolution 1514 (xv) of 1960 containing the Declaration on the Granting of Independence to Colonial Countries and Peoples. Unfortunately there were no provisions or caveats for the recognition or preservation of the rights of the First Nations Peoples. There was, however, a minor consolation made when the United Nations included the *Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations*, which was adopted by the United Nations General Assembly Resolution No. 2625 (xxv) in 1970;
32. *And whereas* this declaration was adopted in the United Nations General Assembly by acclamation, that is, it was unanimous, without a dissenting vote. It gave universal recognition to the legal and binding nature of the principle of self-determination. In view of these developments, wars of national liberation can no longer be considered as internal wars, since they are now regulated by international law. As concerns the legality of the use of force in the context of self-determination, the declaration provides that:

*Every State has the duty to refrain from any forcible action, which deprives Peoples of their right to self-determination, freedom and independence. In their actions against resistance of the exercise of their right to self-determination, such People are entitled to seek and receive support in accordance with the purpose and principles of the charter.*  
[African National Congress (ANC) submission to the South African Truth and Reconciliation Council 1997];

33. *And whereas* governments in Australia have known of atrocities being perpetrated against the Aboriginal Peoples, a factor acknowledged in the New South Wales Legislative Assembly, by Mr. Gould, a member of the Legislative Assembly when he said on 9 June 1886:

*the way in which the Aborigines had been treated by the Governments of the different Australian colonies was a standing disgrace to our civilisation* [at page 2515];

34. *And whereas* the Christian missionary operations were an evil that was not originally recognised until now. In C.D. Rowley's, *The Destruction of Aboriginal Society*, 1978. (Chapter 7: The Christian Missions and Justice) Rowley states at page 158:

*In most British colonies the Christian Mission was the partner of Government and of Business interest. Colonial domination served the joint interests of Government, Gain and God... ;*

**35.** *And whereas* Rowley continued:

*To Christian people at home, the missionaries' work justified colonial expansion and control, since conversion to Christianity and salvation would restore the balance against conquest and expropriation. Missionary activities offered soothing reassurance (where the need for any was felt) to the consciences of the planter, recruiter, miner and pastoralist ...;*

- 36.** *And whereas* materialism and spiritualism are not opposing and antagonistic forces in Aboriginal Peoples' culture. Rather, over the aeons, they have been reconciled in equilibrium. This equilibrium is maintained by our paramount cultural value: Respect. In the culture of the Aboriginal Peoples of Australia, the goal is to receive from the spiritual beings. In contrast, Aboriginal people observed that in the non-Aboriginal culture surrounding us, enough is not enough. More is better. We observe that materialism and spiritualism have become opposing forces that are not our business to try and change. Ours is to accept the world as we find it upon our arrival and to protect our Mother Earth from any form of violations;
- 37.** *And whereas* it is our sacred duty to wage resistance against any form of threat that would violate our Mother Earth. Our ancestors' frustration with the invaders was our principle of Respect, which meant that it was not up to us to dictate to the invaders how to live. Instead, the invader aggression against Aboriginal Peoples was so violent and intrusive that it was intended that we should be annihilated. Our ancestors' hopes for respected co-existence in a relationship of peace and friendship with all beings and things, was thwarted by greed for material wealth;
- 38.** *And whereas* the original instructions for peaceful co-existence between Aboriginal Peoples and the British invaders was not adhered to, nor respected. As far as the British authorities were concerned it was the law and the respect was to be mutual and universal. It was decreed that the Aborigines were to be afforded protection under the governance of the British Government and that the Aborigines should not be molested or disturbed in the parts of the country where land was allotted as reserves for their use and benefit;
- 39.** *And whereas* today we observe that, in practice, the respect paid to this decreed instruction from the invading British Government has not been fulfilled. The crucial point being made is that the colonial authorities, and successive Australian Governments, have been responsible for the breaches of these instructions. Thus, the breaches of these legal instructions are described as fraudulent, treasonable, and genocidal, all of which have been committed by the illegal and political establishment of the British and the domestic colonial governments of Australia;
- 40.** *And whereas* in consequence, the non-Aboriginal People and their Aboriginal collaborators are not so much governing us, as attacking us, treating us as squatting trespassers in, and on, our own lands, if we lay claim to them. They are destroying our Mother Earth in favour of profiteering by multinational and trans-national corporations, killing our peoples, under the smoke screen of crimes masquerading as minor misdemeanours, in the guise of civil and public disobedience, locking our peoples away in their prison institutions. Thus, they maintain the war of physical and psychological intervention and attrition upon our Peoples. Systematically, we have been and continue to be killed, infected with diseases, beaten, im-

prisoned, threatened and sexually preyed upon. Aboriginal Peoples are psychologically held up to contempt and ridicule, patronised, brainwashed, bribed, corrupted and then criminalised for trying to defend ourselves, in an attempt to exist as free Peoples in our own right, wishing to exercise our right to self-determination and independence;

41. *And whereas* judges and the lawyers are effectively the generals of denial. Their police are the storm troopers in the invaders' unremitting campaign to take everything and leave us with nothing;
42. *And whereas* the criminal use of judges, lawyers and police by the occupying colonial power upholds the illegitimate regime thus perpetuating the crime against humanity;
43. *And whereas* we continue to assert that we are free Peoples in a free land. We reserve our right.

*We, the people of the First Nations of the island continent of Australia, solemnly declare* and assert our pre-existing and continuing sovereignty over the total landmass of this island continent.

*We declare* that First Nations Peoples' Law and culture is the continental common Law of the Land of this island continent, which has never been abrogated by any of us, nor have we knowingly agreed to any compromise and we have always fought to defend our Laws.

*We declare* that our continued resistance to the illegal occupying power is a justifiable right and a sacred duty to defend ourselves against tyranny.

*We resolve* to re-establish the authority of the sovereign inherent rights as independent Nations and Peoples, free from the intervention of the occupying colonial power.

*We resolve* to reject any attempt to steal First Nations Peoples' patrimony by way of being coerced to assimilate into the British colonial constitution, of which we have never been a part.

*We resolve* to unite to reclaim First Nations sovereign inherent right under our Law and Culture and to restore that which is ours by right of claim for the common good.

*We affirm* settled laws of Aboriginal governance and we resolve to exercise our inherent sovereign right to be self-governing and independent, as is affirmed by modern international law.

*We recall* that the exercise of our right of self-determination under our Law and culture is an internationally recognised legal right. The colonial common law judicial system of the Commonwealth of Australia is obligated to observe that contested sovereignty is not justiciable in the domestic courts of Australia. Therefore, First Nations Peoples assert that no law of the imposed occupying has any legal jurisdiction over us as Sovereign Peoples and as such any laws made by the occupying power in their parliaments can abrogate or derogate any of our Laws. To assert any such act is defined as an act of war against First Nations Peoples of this island continent.

*Recognising* that no courts within the Commonwealth of Australia have the legal jurisdiction to interfere with our right to exercise our right of governance under our Law and culture as distinct independent sovereign Nations and Peoples.

*We assert* permanent sovereignty over natural resources, lands, waters, airspace, all of which are connected to our Songlines of Creation and which is the source of our Allodial Title.

*We assert* our inherent sovereign rights to the endemic biodiversity of this island continent.

*We demand* that the Commonwealth of Australia with its colonial States respectively commence meaningful negotiation to affirm and respect our inherent sovereign rights and title to this island continent.

*We demand* that the Commonwealth of Australia with its colonial States respectively accept its illegitimacy and accept the judgement of its Supreme (High) Court ruling in *Mabo (No. 2)*, which held in law that the British Crown ‘*did not gain beneficial radical title to this land*’ (Allodial Title).

*We demand* that the Commonwealth of Australia with its colonial States respectively recognise and accept their limitations to land tenure, which does not extinguish our ancient Allodial Title to this land and waters in any form whatsoever.

*We call* upon Commonwealth, State and Territory governments to recognise their limitations and fraud being perpetrated against its population by continually denying the fact of their limitations and illegitimacy in law to their constituency.

*We call* upon the Governor-General and his counterparts, the Governors of the respective States and Territories, to accept the findings of the Australian Federal Parliament’s, *Two Hundred Years Later*, the Senate Standing Committee on Constitutional and Legal Affairs on the feasibility of a compact or ‘Makarrata’ between the Commonwealth and Aboriginal people, where affirmation was given to continuing Aboriginal sovereignty:

*It was further stated, that some would say that sovereignty inhered in the Aboriginal people inhabiting Australia at the time of settlement by the Europeans and that sovereignty still subsists even though not recognised by the occupying power or its legal system.*

*We call* upon the Governor-General and his counterparts, the Governors of the respective States, to now recognise that the Supreme (High) Court of Australia held that Aboriginal Law and customs are not a construct of the colonial common law, but rather that the colonial common law now recognises it.

We, the people, petition all those concerned to take judicial notice of this Proclamation: *First Nations’ Sovereignty*.

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This Proclamation *First Nations’ Sovereignty* was prepared by Ghillar, Michael Anderson, for and on behalf of the Sovereign Union of First Nations and Peoples in Australia.  
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