



Minutes of Evidence Curriculum & TRP

TOPIC 3 – SELF DETERMINATION AND JUSTICE

Victorian Curriculum link:

- Intended and unintended causes and effects of contact and extension of settlement of European power(s), including Aboriginal and Torres Strait Islander peoples ([VCHHK134](#))
- Causes of the struggle of Aboriginal and Torres Strait Islander peoples for rights and freedoms before 1965 ([VCHHK152](#))
- Significance of the following events in changing society: 1962 right to vote federally, 1967 referendum, Reconciliation, Mabo decision, Bringing Them Home Report (the Stolen Generations), the Apology and the different perspectives of these events ([VCHHK154](#))
- Effects of methods used by civil rights activists to achieve change for Aboriginal and Torres Strait Islander peoples, and the role of one individual or group in the struggle ([VCHHK155](#))
- Continuity and change for Aboriginal and Torres Strait Islander peoples in securing and achieving civil rights and freedoms in Australia ([VCHHK156](#))

If the above hyperlinks do not work in PDF – visit the curriculum via:

<http://tinyurl.com/j85w2pg>

The Civil Rights and Black Power movements in the United States of America inspired many similar protests across the world. It has even been suggested that in Australia “the Black American experience was the most profound exogenous influence on Aboriginal political activism in the 1960s.”¹ This influence translated into the creation of an Indigenous Australian Black Power Group and inspired direct actions like the Freedom Rides and, coupled with ideas of self-determination, the creation of many community-controlled organisations. The following will explore Black Power in Australia and ideas about self-determination. It will then look at some key issues relating to Aboriginal and

¹ Scott Robinson, “The Aboriginal Embassy 1972,” (MA thesis, Australian National University, 1993), pp. 22-23.

Torres Strait Islander justice, including deaths in custody, stolen wages and land rights in the judicial system.

Black Power and Self-Determination

The ideas of Black Power had a profound impact on many Aboriginal and Torres Strait Islander people. Although culturally and historical radically different, Aboriginal people, particularly the younger community, identified with many Black American writers and Black Power activists. But because of the specific and unique circumstances which Aboriginal and Torres Strait Island communities faced in Australia, a very localised version of this politic emerged and it was one which in part centered upon concepts of self-determination. In Australia it is about the “power generated by people who seek to identify their own problems and those of the community as a whole, and who strive to take action in all possible forms to solve those problems.”²

One of the members of the Australian Black Power group, historian Gary Foley states “in Australia, the ‘Black Power Movement’ emerged as a loose coalition of young Indigenous activists active in Redfern, Fitzroy and South Brisbane in the period immediately after Charles Perkins’ ‘Freedom Ride’.”³ Many members of this loose coalition were active Indigenous community members and held positions within Indigenous organisations. For instance, in 1969 Bruce McGuinness, a worker at the Victorian Aborigines Advancement League (AAL) stated that Black Power was essentially the idea that “black people are more likely to achieve freedom and justice...by working together as a group.”⁴ Similar to the ideas espoused in Victoria, in 1972 Sydney resident Paul Coe stated “Black Power in Australia is a policy of self-assertion, self-identity...It is our policy, at least as far as we in the city are concerned ... to endeavor to encourage Black Culture, the relearning, the reinstating of black culture wherever it is possible.”⁵



Figure 1 http://www.joseflebovicgallery.com/catalogue/cl_135_2009/pages/pg11.html

² Roberta Sykes, Ann Turner and Neville Bonner, *Black Power in Australia: Bobbi Sykes versus Senator Neville Bonner* (Heinemann Educational Australia, 1975), p. 10.

³ Gary Foley, “Black Power in Redfern 1968-1972,” in *There Goes the Neighbourhood: Redfern and the Politics of Urban Space*, ed. Zanny Begg and Keg De Souza (Sydney: Carriageworks, 2009), p. 12.

⁴ Bruce McGuinness quoted in Bain Attwood and Andrew Markus, *The Struggle for Aboriginal Rights A Documentary History* (St Leonards: Allen and Unwin, 1999), p. 243.

⁵ Paul Coe quoted in Geoff Pryor *et al.*, *Issues in Australian History* (Melbourne: Longman Chesire, 1988), p. 412.

Black Panther Party Australia

24 FEB 1972
B3.3



Black Panther Party of Australia - Brisbane Chapter

MANIFESTO NUMBER TWO

Released in conjunction with the Orientation Week (Feb.-March) on all Universities throughout Australia.

The Black Panther Party of Australia - Brisbane Chapter has only been in existence for a little over one month & already there has been a great deal of publicity around it. This has been mainly because the press has chosen to sensationalise the policy of the Party pertaining to self-defense of the Black Community.

The main aspect of this policy of course is the fact that we advocate that if any section of the community is allowed to carry guns in the streets, then all people should be allowed to arm themselves for their own self-defense. Some say this is placing too much power in a persons hands. We say that the pigs have a legal right to carry guns & (that from our Experience) those pigs have gone beyond their legal right, not on isolated occasions, when dealing with the people from the Black Community, but on almost every occasion. To date, little or nothing has been done to ensure that the pigs do not abuse the legal rights of the Black People.

Our legal rights are being abused daily by the pigs. The threat of intimidation, both armed & otherwise (batons) is always evident when pigs are dealing with Black People. Black People have no defense against this threat whatsoever. Therefore if the pigs are not forced to respect our legal rights then we advocate that we be allowed to arm ourselves in the street for our own security. We wish to arm ourselves to defend ourselves & the Black Community against the naked undisguised aggressive violence of the exploitationists system & the fascist pigs who are armed & payed to protect it.

We do not advocate anymore than this & we believe this is a just demand. We do not incite people to arm themselves outside of the law, but we do point out that there are laws prohibiting people carrying guns, while the pigs are paid & protected to do so. This then is a denial of yours our human rights.

We do not advocate any terrorist activity such as 'death lists' & 'bombings' because we believe our demands are just. Any action carried out by us must be justified. Therefore we will continue to carry out our actions in full view of the people. It is the pigs that carry out the violent acts of aggression against us in the security of a darkened street or behind the security of the locked doors of the concentration camps.

The press has chosen to play up the violence advocated by us, not as a self defense measure, but supposedly as aggressive acts. We deny that any acts of aggressive violence are advocated by us.

Figure 2 Black Panther Party, Brisbane, Manifesto 1972. Collection of the Fryer Library, the University of Queensland Collection of the Fryer Library, the University of Queensland⁶

⁶ <http://www.qhatlas.com.au/photograph/black-panther-party-brisbane-manifesto-1972>

The statements of these Aboriginal men and women about what Black Power is in the Australian context all have themes of self-determination and community control. These ideas and politics transformed the landscape of Aboriginal and Torres Strait Islander organisation and helped to create the burgeoning movement of community-controlled organisations across Indigenous Australia.



Figure 3 Protesting for self determination, a photograph from the ATSIC Melbourne office.⁷

Though it seemingly emerged into political consciousness in the late 1960s, self-determination has been articulated by Aboriginal people as a political aim throughout history. This can be seen for instance in the Day of Mourning in 1938 and much earlier in the campaigns seeking justice for the residents of Coranderrk. The idea of self-determination proposes that a group of people has the right to determine its own destiny. Internationally, self-determination is understood to be the right of peoples to freely determine their own political status, and to freely pursue their social, cultural and economic development.⁸ These rights are encapsulated by Article 1 of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.⁹ Australia is a signatory to both.

⁷ http://www.nma.gov.au/exhibitions/off_the_walls/timelines

⁸ This the most popular and widely accepted definition of self-determination, as described by the “United Nations International Covenant on Economic, Social and Cultural Rights 1966,” United Nations, available from <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>

⁹ “United Nations International Covenant on Civil and Political Rights 1966,” United Nations, available from <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>; and “United Nations International Covenant on Economic, Social and Cultural Rights 1966,” United Nations, available from <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>

Self-determination for Aboriginal and Torres Strait Islander Australians was not an official policy of the Australian Government until 1972, when the Labor Government came to power under the leadership of Gough Whitlam. With this policy, the Whitlam government became the first Australian government to gain widespread Aboriginal community support for a policy directed towards Aboriginal communities.¹⁰ Whitlam stated that the aim of this policy was to “restore to the Aboriginal people of Australia their lost power of self-determination in economic, social and political affairs.”¹¹ These policies were perceived as a step in the right direction, away from the implicit racism and paternalism that underlined the assimilation policies that preceded it. During this period of Labor administration, “Aboriginal opinion made itself heard as in no previous era”.¹² This was largely due to the Whitlam government increasing the finances available for Aboriginal organisations and conferences nationwide, making contact possible between Aboriginal groups who had never met together before.¹³ Moreover, Aboriginal groups were able to unite on certain issues that, as a result of dispossession and invasion, affected all Aboriginal communities: “land rights, self-determination and strong feelings of separate identity.”¹⁴ This unity on these issues was vital to having them addressed by the government, as the unison gave Aboriginal people more power to create change for themselves within Australian society.

United Nations Declaration on the Rights of Indigenous Peoples

This unity was also present internationally amongst Indigenous people. Indeed, Indigenous people across the globe fought for self-determination in the creation of the *United Nations Declaration on the Rights of Indigenous Peoples*. For Indigenous peoples, the right to self-determination is the cornerstone of the Declaration.¹⁵ This declaration was adopted on 13 September 2007.¹⁶ As an Indigenous lawyer and academic who was involved in the drafting process, Megan Davis states “the adoption of the Declaration was a triumph for indigenous peoples after persevering for more than 20 years to secure an international instrument aimed at recognising the distinct cultural rights of indigenous peoples and providing redress for the injustice of dispossession.”¹⁷ A Working Group on Indigenous Peoples was established in 1982 in order to draft

¹⁰ Lorna Lippmann, *Generations of Resistance* (3rd ed), (Sydney: Addison Wesley Longmann, 1994), p. 55.

¹¹ Statement by the Prime Minister, E. G. Whitlam to the Aboriginal Affairs Council, Adelaide, 6 April 1973, quoted in Lorna Lippmann, *Generations of Resistance* (3rd ed), (Sydney: Addison Wesley Longmann, 1994), p. 55.

¹² Lorna Lippmann, *Generations of Resistance* (3rd ed), (Sydney: Addison Wesley Longmann, 1994), p. 57.

¹³ Lorna Lippmann, *Generations of Resistance* (3rd ed), (Sydney: Addison Wesley Longmann, 1994), p. 57.

¹⁴ Lorna Lippmann, *Generations of Resistance* (3rd ed), (Sydney: Addison Wesley Longmann, 1994), p. 57.

¹⁵ Sarah Pritchard and Australian Aboriginal Torres Strait Islander Commission, *Setting International Standards: An Analysis of the United Nations Draft Declaration on the Rights of Indigenous Peoples* (2nd ed), (Canberra: Aboriginal and Torres Strait Islander Commission, 1998), p. 46.

¹⁶ “United Nations Declaration on the Rights of Indigenous Peoples 2007,” United Nations, available from http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

¹⁷ Megan Davis, “Indigenous Struggles in Standard-Setting: The United Nations Declaration on the Rights of Indigenous Peoples,” *Melbourne Journal of International Law*, Vol. 9 (2008), available from <http://www.law.unimelb.edu.au/files/dmfile/download187a1.pdf>

the declaration, and some Australian Indigenous members included Mick Dodson, Les Malezer, Tom Calma, Lowitja O'Donoghue and many others.¹⁸

Resistance to the Draft Declaration came from only 4 countries: Australia, New Zealand, Canada and the United States. Eventually though "Australia is the sole remaining country opposing the right of indigenous people to 'self-determination.'"¹⁹ The Australian government under John Howard stated in 2004 it "preferred to say Aborigines were engaged in 'self-management'". Nonetheless, Australia became a signatory on 3 April 2009 under the leadership of Kevin Rudd's Labor government.²⁰ The implementation and monitoring of the Declaration continues to be a work in progress.

Community Control in Victoria

The history of community-control organisations in Victoria began when William Cooper established the Australian Aborigines League in Melbourne in 1932. He was soon joined others from Cummeragunja including Doug Nicholls, Margaret Tucker, Shadrack James, Kaleb Morgan, and Eric and William Onus, and Ebenezer Lovett from Lake Condah mission.²¹ Its membership was for Aboriginal people only, with non-Aboriginal people allowed to join as associate members. This organisation networked nationally with other Aboriginal communities and organisations that were sympathetic to the Aboriginal cause, such as trade unions and women's organisations. Some of their activities included "petitioning the government for the right for Aboriginal representation in parliament" and they "called for land rights, self-determination and compensation."²² Its New South Wales equivalent, the Aborigines Progressive Association, was established in 1937 by William Ferguson, a Wiradjuri man with Jack Patten as President. These two organisations were "instrumental in pushing the issue of Aboriginal welfare to the forefront of public attention in the southern states."²³ For instance, it was these two groups who organised one of the most significant Aboriginal protests, the Day of Mourning in 1938.

The Aborigines Advancement League was formed in March 1957 after Pastor Sir Doug Nicholls travelled to the Warburton Ranges to join a Western Australian parliamentary committee to "study the living conditions of the Aboriginal people there."²⁴ When Pastor Doug returned he "set about trying to draw public attention to the shocking living conditions of the region's residents"

¹⁸ Jenny Macklin, "Statement on the United Nations Declaration on the Rights of Indigenous Peoples," April 3, 2009, available from <https://www.recognise.org.au/downloads/c12b33eae46fa3b3760c.pdf>

¹⁹ Annabel Crabb, "Australia and Self-Determination For Aborigines," *The Age*, December 26, 2002.

²⁰ Jenny Macklin, "Statement on the United Nations Declaration on the Rights of Indigenous Peoples," April 3, 2009, available from <https://www.recognise.org.au/downloads/c12b33eae46fa3b3760c.pdf>

²¹ Victorian Aborigines Advancement League, *Victims or Victors?: The Story of the Victorian Aborigines Advancement League* (South Yarra: Hyland House, 1985), p. 27.

²² The Aboriginal Community Elders Service and Kate Harvey, *Aboriginal Elders' Voices: Stories of the "The Tide of History": Victorian Indigenous Elders' Life Stories and Oral Histories* (Melbourne: Language Australia, 2003), p. 208.

²³ "Snapshots of Aboriginal Fitzroy," City of Yarra (2002), available from <http://www.yarracity.vic.gov.au/services/Community-Planning/aboriginal-services/Snapshots-of-Aboriginal-Fitzroy-/>, p. 39

²⁴ "Snapshots of Aboriginal Fitzroy," City of Yarra (2002), available from <http://www.yarracity.vic.gov.au/services/Community-Planning/aboriginal-services/Snapshots-of-Aboriginal-Fitzroy-/>, p. 40

and in one such act he showed the graphic film footage at a public meeting of the 'Save the Aborigines Campaign.'²⁵ From this meeting, the decision was made to establish a new organisation and fund Pastor Doug in a position of full time field officer.²⁶ It was funded by public support and its headquarters were 46 Russell Street in Melbourne, but within a year there were branches at Murtoa, Neerim, Geelong, Brunswick-Coburg, Noble Park, Greensborough, Brighton and Carlton.²⁷ Prominent members of the Australian Aborigines League were involved from the beginning, including Geraldine Briggs, Margaret Tucker and William and Eric Onus.²⁸ In April 1960 the League articulated five principles for Aboriginal people: equal citizenship rights; to have an adequate standard of living to provide food, clothing, health care the same as other Australians; equal pay for equal work and the same industrial protection; education for detribalised Aboriginal people to be free and equal; and all remaining reserves be retained for individual or communal ownership.²⁹ These principles were printed in each edition of the League's publication, called *Smoke Signals*.

Although it had prominent Aboriginal members, the League was largely steered by white membership until agitation for change in the mid-1960s. This culminated in 1969, when Bruce McGuiness and Bob Maza "who, galvanized by the same notions as Malcolm [X] and Stokely [Carmichael], invited a Caribbean activist and academic, Dr Roosevelt Brown, to give a talk on 'Black Power' in Melbourne" at the Aborigines Advancement League.³⁰ Historian Richard Broome argues that this invitation "was the expression of a long term Indigenous-inspired aspiration for control of their own affairs – including the League."³¹ This aspiration manifested into reality when on October 3rd 1969 all 9 of the white committee of management members resigned and at the time of this transition there were "40 branches and approximately 3000 members across Victoria."³²

²⁵ "Snapshots of Aboriginal Fitzroy," City of Yarra (2002), available from <http://www.yarracity.vic.gov.au/services/Community-Planning/aboriginal-services/Snapshots-of-Aboriginal-Fitzroy-/>, p. 40

²⁶ "Snapshots of Aboriginal Fitzroy," City of Yarra (2002), available from <http://www.yarracity.vic.gov.au/services/Community-Planning/aboriginal-services/Snapshots-of-Aboriginal-Fitzroy-/>, p. 40

²⁷ Richard Broome, *Aboriginal Australians: Black Responses to White Dominance 1788-1994* (St Leonards: Allen and Unwin, 1994), p. 142.

²⁸ "Snapshots of Aboriginal Fitzroy," City of Yarra (2002), available from <http://www.yarracity.vic.gov.au/services/Community-Planning/aboriginal-services/Snapshots-of-Aboriginal-Fitzroy-/>, p. 40

²⁹ *Smoke Signals*, April 1960.

³⁰ Gary Foley, "Black Power in Redfern 1968-1972," in *There Goes the Neighbourhood: Redfern and the Politics of Urban Space*, ed. Zanny Begg and Keg De Souza (Sydney: Carriageworks, 2009), p. 12.

³¹ Richard Broome, *Aboriginal Australians: Black Responses to White Dominance 1788-1994* (St Leonards: Allen and Unwin, 1994), p. 154.

³² "Snapshots of Aboriginal Fitzroy," City of Yarra (2002), available from <http://www.yarracity.vic.gov.au/services/Community-Planning/aboriginal-services/Snapshots-of-Aboriginal-Fitzroy-/>, p. 40

Black power — Victorians are in for "shock"

Hobart Mercury
30th August 1969

MELBOURNE. — "Black Power is already here and Victorians are in for a shock," aboriginal leader Bruce McGuinness said yesterday.

He is the "unidentified" man who invited Black Power movement leader Roosevelt Brown to Australia. a Bermudan Labour MP, who is president of the Black Power movement in the Caribbean and Latin America.

Mr McGuinness said yesterday: "To us the Aboriginal Tribal Council of Victoria is a Black Power movement.

"We have 25 people working full time, and another 1,500 recognise it," he added.

"No whites may enter our meetings. No whites may influence our decisions. And we have our own newspaper — a monthly called 'Koorier'."

Mr McGuinness (30) is liaison officer with the Aboriginal Advancement League.

Angry clash

Mr Bob Maza (30), president of the league, also had talks with Mr Brown.

Disclosures on Thursday of Mr Brown's "secret" visit to Australia caused an angry clash at the headquarters of the Aboriginal Advancement League.

A director of the league, Pastor Doug Nicholls, claimed he was not told of the visit and did not know who invited Mr Brown.

Mr McGuinness said: "In the final analysis, it was really up to Mr Roosevelt Brown himself to make the visit.

"Let's make it clear he was very welcome."

Mr McGuinness, who is married with two children, lives in Reservoir.

He denied that he advocated violence.

"Black Power is good, strong organisation," he said.

Figure 4 <http://www.kooriweb.org/foley/images/history/1960s/aalbp/rb17.html>



Figure 5 Roosevelt Brown at the Aborigines Advancement League 1969³³

In the 1970s, amidst a climate of increasing agitation and protest for change, Aboriginal and Torres Strait Island people began to create community-controlled organisations across Australia. For far too long, they had been locked out of decision making regarding their own futures. As Indigenous academic Peter Yu states “Aboriginal people know through bitter experience that we cannot rely on the goodwill of governments to achieve equity and justice.”³⁴ There was “a growing political awareness of the need for more organised involvement of Aborigines in action aimed at their socioeconomic advancement.”³⁵ The Australian Aborigines League is now known as the Victorian Aboriginal Advancement League and continues to operate in Thornbury, Melbourne.

Though Indigenous groups had been fighting for self-determination for many years, it only became a part of official government policy when the Whitlam government won the Federal election in 1972. This policy of self-determination meant the Whitlam government would “support decision-making by indigenous communities themselves, and relinquish the paternalistic control that previous governments had wielded over the lives of indigenous people.”³⁶ It “sought to empower indigenous people to claim back the land to which they were entitled, to allow more indigenous input into policy-making, and to abolish discriminatory practices that limited their freedoms and opportunities.”³⁷ With these policies

³³ <http://www.kooriweb.org/foley/images/history/1960s/aalbp/rbdx.html>

³⁴ Peter Yu, “The Kimberley: from welfare colonialism to self-determination,” *Race and Class* 35:4 (1994): p. 19.

³⁵ Hans Dagmar, “Chapter 3: Development and politics in an interethnic field: Aboriginal interest associations,” in *Going it Alone: Prospects for Aboriginal Autonomy*, ed. Robert Tonkinson and Michael Howard (Canberra: Aboriginal Studies Press, 1990), p. 101.

³⁶ “Whitlam Government Achievements: Indigenous Australians,” Whitlam Institute, available from http://www.whitlam.org/gough_whitlam/achievements/indigenous

³⁷ “Whitlam Government Achievements: Indigenous Australians,” Whitlam Institute, available from http://www.whitlam.org/gough_whitlam/achievements/indigenous

and commitments the new government provided more opportunities for the establishment of community-controlled organisations.

The Victorian Aboriginal Health Service was founded in 1972 and from July 1973 it began servicing the communities' health needs from its first location, 229 Gertrude Street Fitzroy.³⁸ It was operated by volunteer doctors, nurses and community workers and it was established “as a response to the growing number of Aboriginal people who needed medical attention, but were reluctant to go to mainstream services.”³⁹ It has grown exponentially since and in 1992 it moved around the corner from its original home, where it is still located today, at 186 Nicholson Street Fitzroy.



Figure 6 VAHS today, Nicholson Street Fitzroy⁴⁰



Figure 7 VAHS location in 1979, 136 Gertrude Street Fitzroy⁴¹

The Victorian Aboriginal Legal Service was formally established in June 1972 and its first building was on Gertrude Street in Fitzroy. However for many years people such as Stewart Murray, Les Booth, Merle Jackomos, Hyllus Maris and

³⁸ “History,” The Victorian Aboriginal Health Service, available from <http://www.vahs.org.au/history.html>

³⁹ “Snapshots of Aboriginal Fitzroy,” City of Yarra (2002), available from <http://www.yarracity.vic.gov.au/services/Community-Planning/aboriginal-services/Snapshots-of-Aboriginal-Fitzroy-/>, p. 40

⁴⁰ www.vahs.org.au

⁴¹ www.vahs.org.au/history.html

Margaret Wirrpunda had “visited Aboriginal people in the cells and appeared for them at court hearings.”⁴² Aboriginal historian Gary Foley recalls:

Furthermore, for about five years prior to the establishment of the Victorian ALS, the Aborigines Advancement League (AAL) had conducted a quasi-legal aid service from their office in Northcote using volunteer lawyers where possible, or League officials appearing for Aboriginal people when no lawyers could be found. In one six month period in 1969, then AAL Director, Bruce McGuinness made 23 appearances for Kooris fronting court (with lawyers organised by him appearing in 10 of those cases), 28 prison visits, bail/lock-up appearances. This practice of organising what legal assistance they could was began by League Director Doug Nicholls, perfected by McGuinness, and maintained by subsequent AAL administrations, including that of the late Stewart Murray.⁴³

Aboriginal community members and legal professionals joined together to create the Victorian Aboriginal Legal Service. Its founders were Stewart Murray, Geraldine Briggs, Merle Jackomos, Hyllus Maris, Margaret Briggs/Wirrpunda, Dr Elizabeth Eggleston, Peter Hanks, Professor Louis Waller, Ron Merkel and Ron Castan. The Victorian Aboriginal Legal Service continues to provide legal work, advocacy and support for Aboriginal people living in Victoria.

Another key Aboriginal community-controlled organisation is the Victorian Aboriginal Child Care Agency (VACCA). First established in February 1976 and then known as the Aboriginal Child Placement Agency (ACPA), it operated from the Victorian Aboriginal Legal Service’s Gertrude Street site.⁴⁴ It “was born of an urgent concern in the Victorian Aboriginal community about the large number of Aboriginal children being removed from their families and adopted or fostered into non-Aboriginal families.”⁴⁵ Elder Aunty Lola James recalls it “was started by Molly Dyer (Marge Tucker’s daughter), Stewart Murray, Jim Berg and others to stop the stealing of Koorie children. It’s actually not a childcare service, its welfare and family support, but it was named child care because Koories couldn’t stand the term welfare after all the kidnappings. ‘The welfare’ was a real dirty word at the time.”⁴⁶ On 15 November 1977 the inaugural meeting was held to establish the Victorian Aboriginal Child Care Agency (VACCA) as a Co-operative Society. The meeting was chaired by Elizabeth Hoffman and Mollie Dyer was the Secretary. The board of directors elected at the meeting was Elizabeth Hoffman, Janice Muir, Mollie Dyer, Phillip Cooper, Ralph White,

⁴² “Snapshots of Aboriginal Fitzroy,” City of Yarra (2002), available from <http://www.yarracity.vic.gov.au/services/Community-Planning/aboriginal-services/Snapshots-of-Aboriginal-Fitzroy-/>, p. 40

⁴³ Gary Foley, “The Pain of Faine Goes Mainly To My Brain,” (1994), http://www.kooriweb.org/foley/essays/essay_21.html

⁴⁴ “Our History,” The Victorian Aboriginal Child Care Agency, available from <http://vacca.org/about-us/history/>

⁴⁵ “Our History,” The Victorian Aboriginal Child Care Agency, available from <http://vacca.org/about-us/history/>

⁴⁶ Lola James quoted in The Aboriginal Community Elders Service and Kate Harvey, *Aboriginal Elders’ Voices: Stories of the “The Tide of History”*: Victorian Indigenous Elders’ Life Stories and Oral Histories (Melbourne: Language Australia, 2003), p. 45.

Bernadette Dawson, Christine Bennett, Greg Lyons and Charlie Dyer.⁴⁷ Then, on 5 December 1977 ACPA became a registered Cooperative and changed its name to the Victorian Aboriginal Child Care Agency. The efforts of VACCA and other Aboriginal organisations had by 1979 resulted in a 40% reduction in the number of Aboriginal children living in children's homes in Victoria.⁴⁸ The effectiveness of these organisations continues to the present day.

The importance of these and other Aboriginal community controlled organisations cannot be underestimated. That they continue to be strong organisations today is testament to the continued need for Aboriginal services in Victoria, and indeed across the nation. Aunty Dianne Phillips, a Gunditjmara Elder, tell us "we run Koorie organisations ourselves according to our own cultural values. Before the 70s, Koories had to use mainstream services, where they were often treated badly or misunderstood, or have no assistance at all, which was often the case [...] our health and housing and education and everything has improved so much since we've had Koorie organisations."⁴⁹ Additionally, Elder Frances Gallagher tells us: "I enjoyed working in Aboriginal organisations where we can do things our way, according to our culture and our beliefs. Our community is much stronger now that we manage our own affairs and the next generation will have opportunities we never had."⁵⁰



Figure 8 The Victorian Aboriginal Child Care Agency⁵¹

Stolen Wages

For most of the 20th century, governments across Australia controlled or denied wages, savings, pensions and benefits belonging to Aboriginal and Torres Strait

⁴⁷ "Our History," The Victorian Aboriginal Child Care Agency, available from <http://vacca.org/about-us/history/>

⁴⁸ Human Rights and Equal Opportunity Commission, *Bringing Them Home: National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families* (Sydney: Sterling Press, 1997), p. 58.

⁴⁹ Dianne Phillips quoted in The Aboriginal Community Elders Service and Kate Harvey, *Aboriginal Elders' Voices: Stories of the "The Tide of History": Victorian Indigenous Elders' Life Stories and Oral Histories* (Melbourne: Language Australia, 2003), p. 98.

⁵⁰ Frances Gallagher quoted in The Aboriginal Community Elders Service and Kate Harvey, *Aboriginal Elders' Voices: Stories of the "The Tide of History": Victorian Indigenous Elders' Life Stories and Oral Histories* (Melbourne: Language Australia, 2003), p. 111.

⁵¹ "Our History," The Victorian Aboriginal Child Care Agency, available from <http://vacca.org/about-us/history/>

Islander people. Historians estimate that “tens of thousands of Indigenous people had their labour controlled by State and Territory Governments.”⁵² In the introduction to the National Report of Stolen Wages, Gary Highland, the National Director of Australians for Native Title and Reconciliation, noted that

payments withheld included child endowment, pensions and even soldiers’ pay. Much of the money held in trust was never paid to its owners, trust account funds were transferred to public revenue, or disappeared through fraud or negligence along with many of the records.⁵³

These practices of stolen wages in Victoria occurred “from the earliest days of non-Indigenous people living in Victoria in the 1830s to the handover of Indigenous affairs administration to the Commonwealth Government in 1975.”⁵⁴ Successive legislation in Victoria, such as *The Aborigines Protection Act 1869* (Vic) provided mechanisms by which money was withheld from Indigenous persons, including children apprenticed to work for missions and homes.⁵⁵

In the Victorian Aboriginal Legal Service’s submission to the senate inquiry into stolen wages, they reported evidence:

A young male went to war and upon returning home did not receive any land. The Aboriginal reserve where his mother was born (Coranderrk) was subsequently sold so that land could be given to non-Indigenous ex- servicemen. According to the nephew of the now deceased serviceman “[t]his caused some anger amongst both Mum’s family and other Indigenous families in the area. Coranderrk was considered a special place to many families (as they had strong ties to the place) and this was a real setback to many local Aboriginal people”.⁵⁶

The stolen wages practices continue to have significant impact on Aboriginal people today. Commenting on the issue of stolen wages, Western Australian Greens Senator Rachael Sievart stated “There is no doubt in my mind that this country’s strong economy was born on the backs of Aboriginal labour”.⁵⁷ In a

⁵² Gary Highland, “Introduction,” in Rosalind Kidd, *Hard Labour, Stolen Wages: National Report on Stolen Wages* (Rozelle: Australians for Native Title and Reconciliation (ANTaR), 2007), p. 8.

⁵³ Gary Highland, “Introduction,” in Rosalind Kidd, *Hard Labour, Stolen Wages: National Report on Stolen Wages* (Rozelle: Australians for Native Title and Reconciliation (ANTaR), 2007), p. 8.

⁵⁴ Andrew Gunstone, “Chapter 10: Indigenous Peoples and Stolen Wages in Victoria, 1869–1957” in *Indigenous Participation in Australian Economies II*, Natasha Fijn *et al*, (Canberra: ANU E Press, 2012), <http://press.anu.edu.au/wp-content/uploads/2012/06/ch10.pdf>, p. 192.

⁵⁵ Catherine Gale, “Law Institute of Victoria Submission - Federal inquiry into stolen wages of Indigenous workers,” October 11, 2006, available from <http://www.liv.asn.au/getattachment/562c05f9-95f9-40ab-9e8a-e23a70fb0cd0/Federal-inquiry-into-stolen-wages-of-Indigenous-wo.aspx>

⁵⁶ “VALS’ submission to the Senate Legal and Constitutional Committee in response to the Inquiry into Stolen wages,” September 29, 2006, available from http://www.aph.gov.au/~media/wopapub/senate/committee/legcon_ctte/completed_inquiries/2004_07/stolen_wages/submissions/sub81_pdf.ashx

⁵⁷ Ken Boase, “WA Reparation call for stolen wages victims,” *The Koori Mail*, October 10, 2007, p. 10.

paper addressing the issue of stolen wages in Victoria, Andrew Gunstone commented that “the abysmal historical and contemporary socioeconomic disadvantage suffered by Indigenous people in numerous areas – including health, income, housing and education – has been substantially influenced by stolen wages practices.”⁵⁸ Historian Anna Haebich argues that the Australian government actively contributed to Indigenous poverty “by denying generations of Aboriginal people the right to decent and productive work, proper wages, sufficient services and adequate welfare” and “laid the basis for an Aboriginal underclass without sufficient land, property capital, economic skills or employment prospects.”⁵⁹ Some states have set up reparations or repayment schemes to address this issue, but in Victoria this is yet to occur.

Deaths in Custody and Justice Issues

In the 1980s there was growing pressure and public concern from the Aboriginal community about the large number of Aboriginal deaths whilst in police custody. It began with the 1983 death of John Peter Pat, and when other Indigenous people in custody, such as Edward Cameron, Charles Sydney Michaels, Robert Joseph Walker and Lloyd James Boney, were found dead in their cells in suspicious circumstances, their campaign gained momentum.⁶⁰ This led to the federal government establishing *The Royal Commission into Aboriginal Deaths in Custody* (RCIADIC) in October 1987.

In February 1991 *Report of the Royal Commission into Aboriginal Deaths in Custody* (RCIADIC) was tabled in Federal Parliament. The report was the outcome of two years of intensive hearings and investigations and detailed the deaths into 99 Aboriginal people who had died whilst in custody between 1 January 1980 and 31 May 1989. It examined the circumstances that gave rise to these deaths and detailed their underlying causes.

It made 339 recommendations in five volumes, and addressed many underlying issues of Aboriginal deaths in custody. Its primary finding was that Aboriginal people do not *die* at a higher rate than non-Aboriginal people in custody, but rather, the rate at which Aboriginal people are *taken into custody* is overwhelmingly different. Some of the underlying causes it highlighted included the dispossession of Aboriginal peoples land and culture. It found the most significant factor contributing to Indigenous over-representation in the criminal justice system was the disadvantaged position of Aboriginal and Torres Strait Island people in Australian society.

The Royal Commission also found that 45 of the 99 people were separated from their families at young ages. The Royal Commission finding of the high occurrence of child separation amongst the people who had died prompted the

⁵⁸ Andrew Gunstone, “Chapter 10: Indigenous Peoples and Stolen Wages in Victoria, 1869–1957” in *Indigenous Participation in Australian Economies II*, Natasha Fijn *et al*, (Canberra: ANU E Press, 2012), <http://press.anu.edu.au/wp-content/uploads/2012/06/ch10.pdf>, p. 192.

⁵⁹ Anna Haebich, *Stolen Wages and Consequential Indigenous Poverty: A National Issue* (University of Melbourne: Kathleen Fitzpatrick Lecture, 2004), pp. 3-4

⁶⁰ Helen Corbett and Tony Vinson, “Black Deaths in Custody: Instigating the Royal Commission,” in *Actions Speak: Strategies and Lessons from Australian Social and Community Action*, ed. Eileen Baldry and Tony Vinson (Melbourne: Longman Cheshire, 1991), p. 95.

Human Rights and Equal Opportunity Commissions Inquiry into the Stolen Generations.

Today, Aboriginal and Torres Strait Island people continue to be over-represented in the criminal justice system. Despite a central recommendation of RCIADIC being to reduce incarceration rates, they have grown. In 1991 “at the time of the commission’s final report, indigenous people were eight times more likely to be imprisoned than non-indigenous people. A decade after the report was handed down they were 10 times more likely to be imprisoned. Today, they are 15 times more likely.”⁶¹ Many of the Commission’s recommendations have yet to be implemented in either state or federal legislation and practices.



Figure 9 McRae, *The Bulletin*, 1987 from Swain, *200 in the Shade*. Sydney: Collins Publishers, 1988.

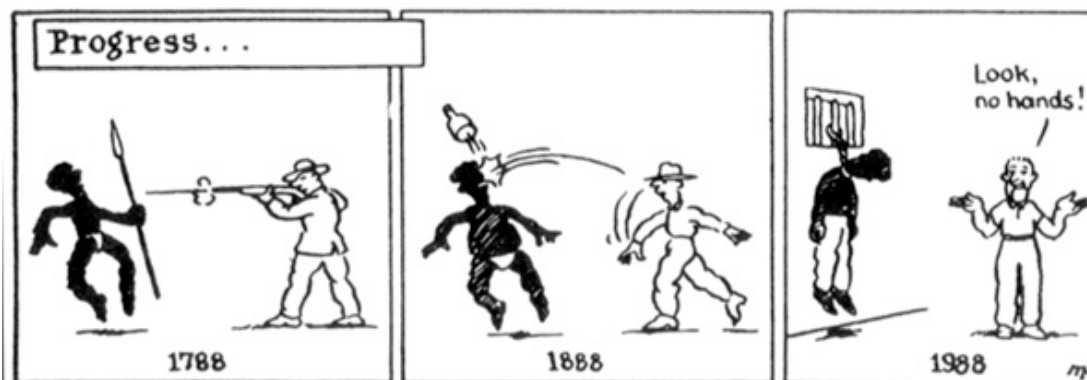


Figure 10 Martin, *Sydney Morning Herald* 1987 from Swain *200 in the Shade*. Sydney: Collins Publishers, 1988.

⁶¹ Inga Ting, “Policy failure as prisons fill with indigenous people,” *The Sydney Morning Herald*, May 27, 2013, available from <http://www.smh.com.au/comment/policy-failure-as-prisons-fill-with-indigenous-people-20130526-2n534.html#ixzz2yOtnzWYg>

Land Justice

Australian law was founded on the concept of *terra nullius*, that is, on the fiction that Australia was unoccupied at the time of colonisation. Aboriginal and Torres Strait Island people and their supporters have challenged this false foundation from the very earliest days of colonisation. In a legal capacity this premise has been fought in the courts in a number of significant cases.⁶²

The doctrine of *terra nullius* has been applied to hold that Australia was, at the time of settlement, an empty and uninhabited land. The concept of *terra nullius* in the history of Australian settlement caused significant problems for the recognition of Aboriginal land rights. Although Aboriginal and Torres Strait Island people were recognised as having a pre-existing culture and law in the 1971 decision of *Milirrpum v Nabalco*, land rights for Aboriginal and Torres Strait Island peoples were not formally recognised by the courts until the controversial decision in *Mabo v Queensland* (1992).

Mabo involved the claims of the Meriam peoples to their traditional lands in the Murray Islands in the Torres Strait. Led by Eddie Mabo, they claimed the right to possess, use and enjoy their lands. The *Mabo* case was a courtroom test for two different conceptions of rights to land.⁶³ The principles, definitions and rules of Anglo-Australian law were used to determine the property rights of the Meriam people and the validity of their land tenure systems. Their claims were successful, with the High Court upholding their claims by a majority 6:1. This meant that the Meriam people have the “exclusive right to title and use of the land against the whole world, except for a small number of leases.”⁶⁴

In the *Mabo* decision Brennan J stated –

“It is imperative in today’s world that the common law should neither be nor be seen to be frozen in an age of racial discrimination...Whatever the justification advanced in earlier days for refusing to recognize the rights and interests in land of the indigenous inhabitants of settled colonies, an unjust and discriminatory doctrine of that kind can no longer be accepted...”⁶⁵

Arguably the most important outcome of the *Mabo* case was the abolishment of the doctrine of *terra nullius*. Indeed, the decision of the High Court to recognise native title for the first time in Australian history brought about a legal revolution. The decision of the High Court also held that similar principles should be applied to the situation of the Aboriginal people on mainland Australia.

This decision was tested in the *Yorta Yorta* case. Using the *Native Title Act* (1993), which was established due to the *Mabo* decision, Justice Olney found in

⁶² Henry Reynolds, “The *Mabo* Judgement – Its Implications,” in *Mabo – Its Meaning For Australia*, ed. Gerard Guiton and Community Aid Abroad (Fitzroy: Community Aid Abroad, 1993)

⁶³ Nonie Sharp, *No Ordinary Judgement: Mabo, The Murray Islanders’ Land Case* (Canberra: Aboriginal Studies Press, 1996), p. xix.

⁶⁴ Nonie Sharp, *No Ordinary Judgement: Mabo, The Murray Islanders’ Land Case* (Canberra: Aboriginal Studies Press, 1996), p. ix.

⁶⁵ *Mabo and Others v Queensland (No 2)* [1992], per Justice Brennan, pp. 41-42.

his decision of 2002 that native title had not survived in this case. He believed that “the tide of history has indeed washed away any real acknowledgment of their traditional laws and any real observance of their traditional customs.”⁶⁶

In his ruling, Justice Olney relied heavily on the works of the squatter Edward M. Curr, a squatter rather than Indigenous oral testimony and evidence. He rejected much of the oral testimony as speculative.⁶⁷ Justice Olney questioned the validity of “evidence based on oral tradition passed down from generation to generation.”⁶⁸

In order to prove native title, one of the levels of proof that the Yorta Yorta needed to meet was to demonstrate continuing customary and cultural links with the land claimed from time of settlement to the present day. Justice Olney stated that: “It is clear that by 1881 those through whom the claimant group now seeks to establish native title were no longer in possession of their tribal lands and had, by force of the circumstances in which they found themselves, ceased to observe those laws and customs based on tradition which might otherwise have provided a basis for the present native title claim; and the dispossession of the original inhabitants and their descendants has continued through to the present time.”⁶⁹ Nonetheless, in 2004 the Yorta Yorta people entered into a co-operative management agreement with the Victorian Government, which covers public lands, rivers and lakes in their traditional lands.⁷⁰ This agreement recognises them as traditional owners and allows them to have a say in the running of their traditional lands. Yorta Yorta Elders council spokesperson Henry Atkinson believes this agreement “It is going to give Yorta Yorta the chance to preserve what is traditionally ours and it is going to make sure that Yorta Yorta will be in existence for a long, long time to come.”⁷¹

⁶⁶ *The Members of the Yorta Yorta Aboriginal Community v The State of Victoria & Ors*, (1998), per Justice Olney, p. 51.

⁶⁷ *The Members of the Yorta Yorta Aboriginal Community v The State of Victoria & Ors*, (1998), per Justice Olney, n. 17.

⁶⁸ *The Members of the Yorta Yorta Aboriginal Community v The State of Victoria & Ors*, (1998), per Justice Olney, n. 21.

⁶⁹ *The Members of the Yorta Yorta Aboriginal Community v The State of Victoria & Ors*, (1998), per Justice Olney, n. 121.

⁷⁰ Fergus Shiel, “Yorta Yorta win historic deal,” *The Age*, May, 1, 2004 available from <http://www.theage.com.au/articles/2004/04/30/1083224579722.html?from=storyrhs>

⁷¹ Fergus Shiel, “Yorta Yorta win historic deal,” *The Age*, May, 1, 2004 available from <http://www.theage.com.au/articles/2004/04/30/1083224579722.html?from=storyrhs>



Figure 11 <http://waynera.files.wordpress.com/2010/10/yortacartoon1.jpg?w=640>



Figure 2 Yorta Yorta native title case – taking evidence at the Echuca courthouse,, 1996-7 ⁷²

Suggested Learning Activities

⁷² National Archives of Australia, Canberra 1996 at <http://waynera.wordpress.com/yorta-yorta-struggle-for-land-justice/>

Black Power

Watch the two videos.

DENIS WALKER:

<http://www.blackhistorystudies.com/resources/resources/australian-black-panther-party/> (Dennis Walker - from 1:45min in the embedded video clip)

PAUL COE

Paul Coe talks Black Power 1972

https://www.youtube.com/watch?v=KusmXsDkqWg&feature=player_embedded-at=42

- What do both Paul Coe and Denis Walker say Black Power is to them?

Self Determination

- What is self-determination?
- What is an example in your life where you express your own self-determination rights?
- Can you think of other examples of where a community self-determines?

Some resources include:

<http://www.merriam-webster.com/dictionary/self-determination>

Self-determination in general (theories)

<http://www.ngsd.org/everyone/what-self-determination>

Self-determination – human rights (particularly for ATSI people)

<https://www.humanrights.gov.au/right-self-determination>

United Nations

- What are some of the reasons that Australia may have been reluctant to sign the Declaration on the Rights of Indigenous Peoples?
- What are some of the things that the four nations who have chosen not to sign (Australia, Canada, New Zealand and the United States) have in common? – think about their relationship and history with Indigenous people.
- Many people claim that Indigenous people world wide have unique claims to self-determination.

Read the United Nations Declaration on the Rights of Indigenous Peoples, available at:

http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

- Outline the rights of indigenous peoples as outlined in the document.
- Pick examples of rights that might be particularly relevant in the state of Victoria given its history and current issues involving justice for Aboriginal people.

Stolen Wages

Senator Rachael Stewart stated that “Aboriginal people would not be suffering the poverty they face today if they were paid the wages and entitlements that were due to them.”⁷³

- Do you believe this statement?
- What are some of reasons you think Senator Stewart would make this statement?

Read following ABC report from 2013 regarding stolen wages in Western Australia

<http://www.abc.net.au/news/2013-09-13/stolen-wages/4957250>

- Do you think that Aboriginal people who are affected by Stolen Wages should be entitled to reparations or back pay?
- What does Judy Harrison say the people affected want from the government?

Community Control

- Why is it important that Aboriginal communities have community-controlled organisations?
- How is it an example of self-determination?

Deaths in Custody

Look at these three cartoons referencing this issue:

<http://www.kooriweb.org/foley/images/history/toons/mcrae1987.jpg>

<http://www.kooriweb.org/foley/images/history/toons/progress.jpg>

<http://www.kooriweb.org/foley/images/history/toons/toon62.html>

- What are the cartoonists saying about justice issues and Indigenous Australians?
- What do you think are some of the issues that Indigenous people experience that mean that they are more likely to be incarcerated or in custody?
- What can be assumed is the history, generally, of the relationship with the police and the Indigenous community?

Land Justice

⁷³ Ken Boase, “WA Reparation call for stolen wages victims,” *The Koori Mail*, October 10, 2007, p. 10.

In his decision in the Yorta Yorta Native Title case (1998), Justice Olney preferences the writings of the squatter Edmund Curr over the oral testimonies of the Yorta Yorta people.

Visit these link for a background and analysis:

<http://ergo.slv.vic.gov.au/explore-history/fight-rights/indigenous-rights/edward-curr-native-title>

<http://www.findlaw.com.au/articles/1293/yorta-yorta-native-title-case.aspx>

- What are the differences between the two sources – Curr’s and the Yorta Yorta testimony?
- Do you think that one is more reliable or valid than the other? Why?

Think about the requirement to prove continuous connection with traditional lands and cultural practices.

- What are some of the historical barriers that may prevent Victorian Aboriginal communities being able to access Native Title?