

An Indigenous treaty would create a virtuous circle of self-determination

Recent moves by the Victorian and SA governments to enter treaty discussions is an important development that will have flow-on effects in all areas



'By gaining a better understanding of certain areas of law that directly affect First Nations people, I hope to be able to translate and navigate for my community.' Picture – author Clinton Benjamin

[Clinton Benjamin](#) for IndigenousX

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My name is Clinton Benjamin, I belong to the Bardi, Yawuru, and Kija people from in and around Broome in the Kimberley region in the far North-West of Western Australia.

I moved to Melbourne after being drafted to the Carlton football club in the AFL when I was 18 years old. It was a significant achievement not only personally, but also for my family and community, especially given the distance from home and the hard work and sacrifices required just to get there.

I spent a couple of challenging years at Carlton, mostly dealing with injuries which cruelled my chances of finding out whether I was capable of playing footy at the elite level of the AFL. After I was delisted, my younger brother was drafted to the North Melbourne Football club, so I stayed in Melbourne to support him and started my undergraduate study at the University of Melbourne. I graduated in mid-2014 with a bachelor of arts double major in Australian Indigenous studies and sociology.

In 2015, I began graduate studies in law at Melbourne Law School, I am currently about to enter my final year. My initial interest in studying law comes from a number of different experiences with the Western legal system.

The language of law has historically been quite inaccessible for a lot of people and one the reasons I chose to study it was to gain a better understanding of the technical nature of the language and processes of the Western legal system. Too often the Aboriginal story of legal cases are either misinterpreted when translated into technical legal language, or dismissed altogether.

Alexis Wright emphasised this point in a [recent article for Meanjin](#), writing: “the law courts and governments of Australia do not want you to turn up on your own behalf, they want to hear and argue the Aboriginal story from the professional point of view, and the government

provides the money or professional support mechanism so that these arguments can take place in the language of the court.”

This is particularly important for legal advocates as the presentation of arguments essentially involves telling the story of the legal case.

By gaining a better understanding of certain areas of law that directly affect First Nations people, I hope to be able to translate and navigate for my community all the technical aspects of the western legal system, and more importantly, help to better translate our stories back to the legal system.

The recent moves by the Victorian and South Australian State governments to enter into treaty discussions with Aboriginal nations could also be an important legal development. Aboriginal and Torres Strait Islander people have been calling for a treaty or treaties for decades now. As a meeting place of laws, a treaty/treaties would enable the western system to recognise the unceded sovereignty of the various Aboriginal nations. This is not to say that a treaty creates sovereignty, nor do we need it to, as our sovereignty is both pre-existing and continuing.

Treaties may enable a form of self-determination, which could deal with substantive issues such as education, another area I am passionate about. I am interested in the close link between law and education, particularly around the theorising of law and education as social justice issues for [Indigenous Australians](#).

For five years I volunteered and worked (mostly with young Indigenous men) in Victoria’s juvenile justice centres in Parkville and Malmsbury. Having had this experience I strongly believe the recent events at Malmsbury and Parkville, and the Royal Commission into the Don Dale Youth Detention Centre in the NT, are evidence of serious structural issues in our justice system, and Australia more generally.

These events show that education is critical and better non-custodial measures need to be implemented to help with the high incarceration rate of our young people and the cycle of reoffending.

Furthermore, within the mainstream media there is often a lack of diversity from the Indigenous voices informing public discussions of Indigenous issues. In the current political climate the voices of prominent Indigenous public figures are often the only ones heard.

Appearing regularly as guest columnists and opinion writers, these particular Indigenous leaders have developed strong profiles and influential voices through the opinion pages of the national press. Therefore, the positioning of more varied Indigenous voices and narratives is imperative. This is why I believe platforms such as Indigenous blogs, grassroots Facebook pages and IndigenousX are extremely important, and I am appreciative of the opportunity to host this week.

As a Broome boy living away from home, I am thankful for the continuous support that my family and community have given me. I have been living on Wurundjeri country for over 10 years now and am also grateful for the support and connections I have made here.