



## FREQUENTLY ASKED QUESTIONS

### What is the Uluru Statement from the Heart?

The *Uluru Statement from the Heart* was created by Indigenous people from around Australia on the 26<sup>th</sup> of May 2017 and it:

- Describes the key challenges facing Aboriginal and Torres Strait Islander people and their communities
- Proposes three structural reforms to address these challenges:
  - A Voice to Parliament that is enshrined in the Constitution
  - A Makarrata Commission that would lead a process of:
    - Agreement making, or treaties
    - Truth-telling about our nation's history
- Invites all Australians to walk with Indigenous people *in a movement of the Australian people for a better future.*

The *Uluru Statement from the Heart* is a fair, practical and unifying statement for all Australians. It is time we made it happen.

### How was the Uluru Statement created?

The *Uluru Statement from the Heart* was created by more than 250 Indigenous delegates from around Australia at the First Nations Constitutional Convention at Uluru on 26<sup>th</sup> of May 2017.

The Convention consisted of three days of intense debate and was the culmination of 12 regional dialogues held across the nation from December 2016 to May 2017. Approximately 1,200 Indigenous people from urban, regional and remote communities attended the two-day dialogues that were designed and run by the Referendum Council. The Referendum Council was established by then Prime Minister Malcolm Turnbull and Leader of the Opposition, Bill Shorten in December 2015.

Further information about the background to the *Uluru Statement from the Heart* can be found [here](#).

## Why is the Uluru Statement needed?

Change is needed because Australia has seen decades of failed policies directed towards Aboriginal and Torres Strait Islander people; policies created from government without input from the Aboriginal and Torres Strait Islander people who are directly affected by them.

These policies have often been formed from good intentions but they have not delivered better outcomes. For example:

- Nearly one-third of Aboriginal and Torres Strait Islander people live below the poverty line.
- Although Aboriginal and Torres Strait Islander adults make up around 2% of the national population, they constitute 27% of the national prison population
- Since former Prime Minister Kevin Rudd's historic apology to the Stolen Generation in 2008, the number of Indigenous children living in out-of-home care has more than doubled; in the absence of change, this number is expected to more than double again in the next 10 years.

There has been many reports, reviews, commissions and committees seeking solutions. There is no one size-fits-all solution but the foundation is a Voice to Parliament so that Aboriginal and Torres Strait Islander people exercise greater self-determination over their lives and communities. It is fair, practical and unifying. And it's time we made this change.

### Sources

- [Income, Poverty and Inequality](#) (F Markham and N Biddle), 2016 Census Paper No. 2, ANU
- [Pathways to Justice: Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples](#) (Australian Law Reform Commission Report 133)
- Family Matters (children in out-of-home care since apology), [Number of Aboriginal and Torres Strait Islander children removed has doubled since apology](#)
- Family Matters, (children in out-home-care next ten years), [Family Matters Report 2019](#)

## How will changing the constitution change anything for 'grassroots' Indigenous people?

Aboriginal and Torres Strait Islander people proposed a Voice to Parliament because they have seen too many failed policies and laws imposed upon them by politicians and bureaucrats who don't understand their communities. It is fair and practical to have their voices influencing in decision-making.

We have seen this work with very effectively during the coronavirus pandemic. Indigenous leaders acted quickly, often in advance of governments, to protect their extremely vulnerable communities.

Indigenous people also know that constitutional protection for the Voice to Parliament is vital. There has been other representative 'voices' in the past but they were all vulnerable to abolition by governments. After these organisations are abolished, the problems still remain. The constitutional protection will ensure there can be a focus on long-term solutions that aren't dependent on navigating political uncertainty and instability. It is time we made this change.

### **Will the Voice to Parliament be a third chamber of parliament?**

Legal experts have **rejected** that a Voice to Parliament would be a third chamber of Parliament. These include two former Chief Justices of Australia - Murray Gleeson AC, QC and Robert French AC - as well as the Law Council of Australia President, Arthur Moses SC.

Barnaby Joyce, who previously called the Voice to Parliament a 'Third Chamber', recently admitted that he got it wrong and apologised.

Indigenous leaders have never asked for a third chamber of parliament. They want their voices heard when laws and policies are made about the them. The parliament won't be forced to accept their advice and the Voice will not be able to block or veto legislation.

Including the Voice in the Constitution through a referendum will ensure it will be taken seriously by all future parliaments, regardless of which party is in power. It is time we made this change.

#### Sources

- Gleesons' verdict: nothing to fear from 'indigenous voice' ([The Australian](#))
- Arthur Moses - Time for a strong Voice ([Law Council of Australia](#))
- Barnaby Joyce apologises for calling Indigenous voice a third chamber of Parliament ([The Guardian](#))

### **Why should Indigenous Australians get special treatment in the Australian Constitution, why can't we all just be one country?**

The special treatment of Indigenous Australians in the Constitution came about in 1901 when the constitution was drafted to specifically exclude them. While this exclusion was removed at the 1967 referendum, the constitution still treats Indigenous people differently through the 'races power'. The races power gives the Parliament power to make laws specifically about any group on the basis of race. The races power has only been used to make laws about Indigenous people.

It is fair and reasonable that Indigenous people have a say over those laws. It is time we made this change.

### **Don't Indigenous people already have voices in parliament through Indigenous MPs and senators?**

It is fantastic that Indigenous people are directly elected to the parliament. However, they are elected to represent all their constituents, not just the Aboriginal and Torres Strait Islander people in their electorate.

The constitution gives the parliament the power to make laws specifically about Aboriginal and Torres Strait Islander people. However, Indigenous people make up only about 3% of the population, so their ability to influence those laws is very limited. The Voice is designed to allow them to have their say when the parliament makes laws about them, while still respecting the authority of the parliament. It is time we made this change.

## **We should be taking out references to race in the Australian Constitution, not putting more division in.**

Race is already included in the constitution. This includes the ‘race power’ under section 51(xxvi). This power has only ever been applied to laws relating to Indigenous people such as Native Title and heritage protection.

Simply removing that section may pose a risk those existing laws are no longer valid. These laws support more than 1,000 land use agreements between Indigenous groups and companies and governments doing business on that land. These agreements affect not only Indigenous people, but they also give certainty to businesses and governments across the nation.

The Voice to Parliament is a fair and practical solution: it strengthens the parliament’s capacity to make better laws about Indigenous people, by listening to their experience and expertise, while removing the risk of legal complications created by removing the ‘race power’.

### **Sources:**

- [Neil Young QC, Opinion on the Recommendations made by the Expert Panel on the Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples, 11 June 2014](#)
- [National Native Title Council, statistics](#)

## **Won’t a Voice to Parliament enshrined in the Constitution divide Australians along racial lines?**

No. ‘Race’ is an outdated term and is not part of the proposal for a Voice to Parliament. However, Aboriginal and Torres Strait Islander people have a ‘special status’ as the first peoples of our nation. This was acknowledged by former Prime Minister John Howard in 2007, when committing to a referendum to recognise Indigenous people in the constitution:

I believe we must find room in our national life to formally recognise the special status of Aboriginal and Torres Strait Islanders as the first peoples of our nation.

We must recognise the distinctiveness of Indigenous identity and culture and the right of Indigenous people to preserve that heritage.

It is entirely consistent for all Australians to be equal and to find a special place for Indigenous people in our nation. Doing so will be a unifying moment for our nation. It is time we made this change.

### **Sources:**

- [The right time: constitutional recognition for Indigenous Australians: address to the Sydney Institute, Sydney.](#)

## Wouldn't it be easier to put the Voice to Parliament in legislation and leave it out of the Constitution?

For more than 40 years, Australian governments have seen the common sense of providing a voice to Aboriginal and Torres Strait Islander people by establishing various bodies to participate in government processes. However, these bodies have had no protection against the unilateral abolition of those representative structures or against lack of certainty that follows.

While the representative bodies come and go, the policy challenges remain. The fact that nearly one-third of Indigenous people live below the poverty line is an inter-generational challenge that will not be solved in one or two electoral cycles.

Constitutionally enshrining the Voice would bring in a new era of stability and continuity in Aboriginal and Torres Strait Islander affairs that would give great hope for these challenges finally being addressed. It is a fair and practical change.

### Sources:

- Ms Patricia Anderson AO, Professor Megan Davis, Mr Noel Pearson, Associate Professor Sean Brennan, Associate Professor Gabrielle Appleby, Dr Dylan Lino, Ms Gemma McKinnon - Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander Peoples, [Submission 479](#)
- [Income, Poverty and Inequality](#) (F Markham and N Biddle), 2016 Census Paper No. 2, ANU

## The Voice will introduce inequality in the constitution by creating special representation for Indigenous people.

Under the Constitution, the Parliament may make special laws concerning the people of any race which, in practice, means Indigenous people. Therefore, the constitution already creates inequality between Indigenous and non-Indigenous people.

When Indigenous people make up less than 3% of the population and have limited democratic influence but the parliament has the power to make laws specifically about them, how is giving Indigenous people a Voice over those matters an issue of inequality?

### Sources:

- [Recognition in keeping with the Constitution: a worthwhile project](#), Murray Gleeson, AC, QC, 2019

## All issues affect Indigenous people - won't there be an unlimited range of issues the Voice will advise the parliament on?

The Voice must be representative of Indigenous peoples' views. It will necessarily address issues that are of concern to its constituents, and not spend its time and resources on irrelevant matters. It will have to prioritise issues to ensure it has the greatest effectiveness.

After 12 years of the Closing the Gap strategy, only two out of seven targets to close the gap between Indigenous and non-Indigenous people are on track. The Voice will have plenty of work just achieving parity.

### Sources:

- Ms Patricia Anderson AO, Professor Megan Davis, Mr Noel Pearson, Associate Professor Sean Brennan, Associate Professor Gabrielle Appleby, Dr Dylan Lino, Ms Gemma McKinnon - Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander Peoples, [Submission 479](#)

## What is the government's position on the Voice to Parliament?

Since 2013, the government has maintained the multi-partisan commitment to recognising Aboriginal and Torres Strait Islander people in the Constitution.

The Coalition's 2019 election policy platform outlined a process that refers to and is consistent with the recommendations from the 2018 *Joint Select Committee on Constitutional Recognition Relating to Aboriginal and Torres Strait Islander Peoples*.

The first stage is to co-design, with Aboriginal and Torres Strait Islander people, models for a Voice. Minister Ken Wyatt is currently leading that process. A referendum will be held once a model has been settled.

The Prime Minister confirmed a commitment to a two-stage process in his 2020 Closing the Gap speech to parliament:

The [Joint Select] Committee did not make recommendations as to the legal form of the Voice, constitutional or legislation. It recommended considering this matter after the process of co-design is complete and that's what we are doing.

Both Labor and the Greens support a Voice to Parliament that is enshrined in the constitution.

### Sources:

- [Our Plan to Support Indigenous Australians](#)
- [Address, Closing the Gap speech to parliament](#)
- [A fair go for First Nations people: Labor's plan](#)
- Justice for First Nations people: addressing Australia's unfinished business: treaties, healing, justice & truth (Greens)