

## Embracing the Invitation from The Uluru Statement from the Heart

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Today marks six years since the invitation of the *Uluru Statement from the Heart* was issued to the Australian people. The Uluru Statement represents an unprecedented historic First Nations consensus position<sup>1</sup> on the form of recognition being a First Nations Voice enshrined in the Constitution, and then through Voice, Makarrata: the coming together of Australian people through agreement-making and truth-telling.

Recognising Aboriginal and Torres Strait Islander peoples as the first inhabitants of Australia, more than sixty thousand years ago, we know is long overdue. The Science is indisputable, for anyone who disagrees<sup>2,3</sup>. Aboriginal and Torres Strait Islander people are the Indigenous peoples of Australia. As Indigenous Peoples<sup>4,5</sup>, they are distinct social and cultural groups that share collective ancestral ties to the lands and natural resources from which they have been displaced and which are inextricably linked to their identities, cultures, physical and spiritual well-being.

To not give Aboriginal and Torres Strait Islander peoples recognition as Australia's First Nations peoples in Australia's founding document, the Constitution<sup>6</sup>, is to remain silent on the complete story of our nation and to continue their history of exclusion from the nation's identity.

Beyond historic recognition as the original inhabitants of Australia, Aboriginal and Torres Strait Islander peoples want to be heard through the Voice, in relation to the making of laws and policies that affect their lives. An Aboriginal and Torres Strait Islander Voice<sup>7</sup> would be a body enshrined in the Constitution that would enable them to make representations to the Parliament and government about laws and policy that affect Indigenous Australians.

First Nations peoples' being only about a three percent minority are not well represented in our representative systems of government based on single-member representation, where predominant voices and agendas prevail to secure elections.

Furthermore, as The Uluru Statement from the Heart articulates:

*Proportionally, we are the most incarcerated people on the planet. We are not an innately criminal people. Our children are alienated from their families at unprecedented rates. This cannot be because*

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<sup>1</sup> Referendum Council, Final Report of the Referendum Council. 2017.

<sup>2</sup> Cooper, D., 2011. *Aboriginal DNA dates Australian arrival*. ABC Science. 23 September 2011. <https://www.abc.net.au/science/articles/2011/09/23/3323640.htm>; National Museum Australia. Defining Moments. Evidence of first peoples. <https://www.nma.gov.au/defining-moments/resources/evidence-of-first-peoples>

<sup>3</sup> NSW Government Migration Heritage Centre. *Australia 50,000 years ago*. <https://www.migrationheritage.nsw.gov.au/objects-through-time/essays/50000-years-before-present/index.html>

<sup>4</sup> United Nations Permanent Forum on Indigenous Issues. *Indigenous Peoples Indigenous Voices*. [https://www.un.org/esa/socdev/unpfii/documents/5session\\_factsheet1.pdf](https://www.un.org/esa/socdev/unpfii/documents/5session_factsheet1.pdf)

<sup>5</sup> Dhir, R.K., Cattaneo, U., Ormaza, M.V.C., Coronado, H., & Oelz, M., 2020. *Implementing the ILO Indigenous and Tribal Peoples Convention No. 169: Towards an inclusive, sustainable and just future*. 3 February 2020. [https://www.ilo.org/global/publications/books/WCMS\\_735607/lang-en/index.htm](https://www.ilo.org/global/publications/books/WCMS_735607/lang-en/index.htm); The World Bank. 2023. *Indigenous Peoples*. 6 April 2023. <https://www.worldbank.org/en/topic/indigenouspeoples>

<sup>6</sup> Parliament of Australia. The Australian Constitution. <https://www.aph.gov.au/constitution>

<sup>7</sup> The Uluru Statement. Design principles of the Aboriginal and Torres Strait Islander Voice. <https://ulurustatement.org/education/design-principles/>

*we have no love for them. And our youth languish in detention in obscene numbers. They should be our hope for the future. These dimensions of our crisis tell plainly the structural nature of our problem. This is the torment of our powerlessness. We seek constitutional reforms to empower our people and take a rightful place in our own country. When we have power over our destiny our children will flourish. They will walk in two worlds and their culture will be a gift to their country*<sup>8</sup>

An Aboriginal and Torres Strait Islander peoples' constitutionally enshrined voice<sup>9</sup> will give First Nations peoples agency to determine their present and future, beyond political changes.

A constitutional Voice being allowed to make representations to the Parliament and the Executive Government, where policies are made about them, laws proposed and implemented, enables First Nations people to seek ongoing recognition that is symbolic *and* substantive. The provision of information to the Parliament and executive government about First Nations communities and issues to do with policies and laws that impact them, presented by First Nations Peoples representing their communities, will enhance Australia's democracy and governance. It enables nation-building for the future of First Nations peoples and all Australians.

The historical experience of colonisation of Australia was unjust and brutal for Aboriginal and Torres Strait Islander peoples who were the first sovereign Nations of the Australian continent and its adjacent islands. The Uluru Statment's invitation to the Australian people for Voice, Treaty and Truth, in essence, gives the nation a profound opportunity to be genuinely reconciled with, and enact the nation's ongoing respect and inclusion of the original inhabitants of Australia, people of the oldest continuing living culture in the world.

The form of recognition for Aboriginal and Torres Strait Islander as articulated in The Uluru Statement offers a new constitutional relationship that recognises "the plurality of the foundation of the Australian state and the ongoing cultural and societal traditions of its first peoples"<sup>10</sup>, the inclusion of their voices through a new constitutional Voice, and a legislated Makarrata Commission to supervise a process of agreement making and truth telling<sup>11</sup>.

In line with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith, as espoused by the United Nations Declaration on the Rights of Indigenous Peoples (2007)<sup>12</sup>, I fully and proudly embrace the invitation of The Uluru Statement from the Heart for substantive constitutional change and structural reform so that First Nations people can take a rightful place in Australia and that their sovereignty can shine through as a fuller and unified expression of Australia's nationhood<sup>13</sup>.

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<sup>8</sup> Uluru Statement from the Heart. 2017. <https://ulurustatement.org/the-statement/view-the-statement/>

<sup>9</sup> Parliament of Australia. Constitution Alteration (Aboriginal and Torres Strait Islander Voice) 2023. Bills Digest No. 80, 2022–23. 19 MAY 2023.

[https://www.aph.gov.au/Parliamentary\\_Business/Bills\\_Legislation/bd/bd2223a/23bd080](https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/bd/bd2223a/23bd080)

<sup>10</sup> Cheryl Saunders, 'Constitution Making in the 21st Century' (2012) 4 International Review of Law. as cited In Appleby, Gabrielle J. and Brennan, Sean and Davis, Megan, A First Nations Voice and the Exercise of Constitutional Drafting (February 2, 2023). Public Law Review (2023 March edition), Forthcoming, Available at SSRN: <https://ssrn.com/abstract=4346447> or <http://dx.doi.org/10.2139/ssrn.4346447>

<sup>11</sup> Uluru Statement from the Heart. <https://ulurustatement.org/our-story/the-law/>

<sup>12</sup> United Nations. United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). 2008.

[https://www.un.org/esa/socdev/unpfii/documents/DRIPS\\_en.pdf](https://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf)

<sup>13</sup> <https://ulurustatement.org/our-story/the-law/>