

S273 Unpacking the Statement from the Heart

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INTRODUCTION

I acknowledge the continuing custodians of all the lands on which we gather, right across this country. I acknowledge their elders, who have been wonderful guides and support and who lead us into many new insights. I acknowledge our elders who have cared for, who continue to care for, who will always care for what is spiritual, physical and valuable in the spaces in which we live.

My task in this paper is to unpack and reflect upon the Statement from the Heart¹ (hereafter referred to as 'the Statement').

This statement, signed at Uluru in 2017, was written after 12 months of consultations across our nation. Elders and others gathered in several countries² across the land we now call Australia to work through what would be a pathway to constitutional change leading to resolution of the original sin of this country – the genocide emanating from the invasion by, and coloniality of, empire.

It was a mammoth task undertaken at the request of the government of the day to explore what First Peoples deemed necessary to address the failures of past policies. The process involved participants from a range of countries with vastly different views of what was required within their own circumstances. It required them to negotiate, often by relinquishing long-held views and positions, to allow a consensus view to be arrived at. It was democracy at work on a large scale, resulting in an invitation to the rest of Australia to join in a process of restorative justice hitherto unimaginable.³

It has, as a statement, been misunderstood and manipulated by politicians from the moment of its release. Within days, the Prime Minister of the day and his deputy dismissed it as unworkable, seeing it as setting up a 'third chamber of Parliament'.⁴ This misinterpretation seems to have been purposefully embraced to disrupt the possibility of its success. It is an expression of disrespect to those who were charged by the government to provide a direction towards constitutional change.

The subsequent four-stage process adopted from the key ideas of the consultation is approached as we might do a pizza. Taking a pizza cutter, we cut the whole into separate pieces. In so doing we concentrate on that which we deem comfortable, easier or fitting with our own ideology, thereby ignoring the other pieces and/or the Statement as whole. Thus, we witness people being 'for the Voice and not treaty', or 'treaty not Voice',

and deeming each individual component as having the capacity to resolve issues that can only be resolved by a commitment to the process in its entirety.

In what follows I will explore three matters: what the Statement is, what it is not and how it works. One of the interesting things about the creative dynamic of the Statement is that it is a justice or heart-healing tool. It is restorative justice writ large, involving the elements that make up the process leading to a resolution of the past and a creative response to the future by enacting reconciliation in the present. While it attends to the sins of the past, it offers a creative opportunity to reimagine the future and the possibilities within, for the whole of what is now understood as Australian society.

It is important to remember that it is not a political statement that will fix Australia. The Statement is not focussed only on history, and specifically, on the history of the First Peoples.⁵ It is a creative healing process that, if followed as designed, is a legitimate process to continue to change our country, and us individually, by means of its unending circular search for wholeness.

WHAT THE STATEMENT FROM THE HEART IS

It is about justice

The Statement invites everyone living on this land to join us to create a just country on a political, corporate and personal level. We are asked to work together to unpack what has happened, why it happened, who did it, why they did it and what we need to do to put right the wrong committed against the First Peoples of this land.

It is not a moving forward to bring everybody together as one, as politicians are keen to say, so that we will all feel better. We have heard this before on many occasions when apologies, policies and actions have been produced in our name. There have always been people who have been better off as a result. Rarely us.

It is not about making Australia better, i.e., a 'nice' place, where we all have 'nice' relationships and everybody is 'nice' to each other. It is not about building trust, understanding, hope or any other wording from slogans we hear for National Reconciliation Week or in the modern 'white' reiteration of NAIDOC Week.⁶ It is not about Closing the Gap Targets or Reconciliation Action Plans designed to make non-First Peoples feel good about themselves when the numbers look better.

The Statement is about putting right the wrongs committed in the past and that continue today, albeit in a far more sophisticated manner. Through this process, if

engaged fully, we are invited to face what happened and why, and how we can repair, or at least begin to address, the damage done.

Justice is the act of a mature people who, unsettled by the past, take the steps necessary to creatively resolve what can be resolved and embark on a future without repeating the past's mistakes. Maturity in this sense comes from faithful engagement with the elements of the Statement and being prepared to see our story for what it is, not what we would like it to be.

In contemporary Australia, the genocide continues for our people today. We, as a people, continue to face racism, destitution, incarceration and being pushed aside and marginalised.⁷ So, the Statement is about resolving historical and contemporary injustice and laying the foundation for a shared future different from the past.

It is about personal justice

We are invited as First Peoples to spend time on this process for ourselves so we can stand and remain. Somebody once suggested to me that we need to keep fighting. My response was no, I don't fight. I remain. I am here. Get used to it. I/we are not going anywhere else.

This is a process of understanding who we are, how we think about and respond to what has influenced and continues to influence our remaining, and the trauma accompanying that. We are invited via this process to de-link⁸ from the colonial overlays telling us that we are 'less than', and to re-exist – that is, bring back into reality what was there before and remains underneath the noise of colonial dispossession – the ancient wisdom within our country, within our bodies, to become more than enough for the situation we find ourselves in.

Non-Indigenous people, or the settler population, are not ignored. This process is theirs to participate in if they accept the invitation. By undertaking this process as individuals and communities they will begin to understand how the trauma that haunts them across the generations was the result of actions seen as appropriate by people within their own ancestral lines. By doing so they will begin to unpack the story of occupation and privilege they continue to enjoy. As they struggle within themselves for the meaning of, and reconciliation with, their own inherited past, they will begin to understand how, why and what they think about their place in this land and their relationship with those who were here before.

This process, if used within what are often thought of as opposing communities and by individuals within those communities, will allow us to develop a personal wholeness to negotiate the foreign space we now inhabit – that of voice, treaty, truth and makarrata. The process, as I will outline later, allows us to hear the various voices resident in our thinking. By entering a treaty with ourselves to resolve the conflicts these various voices bring to us, we can engage in an honest process of telling the truth about what we tell ourselves or allow others to impose upon us. It is here we reset our identity by making the changes necessary to thrive in this place together.

It is about constitutional sovereignty⁹

The purpose of the Voice is to insert into the Constitution the sovereignty of First Peoples. By doing so we bring together for the first time in the history of this country a recognition that we have a voice and that we remain

sovereign. It affirms that we have the right to speak about our interests and about the things that affect 'our mother', this country.

As we've always done, we're happy to share sovereignty, but we need to have it affirmed in the space that gives the dynamic framework for our country's life – the Constitution. The affirmation needs to be there, and it needs to be there forever. We don't want to put it anywhere that a politician can change their mind and then walk away from it.

Sovereignty in a First Peoples' sense is more about autonomy over internal matters. It is inward facing, not external or outward facing. It is directly related to country and is both a legal and a spiritual concept. It remains despite the overlay of colonial claims of sovereignty, despite the fact that the right to practise our law under this sovereignty is denied, as is our right to live on country as its sovereign people. Having this recognised inside the colonial constitution will restore our right to remain.¹⁰

Sovereignty is about place. It is defined by the relationship one has with country, 'our mother'. It is in that country that we discover our lore/law, language and Aboriginality (spirituality).¹¹ Sovereignty is not what we decide we hold over place and the others we share it with (our kin); it is what that place offers as compelling evidence that we belong to each other. Out of this, we exercise our custodial ethic of responsibility, reciprocity and respect through our care for all we share country with, including those who sought/seek to take it from us.

Sovereignty in this sense can never be ceded. We cannot give it away or have it taken from us. It was, is and always will be. Yet it can be shared, and often was. While there were markers defining country, they were not exclusive, allowing for sharing of space and sovereignty, often without conflict.

It is this sharing of sovereignty that a Voice in the Constitution will enact. Not the doing away with the English constitution and concept of sovereignty but working out a shared process based on sovereignty as found in European law and First Peoples' understanding, resident within the place, the country(-ies) we now share.

It is about healing trauma

Here is a pathway to healing the trauma our people live with. This trauma leads to the kinds of social issues that are prominent in the news media and that we always try to deal with using processes that work in non-First Peoples' spaces. Dispossession has psychological and physical impacts. Walter Mignolo¹² talks about it very strongly. If we use the circular pattern of the Statement, we will find this practice healing our trauma.

Dispossession is, first and above all, dehumanising and psychologically degrading. People dispossessed are both physically and psychologically wounded. The colonial wound is more than physical – it is also psychological. Healing colonial wounds therefore requires not only legal justice but the self-gnoseological (self-knowledge) and aesthetic reconstitution¹³ of the wounded people. *Colonial healing cannot be enacted by the state alone.*¹⁴

Healing occurs at each step of the process as we commit ourselves to working creatively by delinking from the slavery of coloniality and beginning to re-exist what was here before it became an unwanted part of

our lives. The Statement is a creative process that points to a healing/healed future beginning in the now, not necessarily by fixing the past, but by confronting it in ways that empower faith, hope and perseverance. This confrontation is not antagonistic but resolute, committed to remaining and flourishing despite the pain that is present in the intersection of the past, present and future – the everywhen of the Dreaming.

Healing is fulfilled when, in the enacting of the makarrata, a line is drawn under the hurt, and again, shame and guilt remain in both bodies engaged in this process. At this point we encounter the truth that healing in this context is a breaking of the spears that are laid down, allowing both to move with freedom and safety into a new relationship.

This process heals by extinguishing anger, fear and guilt, not instantaneously but gradually as each walks away from the broken spears, performing a new beginning. Healing allows a reconnection to country, our other and our body, such that we begin to live and be without the constriction of unresolved violence. As Toni Morrison has said, 'All water has a perfect memory and is forever trying to get back to where it was'.¹⁵ Our bodies also have a perfect memory. They always pine for and want to return to the freedom of their country, and it is then and only then that trauma is healed.

It is about people

Lost in the constitutional and legal arguments about the Statement are those who designed it and for whom it was designed – the people of this land. It is also important to recognise that the Statement was not just designed for the First Peoples of this land but for those who came second, and for those who continue to come.

First Peoples of Australia consist of two distinct cultural groups of people – Aboriginals and Torres Strait Islanders. They are similar but not the same. In many ways, their cultures are very different, as is their experience of the coming of the white people. Inside these two distinct groups there is also a range of languages, cultures and worldviews that are not homogenous. However each group has suffered the trauma of dispossession, including shame and deficit through being unable to honour the sovereignty and traditions of their home spaces.

Similar factors apply to those who are not First Peoples. Some are directly connected to the dispossession, others have come later and benefited from it, and some come from the experience of dispossession in their own native lands. Each of these groups experiences guilt, uncertainty in terms of their responsibilities and fear of what will happen if justice is part of the implementation of the Statement from the Heart and the Voice in the Constitution.

The Statement is about a process to include and allow all to work together in such a way that they can live alongside custodially (with respect, responsibility and reciprocity) and agree to work towards wholeness, healing and justice for all. It is about people first, and then nation-building and celebration of culture that will, and should only, follow, not lead.

WHAT THE STATEMENT IS NOT

It is *not* the 'Uluru' Statement from the Heart

It is a statement from the heart of First Peoples signed at Uluru. It emanated from the hearts of individuals and communities right across Australia, arising from conversations, dialogues and talks, heart-to-heart, by people around the country. It rose out of country and out of its significance for First Peoples, their culture, language and law/lore. Documents of deep truth cannot be manufactured in isolation from the place, space, language and spirituality that gives them authority and, ultimately, their voice.

People went armed with what they thought were the most significant issues to raise, and in dialogue and discussion were able to listen to others and let go of some of what was important to them, to arrive at these four key ideas:

- Voice
- Treaty
- Truth
- Makarrata

One of the reasons I refer to it as the Statement from the Heart signed at Uluru¹⁶ is because of personal experience with people who feel they weren't given the opportunity to agree to the name Uluru being used in this way. I have watched first-hand the pain some of these people carry and continue to carry because they believe the name was used without permission.

I understand from those involved that permission was sought in the appropriate ways, but anybody who works with people in similar arenas knows that it can be complicated. So, for me, I respectfully refer to it as the Statement from the Heart (signed at Uluru).

It is *not* about reconciliation

The Statement has nothing to do with the style of reconciliation we have adopted in this country since 1991 and the formation of the Reconciliation Council by the government at the time. Reconciliation in its Australian guise is the process of assimilating First Peoples people into Australian culture, rather than the provision of justice. It could be argued that justice does not figure in the mandate of the original or the present Reconciliation Council.¹⁷

Modern Australian reconciliation allows non-Indigenous people to take up more space through their Reconciliation Action Plans (RAPs)¹⁸ and the goals they set for themselves, which are more about them than about the original sin committed against the First Peoples. It could be argued that these plans, and the targets they set, continue the disempowerment instead of addressing it in favour of First Peoples.

The Statement is a process that leads to reconciliation as truth-telling following on from voice (recognition) and treaty (conciliation). This will and must lead to reparation (makarrata) and not to the reassuring feeling that First Peoples people have benefited from the goodwill of a government-driven process as offered by Reconciliation Australia. Whatever we do within this model of reconciliation as assimilation is superficial. The recruiting of First Peoples into the dominant society that sees us acting, performing and achieving within

mainstream parameters is not reconciliation but the second assimilation project of this country.¹⁹

It is *not* about nation-building

One of the clever things Governments did after the effective appropriation of Anzac Day and Gallipoli as a nation-building project was to recognise that the concept of reconciliation with the First Peoples offered a similar opportunity.

They perceived that Australia needs First Peoples' culture to be whole, the idea being that First Peoples' culture, not people, is the missing link to nationhood. If this culture is included in the Australian identity, the argument goes, we become a respectful, responsible and mature nation in the eyes of others. The development of cultural processes such as 'Acknowledgements of Country' and 'Welcomes to Country', along with the designating of certain art forms as archetypical First Peoples culture and spirituality, has promoted a sense of inclusion that is not reflected in the hard reality of the everyday lives of First Peoples.

While we as a country applaud First Peoples' culture and those First Peoples' people deemed as eminent representatives of that culture, we constantly point to the deficits in First Peoples' quality of life and their lack of agency over their lives. People are still seen as requiring the protection of the colonial culture, even though our people have been living comfortably in this space for some 65,000 years.

Reconciliation is about assimilating us into a nation-building process so that governments, corporations and institutions can say, 'We're doing really well on this because we have a First Peoples person running our reconciliation process, or we have eleven First Peoples people in parliament'. That is about nation-building, or black cladding,²⁰ or whatever we wish to call it.

It is *not* about the oldest living culture

We hear this statement, or a variation of it, from politicians and community leaders on a regular basis. They assert that we must celebrate 'the oldest living culture'. As noted above, it is not about culture. While Elders will teach us on many occasions some of the intricacies and unravel the importance of culture in forming us as First Peoples people, this is not what the Statement is about. It's about people, and it's about the continuing contemporary people who remain here today.

First Peoples people are both from and formed by culture. Culture does not remain static. It changes and transforms itself and those who live by it. First people are not powerless slaves to this process but are active players in the transformation of country and traditions.

It is not about 'the oldest living culture' but about the contemporary creating people who remain. First Peoples people have always been contemporary people. We live in relationship with all in the present moment, encompassing the past, present and future all wrapped up in what some name the 'everywhen'.²¹ Living in such a space means we are responding to what is coming towards us, readjusting how we live, what traditions we practise and where we practise them.

As 82 percent²² of First Peoples people live in suburban, urban or regional environments, this means we

are daily making adaptations of traditions and practices. It also means we are developing new forms of such traditions and practices in a myriad of creative and life-giving ways – new practices in all forms of the arts, new business adaptations of traditional life practices, new ways of engaging in and delivering education, and more.

Culture is a dynamic everchanging entity and it is this that is life-giving for our people and potentially life-giving for all Australians.

It is *not* linear

The Statement doesn't have a definable beginning and an end. It continues as a flow of energy and healing. We are to avoid the linear idea that you can complete each piece as a stand-alone element, and when all have been completed, the process itself is completed. No, it's not. Depicted as a circle, it is a process that needs each element to remain in the circle and to be available for the ongoing deepening and widening of the heart healing and justice it refers to. One does not ever achieve completion of the Statement. It is and will remain ongoing while ever we remain in this temporal space.

One runs into the other, and it's an ongoing process. It never stops. You cannot have a truth-telling situation and think that, when you're finished, it's over. It's not, because people will unpack in themselves more and more of the truth hidden within as they revisit this process in their lives and in the situations they find themselves.

HOW THE STATEMENT WORKS

The elements of the process

At the centre of this process is the action word – justice, or heart healing. If we fail to understand that this is the product of the process that encircles it, we will not achieve justice. We may well think, as many do now, that if we do voice or treaty or truth it is going to solve all our problems. As we're a federated country, various governments think they can go ahead and do each of these individually and in isolation.

Ultimately, this process needs to be driven from the centre, from the federal position. This needs to happen for a couple of reasons:

- If we undertake treaty and truth in the different states, we will end up with a range of very different ways of handling this. People in some states will be better off than others, continuing the process of divide and rule we are too well acquainted with.
- Accountability and stability: state processes are legislated and can be changed by future governments as they desire. Having the process of the Statement within the constitutional document at the heart of our country means there is a process of accountability, with the secure knowledge that this will remain regardless of who is in power.

The Statement is about putting back the things that were taken away. It's about exploring how we justly, respectfully and responsibly resolve the pain, trauma and loss of our autonomy and capacity to make decisions. First Peoples people remain in this contract and are waiting to be recognised and recompensed for what has occurred. I remain who I am, and seek justice for who I am.

Voice

If you're not heard, you're not seen. The squeaky wheel gets the most attention. If you're not seen, you don't exist. You don't exist in the eyes of others, and you begin not to exist in your own eyes. You begin to gather up shame. I am wrong, and I shouldn't be here.

Voice is about us speaking so that we are heard. By enshrining the Voice in the constitution, fellow Australians, especially those in power, are required to hear us. They cannot choose whom to listen to and whom not to listen to. They must listen to the Voice.

Currently it is others – non-Indigenous people – who make the decision about who gets heard, whose voice needs to be heard or whose voice is the most applicable to be heard. Embedding the Voice of First Peoples in the Constitution takes away the right of non-Indigenous people to only listen to the voices they choose. The Voice will be representative of all our people and therefore each of us will have a voice and will be heard.

Enshrining the Voice in the Constitution is constitutional recognition of the sovereign voice of First Peoples on matters pertaining to them. We're generous. We'll allow you to do the things that are necessary to govern the country, but we will want a voice on those things that directly affect us.²³

Treaty

Treaty is often seen as the stand-alone element that promises to resolve all issues. People point to the importance of treaties in other First Peoples' experiences and assert that all we need is a treaty and all will be well. It could be argued, however, that while treaties have been helpful, they have not resolved all the issues and may have contributed to other issues that were not evident at the time of signing.

The Statement from the Heart is a progressive process where what comes later builds and expands on what came before. Treaty is the next step in the restorative justice process. Without an agreement (treaty) to engage respectfully and honestly with each other, the process stops.

Once you recognise that somebody else is here in the space you saw as your own, you have a choice. You can choose to annihilate them and get them out of that space, so that you have it all to yourself, or you can choose to come together with them and agree that, given you both are here, you will work out how to move this project forward. That's basically a treaty.

A treaty is an agreement that we both exist in the same space. In this space, we agree that there are things that are very important to each of us. As we work through a treaty, we begin a process of looking for how together we can make this project called Australia work.

Treaty is conciliation. There has never been a time in Australian history when we have been together as one. We've jumped right from the invasion through extermination and assimilation to reconciliation, and we have never come together as one. Treaty is that point of conciliation, that point of coming together and saying, 'we are both here'. We are not compelled to like each other, but we are compelled to find the way to move forward from there. That's important.

Truth-telling

If you don't have a place of conciliation, a place of agreement that you're here together, it's very difficult to tell truth. The situation here is unlike what happened in South Africa. There, truth-telling occurred in the direct shadow of what occurred. In Australia, we are some 250 years from the invasion and the start of the subsequent genocide. As a result, we have limited the truth-telling to First Peoples' voices speaking about the bad things that have happened to us individually and corporately. Truth-telling in this scenario is historical and requires us to get up and take our clothes off in public to show the scars.

I would suggest this is only one part of the story that needs to be told, face-to-face. The truth-telling must include the other in this story standing up and telling the truth about their forebear's motivations, about how they thought and about how that continues to influence their behaviour in the 21st century.

At a recent event for several schools, an 11-year-old boy asked the following question: 'how is it possible that one group of people could think another group of people weren't human, and therefore they had the right to kill them?' That is the key question to be explored in any truth-telling.

The truth must be told from both perspectives and not just in terms of the impact it has on us. The First Peoples community is to move from the delegated role of victim in this reconciliation process to being able to stand up and say, hang on, you're a victim, too. You need to explore your dodgy thinking that allowed this to occur, and to continue to occur, and allow us to see it for what it was and is. You were wrong, and you need to tell the truth about being wrong. We must hear both sides of the trauma.

The most horrific stories I hear come from non-Indigenous people in their seventies and eighties and beyond, who tell the stories about what their grandfather or great grandfather did, massacring people in the river at the bottom of the house paddock, and more. We need those stories told to allow us to witness the impact of these inherited stories for non-Indigenous people who are continuing to carry trauma in a similar way to us. Only then will reconciliation occur.

Makarrata²⁴

This process that leads us to makarrata is the creative justice occurring customarily in our communities. If somebody had misbehaved badly or impacted another or the community, they would work through the elements of voice, treaty and truth, arriving at the point of settlement and reparation.

This is makarrata. People speak of makarrata in this Statement from the Heart dialogue with a sense of unreality. Yes, it is about getting along after a major dispute. But it is not about a Hollywood movie ending where we all ride off into the sunset and live happily ever after. Makarrata is not that.

Makarrata is about justice: what are the appropriate consequences for the things that have happened before this, and what will need to be done to put right the thing you did wrong? Makarrata is about reparation. It's about paying for the privilege of being the dominant society in Australia. It's about how we repair, repay, re-link and re-exist our continuing ancient and modern culture, and return autonomy to our people whose ideas and

philosophies are contemporary and future focussed.

In the Bible, there is an Old Testament story that fits here, and it's the story of Jacob at Peniel²⁵ who is being pursued by those he has taken advantage of. He sends his family and all the servants ahead of him, and he stays on the banks of the river. That night he wrestles with a young man, who is an image of God. When he wakes up in the morning he walks with a limp. His hip is dislocated.

Makarrata is walking with a limp, because one of the ways we would do reparation in traditional communities involved a spearing, usually in the thigh. It was rarely a superficial wound. People walked differently because of that injury. You might not have been able to catch as many kangaroos on the fly as you used to because you had had a spear in your thigh.

It's about walking with a limp, remembering what you did, remembering what needs to happen to make it better and remembering that there are consequences. It was not just for the individual involved but also a reminder for the rest of the community that, if you misbehave, there is an outcome.

IN CONCLUSION

The Statement is a justice process, a pathway, a Songline.²⁶ It is a heart-healing process that will heal both the heart of this country and, if used personally, everyone's heart.

Arriving at makarrata doesn't mean we stop there as if we have done all we need to do. To maintain justice, we must stay in this circular process of wholeness. Through this process we will begin to understand that there are other things we need to do because justice isn't a one-stop shop.

We must remain vigilant and avoid talking about the Statement, and in particular the Voice, as if somehow it is going to resolve all the issues to do with the original sin of Australia and the trauma it has caused for First Peoples people. 1967 didn't do it. The apology to the Stolen Generations hasn't done it. The Statement won't do it unless we are faithful to the process and are serious about learning to walk with a limp.

Questions for further thought and discussion

Question 1: In this paper I have placed 'justice' at the centre, as to me it seems to be a useful word. What word or outcome would you put in the centre? What is the outcome desired by this process? What is this process significantly about, for you and for those you work with?²⁷

Question 2: Is the idea expressed in this paper about 'walking with a limp' the only way to read this process, or is there another and perhaps complementary way? What if the privilege and entitlement of the dominant culture is the limp that prevents them from engaging fully with the Statement from the Heart process?²⁸

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ENDNOTES

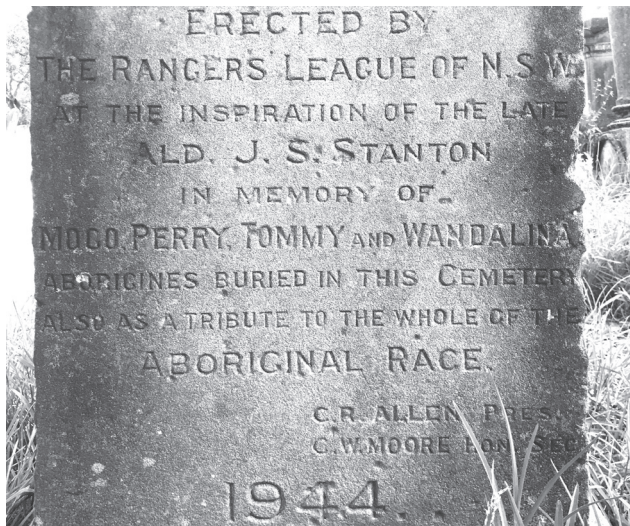
1. See ulurustatement.org/the-statement.
2. Countries refer to the home areas of the various language groups.
3. *Statement from the Heart* website, ulurustatement.org/the-statement.
4. 'Indigenous voice proposal "not desirable", says Turnbull', theguardian.com/australia-news, 26th October 2017.
5. In this paper I will use First Peoples as the primary term to denote our people, while interchanging it with other terms as appropriate.
6. National Reconciliation Week provides an annual focus on the relationship between Indigenous and non-Indigenous people, while NAIDOC Week is set aside for First Peoples to gather and celebrate culture and country.
7. Australian Government: Productivity Commission, 'Closing the Gap: Annual Data Compilation Report July 2021. Attachment A: Dashboard snapshots and data for download', pc.gov.au, July 2021.
8. Walter D. Mignolo, 'Delinking: The rhetoric of modernity, the logic of coloniality and the grammar of de-coloniality', *Cultural Studies* 21, nos 2-3: Globalization and the De-Colonial Option (2007), 449-514.
9. Mark Brett, 'The Uluru Statement and its two concepts of sovereignty', abc.net.au/religion, 4th October 2022.
10. Teela Reid, 'The heart of seeding First Nations sovereignty: Our giilangs, our stories', griffithreview.com/articles, November 2020.
11. Glenn Loughrey, *On Being Blackfella's Young Fella* (Melbourne: Coventry Press, 2020), 49ff.
12. Walter D. Mignolo and Catherine E. Walsh, *On Decoloniality: Concepts, Analytics, Praxis* (Durham, NC: Duke University Press, 2018).
13. Entitled 'Decolonial Aesthetics', this collective project has been based on collaboration between academics, artists, curators and intellectuals who have developed a framework and space within which diverse creative forms and practices would help affirm the existence of multiple and transnational identities in contestation of global imperial tendencies to homogenise and to erase differences. Decoloniality, decolonial aesthetics and the liberation of sensing and sensibilities promote the re-creation of identities that were denied and silenced by the discourse of modernity and postmodernity, and celebrate the inhabiting of the margins as a position of aesthetic, political and epistemological criticism.
14. Walter D. Mignolo, *The Politics of Decoloniality Investigations* (Durham, NC: Duke University Press, 2021), 174.
15. Toni Morrison, from a talk given at the New York Public Library in 1986, cited at cmstory.org.
16. Place and space are significant to First Peoples' ways of thinking. Statements and declarations are often known by the place where they were signed.
17. Damien Short, 'Australian "First Peoples" Reconciliation: The Latest Phase in the Colonial Project 1', *Citizenship Studies* 7, no. 3 (2003), 291-312.
18. See reconciliation.org.au/reconciliation-action-plans.
19. See 'Working with Indigenous Australians: FIRST NATIONS PEOPLE', workingwithindigenoustralians.info.
20. Black cladding means that an organisation or business or person has hired or is partnering with a First Nations person, but that person has no influence and is usually left out of conversations. Source: Glossary of First Nations terms – Creative Spirits, retrieved from creativespirits.info.
21. William E.H. Stanner and Robert Manne, *The Dreaming and Other Essays* (Collingwood, Vic.: Black Inc., 2011).
22. Australian Government: Australian Institute of Health and Welfare, 'Profile of Indigenous Australians', aih.gov.au/reports, 16th September 2021.
23. pursuit.unimelb.edu.au/articles/the-future-of-our-cities-is-indigenous.
24. UNSW Indigenous Law Centre, 'What is Makarrata?', undated.
25. Genesis 32:24-32.
26. 'Songline', en.wikipedia.org/wiki/Songline.
27. With thanks to Rev. Dr Geoffrey Broughton in conversation.
28. See Luke 18:18-30.

Hearing a Generous Voice

Andrew Errington

As the minister of St Stephen's Newtown in Sydney's Inner West, I spend a lot of time in Camperdown Cemetery, in which the church is located, doing the usual things – walking, talking with people, disrupting attempts at middle-class black magic and so on. A rare, semi-natural, beautiful space in a congested area on the edge of the city of Sydney, its trees, grasses and animals are organic reminders alongside the fading sandstone headstones of the comparatively short history of modern Australia.

One monument dated 1944 is arresting. It reads: 'In memory of Mogo, Perry, Tommy and Wandalina, Aborigines buried in this cemetery / Also as a tribute to the whole of the Aboriginal Race'. Intended, it seems, to honour indigenous people, it also serves as a jolting reminder of injustices and prejudices. Though the names of these men are known, their actual burial locations are not; and the final phrase does not hold up well under scrutiny. What sort of 'tribute' to a whole race is a brief inscription, especially if, as seems likely, it was assumed that this race would soon have died out? It is, I fear, a monument also to well-intentioned ignorance that amounts to a kind of cruelty, a symbolic gesture that may have served mainly to assuage the guilt of the more fortunate.



As I have talked with indigenous people in and around the cemetery over the past months, I have on more than one occasion heard the same sort of thing said about the Voice: that it is another symbolic nothing to make white folks feel better about themselves. I have had to register a despair and cynicism about this proposal that I was less prepared for than I thought I was, and to allow my own thinking to be chastened by it.

This essay aims to lay out, from within the limits and strengths of my own learning and perspective, one Christian case for voting 'yes' to the referendum question

with eyes open to its risks and objections. The first section sets the referendum proposal in context through a theological reflection on a key moment and document in the process leading to the proposed referendum: the Uluru Statement from the Heart. The second section then discusses some, though not all, of the key arguments against the proposed alteration.

A CHRISTIAN APPRECIATION OF THE ULURU STATEMENT FROM THE HEART

The place to begin thinking about the decision before the Australian people is not the proposed amendment itself, but the Uluru Statement from the Heart (USH), agreed by the vast majority of delegates at the National Constitutional Convention in 2017.¹ While the proposal to enshrine a First Nations Voice in the Constitution has a history that predates the USH,² this moment and this Statement are highly significant for understanding the kind of decision before the Australian people. For the USH calls explicitly 'for the establishment of a First Nations Voice enshrined in the Constitution'. The proposal before the Australian people can be understood as a response to this call made with the representative authority of that Convention.³ Amidst all the different voices currently making themselves heard, it is critically important that this voice not be lost. Although the USH should not be represented as expressing the views of all indigenous Australians, or anything like that, nor should the significance of the process of consultation and dialogue with Aboriginal and Torres Strait Islander peoples across Australia be undervalued. The USH is a profoundly important moment of speech that ought to remain in view through all our thinking about the proposed referendum.

The first section of this paper therefore seeks to read the USH from the perspective of Christian faith and to draw attention to numerous aspects that ought to receive our admiration. The USH is not a Christian document, making claims that introduce tensions, at least, for Christian theology. However, in many respects the USH deserves nothing but admiration from those committed to the basic features of the Christian faith.

Creation and spirituality

In the first place, we should notice that, despite some differences of perspective, the USH reflects an understanding of the world with which Christians should have much sympathy. The second paragraph speaks of how Aboriginal and Torres Strait Islander tribes possessed the Australian continent and its island, 'under our own laws and customs ... according to the reckoning of our culture, from the Creation, according to the common law from "time immemorial", and according to science more than 60,000 years ago'. What is particularly noteworthy about this statement is the refusal

to relinquish a spiritual perspective: the world we inhabit was created, we are told, and this is something we know from a different perspective from that of science, though this, too, holds an important perspective.

The paragraph that follows articulates how this spiritual experience of belonging to the earth in this way gives rise to a distinct 'sovereignty' that could not be extinguished by the sovereignty of the Crown. The paragraph is italicised in the original document for emphasis:

This sovereignty is a spiritual notion: the ancestral tie between the land, or "mother nature", and the Aboriginal and Torres Strait Islander peoples who were born therefrom, remain attached thereto, and must one day return thither to be united with our ancestors. This link is the basis of the ownership of the soil, or better, of sovereignty. It has never been ceded or extinguished, and co-exists with the sovereignty of the Crown.

The quotation marks around 'mother nature' are important: they indicate that an effort is being made to articulate something in terms that heirs of the European enlightenment will understand. The crucial point, though, is that a claim is being made for a form of sovereignty that operates at a fundamentally different register to what Australian society is mostly used to. It is a claim for a sovereignty that is 'a spiritual notion'.

The beautiful painted frame of the USH is not simply a border added for style but is intrinsic to its foundational claim that Aboriginal and Torres Strait Islander people's experience of this country is a spiritual one. Christians, who also believe that this world is Creation, and that human experience cannot be reduced to material analysis, should find much to affirm and appreciate here. The Bible, too, teaches that human beings are 'dust' and will 'return to dust' (Gen. 3.19). It also draws a connection between the particularity of different nations' experience of life in the earth and their spiritual experience.

From one man [God] made all the nations, that they should inhabit the whole earth; and he marked out their appointed times in history and the boundaries of their lands. God did this so that they would seek him and perhaps reach out for him and find him, though he is not far from any one of us. "For in him we live and move and have our being". (Acts 17:26–28)

There are, to be sure, important differences between Christian theology and some indigenous understandings of 'Creation'. Nevertheless, Christians can and should recognise and affirm the profound sense expressed by Aboriginal and Torres Strait Islander people in the USH of having received a place within the world from the Creation, and of this being a matter of great spiritual significance. In our secular and materialistic age, it is striking that the USH is centrally a call for recognition of a spiritual experience, and that the referendum is a response to such a call.

Generosity

The second feature of the USH that ought to draw the attention and admiration of Christians is the generosity with which its complaints are expressed.

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 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.

There is a striking humility in these words. People should not have to ask it to be acknowledged that they are not 'an innately criminal people', or that they do have some love for their children, or that they have a right to expect their young people to give them hope for the future. But these things are said in order to make it clear that this is a genuine plea for understanding. Where we might fairly expect only anger, we find vulnerability, and an invitation for recognition of an experience of structural powerlessness that is *torment*.

Along with this generous humility comes perhaps the most surprising feature of the USH: it's hopefulness. The Statement continues:

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.

We call for the establishment of a First Nations Voice enshrined in the Constitution.

There is a confidence in these words that is, too, profoundly generous. Where we could find despair and disillusionment there is a willingness to hope that things can be different – not just for Aboriginal and Torres Strait Islander peoples, but for all of us, as this whole country is enriched by the gift of First Nations children flourishing in two worlds.

The proposed path to this hopeful future is through 'the establishment of a First Nations Voice enshrined in the Constitution'. This leads to a third feature of the USH that invites our admiration.

Confidence in Speech

It is easily overlooked that, at the heart of the USH, and indeed of the proposed Constitutional amendment, is an unexpected confidence in the power of speech. The USH asks for *power* – 'constitutional reforms to empower our people' so that 'we have power over our destiny'. Yet the chief specific change asked for turns out to be the opportunity to *speak*. 'In 2017', the Statement concludes, 'we seek to be *heard*'.

The protracted and pronounced devaluation of speech in our time makes this confidence that speech is a true and real source of power very striking. For decades the integrity of speech in the public realm has been corroded by 'non-core promises', 'backflips' and straight-out lies. The explosion of 'published' speech through social media has trivialised speech, obscured authority and made all debate suspect. Sincere, thoughtful speech has been drowned under a flood of irony and suspicion.

It would be easy, then, to be cynical about a proposal to empower a people simply through giving them a voice. Surely, in fact, a more concrete grip on power is being played for here. Such suspicion, as we will see, is alive and well in responses to the proposed Constitutional change. But in the USH there is no indication of guile, but only a faith that speech has its own power. It is both reasonable and charitable to take this at face value.

Christians especially ought to respond to this

confidence with deep admiration. For confidence in the power of speech lies at the heart of the Christian faith. Certainly, Christians know about lies and hypocrisy; the Bible speaks relentlessly about the dangers of false and disingenuous speech. But this is only because of a fundamental care about speech and recognition of its power. For 'by the word of the Lord the heavens were made' (Ps 33:6); by the Word of God that was in the beginning salvation has come in Jesus Christ (Jn 1:1–18); and by the words of the good news people are born anew (1 Pet 1:23–25). Christians know that speech is at the end of the day the foundation of true power.

And so Christians should admire the attempt in the USH to lean on and put hope in the power that is native to speech. In a context in which truth and speech are relentlessly devalued, it is bold, hopeful and – itself – powerful. All the more so because what it aims at is reconciliation.

'A fair and truthful relationship'

The hope expressed in the Statement is that the Voice will lead to substantive processes of reconciliation captured in the term Makarrata, which is defined within the Statement itself:

Makarrata is the culmination of our agenda: the coming together after a struggle. It captures our aspirations for a fair and truthful relationship with the people of Australia and a better future for our children based on justice and self-determination.

It should be obvious that these are notions with which Christians ought to be in sympathy. To aspire to come together after a struggle, to overcome differences and achieve a fair and truthful relationship – this closely matches Jesus' call to his followers to take their grievances to one another in the hope of healing. 'If your brother or sister sins, go and point out their fault', taught Jesus. 'If they listen to you, you have won them over' (Matt 18:15).

Reconciliation, in Christian understanding, is not merely carrying on; it is a coming to terms with what has happened together, and to a shared understanding. This is never perfect. Only God can raise the dead, and only God's judgment can bring to light what is hidden in darkness. There is therefore always an element of forgetting and overlooking – of just moving on – in forgiveness here and now. Yet this must not be overstated or presumed upon. Forgiveness here and now still depends upon a telling of the truth that is sufficient to enable us to move on. It is possible only when the aggrieved party feels seen and heard. In the USH, we hear that this is not yet a position we have reached in Australia. Far be it from us to ignore such a cry, especially when it is spoken 'from the heart'.

'From the heart'

The title and opening of the Statement are deeply disarming. This is a Statement, we are told, 'from the heart'. To speak from the heart is to speak sincerely, exposing the core of one's being and feeling. It is to become vulnerable by being open before another. It is the kind of act that has a central place within the Bible's picture of the life of faith. 'Lord, who may dwell in your sacred tent?' asks Psalm 15, and answers, 'The one ... who speaks the truth from their heart' (Ps 15:1–2). 'It is out of the overflow of the heart that the mouth speaks', taught Jesus (Lk 6:45). And Christian believers are taught that 'love must be sincere' (Rom 12:9), and are called to 'speak

the truth in love' and to 'love one another deeply, from the heart' (1 Pet 1:22).

The USH represents a moment of courageous and vulnerable speech from many Aboriginal and Torres Strait Islander peoples to the rest of Australia. Spoken from the heart, it is clearly offered sincerely, with a goal of recognition and response. Though it speaks of grievance, it does so with humility and generosity, in the hope of a good future together – for reconciliation rather than petrifying resentment. It is an act that deserves the greatest admiration and respect, especially from Christians, who should see many things precious to them reflected in it.

CONSIDERING THE SPECIFIC PROPOSAL

What, then, of the specific proposal before the Australian people? For it is of course possible that, however well-disposed we might be towards the USH, the concrete realities of implementing its calls might prove too complex or problematic to be a wise course of action for Australia. In this section we will consider the specific proposal by discussing some of the more important arguments that have been raised against it, especially, though not exclusively, in submissions to the recently concluded Parliamentary Inquiry.⁴ This cannot be a comprehensive discussion, but it aims to be sufficient to allow for reasonably realistic judgments to be formed.

The specific proposal before the Australian people is that the constitution be changed by the addition of a new chapter containing the following section:

Chapter IX—Recognition of Aboriginal and Torres Strait Islander Peoples

129 Aboriginal and Torres Strait Islander Voice

In recognition of Aboriginal and Torres Strait Islander peoples as the First Peoples of Australia:

- (i) *there shall be a body, to be called the Aboriginal and Torres Strait Islander Voice;*
- (ii) *the Aboriginal and Torres Strait Islander Voice may make representations to the Parliament and the Executive Government of the Commonwealth on matters relating to Aboriginal and Torres Strait Islander peoples;*
- (iii) *the Parliament shall, subject to this Constitution, have power to make laws with respect to matters relating to the Aboriginal and Torres Strait Islander Voice, including its composition, functions, powers and procedures.*

We may summarise some of the more important objections to this proposal under the following headings: concerns about its location in the Constitution; concerns about sub-clause (ii); a philosophical objection to the implication of unequal citizenship; concerns about the operation of the Voice with and its effects upon existing structures of authority among First Nations peoples; and concerns about the practical effectiveness of the Voice.⁵ These categories are imperfect and undoubtedly bleed into each other. However, they provide a useful starting point for discussion.

Concerns about the location of the proposed amendment

A number of submissions raised concerns about the proposed location of the amendment. Graham Connolly, for example, points out that, on the one hand, the

appropriate location for recognition of Aboriginal and Torres Strait Islander peoples is surely the preamble. On the other hand, he argues that giving the voice a whole new chapter will imply that the Voice constitutes a fourth constitutional locus in addition to the Parliament, Executive and Judicature. This, he argues, will fundamentally compromise the monarch's duty to execute and maintain the Constitution (s. 61). Connolly suggests that it would be far wiser to locate the Voice within chapter II.⁶ Similarly, Louise Clegg points out that the wording 'There shall be a body' implies the creation of an institution of State, and suggests that a much less risky proposal would be a refurbished s 51(xxvi).⁷ This question of the authority implied by the independent location of the Voice could become important if, as David Jackson asks, Parliament failed to pass the legislation providing for the Voice in view in the proposed sub-clause (iii).⁸

Against these concerns must be cited the weight of legal opinion at this point, which concludes that the proposed amendment is legally sound and consistent with Australia's constitutional traditions.⁹ For instance, the Attorney General's submission argues that the proposed amendment will in fact enhance Australia's system of representative and responsible government.¹⁰

There are in fact good reasons for the proposed location of the Voice. As Anne Twomey explains, separating the Voice from the first three chapters makes it 'very clear that the Voice does not form part of, or have the powers of the institutions established by', these chapters. That is, the location of the Voice arguably works against the concern that it will accrue power by virtue of its independence within the Constitution. Twomey notes that the placement of the Voice also ensures that it does not interfere with existing jurisprudence relating to these chapters, and avoids potential unwelcome implications of placement at other points.¹¹ Perhaps there would be questions relating to the significance of the location of the Voice for the High Court to consider in time, however it is clearly not immediately obvious that this location constitutes a fundamental problem.

Concerns relating to sub-clause (ii)

In the second place, a number of concerns have been raised about the scope and authority implied by sub-clause (ii). These include concerns about the powers implied by the authority to make representations, concerns about the inclusion of the Executive at this point and concerns about the scope implied by 'matters relating to'.¹²

In relation to the first area of concern, it is argued that the right to make representations would reasonably be taken to imply an obligation on the Parliament and Executive to listen to these representations. Would this obligation be only a moral obligation, or could it be found to have legal force, by virtue of the distinct enshrinement of the Voice and its power to make representations, over against the power of the Parliament to determine the constitution of the Voice under sub-clause (iii)?

The key question can be highlighted by comparing the opinions expressed in two submissions: by Professor Anne Twomey and by Louise Clegg. In her submission, Twomey argues that 'there are no words in proposed s 129(ii) which impose any kind of obligation on Parliament or the Executive Government', and concludes:

The intention that the proposed amendment not

*entail any of the abovementioned obligations on the Parliament and the Executive Government is abundantly clear. It would be extraordinary for the High Court to ignore and overturn such a clear intention, especially in the absence of any contrary words in the text.*¹³

Louise Clegg disagrees with this argument, stating that, in this case, 'the entrenchment [of the power to make representations] would amount to next to nothing, and the words would have barely any practical content at all if they did not require some kind of conduct, consideration or action from the relevant repositories of power'.¹⁴

It is worth noting that this disagreement directly relates to the point above about the intrinsic power of speech. Ms Clegg's dismissal of a Voice without any implied legal obligation arguably does not appreciate the basic confidence in speech that lies at the heart of the USH and of the proposed amendment.

The opinion of the Solicitor General presented to the Inquiry strongly supports Twomey's position. The Solicitor General concludes that sub-clause (iii) would empower the Parliament to specify whether and how Executive Government decision-makers are legally required to respond to the Voice. Parliament could not validly pass a law that deprived the Voice of the freedom to make representations. However, nothing in the proposed s 129(ii) either explicitly or by implication places a legal obligation upon the Executive Government.¹⁵

In relation to concerns expressed about the impact of including the Executive Government in sub-clause (ii), a number of important submissions insisted that this was always the intention and position of the government, and that any other position is untenable.¹⁶ The Attorney General, for instance, writes that 'It is self-evident that, in order to improve the laws and policies that affect Aboriginal and Torres Strait Islander peoples and improve outcomes, the Voice must be able to make representations to the Parliament and the Executive Government'.¹⁷ In their joint submission, Noel Pearson and Dr Shireen Morris give a number of examples that illustrate the vital importance of representations being able to be made to the Executive as well as Parliament.¹⁸

Finally, in relation to concerns about the potentially broad scope of the phrase, 'matters relating to',¹⁹ it is true that this would include 'laws of general application which affect Aboriginal and Torres Strait Islander peoples differently',²⁰ and that this would include a very wide range of matters. It is also undoubtedly true that this would at times generate significant government work. However, these concerns should not be overstated. The words of Pearson and Morris should be heard clearly:

*We hope the Committee respects indigenous Australians enough to trust that they will not be giving silly and irrelevant advice, either to Parliament or the Executive. Flexibility and common sense are needed here. Discretion in the scope of the Voice's advice is important, because the most practical benefit will come where the Voice is able to advise on policy that indirectly and unintendedly impacts Indigenous communities in a unique way.*²¹

It would be naïve to deny that there was any risk at this point. No human institution has ever been immune from the risks of selfishness, foolishness and arbitrariness in the use of power. However, it would also be unreasonable to

exaggerate these concerns, and – as Pearson and Morris imply – restricting the scope of the Voice’s activities on the basis of them could amount to prejudice.

Concerns about racism and unequal citizenship

Concerns of a more philosophical nature have also been raised about the proposed amendment. Nyunggai Warren Mundine has argued forcefully that the proposed change ‘cements the view of Indigenous Australians as one race of people and will enshrine us as a race of people in the Constitution’; it is ‘reinstating race-based treatment of Aboriginal and Torres Strait Islander people’.²² Recognition of Australia’s First Peoples, he argues, must be done in terms of First *Nations* rather than First Peoples as a whole.

Differently, though relatedly, it has also been argued that the amendment is problematic because it ‘explicitly and unambiguously inserts inequality of citizenship into the Constitution’.²³ Similarly, Nicholas Hasluck argues that ‘the Voice should be rejected on the grounds that our democracy is built on the foundation of all Australian citizens having equal civic rights’.²⁴

In response, a number of points should be noted. First, as the submission from Western Sydney University Law School notes, ‘race is already imbricated in the Constitution’ in s 51.²⁵ Second, the proposed amendment need not and should not be taken to be treating Aboriginal and Torres Strait Islander peoples as a single race. It does not use the language of race but deliberately repeats the plural language of ‘peoples’. The unity envisaged by the amendment is not a unity of race but of shared antiquity, heritage as ‘first peoples’ and experience of dispossession.²⁶ The UN Declaration on the Rights of Indigenous Peoples (2007)²⁷ recognises the unique position of original custodians of lands that have been dispossessed. To make special provisions for indigenous peoples is not an instance of racial discrimination. Aboriginal and Torres Strait Islander peoples have been uniquely disempowered because those who wrote our constitution specifically excluded them. It is entirely reasonable to argue that this should be addressed at this fundamental point of dispossession, the Constitution.

Arguably, the enshrinement of a Voice representing the diverse constellation of Aboriginal and Torres Strait Islander peoples would in fact make it easier for erroneous racial views of Indigenous Australians to be resisted. However, the concern expressed by Mundine that the sense of unity implied by the proposed Voice will work against recognition of the diversity of Aboriginal and Torres Strait Islander nations ought to be taken seriously.

Third, in response to the concern that inequality of citizenship is being inserted, it is best simply to acknowledge that this is indeed the case. In one very specific way, inequality of citizenship is being proposed here. But this inequality has specific and firm limits: what is being given to Aboriginal and Torres Strait Islander peoples and not to all other Australians is the authority to speak to Parliament and the Executive about matters relating to Aboriginal and Torres Strait Islander peoples. Only this form of inequality, but really this form of inequality, is being proposed. And it is being proposed ‘in recognition of Aboriginal and Torres Strait Islander peoples as the First Peoples of Australia’.

The proposed amendment will leave intact the formal equality of all Australian citizens in almost all respects. But

it will add a right for Aboriginal and Torres Strait Islander peoples that others will not have in recognition of their status as First Peoples. There are indeed risks in this. Louise Clegg, for example, expresses a concern that this move ‘will over time undermine the precious moral authority now increasingly held by Aboriginal and Torres Strait Islander people in our society’.²⁸ But there are also reasons to think that such a move is the appropriate thing to do. For it is one thing to have formal equality of citizenship; it is another thing to be able to realise and take advantage of that equality of citizenship. The USH asks, among other things, to recognise that many Aboriginal and Torres Strait Islander people in fact experience deep powerlessness, and that the relationship between Aboriginal and Torres Strait Islander peoples and the rest of Australia is not currently ‘fair’ or ‘truthful’. The proposed amendment aims to assist in redressing these problems by giving Aboriginal and Torres Strait Islander peoples a distinctive access to government deliberation in recognition that they are, unrepeatably and uniquely, Australia’s First Peoples.

Concerns about the Voice and existing Aboriginal and Torres Strait Islander structures

An important set of objections to the proposal relates to the impact the Voice will have on existing structures of Aboriginal and Torres Strait Islander authority. Nyunggai Warren Mundine argues that there is a fundamental clash between the proposed Voice and the reality of the diversity of Aboriginal and Torres Strait Islander nations.²⁹ He maintains that the proposed Voice could not be representative, because it will not be able to represent the multitude of nations. Because ‘only countrymen and women can speak for country’, he anticipates that the Voice, especially if it is formed along the model proposed in the Co-Design Report, will not be able to speak for Aboriginal and Torres Strait Islander Australians. ‘Traditional owners should be their own voice for their own nation and country. They don’t need some new national Voice to speak for them’.³⁰ In addition, he worries that, because the Voice will be enshrined in the Constitution, it will ‘have structural primacy over organisations representing traditional owners’ and inevitably undermine them.³¹

These are weighty concerns; and it is probably not possible to tell in advance how significant they would prove to be. In response, however, we should first note that, at least as far as I can tell, the weight of opinion expressed by Aboriginal and Torres Strait Islander individuals and bodies is in favour of the proposal. Second, we might ask whether it is possible for these concerns to be taken not as objections to the proposal, but as important cautions for Parliament to bear in mind should it move to make laws under the proposed s 129(iii). Third, we should note that a key argument for the proposed Voice is the felt inadequacy of existing structures to advocate for the interests of Aboriginal and Torres Strait Islander peoples. Here we should note the significant examples given by Pearson and Morris of recent areas where local indigenous lobbying has been tragically ineffective.³² Finally, the Uluru Statement itself was the result of an effort to engage and listen at the local and regional level, an effort that has been described as ‘unprecedented in our nation’s history... engaging a greater proportion of the relevant population than the constitutional convention debates of the late 1800s’.³³

Other concerns about the practical consequences of the Voice

A final range of objections relates again to anticipated consequences of the Voice. On the one hand, there are concerns and suspicions that the Voice will have little practical impact on the complex and intractable set of challenges facing indigenous people: it will not 'close the gap'. On the other hand, there are concerns that what the Voice will seek to do is to initiate a movement towards processes and ideas that are much more controversial in Australian society, such as Makarrata and treaty. Both of these concerns are expressed, for example, in Stephen Chavura's recent piece on the ABC Religion and Ethics website.³⁴

It should be frankly acknowledged that the Voice would not be any kind of simple or quick solution to the challenges facing many indigenous Australians and communities. To the extent that it is presented as such, the proposal invites cynicism and disillusionment. But nor should the potential, long-term practical effects of the Voice be underestimated. The Voice will face the challenges and difficulties that beset all politics; but there is still every reason to hope that over time the power to speak into government early on in the process of decision-making and forming legislation will have a practical impact on the lives of many Aboriginal and Torres Strait Islander people. Those who wrote and signed the USH believed that this is the right first step. There is no reason to dismiss this view as naïve or unrealistic, and so it should be seen as a serious and reasonable course of action.

In relation to the second set of concerns, we should distinguish. First, it is of course possible that the Voice, once constituted, would pursue a process of Makarrata. As noted above, the USH declares this as the goal: 'the culmination of our agenda'. But the USH also specifies what it means by Makarrata: 'the coming together after a struggle' and a 'commission to supervise a process of agreement-making between governments and First Nations and truth-telling about our history'. It is disingenuous to introduce at this point, as Chavura does, other understandings of Makarrata in order to exaggerate the differences between this process and Christian understandings of reconciliation. There are undoubtedly other ways to understand Makarrata, but the one we are asked to consider is this one: a process of truth-telling in order to reach new agreement.

In the second place, it is also worth being crystal clear that a vote for the Voice is not a vote for treaty but simply a vote for the Voice. To say otherwise, as Chavura does, is to obscure things very unhelpfully. Nothing in the proposed amendment guarantees or even implies a process towards Makarrata and treaty. What the amendment would put in place is a body that could ask for and make a case for these things. But the decision to move towards those things would still lie – as it does now and as it should – with Parliament. What does it say about us as a society if we are unwilling even to hear the arguments for these things?

ON VOTING 'YES'

Australians are instinctively reluctant to change their Constitution, which has served us well. An instinctive conservatism can be wise, and it can be a danger. It can

amount to a refusal to listen to perspectives different to one's own. 'If in doubt vote no' and 'If it ain't broke don't fix it' are sentiments that appeal to people who occupy positions of relative privilege in Australia. It is inaccurate to think that there is nothing 'broke' in Australia today. The USH asks the Australian people to recognise that there is much that *is* broken for many Indigenous Australians. And this includes the Constitution, which is 'broken' because it does not recognise Australia's First Peoples.

There are risks in changing the Constitution in the way that is proposed. One risk has to do with the unknown long-term effects of introducing an element of inequality into Australian citizenship. The extent of this inequality should not be exaggerated: the Voice has only the power to speak to government. But this is a real power, which those who have proposed it hope will, in time, make a real difference. We cannot see what changes this will lead to in time, and it is not unreasonable to be cautious about it.

Another risk is the one I have been struck by in some of my conversations with indigenous folk over the past months: the risk of this being only another symbolic gesture that makes no real difference. This risk, too, should be acknowledged. The Voice is at one level symbolic; and it could not change most aspects of the situation of Aboriginal and Torres Strait Islander people simply or quickly.

Yet the Voice is not merely symbolic. It is a proposal for a real, though modest, change to Australia's Constitution and system of government, a proposal sustained by a fundamental hopefulness about the difference speech can make, the difference it can make to be heard. My hope is that this hope will prove well-founded, and over time open a crack in the disillusionment of the people I have talked to, and in the well-intentioned ignorance of people like me.

There are risks, too, in failing to change the Constitution at this moment. The risk is that the opportunity presented to Australia by the USH will be missed. It is an opportunity opened by an act of profound generosity and humility, confidence in speech where there might easily have been cynicism, and hopefulness where there might easily have been resentment. There will be doubts, because there are uncertainties and risks. There are also, perhaps, ways in which we might wish things had been done differently. It will always be possible to think of alternative paths that might have been taken or might be taken some day. But these ideas must be weighed against the fact that this opportunity does lie before us now as a real course of action we may take, while those alternatives remain unreal. We have been invited to respond to a Statement spoken from the heart by changing the Constitution. We cannot assume an invitation of such grace and hopefulness will be extended again. To vote 'yes' is to say that, though the proposed change may not be perfect, it is good enough; and this is the opportunity we have been given to make a change to the Constitution of Australia in response to the Uluru Statement from the Heart.

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A PDF of this paper, including the footnotes, is available at ethos.org.au/online-resources/in-depth-articles.