

A Backgrounder on the Australian Referendum 14 October, 2023

“to alter the Constitution to recognise the First Peoples of Australia by establishing an Aboriginal and Torres Strait Islander Voice”

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Australia was claimed for the British in 1788. There was no treaty. Aboriginal and Torres Strait Island people were not taken seriously as inhabitants and so the land was called “*terra nullius*”, land belonging to no one. Much later (last century) the High Court of Australia declared this to be a fiction. The story of settlement is a mixture. Many settlers on the eastern side were in fact convicts deported from England. There were also rich English settlers and poorer Irish ones.

Some early relations with the various Aboriginal tribes were harmonious, but often they were not. There are stories of land grabs and massacres. Only in recent years have some of the atrocities come to light or been acknowledged. Some early settlers even viewed Aboriginal people as not fully human but reflecting a stage of evolution between apes and homo sapiens. Some saw them as a dying race.

Many Aboriginal people worked on the vast farms of the European settlers, receiving sustenance but no real wages. There was some intermarriage between settlers and Aborigines as well as casual relations, resulting in a growing number of people of mixed descent, called “half-castes”. In 1901 the Australian Constitution was established. It makes no mention of the Aboriginal people.

During the twentieth century, beside positive stories, there also very negative and damaging ones. Governments assumed responsibility for managing Aboriginal people, which included removing them from their lands into concentrated settlements where they could be assisted to assimilate and become more like Europeans. Where it was suspected that there were many half caste children, the government entered Aboriginal communities and removed such children.

Many saw it as beneficial, forcibly to remove children from their families and bring them up in orphanages offering them education. This was widespread and I knew a family where one of my Aboriginal friends told me that he and his siblings were playing one day when a black government car came, offered the children sweets to get into the car and then drove off with them, with no farewell to their families. Most Aboriginal families I know had such an experience.

Governments were often well meaning, but well into last century had no idea how much the Aboriginal sense of belonging and wellbeing was connected to their land, which they could speak of as their mother. The trauma of separation from land and from families has been long lasting and flowed on through generations. Some responses to such trauma have been far from healthy. Access to alcohol brought by settlers meant that some died socially in drunkenness and despair.

From mid last century onwards, things began to change. Aboriginal men had enlisted in the army and made a significant contribution. They often succeeded in loved sports. Until the 1960s Aboriginal people could not vote in elections. In 1967 a referendum was held in which the vast majority of non-Aboriginal Australians voted to recognise the citizenship of Aboriginal people. Aboriginal leaders, artists, sportspeople came more and more to the fore. Australia abandoned its white Australia policy limiting immigrants to white Europeans. The country was becoming more multicultural.

There was progress towards greater recognition. The government instituted a royal commission to investigate the fact that many Aboriginal men had been dying in jails, often suiciding, and another to investigate the removal of children. The outcome of the former was a set of recommendations designed to prevent what was happening and of the latter was an apology offered by the Australian Parliament in 2008 to what were called “the stolen generations”. The Parliament also passed land rights legislation, recognising that the doctrine of *terra nullius* was a falsehood and that Aboriginal people had rights to their lands. There followed local treaties which made it possible to share land and to recognise the traditional rights to fishing and land use which were a key element in Aboriginal culture. The process is still ongoing.

In the latter part of the twentieth century and the early years of the present century there was a move to insert recognition of Australia’s first peoples in the Australian Constitution, who had lived in this continent for something like 65,000 years, the oldest surviving culture in the world. On both sides of politics there was recognition that this was necessary and as a result Aboriginal people began a process of consultation about what they would want to see changed.

The outcome of hundreds of consultations among the many nations who comprise Australia’s first peoples was a brief and generous statement formulated at a representative gathering at Uluru (formerly know as Ayer’s Rock) in 2017 in the heart of the continent. It asked for three things:

1. Recognition in the constitution expressed through enshrining the principle of Aboriginal people having an advisory Voice to Parliament on matters pertaining to them;
2. A Truth-Telling Process where all could hear of the events of the past, many of which were traumatic;
3. A Treaty, affirming reconciliation and laying the foundation for a peaceful coming together of First Peoples and other peoples of Australia.

The Uluru statement, called “The Uluru Statement from Heart”, was conciliatory and generous.

The conservative government at the time did not accept it, persuaded incorrectly that it would amount to a third chamber in the parliament. The Prime Minister of the time, Malcolm Turnbull, gave this as his judgement, a view which he has since repudiated.

There were forces within the Australian community who saw any step towards assisting Aboriginal people as a threat, sometimes a threat to their wealth. Negative experience with some Aboriginal people not coping well or healthily with their trauma led some to a racist stance towards all Aboriginal people and towards any moves to address their issues. My assessment is that this is a minority position. People in industry, especially in mining companies, who were dealing often with significant areas of Aboriginal land, generally sought good relations and employed and valued Aboriginal people, though have sometimes found their activities unintentionally destructive of Aboriginal sites and artefacts.

The continuing conservative national government up until last year continued to investigate how to move towards recognition of Aboriginal people in the Constitution and, over all, to close the gap between them and the rest of the community. The “gap” as it is termed refers to lower life expectancy, higher rates of incarceration, higher suicide rates among young people especially, higher levels of health and social problems, as well as generally poorer living conditions especially in remote communities. Closing the gap was a committed agenda of both the conservative coalition government and the more progressive Labor government which succeeded it in May, 2022.

The new Labor government committed itself to implement the recommendations of the Uluru statement, which included as a first step, holding a referendum about recognition of Australia's first people in the Constitution and enshrining an advisory Voice. Enshrining the Voice in the Constitution would mean it could not be abolished by any less sympathetic government in the future. Aboriginal concerns would always be heard in the heart of Australian government. Planning for the referendum had already begun in the previous government and continued on a bipartisan basis. When the plan was first mooted, polls showed that there was a strong majority in favour.

The leader of the opposition, Peter Dutton, who had earlier turned his back on the apology to the stolen generations and more recently apologised for doing so, declared that he would not support the referendum. He supported recognition but not the Voice. The collapse of the bipartisan approach made winning the referendum very unlikely. The Prime Minister, Anthony Albanese, resolved to go ahead nevertheless, having given people a commitment, despite the negative prospects.

Without bipartisan support the discussion of the referendum became more political, with loyalties to political parties carrying much weight. Many, including former conservative politicians, saw Dutton's move as political opportunism, that is, a chance to hurt his opposite. Discussion became debate, with charge and counter charge. The "No" movement spread what many recognise as deliberate falsehoods, such as that the Voice would mean people would lose their land, pay extra taxes, and become second class citizens with Aboriginal people privileged.

Others argued that people should vote "No" if they feel they do not understand how a Voice would work, but the government persisted in saying that the legislation would be worked out later. The "Yes" side did not present itself well and lacked the sharpness shown by the leaders put up to oppose the voice, including some Aboriginal spokespeople whose negative voice had significant effect.

It was clear that the vast majority of Australians, including the spokespeople on both sides, supported recognition of Australia's first people in the Constitution and appreciated that there needed to be much better progress on closing the gap, but the "No" campaign succeeded in persuading many that the Voice was not the most effective way forward. The referendum was lost with just under 40% voting "Yes".

In Australia voting is compulsory, which can mean that it is hard to help everyone to be informed. Algorithms in social media tended to result in Yes people seeing only Yes arguments and No people seeing only No ones. Some approached the referendum as if to argue that a No vote would be saying No to Aboriginal people, and this generated some deep hurt among many. It was certainly hurtful that the generous initiative of the Uluru statement was rejected. Yes voters were very disappointed and it was striking that despite nearly all churches and religions advocating for a Yes vote, the No vote prevailed. It was also revealing that more economically affluent and more highly educated regions almost all voted yes. A large majority of Aboriginal people also voted yes.

Some journalists, ambitious to keep attention through highlighting conflict, somewhat like running a commentary on a sporting competition, have not been helpful. Conflict is more entertaining than calm reason. Some are pressing for the next steps to be set out as soon as possible to keep their conflict reporting fed.

The outcome of the referendum has been disappointing. Its politicisation ruined its chances and sadly so many who were persuaded to vote No still genuinely want Australia to do better in relation to Aboriginal people. Now is the time when many are grieving with disappointment. There is hurt and anger, accusation and counteraccusation. The positive which has emerged is that there is a substantial majority of Australians who do care and want change, whether they voted Yes or No. The way forward which may take time will be for those who care to come together again and persuade major political parties who also say that they care to do the same and so come to common ground on which to close the gap. The will is certainly there. The emotions are not there yet.

The outcome does not mean that Australian people are racist or anti-Aboriginal. The majority are clearly not. The failed way forward is not the only way forward. I am confident that new possibilities will emerge, but it will require some mature leadership on both sides.