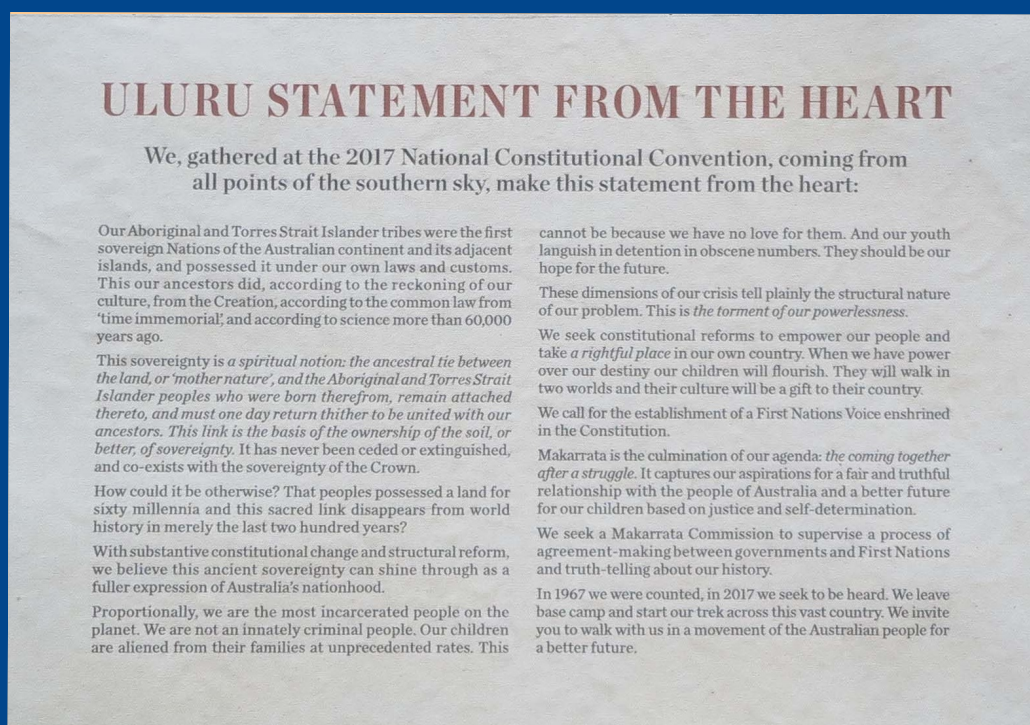


Uluru Statement from the Heart: Information Booklet

Information Booklet

Melbourne Law School



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Uluru Statement from the Heart

We, gathered at the 2017 National Constitutional Convention, coming from all points of the southern sky, make this statement from the heart:

Our Aboriginal and Torres Strait Islander tribes were the first sovereign Nations of the Australian continent and its adjacent islands, and possessed it under our own laws and customs. This our ancestors did, 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.

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.

How could it be otherwise? That peoples possessed a land for sixty millennia and this sacred link disappears from world history in merely the last two hundred years?

With substantive constitutional change and structural reform, we believe this ancient sovereignty can shine through as a fuller expression of Australia's nationhood.

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.

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.

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.

We seek a Makarrata Commission to supervise a process of agreement-making between governments and First Nations and truth-telling about our history.

In 1967 we were counted, in 2017 we seek to be heard. We leave base camp and start our trek across this vast country. We invite you to walk with us in a movement of the Australian people for a better future.

What is the Uluru Statement?

The Uluru Statement from the Heart was a national Indigenous consensus position on Indigenous constitutional recognition, which came out of a constitutional convention of 250 Aboriginal and Torres Strait Islander delegates. Held at the foot of Uluru in Central Australia on the lands of the Anangu people, the statement called for the establishment of a 'First Nations Voice' enshrined in the Australia Constitution and the establishment of a 'Makarrata Commission' to supervise agreement-making and truth-telling between governments and Aboriginal and Torres Strait Islander peoples. The Uluru Statement was the culmination of 13 Regional Dialogues held around the country. It comes after many decades of Indigenous struggles for recognition and calls for a stronger voice in their affairs.

The build up to the convention

The Uluru convention built on nation-wide First Nations Dialogues run by the Referendum Council, at which Aboriginal and Torres Strait Islander delegates considered five options for constitutional change. Dialogues were held in Hobart, Broome, Dubbo, Darwin, Perth, Sydney, Melbourne, Cairns, Ross River, Adelaide, Brisbane, Thursday Island, and Canberra.

The convention

In May 2017 the 'First Nations National Constitutional Convention' convened to discuss and agree upon an approach to constitutional recognition. The Uluru Statement from the Heart asked for two reforms: 1) a First Nations Voice enshrined in the Constitution; 2) a Makarrata Commission, which could be set up by legislation. The concluding words of the Statement express its aspiration:

In 1967 we were counted, in 2017 we seek to be heard. We leave base camp and start our trek across this vast country. We invite you to walk with us in a movement of the Australian people for a better future.

First Nations Voice to Parliament

What is a First Nations Voice to Parliament?

The Uluru Statement called for a First Nations constitutional voice, as a way of addressing their “torment of powerlessness”. For many decades Indigenous advocates have asked to be heard in political decisions made about their rights and interests. The Uluru Statement reiterates this longstanding call: it asks for a constitutionally guaranteed voice. The constitutional guarantee is important. The Indigenous bodies of the past that have been set up only in legislation have been easily struck down as soon as political priorities change. The constitutional guarantee provides stability and longevity.

The Referendum Council’s report supported the call for a First Nations constitutional voice, which was also the most popular reform in submissions from the wider public. It said the Constitution should be amended to require Parliament to establish a First Nations Voice to Parliament – an Indigenous advisory body to have input into laws and policies made in Indigenous affairs.

The Constitution would guarantee the First Nations a voice in their affairs, and legislation would set up details, functions, powers and processes. The Referendum Council suggested a function of the body could be to advise on the exercise of s 51(xxvi), the race power (which has only ever been used to make laws for Indigenous people: Native Title, heritage protection etc) and s 122, the territories power (which disproportionately affects Indigenous people: the Northern Territory invention was an exercise of s 122).

It was suggested the First Nations voice have members who are not hand-picked by governments, but chosen by the First Nations themselves, representing grassroots local communities. The Referendum Council made clear the First Nations voice would have no veto and would be non-justiciable, operating through the political process, not the courts. It would be designed to respect parliamentary supremacy.

What constitutional change is proposed?

Guaranteeing the voices of the First Nations are heard in their affairs would require a referendum. The words of the amendment are still open for discussion.

Makarrata Commission

What is Makarrata?

Makarrata is a word from the language of the Yolngu people in Arnhem Land. It means two parties coming together after a struggle, to heal the wounds of the past, and to live again in peace. The word's core message is to acknowledge that something wrong has been done and to seek to make things right. The word captures the aspirations for a fair, truthful and reconciled relationship between First Nations and the people of Australia, and for a better future for First Nations' children based on justice and self-determination.

What is proposed?

The Uluru Statement seeks to establish a Makarrata Commission to oversee agreement-making between the First Nations and Federal and State Governments. A Makarrata Commission would operate like a non-binding tribunal.

It would have two goals. The first goal is an agreement-making process, for First Nations to negotiate agreements with Federal Government and State governments. An agreement making process would enable both parties to meet and share stories of the past and decide on how they will work together in the future in a stronger partnership. Similar agreement-making processes are currently underway in South Australia and Victoria.

The second goal is truth-telling about history. This commission would provide an avenue for experiences to be articulated and heard, to create a path for reconciliation between the First Nations and Australians. Similar commissions are common throughout the world and have been established in countries such as Canada, New Zealand and South Africa.

Does the Constitution need to be changed?

A Makarrata Commission would not require any constitutional change. It can be set up under legislation. An alternative, although unlikely, route to establish a Makarrata Commission would be by letters patent granted by the prerogative powers of the Governor-General on the advice of the Prime Minister.

Declaration of Recognition

What is proposed?

The Referendum Council recommended that a Declaration of Recognition be enacted. The Declaration would be enacted on an extra-constitutional basis through legislation passed by the Federal and State Parliaments of Australia, to articulate a symbolic statement of recognition unifying all Australians. The Referendum Council proposes that the Declaration be enacted in the lead up to or on the same day as a referendum giving Aboriginal and Torres Strait Islander First Nations a Voice to the Commonwealth Parliament.

What would be in the Declaration?

The Declaration would contain inspiring and unifying words expressing Australia's shared history, heritage, and aspirations. It would bring together the three parts of Australia's story: our ancient First Peoples' heritage and culture, our British institutions, and our multicultural society. The Declaration would therefore be a collective, public, unifying expression of Australia's unique and diverse story, made possible by our democratic institutions of Federal and State parliaments.

Would the Declaration change the Constitution?

The Declaration would result in no change to the Australian Constitution. The intention of the Declaration is to provide a more generous statement of recognition than could be contained in the Constitution, such as in a new preamble, while also avoiding unintended legal consequences. Our constitutional traditions value substance over symbols and, therefore, a symbolic Declaration is best made outside the Constitution. The Declaration would accordingly weave itself into our national narrative and self-image without changing our fundamental legal document.

More Information

Final Report of the Referendum Council, 30 June 2017:

<https://www.referendumcouncil.org.au/final-report>

Uluru Statement website: <https://www.1voiceuluru.org/>

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Can I have a say?

Yes. The Joint Select Committee on Constitutional Recognition Relating to Aboriginal and Torres Strait Islander Peoples 2018 is currently meeting to inquire into and report on matters relating to constitutional change. Part of the Committee's remit includes consideration of the recommendations of the Referendum Council and the Uluru Statement. You can write in and have your say about a First Nations voice in the Constitution, a Makarrata Commission, and a Declaration. The Committee is currently accepting submissions on these matters.

Please visit

[https://www.aph.gov.au/Paliamentary_Business/Committees/Joint/Constitutional_Recognition_2018/ConstRecognition.](https://www.aph.gov.au/Paliamentary_Business/Committees/Joint/Constitutional_Recognition_2018/ConstRecognition)

The deadline for receiving submissions is **11 June 2018**.