



RESOLUTION ON THE SILENCING OF INDIGENOUS VOICES IN AUSTRALIA

Indigenous Australians have suffered historic and ongoing silencing. Since the invasion and subsequent colonization of Australia in 1788, their human status has been denied by the use of the term *terra nullius* (“the land belonging to nobody”) to describe the entire landmass prior to this date.¹ We believe that this denial of human status underpins the systematic denial of Indigenous Australians’ human rights and persistent widespread discrimination against them.²

A 1967 referendum saw Indigenous people counted in the census and winning the right to vote, but the Australian Constitution – which does not recognize Aboriginal and Torres Strait Islander peoples, in fact perpetuating racial discrimination – remains unchanged.³ Indigenous Australians are also severely under-represented in government policy-making.⁴ Australia is the only Commonwealth country that does not have a treaty with its Indigenous peoples.

On 17 December 2015, the Australian Prime Minister and the Leader of the Opposition appointed the Referendum Council to consider ways of redressing this injustice.

In May 2017, a National Constitutional Convention was held at Uluru. It delivered **The Uluru Statement from the Heart**⁵ to the Referendum Council, calling for constitutional reform, and for serious work towards treaties with Indigenous peoples.⁶ The Convention, a gathering of 250 Indigenous and other delegates, called for a “Makarrata Commission”⁷:

“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.”

¹ http://www.workingwithindigenoustralians.info/content/History_3_Colonisation.html

²

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsoFZxvnsZjtq1Xnb4bcEJCnFr38KNAbQS4Wbo8ymPQIFChRxcy5ofJz1G8JFJK1bdyDX25yS7L3siqW9qXwhJKIdcm6zXGQBJ1f8ZRZVqHgifBVG3vHfK57pgHNUhbreCQ%3d%3d>

³ <https://www.referendumcouncil.org.au/resources/discussion-paper>

⁴ <https://www.theguardian.com/australia-news/2017/apr/12/australian-governments-have-failed-indigenous-peoples-says-oxfam>

⁵ https://www.referendumcouncil.org.au/sites/default/files/2017-05/Uluru_Statement_From_The_Heart_0.PDF

⁶ It should be noted that some First Nations peoples and organisations are critical of the process undertaken and have raised concerns that the Referendum Council process on constitutional reform was not fully inclusive of all Aboriginal and Torres Strait Islander community views. Amnesty International has urged that the remainder of the process be meaningfully consultative and inclusive, so that the right to participate is upheld. <https://www.amnesty.org.au/submission-constitutional-recognition-aboriginal-torres-strait-islander-peoples/>

⁷ Makarrata means the coming together after a struggle, or restoration of peace after a dispute in the Yolngu language: <https://en.oxforddictionaries.com/definition/makarrata>

The Uluru Statement from the Heart is therefore intended to:

- voice Indigenous concerns about the treatment of Australia's first peoples.
- supervise and monitor agreements between Indigenous groups and the Federal government.

However, on 27 October 2017, Australia's federal government stated its intention to reject the statement, on the grounds that it was neither "desirable or capable of winning acceptance in a referendum".

PEN International bears witness to the continuing exclusion of the voice of Indigenous Australia from the government and legislative bodies of the Australian nation, and notes that this exclusion does incalculable harm in disadvantaging Indigenous Australians in matters of education, justice, employment, welfare, and social and political participation. Furthermore, this exclusion deprives public discussion and parliamentary debate of an essential and fundamental element – the voice and voices of Australia's first peoples, on laws that will affect them.

The Assembly of Delegates of PEN International calls upon:

The government of Australia to:

- Urgently reconsider its decision to reject the key recommendation of the Uluru Statement from the Heart, which called for constitutional recognition of an Indigenous voice to Parliament, through an official indigenous-led parliamentary body;
- Take active steps to enact the recommendations of the UN Committee on the Elimination of Racial Discrimination from December 2017, which includes a call for constitutional recognition for Indigenous Australians and greater protection against racial discrimination.⁸

The Joint Select Committee on Constitutional Recognition Relating to Aboriginal and Torres Strait Islander Peoples to:

- Urgently pursue a course of action that acknowledges the Uluru Statement and its main aims: the establishment of a First Nations Voice in parliament and a Makarrata Commission⁹. This offers Australia a chance for reconciliation grown from the ground up, from the voices represented at the National Constitutional Convention and clearly articulated in the Statement.¹⁰

Appendix: 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.

⁸ <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsoFZxvnsZjtq1Xnb4bcEJCnFr38KNAbQS4Wbo8ymPQIFChRxcy5ofJz1G8JFjK1bdyDX25yS7L3siqW9qXwhJKIdcm6zXGQBJ1f8ZRZVqHgifBVG3vHfK57pgHNUhbreCQ%3d%3d>

⁹

https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1617/Quick_Guides/UluruStatement

¹⁰ See Appendix for full text of Uluru Statement from the Heart

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.