

Mabo Oration 2023

The Mabo Oration 2023 was presented by Queensland Human Rights Commission and Queensland Performing Arts Centre on Friday 2 June 2023.

2023's orator was Professor Dr Megan Davis, whose address is transcribed below.

Her oration was followed by a panel discussion including Professor Davis, Professor Henry Reynolds, and Gail Mabo, chaired by MC Jeff McMullen.

Professor Megan Davis:

What a beautiful smoking ceremony and thank you for the welcome to country.

Thank you for the introduction. And thank you to the Mabo family.

Actually, I think you're over there. I can't see anything because the lights are so bright. But it is a real honour to be asked to deliver this extraordinary oration in front of you all today.

There's so many friends in the audience, I can't say hi to all of you, but I'll try. I just wanted to quickly acknowledge Fiona and some of the students from the Cowboys house. As somebody said - oh, Jeff said - I'm on the board of the NRL, which means I am on the board of the Cowboys Foundation up here in Townsville. So, I try to get up to as many games as possible with my games or rugby league mate Janine Gertz or Doctor Janine Gertz, wherever she is tonight - fellow Cows fan who takes all my complimentary Cows tickets up here. I can't say, but I'm sure you'll be going on Sunday.

I also noticed Professor Martin Nakata, who is, has been a mentor of mine for - don't want to age you man, but about 20 years, I think - and is probably one of the most significant people who impacted on the way I think and the way I read and think about scriptures and think about the law, so it's wonderful that he is here. Also, Professor Fredericks and Professor Bunda and Professor Morton Robinson, I know are out there in the audience, who have all been profound influences on my work.

So I wanted to say hi to everyone, and I think I've mentioned Les Malezer, but I might not, might not have, but Les Malezer is up here somewhere as well. Les gave me my first job at law school. Jackie Huggins had spoken to Les, and he was looking for a junior law student to help with research. And so, she said, "you know, you're going to ring this number, go see Les Malezar, at FAIRA at Woolloongabba". And I didn't. And then a few times she asked me that, she called me into the office, and she said, "what's your problem? Go and see Les." So, I went and saw him and he's like, "I don't have time for your CV," just put me in a desk and go, and I started work on International Law and International Human Rights Law and the United Nations. And I don't know where you are, but he's a big influence on - he says he's not, in terms of Indigenous rights, but he is - and he taught me a lot about the United Nations and International Human Rights law. The really important lesson I learned from Les is you've got to do the hard yards. And so, what I learned from him is you just can't send emails and you just can't give talks at the UN. You've got to put your backpack on your back like he did, and you're going to walk around, and you've got to walk around Geneva and you walk around New York and walk around the building chasing people. I used to see many diplomats running from Les - and I'm joking wherever you are. Oh, there you are, no, that's not you. I'm just blind. He's over there - and yeah, he told me that the hard work of diplomacy is actually

talking to people, which we these days we find hard with our kind of junior international lawyers and diplomats, because nobody likes to pick up the phone. They like to text. And Les is like, you're not going to get what you want if you just don't go and talk to people, have coffee, tell them what you want. And he's influenced really significant international developments because of that.

But I'll be silent on all the goodwill that's in the audience, because tonight I'm here to talk about the Uluru Statement from the Heart, the referendum on a Voice later this year. And it is such an honour to deliver this oration.

I was in high school when the Mabo decision was handed down by the High Court of Australia, and it's really the reason, the main reason why I studied law and why I became a lawyer and I've been a leading constitutional lawyer in constitutional reform for 12 years and probably my 20 years as an academic, as a constitutional lawyer, and, you know, every day I think about the work of Eddie Koiki Mabo. He is a hero to all of us, but especially for me over this very long journey, particularly the last 12 years in terms of rights and recognition. Law reform is difficult work and people often don't believe in what you're doing until the very end, and that means that that can be very difficult.

It is an auspicious year. It is the year that Australia will head to a referendum for the first time since 1999, and if it wins a majority of people, so a national majority and a majority of states - and it is tracking that way - it will be the first successful referendum since 1977, which is 46 years.

I believe in 1977 it was the first famous tide test between the Parramatta Eels and the St George Dragons. A bit of an hour of trivia for you, apart from the fact that we won Origin the other night. But I can say that in Queensland.

So this year we are going we are going to ask Australians to vote on a principle, a constitutional principle, a constitutional norm, that Aboriginal and Torres Strait Islander people should be consulted on laws and policies that are made about their communities, about their lives, that we should be at the table and we should be able to make representations based on consultations that we do with our own communities.

So, it's not lawmaking, it's not doing the work of Parliament. It is a voice, well outside of the Parliament and the bureaucracy, but it does seek dialogue with the Parliament and the government of the day on matters relating to Aboriginal and Torres Strait Islander peoples.

In the world of constitutions, including Australia - and we don't have many referendums in this country - it is a conventional two-step process that we will undertake. The Australian Constitution is for principle, constitutional principle, and the detail is for the Parliament. Without the constitutional principle, politicians will not legislate for a voice to the Parliament and the executive that meets the aspirations and the needs of our people. Because without the constitutional change they do not need to listen to us.

So, in today's oration, I wanted to focus on why the Voice, why is the Voice needed? And there's a plethora of examples of this, although probably not well executed up until this point, as the campaign will kick off after the bill leaves the Senate.

There's a plethora of examples why we need a voice and why it will be effective. And tonight, I want to talk about one - mainly child protection, which Jeff referred to in terms of my New South Wales inquiry into Aboriginal children in out-of-home care. Superannuation is another example I'll use.



Then I want to talk briefly about the importance of constitutional enshrinement and then finish by talking about the transformative potential of the invitation of the Uluru Statement.

I want to begin with an observation in terms of thinking about why a Voice. It's an observation from Mr. Yunupingu, who passed not so long ago. It's following a meeting that he had with Prime Minister Malcolm Fraser 46 years ago. The observation says, or the observation goes, it is 1977, my father is still alive, and I am on a boat with the new Prime Minister, Malcolm Fraser. He has defeated Gough Whitlam, who first met my family when he was a pilot in World War Two. With me is Toby Gangel, the senior Gundjeihmi leader, steering us to a place where barramundi swim.

Fraser has asked us to fish with him. And we hope there are words that we can say to him that will halt his changes to the land rights laws and overturn his government's decision to mine at Ranger. But Fraser only thinks about the fish. The fish bite and Fraser starts to pull them in. 'Look at this one!' he yells, a bait on his line again. Toby is silent. And again, a bigger one. He baits his own line now, getting the hang of it. 'You beauty, a barramundi!' All the time. I try and put words in his mind about the importance of land, about the importance of respect, about giving things back in a proper way. Not a halfway thing. But he has his mind on other things. He is not listening. He doesn't have to. He just keeps catching barramundi, enjoying himself.

He has his mind on other things. He's not listening. He doesn't have to.

Mr. Yunupingu saw off a succession of prime ministers visiting his country over the course of his life. As a kid, he helped draft the Yirrkala bark petitions, which were presented to the Australian Parliament in 1963. Those bark petitions were in response to the Federal Government excising land from the Arnhem Land reserve for bauxite mining.

The Yolngu were not consulted. They were not consulted at all. The petition states that those procedures of excision were never explained to them before and that they were kept secret from them.

It also states that government officials came to inform them of the decisions that had been taken without them and against them, and the officials did not undertake to convey back to the Government in Canberra the views and the feelings of the Yirrkala Aboriginal people.

60 years on since the Yirrkala petition to the House of Representatives, Australia is going to a referendum for the first time in a quarter of a century on a proposal aimed at mitigating this endemic, generational, structural problem of not being heard.

As Yunupingu so eloquently recollected, he has his mind on other things. He's not listening. He doesn't have to.

Parliaments do not listen to Aboriginal and Torres Strait Islander communities because they do not have to. Governments do not listen because they do not have to. Bureaucrats do not listen because they do not have to.

Aboriginal history is replete with these stories, and I would take all night to even touch the surface of that. But if we reflect on 1963 when Aboriginal people were removed at gunpoint from their homes at old Mapoon in far north Queensland, once again it followed the passage of a particular act, the Camel Card Act, which excised that town or the reserve. Old Mapoon residents were removed by Queensland police in the dead of night with no notice. No one was told and no one was consulted. The State Government burned down the buildings and the dwellings in the town.

This story was raised in the Cairns dialogue in far north Queensland during the Uluru process. They spoke of this in the context of history, which Australians do not know, but also in the context of governments that do not consult. At the Cairns dialog they said the burning of Mapoon in 1963 is remembered. Mapoon people have remained strong. We are still living at Mapoon. Mapoon still exists in with Western Cape York, but a lot of our grandfathers have died at New Mapoon. That isn't where the spirits need to be.

I wanted to talk about one particular example that I think is a really solid and robust example of how the Voice will make a difference. This is a bread-and-butter example, I think, of the silencing of the Indigenous voice, and that is child protection and child removals.

And it's not just about the silencing of parents and the silencing of communities and kin and the silencing of children. It's about the lack of transparency in the system, the lack of information that is provided to our people. The fact that we cannot illicit what is going on in the system unless we are in the system, and I don't mean in a department.

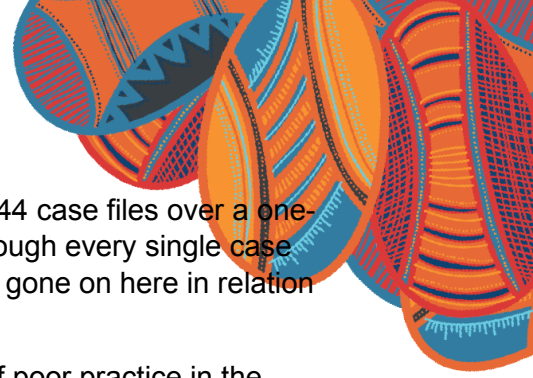
In 2016, I was approached by the New South Wales Government to conduct a review into Aboriginal children in out-of-home care and that report was handed down in 2019 - so it took us three years to get through those files. I had not long completed a commission of inquiry into Queensland's youth detention centres as a co-commissioner and that included a review of Cleveland Youth Detention.

Both inquiries confirmed the limitations of commissions of inquiry and departmental level reviews as mechanisms to scrutinise complex Indigenous problems. Even so, both inquiries shone a light on those regulatory frameworks - in this case, the Children and Young Person's Care and Protection Act in New South Wales and the Youth Justice Act in Queensland respectively. They are both examples, those inquiries, of the way in which regulatory ritualism enables departments to subvert the will of Parliament in relation to the welfare and treatment of children and young adults - but especially Aboriginal and Torres Strait Islander children and young adults - while looking like you support the aims of the legislation. The New South Wales inquiry was initiated, really, by the activism of Aboriginal grandmothers in New South Wales. It was the Liberal Minister, Brad Hazzard, who had been persuaded by the compelling advocacy of Grandmothers Against Removal, an alliance of Aboriginal Grandmothers who had been advocating for the return of their grandchildren, about the unlawful, often spiteful and malicious practice of the department's caseworkers. And it's interesting, it's easier to talk about that conduct now after so many Australians had the same experience of bureaucrats in RoboDebt.

In the early days of preparation for this review, we read everything we could about the child protection system and Indigenous children, including the Indigenous submissions to previous parliamentary inquiries and inquiries in every jurisdiction, in every state and territory in Australia.

And we listened to the recording of a really important forum where the Grandmothers Against Removal secured the promise of this review from the Minister, and the stories they shared were woeful. They exposed blundering and untrained, unskilled conduct of caseworkers and the department. And I remember thinking at the time, *Is this true? Can this be possible?* I also recall thinking, how can it be that the dominant narrative in Australia is one that positions Aboriginal parents as the problem?

In the course of our review, stories were shared by the sector itself, including many caseworkers, who spoke with confidentiality, former caseworkers, Aboriginal caseworkers. And these stories revealed this poor practice, often ineptitude and punitive case management, by bureaucrats that actually most Australians would be outraged by. Our team,



the Family Is Culture Review Team, conducted a deep dive into 1144 case files over a one-year period. So that actually took us three years. We had to go through every single case file, all of the court transcripts, and try and paint a picture of what's gone on here in relation to the removal of Aboriginal children.

So our review did find many, many mistakes and much evidence of poor practice in the Department. We found removal documents prepared for the court that did not match the case file. I'm going to focus on that. There's many issues and the report is really, really long. But I want to focus on this one because Australia prides itself on the rule of law. And there were many findings of the failure of the department and the courts to properly scrutinize or check the veracity of the claims that were made by caseworkers in their files to remove children.

So of course, the court relies on sworn affidavits from caseworkers, which means the court's relying on that hearsay rather than direct evidence. And the court is not looking into the files because the court thinks that the Department is a model litigant.

They don't think for a second that maybe the caseworkers are providing a false picture of what's going on. This has, of course, been an issue in many, many jurisdictions, and there's probably many in the room who worked on the Queensland Child Protection Commission of Inquiry, where they had a very similar problem of caseworkers lying to the court.

So, Grandmothers Against Removal and the various iterations of GMARs submitted to the review in their submissions that caseworkers regularly lied to the court. A common complaint was that caseworkers informed the Children's Court that they had attempted to prevent removal when no real effort was made - indeed, the case files are replete with evidence of caseworkers failing to do the basic social work that is required to avert removal. So, if the court is not checking the work of the caseworker because it presumes the crown is a model litigant and the department is not checking the caseworker's statement to ensure it is factual and backed up with evidence of assertion of the assertions, there's actually no way to be assured that caseworkers have evidence that support their decision-making around child removal.

This is a very serious matter. It is a rule of law issue. It is common for Aboriginal and Torres Strait Islander children to be removed from families because of a bureaucratic culture of risk aversion which leads to lazy practice that is nurtured by poor oversight and a system that hides behind an almost inalienable narrative in Australia that Aboriginal people are bad parents and architects of their own misfortune. We were, as the Family Is Culture team, perplexed to discover that the department provided the Children's Court with misleading or untrue evidence in a significant proportion of the case files we reviewed.

The gravity of the occurrence varied on a case-by-case basis, and while it is possible that some of the mistakes and omissions could be attributed to human error, in some cases, it was difficult to understand how the error could have occurred during the normal course of events.

Broadly, the files reveal that on many occasions factually incorrect information was presented to the court, while many files contained information that the review classified as misleading. These were identified as being not placed in the correct context, overstated or exaggerated factual evidence, minimised the shortcomings in the department's casework, failed to identify the relevant strengths of parents, or concealed the full picture from the court.

I'll give one example, because I think it's really important to paint a picture to Australia of how this occurs. In one example, the caseworker had said to the court that it referred the child's parents to drug and alcohol counsellors when no referral had occurred. This kind of decision has an impact on restoration of a child to a family. Often in child protection, a restoration plan is agreed upon, so parents have a tangible pathway on the return of their children, and the lifetime impact of removal is incalculable.

In another example, the department informed the court that the children's mother was transient, and it was concerned about that transience, the impact of that on her children, and her children's exposure to domestic violence. The facts were that the mother had been in stable accommodation for three years with evidence provided by the Department of Housing that she was not in a violent relationship.

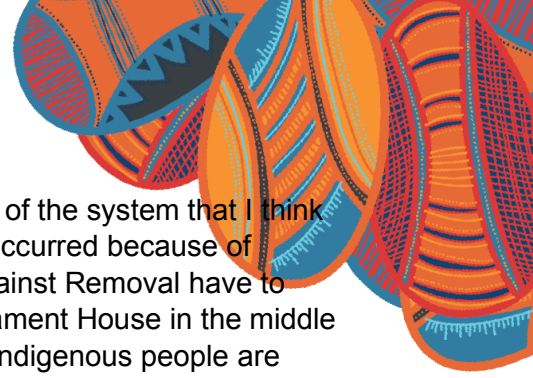
Again, these false statements can influence the decision to remove - as they did in these cases - and the consequences for children are lifelong. The child protection system right across the Federation lacks transparency and effective oversight. There is no effective regulator. It is a closed system. There's no genuine consultation with the Aboriginal family or community.

And one of the flaws of the system is that the workforce has no proper professional accountability, unlike lawyers or doctors or teachers. There's no external regulator who is independent and can exercise authority over the profession. There are no professional consequences for poor practice. This lack of regulation influences caseworker behaviour. The manner of contemporary casework reminds many Aboriginal families of the autocratic state that subjugated Aboriginal people during the protect protection era.

In the review, I found that some parents and grandparents and families fought hard, and others make the decision not to fight the system. They make judgments about the powerless position that they perceive themselves in. It's a system that renders our people voiceless and powerless. The lack of accountability means Aboriginal people are at a disadvantage in terms of finding an independent party to listen to their concerns. In the case of the grandmothers, they relied upon what we call an informal regulator, the media, to prosecute their arguments where the Department would not listen. But informal regulators are not enough. There do need to be formal regulators for change to occur. Otherwise, it just remains a closed shop.

And it's true that from time to time, departments right across the continent implement ongoing and ad hoc changes that seek to respond to these complaints that are frequent from Aboriginal families. However, they tend to be cosmetic changes. This is known in the literature as regulatory ritualism. What it means is that the state adopts rituals of listening to Aboriginal people via reviews like mine or glossy brochures where they espouse a commitment to the right to self-determination or the Aboriginal child placement principle or reconciliation, when all of the practice, everything else that the department does, shows that they don't actually believe in that. There's nothing inherently self-determining about the child removal system.

These rituals do not result in Aboriginal people's substantive complaints being listened to. And this is interesting because our review validated these claims - these claims that so many people said to me were fanciful, that the GMAR's must have been exaggerating, that the parents were exaggerating. But our review validated most of their claims. That's a really important point, not just about the department, but about the legal profession and the legal system that is meant to implement the rule of law and protect our people as well.



So, there are just three kinds of final observations of what to make of the system that I think are integral to the Voice to Parliament. The first is that the review occurred because of Aboriginal activism. It shouldn't be the case that Grandmothers Against Removal have to drive from Coonabarabran or Dubbo to protest at the front of Parliament House in the middle of Sydney. It shouldn't be that media activism is the only way that Indigenous people are able to have their concerns heard.

The second issue is, of course, state rituals of listening to Indigenous people. There are those who declare that the Voice is just a mere advisory body. Although we don't use that language in the Constitution, it's not a mere advisory body. It's a constitutional body that allows our communities to make representations to the executive, the government of the day, the bureaucracy, into the parliament. But the important thing about the Voice is it's not passive. It just doesn't sit back and wait to be consulted. It's a proactive entity. The Voice can make representation of its own volition, and it's a constitutional voice that's been agreed to by all of the Australian people voting yes. A referendum makes those representations significant.

The third issue I just wanted to briefly mention, which I already have, is the use of departmental reviews, commissions of inquiry, royal commissions, as these kind of endless mechanisms that are deployed by the state to listen and hear our people. It's a preferred mechanism by the state because it's so limited in the ways in which it can achieve change - not least being the laws of evidence that always work against these inquiries. These inquiries are often used as a can kicking exercise that allow states to defer difficult matters to the next term of Parliament or another government. This is a space that is constantly changing and being reviewed.

As a professor of law, I found the sector to be really difficult to navigate. The language, the vocabulary, the laws, the policies. And they just change all the time. I can only imagine what it is like for our families to navigate that system. Our review also found in working with the caseworkers, the department and the bureaucrats that they also did not understand the laws and policies.

The knowledge deficit should not be so acute. The complexity of that system is why it's so easy for the media to broadcast misinformation about child protection figures. When Peter Dutton read out the Northern Territory notification statistics, I thought 'Jesus, so much complexity to unpack there in that data' because of course we found that the bulk of those notifications weren't correct.

And so, it really highlights that reading substantiated data is not sufficient, and is not sufficient to understand what's going on. In the case of our review, many children should not have been removed. Many children should have been restored to their families. Child protection is just one example of how the Voice can have a significant impact across the Federation.

Superannuation is another. Our people die younger. That is a fact. Our sectors have been fighting to have that legislated for a very long time. The superannuation laws changed so that our people can access their super earlier. People are always surprised that we raise this, but it's a common topic of conversation in many communities and households.

The failure to access superannuation at a younger age and be able to do things, such as buy a house for your kids or pay for school fees, means that there's acute family and community fighting over that. So that's superannuation. This is the kind of thing the Voice can proactively make representations on.

Some say, oh, the Voice will make comments on all legislation. No, it won't! The success of any institution rises and falls on its legitimacy. The success of the Voice will depend on the judicious choices it makes about its work. If you spread yourself too thin, you will be ineffective and you will lose the trust of the people that you serve.

Moving on to the importance of constitutional enshrinement, there are those still who have sought to disrupt the constitutional Voice by arguing a legislative voice is a better step. However, one of the stories we heard repeatedly was that every political cycle, every three years, our representatives and services must troop to Canberra to curry favor with the newest government and the newest minister. The experience is exhausting and demoralising. The durability and the certainty of a constitutional Voice will be critical to its effectiveness.

As the Referendum Council summarised, many years ago with the Uluru dialogues that led to the Voice proposal: the logic of a constitutionally nationally enshrined Voice rather than a legislative body alone, is that it provides reassurance and recognition that this is a new normal for participation, and consultation will be different to the practices of the past.

Constitutional enshrinement refers here to the establishment of the Voice in the text of the Constitution. This does not mean that the entire framework of the Voice model will be included in the Constitution. Rather, what would be incorporated into the Constitution would be a reference to its primary function of providing advice to the Parliament, alongside a power for the Commonwealth Parliament to make laws that provide the detail of the Voice's membership, its functions, its powers.

The enshrinement will follow a public referendum that will endow the Voice with legitimacy, because of the support of the Australian people. It was carefully designed over six years to be consistent with the traditions of the Australian Constitution.


Constitutional enshrinement of the Voice is as close as we can get to an iron clad guarantee of its ongoing existence, which was an issue raised by all of the dialogues across the continent. The protection it offers to the Voice - the Constitution - is vastly greater than the protection provided by legislation alone. A legislated-only Voice will lack the legitimacy conferred by a referendum. The history of representative bodies since the seventies show that a legislated voice can be abolished. Constitutional enshrinement is the only way to confer legitimacy on its constitutional status.

This ensures that the voice can speak fearlessly. Truth to power. The Joint Select Committee was aware of the importance of this and its connection with constitutional enshrinement. It said that the enshrinement would provide a First Nations Voice with the independence and permanence to provide frank advice.

Principle is for the Constitution; detail is for the Parliament.

Constitutions do not contain over-elaborate provisions. They do not contain bricks and mortar. They contain principle - such as, in this case, the principle that the government and the Parliament should consult First Nations peoples on laws and policies. We don't want Australians voting on a fully fledged 2023 model. Embed that in the Constitution through the vote and it becomes a model that does not fit in eight years' time or in 2052.

The detail is left to the Parliament. That is the bread and butter of parliamentary representatives and their work, to work on the detail on the other side of a successful referendum in a design process with communities - with Aboriginal and Torres Strait Islander communities across the country.



Their design will then be submitted to a parliamentary committee for all Australians to contribute to, as well as First Nations communities and of course, parliamentarians. We should keep in mind that the ATSI Act was one of the longest legislative debates in the history of Australia. There is no doubt that the Voice legislation will be the same.

So, this approach to constitutional enshrinement or constitutional drafting is called constitutional deferral. It's common. It's how the Australian Constitution was set up. It was voted on in the 1890s. It came into force in 1901 and a lot of its mechanisms were set up later in legislation. The High Court of Australia is a really good example of this. It was recognised in the Australian constitution in 1901 when our constitution came into force. But the legislation that sets up the High Court of Australia was passed in legislation several years later.

The two-stage approach enables the Voice to operate flexibly and allow Parliament to change it over time. So, coming to my conclusion, I wanted to end by talking about the Uluru Statement from the Heart in the context of the invitation to the Australian people.

When we first issued that invitation - oh, six years ago last week - Australians I think could see a compelling invitation addressed to them, aimed at dealing with one of the most acute challenges in the nation, one of the most acute challenges for First Nations peoples, and that is getting the government to listen. Persuading Australians of the exigency of change is allied to Australians' own observations that the status quo for Aboriginal and Torres Strait Islander peoples and their communities is not working and their own experience of poor bureaucratic process, mean-spirited and punitive bureaucratic processes, as millions of Australians experienced with the Robodebt scheme. The anti-politician sentiment or this anti-politician sentiment aligns with the low trust Australians have for politicians now, given that they tend to be more interested in the battles of adversarial parliamentary politics, internal leadership quarrels, the internecine preselection spats of professional political organisations.

Similar to this alignment is the failure of Canberra to hear Australians in times of need - the spectre of a Prime Minister abandoning his people during their darkest hour to fight fire and flood. Together, we've been let down as a people and this is a unifying sentiment.

The invitation issued to the Australian people is also foregrounded by a three-decade long reconciliation process that began after Prime Minister Hawke reneged on his commitment to a treaty at Barunga in 1988.

Instead of a treaty process, because of a Western Australian election that was looming and the electoral calculus of Aboriginal recognition and mining interests that do not mesh, Hawke's cabinet decided a reconciliation process was needed first.

Reconciliation was the fad of the 1990's developed in Latin American countries and in South Africa. It was purported to be a process that brought societies back together again after serious conflict or dictatorship. It's known today as transitional justice. It theorises a pathway for perpetrators and victims to reconcile and then transition to live together in peace under the rule of law. Of course, transitional justice has failed many of the countries who deploy it.

In the dialogues, in the Uluru dialogues, our old people kept saying, unsolicited and organically, that reconciliation was the wrong process, that reconciliation was the wrong word. They said it implied the restoration of friendly relations after a conflict. *But*, they said, *we have never met*. We have never met.

This is what the Uluru Statement stands for. Meet with us. It's a beginning. It's about mutual recognition and it's about renewal. It's a hand of friendship to the Australian people to come

and meet with us. In issuing the statement to all Australians, we hope to bypass the ritual cynicism of Australian politics and to ask all Australians of religions and different cultures and politics to read the Uluru Statement and hear in our own words the logic for the change.

We seek constitutional reforms to empower our people and take a rightful place in our own country.

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

We hoped Australians would listen, and they were listening. They are still listening.

The support we have received from the Australian people for the Uluru Statement from the Heart, and the proposal for a Voice and the referendum this year, has been overwhelming. Thus, we have a commitment to a referendum, a clear roadmap of reform, a 12 year recognition process debated by successive governments and parliaments. In plain sight we have an alteration to the text and a ballot question.

For this referendum to win will be a monumental achievement of this nation. We are not there yet to arrive at our destination. We do need to explain to Australians why the Voice is needed, given Indigenous policy issues are alien to most Australians and given the credibility afforded in this space is not routinely from Aboriginal people themselves, but often the politicians who are the most ineffective in this policy area.

What are the consequences of not listening? American Jill Stauffer writes about what she calls ethical loneliness, which is about the consequences of the failure to hear. It makes people sick. This framework of ethical loneliness, I felt, was well suited to the recognition work before us. Stauffer writes about ethical loneliness as the experience of having been abandoned by humanity, compounded by the experience of not being heard. It is the isolation one feels when one, as a violated person or as one member of a persecuted group, has been abandoned by humanity or by those who have power over one's life possibilities. It is a condition undergone by persons who have been unjustly treated and dehumanised by human beings and by political structures, who emerge from that injustice only to find that the surrounding world will not listen or cannot properly hear their testimony, their claims about what they have suffered, and about what they say is now owed to them on their own terms. It seemed to me that this experience had occurred too often for our people and that a Voice in the Constitution would empower Aboriginal and Torres Strait Islander peoples with a mechanism to be heard.

Stauffer talks to this issue of repair and the importance of asking people what repair looks like after injustice. Ethical loneliness is caused not only by dehumanisation, oppression and abandonment by all, but also by the failure of just-minded people to hear well - that is, the failure of just-minded people to hear well from those who have suffered, what recovery or reconciliation after massive violence or long-standing injustice would require. And that failure haunts sites where the goal is political transition or reconciliation or forgiveness. This goes to the heart of the reconciliation project in Australia. The failure of just-minded people to hear well from those who have suffered, what recovery, what reconciliation, what repair looks like.

I remember the post-Mabo decision era. I was a high school student when Mabo was handed down and I was in university when Wik was handed down. And I remember the full-page ads after Wik, after Mabo, *the Aboriginal people will not take your backyard*. I remember after Wik, the twister ads funded by the National Farmers Federation, the little white kid and the little black kid who played Twister until they became so entangled, they fell over. And then the voice over said *the Wik decision, it's not a game*.



I see misinformation and disinformation taking hold in this campaign. I see examples provided by political leaders that are deliberate, on purpose said or conveyed to mislead the Australian people. The other day I heard a journalist on Sky say that the police could not have stopped the Lindt Cafe siege because they would have had to consult the Voice. I've heard people claim that Australia will not be able to go to war under the Australian Constitution without consulting the Voice. And then the leader of the Australian LNP at a federal level, Peter Dutton, is claiming that the Voice will destroy Australian democracy.

Nothing could be further from the truth. That's not what the Uluru Statement from the Heart is. It is about hope and love and peace and friendship. It is not about anger and fear. It's a belief in the goodwill of the Australian people in the spirit of 1967. And it's also a belief in the framers' confidence that the changes to the Constitution come from the people, not politicians.

In many countries of the world, politicians and parliaments change constitutions. Not ours. In ours, it's the people. So, in issuing the Uluru Statement from the Heart, we asked Aussies to help us. We said Australian politics will not achieve this.

The Voice will enhance our participation in democratic decision-making. The Voice will improve Australian democracy. So, I'm just going to end - it'll only take 2 minutes, Jeff - by rereading the Uluru Statement from the Heart and the invitation to the Australian people - and we ask all Australians to read the Uluru Statement from the Heart out loud and listen to it and let the words fall softly on the ground, and tune out to the Australian politicians who are making claims about policing and armed forces and the Lindt café, and listen to the words of our people at the Rock six years ago.

"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.”

Thank you.