



Uluru Central Australia
- Is it now dividing our country?

INTRODUCTION

After many years of preparation by various bodies, primarily by activists within the Aborigine and Torres Strait Islander (ATSI) peoples, the Prime Minister (PM) announced, on the 30 August 2023, that the referendum for enshrinement of the Voice in the Australian Constitution, would be held on Saturday, 14 September 2023. It is the first referendum for many years, the first for many of voting age and one for which the reason demands an answer, given the serious ramifications for our country.

This article complements and brings up to date the original piece about the Uluru statement from the Heart, 10 July 2022, and the update in May 2023, both posted on my website www.alogstudycentre.com.au.

It expands on the essential documents leading up to a referendum and discusses in detail the debate so far for the Yes and No cases.

SUMMARY

The Voice referendum is arguably the most important of any since Federation and has the clear potential to permanently split the nation instead of bringing it together, whichever the result. In fact, one must question the motives behind having this referendum at all, given the detrimental effect either way. *Sleeping dogs should have been left to lie.*

See under 'Concluding Comments' for the full summary.

THE VOICE - SO, WHAT IS IT ALL ABOUT?

In July 2017, representatives of aboriginal communities throughout the country met at Uluru and, after considerable discussion, issued the "Uluru Statement from the Heart". It has since developed into a full-blown campaign by activists to have it or an enabling statement enshrined in the Australian Constitution. The Labor Party, elected on 21 May 2022 has made such enshrinement a top priority for the Federal Government.

The Uluru Statement

Box 1 is an extract of what the Uluru Statement says.

Box 1 – Uluru Statement (extract)

Essential elements of the one-page Uluru Statement are:

- "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".
- "We invite you to walk with us in a movement of the Australian peoples for better future."

In recent weeks there has been a Media ruckus about the length of the Uluru Statement. The PM and leftist Media like the ABC maintain that the Uluru Statement is one single page. Following release of government information under 'Freedom of information' law, the right leaning Media say that it is at least 26 pages. Several aboriginal academics have said it is much larger than one page.

The PM has admitted that he has not bothered to read the 26 pages, just page 1, but has often said how he would see the Uluru Statement implemented in full - Voice, treaty and truth. Over this issue, the RMIT fact checking unit has been disowned for fudging the truth, by the social media giant Meta (erstwhile Facebook)

Joint Select Committee

A Joint Select Committee on Constitutional Recognition relating to ATSI peoples was appointed by Parliament in March 2018. It presented its final report in November 2018 which, among other things:

- endorsed the proposal in principle for a Voice; and
- recommended a process of co-design by the Government and ATSI peoples to determine the detail of the Voice.

Recommendations of this report were overtaken by subsequent inquiries and reports, such as those which follow.

Indigenous Voice Co-design Process. Final Report to the Australian Government, July 2021

This report, known as the Langton/Calma report, is some 216 pages long, including multiple tables and figures. It was constituted to flesh-out how the Uluru Statement may be implemented by legislation following enshrinement of the Voice in the Constitution. See **Box 2** for basic details of this process.

Although it is not clear that the Labor Government has fully endorsed this report, it is clear as the basis of the Government claiming that adequate information on how the voice will work is available, contrary to opposition views.

However, at over 200 pages, only the elite and politically involved on this issue can be expected to even look at the report, let alone understand it and leads the PM and proponents to claim disingenuously that there is adequate information available to voters. In this case, the vast majority of voters will be basing a decision on their political affiliation and on campaign promotion from both sides – they probably would not even read the brief cases for and against agreed by Labor to be issued before the referendum.

The PM and proponents of a Yes vote are pursuing a 100 per cent emotional case, in appealing to the majority that the Voice is the “right and proper thing to do” but ignoring the very serious ramifications on government of the nation.

On the other hand, proponents of the No case are attempting to base their case on precise arguments against what it sees as serious ramifications of a successful referendum for effective and efficient government of the nation and whether a successful Voice would have any real effect anyway on the betterment of the lives of aborigines¹ in remote communities.

Box 2 –The Senior Advisory Group recommends that the Australian Government:

1. Progress an Indigenous Voice by implementing the Local & Regional Voices and National Voice proposals as set out in the Final Report.
2. Recognise the importance of involving all levels of government in Local & Regional Voices and seek to negotiate formal commitments as soon as practical. This will demonstrate the commitment of governments to working in partnership to deliver on the significant structural Indigenous Voice reform.
3. Recognise the importance of ensuring sustainability and security for an Indigenous Voice. This requires the provision of funding certainty and appropriate safeguards as part of any enabling legislation, including the establishment of the National Voice as a new independent Commonwealth entity.
4. Recognise the need to continue to work in partnership to progress implementation. This includes further conversations and co-design to ensure the effectiveness and legitimacy of the Indigenous Voice.
5. Recognise the need for a comprehensive communication strategy to support community understanding, ensure transparent and consistent messages and prepare for implementation.
6. Note the support for the enshrinement of the Indigenous Voice in the Constitution that was expressed particularly through the submissions received as part of the consultation process.
7. Release the Final Report to the public.

Referendum Working Group - Enshrining an ATSI Voice in the Constitution

The Langton/Calma report was followed by the Referendum Working Group to recommend to Government the exact wording that should be put in the referendum, as approved by an act of Parliament. See **Box 3** for basic details.

The Group has issued a few communiques publicly but no report as such. Obviously, there would have had to be specific recommendations to the Government but these have not been made public by the Government. However, that is of no real consequence, since the PM has accepted wording for inclusion in the enabling act (see **Box 4**).

¹ The terms “aborigine” and “indigene” may be used herein interchangeably to represent all indigenous Aborigine, and Torres Strait Islander (ATSI) peoples.

It should be noted that there has been considerable controversy about the wording, with the Attorney-General reported as wanting the wording to be less invasive on government but the Working Group flatly refused to compromise. Nor was the Government prepared to release to the public the full advice of the Solicitor-General's office, with an implication that its advice was contrary to what the PM wanted. Under public pressure, the Solicitor-General was allowed to release a statement in favour of the wording of the Voice referendum. The PM caved into the Working Group, reluctantly or otherwise, to the demands of the Working Group. One may well ask what the implications of that could be. *This is an extremely serious point which will be elaborated on later in discussion on the wording in the act. It is the crux to the future powers of the Voice, if the referendum succeeds.*

Box 3 - Referendum Working Group - Prime Minister and Cabinet

The Referendum Working Group is co-chaired by the Hon Linda Burney MP, Minister for Indigenous Australians and Senator Patrick Dodson, Special Envoy for Reconciliation and the Implementation of the Uluru Statement from the Heart and includes a broad cross-section of representatives from First Nations communities across Australia. The Referendum Working Group will provide advice to Government on successfully implementing a referendum within this term of Parliament on an Aboriginal and Torres Strait Islander Voice enshrined in the Australian Constitution including timing to conduct a successful referendum, refining the proposed constitutional amendment and question, and the information on the Voice necessary for a successful referendum.

Summary of second tranche of advice from the Constitutional Expert Group

The Constitutional Expert Group (Expert Group) considered additional questions referred from the Referendum Working Group relating to the draft constitutional amendment put forward by the Prime Minister at Garma on 30 July 2022 to enshrine an Aboriginal and Torres Strait Islander Voice (Voice) in the Constitution.

1. An introductory sentence to the provision could be included without giving rise to any legal concerns

The Expert Group considered the following example of possible introductory language to the draft provision from the Prime Minister's speech at Garma on 30 July 2022:

In part of Aboriginal and Torres Strait Islander Peoples as the First Peoples of Australia: There shall be a body, to be called the Aboriginal and Torres Strait Islander Voice.

All members of the Expert Group agreed that introductory language of this kind would be appropriate in providing a succinct explanation for the enactment of the provision and clearly link the provision to constitutional recognition.

2. The names 'Aboriginal and Torres Strait Islander Voice' and 'First Peoples Voice' are preferable to the name 'First Nations Voice'

Members of the Expert Group acknowledged that 'First Nations Voice' was chosen for the name of the Voice in the Uluru Statement from the Heart. However, while not unanimous, there was a general consensus that the name 'Aboriginal and Torres Strait Islander Voice' or 'First Peoples Voice' would be preferable to 'First Nations Voice', including for legal clarity.

3. Parliament would have the power to establish, and create relationships between, the Voice and sub-national bodies including regional Voices

The draft provision, along with existing heads of power, provide sufficient authority for the Parliament to make laws to implement a range of models for the Voice. These could include laws to establish sub-national Voices. Any connections with State and Territory Parliaments, Governments or Voices should be carefully formulated with the cooperation of the relevant State or Territory.

4. Other matters

All members of the Expert Group agreed that the draft provision would not affect the sovereignty of any group or body.

Enshrinement in the Constitution.

Box 4 is an extract from the act passed by the Federal Parliament in March 2023, as the formal wording for the Voice referendum, to enact the Uluru Statement and, presumed, for ensuing legislation to give practice to the Langton/Calma report.

Box 4 – Federal Act of Parliament, Approved March 2023

Constitution Alteration (Aboriginal and Torres Strait Islander Voice) 2023

A Bill for an Act to alter the Constitution to recognise the First Peoples of Australia by establishing an Aboriginal and Torres Strait Islander Voice

The Parliament of Australia, with the approval of the electors, as required by the Constitution, enacts:

1 Short title

This Act is the Constitution Alteration (Aboriginal and Torres Strait Islander Voice) 2023.

Schedule 1—Alteration of the Constitution

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.

Parliamentary Committee

A Parliamentary Committee on the Voice, earlier this year, upheld the referendum question and words to be inserted in the Constitution, as stated in Box 4. Note that, early in the process, the PM had ruled out any idea of a constitutional convention, as had been sought by others – another step in the PM's biased approach to the referendum.

Actual referendum question

While the formal amendment to the Constitution is shown in Box 4, very few voters will have read that, let alone have absorbed its impact. On referendum day, voters will be asked to vote 'yes' or 'no' on a single question, most probably for the first time. The actual question posed on the ballot paper will be (see official Referendum Booklet):

"A Proposed Law: to alter the Constitution to recognise the First Peoples of Australia by establishing an Aboriginal and Torres Strait Islander Voice. Do you approve this proposed alteration?"

No other information will be provided on the ballot paper. "The question is misleading on its face and by omission"² Note well that this question reflects only Part (i) of the three parts of the proposed Constitutional amendment (Box 4). Unfortunately (but counted on by the Yes proponents), a great many voters will simply read this as "Do you agree with recognition of aborigines in the Constitution", in complete ignorance of the ramifications.

What could all of this mean?

The first clause (i) of the wording for the referendum (Box 4) is not controversial.

There is a lot of good will by Australians on both sides for some form of recognition of indigenous peoples in the Constitution. It is a question of how best to do it. There is also general acceptance of the plight of full-blood and near-full-blood aborigines³ living in precarious circumstances in remote areas and the need to enhance their wellbeing.

The second clause (ii) is the most controversial in that it implies that the Voice could make representation on any matter to any level of government, whether affecting ATSI people only or not.

The third clause (iii) is also controversial because it implies an extensive and costly process to set up a vast, invasive and constipating bureaucracy to support the Voice. While the Parliament shall have power to make laws with respect to matters relating to aborigines, it is subject to this Constitution, including the second clause of wording for the referendum, ie. it cannot act without inviting further representation by the Voice, covered by clause two (ii) or recourse to the High Court for resolution.

However, there is even more to this than meets the eye, ie. the real motivations behind the Voice, as one example, the resultant push for a treaty between ATSI Peoples and governments in power and the implications of that to implement in full the Uluru Statement.

THE YES CASE

The PM, Labor, the Greens, the aboriginal industry⁴ and other proponents have been pushing the Yes case very hard, unfairly, arrogantly, undemocratically and with tonnes of money (mostly at taxpayer and company shareholder expense). The sheer arrogance of the PM and Labor is breathtaking in its unfairness.

The Government and proponents:

- refuse to address questions posed by opponents, e.g., the 15 questions asked by the leader of the Opposition for clarification of what the Voice means;
- prefer to abuse and denigrate opponents for daring to say 'no', often by ad hominem attacks, often branding No proponents as racist;
- deny that the Voice is not racially discriminatory but has not shown or cannot show that it is not racially discriminatory;
- ignore the prior failures of several aboriginal commissions (see **Box 5**);

² From an article by Louise Clegg, a Sydney barrister (Weekend Australian, 2-3Sep23).

³ full-blood and near-full-blood aborigines are those living in remote communities, as opposed to the part-aborigines and other identifying as indigenous living in suburbia, with most fully employed and many in professional positions.

⁴ Yes proponents decry the coining of the term 'aboriginal industry' yet fail to explain the reported \$30 billion of taxpayer money being paid every year to support three per cent of the population.

- ignore the role or influence of existing bodies like the National Indigenous Australians Agency (NIAA), actually funded by the Federal Government (see **Box 5**),

Box 5

Past Commissions

National Aboriginal Consultative Commission (NACC) (1973-77), the National Aboriginal Conference (NAC) (1977-85) and the Aboriginal and Torres Strait Islander Commission (ATSIC)" (1990-2005),⁵ the latter shut down by the Howard Government, with the concurrence of the Labor Party'

Current ATSI Commission

The NIAA is a Federal Government body, established in May 2019 and responsible to the Minister for Indigenous Australians. It employs 1,300 persons and receives funding of around \$300 million a year, including \$265.5 million from the government; ie. \$231.000 per person a year (salaries and overheads). Its mission is to work "in genuine partnership to enable the self-determination and aspirations of First Nations communities. We lead and influence change across government to ensure Aboriginal and Torres Strait Islander peoples have a say in the decisions that affect them." Its primary functions are:

- to lead and coordinate Commonwealth policy development, program design and implementation and service delivery for Aboriginal and Torres Strait Islander peoples;
- to provide advice to the Prime Minister and the Minister for Indigenous Australians on whole-of-government priorities for Aboriginal and Torres Strait Islander peoples;
- to lead and coordinate the development and implementation of Australia's Closing the Gap targets in partnership with Indigenous Australians; and
- to lead Commonwealth activities to promote reconciliation.

Note that the October 2022–23 Budget provides \$1.1 billion more than the March 2022–23 Budget for Indigenous Australians-related matters, averaging \$4.2 billion per year over the forward estimates.⁶

Does this not seem like what a Voice organisation might be?

- ignore the role or influence of the many Aboriginal land councils which already represent Aboriginal affairs at state or territory level, including representation to governments. (See Box 6)
- Ignores the reported \$30 billion being poured annually into the 'aborigine' industry', that ATSI people already own over 50 per cent of the land mass and access many mining royalties (apparently not enough).

Box 6 – Land Councils

Land councils aim to protect the interests and further the aspirations of Aboriginal communities claim to be self-supporting, and not funded by state or federal taxes. There are 23 Local Aboriginal Land Councils, listed on the website.⁷

- deny that the Voice has any legal consequences of constitutional enshrinement – that "there's nothing to see there"; ie. denying that legal recourse to the courts (especially the High Court) would not occur; that the Voice is not 'justiciable'; that 'lawfare'⁸ would not be resorted to by denial of representation by the Voice;
- ignore the fact that prominent aborigines like Senator Price and Mr Warren Mundine, as well as grass-roots aboriginal organisations oppose the Voice;
- rely almost entirely on emotional appeal to voters that "it is the right thing to do";
- play the 'guilt' card, that voters are guilty for the sins of their forebears for negative treatment of ATSI peoples;
- but have not made any substantial, even significant case on how the Voice would in fact 'close the gap' and better the lot of those aborigines living in misery on eternal welfare in remote communities.

The Yes case is being based wholly on the expected good will by 97 per cent non-aboriginal population to "do the right thing" by our indigenous brothers and sisters and by implying white guilt for their lot. It is a 100 per cent emotional appeal (even implied emotional blackmail) to voters to get with the "vibe" of the proposition; to 'feel better' within one's self.

This author has diligently read the published material and opinions of legal minds and other commentators promoting the Voice. Their case always comes down to saying that there is "nothing to worry about" and that fears that the Voice would be justiciable

⁵ Henry Ergas, The Australian 22-23Apr23)

⁶ https://www.aph.gov.au/About_Parliament/Parliamentary_departments/Parliamentary_Library/pubs/rp/BudgetReviewOctober202223/Indigenous_affair_s#https://www.aph.gov.au/About_Parliament/Parliamentary_departments/Parliamentary_Library/pubs/rp/BudgetReviewOctober202223/Indigenous_affair_s#

⁷ www.creativespirits.info/aboriginalculture/selfdetermination/aboriginal-land-councils#what-are-aboriginal-land-councils

⁸ Lawfare is a porte-manteau of law and warfare; i.e., using the law courts to frustrate proposed or enacted law.

(subject to lawfare) are completely unfounded. Although professional, these legal opinions are just that – opinions - offered without proof, not that any such proof could be given, with no one knowing what a future High Court may decide.

The approach to the Voice, from the PM down has been shamelessly biased and discriminatory in respect of lack of published information that voters can understand and in respect of government funding (none for this referendum) and, initially, allowance of tax deductibility of expenses for only the Yes case.

In more recent weeks, the Yes campaign changed tactics. It has managed to gag radical activists like Thomas Mayo, who has spoken about ATSI people achieving a treaty and rental reparations to be demanded from the 97 per cent of non-ATSI Australians. It has persuaded at least one academic to recant on earlier public statements clearly saying that the Uluru Statement was indeed more than one page (more than 18). In reality, the Yes camp cannot afford to talk publicly about the ramifications of the second part of the referendum question, i.e. how it would be enacted in law and the ramifications thereof. Consequently, it is pushing only the ATSI recognition part of the referendum question and hoping (with some credibility) that Joe Blow voters will think they are voting only for recognition. Is this more deception?

Then there are the irrelevancies often used by the Yes camp. For example, the fact that ATSI people have been here for 60,000 years, of absolute minimal physical existence before 1788, is irrelevant to the future of this now highly developed country. A major thrust of the Yes case is to close the 'gap' on significant health differences with the greater population, but where is there any recognition and mention of the real effects of genetic differences engendered by 60,000 years of total isolation as probable causes of these differences? The 'dreamtime' intimate connection with the land may well be important to ATSI people but irrelevant to the argument for a Voice. The claim that Australia's international reputation would be damaged by a No win is also nonsense.

The Yes case is simply ignoring all the expected and most probable ramifications of a successful referendum, as identified by No proponents (see under 'The No Case'), in denying that they even exist. The Yes case is 100 per cent emotion; zero percent logic.

Waning poll results for the Voice have led to vehement, vitriolic and downright shameless, personal attacks on opponents, even on the aboriginal Senator Price herself, by prominent people such as the aboriginal Mr Noel Pearson. Such ad-hominem attacks are a sure sign that the Yes case has no real substance that can be put forth and defended successfully in debate.

The cartoon shown in **Box 7** says it all.

Box 7. An absolutely brilliant cartoon by Johannes Leak in the Australian, 11Aug22, exposing the absolute hypocrisy of the woke folk.



THE NO CASE

Opposition to the Yes case is being prosecuted by the Federal Opposition, namely the coalition of the Liberal and National Parties and even by some indigenous groups, supported by the conservative media

Both the Liberal and National Parties have formally opposed the Voice, as it is currently worded for the referendum. They agree with current wording of clause one (i) of the three parts (see Box 4) but oppose the current wording of both clauses two (ii) and three (iii).

Opponents contend that the Voice:

- will interfere with every level of the Commonwealth government apparatus;
- resort to 'lawfare' in the courts to the High Court for redress of grievances, i.e., the law enacting the Voice is indeed justiciable;

- is, as proposed, inherently undemocratic, with Ministers and administrators beholden to the Voice as an unelected body;⁹
- even within the aboriginal communities, the voice would not be a democratic instrument; see the Langton/Calma report which recommends 22 new regional grouping for indigenous representation, appointed rather than elected;
- the Voice would disenfranchise many aboriginal groups and persons;
- there is significant apathy and often complete ignorance within aboriginal communities (and, in fact, in the population at large) about the Voice;
- the Voice is a solution looking for a problem being demanded by a group of aboriginal elites¹⁰;
- the Voice would not help communities and could well tear the nation apart;
- that, as seen in Box 5, there is no need for the Voice to be enshrined in the Constitution; whatever the Government wants can be or should be achieved now by current ATSI organisations;
- as said in clause three (iii) (Box 4), given that the Government would need to legislate on how a Voice would operate, there is no logical reason why the same could not be legislated without a Voce enshrined in the Constitution.

Concerned lawyers believe that enshrinement of the Voice would bestow upon it certain extremely powerful rights,¹¹ namely:

- to demand advance notice of every and any potential policy or action by any level of government on any aspect possibly affecting ATSI people;
- to demand all information in respect of any potential policy or action;
- to demand adequate funding to permit proper analyses by the Voice of government actions;
- to demand proper consideration by the government of representations;
- to consider any amended government action; and
- the right to challenge any decision in court.

Many letters to editors have been published which raise specific concerns about the Voice (see the Addendum for recent letters):

As has been said by Senator Jacinta Price, there is considerable concern about the laxity of the three-point definition of an aborigine and the potential for corruption with people seeking formal recognition as an aborigine. Some believe that nothing short of a DNA test should be used to establish aboriginality.

As may be readily seen in Box 8, the criteria for identifying as an ATSI person are very loose and easily open to abuse and even corruption for people wanting to identify as such.

Box 8 - Aboriginality

The test has three elements,¹² all of which must be proved by the person claiming to be Aboriginal: the person must identify as Aboriginal, the Aboriginal community must recognise the person as Aboriginal, and the person is Aboriginal by way of descent.

According to AIATSIS¹³ government agencies will normally accept three working criteria confirmation of ATSI heritage:

- being of ATSI descent;
- identifying as of ATSI person; and
- being accepted as such by the community in which you live or formerly lived.

All these criteria must apply.

- The Voice would effectively constitute a fourth arm of government, at great expense and of very doubtful effectiveness for disadvantaged aborigines in remote communities.

The Voice can easily be seen as nothing short of a blatant power grab by the part-aborigine, suburban elite, and the many self-proclaimed aborigines, as clearly evidenced in its flat rejection of essential changes to the wording intended for the Constitution, requested by the Labor Government, while using the plight of the full-bloods and others in remote communities as an excuse.

Labor and the Voice will be an unfortunate alliance that has the potential to bring this country to a grinding halt, make it totally vulnerable to foreign influence and regress it 60,000 years.

The first representation of the Voice could well be to demand that a member of the Voice be made the Governor-General, thereby having the authority to reject enactment of any law that does not benefit the ATSI people. And why stop there in stacking critical government positions with members of the Voice?

⁹ Warren Mundine, The Australian 22-23Apr23)

¹⁰ Aboriginal elites are the part-aborigine and those self-identifying as aborigine, holding professional positions and who are the main activist group promoting enshrinement of the Voice in the Constitution.

¹¹ Article by Janet Albrechtsen, The Australian, 22-23 April 2023.

¹² <https://naisda.com.au/wp-content/uploads/2019/03/Proof-of-Aboriginality-2.pdf>

¹³ AIATSIS = Australian Institute of ATSI Studies

The cat is really out of the bag on the Voice (“Politicians won’t shut the Voice up”, The Australian, 1-2Apr23) and Noel Pearson being quoted therein as having said “If we remove it (bureaucracy) we basically remove the guts of the whole proposal”. How clear is that in the intention of the Uluru statement from the heart? We now know for certain that the Voice is really all about the part-aboriginal elite in a power grab. Full-blooded aborigines living in misery may be the excuse but not the real reason for the Voice. It has now been clearly stated by the Referendum Working Group that the goal all along for the Voice has been to make representation to both parliament and the executive on any matter affecting ATSI Peoples and not just on matters affecting only them. As pointed out for months by highly respected journalists and commentators, the potential for governmental and judicial bedlam and paralysis is enormous.

The fact of the Referendum working group flatly rejecting the Attorney-General request to limit representation to parliament only, shows the real, belligerent intent of the Uluru Statement from the heart which is far from an innocuous document, which Australia will find out soon enough if the Voice referendum succeeds.

One can easily think of the Voice as a Trojan horse which would indirectly activate the Uluru Statement in the Constitution, especially as the draft content for the Constitution would presage.

To date the PM’s approach to the Voice has been one of total arrogance and disrespect for a great many Australians, one of bulldozing, deceptive practice – initial refusal to release the Solicitor-General’s advice; or to produce a referendum pamphlet, or to allow tax deductions for expenses for ‘no’ proponents – all essentially undemocratic and somewhat dictatorial. And now there is the bias being introduced by the AEC to permit the word ‘Yes’ and ticks on ballot papers but only the word “no’ in opposition, use of a cross (x) to be ruled invalid. The AE Commissioner has publicly stated that such has been practice for 30 years. However, the actual ballot papers provide only for a Yes or No word votes and the official guide makes no mention of ticks or crosses, whether acceptable or otherwise. Another shonky of bias by this arrogant government?

LATEST CHANGES

Official Yes and No case pamphlets were put on-line by the AEC in early August 2023.

The official Referendum Booklet was mailed out the week ending 25 August 2023.

On 30 August 2023, the PM announced that the referendum would be held on Saturday, 14 October 2023, starting officially the Yes and No campaigns.

The left and right Media are still at logger-heads.

The Yes campaign is reported to heavily outweigh the No campaign with funds for promotion.

Many in big business, with no scruples about using share-holders’ money, are backing a Yes vote. One can reasonably ask why they are abusing the trust of their share-holders. One answer is that they are taking a bet each way. It could even be due to the influence of union superannuation administrators having infiltrated big business Boards.

In reality, it is unknown how much influence the big money available to the Yes campaign will have, given a highly political question. Note how the reported \$116 million Clive Palmer put into the United Australia Party (UAP) for the 2022 federal election, resulted in just one representative to Parliament.

Several polls show that support for the Yes case has fallen significantly from a solid figure to a point that would see the referendum fail. The Yes camp is now banking on its huge bankroll for an advertising blitz over the six weeks to recover ground and to carry the referendum. That remains to be seen.

OFFICIAL YES AND NO CASES

The summary in Box 9 is based on the official pamphlets by proponents and opponents, as stated in the Referendum Booklet issued by the AEC.

Box 9 – Official Yes and No Cases

Yes Case

According to the PM, the referendum is all about the ‘vibe’ of the proposal; being the right thing to do.

The official Yes case, as summarised in the Referendum Booklet is:

- It comes directly from the ATSI people (Uluru Statement from the Heart);
- voting Yes is about recognition, listening and better results;
- recognition of ATSI people through A Voice enshrined in the Constitution will drive practical change;

- it will ensure people would have a better life; a need to listen to the ATSI people to close the 'gap' on health and education in particular; and
- it would bring our country together;
- it would save money;
- the time is now;
- it would give practical advice that works;
- It would make government work better;

As a comment, the Yes case fails to:

- convince, therein or elsewhere in documentation, how the afore-mentioned claims Voice would be achieved actually improve the lot of ATSI people, in closing the 'gap', when a reported \$30 billion into the aborigine industry each year and the NIAA (1,300 employees under Minister Burney) evidently are not able to do now;
- mention any down-side of a Voice or to counter the claims of the No case
- support its doubtful claim that it would save money – a very doubtful claim; or'
- mention that the Uluru Statement from the Heart implies a subsequent treaty and reparations as the fundamental starting point and motivation for the Voice.

No Case

The No case says "If you don't know, vote no", based on reasons that:

- the Voice is legally risky in allowing representation to all levels of government and challenges needing to be resolved by the High Court [which no one can possibly say how a future court would decide];
- the constitution of ATSI representatives to the Voice and how it would operate is not known;
- it would be racially divisive;
- it will not and cannot help ATSI people;
- there is no issue beyond its scope – that which affects other Australians also affect ATSI people;
- it risks government dysfunction;
- it opens the door for activists;
- it would be bureaucratic and costly;
- a Voice enshrined in the Constitution would be permanent, ie. unchangeable without a further referendum; and
- . there are better ways forward.

As a comment, the No case fails to:

- prove its assertions although logically sound and in some cases virtually certain, as expressed in the media by reputable journalists and legal entities.
- Both the Yes and No cases comprise assertions that cannot be proved in advance of the referendum and any subsequent laws and administrative machinery.,

CONCLUDING COMMENTS

The Voice referendum will be held on 14 September 2023.

The Voice referendum is arguably the most important of any since Federation and has the clear potential to permanently split the nation instead of bringing it together, whichever the result. In fact, one must question the motives behind having this referendum at all, given the detrimental effect either way. Sleeping dogs should have been left to lie.

Its gestation has been since and based on the Uluru Statement from the Heart in 2017. However, the Uluru Statement is not an innocuous document. It harbours a future of exactly what its advocates and activists say it does - the Voice, treaty, truth - which, as he has often said, the PM would implement in full, given a successful referendum.

So far, the Yes case being made by the PM, the Labor government, the representatives of the ATSI peoples and other major proponent bodies have been based 100 percent on emotional appeal, as the 'right thing to do', on the 'vibe' of it all, rather than to advance concrete examples of how an enshrined Voice would make any significant improvement to the lives of aborigines living in poverty and distress in remote communities. Note that there is a reported \$30 billion a year going into the ATSI communities somewhere, including a 1,300-person government organisation (the NIAA) under the Minister for Indigenous Australians, apparently with little effect on closing the so-called 'gap' in ATSI well-being. So why is a Voice in the Constitution needed when several already exist - at great expense? It does not make sense!

On the other hand, the No case addresses the many, most probable, serious ramifications of the Voice should it succeed, as currently worded for the referendum. In particular, it addresses the two crucial points at the centre of the debate that must be thoroughly aired in the weeks ahead:

First, that a successful referendum would give the Voice the right to make representation to all levels of executive government (from the Governor-General down), as well as to all components of Parliament (including the Cabinet); and, Second, that representation could be on any matter before Government, or even after legislation, and not just on those matters affecting only ATSI persons.

The potential for governmental and judicial bedlam and frustration is enormous as well as the massive cost of a bureaucracy and attendant infrastructure that would be needed to support the Voice with its representations. A third major concern of the Voice succeeding could well be initial actions by the Voice to appoint sympathetic people to critical government and judicial positions.

Yet critics of the No campaign continually accuse it of running a 'scare' campaign. Pot calling the kettle black?

Much water has passed under the bridge over the past 12 months or so concerning the Voice, i.e., the embodiment of the Uluru statement from the Heart. The debate has already turned nasty and divisive.

The Labor Government, headed by an ambitious PM, has been most unethical and quite undemocratic in its promotion of the referendum, in discriminating against the No vote, in any way that it can, and counting on the un-questioning support and continuing good will of the populace for the new Labor Government, in:

- initially not permitting tax deductions made to the No campaign, refusing to issue Yes and No pamphlets and refusing to release the Solicitor-General's opinion on the Voice- but relenting under public and media pressure;
- contrary to previous practice, refusing to equally fund the Yes and No cases - leaving it to grossly lop-sided public donations;
- contrary to previous practice, ruling out a constitutional convention to debate the wording of the referendum question, in leaving it to various hand-picked groups to advise;
- by endorsing the Australian Electoral Commission's (AEC) decision to permit ticks as valid votes by Yes voters but making invalid the use of crosses by No voters, but not a word about ticks and crosses in the Referendum Booklet or the ballot paper; and
- to top it off, asking a single referendum question that implies that the referendum is only about recognition of ATSI peoples in the Constitution, quite contrary to the second and third parts of the proposed wording for the Constitution, dealing with implementation of a Voice. This is exemplified by the single question
"A Proposed Law: to alter the Constitution to recognise the First Peoples of Australia by establishing an Aboriginal and Torres Strait Islander Voice. Do you approve this proposed alteration?"

No other information will be provided on the ballot paper. The question is misleading by deliberate omission. Note well that this question reflects only Section 129 (i) of the three parts of the proposed Constitutional amendment. Unfortunately (but counted on by the Yes proponents), a great many voters will simply read this as "*Do you agree with recognition of aborigines in the Constitution*", in complete ignorance of the ramifications.

Irrespective of political proclivities, the PM's approach does not or should not pass the 'pub test'. As has been said "*The standard you walk past is the standard you accept!*"

Regardless, the PM is pushing ahead on the 'vibe,' aided and abetted by the left-wing media, by many big business organisations and sporting bodies. *Except, on 7 September 2023, the AFL withdrew its support and became neutral.* The Yes campaign continues to promote its emotional campaign of 'the right thing to do' and simply ignores continual criticism for not disclosing how the Voice would operate. It simply dismisses the arguments of the No case in saying that there is "nothing to worry about, nothing to see here" and that fears that the Voice would be justiciable (subject to lawfare) are completely unfounded.

It is telling also that the PM ignores opposition to the Voice by some ATSI groups and their spokespersons, for example, the Minister for Indigenous Australians, Linda Burney, and the PM refusing to meet with a full-blooded representative group from the Northern Territory.

In short, the PM and Yes proponents are asking voters to 'buy a pig in a poke' - to trust this government.

One may correctly ask what right big business, sporting bodies and Government-funded organisations have to use share-holder, members and taxpayer funds to push the Yes barrow. One must ask, what is in it for them - certainly not to help the disadvantaged ATSI peoples.?

The Opposition parties and the No proponents have attempted to lay bare the serious ramifications of a successful referendum. The No case pamphlet concludes by saying "If you don't know, vote No."

The acid test

The acid test is whether an enshrined Voice would make any difference to 'closing the gap'. The answer is a clear no, given that the means already exist in the NIAA and its 1,300 staff under Minister Burney's control, with a charter that reads exactly like what that of a Voice would look like.

In simple terms, the need for a Voice entrenched in the Constitution is not needed and, at best, is highly questionable.

M.R. Flint, Canberra, 9 September 2023

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ADDENDUM

Given more recent information, as well as letters and articles to editors, I have delved even further into the question of the Voice. See the selected letters in Box 10 to the Australian (and sister letters to the Canberra Times and Canberra City News). These letters do not change the conclusions drawn within this article but complement them.

For all letters to editors, see Hot media topics – Letters to Editor, on www.alogsyudycentre.com.au / Media

Box 10 – Addendum – important letters to the editor

The Editor

The Australian

Marcia Langton’s Voice

Two points more about the Voice.

Marci Langton at the Press Club (Aust, 7Sep23), like Minister Burney before her (Aust,6Sep), is a perfect advertisement to vote No to the Voice. Both have effectively admitted that they currently have the means to ‘close the gap’, through the 1,300 staff of the NIAA, under the Minister’s control, with a charter that reads exactly like what that of a Voice would have, complemented by the myriad aborigine advisory groups already existing around the country; even new legislation to do it is not needed. And Mr Pearson (Aust, 7Sep23) is on a flogging to nowhere with his latest ploy to tell ‘soft’ No voters the truth about the Voice because he, the PM and Yes proponents cannot afford to tell the truth of what the real ramifications of the Uluru statement would be. Have you listened to Thomas Mayo and his like?

An enshrined Voice is simply not needed to ‘close the gap’.

M. Flint, Canberra, 7Sep23

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The Australian

Minister Burney’s Voice

Minister Linda Burney’s article urging people to vote Yes on the Voice (Aust, 6Sep23), is a perfect advertisement for the No campaign. She laments the lack of progress in ‘closing the gap’ and claims that a Voice in the Constitution would fix that. Sorry, Ms Burney but you already have the means to ‘close the gap’ in the NIAA and its 1,300 staff under your control, with a charter that reads exactly like what that of a Voice would look like. Just do your job. You do not even have to have new legislation to do it and to coral effective advice from the myriad, existing ATSI organisations. In contrast. Maurice Newman’s article (also 6Sep23) is right on the money.

M. Flint, Canberra, 6Sep23

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The Editor

The Australian

The pathetic Voice

The article by Douglas Murray ‘Sorry but can we please stop the guilt trips?’ (Weekend Australian, 19-20Aug23). about guilt- branding of Australians over the plight of the Aborigine and Torres Strait Islander (ATSI) people is enlightening and a very welcome comment on a sad stage of our history. Although an Englishman, accusable of bias, he is not some sickophantic (sic) Australian leftist journalist trying to justify his country’s irrational attitude against the Voice.

Let’s face it. Without colonisation, by England or other, aborigines would still be living as they had for their claimed 60,000 years of being here - the same year 60 000 times with no change. What did aborigines achieve in all that time?

No wheel, no bow and arrow, no permanent housing, no rag trade, few utensils, the most basic cuisine, no manufacturing other than spears, woomeras, nulla-nullas, boomerangs and woven baskets. But to be fair, the aborigines had serious disadvantages. They were condemned to a hunter/gatherer existence and a survival lifestyle. There was no beast of burden, so no draught animal to permit serious agriculture or conveyance of person or

material; no metals, just stone and wood; no tools except those makable of stone and wood; and no wheel, abandoned if it had been ever invented. Most of the country at their entry point in the North-West was barren and uninviting. But lifestyles remained hunter/gatherer even after reaching the fertile East and South. In having to walk and personally carry belongings everywhere, one can easily understand why things that had to be toted were absolutely minimal. In short, for 60,000 years their greatest achievement was to actually survive in this essentially difficult land. One way or the other, they had managed to master fire to their advantage.

Colonisation with European knowhow has turned this country into a rich nation and a powerhouse to the world because of its many resources, exploitable because of Western knowledge and social structures.

Now the aborigines claim it all as if they had built it. \$30billion a year into the aborigine industry, ownership of more than 50 per cent of the land mass and mining royalties are obviously not enough (where is the money going?). Australians comprise an extremely tolerant society but are being sorely tested by a government only too happy to sustain the guilty tag being applied to its citizens by self-appointed elite representatives of the ATSI peoples.

In short, there is absolutely no benefit to the nation for the Uluru statement, and all that it implies, to be set in constitutional concrete. Aborigines should be grateful for colonisation but gratitude is not endemic to the human condition. None of them would want to revert to pre-colonial living. Enough is enough!

M. Flint, Canberra, 20Aug23

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The Editor
The Australian

Voice and health

The article on the Voice by Health Minister Mark Butler (Australian, 24Aug23) is 100% waffle and hardly worthy of a Year10 student paper. He should know better than to tote such rubbish that the Voice will do for aboriginal health what his department should be doing already.

In respect of differences in life expectancy and chronic conditions like rheumatic heart disease, where is there any mention of the real effects of genetic differences engendered by 60,000 years of total isolation as probable causes of these differences? How on earth could the Voice do better on controlling trachoma than should be happening now under his watch?

This was pure Voice propaganda by our Labor Health Minister and weak as water at that.

M. Flint, Canberra, 24Aug23

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The Editor
The Australian

Voice Subterfuge?

So, is this another dirty trick by a deceitful Labor government in the Voice referendum? First there was tax deductibility only for the Yes case. Then there were to be no information pamphlets to voters, luckily both decisions being reversed after heavy criticism. Media reports now imply that the Australian Electoral Commission (AEC) will allow on ballot papers, ticks instead of the word 'yes' but will invalidate crosses used instead of the word 'no'. How sinister and deceitful, if not unlawful, is that?

The official AEC booklet (arrived in mail 25Aug23) provides only for the words 'yes' or 'no' to be used by voters and does not mention anywhere therein the use of ticks or crosses. I understand that that is consistent with the law governing referendums.

So, if this misleading information about ticks and crosses is true, there should be an immediate legal challenge to what the AEC and Labor Government is intending. It would be a very sad day if the required, absolute impartiality of such a body as the AEC is compromised in favour of a government policy. The AEC should immediately clarify its position on this matter or, thus, remain tainted and compromised, not to be trusted ever again.

If a Coalition government attempted to pull such a stunt, the Leftist media would be outraged and squealing like cut pigs. So where is the leftist Media outrage over this apparent major transgression?

And any voter who endorses this possible subterfuge by the Government should hang his or her head in shame.

M. Flint, Canberra, 25Aug23

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The Editor
The Australian

The Gospel of the Voice according Chris Kenny

The Australian is trying hard to be balanced in putting both sides of the Voice cases (clearly absent in leftist Media) in giving so much print space to Chris Kenny to continually make his case for a Yes vote. (Weekend Aus 26-27Aug23).

But Kenny gets more and more desperate each try on his defence of the Voice. His article boils down again to a repeat of the oft-stated unsupported assertions and opinions of Yes advocates, ie. that ‘there is nothing to see here; nothing to fear; the Voice would be just an advisory body’; no need to worry about what a supportive government like Labor or the High Court may decide.

He identifies eight myths (straw men) that he then tries to demolish.

Myth 1. Race is mentioned but not defined anywhere in the constitution. S51 xxvi provides for the Commonwealth to make laws for “the people of any race...”. But are we not all a race of one kind or another?

Myth 2. He says the Voice will have no legal power, to be only an advisory body. Essentially true but ignores a willing government like Labor to implement its representations and the Media ruckus if ignored.

Myth 3. The Uluru statement is more than a page long. Even the aboriginal advocates have said so. The Uluru statement is not an innocuous document. It harbours a future of exactly what its advocates say it does – Voice, treaty, truth. How can Kenny deny what the aboriginal authors are writing and saying themselves?

Myth 4. He is advocating that a Voice is necessary to do what \$30 billion plus per annum is already trying to do to close the Gap. A Voice would just make things worse.

Myth 5. The voice is indeed an elite forum, being led by part-aboriginal academic, parliamentary and community leader elites, supposedly on behalf of our most disadvantaged cousins in remote communities. Where are the full-blood aboriginal bodies? The Government refused to meet with at least one such delegation we know of.

Myth 6. Kenny is in error. The 1999 referendum posed two questions, both related only to the establishment of a republic. There was no question about aborigines.

Myth 7. Kenny is in error. He proposed wording of part iii of the referendum question is that “The Parliament shall make laws with respect to matters relating to the Aboriginal and Torres Strait Islander Voice, ...” It does not apply only to the Voice, as stated by Kenny. Any matter affecting all Australians also affect aborigines.

Myth 8. Kenny implies that the Voice is needed to ‘close the gap’. Nowhere have I yet read anywhere how the Voice will help do that. There is currently a whole industry and a Federal Government department under the Minister for Aboriginal Affairs, of 1,300 public servants, who are supposed to be closing the gap. Where is there any sound argument that a Voice would do any better, with a yet larger and more expensive bureaucracy?

M. Flint, Canberra, 26Aug23

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The Editor
The Australian

As usual, Greg Sheridan and Robert Gottliebse get it right in their columns (The Australian, 29Aug23).

The Australian Electoral Commission (AEC) should publish its legal advice in respect of use of ticks and crosses on referendum ballot papers. Just because nothing has changed in 30 years is no excuse for the AEC. The use of ticks but invalid crosses is confusing, bad administration and certain to give a biased result.

Neither the governing act nor the official AEC booklet (arrived in mail 25Aug23) mentions anywhere therein the use of ticks or crosses. They provide only for the words ‘yes’ or ‘no’, or Y and N to be used by voters.

Robert Gottliebse is also right in saying that woke CEOs of companies will rue the day they backed the Yes campaign and now should donate also to the No campaign to compensate. They have no right to abuse shareholder funds for political purposes.

M. Flint, Canberra, 29Aug23

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The Voice

I have had cause to revisit the proposed wording for S129 of the Constitution, to provide for the Voice. I have read in detail the House of Representatives Explanatory Memorandum for the constitution alteration, the Attorney-general’s referral of the Solicitor-General’s opinion to the Select Committee on the Aborigine and Torres Strait Islander Voice referendum and the Solicitor-general’s opinion (all 24 pages).

It is important to this discussion to repeat verbatim the three parts of the proposed Section 129:

S129 (i) “there shall be a body to be called the Aborigine and Torres Strait Islander Voice.”

S129 (ii). “the ATSI voice may make representations to the parliament and the Executive Government of the Commonwealth on matters relating to ATSI peoples.”

S129 (iii) “the Parliament shall, subject to this Constitution, have power to make laws with respect to matters relating to the Aborigine and Torres Strait Islander Voice, including its composition, functions, powers and procedures.

S129(i) is not controversial. However, the underlined words in S129(ii) and (iii) words are what the controversy is all about and are the key words that are the crux of the argument.

The Solicitor-General's opinion makes it clear that the ATSI voice may make representations but is not obliged to do so, and that the Voice would have no veto power over following decisions by the Government or Parliament to accept, reject or otherwise treat a representation.

The problem lies in what is meant by the words "relating to ATSI peoples." I and other critics have always maintained that these words could easily mean that ATSI peoples could make representation on any matter before or not before the Government or Parliament, ie. not just on matters that affect only ATSI people. The Solicitor-General's opinion does not give an opinion on this point but does mention (para 38) that the "High Court has given weight to equivalent explanatory materials when interpreting previous constitutional amendments."

Although, in this context, Solicitor-General's opinion does not address directly the question of "matters relating", his para 38 can be read as saying that the High Court could invoke para 24 of the Explanatory Memorandum which says:

"The phrase 'relating to ATSI peoples' could include:'

- a. matters specific to ATSI peoples, and
- b. matters relevant to the Australian Community, including general laws and measures, but which affect ATSI peoples differently to other members of the Australian community."

Thus, the Solicitor-general's opinion in effect leaves open the question of what "affects" ATSI peoples and, therefore, what may be the subject of valid representation by the Voice, and leaves it to the High Court to give a final opinion on any challenge. This is exactly what the Voice desires, in pursuit of the Uluru Statement from the Heart, which readers should take the time to read and inwardly digest as to its potential consequences.

While not in his remit, the Solicitor-general's opinion makes no mention of the actual need for an ATSI Voice, given multiple avenues already in existence for ATSI representation (like the 1,300 strong National Indigenous Australians Agency), or the potentially large and very costly bureaucracy that would be the Voice. Nor does he address the implications of the Uluru statement. These, and the potential for government-binding litigation remain the main objections by many informed Australians to the Voice.

M. Flint, Erindale Centre,
8May23