

25 April 2021

National Indigenous Australians Agency

Voice Secretariat

By email: Co-designVoice@niaa.gov.au

Dear Professors Langton and Calma,

Submission to the Interim Voice Report

Thank you for the opportunity to provide a submission in response to the Interim Report to the Australian Government: Indigenous Voice Co-Design Process.

I make this submission as a scholar, as a lawyer, as a teacher, and, most importantly, as an Australian.

I have a PhD from the University of Queensland and a Masters degree from the University of Cambridge. I have expertise in international law, human rights law, citizenship law, and constitutional law. Prior to entering academia, I was employed by the Australian Attorney-General's Department. I have also worked in a government Ministerial office (including as both a parliamentary liaison officer and policy advisor in areas such as Health, Indigenous Affairs, and Community Services), in an anti-corruption body, as well as in private commercial legal practice and at the Federal Court of Australia. In short, I have a diverse professional background which has allowed me to consider this issue from a number of angles.

As a scholar of Australian constitutional law, I understand the primary of the written constitution over all else in the Australian legal system. For that reason, I contributed to Submission #38 made by a collection of Public Lawyers on 22 January 2021 supporting constitutional entrenchment of a Voice to Parliament.

As a lawyer, I understand the importance of formal legal mechanisms in striving equality. I also understand the principles of the rule of law and the principle of separation of powers. I have had the benefit of reading the submission of my colleague, Assistant Professor Narelle Bedford (Submission 1109) and agree with

Assistant Professor Bedford that it is possible to preserve the traditional separation of powers (between the Executive, Parliament, and the Judiciary) and still constitutionally enshrine a First Nations voice to Parliament. I also support the points she has made on the need for certainty, transparency, representation and justification in government decision-making and the ways in which enshrinement will assist with these qualities.

As a teacher of law, I have witnessed both the impacts of intergenerational trauma, but also the transformative power of legal change. I have listened to my students and know the majority of those students are moved by and support, the Uluru Statement. It speaks to them as invitation for us all to walk together and to recognise the rich Indigenous history they stand to inherit when First Nations persons are given a meaningful voice in the mechanisms of government. It shocks them that there is no evidence of any First Nations people (or women) having had a role in the drafting of the *Australian Constitution*. It shocks them that the Australian Constitution has a “race” power. That is not their Australia. I have had students, of their own volition, translate the Uluru Statement into other languages so as to share it with their own communities. The Uluru Statement means something to young people.

As an Australian, I am troubled that we still lack a formal requirement of legal equality in our Constitution. I am deeply troubled that the people who have occupied this great southern land for between 60,000 years have had little to no say in its modern making. As an Australian, I believe the Uluru Statement is a step forward in redressing this. As an Australian, I support the Uluru Statement.

I understand that change, particularly structural change, can be frightening and that caution is wise. However, it is my view, both as professional and a person, that the proposals in the Uluru Statement will not destabilise our democracy, but instead, will enhance it.

Thank you again for this opportunity to have input.

Yours sincerely

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