

Dr Martin Clark

School of Law, Private Bag 89, University of Tasmania, Hobart TAS 7001

Dear Voice Co-Design Groups,

I am a lecturer in law at the University of Tasmania. I teach and research in the fields of public law, legal theory, international law, contract law and legal history. I live in nipaluna/Hobart and was born in Melbourne. I am not Indigenous. I hold a PhD (Law) from the London School of Economics and Political Science, and an LLB(Hons), BA(Hons) and MPhil (Law) from Melbourne Law School.

I write to urge the Voice Co-Design Groups to recommend that Voice to Parliament be enshrined in the Constitution following a constitutional referendum.

The Uluru Statement from the Heart is a landmark document that charts a real course towards justice in Australia between the Australian Government and the First Nations peoples that live on and own this land. It was produced by a strong coalition of Indigenous community leaders and has a great deal of support among Indigenous and non-Indigenous people alike.

I do not speak for Indigenous peoples and their laws. I am a teacher of Australia's settler law. Consequently, I hold some responsibility for its operation, its conduct, its faults and its injustices. That law and its institutions must acknowledge that sovereignty was never ceded by First Nations peoples; this land was taken by force. The Voice to Parliament is one step in a long road towards real justice between Australia and the First Nations that it dispossessed. The Voice to Parliament will give Indigenous peoples a stronger say in the laws that affect their lives. Australia cannot claim to be a just state without it, but it is only one part of addressing the wider injustices of colonialism and empire that Australia's people and governmental institutions must grapple with today.

It is absolutely imperative that the Voice be enshrined in the Constitution. This ensures that it cannot be abolished by a simple majority of parliamentarians. If the Voice is to be successful, and frankly and fearlessly advise Parliament, it cannot operate under the fear that it might be abolished by Parliament. Just as the Electoral Act changes to keep electoral processes up to date with contemporary developments, legislation can and should deal with the particular institutional arrangements of the Voice to allow it to develop and change. But the existence of a Voice, just like the requirement that there be elections for Parliament, must be enshrined in the Constitution.

The fundamental right of self-determination means that all people and communities, including Indigenous Australians, must have a real say in matters that affect them. The Parliament needs a proper, enshrined advisory body to make sure Australian law applies fairly and properly to Indigenous people; the Voice must be that body. The Voice is not a radical proposal: Norway, Finland and Sweden each have a dedicated Indigenous body built into the structure of their parliaments. Finally, the Australian people need an opportunity to openly debate and vote on the Voice to Parliament - it must be sent to a constitutional referendum. I am confident that it will succeed. It must if we are to walk to a better future, as the Uluru Statement urges us to do.

Yours sincerely,

Martin Clark