

CHECK OUT

CCJP

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At Last! Righting the Wrong

Referendum to Acknowledge Aboriginal & Torres Strait Islander Peoples in the Australian Constitution. (No. 1)

Why?

The easy and obvious answer is because it's the right thing to do! It is strange that the history of the longest surviving culture on earth, one that continues to the present in Australia, viz the Aboriginal and Torres Strait Islander culture, is neither acknowledged nor honoured in the nation's defining document, the Australian Constitution.

What does the Australian Constitution do?

The Constitution of Australia, created in 1900, is the most powerful set of laws in the nation. It is the foundation of our political and legal systems. The Constitution tells the federal and state governments what they can and cannot do and neither governments nor politicians can change the Constitution. Our highest court, the High Court, has the final say on interpreting the Constitution and only the Australian people have the power to change it (through referendums).

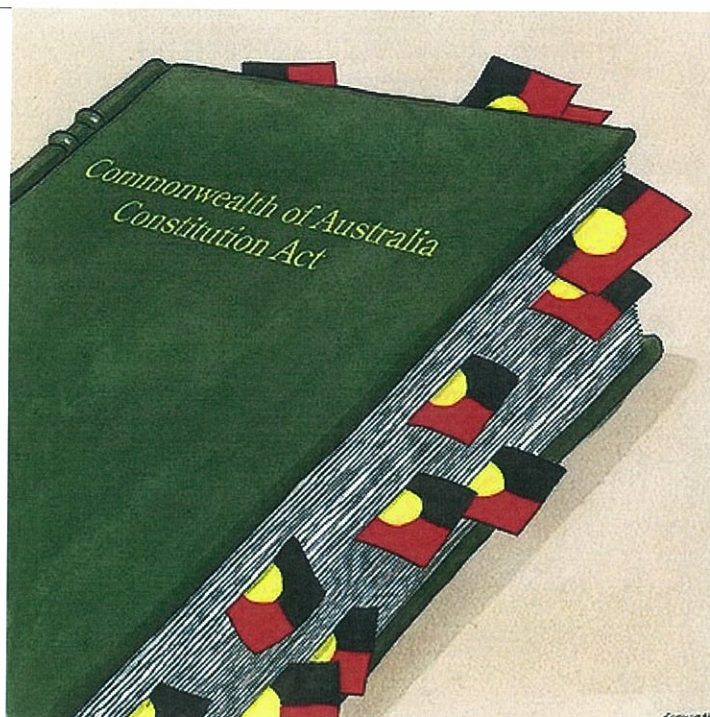


Why doesn't the Constitution recognise Indigenous Australians?

Over a hundred years ago when the Constitution was written, Indigenous Australians were considered largely to be an inferior race that was likely to die out. Their rights, cultures, history and prior occupation of Australia weren't valued or considered important enough to be included in the Constitution. It was also feared that any official recognition of Indigenous Australians might lead to claims for rights to, or compensation for, land taken since colonisation.

Why should the Constitution be changed?

Many Australians might not know that our Constitution still permits racial discrimination, making Australia the only country with a Constitution that allows for discrimination against its Indigenous peoples based on their race.



For example Section 25 of the existing Constitution permits a State to disqualify members of a race from voting for that State's more numerous house of Parliament and Section 51(xxvi) confers on the Commonwealth Parliament the power to make laws for the people of any race and carries the potential to be used in a manner adverse to Indigenous and other people on the basis of their ethnic background. This occurred through the NT Intervention legislation and the suppression of the Anti Discrimination Act.

This needs to be redressed to ensure that equal rights and respect are given to Indigenous Australians in law, and to bring our national Constitution into accord with the values of contemporary Australian society.

How could the recognition in the Constitution occur?

When people talk about recognising Indigenous Australians in our Constitution there are usually two main areas they're talking about changing. The first is changing the wording in the preamble. A preamble is a statement that introduces a constitution but has no legal

power. Changing the preamble to acknowledge Indigenous Australians would be an important statement about the place and value of Indigenous Australians in our nation.

The second possible change that people talk about is changing or adding to the main part of the Constitution where the laws are set out, which would have legal significance. For example, if a non-discrimination clause was included in the body of the Constitution, a government would no longer be able to make laws which discriminate against Indigenous Australians

What changes to the Constitution have been proposed?

In 2010 the Gillard Government committed to establishing a bi-partisan panel made up of Indigenous leaders, politicians, constitutional law experts and members of the public to build support for the recognition of Indigenous people in the Australian Constitution. That panel has now completed extensive consultations across Australia and handed its recommendations to Prime Minister Gillard. The report can be found online at www.youmeunity.com.au The next edition of CheckOut will explore some of these recommendations.

Should you wish to receive further **CHECK OUTs**, contact Cecily May, CCJP, PO Box A21 Enfield South 2133, ☎/Fax 9745 0820 Email: ccjp@bigpond.com Web: www.ccjpoz.org

Information for this Checkout from:
Reconciliation Australia: YouMeUnity:
Report of Expert Panel 2012.