

Essay:

**The Indigenous Voice to
Parliament – How, as a
regular church goer,
might I consider my
voice?**

Prepared by: Wayne L Belcher
30 January 2023

Table of Contents

| | |
|---|-----------|
| Table of Contents | 2 |
| 1 My background in First Nations awareness and activities | 3 |
| 2 What is the Indigenous Voice to Parliament proposing? | 4 |
| 3 What about a treaty with First Nations people? | 4 |
| 4 What are two contrasting ‘Christian’ views being put forward about the Voice?..... | 5 |
| 5 Why, as a Christian, I believe we should support the Voice? | 7 |
| 6 Conclusion | 9 |
| Bibliography | 10 |

The writing of this short essay began at the halfway mark in January 2023. The essay aims to provide some balancing commentary for the regular church goer at our faith community to the offerings so far presented by Christian Yes and No positions on the 2023 Australian Referendum proposal to promote an Indigenous Voice to (Federal) Parliament. The essay focuses on the contributions of two Australian Christian contributors to this debate before us.

1 My background in First Nations awareness and activities

I have passed the midpoint between 65 and 70 years of age, and admit that, yes, I am now in the later portion of my 60s. That might colour some of the terminology I use to describe some simple memories below.

Many years ago, except for a Year 5 teacher who taught us a different way in which to consider Aboriginal Australia, at best we were taught that the “natives” lived wearing scarcely a stitch of clothing, in simple lean to type shelters, fully reliant on basic hunter and gatherer skills. (I use the word “natives” as the most diplomatic term we were taught or learnt growing up.) We were taught that Indigenous Australians were very nomadic people, with this pejorative sense of “going walkabout” persisting through to today.

Our Year 5 teacher however (this was in 1965 – in changing times in race relations matters in Australia), taught us to question, to question the common beliefs and understanding, to question the stories told about how the settlers earned the right to “own” Australia, to question how a people such as our Indigenous Australians could survive for 65,000 years without a systematic approach to life in otherwise undeveloped Australia, to question how so many disparate nations of Indigenous Australians could live, not exist but live, in relative harmony without obliterating each other and the natural resources around them.

I do not remember the answers our teacher gave to his own rhetorical questions. But his expressions to us was different. Very different to what I had heard before. So different that I recall that same year being verbally dispatched at home on one Sunday family midday mealtime with my father shouting at me that if I ever dared to bring a “black girl friend into his house” I would be summarily disowned. I was ten years old ... I promised myself that “I would not ever be my father”. My parents were committed Christ followers who faithfully attended our local Baptist church and Bible study groups.

Whilst the right for Indigenous Australians to vote in Federal elections had already been achieved (in 1962 Federally and complete across all States by 1965) the pervading view on Australian race relations in my family household was very clear. This was a year or two before the 1967 Referendum to determine whether two references in the Australian Constitution, which discriminated against Aboriginal people, should be removed.

Yet, although it sounded harsh, I don’t think that my parents were unique in expressions of disdain against Indigenous Australians. However, I determined to walk a different pathway through life.

2 What is the Indigenous Voice to Parliament proposing?

The Guardian has a good online article describing what the Indigenous voice to Parliament is and how it is envisaged to work. The most recent update of this article is from 5 December 2022.¹ I refer you to and recommend you reading this and related articles.

3 What about a treaty with First Nations people?

In the Australian Government proposing the Voice by federal referendum, you may recall that this was only one of the outcomes sought from the joint work by Indigenous leaders in the Uluru Statement from the Heart in 2017. Three outcomes were called for – Voice, Treaty, and Truth. Put another way, the Uluru Statement called for “a voice to parliament enshrined in the constitution and a Makarrata commission to oversee a process of treaty-making and truth-telling.”² (Makarrata “has so many layers of meaning, ... (The) first one, and the main one, is peace after a dispute” says Merrikiyawuy Ganambarr-Stubbs, a Gumatj woman and principal of Arnhem Land's Yirrkala School.”³)

It can be inferred based on pre-election policy and lobbying, that in May 2022, the Australian Labor Party was elected on a promise to implement the Uluru statement in full. Whilst in the five or so years since the formation of the Uluru Statement some State and Territory governments have proceeded with treaty-making and truth-telling processes, generally Australia has had a poor history with treaty-making, and one wonders if the stumbling block is a strong hesitation to embrace truth-telling about our colonial history.

A treaty is a binding agreement on two or more parties to an action. We would liken the word treaty to covenant that sets out the roles, responsibilities and obligations of each party to the agreement to maintain the agreement. Canada, Finland, Greenland, Japan, New Zealand (Aotearoa), Norway, Sweden, and the United States of America, have negotiated recognised treaties with First Nations people. Canada has since 1701 made some 70 recognised treaties with its Indigenous peoples. In the USA some 360 treaties were made between 1778 and 1868, mainly to end violence between First Nations people and settlers, later resulting in efforts to forcibly move First Nations people from their lands.

But treaty-making is not always successful. In New Zealand the 1840 treaty of Waitangi is still being grappled with, largely around interpretation and translation difficulties from the original, and based around sovereignty of land and property. That it has taken well almost 250 years since colonisation to have a first treaty formed puts Australia way behind other developed nations in this important area of reconciliation. In 1988, Australia’s bicentennial year, Treaty 88 took off amidst major Aboriginal protests against the bicentennial celebrations. In June 1988 the Barunga statement was presented to then Prime Minister Bob

1 Lorena Allam, 'What is the Indigenous voice to parliament and how would it work?' *The Guardian*. <<https://www.theguardian.com/australia-news/2022/dec/05/what-is-the-indigenous-voice-to-parliament-referendum-australia-how-would-it-work-why-should-we-have-it-explainer>>. Accessed 16 January 2023.

2. Emily Anderson, 'Christian groups affirm Uluru Statement on Mabo anniversary' *Eternity News* <<https://www.eternitynews.com.au/australia/christian-organisations-affirm-uluru-statement-from-the-heart-on-mabo-anniversary/>>. Accessed Monday 16 January 2023.

3 Merrikiyawuy Merrikiyawuy Ganambarr-Stubbs in ABC RN (Luke Pearson), 'What is a Makarrata? The Yolngu word is more than a synonym for treaty' <<https://www.abc.net.au/news/2017-08-10/makarrata-explainer-yolngu-word-more-than-synonym-for-treaty/8790452>>. Accessed Monday 16 January 2023.

Hawke by traditional owners, with Mr Hawke promising that there would be a treaty in place by the end of 1990.⁴ Such a national treaty has not yet been realised.

Often referred to as Australia's first treaty is the southwest native title settlement caught under the *Koorah, Nitja, Boordahwan (Past, Present, Future) Recognition Act 2016 (WA)*.⁵ By the end of 2022, Queensland, Victoria, Northern Territory, Tasmania, and South Australia all have processes in place or under development around truth-telling and/or treaty-making. Victoria has recently passed legislation to establish an independent Indigenous treaty authority. New South Wales seems the outlier at the end of 2022, although the NSW government has expressed broad commitment to the principles of the Uluru statement.

There is one other treaty that was struck in Victoria many decades ago called “Batman’s Treaty”, a trinket treaty, and framed more like a deed of lease rather than an endorsed legally binding treaty agreement. At the core of the treaty was likely the desire to avoid a “Black War”.⁶ This property sale agreement was later quashed by the Governor of New South Wales.

Following a hopefully successful referendum on the Voice, we can in a reasonable time following also succeed in establishing respectful, abiding treaties with our First Nations people that can be enshrined into Federal and State jurisdictional legislation.

4 What are two contrasting ‘Christian’ views being put forward about the Voice?

I have read much about the proposed referendum on the Voice proposal. I have determined to support the proposal. This decision is mine and in a democracy I respect the right of any other person to choose to support or reject the proposal. All I desire is that people do their own research about what is being asked, about our real colonial history, about why our First Nations people are still so disdained, about acknowledging how we are perpetuating intergenerational trauma, and about how much more we all need to do to support our First Nations people and really close the gap across Australia.

I have selected an article each from two authors for comparison and commentary:

- Martyn Iles, Managing Director of the Australian Christian Lobby; and
- Alex Deagon, Senior Lecturer in the School of Law at Queensland University of Technology.

Both authors have trained as lawyers but taken differing career paths through their life. Both express their faith in differing styles and contribute articles to their preferred audiences.

Let’s compare some of the views expressed by each writer in their articles that follow. I warmly encourage you to read both articles in full, and begin to ponder the differences in style and argument in the excerpts in the table below:

4 Bridget Fitzgerald and Sinéad Mangan, 'Treaty 'unfinished business' for Aboriginal Australians, decades after it was promised' <<https://www.abc.net.au/news/2019-06-10/barunga-festival-marred-by-unfinished-treaty-business/11194706>>. Accessed Monday 16 January 2023.

5 Koorah, Nitja, Boordahwan (Past, Present, Future) Recognition Act 2016 (WA).

6 Robert Kenny, *The Lamb aenters the Dreaming: Nathanael Pepper & the Ruptured World*. (Scribe), p68.

- Martyn Iles – <https://www.acl.org.au/indigenous-voice#splash-signup>⁸; and
- Alex Deagon – <https://www.etrernitynews.com.au/opinion/reconciliation-and-recognition-a-christian-approach-to-indigenous-australians-and-constitutional-change/>⁹

My experience with the ACL is from their online posts and articles. I am aware that a hard copy of Eternity news is occasionally available to be collected from our Sunday services. I am aware that several in my local church community follow the Australian Christian Lobby (“ACL”) in their social media platforms.

| Author | |
|--|--|
| <p style="text-align: center;">Martyn Iles</p> <p>Article Title – <i>Indigenous voice denies we are all one race – human</i></p> <p>Publication date: 9 September 2022</p> <p>Paragraph 4 <i>Dividing a country by race, he argued, was “a tragic evil that is utterly un-Christian”. Yet a nation divided by race is exactly the desired outcome of those seeking to enshrine an Indigenous voice to parliament in the Australian Constitution.</i></p> <p>Paragraph 5 <i>We are told by proponents of the voice that democratic institutions are not good enough for Indigenous Australians but they need their own, Indigenous-only, race-based body within the structures of government. Not only do they claim this will correct the injustices of the past, they also claim this is the only way to guarantee Indigenous Australians can have a say over the laws and policies that affect them.</i></p> <p>(From) Paragraph 22 <i>... a nation segregated by race is a blatant denial of the unity that we are all offered in Christ.</i></p> | <p style="text-align: center;">Alex Deagon</p> <p>Article Title – Reconciliation and Recognition: A Christian Approach to Indigenous Australians and Constitutional Change</p> <p>Publication date: 28 July 2021</p> <p>Paragraph 9 It is also not racist or contrary to equality to provide Indigenous Australians with special treatment through statute and/or in the Australian Constitution for at least three reasons. First, Indigenous Australians have a unique status as First Peoples. Second, they are recognized as such under international law (with associated rights to self-determination). Australia has ratified the <i>Convention on the Elimination of Racial Discrimination</i>; Article 1(4) states that special measures taken for the benefit of indigenous people do not constitute racial discrimination. That is an international recognition of the principle that providing specifically for indigenous people in a statute and/or the constitution does not amount to racial discrimination. Third, they have been subject to historical injustices by the state and are a disadvantaged minority group. Special measures to benefit Indigenous peoples have been accepted as being consistent with the <i>Racial Discrimination Act 1975</i> (Cth) in the High Court.”¹⁰</p> <p>(From) Paragraph 12 Ultimately then, reconciliation demonstrated by recognition of indigenous people through acknowledgement in the Australian Constitution is a Christian imperative. Working for justice and reconciliation between Indigenous and non-Indigenous peoples by supporting Australia’s First Nations People’s rights to self-determination and better recognition and respect as the First Peoples of Australia is a godly way of living to which Christians are called.</p> |

7 Martyn Iles, 'Indigenous voice denies we are all one race - human' <<https://www.acl.org.au/indigenous-voice#splash-signup>>. Accessed Monday 16 January 2020.

8 ibid. Accessed Monday 16 January 2020.

9 Alex Deagon, 'Reconciliation and Recognition: A Christian Approach to Indigenous Australians and Constitutional Change' *Eternity News* <<https://www.etrernitynews.com.au/opinion/reconciliation-and-recognition-a-christian-approach-to-indigenous-australians-and-constitutional-change/>>. Accessed Monday 16 January 2023.

10 Racial Discrimination Act 1975 (Cth).

A preliminary glance at the two columns above suggest that Deagon writes with more sensitive, inclusive, preferring the other, style than does Iles.

Iles maintains that our “Constitution should remain colourblind.”¹¹ But today, Australia remains a nation divided by race. If not divided, then certainly the gap is indeed a gulf. For example, while on almost every Closing the Gap measure, “there has been progress, achieving equality in life expectancy and closing the gap in life expectancy within a generation is not on track to be met by 2031. Aboriginal and Torres Strait Islander people still have a lower life expectancy than non-Indigenous people.”¹² Even though the Australian Constitution recognised equality amongst all people, it took over 60 years for Australia First Nations people to receive the right to vote. After promises have been made, almost 250 years after colonisation and settlement, we still have limited treaty agreements, truth-telling reconciliation has largely still not been implemented, and limited health resources are still not meeting the health care needs of our First Nations people in terms of some simple outcomes, and life expectancy.

I believe it is time we recognised that our founding Constitution needs to be changed to facilitate improvement in outcomes for all Australians. Previous goodwill has simply lacked real will to achieve the same outcomes for First Nations Australians as we have seen achieved for the bulk of us.

Surely it is these shared outcomes that we seek, and that Iles refers to, when he writes of the apostle Paul’s reminder that “the kingdom of God is colourblind, for “there is neither Jew nor Greek, there is neither bond nor free, there is neither male nor female: for you are all one in Christ Jesus”.”¹³ Except that Iles proffers this comment from a position of power of white Australia. Iles argues against the notion that the postmodern world view is not about individual acts of racial prejudice but rather about racist structures that we are effectively born into.

Just like most people who are colourblind are born into it – it is genetic. I am colourblind and have been since birth. Like most with this recessive gene, I can see colours, but if you ask me to specify the colour I am looking at I will likely get it wrong as often as I get it right. Most people with colour blindness can see colours – just unsure of what they are. There are few who are totally colourblind, that is, can only discern varying colours of black through greys to white. In this sense Iles’ metaphor of colour blindness works – many Australians see the need for change, but we just don’t know what to say or do. Perhaps the first big step is saying “Yes” to the Voice, weighing up what the harm might be in saying “No” versus the amount of good that will come from a resounding “Yes”.

5 Why, as a Christian, I believe we should support the Voice?

Herein lies the challenge about why I believe we should support the Voice. Whilst as a Caucasian non Indigenous Australian I was not personally responsible for the travesty and continuing injustice visited on our First Nations brothers and sisters over the past almost 250

11 Iles, above n 7.

12 National Indigenous Australians Agency, 'Closing the Gap Report 2020' (National Indigenous Australians Agency, <<https://ctgreport.niaa.gov.au/sites/default/files/pdf/closing-the-gap-report-2020.pdf>>, p8.

13 Iles, above n 7.

years, I have benefited in life in every possible way from, as the saying goes, to the victor belong the spoils. Time since first settlement is increasingly showing that any sense of victory was very hollow.

At settlement of this great country, Australia was taken from the First Nations people. Writing in *Was the Colonialisation of Australia an Invasion of Sovereign Territory*, Nicholson confirms the arrangements of international law in place at the time of First Fleet arrival through to the late 19th Century when he writes that at settlement “Australia was the sovereign territory of its inhabitants. On that premise, saying that Britain invaded Australia is not only a matter of historical, moral or political opinion. It is, in addition, a legally accurate description from the perspective of international law.”¹⁴ At the end of his thoroughly researched essay on the sovereignty of Australia pre-colonisation, Nicholson writes:

“I conclude, then — not with complete certainty, but with a high degree of confidence, as high as can be hoped for — that pre-colonial peoples of Australia generally did have sovereignty in international law, at least relative to Britain, in the century from 1788. The idea that in this respect they were comparable to states is evoked by the term ‘First Nations’.”¹⁵

Lindley however, observed that international law at the time of invasion by the British into Australian soil could not prevent “a forcible expropriation of the natives’ of a territory”.¹⁶ The (European) world was in a race to conquest and colonise untamed native lands in the southern hemisphere. We can therefore discuss the colonisation of Australia as being an invasion of an otherwise sovereign territory in a (an internationally acceptable) “legal sense”¹⁷; and in an historical, moral, and political sense.

While I am not a practitioner of the Law, when undertaking my Masters degree in Business Law, and particularly studying property law in Australia, I became absolutely convinced of the injustice we have continued to visit on our First Nations people. Readers may be familiar with the 1992 Mabo decision – Overturning the legal doctrine of terra nullius (land belonging to no-one) – [here](#)¹⁸ for a ‘short’ summary. These words from High Court of Australia Justice Brennan summarise the position in which our First Nations people were put at colonisation:

“It was only by fastening on the notion that a settled colony was terra nullius that it was possible to predicate of the Crown the acquisition of ownership of land already occupied by indigenous inhabitants. It was only on the hypothesis that there was nobody in occupation that it could be said that the Crown was the owner because there was no other ... the rejection of the notion of terra nullius clears away the fictional impediment to the recognition of indigenous rights and interests in colonial land”¹⁹

and

“The dispossession of the indigenous inhabitants of Australia was not worked by a transfer of beneficial ownership when sovereignty was acquired by the Crown, but by the recurrent

14 Rowan Nicholson, 'Was the Colonialisation of Australia an Invasion of Sovereign Territory?' 20(2019)(2) *Melbourne Journal of International Law* , p2.

15 *ibid*, p33.

16 M F Lindley, *The Acquisition and Government of Backward Territory in International Law: Being a Treatise on the Law and Practice Relating to Colonial Expansion* (Longmans, Green and Co, 1926), p47.

17 Nicholson, above n 13, p36.

18 Australian Institute of Aboriginal and Torres Strait Studies, 'Overturning the doctrine of terra nullius: The Mabo Case' <https://aiatsis.gov.au/sites/default/files/research_pub/overturning-the-doctrine-of-terra-nullius_0_3.pdf>. Accessed Friday 20 January 2023.

19 Brennan J. *Mabo v Queensland (No 2)* 1992 HCA 23, at para 46.

exercise of a paramount power to exclude the indigenous inhabitants from their traditional lands as colonial settlement expanded and land was granted to the colonists.”²⁰

It is not possible for me to correct what was done with the arrival of the First Fleet almost 250 years ago, and what has been perpetuated throughout much of our Australian history. I can however acknowledge that our Indigenous history is real, the hurt is real, and the pain, suffering, and injustice is real. To continue to ignore increases the harm we bring to a marginalised people.

As a Christ follower I need to acknowledge the past as often as I can and prefer others in love. For this reason, I have no doubt that I must support the need to change our nation’s Constitution and offer a Voice to the Australian Parliament for Indigenous Australians. As Gershon Nimbalker put it recently speaking for Common Grace in Eternity, Aboriginal Christian leader, Yorta Yorta man, pastor and advocate William Cooper’s 1938 call “should ring out for all believers, indeed all Australians. We are of one blood, all image bearers of the divine. There is no pathway for us to ignore, justify or minimise the persecution and the injustices committed upon Aboriginal and Torres Strait Islander people. Our only response, Cooper reminds us, is to now do our bit to see these injustices addressed and pursue fairness.”²¹

6 Conclusion

I believe that Iles’ use of a form of reverse racism being deduced from the referendum proposal for an Indigenous Voice to Parliament is nothing short of a trap. In my view, the panegyric use of Martin Luther King’s words in Iles’ full article extracted above to propose the notion that the Voice process is in and of itself racially discriminative is an appalling use of privilege. Australia has domestic legislation, and is a signatory to international conventions, that support self-determination for First Nations people, provides for special measures to support/promote First Nations people’s initiatives, and specifically counters suggestions that these provisions amount to racism.

However, there is a way, a pathway before us to choose whether to promote self-determination for our First Nations people and endorse the referendum proposal for an Indigenous Voice to Parliament, or squander this rare opportunity for grace, respect, opportunity, and greater love and reject the referendum proposal.

My fellow Christ followers, when it comes to making my choice about the Voice, I pray:
Heavenly Father, as far as it depends on me, acknowledging the nudges of your Holy Spirit, I will do all things I can to value every other person in my community and across this nation as a person, equal to me, and created by You in Your image. I will strive to affirm for every Australian the right to self-determination, freedom from powerlessness, and hope for a just future for all.

WLB:WLB [2301]

20 Ibid, at para 63.

21 Gershon Nimbalker in, 'What is Aboriginal Sunday?' *The Guardian*.
<<https://www.eternitynews.com.au/australia/what-is-aboriginal-sunday/>>. Accessed Friday 20 January 2023

Bibliography

Allam, Lorena, 'What is the Indigenous voice to parliament and how would it work?' *The Guardian*. <<https://www.theguardian.com/australia-news/2022/dec/05/what-is-the-indigenous-voice-to-parliament-referendum-australia-how-would-it-work-why-should-we-have-it-explainer>>

Anderson, Emily, 'Christian groups affirm Uluru Statement on Mabo anniversary' *Eternity News* <<https://www.eternitynews.com.au/australia/christian-organisations-affirm-uluru-statement-from-the-heart-on-mabo-anniversary/>>

Australian Institute of Aboriginal and Torres Strait Studies, 'Overturning the doctrine of terra nullius: The Mabo Case' <https://aiatsis.gov.au/sites/default/files/research_pub/overturning-the-doctrine-of-terra-nullius_0_3.pdf>

Deagon, Alex, 'Reconciliation and Recognition: A Christian Approach to Indigenous Australians and Constitutional Change' *Eternity News* <<https://www.eternitynews.com.au/opinion/reconciliation-and-recognition-a-christian-approach-to-indigenous-australians-and-constitutional-change/>>

Fitzgerald, Bridget and Sinéad Mangan, 'Treaty 'unfinished business' for Aboriginal Australians, decades after it was promised' <<https://www.abc.net.au/news/2019-06-10/barunga-festival-marred-by-unfinished-treaty-business/11194706>>

Gershon Nimbalker in, 'What is Aboriginal Sunday?' *The Guardian*. <<https://www.eternitynews.com.au/australia/what-is-aboriginal-sunday/>>

Iles, Martyn, 'Indigenous voice denies we are all one race - human' <<https://www.acl.org.au/indigenous-voice#splash-signup>>

Kenny, Robert, *The Lamb centers the Dreaming: Nathanael Pepper & the Ruptured World*. (Scribe)

Lindley, M F, *The Acquisition and Government of Backward Territory in International Law: Being a Treatise on the Law and Practice Relating to Colonial Expansion* (Longmans, Green and Co, 1926)

Merrikiyawuy Ganambarr-Stubbs in ABC RN (Luke Pearson), Merrikiyawuy, 'What is a Makarrata? The Yolngu word is more than a synonym for treaty' <<https://www.abc.net.au/news/2017-08-10/makarrata-explainer-yolngu-word-more-than-synonym-for-treaty/8790452>>

National Indigenous Australians Agency, 'Closing the Gap Report 2020' (National Indigenous Australians Agency, <<https://ctgreport.niaa.gov.au/sites/default/files/pdf/closing-the-gap-report-2020.pdf>>

Nicholson, Rowan, 'Was the Colonialisation of Australia an Invasion of Sovereign Territory?' 20(2019)(2) *Melbourne Journal of International Law*

Koorah, Nitja, Boordahwan (Past, Present, Future) Recognition Act 2016 (WA)

Mabo v Queensland (No 2) 1992 HCA 23

Racial Discrimination Act 1975 (Cth)