

MASON, Ms Andrea, Co-chair, Prime Minister's Indigenous Advisory Council

SARRA, Professor Chris, Co-chair, Prime Minister's Indigenous Advisory Council

[17:12]

Evidence was taken via teleconference—

CHAIR: I welcome co-chairs of the Prime Minister's Indigenous Advisory Council. Thank you both for your patience and for being available. Do you have any comments to make on the capacity in which you appear?

Prof. Sarra: I think it's also probably worth noting that I'm the chairperson of the Taribelang Aboriginal Cultural Corporation in Bundaberg.

CHAIR: Thank you. Just persist with me for a bit; I've got a bit more formality to go through. Thank you for meeting with the committee today. The committee has been asked by the Commonwealth parliament to look into constitutional recognition relating to Aboriginal and Torres Strait Islander peoples. The resolution of appointments outlines in more detail the aspects for the committee's consideration. As co-chairs of the committee, we have made statements expressing our wish to hear more from First Nations peoples as we start our work. We have also explained that we will continue to receive submissions and hear more views around Australia in coming months.

We need to ensure that everyone present is aware of procedural considerations. Today the committee is taking a Hansard record of the proceedings, but it is not being broadcast. Microphones aren't broadcasting or amplifying your words in the room, but they are likely to be on and recording at any given time. The committee may wish to make the Hansard record public at a later date, but will seek your views on this before doing so. If you feel very strongly that you don't want your views recorded in any way, we will give consideration to that.

When you provide information to a committee, you are covered by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage you on account of the evidence given, and such action may be treated by the parliament as a contempt. It is also a contempt for you to give false and misleading information. If you make an adverse comment about another individual or organisation, that individual or organisation will be made aware of the comment and given reasonable opportunity to respond to the committee. Would you like to make a brief opening statement?

Prof. Sarra: Thank you, Senators. I'm delighted to have the opportunity to start this very important conversation with you. I have signalled through staff at the Department of the Prime Minister and Cabinet that our interest is in working with you in a way that is productive and can enhance the progress of this important matter. It's fair to say that a level of frustration has probably crept in from Indigenous and non-Indigenous Australians, so I come to the table with a very strong interest in seeing this matter progressed and hopefully resolved in a way that suits all of us.

Ms Mason: Thank you, Senator. I'd just like to say that, under those conditions that you went through, I'm happy to participate in this meeting and don't have any issue around my comments being recorded. Like Chris, I'm here to provide input to this process, which we do hold in high regard. Some of our thoughts may be of a personal nature but also may be of a collective nature from insights that we have received and that I've received over the period of my life, living here in Australia as an Aboriginal person but also participating in a number of organisations, particularly the current organisation that I'm the CEO of, NPY Women's Council, which works in the tri-state region of Central Australia.

CHAIR: Thank you very much.

Senator McCARTHY: It is lovely to have you both on. We've been trying to understand the process of the Referendum Council and the many dialogues—the 13 dialogues—they held around the country. Was the IAC involved in any of the dialogues?

Ms Mason: I can speak first, Chris. I attended the Brisbane roundtable as an observer; unfortunately, I was not on the invitation list for the Uluru summit convention.

Senator McCARTHY: Were you invited as an individual, or were you invited as a representative of the Prime Minister's IAC?

Ms Mason: As co-chair of the IAC.

Senator McCARTHY: I thought you said you went to the Brisbane one, but not the Central Australian one.

Ms Mason: Yes, that's right. I really wanted to attend the Central Australian roundtable, but I had already left to take some time off in Sydney, so I couldn't attend the Ross River roundtable I requested to attend as an

observer at the Brisbane roundtable, because I really wanted to be part of a roundtable. I really wanted to hear a community work through the issues and also to see that process.

Senator McCARTHY: What about in a more formal request to the IAC? Was the IAC itself involved, whether it was yourselves or another representative?

Ms Mason: No.

Senator McCARTHY: So when the decision to say no to the Referendum Council recommendation was made, was the IAC consulted?

Ms Mason: When the decision was made by cabinet, we found out about that decision with everybody else in Australia.

Prof. Sarra: As I recall, we were in Canberra for an IAC meeting—

Ms Mason: Yes.

Prof. Sarra: and it was leaked to the press that morning, which was disappointing.

Also, I would just backtrack a little and underline what Andrea suggested. From my perspective, yes, we weren't invited to participate formally as representatives of the IAC. I do recall PM&C staff inviting us as observers. I was invited to the Brisbane forum, not to the Uluru forum, and it was only in the context of an being observer. I just want to underline that point. Going back to your secondary question, we found out via a leak to the media.

Senator McCARTHY: And in terms of that decision, or even the Referendum Council's position around their recommendation, did the IAC have a position anyway?

Ms Mason: After the report was tabled, we received a briefing from the department. We went through the recommendations and we had a discussion as a council about both the report and the Uluru statement. There was a view amongst the council that those documents were to be viewed together, were complementary, and should be taken as a complete picture: the consultation, the Uluru statement and then the report of the council. I'd also say that there was very strong acknowledgement that the process of consultation and of getting a consensus reached at the Uluru convention was very highly regarded by the council.

Senator McCARTHY: I just want to clarify this: knowing that view was there with the consultation, did the IAC support the recommendation of the Referendum Council to have a voice?

Ms Mason: For a representative body to be enshrined in the Constitution?

Senator McCARTHY: Yes.

Ms Mason: Yes. There was support for that, but there was also an acknowledgement that that would be a very difficult case to make to the Australian people.

Senator McCARTHY: I'm having a bit of trouble hearing you. What was the difficulty? I just missed that last bit. You said it was acknowledged that it was going to be difficult.

Ms Mason: There was a discussion around the general difficulties for that hard question to be put to the people and for it be a successful referendum. But, as I'm saying, there was a clear understanding of the outcome of the council's report in recommending a voice for the parliament, but there was also a discussion amongst the council around the reality of that being a successful referendum, if that question was put to the Australian people, and there was a sense that that would be a difficult question to succeed.

Prof. Sarra: I might just jump in there, Andrea, and add that that complexity was acknowledged, and I have to say that whilst the view was embraced by the council, it couldn't be described as a unanimous view. It was made clear at the council conversation that this would be very tough to get across the line, so that formed part of the conversation. I think, Andrea, we got to a point where we recognised that, if we put that question, it would be very difficult, notwithstanding that the Uluru statement contained three elements that could not be ignored, and we made this very clear to the Prime Minister. Those three elements were the need for a sense of voice for Indigenous Australians, the need for agreement making and the need for truth telling.

Senator McCARTHY: In your introductory statement, you were saying that this is an important matter, even though it has been frustrating at times. Where does the IAC sit on the concept of a legislated voice, if not enshrined?

Ms Mason: We did have a discussion about that option, and there was a general discussion about that option in the context of ATSIC, as a former iteration of a national body and discussions on the benefit as well as the difficulties of ATSIC. But there was a general sense that there was an opportunity to look at the national body and

to think about it in light of the voice, agreement making and truth telling as a consideration that it could be a different elevation of a national voice for those elements.

Ms Mason: I would also say that there are members talking about I guess another view around the potential of Australia becoming a republic and what that would mean in relation to this matter of recognition and matters to do with treaty and sovereignty. It was part of just thinking about where we are in history and other broader discussions that could also be considered at a future time.

Ms McGOWAN: I'm wondering if you could both give us your wisdom and your advice, I suppose. You've been around this process for a very long time. What advice or wisdom can you give us as a committee so that we can learn from past experiences? Are there two or three things that you could tell us to be wary of or to be careful of or to note?

Ms Mason: I will jump in and perhaps Chris and I can tag this response. One of the points I put down in relation to that type of question is for us who have some opportunity to be involved in this process to think about and respect Aboriginal and Torres Strait Islander people in this process but also to respect the Australian people and to use the benefit of hindsight in a way that we bring the Australian people along on this journey. In thinking about it today, I have thought about previous reports, particularly the previous reports making recommendations around the race power. I say that with this as a personal story. I was living in Sydney last year for nine months and working with people that have really spent most of their lives living in that city. When I had conversations with people talking about constitutional recognition, because that was a hot button topic last year with the report coming out, there were a lot of people who had significant goodwill towards the process but really lacked a deep understanding of not only the history but also the way forward and why. I take that on board as an important factor. Using the benefit of hindsight, of what we know about this matter and how it's presented to the Australian people, we need to be mindful that there is still a level of not being fully aware of all of the factors behind this and how it really matters to Aboriginal people out in the general community.

Prof. Sarra: I'll jump in there. With the notion of recognition in the Constitution, I think it's worth stepping back and asking: Who is this designed to benefit? Whose interest does this serve the most? Does it serve the interest of Indigenous Australians, does it serve the interest of the rest of Australia or does it serve and enhance the life of all of us? I think that's an interesting one to reflect on. I underline the points that Andrea made about respecting the broader Australian population and them being able to understand what the returns are for something like recognition in the Constitution. It's worth being able to articulate that. I have to say that I was never a fan of the all-or-nothing type strategy coming out of Uluru. I thought that was problematic, and I strongly suspect that that is why it failed. As we progress, we have to contemplate how we can take everybody forward with this, so that we can all see that there's skin in the game and benefit for all of us.

I want to reiterate the three points that were made earlier about agreement-making, truth-telling and a sense of voice. Those three things will persist until a Prime Minister embraces that and grapples with that challenge. If it falls over here, the need for those three things will persist until we get it right. Voice is enabled now, but there are other ways beyond enshrining something in the Constitution, and it's worth exploring that. At the Closing the Gap forum we looked at the ACT elected body as a sense of voice in the ACT in and around Closing the Gap targets and all of those sorts of things. For some people that won't be ideal, but it's worth exploring the best options from all around the world—as indeed we have done.

I was having a conversation with Andrea earlier and I grappled in my own head about whether or not we should just go back to imagining where the relationship started between Aboriginal Australia and new Australia and what it would look like if we had got it right then. In some ways that's what we are faced with. If we acknowledged each other as decent human beings and we honoured the humanity of each other and we were able to do that in a way that we didn't go right back at the start, what would that look like? The sort of wrestling in my head tells me that we've got this added complexity that's emerged. The relationship has been so dramatically contaminated and there are elements of that that have to be dealt with as well. So we're at a place now where, again, we have to acknowledge and honour the humanity of each other as Aboriginal Australians and new Australians. If we do that, what does that mean for embracing those three things and moving forward?

I will leave those thoughts with the committee as you go forward, and I am happy to come back to that at some later stage.

Ms BURNEY: Thank you Andrea and Chris. You have said some really profound and important things and there are lots of things for us to consider. I am not sure if the advisory council is going to put in a submission. But it seems to me that part b of our terms of reference, which talks about consultation and engagement on policy legislation, would be a worthwhile thing for you to have a think about and perhaps put something to us in a submission.

Ms Mason: We will definitely take that on board and talk to our colleagues about that.

Ms BURNEY: Thank you.

Mr SNOWDON: I hope your visit went well, Andrea.

Ms Mason: Yes, it was wonderful. Thank you very much.

Mr SNOWDON: That's great. I have a couple of questions that are basically around what you see your role as in terms of the ongoing discussion that we are now embarking upon and whether or not you see that your organisation will actually deliberate at some length over, for example, what a voice, a structure, might look like, given that you've had a discussion around ATSIC and its failings et cetera. It seems to me at least—and I think it's fairly widely understood—that the voice was pretty ephemeral. It had nothing around it—no engineering, no architecture; nothing. So, when the concept of a voice appeared, I can understand why some people might have said, 'We're not coping that.' And some people said—I didn't agree—that this could be a third chamber of the parliament. Are you of a mind to actually give this more thought? Do you see yourselves having an ongoing role in talking to the Prime Minister and the government about these matters, and, if so, how will you deliberate over them?

Ms Mason: That's a very good question, a very deep question.

Prof. Sarra: If it's alright, Andrea, I'll have a go, if you don't mind my jumping in. Warren, it's a double-barrelled question, I think. On the question of the council, my view has always been that, since the advisory council was established in a new form when Andrea and I have become co-chairs, our modus operandi has been to ensure that the Prime Minister and Indigenous Affairs minister do not isolate themselves to take advice just from the council. Our role is to give them advice about who they should be taking advice from, so to speak. If there are matters on health, we can give some advice, but, really, there are some key people that they should be talking to. I think they've embraced that kind of messaging, and many of the peak bodies on the Indigenous policy landscape have been appreciative of that response, because there was a level of frustration about their being ignored while previous administrations had a blocked or very narrow source of advice. Our commitment was to open up their ears just to make sure that they were talking to the people that they need to be talking to, and I think we've been reasonably successful at doing that. In the context of this issue, we don't have a constitutional expert on the advisory council, so it's fitting that there are several key players, key agencies, that the Prime Minister and the Indigenous Affairs minister should be taking their advice from on this, and we'd happily facilitate that.

The second part of your question was getting down to the nitty-gritty line of inquiry, and I flagged earlier that I'm attracted to and persuaded by the notion of the elected body in the ACT, and I think that could be extrapolated across Australia. For instance, in Queensland, where I'm from, I think it's worth exploring the idea of re-prosecuting the ATSIC boundaries. Then, when the next federal election comes up, who knows, perhaps we could see Indigenous Queenslanders elected along those lines to play a part by having almost Senate-like powers to be able to roll directors-general in from across various departments to collaborate with, to challenge and to question them around things like the Closing the Gap targets. That would happen at a state level, and that could happen. It doesn't have to be enshrined in the Constitution. So blackfellas would then be able to have voice in that regard. To continue that, I think you could take the chairperson from each of those entities across states, and that would become your national Indigenous congress to represent blackfellas on the national stage on the national Indigenous policy landscape. So there's one level.

When it comes to agreement-making, my very strong view is that the notion of a national agreement or a treaty, so to speak, or an accord would be quite impossible. I think that the idea that the Prime Minister would sign off with one Aboriginal person on behalf of all Aboriginal Australia is, frankly, unachievable. I'd be happy to be challenged or told differently, but I think what would be more realistic would be if the Prime Minister and state premiers and local mayors of various councils could strike agreements with local traditional owner groups. That's how we could achieve agreement-making. It may not be one national treaty, but it might be a series of agreements that are three tiered, with federal representation, with state representation and with local municipal representation signing up with local traditional owners. I think those matters are worth exploring along the lines of agreement-making.

CHAIR: Chris, if you wouldn't mind conveying to us in writing those noble and worthy ideas, that would be most appreciated.

Prof. Sarra: Sure.

CHAIR: Thank you for your contribution and for making yourselves available. We look forward to any further advice that you can assist this committee with going forward. I advise the committee that we will be meeting at 9 in the morning in this room. I thank all of you for your participation. This meeting is now adjourned.

Committee adjourned at 17:46