

CONSTITUTIONAL RECOGNITION OF INDIGENOUS AUSTRALIANS

Catholics in Coalition for Justice and Peace is a coalition of individuals and groups working for the emergence of just social structures in Australia and overseas. CCJP welcomes the opportunity to make a submission to the Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples

The United Nations Declaration on the Rights of Indigenous Peoples is the foundation and guide for upholding and strengthening their collective and individual rights in recognition of their status as first peoples. Australia has a responsibility to ensure the intent of the declaration, and the rights expressed in it, are embedded in Australian laws, practices and institutions as a result of a successful referendum.

In December 2010, after calling for nominations by the public, the Australian Government announced the membership of the Expert Panel on Constitutional Recognition of Aboriginal and Torres Strait Islander peoples.

The Panel included Indigenous and community leaders, constitutional experts and parliamentary members. It was co-chaired by Professor Patrick Dodson and Mr Mark Leibler AC. The Expert Panel led a wide-ranging national public consultation and engagement program throughout 2011. It reported its findings to the Prime Minister in January 2012.

On 28 November 2012, the Parliament agreed that a Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples be appointed to inquire into and report on steps that can be taken to progress towards a successful referendum on Indigenous constitutional recognition.

On 2 December 2013, the Parliament agreed to establish this committee in the 44th Parliament. This committee is to present to Parliament an interim report on or before 30 September 2014 and its final report on or before 30 June 2015.

The expert panel's recommendations were the result of an enormous amount of time, resources and engagement. The panel ensured that Aboriginal and Torres Strait Islander communities were consulted so that the recommendations reflected a balance of views of the first peoples of Australia. The recommendations were carefully researched to ensure legal clarity and were widely supported during the consultations and focus-group meetings undertaken by panel members. The expert panel's recommendations were designed to make simple but substantive improvements to the Constitution and at the same time have the potential to receive popular support in a referendum.

We support the work and findings of the expert panel and we concur with the following:

- **Remove** Section 25 – which says the States can ban people from voting based on their race;
- **Remove** section 51(xxvi) – which can be used to pass laws that discriminate against people based on their race;
- **Insert** a new section 51A - to recognise Aboriginal and Torres Strait Islander peoples and to preserve the Australian Government's ability to pass laws for the **benefit** of Aboriginal and Torres Strait Islander peoples;

- **Insert** a new section 116A, banning racial discrimination by government; and
- **Insert** a new section 127A, recognising Aboriginal and Torres Strait Islander languages were this country's first tongues, while confirming that English is Australia's national language.

We are concerned that the referendum should take place at a time when it is most likely to succeed following genuine engagement with, and support from, Aboriginal and Torres Strait Islander people, as well as the wider community.

We conclude by reiterating that, consistent with the UN Declaration on the Rights of Indigenous Peoples, Aboriginal and Torres Strait Islander people should provide their free, prior and informed consent to legislation for their benefit. The full participation of Australia's first peoples in every stage of the process of developing a model for consideration by all Australians is an essential principle.

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