

## Southern Women's Action Network - Submission re Co-Design

Southern Women's Action Network, with more than 200 members on the Mornington Peninsula in Victoria, has been advocating for social justice for more than 24 years.

We are delighted that the matter of ensuring that Aboriginal and Torres Strait Islander peoples have a say in decisions that affect their lives is finally being addressed. We believe that the Interim Co-design Report regarding an Indigenous Voice is an excellent document. It reflects extensive collaboration amongst Indigenous peoples, sound and expert input on a wide range of options, and provides for broad discussion on matters to be addressed by the Voice.

First Nations peoples are in the best position to decide between the detailed options for the structure, membership, functions and operations of the Indigenous Voice that are outlined in the report. Their determination of the most relevant design elements will provide a firm basis for all Australians to have confidence in the model that is proposed. We strongly agree with the view that has been recommended by many others, that the Voice model should include wide representation and ensure that previously unheard Aboriginal and Torres Strait Islander people have the same chance of being selected as established First Nations leaders.

We are concerned however that the members of the Advisory Committees who were appointed by the government to undertake the co-design task were restricted to developing proposals for an Indigenous *voice to government*. A *legislated voice* is not what was requested in the Uluru Statement from the Heart, nor is it what a significant and growing number of Indigenous and non-Indigenous people believe is needed to ensure that the concerns of First Nations people will be addressed. To achieve this, lasting structural change is required.

In 2009, Australia announced its support for The United Nations Declaration on the Rights of Indigenous Peoples, thereby committing to uphold its key principles. Central to this is that: *"Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs."*<sup>1</sup>

However, Australia lags well behind other countries in recognising the constitutional rights of Indigenous peoples. New Zealand's founding document, the Treaty of Waitangi, is an agreement between Maori Chiefs and the British Crown. In Scandinavia the Sami people have their own Parliament, established in 1989. The Canadian Government has moved to recognise the Inuit and other Indigenous peoples in its constitution and the US government has more than 350 treaties with Native Americans.

For Australia to address this significant deficiency, mere legislation of an Indigenous voice will not be enough. Social justice demands that we take heed of the words of one of this country's most eminent First Nations Leaders:

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<sup>1</sup> The United Nations Declaration on the Right of Indigenous Peoples, Article 4. (2007). un.org

*‘Although the Wyatt proposed legislated model empowers a voice to some extent, it can be ignored and rendered silent by government, as occurred with the National Aboriginal Consultative Committee (1972-77), the National Aboriginal Conference (1977-85), the Aboriginal and Torres Strait Islander Commission (1989-2005) and the National Congress of Australia’s First Peoples (2010 -19). The legislated model, without a constitutional anchor, remains subject to repeal at the whim of the government of the day, as has happened to ATSIC. This would be much more difficult with a constitutionally enshrined model.’<sup>2</sup>*

This requires that an Indigenous Voice must first and foremost be enshrined in our Constitution. The proposed *legislated* voice component must not be separated out or seen as sufficient. Furthermore, by *legislating* an Indigenous voice prior to the nation endorsing a constitutionally protected Voice to Parliament would most likely encourage a large portion of the population to believe that the ‘voice matter’ had already been dealt with.

For constitutional change to occur, a question concerning the enshrinement of an Indigenous Voice to Parliament must be put to the Australian people in a referendum. When successful, this will ensure that our foundational document is amended in line with international standards regarding the rights of Indigenous people.

Before voting in this referendum, it is vital that the Australian people are well informed. The government should conduct a broad-based campaign that provides easily accessible information, that is also available to our CALD communities in relevant languages, including:

- The reasons why an enshrined Voice is needed.
- The key points outlined in the co-design proposal, with particular emphasis on it not being a ‘Third Chamber.’
- The salient points of the UN Declaration on the Rights of Indigenous Peoples.

Sufficient time should be allowed for this information campaign. The referendum must not be initiated until this has occurred. Crucially, the proposed wording of the question that will be put to the Australian people must be clear, simple and unambiguous.

Based on the above, we propose that:

1. Once the design elements of an Indigenous Voice are determined and a comprehensive public education campaign has been successfully undertaken, the government honour its election commitment to hold a referendum.
2. Implementing legislation for the Voice must not occur until after the referendum has been held.
3. The question design and the implementation of the referendum should be led by a Joint Party Committee that includes First Nations representatives.

**Southern Women’s Action Network**  
**Mornington Peninsula**

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<sup>2</sup> Davis, M., ‘Voice at the crossroads’. Published in The Monthly, Comment. March 2021.