

The Voice Referendum: Should Australia guarantee an Indigenous Voice to Parliament within the Constitution?

### What they said...

*'We seek constitutional reforms to empower our people and take a rightful place in our own country. When we have power over our destiny, our children will flourish. They will walk in two worlds and their culture will be a gift to their country.'*

From the Uluru Statement from the Heart

*'The referendum seeks to give...our current Indigenous and Torres Strait Islanders and their children a special place of influence and representation with the federal government... That...discriminates against all other Australians.'*

Jeff Kennett, former Liberal premier of Victoria

**On Saturday, 14 October 2023**, Australians will vote in a referendum on whether to change the Constitution to recognise the First Peoples of Australia by establishing a body called the Aboriginal and Torres Strait Islander Voice. [↗](#)

On 19 June 2023, Parliament agreed that the constitutional amendment and question would be as follows:

Voters will be asked to vote 'yes' or 'no' on a single question. The question on the ballot paper will be: ***A Proposed Law: to alter the Constitution to recognise the First Peoples of Australia by establishing an Aboriginal and Torres Strait Islander Voice. Do you approve this proposed alteration?*** [↗](#)

The supporting and opposing arguments for this proposed constitutional amendment are being debated across Australia. The Labor Party and the Greens support the Voice and the Liberal Party, and the National Party oppose it. Opinions within the Australian electorate are divided. A survey published by the Sydney Morning Herald newspaper on September 11, 2023, showed national support had dropped to 43 percent, from 46 percent in August. [↗](#)

### Background

Most of the information found below was derived from two Wikipedia entries. They can be found at Constitution of Australia [↗](#) and Referendums in Australia [↗](#)

#### The Australian Constitution

The Constitution of Australia is the supreme law of Australia. It is a written document that sets down the political structure of Australia as a *federation* (a union of states and territories) under a *constitutional monarchy* and outlines the structure and powers of the Australian Government's *three constituent parts*: the executive, legislature, and judiciary.

The Constitution was drafted between 1891 and 1898 through a series of conventions conducted by representatives of the six self-governing British colonies in Australia: New South Wales, Queensland, South Australia, Tasmania, Victoria, and Western Australia.

It came into effect on January 1, 1901. Legally, Australia as a single nation came into existence on this day.

#### Constitutional referendums

A constitutional referendum is a compulsory public vote in which all Australians over 18 (who are registered on the electoral roll) are asked to indicate whether they support a proposed change to the Constitution.

To be successful, a referendum must be supported by an overall majority of voters. It must also be supported by a majority of voters in at least four of the six states (Tasmania, Victoria, South Australia, Western Australia, New South Wales, and Queensland). The votes of those in the Northern Territory and the Australian Capital Territory count toward the overall national tally; however, the votes of those in the territories do not count toward achieving a majority of votes in a majority of states.

Historically it has proved very difficult to have a referendum proposal successfully carried. Since 1901 there

have been 44 constitutional referendums; only eight of these were successful.

### Recognition of Indigenous Australians in the Constitution

The Australian Constitution does not recognise or mention Aboriginal and Torres Strait Islander Australians. However, there are two sections which have been used to make laws specifically for Aboriginal and Torres Strait Islander peoples. These are *section 25 (races disqualified from voting)* and *section 51 (xxvi) (the Australian Parliament can make laws for any race)*.

Aboriginal and Torres Strait Islander peoples were not included in the discussions about the creation of Australia and the drafting of the Constitution. Apart from some Aboriginal people in South Australia, the First Peoples of Australia did not participate in the referendums in which the public agreed to the draft Constitution.

In 1967 the Australian people were asked in a referendum if the Constitution should be changed to remove section 127 which excluded Aboriginal and Torres Strait Australians from being counted in the census, and modified section 51 (xxvi) to allow the Parliament to make laws for Aboriginal and Torres Strait peoples. The referendum was agreed to with the largest yes vote ever recorded.

Recently there has been discussions that the Constitution should be changed again to remove sections 25 and 51 (xxvi) and/or include a preamble which recognises Aboriginal and Torres Strait peoples as the first Australians.

Recognition of Aboriginal and Torres Strait Islanders in a Constitutional preamble was put to a referendum in 1999. The Constitution Alteration (Preamble) 1999 referendum proposed a whole new preamble which included that the Australian people commit to 'honouring Aborigines and Torres Strait Islanders, the nation's first people, for their deep kinship with their lands and for their ancient and continuing cultures which enrich the life of our country'. The referendum was unsuccessful.

Opinion on the Constitutional preamble proposal was divided with some opponents considering it unnecessary and others considering it did not go far enough. A preamble does not have direct legal effect or give rise to substantive rights and obligations but may be used as an aid to interpretation or to resolve ambiguities. To remove any doubt, in 1999 the proposal of amending the preamble included the insertion of a new section, section 125A, into the Constitution to make it clear that the preamble would have no legal effect and would not be used to interpret the Constitution or any laws of the Commonwealth. [↗](#)

### **Internet information**

On September 25, 2023, The Conversation published a comment and analysis by Paul Formosa, Professor and Head of the Department of Philosophy, and Co-Director of the Macquarie University Ethics and Agency Research Centre, Macquarie University. The article is titled 'Is it ethical non-Indigenous people get to decide on the Voice? Is it OK for one group to have rights others don't?'

Professor Formosa offers an ethical consideration of two major questions put about the Voice and directs readers to more fundamental considerations raised by the referendum proposal.

The full text can be accessed at [↗](#)

On September 24, 2023, The Age published a comment by Parnell Palme McGuinness titled, 'Rather than face our history, we settle for squeamish silence and fairy tales'. McGuinness argues that whatever the outcome of the referendum, Australia needs to acknowledge its troubled past and its history's present legacy.

The full text can be accessed at [↗](#)

On September 23, 2023, The Saturday Paper published a comment by Patrick Dodson, a Labor senator for Western Australia and the Special Envoy for Reconciliation and implementation of the Uluru Statement from the Heart. The opinion piece is titled 'The Voice is a test of enlightened democracy'. In the article Dodson explains the change in perspective some Australians may need to make to appreciate the need for the Voice.

The full text can be accessed at [↗](#)

On September 22, 2023, The Daily Telegraph published an opinion piece by Prime Minister Anthony Albanese

titled 'Win for Yes can be Win for Us All'. In the comment Albanese attempts to reassure voters about the nature of the referendum proposal and outlines some of its benefits.

The full text can be accessed at [🔗](#)

On September 22, 2023, Kerryne Liddle, Indigenous Shadow Minister for Child Protection and the Prevention of Family Violence, and a Senator for South Australia gave a speech to the Sydney Institute titled 'The Voice and Other Indigenous Matters'. Liddle explains her opposition to the Voice and raises other issues about the welfare of Indigenous Australians.

The full text can be accessed at [🔗](#)

On September 20, 2023, The Guardian published a comment by Kirstie Parker, Indigenous activist and public policy advisor on Indigenous affairs titled 'A yes vote for the voice would mean Australians could meet each other's eyes and not flinch' in which she explains why Australians should support the referendum proposal.

The full text can be accessed at [🔗](#)

On September 20, 2023, The Herald Sun published an opinion piece by former High Court judge Ian Callinan titled 'Former High Court Justice Ian Callinan opposes Voice to Parliament'. In the comment Callinan explains his opposition to the Voice.

The full text can be accessed at [🔗](#)

On September 18, 2023, Jacinta Price, Indigenous Liberal Country Party Senator for the Northern Territory, and the Opposition Shadow Minister for Indigenous Affairs gave a speech to the National Press Club in which she outlined her reasons for rejecting the proposed Indigenous Voice to Parliament.

The full text of Senator Price's speech can be accessed at [🔗](#)

On September 15, 2023, Sky News published an article by digital reporter Mariah Davis which focused on comments by Frank Brennan, Rector of Newman College at the University of Melbourne. The piece is titled 'Voice failing at upcoming referendum will be a reflection of Albanese government's political hubris'. Brennan supports the Voice; however, he argues it has been inappropriately presented to the electorate.

The full text can be accessed at [🔗](#)

On September 5, 2023, The Herald Sun published a comment by Jeff Kennett, a former Victorian premier. The opinion piece is titled 'Voting No to the Voice is merely a matter of principle'. In the opinion piece Kennett explains that the Voice should be opposed because it is unequal, giving one group of citizens access to government that other citizens do not.

The full text can be accessed at [🔗](#)

On September 5, 2023, The West Australian published a comment by Emma Garlett, an academic and Indigenous affairs commentator, titled 'I'm voting yes. Are you?', in which the author explains her support for the Voice and encourages readers to vote 'yes'.

The full text can be accessed at [🔗](#)

On September 1, 2023, Mamamia published an article titled 'Anthony Albanese told us what the Indigenous Voice to Parliament can and can't do.'. The article is an interview with the prime minister in which he explains the Voice and what it should be able to achieve.

The full text can be accessed at [🔗](#)

On August 30, 2023, The Financial Review published a comment by Australia's Attorney Mark Dreyfus titled 'I'm confident Australians will find a reason to vote Yes' in which Dreyfus counters some of the arguments against the voice and offers arguments in its favour.

The full text can be accessed at

[🔗](#)

On August 29, 2023, The Australian published an article titled 'The three reasons why John Howard is against

the Voice'. The article quotes former prime minister John Howard explaining his opposition to the Voice. The full text of the article can be accessed at [🔗](#)

On August 21, 2023, The Canberra Times published an article titled "'Fake progress': Senator Lidia Thorpe calls for Indigenous Voice to Parliament referendum to be scrapped'. The report gives comments of Independent Indigenous Senator Lidia Thorpe in which she explains her opposition to the Voice and argues for treaty. The full text can be accessed at [🔗](#)

On August 11, 2023, The Australian published a comment by Henry Ergas, former Adjunct Professor of Economics at the National University of Singapore and lecturer at Harvard Kennedy School. The opinion piece is titled 'Why the Indigenous voice to parliament is no answer to closing the gap'. Ergas argues that encouraging Indigenous communities to remain in remote areas is the primary cause of Indigenous disadvantage. The full text can be accessed at [🔗](#)

On July 25, 2023, Independent Australia published a comment by John Card, a writer, commentator, and anarchist titled 'Voting "Yes" to the Voice is about more than just politics' in which he explains his support for the referendum proposal, while also arguing that more radical action will need to be taken. The full text can be accessed at [🔗](#)

On May 2, 2023, SBS NITV published an opinion piece by Indigenous opponent of the Indigenous Voice to Parliament Warren Mundine. The comment is titled 'The Voice will divide Aboriginal people and our great democratic nation'. In it Mundine explains why he believes the Voice will be divisive and ineffectual. The full text can be accessed at [🔗](#)

On March 14, 2023, The Conversation published a comment by Shireen Morris, Senior Lecturer and Director of the Radical Centre Reform Lab, Macquarie University Law School, Macquarie University, titled 'With 11 Indigenous politicians in parliament, why does Australia need the Voice?' In her point of view piece Morris explains why the Voice is necessary. The full text can be accessed at [🔗](#)

On January 20, 2023, The Times published a background piece on the constitutionally guaranteed Voice to Parliament referendum proposal titled 'Australia Will Hold a Referendum to Recognize Indigenous Peoples. Meet the Activist Behind the Vote'. The article includes extensive comments from Indigenous academic Professor Megan Davis who has been a major force in developing and promoting the Voice. The full text can be accessed at [🔗](#)

### **Arguments in favour of a Yes vote**

1. Establishing an Indigenous Voice in the Australian Constitution would advance reconciliation, respecting the wishes of a majority of Australia's First Peoples

Those who support the inclusion of an Indigenous advisory body within the Australian Constitution argue that it is both symbolically and practically necessary in achieving reconciliation between the descendants of Australia's First Peoples and all other Australians. They argue that symbolically it would serve to address an historical wrong, the Australian Constitution's failure to acknowledge the nation's First Peoples. However, they also stress that it would be practically valuable as acknowledgement would take the form of a permanent Indigenous consultative body. This is the form of recognition most Indigenous Australians want because of its utility.

The Australian Constitution makes no reference to the status of Australia's First Peoples. It has been argued that this is partially because the occupation of the country was achieved through the fiction of terra nullius - the claim that the land was not legally owned by its Indigenous inhabitants. [🔗](#)

June Oscar, an Aboriginal and Torres Strait Islander Social Justice Commissioner, has stated, 'The Constitution has maintained Australia's greatest foundation myth, that our First Nations occupation of these lands pre-colonisation meant nothing, and our existence had no bearing or consequence on the formulation of the Commonwealth'. [🔗](#)

Geoffrey Robertson, a recipient of the Order of Australia and a King's Counsel, has referred to 'the inequality embedded in our Constitution' and has argued that 'Racism has tainted the Australian Constitution from the outset. The founding fathers...[in their debates] spoke of Aboriginals as if they were kangaroos threatening the crops and were not entitled to any protection; not even a single reference in the Constitution.' [🔗](#) Supporters of enshrining an Indigenous Voice to Parliament in the Australian Constitution argue this would be symbolically important in addressing this historical injustice.

However, most Indigenous people want more than symbolic recognition in the Constitution. They want a form of recognition that can also offer practical benefits. This is referred to as substantive recognition. The Australian Human Rights Commission has stated, 'The proposed Indigenous Voice to Parliament is an example of substantive legal reform. This is because it would provide for a new constitutionally entrenched legal entity with the function of making representations to the Parliament and the Australian Government on matters relating to Aboriginal and Torres Strait Islander peoples.' [🔗](#) Professor Megan Davis, who co-authored the Uluru Statement from the Heart where the Voice is proposed, has stated, 'I think the Voice is both symbolic and concrete ... It's a recognition of First Nations voices as being important to the nation. It's recognition that the descendants of the ancient peoples who arrived here 60,000 to 70,000 years ago are still here, have survived and [are] speaking with their voice.' [🔗](#) However, Davis has consistently stressed that Constitutional recognition must be practical. In 2017, as co-author of the Uluru Statement from the Heart, she stated, 'We seek constitutional reforms to empower our people and take a rightful place in our own country. When we have power over our destiny our children will flourish. They will walk in two worlds and their culture will be a gift to their country.' [🔗](#)

The call for an Indigenous Voice to Parliament comes from and is supported by Indigenous people. The 2017 Uluru Statement from the Heart, which requests an Indigenous Voice to Parliament in the Constitution, was drafted after an extensive consultative process, drawing on the views of Indigenous communities. On April 27, 2023, Rebecca Huntley, writing in *The Guardian*, explained, 'The Voice emerged out of a process driven by First Nations people leading to the Uluru Statement from the Heart rather than Canberra-based discussions between political leaders and a chosen few First Nations representatives.' [🔗](#) The Statement from the Heart was immediately the work of over 250 Aboriginal and Torres Strait Islander leaders. [🔗](#) They were acting on behalf of Indigenous populations whose views had been gauged through 13 regional dialogues across Australia. [🔗](#) Further, Indigenous organisations across the country have indicated their support for the Voice. This includes land-based representative bodies such as the Northern Territory Land Councils and the Kimberley Land Council, and peak service organisations such as the Australian Indigenous Doctors Association. [🔗](#) Though polling can be problematic, results have consistently shown high levels of Indigenous support for the referendum proposal. Pollster, Rebecca Huntley, has noted, 'All the available research shows that a strong majority of First Nations people support the change. The actual number bounces around depending on sample size and timing, but tends to land somewhere between the 80 percent in an Ipsos poll of 300 First Nations people in January of this year...and the 83 percent in a YouGov poll of 738 First Nations people conducted this month [April, 2023] - the largest and most representative sample I know of to date.' [🔗](#)

2. Indigenous Australians lag the rest of the Australian population on important social, educational, health and wellbeing indicators and a Voice would help address these problems.

Many of those who support an Indigenous Voice to Parliament argue this would help to reduce continuing disadvantage among Indigenous Australians. They claim that in many areas Indigenous Australians suffer worse outcomes than their non-Indigenous contemporaries. Reducing relative disadvantage is often referred to as 'Closing the Gap'. The most recently released Closing the Gap data is more detailed than previous, shows that that poorer outcomes regarding Closing the Gap targets are still occurring in poorer communities and in those more distant from urban and regional locations. [🔗](#) It has been regularly argued that if Indigenous communities were able to directly advise government on their needs, outcomes would improve.

One significant area of relative Indigenous disadvantage is in overall life expectancy. In 2015-2017, average life expectancy at birth was estimated to be 71.6 years for Indigenous males and 75.6 years for Indigenous females. Indigenous Australians generally live shorter lives and have higher incidence of some diseases. The gap between Indigenous and non-Indigenous Australians was estimated to be 8.6 years for males and 7.8 years for females [🔗](#) Though in subsequent years, the gap in life expectancy between Indigenous and non-Indigenous Australians has



narrowed somewhat, there is concern that the discrepancy is worsening in some areas. In 2021, suicide accounted for 5.3 percent of all deaths of Aboriginal and Torres Strait Islander people while the comparable proportion for non-Indigenous Australians was 1.8 percent. [↗](#) Increasing suicide rates among young Indigenous Australians has been noted as particularly concerning. Data from the National Mortality Database and the Australian Bureau of Statistics from 2017 to 2021 showed the rates of suicide deaths per 100,000 people among Indigenous Australians were 16.6 and 47.6 in those aged 0-24 and 25-44 years respectively. These rates were 3.1 and 2.9 times as high as among non-Indigenous Australians in the same age groups. [↗](#)

Another significant area of disadvantage is in higher rates of disease. A report released in October 2021, found that although the gap is narrowing, Indigenous Australians continue to experience higher rates of 'disease burden' than the Australian population as a whole. Indigenous Australians experience disease burden at 2.3 times the rate of non-Indigenous Australians (after adjusting for age). The five disease groups that caused the most burden among Indigenous Australians were mental and substance use disorders (23 percent), injuries (including suicide) (12 percent), cardiovascular diseases (10 percent), cancer (9.9 percent), and musculoskeletal conditions (8 percent). [↗](#)

Education is also an area of relative disadvantage. Although there have been improvements, a significantly higher percentage of non-Indigenous Australians will complete their secondary education. In 2021, the Year 12 or equivalent attainment rate was 1.3 times as high for non-Indigenous Australians aged 20-24 as for Indigenous Australians (91 percent compared with 68 percent). Education has been highlighted as a significant means of improving the quality of life of Indigenous Australians. The Aboriginal and Torres Strait Islander Health Performance Framework states, 'Education is well recognised as a key social determinant of health. Higher levels of education are associated with improved health outcomes through greater health literacy and better prospects for socioeconomic status (including income and employment).' [↗](#)

Another area of major concern is the elevated incarceration rate among Indigenous Australians. In September 2022, Amnesty International noted 'despite making up only 2 percent of the general population, [Indigenous Australians] make up 26 percent of the prison population and are 10 times more likely to be locked up than other Australians.' [↗](#) This problem becomes even more severe when the position of Indigenous Australians under 18 is considered. Looking at the period between 2017 and 2021, an Australian Institute of Health and Welfare (AIHW) report found that half of all young people in detention on an average night...were Aboriginal or Torres Strait Islander people, despite Indigenous Australians making up just 6 percent of the Australian population aged 10-17. [↗](#)

It has been claimed that two factors largely determine the over-representation of Indigenous people in Australia's prisons and detention centres. One is social and economic influences such as poor health and housing and low employment and education levels. The second factor is structural biases in the criminal justice system which make it more likely that an Indigenous person will be detained. [↗](#) A 2004 Senate Committee report found that 'Although poverty in Australia is evident among all ethnic groups, it is Indigenous Australians who appear most profoundly affected by poverty. Research has shown, over the past thirty years since the Henderson Inquiry into poverty, that Indigenous Australians are significantly worse off than non-Indigenous Australians, according to all social indicators...Not only is poverty deeply entrenched, the causes are complex...despite government policies directed towards achieving economic equality for Indigenous Australians, there has been little improvement to their relative socioeconomic status, according to standard social indicators.' [↗](#)

Federal minister for Indigenous Australians, Linda Burney, has argued that an Indigenous Voice to Parliament can help close the gap between Indigenous and non-Indigenous Australia. Burney stated, 'An Aboriginal and Torres Strait Islander Voice to Parliament can help us close the gap, because it's only by listening to communities that we can make better policies that lead to better outcomes.' [↗](#)

3. Establishing an Indigenous Voice to Parliament in the Australian Constitution would give Indigenous communities direct input into decisions affecting them

Supporters of an Indigenous Voice to Parliament argue that the unique requirements of Indigenous populations are often misunderstood by governments and policy makers. They claim that giving Indigenous groups and

communities an opportunity to explain their needs would help to ensure better policies and improve the life opportunities of Indigenous people.

On August 10, 2023, Pat Turner gave an address at the University of Canberra, explaining the need for an Indigenous voice to Parliament. Turner is a long-time Indigenous activist who has worked as a civil administrator for policies aimed at self-determination for Indigenous people. As of 2020, Turner is a member of the Senior Advisory Group set up to advise on the design of the Indigenous voice to government. In her speech Turner stated, 'The best way of building social cohesion is to listen to us and then co-design a solution with us, provide meaningful funding and then, as partners, share the decision making. It is a simple solution, and it starts with a Voice...

Put simply... we should have a say in the laws, policies and programs that have a significant effect on our lives and communities. It is a straightforward idea.

If Aboriginal and Torres Strait Islander peoples have direct input into the decisions on policies and programs that impact on us, the outcomes will be vastly better than when those decisions are made without us.' [↗](#)

The same point has been made by Tony Nutt, a former federal director of the Liberals and chief-of-staff to John Howard, who is now a prominent pro-Voice advocate. Nutt has argued that a Voice to parliament and the public service would help drag the bureaucracy away from its fondness for one-size-fits-all approaches to problems, which did not necessarily work in every Aboriginal community. [↗](#)

Numerous examples have been offered of the way in which direct consultation with Indigenous communities has already improved the formulation and operation of government policies. Dr Ron Glanville, a former chief veterinary officer of Queensland, has explained how consulting with local Indigenous experts has helped in developing more effective responses to introduced pests in the Torres Strait and the Northern Peninsula Area of Cape York. Dr Glanville has stated, 'It's amazing how the direction of our work can change when you listen to what people have to say.' He concluded, 'Indigenous people not only need to be listened to, but also have a fair say in how future policies affect them. Not only is this respectful but it will probably lead to a better result.' [↗](#)

Another example of the improved results achieved through consultation with Indigenous communities is the Maranguka Justice Reinvestment Project in Bourke, New South Wales. The project began in 2013 with the aim of reducing the number of young Indigenous people in the criminal justice system. The project has relied on strong community consultation and involvement to shift the focus from imprisonment to prevention. Alistair Ferguson, the founder, and director of the Maranguka Project has stated, 'There is an undeniable elevated sense of positivity in Bourke. People in Bourke feel empowered. There is a real sense of pride, and agency. Maranguka has brought [Indigenous] community members including young people to the table and put them in the driver's seat. Maranguka is supporting open and inclusive dialogue, which is the basis of community-led change.' The project has involved a shift in emphasis and a redirection of funds, not an increase in government expenditure. A 2018 Impact Assessment of the Maranguka Justice Reinvestment Project in Bourke estimated that improvements in family strength and positive youth development had had an economic impact of \$3.1 million on New South Wales government spending in 2017. [↗](#)

A further example of the vital role to be played by direct consultation with Indigenous communities has been given by Ray Griggs, chief executive officer of the National Indigenous Australians Agency (NIAA). Griggs has stated, 'The key difference in approach is the commitment to working with Indigenous Australia through formal and informal partnerships.' He has highlighted the importance of this attitude in successfully reducing the spread of COVID among regional Indigenous populations. Griggs has stated, 'We listened to the voices of local community leaders and their concerns for their communities and in a coordinated approach with State and Territory Governments, implemented a series of remote travel restrictions under the Bio-Security Act. Essentially remote communities were proactively locked down and isolated to protect the population. This included arranging the movement of people who were in regional and metropolitan centres who wanted to go back to their country where they would face much lower risks. This was backed up by mobilising the Indigenous broadcast sector to keep communities informed through appropriately targeted public health messaging and also by focussing closely on food security in remote communities to ensure people could safely stay in their community...' Commenting on the success of the measures put in place, Griggs noted, 'The biggest thing we can do systemically is to stop thinking that any one group has the answers and to start doing things with rather than

to Indigenous Australians, to work in partnership together on how we overcome the challenges. For those used to making the decisions, it means giving up a little control and power and allow for Indigenous perspectives to get a serious look in.' [↗](#)

#### 4. Establishing an Indigenous Voice to Parliament in the Australian Constitution would create a permanent mechanism for addressing Indigenous issues

It has been claimed that establishing an Indigenous Voice to Parliament in the Australian Constitution would provide surety and continuance. It is claimed that previous Indigenous advisory groups have been disbanded and government responses to Indigenous issues have been condemned as sporadic and lacking cohesion and specificity.


Supporters of the Voice have noted that previous Indigenous advisory bodies have continued to exist solely at the discretion of governments. Proponents of the Voice note that if its existence is guaranteed within the Australian Constitution, it would take another referendum to remove it. Inclusion within the Constitution therefore confers far greater stability and security upon this Indigenous advisory body. In the past, if an advisory body were considered to have functional problems, it has been disbanded rather than reformed. The Australian National University (ANU) has prepared a background paper addressing some of the concerns that have been raised about the Voice. Regarding the need for a permanent advisory body, the ANU paper states, 'The Parliament has established three national Indigenous representative bodies in the past. These bodies empowered Indigenous Australians to speak to government about laws and policies that affected them. In each case, however, the body was abolished after several years. Putting an Aboriginal and Torres Strait Islander Voice in the Constitution will make it harder for government and Parliament to do away with the Voice.' [↗](#) Hugh Taylor, Laureate Professor Emeritus, Melbourne School of Population and Global Health, University of Melbourne, has taken a broader perspective and notes, 'There have been at least six Aboriginal and Torres Strait Islander consultative groups set up by the Federal Government since 1973. Each time they were disbanded and not replaced when the current Prime Minister did not like what they were saying or doing.' [↗](#)


The dismantling of the Aboriginal and Torres Strait Islander Commission (ATSIC) has been held up as an example of the summary treatment given to Indigenous advisory bodies. Pat Turner, an Indigenous civil administrator and former member of ATSIC, has stated, 'Because we were an Aboriginal organisation we were decommissioned overnight. The proverbial baby was thrown out with the bathwater. There was no discussion. No compromise. We were decommissioned with the stroke of pen. And look how things have nose-dived since that kneejerk decision.

It was a very political time for us. There was not much goodwill. Back in 2005, when we lost ATSIC, we saw the NT Intervention follow quickly afterwards... It is from this extreme of paternalistic policymaking and a culture of "we know what's best for you" that we have seen the gaps widen.' [↗](#) A review of ATSIC was commissioned in 2003 by the Howard government. The report, authored by John Hannaford, Jackie Huggins and Bob Collins, was titled *In the Hands of the Regions: A Review of the Aboriginal and Torres Strait Islander Commission*. The report's summary statement concluded, 'The review panel's report recommends a package of reforms which gives greater control of ATSIC to Aboriginal and Torres Strait Islander people at a regional level. The reforms should enable Aboriginal and Torres Strait Islander peoples to stimulate change where it is most needed. Along with the recent COAG initiatives to address the appalling degree of Aboriginal and Torres Strait Islander disadvantage, a regional orientation will strengthen the voice and efficacy of regional councils and establish the necessary framework for integrated service and program delivery.' [↗](#) Thus the review recommended the retention of ATSIC and its reform through strengthening its connections with local Indigenous communities. Despite this, the Howard government disbanded ATSIC two years later.

The importance of stability when supplying advice on Indigenous issues has been stressed by many bodies. Stability is argued for as a way of establishing effective working relationships between local Indigenous communities, governments, and service providers. The guaranteed survival of an Indigenous advisory group enshrined within the Constitution has been strongly recommended. In February 2023, PIC (PricewaterhouseCooper Indigenous Consulting) released a background paper supporting the Voice which argues, 'Constitutional enshrinement of the Voice is the required cornerstone upon which this new architecture can be enabled to drive practical benefits. The longevity brought about by this action will help provide stability






for the Voice (e.g., a life beyond political cycles), thereby ensuring that long-term, trusted relationships can be built and maintained on the ground - a critical ingredient for long term success.' 


Supporters of the Voice acknowledge that, after its formation, the Voice may periodically need to be reformed; however, they insist that what is important is that it remains. Professor Hugh Taylor has stated, 'It is simple. When the Referendum is passed, Parliament will need to debate and approve the structure. If in time it needs to be altered, Parliament can do that, but there will always have to be a Voice. That is the whole point of the Referendum, there has to be a permanent body.' 

5. Establishing an Indigenous Voice to Parliament in the Australian Constitution would create an advisory body that would not threaten the autonomy of Parliament and government

Defenders of the Voice to Parliament have stressed that it is an advisory and consultative body only. They have also stressed that it will neither replicate nor take over the existing roles of Parliament and executive government. These reassurances are in response to critics' claims that the Voice threatens the powers of the Australian Parliament and of government.

Defenders of the Voice stress that it will not infringe upon or impede the functions of government or Parliament. The Australian National University (ANU) has prepared a background paper addressing some of the concerns that have been raised about the voice. Regarding the position of the Voice in relation to Parliament, the ANU paper states, 'The Voice is not a Third Chamber of Parliament. The Voice will not be able to introduce bills into Parliament or vote on legislation. The Voice will have no ability to delay or frustrate Parliament. As former High Court judge Kenneth Hayne has said, the Voice "will not impede the ordinary working of government". The Voice will simply be able to make representations to Parliament and the government. Parliament retains full control over its own procedures. This also means that Parliament can amend legislation and adjust processes if it believes the relationship between the Voice and other institutions of government is not working appropriately.'  Further to this, Professor Dan Meagher, chair in law at Deakin University, has noted that the proposed constitutional amendment not only makes clear that the body could only make representations, but it also states there would be no obligation on parliament or the executive to take those representations into account. 

The possibility of Voice representatives somehow infiltrating Parliament and illegitimately extending their powers in this way has been dismissed as impossible. Associate Professor Harry Hobbs, a constitutional law expert at the University of Technology Sydney, has noted the claim was 'entirely wrong.' Dr Hobbs explained, 'The Voice will be an advisory body of Indigenous Australians who may make representations to parliament. Members of the Voice will not be parliamentarians, they will not serve in parliament, they will not be able to introduce or vote on Bills. They will give advice to parliament, not be in parliament. The voice will not add any seats to parliament.' Scientia Professor George Williams, another expert in Australian Constitutional law has similarly stated, 'Indigenous seats will not be added to parliament if the yes vote succeeds in the voice referendum. The change to the constitution makes no mention whatsoever of Indigenous seats in parliament. The only change is to bring about an Indigenous Voice able to make representations to parliament and government.' 

It has also been noted that nothing in the proposed Constitutional amendment would give the Voice the power to block Parliament's legislative powers. Constitutional experts have criticised suggestions the Indigenous Voice could have veto power in the Australian parliament, calling such prophecies 'distorting' of the truth. Speaking at the first hearing of the joint select committee on the Aboriginal and Torres Strait Islander Voice referendum, the former chief justice of Australia, Robert French, explained that any opinion the Voice offered on any issue 'would be no more than advice and it certainly wouldn't bind anybody, and it wouldn't be a veto.' The same point was again made by former high court justice Kenneth Hayne, who has stated he could not see 'anything in those drafts that comes anywhere near providing anything like a veto'. 

Assurances regarding how the Voice will function have been presented within an Australian Government information package which explains some of the principles under which the Voice would operate and some of the safeguards that would be in place to ensure its proper operation. The package states, 'The Voice will be accountable and transparent .' It then explains, 'The Voice would be subject to standard governance and reporting

requirements to ensure transparency and accountability. Voice members would fall within the scope of the National Anti-Corruption Commission. Voice members would be able to be sanctioned or removed for serious misconduct.' The package also explains that the Voice would operate in conjunction with existing organisations, neither replicating them, impeding, or replacing them. It states, 'The Voice will work alongside existing organisations and traditional structures. The Voice would respect the work of existing organisations.'

### **Arguments in favour of a No vote**

#### **1. An Indigenous Voice to Parliament is unnecessary**

Critics of the Indigenous Voice to Parliament proposal argue that it is redundant. They claim that Indigenous Australians already have the right to vote in state and federal elections and that there are many administrative and consultative bodies and service providers who specifically address Indigenous issues.

Viewed purely in terms of democratic engagement at state and federal levels, all Indigenous Australians over the age of 18 can cast a vote and are able to make representations to their political representatives. It has also been noted that proportionately, Indigenous Australians are well represented in the federal Parliament. Writing in Constitutional Equality on November 22, 2022, Phillip Mobbs noted, 'The Australian Bureau of Statistics (ABS) states that 3.8 percent of Australians identify themselves as Aboriginal and Torres Strait Islander. The Federal parliament is made up of 227 members, of which 11 elected representatives identify themselves as Aboriginal and Torres Strait Islander. This provides a 4.8 percent representation for Aboriginal and Torres Strait Islander citizens.' Mobbs' implication appears to be that in numerical terms, Indigenous Australians are somewhat over-represented in the national parliament. He concludes with the rhetorical question, 'Why would we change the constitution to create a perpetual power of additional representation for one race - when that race... has disproportionately representative power in our democracy already?' The same statistics re Indigenous members of federal Parliament have been referred to by Peter Dutton, the leader of the federal Opposition, who has stated, 'That's a larger representation compared to the 3.2 percent of our population who identify as Aboriginal and/or Torres Strait Islanders, and it's a wonderful thing.' Dutton has also noted, 'Furthermore, every parliamentarian, Indigenous or otherwise, represents their constituents-Indigenous or otherwise.'

Critics of the Indigenous Voice to Parliament further claim there are many organisations and officeholders already working specifically to address Indigenous issues. In an opinion piece published on March 13, 2023, columnist Andrew Bolt argued that there are 'more than 30 land councils, 3000 Aboriginal corporations... and the Coalition of Peaks, representing around 70 big Aboriginal agencies.' Bolt claims that this large number of organisations should be sufficient to service the needs and address the issues of 'our 810,000 Aborigines'. Similar claims have been circulating widely on social media, including the following Twitter post which states, 'We already have voices: 3,278 Aboriginal corporations, 243 Native title bodies, 48 Land councils, 35 Regional councils, 122+ Aboriginal agencies, 3 Advisory bodies, 145 Health Organisations... and 12 culturally important Indigenous days.' Another list was offered by Vikki Campion in an opinion piece published in The Daily Telegraph on December 2, 2022. Campion notes the existence of 'the Parliamentary Indigenous Evaluation Committee, the secretaries sub-committee on Indigenous Affairs, the National Indigenous Australians Agency advisory board, the Prime Ministers Indigenous Advisory Committee, the 151 Land Trusts, 31 Local Aboriginal Land Councils, the more than 50 Aboriginal peak organisations providing advice to government, the more than \$1 billion Department of Indigenous Affairs, or the taxpayer-funded Aboriginal & Torres Strait Islander Social Justice Commissioner.' Though none of these lists are identical, they all serve to make the point that many bodies already exist to act for Indigenous Australians.

Some critics of the Voice proposal have focused on the National Indigenous Australians Agency (NIAA) an Australian Public Service agency of the Australian Government. It is responsible for whole-of-government coordination of policy development, program design, and service delivery for Aboriginal Australians and Torres Strait Islander people. It was created in July 2019, under then Prime Minister Scott Morrison. The Agency is responsible to the Minister for Indigenous Australians, Linda Burney and is an executive agency of the Department of the Prime Minister and Cabinet, replacing the Department's Indigenous Affairs Group. Opponents of the Voice argue that the NIAA performs any function that might be taken on by the Voice. Herald Sun commentator Andrew Bolt has argued, 'The NIAA's...boss says it's doing a wonderful job: "The NIAA works in genuine partnership to enable the self-determination and aspirations of First Nations communities."

So, who needs the Voice? The NIAA also assures us it's got the government's ear. It doesn't just report to Albanese's Indigenous Australians Minister, his assistant Indigenous Australians Minister and his special envoy for "reconciliation", but last year gave advice to 12 parliamentary committees. So, again, who needs Albanese's Voice? [🔗](#) Fair Australia, a lobby group arguing for a No vote, has argued similarly. It states, 'The campaign for the divisive Voice opened last year with an ad that made a simple claim. That Indigenous Australians have been speaking for thousands of years but they had "no voice, no say on matters which affected them"... You have to wonder, then, what is the purpose of the National Indigenous Australians Agency?' The argument concludes with the rhetorical question, 'If an agency exists that has the funding, resources, and stated purpose of providing advice and giving Aboriginal and Torres Strait Islander people a say in matters that affect them, why do you also need to change the Constitution?' [🔗](#)



## 2. An Indigenous Voice to Parliament is racist, divisive and unequal

Opponents of an Indigenous Voice to Parliament, guaranteed in the Australian Constitution, argue that making special provision for Indigenous Australians would create racial division and entrench inequality.

It is argued that giving a Constitutional guarantee to an advisory body representing Indigenous Australians would separate the nation around racial difference. It has been claimed that this is wrong in principle and is intrinsically divisive. In a speech given at Sydney University on May 22, 2023, the Opposition leader, Peter Dutton, stated, 'The great progress of the 20th century's civil rights movements was the push to eradicate difference - to judge each other on the content of our character, not the colour of our skin. The Voice, as proposed by the Prime Minister, promotes difference... The Voice will re-racialise our nation. At a time when we need to unite the country, this Prime Minister's proposal will permanently divide us by race.' [🔗](#) Herald Sun commentator, Rita Panahi, has endorsed Peter Dutton's argument. In an opinion piece published on May 31, 2023, Panahi argued, 'Embedding toxic identity politics and race obsessions into the constitution was always a terrible idea. It is racial by design and prioritises what should matter least; a person's ethnicity, something they have zero control over... How can a referendum seeking to enshrine racial privilege into the Constitution not be about race? How can a proposal that would fundamentally change the value of citizenship for one group of people based on nothing other than their ancestry not become a "racialised" discussion?' [🔗](#) These views have also been echoed by many readers making online comments. On August 13, 2023, The Financial Review published a letter to the editor from Andrew Smith of Kenmore, Queensland. Smith stated, '[This Referendum proposal] threatens to drive a permanent schism through our nation-family by partitioning us into two camps, forever divided by race or ethnic background. The Constitution is the soul of our nation. How can we tell our soul that there are problems in our society so entrenched, so intractable, they require us to permanently divide the nation-family in order to solve them?... The problems, however intractable they appear today, ultimately shall be resolved, but a nation-family permanently and wilfully separated into two camps along racial/ethnic lines shall, I fear, haunt us forever.' [🔗](#)

Critics maintain that any proposal founded on racial differences is likely to divide people and create ill-will. Indigenous Liberal politician Kerrynne Liddle has noted, 'This referendum is currently the cause of conflict in our homes, in our workplaces, on our streets and between friends and colleagues and strangers. In Adelaide...we witnessed truly ugly scenes. Protestors hurling racist abuse, spitting, shouting, foul obscenities ... simply because people came to hear three Aboriginal speakers explain why we were voting NO to this Referendum Question - and why we publicly share why we say NO to voice...Yes. Even before a single vote has been cast this Referendum divides us and regardless of the referendum result the fallout will be enduring.' [🔗](#) Warren Mundine, Director of the Indigenous Forum at the Centre for Independent Studies and lobbyist for the No vote has also stated that the Referendum debate for the Voice proposal has divided Australia and, should the Referendum pass, will continue to do so. He has stated, 'It has already proven to be divisive and when enshrined in the constitution it will divide Aboriginal people and threaten our great democratic nation.' [🔗](#)

It has also been argued that in addition to racialising the Constitution, and prompting division, the Referendum proposal is fundamentally unequal or inegalitarian as it gives one group of Australians privileges it does not give others. Former Victorian premier, Jeff Kennett, has argued. 'The referendum seeks to give the ancestors, our current Indigenous and Torres Strait Islanders and their children, a special place of influence and representation with the federal government of the day over all other Australians. That I suggest is inappropriate, unfair, and


discriminates against all other Australians. We should all be treated equally through and by our Constitution.'  Country Liberal Party Senator Jacinta Price, an Indigenous politician who has been a prominent spokesperson for the No campaign, has stressed the inequality that she believes is inherent in the Voice. She has stated, 'If successful, [the Referendum] would mean an extra say for just one group of Australians, based solely on their racial heritage, given the constitutional power to make representations - not simply advise, as the prime minister claims - to parliament and executive government.'  The Fair Australia lobby group opposing the Voice has also stressed this alleged inequality. It states in its promotional material, 'The Voice establishes in the constitution a body that has the right to advise

Parliament and, as Indigenous Australians Minister Linda Burney said, "... an unflinching source of advice and accountability. A body with the perspective and the power and the platform to tell the government and the parliament the truth about what is working and what is not." That's not something other Australians have or will have. It is by definition an extra right and an extra democratic power for one group of Australians over another.'



### 3. How the Voice would be implemented has not been properly explained

Many opponents of the Voice claim that the Referendum proposal has not been adequately explained and therefore the electorate does not have enough information to make an informed decision. Proponents of the No case, including the Opposition leader, Peter Dutton, claim Australians are being asked to vote on the biggest change to the country's constitution in its history without knowing what it will do, how it will work or how its members would be chosen.


Some critics of the referendum proposal have condemned the government for insufficient preparation before the referendum question was put to the electorate. This criticism has been made by Fr Frank Brannan, a Catholic priest and social commentator, who, though a supporter of the Voice, believes that the staging of the referendum has been mishandled. In an interview on Sky News, Fr Brennan quoted a former Liberal Attorney-General Bob Ellicott, who had suggested that for a referendum to succeed 'you can't have any legal ambiguity or complexity'. Fr Brannan argued that the current Labor government should have completed 'the legislative design first' and that the referendum should not have been brought forward while numerous questions about the proposal remain. He has accused the government of 'hubris' or excessive confidence and criticised its 'crash through or crash' strategy. He believes that while there is uncertainty in the electorate about the powers, composition and exact function of the Voice then the referendum will not be passed. 


Other critics have similarly argued that an incomplete proposal has been presented to the electorate. They have argued that the government simply does not have answers to many of the questions being asked by the Opposition and that this is why a more detailed proposal has not been put. Jacinta Nampijinpa Price, Shadow Minister for Indigenous Australians, and Country Liberal Party Senator for the Northern Territory stated in an address to the National Press Club, 'No matter what the Government, the advocates and the activists say about what the Voice will or won't do... the fact is they don't know. They don't know who will be on the Voice. They don't know what it will choose to make representations on. They don't know how a high court will interpret the proposed new chapter.' Price further claimed, 'Assertions that the Voice will only care about health and education or anything else that has been claimed, are pure misleading conjecture. They don't know. The government have repeatedly promised equal representation, gender balance and youth representation, but these are not promises that the government can make. The reality is that they don't know what form the Voice may take in the future.' Price concluded this element of her talk by stating, 'To undertake such a significant amendment, the Prime Minister owes the Australian people a clear, concise, realistic demonstration of how his Voice will deliver the outcomes that all good Australians want for our marginalised. As yet, he is unable to do that.'





Those who claim that too little is known about the proposal argue that this uncertainty makes voting 'yes' too great a risk. They claim that if, as the Voice evolves, we discover that there are significant disadvantages associated with this supposed advisory body, it will be very difficult to alter it and impossible to remove it without holding another referendum. Among the risks that have been outlined are that the Voice will suffer from over-reach. That is, that it will involve itself in wide-ranging aspects of Australian government policy, not simply those issues directly affecting Indigenous Australians. Indigenous anti-Voice lobbyist, Warren Mundine, has




stated, 'The Voice's remit will be "matters relating to Indigenous people" which includes matters relating to every Australian...Anyone who thinks the Voice is just some nice, well-mannered thing... they'll never have to think about again is mistaken. Every Australian will be impacted every day by what the Voice has to say. It's the Voice to Everyone on Everything.' 

Others are concerned that rather than intruding into too many areas it will be too selective and ignore the priorities of those most in need of help. Indigenous Oodnadatta resident Valerie Walker was reported on ABC News expressing her concern regarding the unknowns about the Voice. She stated, 'We need somebody to actually sit down with us for a couple of days and explain what the Voice is. If it's just only for the town people - town Aboriginal people - it's not good for us, I don't think.' Similar doubts were expressed by another Indigenous Oodnadatta resident Anthony Smith, who stated, 'I'd support it, as long as I see what happens with smaller communities like this here - not only this place but other smaller communities that haven't been touched by funding.' In the absence of that reassurance, he remained uncertain. While a third Indigenous Oodnadatta resident Roseanne Woodforde seemed even more confused and uncommitted. She stated, 'I don't know what the Voice is. I see it on TV being advertised, I see a lot of communities all walking around with T-shirts saying 'yes', like what are you saying 'yes' to? We don't know anything about it. We need someone to tell us about it properly.' 



4. The Voice is likely to provoke legal challenges and delay the formulation of laws and policies  
Among those who oppose an Indigenous Voice to Parliament are critics who fear the possibility of lengthy High Court challenges over the function and scope of the new consultative body, and delays to government decision-making processes because of the extensive consultation that the Voice will require.

There are significant concerns regarding the High Court's role in determining the operation of the Voice. One of these concerns is that once the Parliament has defined the exact composition and functioning of the Voice, its members could challenge Parliament's decisions before the High Court. Those who have this fear are concerned that the powers of the Voice could become an ongoing source of contention. As explained by the Rule of Law Education Centre, 'Once in the Constitution, if Parliament makes laws to limit the scope and reach of the Voice, the legislation would be subject to High Court interpretation.'  Concern has been expressed that the Voice might use the High Court to extend the areas within which it could make representations to Government and Parliament. Ian Callinan, a former Justice of the High Court of Australia, has noted, 'The reach of the proposed Voice will ultimately be for the High Court to decide. The High Court has repeatedly given the broadest possible operation to the words used in the proposed amendment "... representations... on matters relating to Aboriginal and Torres Strait Islander peoples". Those words are likely to be interpreted as extending to almost everything.' The former Justice has warned of the Voice members using the High Court to extend its areas of potential influence dramatically and inappropriately. He has noted, 'Proponents of the Voice have advocated already for a say in the location of and access to ports and training by foreign troops on Australian soil.' 



It has also been argued that depending on exactly how the reach and function of the Voice is interpreted by the High Court the Executive and the Parliament could find themselves compulsorily having to receive representations from and negotiate with the Voice on a very wide range of issues. Janet Albrechtsen writing for The Australian in a comment published on April 8, 2023, argued, 'The power of the voice to delay executive action by use of its rights to be heard and to litigate will mean every executive body of government must negotiate with the voice on everything it plans to do, in advance, if it is caught in the wide net of any "matters relating to Aboriginal and Torres Strait Islander peoples". This creates co-sovereignty between our organs of government on the one hand, and the voice on the other.' 


There have been numerous criticisms raised regarding the possibility that the Voice would impede and delay the formulation of laws and the operation of government. Under the referendum proposal, the Voice would be able to make representations to both the Parliament and the Executive. Professor Megan Davis, a key member of the referendum working groups and co-chair of the Uluru Statement from the Heart, has stated that advising both parliament and executive is critical. Under the model that Davis has proposed, the Voice would not simply be submitting advice in the form of a written submission to both these branches of government. Davis envisages an active form of consultation. She has stated, '[The Voice] must be able to speak to both. It must be at the table




working with government as policies and proposed laws are being developed ... Speaking only to one or the other is not enough.' The former high court justice Ian Callinan has raised concerns that such provisions could slow down or interrupt the executive if it went against voice suggestions. The human rights lawyer Frank Brennan has flagged similar issues, claiming in an interview with the Conversation that the provision would create a responsibility for public servants to give notice to the voice before making decisions.  Critics are concerned that if the term 'executive government' is interpreted broadly, then the width and breadth of the federal government and its agencies would be obliged to consult the Voice, slowing down or interrupting the process of government. Professor Greg Craven, part of the constitutional expert group that advised the government about the wording, was quoted as saying it could lead to the Voice being able to comment on everything from 'submarines to parking tickets'. 

5. An Indigenous Voice to Parliament does not have the support of all Indigenous people  
Opponents of the Voice argue that not all Indigenous people support the Voice. It is claimed that this lack of full support deprives the Voice of some of its moral authority. It is also claimed that the reasons some Indigenous people oppose the Voice need consideration. For many Indigenous opponents of the Voice there are concerns that it is a misdirection which will not do anything to improve their lives. Others argue that it is not sufficiently radical and that a more significant change in Indigenous people's lives could be achieved through establishing a treaty with the Australian government.

Many Indigenous people argue that the Uluru Statement from the Heart and the Constitutional Voice that it calls for does not represent their views. Kelly Menzel, an Indigenous academic and Associate Dean of Education at the Gnibi College, Southern Cross University, is one of those who argue that the Uluru Statement from the Heart is not fully indicative of what Indigenous people want. In an opinion piece published in The Conversation on April 23, 2023, Menzel states, 'Although the Uluru Statement is beautifully crafted, it's only one Statement. It is impossible for it to represent the more than 250 First Nation groups in Australia...Presenting feelings towards the Voice to Parliament as an oversimplified, binary debate of "yes vs no" means Indigenous voices coming from somewhere in between continue to be silenced.'  Concern over the neglect of the views of Indigenous people who oppose or are uncertain about the Voice have also been expressed by Indigenous Liberal politician Kerryne Liddle. Liddle has stated, 'Since entering parliament 14 months ago my reservations increased in line with the contact from Aboriginal people who don't know what this is, who don't believe this is the answer and who tell me they too will say no at this Referendum.' Liddle has specifically referred to Anangu Pitjantjatjara Lands senior Aboriginal lore men and custodians of Uluru who have objected to the Statement from the Heart process and do not support its recommendation for a Voice. Through a professional interpreter these senior men said that they did not want to be associated with a push for an Aboriginal and Torres Strait Islander Voice to Parliament as they did not see their hopes and dreams delivered by the Voice. 

One of the reasons some Indigenous people do not support the Voice is that they do not believe that it will be effective for their communities. This concern has been expressed by Circular Head Aboriginal Corporation's (CHAC) chairperson Selina Maguire-Colgrave, who has stated, 'My concern is that our voice won't be heard since we're such a small community, and our community's own individual needs won't be listened to the loudest voice is the one that gets heard. Our most vulnerable ... people that need the most help are from these remote, smaller communities with the smaller numbers. We want to ensure that the quieter voices all across Australia are heard, not just the loud people.' She is also concerned that some of the co-operative local arrangements that her community currently relies on will disappear because of the Voice. Ms Maguire-Colgrave said CHAC had strong relationships with local MPs and senators, and feared instead of turning to them, they would be redirected to Voice members. She explains, 'My concerns are that any Aboriginal issue we have we will be told to go straight to the advisory panel, the Voice, and not to go through our normal channels.' 

Other Indigenous people are concerned not that the Voice will overwhelm existing arrangements, but that it will not be powerful enough. Their apprehension is that it may simply be ignored. Indigenous rights activist Gary Foley has warned the Indigenous Voice to Parliament will face the same fate as its predecessors and be ignored by governments. Professor Foley has stated, 'History shows governments will not take notice of it [an advisory body] if the advice it gives is not palatable to whichever government is in power at the time. Just because it is embedded in the constitution - big deal. It doesn't mean a thing.'  There are other Indigenous perspectives on

why it is unreasonable to expect that an Indigenous advisory committee embedded in the Constitution will solve Indigenous disadvantage. Indigenous academic Kelly Menzel has stated, 'Indigenous People, our culture and our communities are not to blame for the inequities we live with. And expecting an Indigenous "Voice" to be a fix-all for inequities brought about by the colonial project is unrealistic and problematic... We cannot rely on one strategy to "solve" the racial divide in Australia. This is something that requires much work to be done from those with privilege and power.' [↗](#)

Another reason for some Indigenous people rejecting the Voice as a means of empowering Indigenous Australians is that they believe it is too small a step and that what is required is a treaty. Those who argue for treaty claim that Australian governments need to be made to recognise that they have no legal authority over Indigenous people and that their claimed sovereignty over Australian territory is illegitimate. Independent Senator Lidia Thorpe opposes the Voice on these grounds as she believes it is a compromise proposal which gives a spurious legitimacy to the unjust position of Indigenous people. Senator Thorpe has stated, 'I'm there [in Parliament] to infiltrate really, and to question the practices of colonial governance. To remind them that we have not ceded sovereignty and to remind them that they don't have consent to destroy the country and they don't have consent to make decisions for our people.' Senator Thorpe had earlier argued, 'We have an opportunity to have a treaty ... that could put 10 independent Black seats in the parliament today. We want real power, and we won't settle for anything less.' [↗](#)

### **Further implications**

The Indigenous Voice to Parliament proposal centres on an acceptance of Indigenous uniqueness and a willingness to preserve it.

Patrick Dodson, an Indigenous activist, and Labor Senator for Western Australia has written in a recent comment published in The Saturday Paper, 'When voters are told the referendum will deliver a Voice for Aboriginal and Torres Strait Islander peoples, many are confronted by their own perspectives and cannot comprehend that Aboriginal and Torres Strait Islander peoples are the First Peoples of Australia, that we are distinct and unique. We are not from the traditions of Western civilisation but from our own traditions, out of this country. Some think Aboriginal and Torres Strait Islander peoples ought to be the same as the non-Indigenous population, and therefore should not have any recognition in the Constitution. This denies the uniqueness of who we are.' [↗](#)

As the original occupants of this land, Indigenous people lay claim to a set of moral and legal entitlements. Throughout Australia's colonial past these entitlements were ignored. The fiction of terra nullius, that the continent was effectively unoccupied prior to white settlement, justified occupation and only began to be legally challenged with the land rights High Court rulings between 1971 and 1996. [↗](#) Additionally, as an occupied people, Indigenous Australians claim to have had a unique experience of displacement within this country. They did not come to Australia as immigrants or refugees seeking a more secure life. They were violently dispossessed, and their culture systematically dismantled. Their languages and traditions were banned, and their clans and families deliberately fractured, often in the name of offering them a supposedly superior alternative. [↗](#) The psycho-social legacy of this forcible dislocation is generally agreed to be profound and enduring. [↗](#)

Indigenous Australians confront the 21st century in a problematic position. On the one hand many seek to preserve their cultural identity and believe that as Australia's First Peoples with the longest continuous culture in the world, they have something of unique value to offer contemporary Australia, particularly in the face of encroaching environmental disaster. [↗](#) Their values of kinship, empathy, a holistic sense of oneness and interdependence, reverence for land and Country and a responsibility for others offer a counterpoint to many aspects of modern Western culture. [↗](#) On the other hand, significant numbers of Indigenous Australians suffer poverty, ill-health, imprisonment and disabling psycho-social conditions. The burden carried by Indigenous children and youth is particularly concerning. [↗](#) The Uluru Statement from the Heart brought these two aspects of Indigenous experience together. It seeks to retain cultural identity while overcoming disadvantage. It states, 'We seek constitutional reforms to empower our people and take a rightful place in our own country. When we have power over our destiny our children will flourish. They will walk in two worlds and their culture will be a gift to their country.' [↗](#)

The key arguments behind the Indigenous Voice to Parliament are promotion of Indigenous wellbeing and respect for the unique requirements of Indigenous communities. The unique requirements of these communities are what is claimed to necessitate a Voice. This position was put by Professor Jenny Stewart shortly after the 2017 release of the Uluru Statement from the Heart. She noted, 'Public bureaucracies are good at carrying out specified tasks, where lines of accountability are clear and the expertise that is needed can be identified and applied. But engaging with Indigenous communities, particularly in remote areas, cannot be defined in these terms.' What Stewart highlighted is a cultural mismatch between government-deployed public servants and the demands of Indigenous communities. As Stewart explained, 'The communities may be small, but their situations differ from each other. In many cases, they have long-standing internal divisions. Communities want to develop, but not necessarily in the ways white people think they should.' [↗](#) The preservation of cultural differentiation is part of what lies behind the request for a Voice which would allow distinct Indigenous perspectives to be put to government and Parliament.

Many of the arguments against the Indigenous Voice to Parliament are predicated on a belief that Indigenous Australians ought not seek to preserve their cultural difference. They are essentially arguments for assimilation, that is, Indigenous Australians adopting an Anglocentric worldview, the legacy of British colonisation. [↗](#) Assimilation or at least integration is linked with economic success which is in turn seen as the pathway to health, and general psycho-social wellbeing. Some Indigenous anti Voice campaigners, such as Warren Mundine, appear to be promoting an individualistic model of Indigeneity. He has stated that rather than a Voice, what is required is 'getting educated; getting a job; starting businesses; and using land rights as an economic asset and a springboard to individual financial independence and economic power.' [↗](#) This is not a traditional Indigenous worldview where Aboriginal health refers to the social, emotional, and cultural wellbeing of the whole community. [↗](#)

Some opponents of the Voice suggest that what is needed to address Indigenous disadvantage is to discourage Indigenous settlement in remote communities. Henry Ergas, former Adjunct Professor of Economics at the National University of Singapore and lecturer at Harvard Kennedy School and a No vote proponent, has argued that Indigenous disadvantage is closely linked to successive governments' readiness 'to maintain communities in places where there are no real jobs, where education is poor and the incentives to learn poorer...' [↗](#) Much of the available data supports Ergas' suggestion that remote living correlates with Indigenous disadvantage. The Aboriginal and Torres Strait Islander Health Performance Framework 2017 Report found that the relative disadvantage gap between Indigenous and non-Indigenous populations was highest in Indigenous towns (89 percentage points) and remote dispersed settlements (81 percentage points). [↗](#) In 2017, compared with Indigenous people/households in major cities, Indigenous people/households in very remote areas earned \$271 less a week, were 1.4 times as likely to be unemployed, were 1.5 times as likely to receive a government pension or allowance as their main source of income, and were far less likely to be working full or part time. [↗](#)

However, the causal factors of Indigenous disadvantage are complex. There was no single area in Australia where the Indigenous population had better, or even relatively equal outcomes compared to the non-Indigenous population. This later finding suggests factors additional to remoteness are at play. [↗](#) Though unemployment figures were highest in remote and very remote regions, they were high across all locations. In major cities 43 percent of the Indigenous population were either not employed or not in the labour force and the figure was 50 percent for inner regional areas. [↗](#) In remote regions the low employment rate could be attributed to a lack of jobs. In major cities factors such as skill deficits or racial discrimination must be considered. In 2021, 41 percent of Indigenous Australians were living in major cities. [↗](#) Despite their increasing numbers, there has been limited attention given to identifying and meeting the needs, interests, and aspirations of urban Indigenous people. Some have suggested that this lack of policy recognition is based on historical ideas about Aboriginal and Torres Strait Islander people not truly belonging to cities and large towns - and that those who live here are not 'authentically' Indigenous. [↗](#)

A range of data suggests the link between remote living and the preservation of culture. Compared with Indigenous people living in non-remote areas, Indigenous people aged 15 and over in remote and very remote areas are more likely to speak an Australian Indigenous language (55 percent compared with 8 percent). They are also more likely to identify with a clan, or a tribal or language group; more likely to have been involved in

Indigenous cultural events, ceremonies, or organisations in the last 12 months; less likely to have used drugs other than alcohol and tobacco in the last 12 months; and less likely to have experienced homelessness (18 percent compared to 32 percent). [↗](#)

Studies have shown that while living remotely 'on Country' has psychological benefits for Indigenous Australians, it has economic disadvantages. Those who live on their homelands or traditional Country are less likely to have completed Year 12, less likely to be employed, and less likely to be able to raise \$2000 within a week when compared with Indigenous adults disconnected from their traditional lands. However, Indigenous Australians who live on their homelands or traditional Country are more likely to self-assess their own health as excellent/very good/good (78 percent) than those who were not allowed to visit their homelands or traditional Country (47 percent). [↗](#) The connection with homeland also seems to create greater happiness. A 2010 study found that in remote areas, 79 percent of Indigenous people aged 15 years or older reported feeling happy, some or most of the time. In the major cities, however, the report showed 68 percent were happy. [↗](#)

Support for an Indigenous Voice to Parliament implies support to keep diverse Indigenous communities viable and to promote the practice of Indigenous culture. It is, as the drafters of the Uluru Statement from the Heart stated, part of a set of actions designed to encourage the wellbeing of Indigenous Australians and to enable them to make an accommodation between their traditional values and contemporary Australia. To walk in two worlds. The effort may not be successful, but whether Australia wishes to make it is the question being asked on October 14.