

A best of both worlds
William Walker Oration

Australian Council for Educational Leaders Conference

Noel Pearson
3 October 2014

Treating Indigenous peoples as a separate race invoked a long history, a long historical baggage that attached to the idea of race, and particularly members of the so-called Aboriginal race, that has really been a yolk on indigenous policy in this period of citizenship.

I was appointed to an expert panel under the Gillard government and my colleagues were very convincing with me about the deleterious impact of our recognition being on the basis of race. And so central to the reforms that were recommended was the removal of our status of recognition from that concept of race to the concept of peoples - that we are the indigenous peoples of Australia. We are not a separate race, we are like everyone: members of the human race.

So there are specific proposals which we hope will relegate the concept of race in the Australian Constitution to the past. We will put it behind us the idea that there are different races in Australia. Yes there are different ethnicities, there are many cultures, languages, traditions, religions and rituals, but there are not different races.

The challenge we face, of course, is that in the Australia popular discourse indigeneity is equated with race. There is an assumption that indigenous recognition involves racial recognition and it is an argument that we're going to have to clarify in the public mind because that conflation has been allowed to run for a very long time in the popular thinking of Australians.

But to say that we are indigenous to the country is a different thing from saying that we are a separate race. So in the specific reform proposals there is a redundant provision in section 25 of the Constitution that anticipated discrimination in relation to voting on the basis of race around which there is consensus that we should finally delete section 25 of the Australian Constitution.

There is also a general acceptance that we should change the Commonwealth parliament's power in respect of its legislative responsibilities in relation to Aboriginal and Torres Strait Islander peoples. That we should delete race as the basis of that power and instead make it a power in relation to the Aboriginal and Torres Strait Islander peoples.

We then get into controversial territory in relation to whether there will be a prohibition against racial discrimination in the Constitution. Something which our panel proposed and indigenous people across the country were firmly in favor of.

People don't want the long history of discrimination to continue in the future. They want a guarantee that the 3% mouse is dealt with fairly by the 97% elephant. And our minimal influence in the power structure

of the country, makes that anxiety very real. There has been a history of legislative and policy discrimination.

However, this is the flash point for Constitutional conservatives. There is a very strong resistance to the Australian Constitution being amended to outlaw racial discrimination. The constitutional conservatives resist the High Court being given the power to determine what is right and what is wrong. They believe parliament should be the place where these judgements are made.

So, our challenge with constitutional recognition for indigenous Australians will be to see how we overcome this very solid wall of opposition to putting a racial discrimination protection in the Constitution.

The Australian Constitution can only be amended if there is a majority of voters in a majority of the states in favour of the change. So out of 44 attempts only eight times has the Constitution been successfully amended. You need a majority of voters in a majority of the states and therefore the kind of majority that you seek from the public is not a 51% majority, you need 80% - 90% of the country on board with reform.

There was once a referendum that failed with 65% of the Australian population voting in favour of it - because we didn't get a majority of voters in a majority of the states. So, the proposition that I am personally exploring with constitutional conservatives is: if you're not going to give us constitutional guarantees supervised by the High Court, then why can't we have a say over the policy and laws that apply to us? If you say parliament is the place that should properly decide laws and policies and what's right and wrong, then how can you say to the 3% mouse that they have any say over the laws and policies that apply to them? When they're only an extreme minority.

And for me, this is the most important characteristic of our condition as an indigenous peoples in this nation. We are such an extreme minority. We're not like New Zealand. We're not like the position of other indigenous peoples around the world. We're not like other minorities. The extremity of our numbers in very large ways explains our predicament.

And so we are exploring this concept of why is it that if constitutional conservatives are opposed to a High Court supervised protection against racial discrimination, then how is that we can have a true democracy when the 3% mouse has virtually negligible say over the laws and policies that apply to them?

My hope is that constitutional recognition of indigenous Australians will lead to a new future and a new acceptance that there are indigenous peoples of this country and that they have culture, land, language and identity in relation to which they harbour fundamental anxiety. Anglo-Australians do not appreciate or understand the existential angst of indigenous Australians. The fear that they will not exist in the future. That they will be deracinated. That their cultures, their languages will pass from the earth. And their existence as a people, following 53,000 years of occupation in this continent, will one day be no more.

And when we considered education in Cape York Peninsula that was the starting point. The fundamental anxiety about the existence of our people in the future.

[video ends here, no records of the remaining of the speech.]