

THE LONG STRUGGLE FOR A VOICE

Woodford Folk Festival

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27 December 2017

Good morning, everyone. I'd like to acknowledge the traditional owners and my fellow indigenous people from around the country. Ladies and gentlemen, girls and boys, I'm really pleased to be here at Woodfordia.

We've reached a bit of a junction in our cause because a major part of our agenda to find a rightful place in the country hit an uncompromising wall in the person of Malcolm Turnbull, and I will talk about that in the course of my discussion this morning but first I want to talk about what our agenda is in Cape York, an agenda I think that we share with our fellow indigenous First Nations across the country and I suppose our objective is we want our people to have lives we have reason to value. When I sit down and think about what our objective is for our First Nations in Cape York; we want to live lives we have reason to value. Now that formula came from the Nobel laureate Amartya Sen and we were very taken by his *Nostrum*. The full account of which reads: that people should have the capabilities to choose lives they have reason to value. So, we should have choice, we should have the power to choose the kinds of lives we lead and the things that we value and hold dear and that we want to achieve in our future.

But Sen's great insight for us in Cape York was that in order to have real choice. You have to have capabilities. You have to have the capabilities to choose. If you live in poverty with poor health and poor education and limited opportunities, marginalized, discriminated against, then you don't really have the power to choose. So, we set about many years ago in search of this goal for our people. That our children may have the capabilities to choose lives they have reason to value. And of course, being healthy, educated, and having a fair chance in life, was a fundamental starting point for us.

But my own personal journey started with land rights. The cause of justice for our people. And I had the great privilege at 23 years old to join a gang of elders, and we started the Cape York Land Council in pursuit of land justice for our people, and that consumed my life from graduation at Sydney University Law School. For ten years we fought for the land rights of our people. Within the next two years we will settle the last of our land claims in Cape York Peninsula. We will regain a variety of titles in Cape York Peninsula to 98% of the Cape, and this is a consequence of the land rights advocacy of the elders that I work with and our traditional owners in Cape York Peninsula over the last 27 years. Our objective was land justice for our people and the restoration of our rights, and that agenda is soon coming to a close.

But after the first ten years I was struck by our social predicament; our poor health, the poor educational outcomes for our young people, the increasing numbers of children being removed into child protection systems, the increasing numbers of young people straight out of school into the juvenile detention system and into jail, and I was worried about that - the suicides, the decreasing life expectancy of our people, and the social and economic wasteland that had come to dominate these places we loved in Cape York.

I grew up in a village. I had a life that I would not trade for quid's. I had all of the richest blessings of living with all of your relatives, each of whom loved and cared for you.

If there ever was a place where it took a village to raise a child it was the place in which I was born, and had the great privilege of growing up in. But increasingly I noticed, this village had transformed into a kind of public housing ghetto, in a remote area. All of the houses looked the same and they were more well furnished than the house I grew up in, but it was not a house in which we were vested with pride, ownership, skin, love; like the one my father had built with his bare hands.

And so, I became focused on the increasing intrusion of the welfare state in our lives, and this state began to make an industry out of us. This state intruded into the village and turned it into depressing ghettos. It didn't happen suddenly; it took over, over many decades.

So, in 1990 I left the work of land rights to my colleagues and we started on agenda for social and economic empowerment. Our goal was to lift our people out of dependency and to build self-reliance, and build our own economic base, and to get our young people habituated into the kinds of jobs our previous generations had. You can imagine that politically this was a somewhat alternative direction to the one that I'd been engaged in. Our agenda for land rights and human rights met with strong support and enthusiasm from our traditional supporters. Progressive people, people on the Left, had long supported justice for our people and it is that support that has yielded a 98 percent return of land on Cape York Peninsula.

But there was another side of the equation, namely the reconstruction socially and economically of our families and our communities, that was an agenda that met with some bewilderment. Welfare was supposed to be a good thing, welfare was supposed to be a human right. But my caviling with that position was based on the idea that yes, welfare is an important safety net to carry people through times when they're disengaged - by no choice of their own - from the economy, but it cannot be a permanent destination for a people. You cannot expect our people to occupy the lowest bottom of the Australian pyramid of opportunity forever. And we've seen all over the world that if communities are embedded in dependency for generation after generation after generation then social problems unbeknown to the people start arising.

The social problems in which we are mired today were unknown to my grandparents. In the harshest and most discriminatory period in Australian history never did our grandparents abandoned their children. These problems were novel, they were new, and they kept growing in dimension. That is why we fashion the Cape York Agenda. To pursue and complete land rights and human rights whilst at the same time picking up a corresponding agenda of social and economic empowerment.

I just never could accept that receiving welfare at the bottom of the Australian pyramid was a reasonable destination for our people. That is not fair. And the problems you endure when you live in that condition are intolerable. We have an entitlement to a fair place in the economy and society of Australia. And might I say, all disadvantaged people have a right to a fair place in the economy and this society. This is clearly not a racial problem, or a cultural problem. This is a problem about being disadvantaged and living in poverty at the bottom of the Australian system, and the increasing communities of white fellas and immigrants who are joining us in that parlor state. And so when we talk about empowerment and development we say that our challenge is little different from that of so many other Australians who live down at the bottom of the heap.

So, we have to build the capabilities of our people. To rise up in the world, our children need to grow healthy from the beginning, from the womb onward. Mothers need to nurture their children, fathers need to nurture their children, the formative development of children is the most important thing when people are trapped in a self-perpetuating cycle of misery. So, I thought about how is it that we help powerless families, how do we help families get some real material change happening in their homes, for their children, for the family members?

Strangely, our starting point is to manage the money. We can talk all we like, but if we don't get the material conditions changed so that everyone has food in the fridge, so that everyone has clean sheets and blankets, so that everyone lives in a happy household. We've got to change material, we've got to support poor families who are ever predated. Every day they're the victims of predatory behavior, from gambling shops, and alcohol outlets, and all manner of exploitation. We've got to arm disadvantaged families against those predators so they can bring children up with all that they need to succeed, so we have a strong materialist focus in our work in Cape York Peninsula. If there's not more blankets and more milk and more bread in the fridge at the end of all of our efforts then we are not making progress. Oh I know, I know how powerless it is not to have breakfast in the morning. I hate children wanting things that we all enjoy as a matter of course. I hate that situation. And so, we tried to think of ways in which we could intervene and support families without taking away their dignity, and their choice, and their responsibility. And we wanted to fan the flame of love in the mother's breasts for the future of their child. We told them; if you manage the money, you can have things that your children need to grow and develop and you have got to send them to school.

That is where the revolution starts. The revolution starts with reading and with literacy. You teach a child to effectively read in the earliest years of their schooling and you may be growing a Karl Marx. You may be growing a David Suzuki. I don't care who it is, and what path our children pursue, but the critical ingredient for all of those paths is for our children to be literate very early and very fluently, and very capably in their earliest education. And we grew our agenda out from there. We have children in the best schools in the state. Communities that never had university graduates fifteen years later have scores of them. Every year our children graduate in year 12 from the best schools in the state, and their biggest number one supporters are usually a grandmother or an auntie or a mother, or parents who have a jealous regard for the future of that child.

So, an agenda for social and economic empowerment has been an implacable policy of ours. And in the pursuit of that agenda, I suppose we have struggled over the years to straddle the cultural and political and ideological divide. The right like it when we talk about responsibility and empowerment and development, and my friends on the Left have been somewhat bewildered and occasionally skeptical about our agenda. But, I say again, that you cannot prescribe an eternal future of dependency for our people. We can't hold up the edifice of the welfare state on the back of our misery, we believe in the safety net, we strongly support it, but we always have to ask the question; is this net helping people or are we inventing new ways to empower families and mothers and fathers to set up their children for the future?

I think at the same time, the problems that have accumulated and the problems that have always bedeviled our people's situation in this country over the last 200 plus years, as much as it is manifested personally, and individually, the fact our predicament ultimately is situated in our structural disempowerment. And

we've got to confront that. And the starting place of our structural disempowerment is the fact that we have no place in the constitutional structure of Australia. We weren't counted as citizens originally at the time of Federation. The Commonwealth had no power to legislate in relation to us and so the entire structure of the Commonwealth was built on our exclusion. We were not citizens in 1900 and when the Constitution came into place in 1901, we found ourselves excluded for the next 66 years.

I often read the latest scientific advice about when it is that the first Australians came to this continent. And the number keeps pushing out, I understand it's around 65 thousand years, making the Aboriginal and Torres Strait Islander tribes the oldest continuing civilization on earth. 65 thousand years is completely unimaginable, that a people would live on this land for 65 thousand years and yet after 200 of the latest could find themselves in so parlous a situation. The languages and cultures that survived on this land for so long threatened to extinction at the end of 200. The modest state of interest that Australians have in that heritage is a matter of great dismay to me. The limited amount of connection between that heritage and the Australians who live on the land in which that heritage is embedded is a matter of dismay to me.

Australians are still reserved. They are still ambiguous. They are still equivocal about those 65 thousand years of heritage and what it is about that heritage that relates to us as Australians today. We are still an uncertain people.

Constitutional reform that would enable indigenous people to be part of the structure of the Commonwealth has been an agenda that was prosecuted throughout the 20th century, and indeed was an element in various positions advocated in the 19th century. How is it that this new overwhelming structure of power would accommodate the reality of the pre-existing peoples? When that deal was struck between the colonies in the late 19th century that formed the Commonwealths, if the black fellas then extant, then living, had been part of the power deal that was struck, we would have had senators. There were more black fellas in the country than there were Tasmanians. There were more black fellas in the country than there were Western Australians. And if the power had been divided at the time to take account of the original peoples of the country, we would have had senators too.

But, we were excluded. Not counted as citizens. Our interests completely unaccounted for in the deal-making that led to the Commonwealth. And to top it off, the new Parliament was excluded from having any legislative power in relation to our people. It took 66 years of campaigning to lead to a very modest amendment in 1967, because 1967 simply removed the prohibition on the Commonwealth legislating for black fellas, and required indigenous people to be counted in the census. Those two things are the subject of great commemoration but reflect how modest they were. 1967 was a very modest achievement to give people the right to be counted and the Parliament the power to legislate in relation to Aboriginal Affairs. In a sense, a negative position was turned into a neutral position rather than a positive position. Tasmania has a positive position in our constitution, the state that had obliterated the natives from that landscape. In 50 years 99% of the indigenes of Tasmania were gone and that state ended up with six Senate seats, today twelve, but no provision was made for the people who had occupied the country, in their case 35,000 years.

I wrote a short tract on that history of 50 years in Tasmania called *The War of the Worlds*. I discovered from reading *War of the Worlds* to my son that H.G. Wells' inspiration came from his brother, who told him about what was going on in Tasmania, whilst walking in a park in London. And the brother said; you

know it's as if an alien race had come to take over England and started exterminating the people. That is what is going on in Tasmania. It was that account that inspired H.G. Wells' book *The War of the Worlds*. A great moment in world culture no less, in world literature no less, but how many Australians know that the *The War of the Worlds* is inspired by the Tasmanian genocide?

The deal that was done in 1901 excluded our peoples, it took 66 years to realise after long campaigning a modest amendment that delivered a constitutional neutrality, but there was no positive recognition. It's now 50 years since that amendment and we've been on a ten-year crusade to amend the Australian Constitution to obtain positive recognition of Aboriginal and Torres Strait Islander First Nations. That ten-year campaign sought to enjoin the conservative, cultural, and political right in supporting the necessary recognition and my personal political campaign was to bring the right on board.

It's a journey I started 17 years ago. I took a very cold-blooded view that we needed to round up the right. I couldn't just speak to sympathetic audiences in Glebe, the West End, Fitzroy or Woodford. We had to go to the five o'clock position on the clock face and see if we could get decent people on the right to put up their hands for reform. That was my strategy. It was at times a lonely place to hunt at five o'clock on the clock. Everybody was gathering around about seven o'clock on the left, but it was necessary because our Constitution says you've got to get a majority of voters in a majority of the states.

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One time, Australians voted for an amendment and 65% of Australia's put their hands for it and it still never passed because we didn't get a majority in a majority of the states.

It is a very, very difficult thing to do and it requires the right as much as the left to support the change and so I embarked on a long journey to stake out support from the right and we made ground. We had significant individuals on the right, both in politics and outside of politics, understanding the need for recognition and the proposition of a voice which I won't go into today but we will go on and speak about it later in the program during the week. The proposition of the voice was the reform we sought.

The starting place for us was for Aboriginal and Torres Strait Islander First Nations to have a representative body sanctioned by the Australian Constitution to have a voice to the Parliament in relation to our destiny. And we went through a process of building indigenous consensus around the concept but also prosecuting our argument with the left and the right. We wanted to round everybody up in the cause of recognition.

I've written about this, but I'll tell you very briefly; I went to see Malcolm Turnbull, when he was Minister for Communications, in his Parliament House suite. My colleague and I went to put to him the proposition of the voice and various reform proposals. And the then Minister for Communications clad in a cardigan, sipping green tea from an Asian teapot, with Lucy's magnificent portrait beaming down on us from the wall, it was very disconcerting. But, we had this meeting and he told me he supported the idea of the voice. It was 'a sensible idea' he said, and he invited me to an event in Wentworth. He said we'll have an event at a pub and we can both speak in favor of this concept of reform. Within two months, he'd supplanted Tony Abbott as prime minister and increasingly we became concerned that what he viewed as a sensible idea was not necessarily something he was supporting.

Three theories:

One: Tony Abbott was stalking him on every issue, and Turnbull was terrified about doing anything to the left of Abbott. And as much as we played it with Tony Abbott to exempt constitutional recognition from his stalking horse, Abbott never agreed to that and kept his cards close to his chest. And as a result, this gutless Prime Minister could never find it in himself to do anything to the left of Abbott. And of course, Abbott was pushing him and pushing him further and further right. So, first theory, Abbott never allowed Turnbull to have the room to show some leadership on this question.

Second theory: this theory has some cogent evidence behind it. Namely, that it was a condition of Turnbull's assumption of the prime ministership, through overtaking Tony Abbott, it was a condition of blessing from John Howard that constitutional recognition be abandoned. The price of support for the transition from Abbott to Turnbull, that Howard extracted, was that constitutional recognition be minimalist rather than the voice. What is meant by minimalism is some kind of preamble, like a brass plaque at the front of the Constitution saying what we all know, namely that the Aborigines were here before. That is the minimalism that had support from Howard and most everyone in the Parliament, but it was not a proposition supported by indigenous people. You couldn't give us a mere fake bronze plaque at the front of the Constitution and say it was reformed. So, the second theory is that Howard had extracted that commitment out of Turnbull before he assumed the prime ministership and it's a theory that I hold.

But of course, the arguments of the Prime Minister eventually put out were arguments to the effect that this would become a 'third chamber of parliament'. The indigenous voice would come to be seen as a third chamber of Parliament and that it would breach the principle of equality of Australians. And Turnbull used those arguments to dismiss what came out of the *Uluru Statement From the Heart* and which the referendum council appointed by him had recommended.

Let me say one thing about the referendum council. The recommendations of the referendum Council were actually drawn up by two great constitutional lawyers; Professor Megan Davis, an indigenous professor at the University of New South Wales, together with Murray Gleeson the former Chief Justice of the High Court. They advised the referendum council on the recommendation.

So, for Turnbull to turn around and say that the referendum council's recommendation was outside of the terms of reference and so on was completely traduced by the fact that a former Chief Justice of the High Court had been involved in the drafting of the recommendations.

So, we've now hit a brick wall, or at least we've hit a major impediment and the problem with what Turnbull has done is that he was so extreme in mischaracterizing and lying about the reform proposal to the Australian people that he's locked the Conservatives in, he's locked the liberal and national parties into a position that I can't see them being able to move away from for generations. It would have been one thing for him to say; well it's not viable, the Australian people are not going put their hands up for it, but he did more than that. He poisoned the well for future progress, and this completely dastardly act, by the Prime Minister, has meant that we have to regroup, we have a proposition that we believe has the support and can gain the support of the majority of voters in a majority of the states. This is an idea that is right and correct.

And if the politicians would allow us to put the question to the Australian people directly, I believe we would have good chances of success.

It is the political system and the parliamentarians that stand between us and a successful referendum who are our current impediment. I believe that ultimately our structural disempowerment in Australia, we are the most incarcerated peoples in the world per head. You think about that. You hear all about African-Americans; 5 million of them in jail. Our rate is much higher than this. Per head of population there are more Aboriginal and Torres Islanders in jail than any other people on the face of the planet.

This is a structural problem. This is a not a problem of our criminality. Are we saying that we're in jail in such egregious numbers because we are particularly susceptible to criminal behavior? That would have to be the theory we have if we don't accept that this is a structural problem and it will not turn around. I know as much about good health, good education, good housing, personal responsibility, welfare reform, looking after your money. I know all about that, and we do those things, and we're achieving great things in those areas but if we don't tackle the structural problem. We've got to do both. If we don't tackle the structural problem my son will be up here in 30 years time and I don't want him to be. I want him to be playing his guitar down in another tent.

So, the political and cultural right will bang on again about better health, better education, more personal responsibility, blah blah blah, and not face up to the fact that their gutless leader.

And by the way, all of us all of us who thought there was promise in that guy, I never shared that hope, I never shared that view, he was always a Quisling. And it has all become too apparent. I believe that this is a juncture not just for the indigenous cause but for progressive politics full stop. It is a juncture for progressive politics full stop. We have got to chart a new direction for progressive politics in this country.

I'll just make the modest submission that raising disadvantaged people up from their disadvantage to take a fair place in the country must always be a fundamental goal of ours. It is not right that too many Australians suffer disadvantage and marginalization and cycles of misery.

So, thank you to the organizers here at Woodford for giving me the opportunity to talk to you. This is an agenda we're going to talk about later in the week. My colleague, Professor Davis and other colleagues, have been working on the *Uluru Statement From the Heart*, will be speaking with us this week.

I urge you to read the *Uluru Statement From the Heart*. It is a succinct encapsulation of our vision for the country. It is the kind of Australia that we can be, as opposed to the one we too often have been. I urge you to read the *Uluru Statement From the Heart* and to support our sessions later in the week where we might talk about what it is that we might do in the future.

Thank you.