

Reconciliation - Are we making progress towards the wider challenge of equality for Aboriginal and Torres Strait Islander Peoples?

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Speech delivered to Illawarra Aboriginal Community Based Working Group on 2 June 2021 at Southern Youth and Family Services, Warilla

“I wish to acknowledge the Traditional Custodians of the Dharawal Nations and recognise their continued connection to the land we meet on today. I pay my respects to Elders past, present and emerging and extend my recognition to their descendants who continue to live on Country.”

Thank you June Lowe and Michelle Toms for the invitation to speak at your meeting today. It is an honour to be here as I am deeply passionate about Reconciliation and would like to share with you my reflection and why I feel this way.

Four years since Indigenous delegates from across Australia gathered at Uluru and reached an unprecedented consensus, on ABC’s 7.30 Report on 27 May 2021¹,

Pat Anderson, Co-Chair of the Uluru Dialogue said of the Uluru Statement of the Heart: “It is a gift. It is a gift of healing and indeed, a gift of love and we very mindfully decided that we would give it as a gift to the Australian people. Not to the government, not to the Prime Minister.

The Uluru Statement from the Heart is a gift as a strategic roadmap to peace, a pathway for Australians to come together to realise our nation’s true potential.

In a country where the process of reconciliation began formally in 1991, one would think that this gift, this coming together would be fast tracked. A statement from Minister for Indigenous Australians, Ken Wyatt, however, said: “the Morrison Government is committed to recognising Indigenous Australians in the Constitution and will hold a referendum when a consensus is reached and it has the best chance of success... Government supports finalising co-design of a voice that can deliver practical outcomes for communities first².”

Stage 2 of the co-design process is now underway to review the feedback of 9000 Australians on how they think the proposals for Local and Regional Voices and a National Voice could work. This process however is focusing on a legislative embodiment of the Voice and not its constitutional enshrinement through a referendum first.

As for the call for coming together by Aboriginal and Torres Strait Islander peoples, this was made since colonisation began. As Reconciliation Australia in its 2021 State of Australia Reconciliation Report³ states,

¹ Tingle, Laura. 2021. Calls for renewed focus on Uluru Statement of the Heart four years on. ABC 7.30Report with Leigh Sales. 27 May 2021. Accessed 30 May 2021.

<https://www.abc.net.au/7.30/calls-for-renewed-focus-on-uluru-statement-of-the/13362702>

² Statement from Ken Wyatt, Minister for Indigenous Australians. In ABC 7.30 Report 27 May 2021. <https://www.documentcloud.org/documents/20791748-statement-from-ken-wyatt>

³ Reconciliation Australia. 2021. State of Reconciliation Australia Report 2021. Moving from Safe to Brave. https://www.reconciliation.org.au/wp-content/uploads/2021/01/State-of-Reconciliation-in-Australia-report_2021_full.pdf. p3.

“Aboriginal and Torres Strait Islander peoples, despite the dispossession, violence and repressive racist policies they endured, have shown a generosity towards the new arrivals; and since 1788 have repeatedly called for reconciliation and a coming together.”

The word reconcile means, to restore to friendship or to settle the differences. When two people are reconciled, they become friendly again after they have argued

It would seem though that in Australia, when Aboriginal people offer their gift of friendship to create unity and peace, there is resistance to listen, and progress is very slow.

If we look at when the process of Reconciliation formally began, it began as a result of the findings of the Royal Commission into Aboriginal Deaths in Custody in 1991.

In 1991 The Royal Commission had examined the deaths of 99 people who had died in custody between 1 January 1980 and 31 May 1989. In its report the commission made 339 recommendations⁴.

For example, recommendation 87 stated, “Arrest people only when no other way exists for dealing with a problem”.

Recommendation 92 was “Imprisonment should be utilised only as a sanction of last resort.”

Recommendation 161 was “Police and prison officers should seek medical attention immediately if any doubt arises as to a detainee’s condition.”

Recommendation 339 was “Initiate a formal process of reconciliation between Aboriginal people and the wider community.”

One would think that these recommendations when implemented would have reduced or stopped Aboriginal deaths in custody. But today, 30 years since the 1991 Royal Commission, The Guardian’s Deaths in Custody tracking project reported that more than 470 Aboriginal and Torres Strait Islander people have died in custody in Australia and that “some of these deaths were clearly preventable, from suicide, violence, or a lack of prison support⁵.”

So were the 339 recommendations of the 1991 Royal Commission implemented?

A 2018 review by Deloitte Access⁶ found that the majority of the recommendations had been implemented, but this claim was vehemently disputed by 33 academic and professional experts in the policy areas examined by the Commission. Their 2018 joint statement⁷ noted that the use of

⁴ Dodson, Patrick; Wooten, Hal; O’Dea, Daniel; Wyvill, Lew., & Johnston, Elliott. 1991. 1991. Royal Commission into Aboriginal Deaths in Custody: final report. Australasian Legal Information Institute (AustLII). <https://apo.org.au/node/30017>

⁵ Human Rights Watch. 2021. Australia: Act on Indigenous Deaths in Custody. <https://www.hrw.org/news/2021/04/14/australia-act-indigenous-deaths-custody>

⁶ Deloitte Access. 2018. Review of the implementation of the recommendations of the Royal Commission into Aboriginal deaths in custody Department of the Prime Minister and Cabinet. <https://www.niaa.gov.au/sites/default/files/publications/rciadic-review-report.pdf>

⁷ Jordan, K & Anthony, T & Walsh, T & Markham, F., 2018. Joint response to the Deloitte Review of the implementation of the recommendations of the Royal Commission into Aboriginal Deaths in Custody. Australian National University. Centre for Aboriginal Economic Policy Research ANU College of Arts & Social Sciences. CAEPR TOPICAL ISSUE NO. 4/2018.

arrest had in fact risen, as had rates of incarceration among Indigenous youth; that Indigenous people remain over-represented in police and prison and Indigenous people account for 28 per cent of the prisoner population – up from 14 per cent in 1991.

Despite this criticism, the Federal Minister for Indigenous Australians, Ken Wyatt, in 2020 defended his government from fresh criticism inspired by the Black Lives Matter movement, and tweeted:

“It’s important to note that an independent review of the RCIADIC [Royal Commission] recommendations (conducted in 2017) found that the Australian Government has fully or mostly implemented 91% of recommendations for which it has responsibility⁸.”

As Reconciliation is meant to be a process where Aboriginal and Torres Strait Islander peoples, non-Indigenous Australians and Australian governments forge a new relationship based on mutual understanding, recognition and respect, does this reflect that we have forged this relationship. Is there truth telling or misrepresentation here? Does this inform or misinform policy and practice responses to Aboriginal deaths in custody and the spectrum of policies considered by the RCIADIC? Does it take into account the realities of policy and what is happening as experienced by Aboriginal people?

This is one example where policy and practice does not close the growing gap. As we know, wide gaps continue to exist between Aboriginal and Torres Strait Islander peoples and non-Indigenous Australians across social, health, educational and economic indicators⁹.

Yes progress has been made especially in the ‘decade of reconciliation’ which saw a number of significant ‘reconciling’ events through the country’s political leadership.

- 1992 High Court decision on the Mabo land rights case
- Paul Keating’s 1992 powerful Redfern Speech
- 1993 Native Title Act
- 1996 Wik Peoples’ case for upholding Native Title
- 1997 Sea of Hands installation in front of Parliament House Canberra

And on 26 May 1997 the landmark *Bringing Them Home* report¹⁰ was tabled in Federal Parliament. It was the result of a national inquiry that investigated the forced removal of Indigenous children from their families - a pivotal moment in the healing journey of many Stolen Generations members. The decade of reconciliation ended with 250,000 Australians symbolically walking across the Sydney Harbor Bridge wanting national recognition of past wrongs and commitment to future justice.

https://caepr.cass.anu.edu.au/sites/default/files/docs/2018/12/Topical_issue_4_2018_Jordan_et_al_final_KJ2_%28002%29.pdf

⁸ <https://twitter.com/KenWyattMP/status/1269507631669895169?s=20>

⁹ Reconciliation Australia. 2021. State of Reconciliation Australia Report 2021. Moving from Safe to Brave. https://www.reconciliation.org.au/wp-content/uploads/2021/01/State-of-Reconciliation-in-Australia-report_2021_full.pdf. p18.

¹⁰ Bringing them Home Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families. April 1997. <https://humanrights.gov.au/our-work/bringing-them-home-report-1997>

But in the two decades since 2000, progress has been slow. There have been only two landmarks in Australia's reconciliation journey¹¹:

The first being Prime Minister Kevin Rudd formally apologise to the Stolen Generations on behalf of the Australian Parliament and people, and the second the historic 2017 Uluru Statement from the Heart which asks the nation to truthfully recognise Australia's history and colonisation AND give First Nations a rightful place in their own land.

The Uluru Statement lays out a way that the relationship between Indigenous Australia and the Commonwealth can be reset, so that agreement-making and truth-telling can finally be done on equal terms. A First Nations Voice, protected by the Constitution, will mean that this relationship will be sustained regardless of who is in government.

When NSW Liberal Senator, Andrew Bragg said on 7.30 ABC Report, "I would like to think that the Government could develop a policy position which embedded a requirement to consult Indigenous people in the Constitution with a referendum to be held next term..." Pat Anderson firmly said, "No, no, that's not to happen. You guys have been consulting us for generations. That's the whole point. We don't want to be consulted anymore. We're consulted to death."

And she is absolutely right. You need to be in charge of any process that has an impact on you. You need to drive it, use your expertise, lived experience, shape, review and change it to suit how policies best benefits you. For this to happen we need to move beyond a reconciliation mindset to being *brave and more impactful*.

As Jackie Huggins, former Co-Chair of National Congress of Australia's First Peoples, in delivering the historic 2017 Redfern Statement to the Prime Minister, said to the government to "Draw on our collective expertise, our deep understanding of our communities, and lifetimes of experience working with our people¹²."

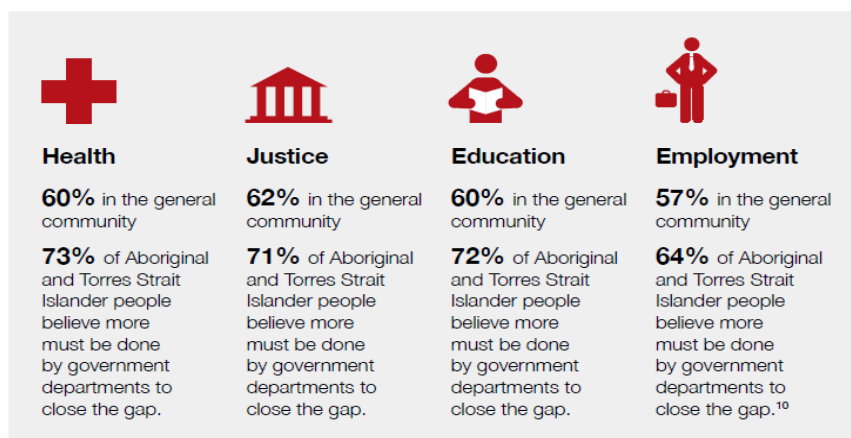
The nation is expressing a clear pride in Aboriginal and Torres Strait Islander culture as shown by the 2020 Australian Reconciliation Barometer survey¹³

- 95% of Aboriginal and Torres Strait Islander people and 91% of the general community feeling our relationship is important
- 79% of Australians in the broader community now agree that Aboriginal and Torres Strait Islander cultures are important to Australia's national identity
- People both indigenous and non-indigenous believe that more must be done by the government to close the gaps as can be seen in this infographic.

¹¹ Australians for Native Title and Reconciliation (ANTaR). Reconciliation. Accessed 30 May 2021. <https://antar.org.au/campaigns/reconciliation>

¹² Speech at the Redfern Statement Parliamentary Event, 14 February 2017, Jackie Huggins Co-Chair of National Congress for Australia's First Peoples

¹³ Reconciliation Australia. 2021. State of Reconciliation Australia Report 2021. Moving from Safe to Brave. https://www.reconciliation.org.au/wp-content/uploads/2021/01/State-of-Reconciliation-in-Australia-report_2021_full.pdf.



The Barometer also found that, many look to the lack of progress in relation to the Uluru Statement from the Heart as an indicator that Parliament is not keeping up with the broader community in progressing reconciliation.

- 66% support a Voice to Parliament
- 93% of Aboriginal and Torres Strait Islander people and 89% of Australians in the general community support formal truth-telling processes in relation to Australia's shared history.
- For Reconciliation Action Plans, Stakeholders interviewed noted the positive impact of Reconciliation Action Plans (RAPs) while emphasising the need to do more.
- *"RAPs have become an important part of institutional integrity; helped change the narrative on accountability and engagement with Aboriginal people, but still yet to truly change the culture and processes in organisations."*
- 15% of Aboriginal and Torres Strait Islander people continue to feel they cannot be true to their cultures at work; 14% in interactions with educational institutions; 12% in interactions with government departments

It is clear that while there is a shift in the public's heart, the political machinery is slow and wilfully so.

If reconciliation focuses on healing, justice and acknowledging the past, then I believe moving forward, it should focus vehemently on Aboriginal and Torres Strait Islander people taking their rightful place on any table of power, demanding to be recognised as an equal, being an equal participant in the decision-making processes, in evaluating their impact and refinement.

Aboriginal and Torres Strait Islander people need to be involved in the process from a critical and constructive way and be brave to speak from the heart, to call out misinformation and the impact of policies, and to consolidate as one voice.

It is devastating knowing the horrific extent of injustices against Aboriginal and Torres Strait Islander people. The stories in the Bringing them Home Report¹⁴ are of lives, families, communities and identities robbed.

¹⁴ Bringing them Home Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families. April 1997. <https://humanrights.gov.au/our-work/bringing-them-home-report-1997>

For a people who have *suffered 233 years of injustice and inhumanity*, why is it that you have to continue to fight an uphill battle for equality and justice? Australia's past is characterised by racism directed at First Nations peoples¹⁵. Our present is also characterised by racism that is structural and systemic, overt and covert, against First Nations peoples.

Although, there is an increasing proportion of Australians who want to do something about it, it is your right to self-determination¹⁶, to have control over your destiny that leaves discrimination behind. Self-determination as a right, necessitates that you are governed without discrimination. Self-determination is "freedom in the face of oppression"¹⁷ and taking back control.

Federal governments since at least the early 2000s have tended to reject the principle of self-determination in favour of centralised policy development and decision-making that substantively excludes Indigenous peoples affected by the policy¹⁸, despite endorsing the United Nations (UN) Declaration on the Rights of Indigenous Peoples in 2009.¹⁹

The Uluru Statement enables constitutional reforms to achieve self-determination as you take a rightful place in our own country for yourselves and your children, and your flourishing will be a powerful gift to Australia."

Thank you.

¹⁵ Reconciliation Australia. 2021. State of Reconciliation Australia Report 2021. Moving from Safe to Brave. https://www.reconciliation.org.au/wp-content/uploads/2021/01/State-of-Reconciliation-in-Australia-report_2021_full.pdf. p28.

¹⁶ Australian Government Attorney General's Department. Right to self-determination. Public sector guidance sheet. <https://www.ag.gov.au/rights-and-protections/human-rights-and-anti-discrimination/human-rights-scrutiny/public-sector-guidance-sheets/right-self-determination>

¹⁷ Castellino, J., & Gilber, J., Self-determination, indigenous peoples and minorities. *Macquarie Law Journal*. Vol. 3. p13 & p24

¹⁸ Jordan, K & Anthony, T & Walsh, T & Markham, F., 2018. Joint response to the Deloitte Review of the implementation of the recommendations of the Royal Commission into Aboriginal Deaths in Custody. Australian National University. Centre for Aboriginal Economic Policy Research ANU College of Arts & Social Sciences. CAEPR TOPICAL ISSUE NO. 4/2018.

https://caepr.cass.anu.edu.au/sites/default/files/docs/2018/12/Topical_issue_4_2018_Jordan_et_al_final__KJ2_%28002%29.pdf

¹⁹ Jordan, K & Anthony, T & Walsh, T & Markham, F., 2018. Joint response to the Deloitte Review of the implementation of the recommendations of the Royal Commission into Aboriginal Deaths in Custody. Australian National University. Centre for Aboriginal Economic Policy Research ANU College of Arts & Social Sciences. CAEPR TOPICAL ISSUE NO. 4/2018.

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