



Australian
Bar Association

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ABA supports the inclusion of a First Nations “Voice” in the Constitution

In a unified voice representing Independent Bars from across Australia, the ABA has made a submission to the Joint Select Committee on Constitutional Recognition Relating to Aboriginal and Torres Strait Islander Peoples supporting the Uluru Statement call for a “Voice” in the Constitution.

The Joint Select Committee is scheduled to provide an interim report to Parliament by 30 July 2018 with a final report by 29 November 2018. This is a historic opportunity to remedy the omission of First Nations peoples from the Constitution, their exclusion from the creation of the Australian state and the passage of its founding document.

The Uluru Statement is an agreed position accepted by First Nations delegates to the 2017 National Constitutional Convention which makes it a viable starting point for any constitutional amendment. It proposes the establishment of a body to provide a ‘Voice’ enshrined in the Constitution together with a Makarrata Commission to supervise the making of agreements (or treaties) between First Nations peoples and governments.

The ABA supports the principle of a First Nations Voice to be included in the Constitution for the following reasons:

- a. it has been adopted by the representatives of First Nations at Uluru;
- b. the Voice is proposed to operate within the current constitutional structure and not against it;
- c. there will be continuing dialogue to develop any proposed constitutional amendment to recognise the role and position of the First Nations peoples; and
- d. following any appropriate amendment of the Constitution the Voice might be implemented in a number of ways outside the Constitution so as to provide both institutional flexibility and longevity for First Nations peoples and the Commonwealth of Australia.

In principle the ABA supports the idea of an independent permanent advisory body to be enshrined in the Constitution. Any constitutional amendment should, preferably, be flexible as to the design of the Voice.

Lawyers have made contributions to past reforms and again have a role to play in considering the details and mechanisms which may give effect to the Uluru proposals. The ABA is available to support this very important work.

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