

Presentation by Nathan Tyson, *The Statement from the Heart: Voice + Treaty + Truth*, at the UAICC National Conference in Darwin, 13-18 April, 2023.

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Yaama. Good evening everyone.

I thank James for his welcome to this country , and pay my respects to the Elders, leaders and communities of the Larrakia people.

I am a visitor to this country, and it is important that I note that I am not suggesting that I speak for, or on behalf of, the Larrakia people.

I respect the right of the Larrakia Elders and community to self-determination, and to discern their own views on tonight's topic.

Tonight I will be sharing my thoughts and reflections the Statement from the Heart, and particularly about the Voice to Parliament.

I hope this presentation will provide some useful information, and also promote respectful discussion in the wider community about this important topic.

After my presentation there will be an opportunity to ask questions to myself and others on the panel, so if anything I say doesn't make sense please ask me about it and we can have a yarn.

If you would like to have a speak with me after tonight, please feel free to come and see me and I can give you my contact details.

Introduction

The Uluru Statement from the Heart, which I will call “the Statement”, because it’s shorter, and I’ll be saying it a lot, was released in May 2017.

The Statement offered a response from Aboriginal and Torres Strait Islander peoples to the debate around recognition of Australia’s First Peoples in the Australian Constitution. The Statement is an invitation to the Australian people to support three outcomes: Voice, Treaty and Truth.

Tonight, I will offer a brief account of the history and claims of the Statement, and the diversity of political and community responses to it. In looking at some of the responses to the Statement, and particularly at responses to the notion of a constitutionally enshrined Voice to Parliament for First Peoples – which has become known as “The Voice”, I will offer my thoughts around some concerns that I believe are not well informed, or that are simply not true.

I will then consider some theological principles that Christians may use to think about how we might respond to the Statement, and to the Referendum to be held on a constitutionally enshrined Voice. I then offer some of my personal views on the Voice.

A Brief history of the Statement from the Heart

Aboriginal peoples have been advocating for recognition of our sovereignty and human rights, in various ways, since the start of colonisation.

On 26th January 1938 Aboriginal man William Cooper led a “Day of Mourning” protest, and he later wrote to the King seeking representation in Parliament for Aboriginal people. In 1965, the Freedom Ride, led by the late Charles Perkins, drew national and international attention to the third world living conditions of Aboriginal people and the deep racism that was common in country towns of New South Wales.

The Aboriginal Tent Embassy in Canberra was established on 26 January 1972, with protesters making a stand about land rights and the government policy of Assimilation. The Aboriginal Tent Embassy remains in place, and Aboriginal Peoples continue to seek recognition of our unceded sovereignty, land rights, and a Treaty.

This is only a small part of the history of resistance, protest and advocacy that has paved a way for constitutional recognition of First Peoples, Truth-telling, Treaty.

Many thousands of Aboriginal people have fought (and died) for justice since the beginning of colonisation. It is important to understand this history when thinking about the Statement from the Heart and its call to the Australian people.

[pause]

In the early 1990's the Australian Government changed the dialogue from self-determination and Treaty, to "Reconciliation".

It has been suggested that this was in part because "reconciliation" type language created less anxiety for non-Aboriginal people, and because "reconciliation" comes at relatively little political or material cost to the nation.

To date, "reconciliation" has resulted in little substantive change in the relationship between Aboriginal and non-Aboriginal peoples. Reconciliation has not, for example, led to the closing of the socio-economic Gap.

The Redfern Speech delivered by former Prime Minister Paul Keating in 1992, to launch the International Year of the World's Indigenous Peoples, was an amazing moment that seemed to offer a new way forward, of truth telling, recognition, and relationship building. I was in the crowd that day, and our mob

was excited by the hope for change... sadly, again, that positive change did not eventuate.

The Apology by then Prime Minister Kevin Rudd to the Stolen Generations in 2008, was another opportunity to reset the relationship between First Peoples and other Australians, however it quickly became evident that this was a specific apology to a specific set of people, and not capable of addressing broader structural inequality experience by Aboriginal peoples.

The hung Australian Parliament following the 2010 Federal Election saw the Labor Government need to engage with a number of Independents, which resulted in issues of the recognition of Aboriginal cultures, customs and law, and Constitutional recognition of Australia's First Peoples, gaining some traction.

In the same year, 2010, Prime Minister Julia Gillard established the *Expert Panel on the Recognition of Aboriginal and Torres Strait Islander Peoples in the Constitution*, which reported back to the Government in 2012.

The newly elected Prime Minister, Tony Abbott, then established a *Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples*, which reported to the Government in June 2015.

Later in 2015, the new Liberal Prime Minister Malcolm Turnbull, in collaboration with opposition leader Bill Shorten, formed a "*Referendum Council*" to discuss the idea of constitutional recognition of First Peoples.

The Referendum Council conducted a limited consultation process across Australia, with the purpose of reporting consultation outcomes to the Prime Minister, as well as "*options for a referendum proposal, steps for finalising a proposal, and possible timing for a referendum*". The Referendum Council then proposed a plan to conduct a series of "First Nations Regional Dialogues" culminating in a National Constitutional Convention at Uluru, which was

endorsed by the Prime Minister (Turnbull) and the Leader of the Opposition (Shorten)

Twelve “Indigenous-designed and Indigenous-led”¹ regional dialogues (meetings) were held around Australia, involving around 1200 Aboriginal and Torres Strait Islander people. Following these meetings, over 250 First Nations representatives, including “key participants and activists” identified through the regional meetings, gathered at Yulara (25km from Uluru) for a National Constitutional Convention to discuss proposals for constitutional recognition and provide a response. The outcome of this meeting was delivered to the Australian People in 2017 in the form of the Statement from the Heart. It called for “Voice, Treaty and Truth.

Voice

I will quote directly from the National Indigenous Australians Agency (NIAA) website, which describes the Voice as:

“[A]n independent, representative advisory body for First Nations people. It will provide a permanent means to advise the Australian Parliament and Government on the views of Aboriginal and Torres Strait Islander peoples on matters that affect them.

A set of principles that describe how the Voice will work were agreed to by the First Nations Referendum Working Group. I will read through these principles.

The Voice will give independent advice to the Parliament and Government

- The Voice would make representations to the Parliament and the Executive Government on matters relating to Aboriginal and Torres Strait Islander peoples.

¹ Appelby, G., and Davis., M., (2017), “The Uluru Statement and the Promises of Truth”, Australian Historical Studies, 49(4), p.501.

- The Voice would be able to make representations proactively.
- The Voice would be able to respond to requests for representations from the Parliament and the Executive Government.
- The Voice would have its own resources to allow it to research, develop and make representations.
- The Parliament and Executive Government should seek representations in writing from the Voice early in the development of proposed laws and policies.

The Voice will be chosen by Aboriginal and Torres Strait Islander people based on the wishes of local communities.

- Members of the Voice would be selected by Aboriginal and Torres Strait Islander communities, not appointed by the Executive Government.
- Members would serve on the Voice for a fixed period of time, to ensure regular accountability to their communities.
- To ensure cultural legitimacy, the way that members of the Voice are chosen would suit the wishes of local communities and would be determined through the post-referendum process.

The Voice will be representative of Aboriginal and Torres Strait Islander communities, gender balanced and include youth

- Members of the Voice would be Aboriginal and/or Torres Strait Islander, according to the standard three part test.
- Members would be chosen from each of the states, territories and the Torres Strait Islands.
- The Voice would have specific remote representatives as well as representation for the mainland Torres Strait Islander population.
- The Voice will have balanced gender representation at the national level.

The Voice will be empowering, community-led, inclusive, respectful and culturally informed.

- Members of the Voice would be expected to connect with – and reflect the wishes of – their communities.
- The Voice would consult with grassroots communities and regional entities to ensure its representations are informed by their experience, including the experience of those who have been historically excluded from participation.

The Voice will be accountable and transparent

- 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 Voice will work alongside existing organisations and traditional structures

- The Voice would respect the work of existing organisations.

The Voice will not have a program delivery function.

- The Voice would be able to make representations about improving programs and services, but it would not manage money or deliver services.

The Voice will not have a veto power.

The structure and role of the Voice will be decided by Parliament through legislation, with its members to be chosen by First Nations people.”²

It is important to note that the *Indigenous Voice co-design process: Final Report to the Australian Government* recommends that members of the Voice body are elected via regional Voice bodies, ensuring there is representation from across Australia (and not “just hand-picked people from the big cities” as has been falsely claimed by some people.)

“The Final Report of the co-design process outlines an Indigenous Voice made up of two parts that work together: Local & Regional Voices, and a National Voice.

The Voice structure would provide a way for First Peoples to have a greater say on the design, development and implementation of policies and programs that affect them.

It would also provide:

- effective partnership mechanisms at the local and regional level for all governments and Aboriginal and Torres Strait Islander Australians to work together and improve outcomes.
- opportunities for the Australian Parliament and Government to seek advice on relevant federal laws, policies and programs from the National Voice. “

“Non-Binding”

The “non-binding” nature of the Voice is contentious, with some Aboriginal people suggesting that a non-binding Voice is just tokenistic or symbolic.

² See: <https://voice.niaa.gov.au/#>

While the Voice body will have no power to create or veto legislation, or to overturn decisions of the Government or Parliament, it will be an important way for First Peoples to lobby the Government and Parliament for desired outcomes – similar to powerful lobby groups such as the Australian Chamber of Commerce and Industry, the Australian Council of Trade Unions, the National Farmers' Federation, and the Business Council of Australia.

In my view, the Voice will provide a fair and much needed platform for First Peoples to lobby Government and Parliament to promote our needs and interests.

The National Voice will also be able to champion the voices of local and regional communities, and of Aboriginal Community Controlled Organisations, who often find it difficult to feel heard by the Government and the Parliament.

Formal advice from the National Voice body to the Government and/or Parliament will also be on the public record. This will create an environment of accountability, where any action or inaction by the Government and/or Parliament will be visible to the Australian people - the voting public - who can hold politicians and political parties accountable at the ballot box for poor policy and program decisions...put simply, if they choose not to act on good advice they can be voted out. All politicians can be held accountable via the ballot box.

Treaty

The Statement from the Heart references a Treaty as follows:

“We seek a Makarrata Commission to supervise a process of agreement-making between governments and First Nations and truth-telling about our history”.

While the Statement does not specifically mention the word “Treaty”, it is assumed that the “*process of agreement-making*” mentioned in the Statement is a reference to Treaty agreements.

This view is affirmed by Professor Megan Davis, a co-author of the Statement, who provides the following commentary around the importance of a treaty, and the sequencing of “Voice, Treaty, Truth”:

“A substantive treaty has always been the primary aspiration of the Aboriginal and Torres Strait Islander movement. Perhaps that is why some people were confused last year when a series of 12 First Nations Regional Dialogues, followed by the First Nations National Constitutional Convention at Uluru, adopted a constitutionally enshrined Voice to Parliament as the principal constitutional reform. This much should be clarified: these regional dialogues didn’t undermine the aspiration for treaty, they designed a *sequenced* reform in which a Voice to Parliament is the first step, and treaty-making follows.”

In discussing the many different views on what a “Treaty” is, Professor Davis explains:

“We have a discursive understanding of treaty because we are retrofitting that which should have been done at first contact.”³

What I believe Professor Davis is saying is that we are still talking about Treaty because the British used the Doctrine of Terra Nullius to avoid the requirement under International Law of the time to form Treaties with First Peoples during

³ Davis, M, (2018), “Voice, Treaty, Truth”, The Monthly (July 2018).
<https://www.themonthly.com.au/issue/2018/july/1530367200/megan-davis/voice-treaty-truth#mtr>

the period of colonisation. Instead, the British simply claimed our people were not here, that we didn't exist.

The Mabo High Court decision in 1992 confirmed what our people already knew – the use of the Doctrine of Terra Nullius, to describe the continent we now know as Australia, as “a land belonging to nobody” was “a legal fiction”. It was a blatant, but convenient lie.

The call for Treaties with First Nations is about addressing this past injustice, and simply doing what should have been done in the first place.

Truth

The “Truth” element of the SFTH is contained in the call for a “Makarrata Commission”. The SFTH says:

“Makarrata is the culmination of our agenda: the coming together after a struggle. It captures our aspirations for a fair and truthful relationship with the people of Australia and a better future for our children based on justice and self-determination.

We seek a Makarrata Commission to supervise a process of agreement-making between governments and First Nations and truth-telling about our history.”

The Makarrata Commission is intended to be an independent body that oversees the making of agreements between Government and First Peoples, including Treaty agreements, as well as ensuring that Aboriginal perspectives and experiences are included in the documenting and teaching of Australian history (ie. truth-telling).

Sadly, there remains in Australian society a range of negative myths and stereotypes that represent a form of social or “casual” racism occurring in stories and “jokes” told in social settings such as pubs, clubs and BBQ's.

Racism and vilification of First Peoples is also highly prevalent on social media platforms. Public, and well publicised truth telling is critically important to help address these forms of racism, and to enable Australia to fully understand its colonial history and to mature as a nation.

Interestingly, the Statement from the Heart's call for truth-telling was not envisaged in the initial regional dialogue design, but arose "undeniably" from the voices of dialogue participants.

In discussions around a statement of acknowledgement or recognition of First Peoples in the Constitution, as a form of truth-telling, dialogue participants were firm that a symbolic statement was not the priority for them, but rather they were seeking a form of truth-telling...

“...that would inform a renegotiation of the political relationship between Aboriginal and Torres Strait Islanders and the rest of the nation.”⁴

Adrian Little, in his 2020 Article “*The Politics of Makarrata: Understanding Indigenous-Settler Relations in Australia*”, warns that it is important that the concept of Makarrata is not “appropriated into a benign settler discourse of reconciliation, if the concept’s potential to inform substantive change in indigenous-settler relations is to be realized [*sic*]”.

To put this another way, it would certainly be disappointing if, after the opportunity presented by the Statement from the Heart, we see a return to the previous Government’s “reconciliation” agenda of “let’s just all be friends and move on”, as this has not, and will not, achieve the substantive justice outcomes and reparation for First Peoples that is envisaged in a Christian understanding of reconciliation (which I will talk about later).

⁴ Appelby, G., and Davis., M., (2017), “The Uluru Statement and the Promises of Truth”, Australian Historical Studies, 49(4), p.503.

Responses to the Statement from the Heart

Negative responses

Political Parties

Initially the SFTH was rejected by the Turnbull Coalition Government, with the then Prime Minister suggesting that the Voice to parliament would represent a “third chamber” of Parliament that would (allegedly) undermine Australian democracy. However, it is clear that the Voice is designed to be “non-binding”, with no “veto power”, and as such cannot be a “third chamber”. I believe Turnbull has since apologised for his knee jerk reaction and acknowledged that he got it wrong.

The Liberal party, now under opposition leader Peter Dutton, have continued to refuse to support the SFTH, and particularly the Voice, suggesting they do not have enough detail to form a position.

However, there is significant detail in the *Indigenous Voice Co-design Process Final Report*⁵ to the Australian Government, and it has always been expected that the Parliament will debate, negotiate and approve the enabling legislation that will create the Voice body, its functions and its structure.

Given that the leader of the opposition must be assumed to have a reasonable understanding of the Australian Parliamentary Legal System his use of “not enough detail” to muddy the waters and encourage resistance to the Voice is both disappointing and disingenuous.

Mr Dutton, and all Parliamentarians, will be part of the Parliamentary process that reviews the proposed Voice legislation, debates the proposed legislation, and approves the final drafting of the legislation. The legislation will need to be approved by both Houses of Parliament – the House of Representatives (the

⁵ See: <https://voice.niaa.gov.au/final-report#>

lower House) and the Senate (the upper House). It will be politicians, including Mr Dutton, who actually create and approve the detail.

Interestingly, there have been at least 40 proposed new laws, or amendments to existing laws, put to the House of Representatives this year already... I'd be surprised if most of us could name one of them. I would struggle, and I'm a lawyer. My point is that in general we trust our Parliament, and our elected representatives, to review, debate and approve or reject proposed laws. We should similarly trust the Parliament to do this work in relation to the Voice legislation.

Mind you, the passage of the Voice legislation through Parliament will be subject to enormous scrutiny by the media – so we will all be able to follow its progress via our evening news.

The National Party have also stated that they do not support a Constitutionally enshrined Voice to Parliament, based on the advice of Aboriginal Senator, Jacinta Price. Ms Price is a highly controversial figure in the Aboriginal community, see by many, if not most in the wider Aboriginal community as somebody who does not represent their views.

Let me be clear, Ms Price is elected by her electorate, which is mostly non-Aboriginal, conservative voters... people who support the Country Liberal Party, and who would generally support the Liberal Party and Peter Dutton. These are the voters that elected Ms Price, and to whom Ms Price is accountable to.

Ms Price is not elected by the Aboriginal community, and is not accountable to her community – she represents the mostly non-Aboriginal people of her electorate.

Perhaps Ms Price may be worried about a combined Voice of 24 Aboriginal and Torres Strait Islander people, elected from their communities, by their communities, that can provide advice to the Government and the parliament?

Advice that would likely disagree with her views and opinions on many issues. This could well be a motive for Ms Price to campaign against the Voice and to use her influence to get her Party to take a negative position on the Voice.

Just for the record, Ms Price certainly does not represent my views as an Aboriginal person.

Sequencing - the order of Voice/Treaty/Truth

Some members of the Aboriginal community have responded to the proposed Voice Referendum arguing that Treaty (and Truth Telling) should have been the priority and implemented before a Voice.

This is understandable, especially when you consider that Aboriginal activists have been seeking a Treaty for at least 80 years, and that a Treaty is able to address substantive rights-based issues such as sovereignty and land rights, and can deliver other restorative justice outcomes.

Professor Megan Davis has explained that one of the primary concerns raised in Regional Dialogue meetings was about the Indigenous Advancement Strategy (IAS) – the funding policy and application process established by the Coalition Government in 2014, which “ripped out” funding from community organisations and saw it primarily redistributed to large non-Aboriginal organisations. Professor Davis explains:

“The damage caused by the IAS dominated considerations of constitutional recognition; without understanding this you cannot understand the need for sequenced reform as defined at Uluru.”⁶

Davis is saying that this issue of funding, and their community organisations losing funding, was seen as very important by those who attended the regional dialogue meetings.

Aboriginal communities often rely heavily on services delivered by Aboriginal Community Controlled Organisations (or “ACCOs”).

ACCOs deliver services in a culturally appropriate manner, and are trusted by the community – not to mention they are a source of employment in local communities. Loss of funding to community organisations under the IAS impacted communities significantly, and was, according to Davis, a driver for those who gathered at the Constitutional Convention to prioritise the Voice slightly ahead of Treaty and Truth, but with the full expectation that Treaty and Truth would follow.⁷

Sovereignty

There have also been a small number of Aboriginal people suggesting that if a Voice is enshrined in the Constitution that this will mean that Aboriginal Nations have somehow ceded their sovereignty. Larkin and Galloway, both lawyers, in disputing this contention, say:

“We note that, for some, acceding to constitutional change represents a loss of sovereignty. From our own standpoint – as lawyers in the Anglo-Australian Tradition – we seek to understand the Uluru Statement as evidence of a coming together of two legal systems, and thus as evidence

⁶ Davis. M, (2018), “Voice, Treaty, Truth”, The Monthly (July 2018).
<https://www.themonthly.com.au/issue/2018/july/1530367200/megan-davis/voice-treaty-truth#mtr>

⁷ Davis. M, (2018), “Voice, Treaty, Truth”, The Monthly (July 2018).
<https://www.themonthly.com.au/issue/2018/july/1530367200/megan-davis/voice-treaty-truth#mtr>

of sovereignty never ceded. That the Makarrata Commission would work towards treaties, speaks to this point.”⁸

As an Aboriginal lawyer, I also do not see how the actions of the Australian Government, in amending their Constitution through a referendum, where 97% of voters are not Aboriginal or Torres Strait Islander people, can somehow cause a ceding of the sovereignty of hundreds of First Nations. Such an idea denies the principles of the UNDRIP, to which Australia is a signatory, and in particular the principle of the requirement of “free, prior and informed consent”. Such an outcome would also deny First Nations people their right to common law principles of procedural fairness and natural justice. Given this, the “loss of sovereignty” argument just doesn’t have any logical or legal basis.

Let me use a quick analogy... we love New Zealand, we have fought beside them in wars, we have the ANZAC tradition, they are our neighbours, our allies... if one day the Australian Government wanted to give the NZ Government the ability to provide non-binding advice to our Government and Parliament on how we relate to New Zealand – and organised a referendum via which the Australian people agreed to change our constitution to put a permanent New Zealand advisory body into place... would that mean that New Zealand had then ceded its sovereignty to Australia? Of course not! How can something the Australian Government and Australian people do, result in New Zealand, a sovereign nation, ceding its sovereignty to Australia?

The enshrining of a non-binding Voice for Aboriginal and Torres Strait Islander peoples in the Constitution, via a referendum, will not impact the unceded sovereignty of First Peoples.

⁸ Larkin, D, and Galloway, K., (2018), “Uluru Statement from the Heart: Australian Public Law Pluralism”, *Bond Law Review*, Vol.30(2), Bond University, p339.

The issue of Sovereignty can only be dealt with via a Treaty, and Treaties are agreements that need to be negotiated between the parties.

Positive Responses

The current Albanese Labour Government ran an election platform that included a promise to support the Statement from the Heart and to implement all three elements: Voice, Treaty and Truth. When Labor won the election, in his victory speech that evening, Prime Minister Albanese again stated his commitment to implement the Statement from the heart “in full”.

The Greens have confirmed they will support a referendum for a constitutionally enshrined Voice.

Even some members of the Liberal Party are supporting the Yes vote: for example Julian Leeser, and Bridget Archer, as well as former member Ken Wyatt who resigned from the Liberal Party because they chose not to support the Voice. Tasmania's Liberal Premier **Jeremy Rockliff** has also said he will 'vigorously' campaign for the Yes vote for a Voice to Parliament.

There are a large number of Aboriginal people who support the Yes vote for the Voice, including the majority of those who attended the Regional Dialogue meetings and the Constitutional Convention at Yulara, and many prominent and respected Aboriginal leaders.

Some examples of Aboriginal organisations that support the Yes vote include:

- The Coalition of Peaks, an organisation representing 80 Aboriginal Community Controlled Organisations, is supporting the Yes vote.
- SNAICC, the National Voice for Aboriginal Children, and a member of the Coalition of Peaks, is supporting the Yes vote.
- The NSW Aboriginal Land Council is supporting the Yes vote.
- Victoria's Treaty Assembly supports the Yes vote.

And there are many more.

A number of polls of the broader Australian population have been undertaken. Research conducted in March 2020 found that 56% of Australians would vote “Yes” to support a Voice, and that 71% of First Peoples supported a Voice.⁹

A poll undertaken by the Australian Institute in July 2022 found that 65% of Australians would vote “Yes” to support a Voice.¹⁰

A poll conducted by IPSOS in January 2023, with a sample of 300 Aboriginal and Torres Strait Islander people showed about 80% would vote “Yes” in a Voice referendum, with 10% undecided and 10% saying they would vote “No”.

The Uniting Church in Australia Assembly, the National Uniting Aboriginal and Islander Christian Congress, The UnitingCare First Peoples Network, The Uniting Church Synod of NSW and the ACT, and all other State and Territory Synods, support the Statement from the Heart (Voice, Treaty, Truth) and the Yes vote in the Voice referendum.¹¹ These positions are from an organisational or group perspective, but of course individual members of the Uniting Church, the same as every Australian, may vote however their conscience tells them to.

Discussion

It is to be expected that there will be a diversity of opinion across any community, on any particular issue. The fact that Aboriginal peoples have a diversity of opinions on the Statement, and particularly on the Voice, does not mean that the Statement or the Voice have no support. It just indicates a high level of interest in the range of issues that the SFTH seeks to address. Things such as Treaty, sovereignty, land rights, and the wellbeing of our people and

⁹ See: <https://fromtheheart.com.au/press-release/poll-shows-strong-rise-in-support-for-constitutional-change-to-create-indigenous-voice-to-parliament/>

¹⁰ See: <https://australiainstitute.org.au/report/polling-voice-to-parliament-in-the-constitution/>

¹¹ This decision has been recently confirmed via the *First Peoples Network* hosted by UnitingCare Australia, with First Peoples representatives from the UAICC, all Synods of the Uniting Church in Australia, and all UnitingCare agencies around the country. The author is a member of the *First Peoples Network*, representing the Synod of NSW and the ACT.

communities are very important, and in many ways are issues of life and death for our families and communities. Consequently, there are some strongly held views on both sides of the discussion, and that is OK.

Australia is a democracy, and people are entitled to have their own opinions.

A significant issue of contention is the sequencing, or order, of the three elements: Voice, Treaty and Truth. Davis has (as discussed) explained that the feedback from the Regional Dialogues informed the sequencing, and that the majority consensus was that a constitutionally enshrined Voice was of critical importance, and was to be addressed first.

There were logical reasons for this sequencing, not least of which was to ensure Aboriginal peoples could offer advice to help inform Parliamentary discussions around the funding of services for Aboriginal communities. Treaty and Truth were not considered to be “less important” by delegates, rather that it was considered that establishing the Voice first would address some urgent practical concerns and help to pave a way for the implementation of Treaty and Truth telling.

Theological principles to evaluate a Christian response to the SFTH and Voice Referendum

There are many theological principles to consider when evaluating a Christian response to the SFTH and Referendum. I will mention some broad Christian principles that I believe should be the light by which Christians read and respond to the SFTH, before briefly looking at principles of reconciliation and reparation.

Exodus 20:1-20 reveals God’s message to Moses in the form of the ten commandments, which include (at 15): “You shall not steal”. The unlawful dispossession of the Australian continent, under the unlawfully applied Doctrine

of *Tera Nullius*¹², objectively, amounts to the theft of land without just compensation. Aboriginal people have never ceded their sovereignty, nor been invited into treaty negotiations with the Australian Government. It is well time the Australian Government gave First Peoples a Voice, accepted the truth of wrongs committed during the colonial process, and negotiated a Treaty with First Peoples on just terms.

In the Good Samaritan story (Luke 10:25-37) Jesus teaches us that the two greatest commandments are to Love your God, and to love your neighbour as yourself. Matthew 22:34-40 similarly expresses these principles:

“³⁴ Hearing that Jesus had silenced the Sadducees, the Pharisees got together. ³⁵ One of them, an expert in the law, tested him with this question: ³⁶ “Teacher, which is the greatest commandment in the Law?”

³⁷ Jesus replied: ““Love the Lord your God with all your heart and with all your soul and with all your mind.’^[e] ³⁸ This is the first and greatest commandment. ³⁹ And the second is like it: ‘Love your neighbour as yourself.’^[d] ⁴⁰ All the Law and the Prophets hang on these two commandments.’”

Similar to the commandment to love our neighbour, in Matthew 25:31-46, the parable of the Sheep and the Goats, Jesus gives clear warning that we will be judged on how we treat the least in our community. We are told that whatever we do to the least, we do to God, and there will be significant eschatological consequences for those who ignore the needs of the least.

Proverbs 31:8-9 also guides us:

¹² See: *Mabo and others v. Queensland (No. 2)* [1992] HCA 23; (1992) 175 CLR 1 F.C. 92/014 (3 June 1992). https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/HCATrans/1991/23.html?context=1;query=Mabo;mask_path=

“Speak up for those who cannot speak for themselves, for the rights of all who are destitute. Speak up and judge fairly; defend the rights of the poor and needy.”

One only has to review the Australian Government’s latest “Closing the Gap” Report to see how the legacy impacts of colonisation have rendered First Peoples as the “destitute, poor and needy” spoken of in this passage.

The words of Rev. Dr. Garry Deverell, an Aboriginal minister with the Anglican Church, offers us the following truths:

“Australia is a nation that has become powerful by coveting, stealing, murdering and slaving. Coveting Aboriginal lands, murdering those who sought to defend it, stealing that land and carrying its children off into slavery and domestic servitude.

Our church worked hand in glove with the colonial authorities. We participated in the stealing, the murdering and the slaving. Indeed, we actually ran the institutions that did a lot of the damage.”¹³

As Christians we understand that Christ died on the cross to reconcile our sins, to enable humans to have a restored relationship with God, and the opportunity for eternal salvation. What can the Australian nation do to reconcile the sins of colonisation? To enable a restored relationship between First Peoples and other Australians, and a hopeful future?

Rev. Dr. Chris Budden provides a helpful perspective on the meaning of “reconciliation”:

“Reconciliation has to do with the healing of broken relationship, with enabling people to live together in peace and mutual well-being. It has to do with the way people deal with past and present things that have

¹³ Deverell, G., (2023), “The Law, the Prophets and Justice for First Peoples”, Uncommon Prayers (Blog): <https://uncommonprayers.blogspot.com/2023/02/the-law-prophets-and-justice-for-first.html>

harmed their relationship, with acknowledgement, forgiveness, and justice.”¹⁴

The SFTH offers Christians an opportunity to support the healing of broken relationships through hearing the voices of Aboriginal peoples (Voice), acknowledging the truth of the inequality and injustice of past relationships (Truth), and delivering justice (Treaty).

Of course, in practice, justice requires “reparation”. Referencing reparations as a critical component of reconciliation, Budden explains:

“It is generally accepted that reconciliation involves truth telling and ownership of past actions, sorrow, reparation and, finally, forgiveness.”

In Luke 19:1-10 we see the story of Zacchaeus, a corrupt tax collector, who was despised by the Jews. On meeting Jesus, Zacchaeus repents, and changes his life. The repentance of Zacchaeus involved him giving half of his possessions to the poor, and offering to repay anyone he had cheated four times what he had taken. An apology and forgiveness was insufficient – there had to be a recognition of the shared history that Zacchaeus had with the people, and of how this past relationship continued to impact people’s lives.¹⁵

The SFTH, and elements of Voice, Treaty, and Truth, are a vehicle through which the Australian people can deliver “reconciliation” in Christian terms.

From a Uniting Church perspective, we have acknowledged our faith-based commitment to addressing injustice and building relationships with First Peoples, through public statements of commitment, including the 1988 Statement to the Nation, the 1994 Covenanting Statement, and the amendment

¹⁴ Budden, C. (2009). “Following Jesus in invaded space: Doing theology on Aboriginal land.”, (Ser. Princeton theological monograph series, 116). Pickwick Publications, p.154.

¹⁵ Budden, C., (2010), “Reconciliation and Reparation: Building Just Relationships between First and Second Peoples”, *Uniting Church Studies* 16 (1), p.51.

to the Preamble to the UCA Constitution in 2009. It is worth reflecting on the following paragraphs from the Preamble to the UCA Constitution:

“...Many in the uniting churches, however, shared the values and relationships of the emerging colonial society including paternalism and racism towards the First Peoples. They were complicit in the injustice that resulted in many of the First Peoples being dispossessed from their land, their language, their culture and spirituality, becoming strangers in their own land.

The uniting churches were largely silent as the dominant culture of Australia constructed and propagated a distorted version of history that denied this land was occupied, utilised, cultivated and harvested by these First Peoples who also had complex systems of trade and inter-relationships. As a result of this denial, relationships were broken and the very integrity of the Gospel proclaimed by the churches was diminished...”

If Christians accept that the teachings of Jesus guide us in the way we are to live and act, it is clear that there is a theological imperative for Christians to stand in solidarity with First Peoples seeking justice, and to support the SFTH and its outcomes of Voice, Treaty and Truth.

My position on the Statement from the Heart and the way forward

As an Aboriginal Christian, and a passionate advocate for justice for Aboriginal peoples for over 30 years, I support the full implementation of all three elements: Voice, Treaty, Truth. I would prefer if Treaty had been the initial priority, however I understand the logic, explained by Davis, that the representatives in the Regional Dialogues and at the Constitutional Convention at Yulara, felt that a Voice to Parliament was urgent for practical reasons (ie. to

fix funding policies) and that a Voice would create pathway into what are likely more difficult and time-consuming discussions around a Treaty.

I was initially frustrated that the proposed Voice was non-binding. It was not a voice as envisaged by Article 19 of the United Nations Conventions on the Rights of Indigenous Peoples (“UNDRIP”) – a right to not consent to laws and regulations sought to be applied to indigenous peoples by the State.¹⁶ My lived experience is that Governments have consistently refused to acknowledge or act on the advocacy voices of First Peoples¹⁷, so I didn’t see much utility in a “non-binding” Voice.

However, over time, I had an epiphany of sorts – it does not matter that the Voice is non-binding, because First Peoples will be able to seek an Article 19 type voice via a Treaty. The Albanese Government has committed to implementing all three elements of the SFTH... so Treaty and Truth are next.

I have also considered that the Voice will ensure a level of accountability of Parliament and Government(s) to the Australian People, as formal advice from the Voice body to the Parliament and Government will be on the public record. I believe most Australians want to be able to get the work of restorative justice done, and be able to heal this Nation and move forward.

If politicians do not heed the Voice and consequently fail to achieve positive change, the nation may elect new leadership.

¹⁶ Article 19 of the UNDRIP states: “States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.” See: https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf

¹⁷ I offer, as just one example the failure of the Coalition Government to heed the voices of Aboriginal (and non-Aboriginal) advocacy groups prior to the implementation of the Northern Territory Intervention... history has shown the knowledge and wisdom of these voices, and sadly significantly harm to Aboriginal peoples and communities resulted from the failure of the Government to listen to these voices.

I believe Australian attitudes towards First Peoples have been changing for the better in recent decades, and that the current Prime Minister is representative of this positive change.

For me, the Statement from the Heart, and the Albanese Governments commitment to getting the work done, gives me hope. I have not felt such hope since the Redfern Park speech by Paul Keating. But this is more than a speech. The Voice is tangible action that can make a real difference to the lives of Aboriginal and Torres Strait Islander peoples and communities.

As a Christian I believe hope is important. Hope that justice will be done.

The final reason I have decided to support the Voice is because I believe it is important to give the Voice a chance, to see if it can help this country move forward towards Treaty and Truth, and to help this nation become the nation we should be: A nation where First Nations peoples are recognised, respected and have sovereignty and self-determination over our own affairs, and where we can make space for non-Aboriginal Australians to co-exist as part of a modern, diverse and multicultural Australia.

I believe a Constitutionally enshrined representative Voice, that can provide frank advice without fearing being abolished, can only help to improve laws, policies and programs, and that this will lead to improved outcomes for Aboriginal and Torres Strait Islander peoples.

Conclusion

As Christians we should support the SFTH and its three elements: Voice Treaty, Truth. There is ample theological basis for supporting the SFTH, as it is caring for the least, loving our neighbour, and speaking up to defend the rights of the poor and needy. The SFTH is an invitation from First Peoples to right wrongs, through recognition, reparations and eventually, hopefully, reconciliation.

I believe we need to support the SFTH, with the expectation that the Albanese Government will action all three elements: Voice, Treaty and Truth. We should enshrine a Voice for First Peoples in the Australian Constitution with the hope and expectation that the Government and Parliament will listen and act on the advice that is given by that body. I believe the elements of Treaty and Truth are critical to the success of the SFTH, and to the healing of many wounds that continue to cause pain for First Peoples. Treaty can and should address the substantive, restorative justice, and reparations outcomes that are required for genuine reconciliation.

I expect that the road to justice via a Voice, Treaty and Truth will at times challenging.

I expect that there will be pockets of resistance from those who cannot see the hope that the SFTH offers, and from those who are unable to overcome their racism and prejudice towards First Peoples.

There will also be some First People, who reject the SFTH and/or the Voice for various personal reasons – some with a form of legitimacy, like wanting a Treaty First, others based on scepticism and/or misunderstanding. This is the nature of our democracy: people are entitled to their opinions.

I believe that the Statement from the Heart is a very generous and gracious offer from First Peoples to the Australian people.

I believe that the vast majority of Australians will act with grace and maturity, and that they will embrace the “once-in-a-lifetime” opportunity that the Statement from the Heart represents.

I believe Aboriginal and Torres Strait Islander peoples should have a Voice, to be able to provide advice to the Government and the Parliament, about matters that affect our lives.

We know the status quo isn't working. We know we need better outcomes for our First Nations peoples.

Aboriginal and Torres Strait Islander peoples deserve to be able to have a proper say on matters that affect us.

That is why I am voting Yes.

Thank you.