Constitutional reform & meaningful recognition:

Where the campaign is at & what is RecVic’s position?

Where is the campaign currently at?

There continues to be multi-partisan support for the Expert Panel’s recommendations which were presented the Prime Minister and Parliament in January 2012.¹

The Expert Panel recommended:

- Deleting Section 25, permitting States to disqualify people from voting on the basis of race, and Section 51 (26), which allows the Commonwealth to make laws on the basis of race;
- Adding a new Section 51A Recognition of Aboriginal and Torres Strait Islander peoples, that recognises Aboriginal and Torres Strait Islander peoples as the first occupants of Australia; acknowledges the continuing relationship of Aboriginal and Torres Strait Islander peoples with their traditional lands and waters; respects the continuing cultures, languages and heritage of Aboriginal and Torres Strait Islander peoples and acknowledges the need to secure the advancement of Aboriginal and Torres Strait Islander peoples;
- Adding a new Section 116A Prohibition of racial discrimination that says Governments shall not discriminate on the grounds of race, colour or ethnic or national origin; and
- Adding a new Section 127A Recognition of languages that recognises English as the national language of Australia and Aboriginal and Torres Strait Islander languages as the original Australian languages, a part of our national heritage.

There is a commitment by all major parties to proceed to a referendum, whether it is within this term of government, or the next has not been clarified as yet. The Aboriginal and Torres Strait Islander Peoples’ Recognition Act 2013 was passed on 13th February 2013 with a two-year sunset clause, allowing time to build public awareness and support for constitutional reform prior to a referendum on the issue. This means that the government will have to revisit the proposal for constitutional reform next February.

A Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples² (JSC) was appointed during the previous government term to inquire into and report on steps that can be taken to progress towards a successful referendum on constitutional recognition of our First Peoples. This Committee has been working to secure strong, multi-partisan support around the timing, specific content and wording of referendum proposals. The reformed JSC under the Coalition government, with Mr Ken Wyatt AM MP as the Chair of the committee and Senator Nova Peris OAM as the Deputy

¹ Please see our 1st Information Brief from March 2014 for further discussion around the recommendations and the history of the constitutional reform agenda.
² Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples: http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Constitutional_Recognition_of_Aboriginal_and_Torres_Strait_Islander_Peoples
Chair has committed to releasing an interim report by September 30 this year and a final report by June 30, 2015. They are holding community consultations in Victoria from the 13-15th August. RecVic has requested to meet with them, as a member of the Victorian Coalition on Constitutional Recognition.

There have been recent indications in the media that the proposed sections 116A & 127A will not be included in the final model. This is a clear move away from the previous JSC which believed that a, “...prohibition against racial discrimination will likely be an important component of the proposal for constitutional change that Australians are asked to vote on.” The Expert Panel recommended that if the final model departs in form or substance that there should be further consultations with ‘Aboriginal and Torres Strait Islander peoples and their representative organisations to ascertain their views in relation to any such alternative proposal’. RecVic advocates strongly that the proposed section 116A is included in the final model; we would be concerned that recognition by itself will be seen as tokenistic by Aboriginal and Torres Strait Islander peoples. So how do you make recognition meaningful?

In February RecVic submitted a paper to the Joint Select Committee titled, “Considering the issue of ‘positive purpose’, ‘advancement’, beneficial policy”. We referred in particular to the intentions in the Progress Report 1Clause 3.14 (b) for the Committee to review wording of the proposed section 51(A) to ‘ensure...positive purpose’ and appropriateness of the term ‘advancement’. We believe that the inclusion of ‘informed consent’, as detailed within the United Nations Declaration on the Rights of Indigenous Peoples, in the proposed model will help ensure the positive purpose of government policies and legislations.

Recognise, the national campaign is continually conducting polling to gauge the level of community awareness of and support for the proposal. The most recent polling from Auspoll released in February this year indicated that, 49 per cent of the public now know about the recognition goal and support levels have held, with 58 per cent in support and only 12 per cent of people opposed. Clearly there is a still a great deal of work to do in raising public awareness on this issue.

The Journey to Recognition was launched on Sorry Day, 26th May last year in Melbourne. The Journey has since walked, cycled, driven and surfed through South Australia and the Northern Territory where it concluded its first leg in early August at the Garma Festival. The second leg headed west and finished in Perth at the beginning of December, where the young people’s campaign ‘Recognise This’ was also launched. It then headed south along the Western Australian Coast. The Journey is about to launch its 4th leg on the 16th July beginning in Cape York and heading down the East coast of Australia.

What is RecVic’s position?

RecVic supports the scope and intent of the recommendations made by the Expert Panel and is working towards community review, understanding and, if necessary, improvement of the recommendations.

We do so acknowledging that recognising Aboriginal and Torres Strait Islander peoples in the Constitution is part of the unfinished business of the recommendations made by the Council for Aboriginal Reconciliation in 2000. We see Constitutional Recognition as a positive step forward, but not an end to the reconciliation journey: it alone is not sufficient to achieve outcomes required of a fully reconciled and fair Australia.

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3 Joint Select Committee Interim Report, June 2013
5 Patricia Karvelas, “Peris to fight for referendum campaign funds” (The Australian, February 19, 2014)
RecVic is continuing to advocate for the following outstanding issues not explicitly addressed by the Panel's recommendations, which we discussed in our submissions to the Expert Panel and the JSC:

- A requirement for 'prior and informed consent' in relation to the proposal to enable laws to be made for the 'advancement' of Aboriginal and Torres Strait Islander peoples;

- Agreements, treaties and the claims of Aboriginal and Torres Strait Islander people to sovereignty. RecVic sees the campaign for Constitutional Recognition as a vehicle to engage people in the reconciliation process; to revitalise and grow the grass-roots reconciliation movement in Victoria.

RecVic sees the campaign for Constitutional Recognition as a vehicle to engage people in the reconciliation process; to revitalise and grow the grass-roots reconciliation movement in Victoria. We are encouraging and supporting conversations and activities that focus on recognition of Aboriginal people and shared history locally, within our communities.

We seek to contextualise this issue as part of the reconciliation journey; to connect conversations about Constitutional reform to the bigger picture of working towards just and respectful relationships between Aboriginal and non-Aboriginal people, and of the vision of Australia we want for the future. We recognise that Australia is yet to enter into agreement-making processes or treaty negotiations with the First Peoples of this country, and that constitutional recognition does not address these issues. We have reformed our Treaty and Agreement Making working group which began in 2009, the working group seeks to support an informed conversation about the concept of treaty and to extend the understanding of practical approaches through consideration of the possible model of a national treaty framework and local and regional agreements.

What are we doing?

RecVic received partnership funding through Recognise in May last year to build awareness and understanding about what is proposed, through providing information and facilitating opportunities for discussion.

We have utilised our grassroots networks of local government, local reconciliation groups, Aboriginal organisations, schools and others to coordinate a Victorian campaign to raise awareness about the proposed Constitutional Reform agenda.

The perspectives put forward are from the ground, we share the stories and reflections from the people and communities we have worked with, and will continue to work with. We have found on the whole, people open and responsive to discussion around what this proposal for Constitutional Reform is about. We have undertaken a wide range of community engagement activities including public forums, community meetings, school and community group presentations, local reconciliation group forums and stalls at festivals. We have used our Constitutional Recognition website pages as a resource hub to keep people up to date on campaign developments, media coverage, resources, information about upcoming events and so on.

What we have learned

We have learned from our involvement in raising awareness about this issue that there are three

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6 See our submission to JSC
key elements that have been fundamental in our work: partnerships, respect and advocacy.

We have found that the conversation needs to be different depending on where the audience is at, and we have engaged with three main audiences:

- Those who are new to this campaign and have not been engaged in the reconciliation movement;
- Those who are interested and supportive of the campaign through their involvement with the reconciliation movement;
- Those who are very aware and actively involved in the campaign.

A snapshot of some of the diverse views we have heard expressed in the many forums and discussions we’ve been part of are:

- This is our generation’s time to make a stand about who we want this country to be.
- This is a distraction from the real issues of justice and land justice.
- It’s long overdue, let’s do it.
- It is not a priority like health, employment, justice and education issues
- The Constitution is an illegal document to begin with, why would we want to be included and recognised in it?
- Treaty and Sovereignty are what we want, it’s what our peoples have been fighting for, and Constitutional Recognition is a compromise and a cop out.
- Scepticism as to why a conservative government is championing this cause. What do they get out of it, and what will we lose?

We are aware of the need for open discussion on this issue. We have learnt the importance and the need for community conversations that allow for diverse views to be shared in a culturally safe space, particularly where there are Aboriginal and non-Aboriginal people together which has been common at events we’ve been involved with. We are concerned about the effects that the recent Federal budget cuts to Indigenous Programs as well as the proposed changes to Section 18 the Racial Discrimination Act (RDA) will have on Aboriginal and Torres Strait Islander community members. We know that both these issues have led to increased scepticism about the constitutional reform agenda, and the government’s intentions. RecVic is committed to disseminating information about the constitutional recognition proposal as well as other issues, such as the Federal Budget cuts and the proposed reforms to the RDA, that affect Victorian Aboriginal communities, to our networks.

We have found there are some misperceptions about the detail of the proposal, as it is quite complex. Some examples are that; recognition will only be included as a preamble or recognition will take away native title rights and that recognition will inhibit future calls for treaty and agreement making processes or compromise sovereignty. So providing clear and concise information about the proposal is critical. One local group received feedback from an Elder that they feared being ‘left behind’ because they needed more time to learn about the issues. They asked the group to “walk with us”; this highlights a clear need to work in partnership in ways that are a respectful and create culturally safe spaces for the conversations. In the east of the state, where some Aboriginal communities are burdened by the day to day challenges that many Aboriginal communities carry, Constitutional Recognition is not seen as a priority, and some see it as a distraction from the main goal of Treaty, so these conversations take time, and cannot be rushed.

Speakers Registry

We know we need a strong community led network of people who feel confident in having conversations and raising awareness in their local region on this issue. We have developed a Victorian Registry of Speakers, which has so far seen 27 people register, undertake briefing sessions and lead discussions in their local area.
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They are able to support the demand from community groups for guest speakers on Constitutional Recognition. We also wish to build capacity of our local reconciliation groups and other organisations so that RecVic becomes a support and coordination centre for the grass roots movement disseminating information and resources.

What we have achieved to date

As shown on the maps below, RecVic has been involved in 101 events since May 2013, which covers significant regions in Victoria.

The list of events below is broken up into general activity themes. Thousands of Victorians have participated in these events, and over 500 people attended our Public Forums in Melbourne in the last half of 2013. These forums were filmed and published on RecVic’s website, giving many more people the opportunity to hear the forums.

Below are two maps, one of Melbourne and the other of Victoria as a whole, which show activities we have been involved in including festivals, community briefings, school and university speaking engagements, forums and events along with the Journey to Recognition route. These maps highlight where we have been active and show the gaps where we believe more work needs to be done in raising awareness on Constitutional Recognition.

Melbourne activity map

Victorian activity map

This map can be viewed online – with more details of the activities in each location. Please follow this link.
Information brief # 2, July 2014

The coordination of the Victorian awareness raising campaign is critical for to ensure consistent messaging, and to have an information hub with the most up to date information about where the development of the model and the Victorian and National campaign is up to. We do not know what the final wording and model will be yet, we do believe that this is an important issue that requires us all to be informed. As Patrick Dodson in this year’s Lowitja O’Donoghue Oration contended, “We need to recognise the first Australians and continue down the pathway that will enable us to genuinely reset the relationship…We need to consider any unintended consequences that may arise in advance. We need to be responsible and cautious, be we also need to be brave.”

It is important to rectify the silences in the Constitution; the fact Australia has the oldest continuing cultures in the world should be a source of national pride and inform our sense of identity. Our constitution should also protect all Australians from racial discrimination. These are two inextricably linked and integral steps in the journey towards reconciliation and justice for Aboriginal and Torres Strait Islander Peoples.

Sources:


5. Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples: http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Constitutional_Recognition_of_Aboriginal_and_Torres_Strait_Islander_Peoples