

Position Paper:

# Constitutional Recognition of Australia's First Peoples

## Background

Indigenous Allied Health Australia (IAHA), the national peak body representing Aboriginal and Torres Strait Islander allied health professionals and students asserts that to contribute to improving the health and wellbeing of Aboriginal and Torres Strait Islander peoples, it is essential to recognise the first peoples of Australia in the Constitution.

A lack of acknowledgement of a peoples' existence in a country's constitution can have a major impact on their sense of identity, value within the community and may perpetuate discrimination and prejudice, further eroding the hope of Indigenous peoples<sup>1</sup>. Legal recognition may not eliminate racism or social injustice, however it has the potential to reinforce pride in Aboriginal and Torres Strait Islander culture and history and positively impact on the health and wellbeing of Australia's first peoples.

IAHA notes that the Aboriginal and Torres Strait Islander Peoples Recognition Act 2013 was passed on 27 March 2013 as a first step towards a referendum to change the constitution to remove discrimination based on race and acknowledge Aboriginal and Torres Strait Islander peoples as the first inhabitants of Australia.

In its preamble the Act states<sup>2</sup>:

"The Aboriginal and Torres Strait Islander peoples were the first inhabitants of Australia.

The Parliament is committed to placing before the Australian people at a referendum a proposal for constitutional recognition of Aboriginal and Torres Strait Islander peoples.

The Parliament acknowledges the important work of the Expert Panel on Constitutional Recognition of Aboriginal and Torres Strait Islander peoples and its proposals for constitutional change.

The Parliament recognises that further engagement with Aboriginal and Torres Strait Islander peoples and

other Australians is required to refine proposals for a referendum and to build the support necessary for successful constitutional change.

The Parliament is committed to building the national consensus needed for the recognition of Aboriginal and Torres Strait Islander peoples in our Constitution.

The Parliament believes this Act is a significant step in the process towards achieving constitutional change."

The Act Further states:

"(1) The Parliament, on behalf of the people of Australia, recognises that the continent and the islands now known as Australia were first occupied by Aboriginal and Torres Strait Islander peoples.

(2) The Parliament, on behalf of the people of Australia, acknowledges the continuing relationship of Aboriginal and Torres Strait Islander peoples with their traditional lands and waters.

(3) The Parliament, on behalf of the people of Australia, acknowledges and respects the continuing cultures, languages and heritage of Aboriginal and Torres Strait Islander peoples."

IAHA strongly supports RECOGNISE, the people's movement to recognise Aboriginal and Torres Strait Islander peoples in our Constitution. IAHA agrees that fairness and respect must be at the heart of our Constitution, and discrimination must be removed from it in order to truly unite our nation<sup>3</sup>.

An Expert Panel, consisting of Aboriginal and Torres Strait Islander and community leaders, constitutional experts and parliamentarians consulted extensively across the nation and reported to the Prime Minister on 19 January 2012. The Final Report<sup>4</sup>, 'Recognising Aboriginal and Torres Strait Islander peoples in the Constitution' made key recommendations. In summary<sup>5</sup>, it was recommended that Australians should vote in a referendum to:

- **Remove Section 25** - which recognises that the States can ban people from voting on the basis of their race;
- **Delete section 51(xxvi)** - which can be used to discriminate on the basis of race;
- **Insert a new section 51A** - to recognise Aboriginal and Torres Strait Islander peoples and to preserve the Australian Government's ability to pass laws for the benefit of Aboriginal and Torres Strait Islander peoples;
- **Adopt a new section 116A**, banning racial discrimination by the commonwealth; and
- **Insert a new section 127A**, recognising Aboriginal and Torres Strait Islander languages were this country's first tongues, while confirming that English is Australia's national language.

IAHA supports these recommendations and acknowledges that bipartisan political support, widespread public education and community driven engagement will increase the chances of success of a referendum. IAHA is optimistic that a positive outcome at a constitutional referendum will bring Australians together to acknowledge and celebrate the unique place and space of Aboriginal and Torres Strait Islander peoples in the history of our country. Such recognition will undoubtedly impact on the social, emotional and cultural well-being of Aboriginal and Torres Strait Islander individuals, families and communities.



**Faye McMillan, IAHA Chairperson**

Endorsed by the IAHA Board on 1 November 2013.

<sup>1</sup> The Royal Australian and New Zealand College of Psychiatrists, Position Statement 68, Recognition of Indigenous people in the Australian Constitution, September 2011. [https://www.ranzcp.org/Files/ranzcp-attachments/Resources/College\\_Statements/Position\\_Statements/ps68-pdf.aspx](https://www.ranzcp.org/Files/ranzcp-attachments/Resources/College_Statements/Position_Statements/ps68-pdf.aspx) Accessed 22 October 2013.

<sup>2</sup> <http://www.comlaw.gov.au/Details/C2013A00018> accessed 16 October 2013.

<sup>3</sup> <http://www.recognise.org.au/about> accessed 16 October 2013.

<sup>4</sup> <http://www.recognise.org.au/final-report> accessed 16 October 2013.

<sup>5</sup> <http://www.recognise.org.au/final-report> accessed 21 October 2013.