# NHLF
## National Health Leadership Forum

Submission to the Senate Legal and Constitutional Affairs Committee Inquiry into Nationhood, national identity and democracy

September 2019

## INTRODUCTION

The National Health Leadership Forum (NHLF) is the national representative body for Aboriginal and Torres Strait Islander peak organisations who provide a united voice in advocating for Indigenous health and wellbeing. The NHLF was established in 2011, has brought together senior Aboriginal and Torres Strait Islander health leaders to consider and consult on the policies that impact the health and wellbeing of Australia's First Peoples.

The NHLF welcomes the opportunity to respond to the Senate Legal and Constitutional Affairs Committee Inquiry into Nationhood, national identity and democracy. Our response complements our submission to the Joint Committee inquiry into constitutional recognition of Aboriginal and Torres Strait Islander Australians. In Summary the NHLF

- endorse the Uluru Statement from the Heart and its recommendations

- endorse the Referendum Council's recommendations for a First Nations Voice to the Commonwealth Parliament

## RESPONSE TO THE DISCUSSION PAPER

### Constitution – national identity/story

1. The NHLF believes that the lack of recognition in the Constitution for Aboriginal and Torres Strait Islander people as the First Peoples of this country, has contributed to the exclusion of Aboriginal and Torres Strait Islander from the Australian national identity. This combination of non-existence in our legal foundation and national identity has contributed to Australian laws and their application continuing to adversely discriminate based on 'race'.

2. This lack of recognition of Australians First Nations Peoples in our national identity is illustrated with the date for Australia Day. This date celebrates the arrival of the British, the implementation of a penal system and subsequent development that deprived the first peoples right to continue their way of life and denied their history, culture, social norms and economic practices[1]. The 26 of January is the day that forever changed the lives of Aboriginal and Torres Strait Islander peoples. The 26 January is not the appropriate day to celebrate Australia. We require a day that reflects and includes all Australians, this is central to nationhood.

---

[1] Pascoe. B. 2014. Dark emu: black seeds agriculture or accident? Magabala Books Aboriginal Corporation. Broome, Western Australia.

3. The current application of the Australian Constitution creates a detrimental bias diminishing the rights and needs of Aboriginal and Torres Strait Islander peoples. Fundamentally, Australia's constitution upholds racially discriminatory provisions that are invariably used to discriminate against Aboriginal and Torres Strait Islander Australians[2]. For example:

   3.1. Native Title was meant to recognise rights and interests over land or waters where Aboriginal and Torres Strait Islander peoples practiced and continue to practice, traditional laws and customs prior to colonisation.[3] However, the process is tedious and time consuming which has been compounded by a series of amendments to the Native Title Act (1998, 2007 and 2009) which have reduced the ability to make claims, where previously it was possible, in order to favour other forms of land use such as mining.[4] In addition, the Native Title has also created divisions within communities through the reorganising of Aboriginal communities which has been imposed on by the state through the process of Native Title countering its original intent[5]

   3.2. The suspension of the Racial Discrimination Act to enable the 2007 Northern Territory NT Intervention to be implemented. This intervention was undertaken with no warning, and no consultation. The Australian Defence Force was deployed within Australia to seize control of many aspects of the daily lives of residents in 73 targeted remote communities. The intervention was designed to disrupt and control communities but for what outcome remains unclear. The replacement Stronger Futures Policy was similarly harmful as its genesis stemmed from a discriminatory harmful basis whose impact has not been for the benefit of Aboriginal communities.

4. The overwhelming evidence of disadvantage experienced by Aboriginal and Torres Strait Islander Australians is not in dispute. It is the cause of this disadvantage that is most troubling. Australian public policy has been framed around a national identity that has largely ignored or denied the existence of culture that differs from the dominant national narrative.

5. Assimilation processes continue to underpin Australia's public policy through the framing of expectations that reflect the dominant cultural makeup of our parliamentarians prior to and since federation. Effectively Australia's national identity does not reflect the lived experience of Aboriginal and Torres Strait Islander

[2] Australian Human Rights Commission, 2019, Free and Equal an Australian Conversation on Human Rights: Discussion Paper, Sydney

[3] The Aurora Project from: https://auroraproject.com.au/what-native-title

[4] 'Western Australia V Ward on Behalf of Miriuwung Gajerrong, High Court of Australia, 8 August 2002: Summary of Judgment, Dr Lisa Strelein', in: Land, Rights, Laws: Issues of Native Title, Volume 2, August 2002 Issues paper no. 17, p.2

[5] Vincent. E. 2017. 'Against Native Title: conflict and creativity in outback Australia'. Aboriginal Studies Press. Canberra.

peoples. Much of the public perception of Aboriginal and Torres Strait Islander Australians is influenced by negative public discourse.  For example:

5.1.   The reporting of government expenditure often portrays the government investment in Indigenous Affairs as significant, but the reality is that much of the funding does not go directly to Aboriginal and Torres Strait Islander organisations. Although government reports such as those by the Productivity Commission provide a more nuanced approach in their reporting by including direct and indirect categories of funding, this level of detail is lost in the public discourse.[6] The general public do not know nor understand that much of the funding for Aboriginal and Torres Strait Islander peoples goes to non-Indigenous organisations (or mainstream services, the budget of which proportionally allocated to expenditure on Aboriginal and Torres Strait Islander peoples irrespective of utilisation) and which may not benefit Aboriginal and Torres Strait Islander peoples.

5.2.   This misplaced public perception is compounded by the government reporting on the Closing the Gap strategy.  The narrative that accompanies the gaps in health, education and employment etc. is framed around a deficit discourse which requires Aboriginal and Torres Strait Islander peoples to change to meet the non-Indigenous norm.[7] Further, Aboriginal and Torres Strait Islander people have often been framed as being responsible for the lack of progress, without acknowledgement of the historical and other contexts. The public policy narrative has created a 'them versus us' perspective which has fostered disrespect and hindered public debate on matters that affect social inclusion and cohesion.

5.3.   One of the key roles of the Primary Health Networks (PHN) is to commission services to fill gaps in priority areas, one of which is Aboriginal and Torres Strait Islander health. The PHN and ACCHO Guiding Principles (March 2016) state that 'commissioned service delivery will be a strengths-based approach reflecting the United Nations Declaration on the Rights of Indigenous Peoples'; however, it appears that commissioning processes vary greatly between PHNs, and there is evidence of fragmentation and lack of coordination. PHNs should ensure that ACCHOs are preferred providers of services to Aboriginal and Torres Strait Islander people. Studies have shown that ACCHOs deliver more cost-effective, equitable and effective primary health care services to Aboriginal and Torres Strait Islander

---

[6] Saunders, J. (2019) 'Debunking: 33 Billion', Indigenous X:  https://indigenousx.com.au/debunking-33-billion/
[7] Pholi, K., Black, D. & Richards, C. (2009). 'Is Close the Gap a useful approach to improving the health and wellbeing of Indigenous Australians?' Australian Review of Public Affairs 9(2); and Walter, M. (2010). 'The Politics of the Data: How the Australian Statistical Indigene is constructed'. International
Journal of Critical Indigenous Studies, 3(2), 45-56.

peoples.[8] The bias existing within the PHN model of commissioning services ignores the success of the ACCHO comprehensive model of care that could be translatable beyond Indigenous communities.[9]

5.4.  The media reporting during the debate on possible amendments to the Section 18c of the Racial Discrimination Act is another clear example of misinformation that marked out one population group from another.  Many parliamentarians were part of the distortion of facts, which contributed to a breakdown in social cohesion and importantly, the narrow framing of our national identity. Similarly, the characterisation of the voice to parliament, within the Uluru Statement, as a third chamber by politicians was deliberate to mislead the Australian public.

5.5.  Recent decisions by the Commonwealth Environment Minister and the NT Government highlight that governments invariably favour their economic priorities over the preferences of Aboriginal communities. The Federal Minister for the Environment acknowledged that the decision to reject an application for heritage protection would "hurt" the local Aboriginal community, noting cultural considerations are not important compared to perceived job opportunities. Similarly, the NT Government has decided what areas within remote NT are to be protected from mining fracking and the areas to be protected do not include areas of cultural value to Aboriginal communities. The neo-liberal approach to economic development illustrates the dismissal within public policy of culture as an intrinsic element to the life and wellbeing of communities.

## Laws, Identity and Impact on Health

6.  In practice, the Australian Constitution and laws have led to social and economic exclusion of Aboriginal and Torres Strait Islander people in Australian life. Aboriginal and Torres Strait Islander people's participation in meaningful decision-making processes on policies and legislation that affect their lives have not been adequate to avert the dramatically higher incidence and risk of them experiencing (for example):

- lives that are on average 10 years shorter than those of non-Indigenous Australians
- chronic disease at rates 2-3 times that of non-Indigenous Australians
- much higher rates of unemployment – and employment rates of around 46.6% compared with 72% for the non-Indigenous population

[8] Ong, K S, R Carter, M Kelaher, and I Anderson. 2012. Differences in Primary Health Care Delivery to Australia's Indigenous Population: A Template for Use in Economic Evaluations, BMC Health Services Research 12:307
[9] Lesley Russell, Paresh Dawda (2019). The role of Primary Health Networks in the delivery of primary care reforms. Retrieved from Analysis and Policy Observatory Website: https://apo.org.au/node/220956

- Imprisonment rates that are 13 times higher than for the non-Indigenous population, and even higher for young people[10] and
- 10 times the rate of Out of Home Care.[11]

7.  The gap in health and life expectancy experienced by Aboriginal and Torres Strait Islander peoples clearly illustrates inequality in the application and impact of Australian laws and policy settings and consequently the application of democracy. These issues are not intractable.  For instance, much of the disease burden suffered by Aboriginal and Torres Strait Islander Peoples could be avoided or reduced through opportunities to access appropriate education, health promotion and preventive care.[12] Aboriginal and Torres Strait Islander peoples have the right to high quality, culturally safe and responsive health care in their communities guided by safe and robust policies founded on strengths-based frameworks.

8.  Much of the psychological distress, associated mental health conditions and harmful behaviours experienced by Aboriginal and Torres Strait Islander peoples are associated with the prolonged adversity (intergenerational trauma) and exacerbated by negative impacts of social determinants. The social determinants that can impact negatively on anyone include poverty, poorer health and access to health services, lack of education, unemployment, lack of transport, and poor and overcrowded housing. However, they are experienced by greater numbers of Aboriginal and Torres Strait Islander people, and more intensely. [13]

9.  The evidence clearly indicates that **Aboriginal and Torres Strait Islander peoples' disadvantage is a systemic problem** requiring a clear, coordinated strategic and systemic response. The Partnership Agreement on Closing the Gap 2019-2029 between the Council of Australian Governments and the Coalition of Aboriginal and Torres Strait Islander Peak Bodies[14] is an acknowledgment that structural reform is required. Key to this structural reform is the utilisation of strengths-based approaches[15] to policy design and implementation.

---

[10] Australian Institute of Health and Welfare 2015. The health and welfare of Australia's Aboriginal and Torres Strait Islander peoples 2015. Cat. no. IHW 147. Canberra: AIHW.

[11] Family Matters Campaign https://www.familymatters.org.au/the-issue/

[12]  Australian Institute of Health and Welfare 2016. Australian Burden of Disease Study: Impact and causes of illness and death in Aboriginal and Torres Strait Islander people 2011. Australian Burden of Disease Study series no. 6. Cat. no. BOD 7. Canberra: AIHW

[13] National Aboriginal and Torres Strait Islander Leadership in Mental Health:  Dudgeon, P. Calma, T and Holland C. (2015) Future Directions in Aboriginal and Torres Strait Islander Social and Emotional Wellbeing, Mental Health and Related Areas Policy. Retrieved fromhttps://natsilmh.org.au/resources

[14] Partnership Agreement on Closing the Gap: http://www.naccho.org.au/wp-content/uploads/MS19-000697-Partnership-Agreement-on-Closing-the-Gap-2019-202973948.pdf

[15] Hammond, W. & Zimmerman, R. (n.d.)  A Strengths–Based Perspective. Resiliency Initiatives. Retrieved from https://www.esd.ca/Programs/Resiliency/Documents/RSL_STRENGTH_BASED_PERSPECTIVE.pdf; Brough, Mark K. and Bond, Chelsea and Hunt, Julian (2004) Strong in the City: Toward a Strength Based Approach in Indigenous Health Promotion. Health Promotion Journal of Australia 15(3): pp. 215-220; and Lindsay G. Oades & Julie Anderson (2012) Recovery in Australia: Marshalling strengths and living values, International Review of Psychiatry, 24:1, 5-1

10. The NHLF is of the view that the recommendations made in the Uluru Statement of the Heart and by the Referendum Council requires immediate action to achieve structural change. Australia has had a version of history telling that has shaped our national identity at the deliberate exclusion of Australia's First Nations Peoples. Whenever there is an attempt to correct a wrong and to tell Aboriginal or Torres Strait Islander histories, or the impact of 'white Australia' on 'black Australia', these stories have been decried as the black armband of history[16].

## Culture, Identity and Health

11. The Uluru Statement process reflected an extensive process of dialogue in locations across the country for Aboriginal and Torres Strait Islander peoples. This process clearly articulated a need for change, beginning with a First Nations Voice to Parliament to be enshrined in the Constitution of Australia. We assert that better health and social and emotional wellbeing will be achieved through empowerment, self-determination, connections to culture, and thus control over destiny in ways that are meaningful to Aboriginal and Torres Strait Islander peoples which would reflect a true democratic Australia.

12. Stronger connections to culture and country build stronger individual and collective identities, sense of self-esteem, resilience, and improved outcomes across the sectors that influence our wellbeing such as education, employment, community safety and economic stability.[17] Our people connect our mental health to strong Aboriginal and Torres Strait Islander identities, to participation in our cultures, families and communities, and to our relationship to our lands and seas, ancestors, and the spiritual dimension of existence. This frames our mental health and our social and emotional wellbeing—it is a holistic concept of health.[18]**"**

13. Culture is central to an individual and a community's identity and sense of wellbeing, and sense of belonging. The cultural determinants of health are those 'protective' factors which support improved health outcomes: for Aboriginal people, their connection to family and community, land and sea, culture and identity is integral to health. The cultural determinants of health have been described as originating from, and promoting, a strength- based perspective, and that stronger connections to culture and country build stronger individual and collective identities, a sense of self-esteem, resilience, and improved outcomes across the

[16] Ferrari, J. (2010) 'Black armband' history dumped, The Australian, 25 February
[17] Professor Ngiare Brown (2013) Culture is an important determinant of health retrieved from: https://blogs.crikey.com.au/croakey/2013/08/20/culture-is-an-important-determinant-of-health-professor-ngiare-brown-at-naccho-summit/; Scones, R., Hopkins, C., Manson, S., Watson, R., Durie, M. and Naquin, V. (2010) The Wharerata Declaration – the development of indigenous leaders in mental health, The International Journal of Leadership in Public Services, Volume 6 Issue 1
[18] NATSILMH (2018) Gayaa Dhuwi (Proud Spirit) Declaration from: https://natsilmh.org.au/sites/default/files/WEB_gayaa_dhuwi_declaration_A4-2.pdf

other determinants of health including education, economic stability and community safety[19]. Having and maintaining connection to land and waters is crucial for the continued cultural survival of Aboriginal and Torres Strait Islander Australians as well as economic and social participation.

## Identity, Nationhood and Democracy

14. The telling of history is intrinsic to the national narrative, history is told through our education system and through popular media/culture. Trust in the story telling is essential for the integrity of our political system and within the administration of public policy, particularly within the electoral system. Trust is vital for maintaining democracy and social cohesion.

15. Policies and programs that are founded on strengths-based frameworks would not only contribute to the health and wellbeing of Aboriginal and Torres Strait Islander people but strengthen the positive participation rates and social and economic circumstances of the nation. Constitutional recognition and a national identity that respected our First Nation's people would underpin these frameworks.

16. Aboriginal and Torres Strait Islander people have expressed repeatedly the need to eliminate the unconscious bias (institutional racism) that obstructs their equal access to health, economic opportunities, education and all other resources associated with self-determination and healthy sustainable outcomes. Institutional racism and the multi-generational experiences of trauma and dislocation continue to have real impacts on the lives of many Aboriginal and Torres Strait Islander people.[20]

17. So often in this country we talk about equality. Equality has the aim of promoting fairness. But equality can only work if everyone is starting from the same place and who need the same help. For Australia to reflects the "fair go" it must work towards an equity model whereby the needs of the individual are met rather than treating everyone the same. The "needs" of Aboriginal and Torres Strait Islander peoples is for an Australia that is culturally safe that respects the diversity and complexity of the many cultures that make up Australia's First Nations. It is an Australia that acknowledges the right of Aboriginal and Torres Strait Islander peoples to self-determination.

---

[19] Department of Health, 2017 Implementation Plan for the National Aboriginal and Torres Strait Islander Health Plan 2013-2023 Implementation Plan Advisory Group Consultations 2017 Discussion Paper, retrieved from Https://Consultations.Health.Gov.Au/IndigenousHealth/Determinants/Supporting_Documents/IPAG%20Consultation%202017%20%20Discussion%20Paper%202.Pdf

[20] NHLF, 2017, Position Paper on Racism: https://www.catsinam.org.au/policy/position-statements; and Joint Statement (NMBA, CATSINaM, ACM, CAN and ANMF), 2018, Cultural safety: Nurses and midwives leading the way for safe heath care: https://www.catsinam.org.au/communications/press-releases-and-joint-statements;

18. Australia's national identity is shaped be a narrowly defined culture.  The many elements that make up culture (language, knowledge, beliefs, kinship, expression and self-determination) have been defined in such a way as to exclude Aboriginal and Torres Strait Islander peoples. Any Australian not of British heritage has largely been excluded from the national identity or is seen as a new Australian in the context of the national multicultural narrative. This narrative fundamentally limited the inclusion of Aboriginal and Torres Strait Islander Australians in the celebrated national identity. This exclusion is illustrated by the use of statistics that has controlled the narrative of what comprises the Australian population. The national identity has perpetuated a hierarchy whereby Euro Australians, particularly those of Anglo descent has dominated the story.[21]

19. Much of the current national story telling is silent on Aboriginal and Torres Strait Islander peoples and communities. For the stories that are told, they are often conveyed within mainstream media in a negative light.  Accordingly, to achieve social cohesion there needs to a recognition by all governments and parliamentarians that our current stories of nationhood have not told the whole truth of Australia's history nor reflected a broader more inclusive cultural identity that truly acknowledges the lived experience of Australia's First Nations People. The exclusion of Aboriginal and Torres Strait Islander peoples impacts on social and emotional wellbeing, conversely inclusion of Aboriginal and Torres Strait Islander Australians into our national identity would contribute to better health outcomes.

20. Social cohesion within a nation state is also impacted by international and regional stability.  Our political representative and government institutions have a role in securing this stability through international organisations such as the United Nations obligations.

21. To create an identity that respects all citizens within Australia, this inquiry must respect the Human Rights framework of the United Nations[22], including the United Nations Declaration on the Rights of Indigenous Peoples and its assertion for self-determination. The Australian Government announced its support for the Declaration in 2009, [23] which must be respected and reiterated as part of the fabric of our nationhood.

---

[21] Walter, M. (2010). 'The Politics of the Data: How the Australian Statistical Indigene is constructed'. International Journal of Critical Indigenous Studies, 3(2), 45-56.
[22] United Nations, 1948, https://www.un.org/en/universal-declaration-human-rights/ and 2007 https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html
[23] The Australian Human Rights Commission: https://www.humanrights.gov.au/our-work/aboriginal-and-torres-strait-islander-social-justice/projects/un-declaration-rights

22. To achieve the goal of the National Aboriginal and Torres Strait Islander Health Plan, which is a health system free of racism, it will require our social and political system to be free of racial discrimination and for our national identity to be racially inclusive. To have a racially inclusive national story, rebuild our identity and sense of nationhood we need to change our nation's foundational document as the starting point.

23. We also need to ensure the foundations of our democratic political system are stable, safe, and respected and trusted by all Australians. Truth-telling and trust is also integral to the maintenance of our democracy[24].

## Recommendations

24. The NHLF calls for:

   24.1. The date to celebrate Australia be changed to one that includes all Australians and reflects all of our history.

   24.2. The adoption and implementation of the calls of the Uluru Statement from the Heart. This we believe is vital to our cohesion as a nation.

   24.3. The establishment of a Makarrata Commission to enable a process of truth-telling and agreement-making. Truth-telling is essential for the benefit of all Australians, and a more cohesive and strengthened national identity.

25. The NHLF also calls for following actions to be implemented to enhance our democracy by rebuilding trust and respect for our institutions:

   25.1. Change our media laws to embed truth in advertising and news and clearly delineate between news and opinion pieces.

   25.2. Change our electoral laws to ensure that there is truth in political advertising by all political parties and candidates.

   25.3. Truth-telling within our public administration to ensure that policy development processes and program implementation are based on sound factual evidence. This includes community/public consultation by requiring genuine openness and transparency rather than to affirm a pre-ordained outcome. This also should ensure a co-design process between policy makers and peoples/communities that are the target of the policy.

---

[24] Laughland-Booy, J. Ghazarian, Z. Skribis, Z. (2019) Young Australians don't trust politicians. Here's one reason why' The Conversation: https://theconversation.com/young-australians-dont-trust-politicians-heres-one-reason-why-116259; and Evans, M. Stoker, G, Halupka, M. (2018) Australians' trust in politicians and democracy hist an all-time low: new research, The Conversation: https://theconversation.com/australians-trust-in-politicians-and-democracy-hits-an-all-time-low-new-research-108161

25.4. The NHLF comments the establishment of the role of Indigenous Policy Evaluation Commissioner within the Productivity Commission. This role will be vital to truth telling within our public administration and will be critical for transparency around co-design in policy and program frameworks and truth in the discourse around government expenditure which contributes to social gains and social capital.

25.5. Conflicts of interest within our public and private institutions need to be strengthened and reinforced to regain public trust. The Royal Commission into the Financial Institutions clearly demonstrated that self-interest override the consumer and public interest. It is possible to claim that we are likely to see a similar pattern in the aged care, and the violence, neglect, abuse of people with disabilities royal commissions.

25.6. Political lobbying needs to be more transparent through increased regulation of the Lobbying Code of Conduct so that a politician, senior or junior minister cannot be recorded on the Register of Lobbyists within 4 years of leaving Parliament. This code should be further enhanced by prohibiting a minister from employment with an organisation that fell within portfolio the Minister held within 4 years prior to leaving parliament. Likewise, a similar prohibition should be placed on senior public services being employed by organisations of profit within the sector to which they had Departmental responsibilities.

26. To build a narrative of our nation that is respectful and inclusive the NHLF recommends:

26.1. The implementation of history teaching within our primary and secondary education system that is truthful and inclusive of the lived experience of all Australians so that our future generations understand our story and circumstances.

26.2. The implementation of a public education campaign to tell a truthful national narrative to everyone.

27. Finally, the NHLF member organisations (Appendix A) each have unique and specific experience and views regarding identity, nationhood and democracy, and some organisations may provide submissions directly to the Senate to cover their viewpoint.

**National Health Leadership Forum Membership**

1. Aboriginal and Torres Strait Islander Healing Foundation

2. Australian Indigenous Doctors' Association

3. Australian Indigenous Psychologists' Association

4. Congress of Aboriginal and Torres Strait Islander Nurses and Midwives

5. Indigenous Allied Health Australia

6. Indigenous Dentists' Association of Australia

7. The Lowitja Institute

8. National Aboriginal and Torres Strait Islander Health Workers' Association

9. National Aboriginal and Torres Strait Islander Leadership in Mental Health

10. National Aboriginal Community Controlled Health Organisation

11. National Association of Aboriginal and Torres Strait Islander Physiotherapists

12. Torres Strait Regional Authority

**Contact Details:**

Colleen Gibbs
Director Policy and Advocacy
National Health Leadership Forum
Nhlf.colleen@iaha.com.au
02 6285 1010
PO Box 323
Deakin ACT 2600