Sovereign Union of First Nations and Peoples in Australia
Asserting Australia's First Nations Sovereignty into Governance
www.sovereignunion.mobi

and

ABORIGINAL EMBASSY, CANBERRA

To:

Mr Michael Manthorpe
Commonwealth Ombudsman

GPO Box 442

Canberra ACT 2601

and

Level 5, Childers Square, 14 Childers Street
Canberra City ACT 2601

19 May 2017

Re: Formal Complaint against Referendum Council Dialogue processes & National Convention at Uluru

Dear Mr Manthorpe,

We are making this formal complaint to you as the Commonwealth Ombudsman about the serious breaches of process that have occurred and are currently occurring by the Referendum Council, which has been formed under the Department of Prime Minister and Cabinet.

We include several articles that explain the inconsistencies and deviations from the Referendum Council's stated processes.

We call for an immediate investigation of the matters raised and call for formal suspension and termination of the activities of the Referendum Council, as the Referendum Council cannot pursue anything because too many matters need to be investigated.

We call for an immediate halt to their actions as money is being spent illegally.

There has already been a complaint lodged with ICAC against the actions of the Referendum Council by Alice Haines on 22 March 2017. The ICAC reference number for this complaint E17/0397.

We call for a moratorium of the Referendum Council's National Convention being held at Uluru from 23 - 26 May 2017 despite a strong and widespread rebuttal of the Referendum Council Convention's premise, in that it is seeking a final consent mandate and a decision from the assembled delegates as to whether all First Nations Peoples agree to the unknown, unwritten proposed constitutional changes to the Australian Constitution.

We believe that for the Referendum Council to hold the Convention at Uluru is an unfair strategy by government that is designed to reduce protest and visible community opposition. Uluru is difficult to travel to, as well as financially costly to access for many First Nations people, a large number of whom live in cities and regional areas.

Uluru is also a highly sacred and symbolic place and it is culturally wrong to attempt to put Commonwealth laws on top of ancient and enduring Aboriginal and Torres Strait Islander culture and Law, which is the pre-existing continental common law. We cannot allow this to happen to us as First Peoples as this is both forcible assimilation and cultural genocide.

There is a growing understanding that the constitutional recognition process seeks to usurp First Nations rights, despite a highly funded, one sided Yes campaign which is both a government and corporation funded agenda (Recognise).

There has not been any formal NO campaign. However, First Nations people have initiated and developed their own NO campaigns and mechanisms to share information and their reasons for dissent, despite not having received any monies to support this. Now millions more dollars have been given to the Referendum Council to host a series of twelve dialogues and a national Convention.

The importance of a NO campaign is the First Nations are asserting their pre-existing and continuing sovereignty and are demanding other options are on the table, including Treaties.

The Referendum Council is operated by the Department of Prime Minister and Cabinet and has a short life span, concluding on June 30, 2017.

The Referendum Council have a certain number of ‘delegates’ attending who were voted on at a series of 12 dialogues (approximately 120 people) but it was announced at the secret Canberra dialogue on May 10, 2017, that all Referendum Council employees who were paid as staff members and facilitators will be given full participation status and voting rights at the Uluru Convention on 23 - 26 May 2017.

This means there are an extra 170 plus people (Referendum Council employees and others) who were not selected during the ‘dialogue’ process, but whom are attending in a decision-making capacity anyway. Many of these ‘facilitators’ were on the pay roll for the Regional Dialogue meetings. There is a clear conflict of interest if these extra attendee ‘facilitators’ have voting rights, at the National Convention from 23 – 26 May 2017, since they are in reality employees, even though we are told they will not be paid to attend the National Convention at Uluru. Nevertheless, their travel expenses and accommodation at the Ayers Rock Resort will be paid for

by Referendum Council, and organised by AIATSIS, the Australian Institute of Aboriginal and Torres Strait Islander Studies.

This extraordinary and farcical state of affairs is only one among multiple examples of where the Referendum Council have seriously breached their own processes as described on their website (which has subsequently changed since the 'Dialogues' commenced).

This unlawful and unethical process cannot, is not, and must not go unopposed. In fact, there has been widespread dissent and opposition to the Referendum Council and the Recognise Campaign for years. This dissent is coming from many First Nations people right across the country.

There is a strong and consistent message of no consent to this process, and the whole constitutional recognition agenda has not been heard by the non-Indigenous population of Australia.

The co-chair of the Referendum Council, Pat Anderson, has also publicly confirmed at the Sydney and Canberra 'Dialogues' that there will be no actual constitutional amendments available for scrutiny or analysis at the Uluru Convention. There were none available at the 'Dialogues' either.

Yet Pat has stated on multiple occasions that the decision taken on the proposed five constitutional changes (without the specific wording being available) are final. She also stated there will be NO MORE going back to respective communities to ensure adequate consultation or discussion with respective First Nations communities prior to the government proceeding to a referendum on the (as yet unknown) constitutional amendments.

These actions are truly against the UNDRIP (United Nations Declaration on the Rights of Indigenous Peoples) to which Australia is a signatory, and go against the internationally understood concepts of free, prior and informed consent.

We believe that what is happening at Uluru is a farce, and is a highly unsatisfactory and unfair pretence at a consultative process. It is one that seeks to bypass a Treaty/ies Mechanism in Australia and is an attempt to usurp the inherent sovereign rights of First Nations people by seeking to create or manufacture an 'appearance of consent'.

We strongly resist the flawed process of selecting 'delegates' for the Uluru Convention as they were hand-picked by invitation only. First Nations peoples and communities had no opportunity to select their own representatives whatsoever, which does not even meet the requirements of a western democratic process to elect chosen representatives. We continue to experience undue hardship and oppression in these our lands, by the laws and polices created by successive colonial governments.

We assert that constitutional reform is 'non est factum' and is an act of fraud being perpetuated by the Australian government on First Nations Peoples.

CAIRNS REFERENDUM DIALOGUE
FORMAL COMPLAINT to June Oscar AO,
Aboriginal and Torres Strait Islander Social Justice Commissioner

Copy of letter by Isobelle Anderson of the Kirjin Nation:
June Oscar AO
Aboriginal and Torres Strait and Islander Social Justice Commissioner
for the Aboriginal and Torres Strait and Islander Social Justice Commission
March 2017
Communication@humanrights.gov.au(link sends e-mail)

Dear June Oscar
I am writing this letter/email of complaint to you regarding the Referendum Council regional dialogue meetings to be held around the nation from the months of February and up unto May 2017 before the National Convention at Uluru on 24-26 May 2017.

I am a regular subscriber to the Koori Mail (The Voice of Indigenous Australia) newspaper. I read the Wednesday. February 22, 2017 Edition. On page 19 of that Edition, an Editorial news article advised of the Referendum Council's regional dialogue meetings to be held around the nation and advising of upcoming dates.

I contacted the Referendum Council to be advised that these regional dialogue meetings were by invitation only. I asked how do you get an invitation and I was advised that usually about 100 people are invited and that 60% of the invitees are Indigenous who work in community organisations and 40% of the invitees are Indigenous who work in Aboriginal and Torres Strait Islander organisations.

Ten delegates will be picked from these regional dialogue meetings to go to the National Convention at Uluru on 24-26 May 2017. Are these ten delegates proficient enough in Constitutional Law and Imperial Law to speak about the issues that are being talked about in the community they are representing? The ten delegates chosen from the Cairns regional dialogue meetings will have to represent all indigenous people from the Cairns and Tablelands area as well as the Cape York areas.

I said that the Referendum Council have to consult with the general community but that they are shutting people out and that this is discriminating against the grassroots Indigenous community who want to have a say. I said that I would like to make a complaint and they told me that they do not receive complaints. I asked for the phone number of the Office of Prime Minister and Cabinet. I dialled this number to make a complaint and they told me that they do not receive complaints but to go back to the Referendum Council website to join the discussion.

I told them that I want to make a complaint to them (The Office of Prime Minister and Cabinet) and then to forward this complaint onto The Commonwealth Ombudsman, not to join in on an on-line discussion. Again, they told me they do not accept complaints but to join the discussion on-line. If these people are employed under The Australian Public Service Amendment Act 2013 than I have a right to complain about them and to The Commonwealth Ombudsman.

To make a complaint to the Ombudsman in Canberra, I have to lodge a complaint with the Commonwealth Agency first. I cannot do this because they will not allow me to. The Reconciliation Act is not in force anymore and is replaced by the Australian Public Service Amendment Act 2013. So I am lodging a complaint with The Aboriginal and Torres Strait Islander Social Justice Commission (ATSI Social Justice Commission). I was advised by the Human Rights Commission to do this. The Australian Public Service Amendment Act 2013 allows me to make a complaint to the ATSI Social Justice Commissioner and this Act also consolidates with The Ombudsman Act.
If the goal of The Referendum Council is to recognise and empower Indigenous People and to amend V, section 5(xxvi) to insert a constitutional prohibition against racial discrimination, then this is a circus joke, because the Referendum Council themselves are discriminating against grassroots Indigenous People to be shut out of Community Consultations. They are handpicking Indigenous People who may not have a background or understanding of Law, be it Domestic Law or International Law.

They are touting an Expert Panel on Law and Legislation. What a joke. I thought an Expert Panel on Law and Legislation were all law trained like the Expert Panel Constitutional Committee - Commonwealth of Australia Bill Adjustment of the 1890's. They were a Solicitors-General, an Attorneys-General, writers of the Annotated Constitution of the Australian Commonwealth.
These were esteemed gentlemen of law such as-: H.B.Higgens, Sir Isaac Isaacs, John Quick and Sir Robert Garran, Alfred Deakin, Sir Samuel Griffith and Sir Edmund Barton.
Shame on the so-called Indigenous Expert Panel. Only Henry Burmeister AO QC seems to have the equivalent qualification out of the 22 hand-picked so-called Expert Panel. No, some of them are handpicked ignoramuses. What would the likes of Les Malezer, Jody Broun, Josephine Bourne, Sam Jeffries, Ken Wyatt, Rob Oakshott, Lauren Ganley, Marcia Langton, Mick Dodson and Alison Page know about Law and Legislation? The Federal Constitution of the Commonwealth of Australia came from an Act of the Imperial Parliament. Who from the Expert Panel is qualified in the Imperial Laws and Imperial Legislation?

The Australian Human Rights Commission report Indigenous Peoples' Organisation Network of Australia (The Referendum Council and Reconciliation Australia are part of this Network) Submission to the Special Rapporteur on the situation of human rights and fundamental freedoms of Indigenous People-Australia mission dated 17-28 August 2009, at Section 6.3 Right to equality and non-discrimination, paragraph 25, the Prime Minister Kevin Rudd states "we will also give attention to detailed, sensitive consultation with Indigenous communities about the most appropriate form and timing of constitutional recognition" and chapter 27 of Section 6.3 states "A crucial component for the legitimacy of any future constitutional change will be the active engagement of Indigenous Peoples in the reform process".

The lack of consultation, lack of participation and lack of engagement does not promote democratic inclusion and improved accountability and goes against the above quoted Australian Human Rights Commission Report and also the International Covenant on Civil and Political Rights (ICCPR) especially Article 19, and to be consulted for "legislative or administrative decisions that may affect them".
I am requesting that you investigate my formal complaint against the actions of the Referendum Council and that of the Office of Prime Minister and Cabinet about the systemic issues that I have identified and raised above concerning the exclusion and discrimination when the regional dialogue meetings take place around the country to which there is already a major reaction of

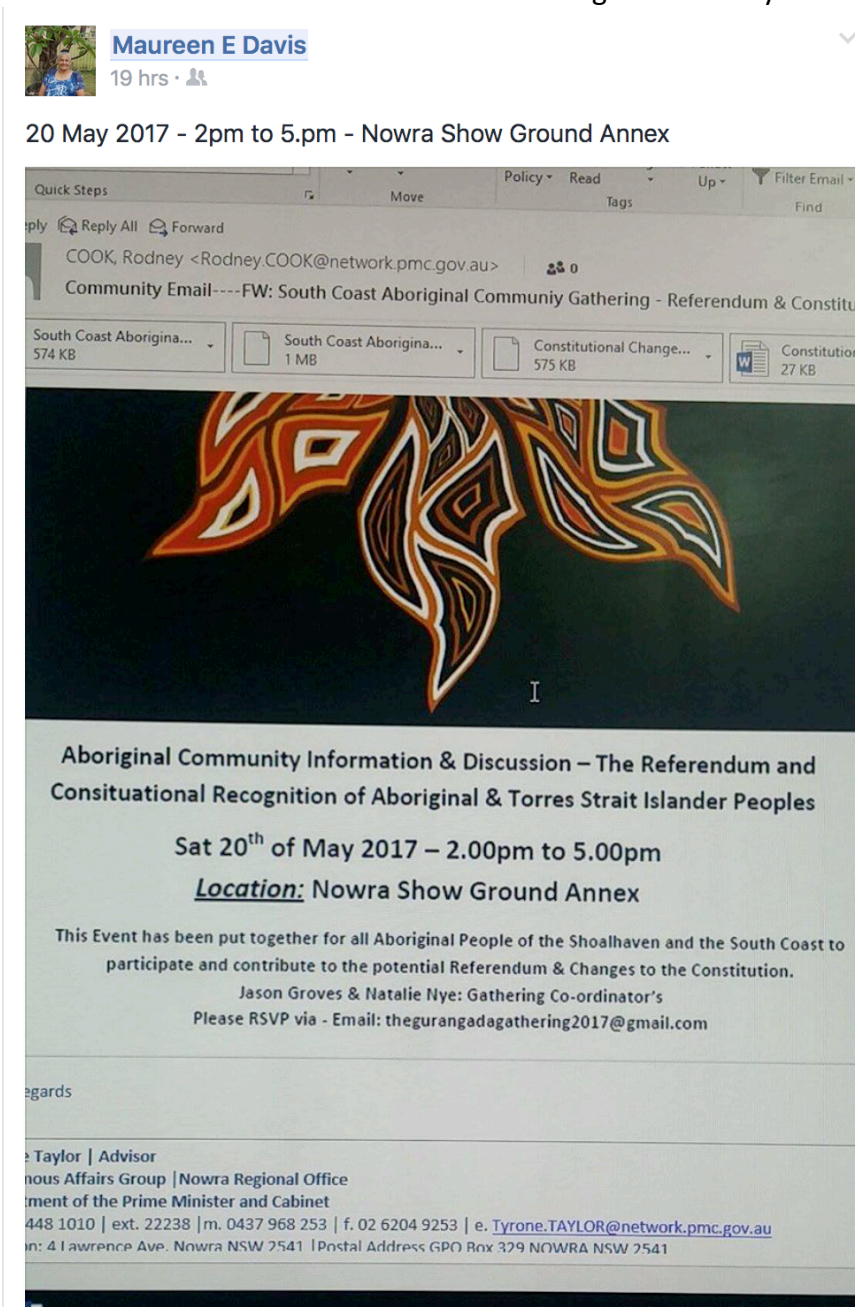
protest from Indigenous Peoples in communities such as Perth (March3-5), Sydney (March10-12) and Cairns (March 24-26).

Yours Sincerely,
Isobelle Anderson

NOWRA MEETING for 20th May 2017

Short Notice for late meeting

Elder Maureen Davis only yesterday received notice of meeting to be held at Nowra Showgrounds on 20 May 2017. The Notice has been sent by Tyrone Taylor of Prime Minister and Cabinet, from which the Referendum Council operates and is funded. This is extremely short notice considering the National Convention at Uluru is due to begin on 24 May 2017.



SYDNEY REFERENDUM DIALOGUE:
breaches of process reported by Ghillar, Michael Anderson

I have now witnessed first hand that the Referendum Council's push for constitutional inclusion and 'recognition' of Aboriginal and Torres Strait Islanders is not premised on obtaining the free prior and informed consent of all Aboriginal and Torres Strait Islanders, whose lives and cultures will be significantly impacted upon. The idea of specially invited handpicked 'delegates' is the first flaw in the process. This evident dictatorial approach of the Referendum Council to obtain 'consent' from a very significant minority for the five key issues for the constitutional referendum is genocide by intent, design and outcome. Additionally, these Referendum Council meetings/Dialogues are expecting handpicked 'delegates' to make decisions on non-existing wording for the proposed five changes to constitution. How absurd and traitorous!

Following from the Dubbo Referendum Council meeting which I was unable to attend http://nationalunitygovernment.org/content/grassroots-aboriginal-movement-nsw-squashes-recognise let me reflect on my experience in Sydney at Rooty Hill RSL on Saturday 11 March 2017. (I was unable to attend on Friday or Sunday)

Firstly, the Referendum Council has engaged a frontline of Aboriginal and Torres Strait Islander people, who have little to no knowledge of constitutional law, international law, let alone having the ability to read and understand the High Court *Mabo (No.2)* judgement. Of course, this is part of the strategy by ensuring that the meetings/Dialogues are run by uninformed ignorant and disrespectful Aboriginal public servants, who in most cases are failed former public servants and young lawyers who are totally inexperienced in the political struggle of Aboriginal Peoples, along with white bureaucrats pulling strings in the background.

A video report from 'observer' Ruth Gilbert can be viewed here:
https://www.youtube.com/watch?v=NLBxTDwt_Nw

Secondly, the engagement of young Aboriginal lawyers, who are just starting their careers, sees them being thrown to the wolves in this case, in an attempt to shield criticism of the Referendum Council for having under educated and misinformed people engaged in the delivery of the Referendum Council's agenda to engage with Aboriginal and Torres Strait Islanders. What is extraordinary is the fact that these young lawyers have no evident understanding of the true consequences of the High Court *Mabo (No. 2)* judgement and other related cases, which would have informed them that the Australian common law recognises Aboriginal rights and interests in the Country, despite the British occupation of our lands and waters. The High Court rules in Mabo that Aboriginal Law and custom is not a construct of the common law but is recognised by it as *sui generis* – unique. Additionally, the limited rights that the Commonwealth, State and Territory governments have in respect to dealings with any property throughout Australia can be attributed to Aboriginal ownership of lands and waters under our Law, customs and culture.

Do these young lawyers have any idea that in the New South Wales Native Title Act 1994 the Commonwealth government gave New South Wales the right to validate all past acts without any consideration for compensation measures. This goes against the fact that we have continuing proprietary interest in all land. Another evil exemption in this process is that our rights to the natural resources are being completely ignored. There can be no extinguishment of any of our

rights given that the High Court has not been able to identify any type of colonial validation of land tenure title to land or otherwise that denies us our rights in all things in this country. In the words of the High Court in Mabo the land is held with 'a tenure of some kind'!

I was also informed at this Referendum Council meeting that the universities do not even teach anything of the Mabo judgement, let alone First Nations' history and sovereignty, and those that do teach Mabo only focus on the British Crown's radical title and the parliamentary process which had the right to change those laws. The lecturers do not tell students that this is not correct, as is evidenced when former Prime Minister John Howard's Ten Point Plan of 'bucket loads of extinguishment' amended the *Native Title Act* in 1998, but could only be made 'legal' in their colonial system by suspending the *Racial Discrimination Act* 1975. If we take time to think about that, then there is a bigger story that must be exposed.

Thirdly, when people were talking about the1998 *Native Title Act* amendment in the workshops, one group with a significant number of people and Elders in the room, concluded that subsection 51 (26) of the constitution must be removed and that this be replaced by insertion of section 105A to read along the lines of :

> '...this Commonwealth parliament shall have the right to negotiate treaties with the various sovereign First Nations on the island continent of Australia.'

In respect of this proposal, it was agreed in the workshop that there should be a list, as in section 51, of all the issues agreed upon by First Nations Peoples across this continent. From the days of the 1980s National Aboriginal Conference (NAC) Makarrata, a national framework of significant points came from extensive community consultation with Aboriginal people across approx 60% of the Australian continent over a period of four years. From these community discussions there were 27 significant points of interest that continued to emerge repeatedly from one end of the continent to the other [see Background info]. It was these 27 points that were being used to commence the process for the development of a national framework of important topics for Treaty negotiations. This list could be used and updated to suit our needs thirty years on. Our people need to know what went before, rather than trying to reinvent a wheel that has already been built.

Fourthly, it was significant that some of those present argued that the constitution of Australia is an invalid document from an Aboriginal and Torres Strait Islanders Peoples' perspective and has no relevance to us. From this thought it emerged that, if Aboriginal and Torres Strait Islanders Peoples are subjects of the British Crown and true citizens of Australia, then why does the Commonwealth government need a section in the constitution specifically for Aboriginal and Torres Strait Islanders? This ambition by the Commonwealth government sets out very clearly an admission against interest that the Commonwealth and States do not have control over us as First Nations Peoples across this country and they seek to get control over us by engineering 'consent' for us to be recognised in the constitution. Our inclusion would shore up their powers to make specific laws for us as First Nations Peoples. This way the courts, that they own, will only look at what has been granted as a power to rule over First Nations Peoples and this will take away the uncertainty of the law as it relates to us *now.* We will no longer be able to challenge their jurisdiction ever again, because the constitution of Australia will have a clause that says they have the head of power over us now because we are written into the constitution of Australia, which will be a false representation of our 'consent'.

Fifthly, I don't know what it takes to convince our people that those Aboriginal people running these processes throughout Australia for the government do *not* understand fully what they are complicit in. I must say that the legacy they will leave behind will be a much more evil and reprehensible act than one can ever talk about in terms of the wrongdoings of the Black Trackers and the house Blacks of the American slave trade program. Both groups were used to bring about their destruction and downfall of Peoples who oppose the tyranny of dictatorship.

I cannot understand for one minute how people like Geoff Scott, Roy Ah See, Mick Dodson, Noel Pearson, Warren Mundine and Marcia Langton can ever say that what they are driving will be of benefit to Aboriginal people, especially when one considers that the bipartisanship between Labor and Coalition governments is riddled with racism.

The power of the Commonwealth to institute proceedings against us in a racist fashion comes out of the existing Australian Constitution, e.g. the *Native Title Act* and John Howard's amendments of 1998; the Northern Territory Intervention; and the Basics card, which prevents Aboriginal people from spending their money how they choose; to name a few Acts.

This insidious evil relationship between Aboriginal bureaucrats and the appointed Aboriginal advisors to the government represents the devil walking the earth and will create so much misery and loss for First Nations Peoples now and well into the future.

There can be no excuse for what they are doing. There are NO beneficial proposals being discussed at these constitutional Referendum Council meetings. It is all about their pre-approved options that they are manipulating. There are no other outcomes permitted so far as they are concerned.

I guess one of the soothers that they will put up is that Aboriginal people want a Bill of Rights, but while ever we have an Attorney-General like George Brandis this will never be part of the equation.
Australian governments and racist media cannot even deal with section 18C of *Racial Discrimination Act* 1975, let alone the creation of a Bill of Rights.

Sixthly, on the question of sovereignty it is said that this process and whatever is going to be put up for which there is NO wording, will not impact on inherent sovereign rights, but how can they say this when it is proposed to put an amendment in the Australian constitution to permit their colonial power to pass laws specifically for First Nations Peoples?

Don't these people understand the ramifications that will flow if the government and their well paid lackeys, agents of the coloniser, get their way?

Finally, the greatest flaw in this process is the fact that the government will not fund a process where Aboriginal and Torres Strait Islander Peoples, whose lives and culture are going to be significantly impacted, can be openly invited to forums to have their say. The consultation process should not be about creating the space for aristocrats; people who own land; run businesses; are fully employed; who have vested interest and who unknowingly suffer the Stockholm Syndrome, because they need to keep their jobs and their status and feel that the oppressor loves them, without realising they are tools of oppression and are being used to that extent. What about the majority First Nations people who never get to have their say and whose lives are constantly impacted upon by the removal of their children; their inability to get jobs in their own home bases,

where they choose to live; have police clean the streets so white people can walk there freely without having Aboriginal people present? (If the non-Aboriginal residents don't like what they see out in the rural and remote areas of Australia; in the parks; in the cities, then it is they who must take responsibility for the creation of such a shamble.)

We have reached a stage in our lives where the descendants of those Blacks, who were exempted from being 'Aborigines' in earlier times and had the right to educate their children away from the camps, reserves and other places, are now overly represented in leading this current 'Recognition' campaign on the constitution process, along side, are those who are descendants of the stolen generations and who never found their way home. The majority of these assimilated people think white, they do not think Aboriginal and the moment has come when we must call a spade a spade. They talk about Aboriginal Law and Lore, but in reality have no understanding of what this means, nor do they have any understanding that what they are doing will significantly contribute towards the total cultural destruction of us as First Nations and Peoples.

Our culture requires land and space. Our culture is embedded within the landscape itself and unfortunately for us Aboriginal people, the occupying power and their agents in the guise of economic entrepreneurs are ecocide, and severely object to our cultural norms and our requirements for not only our survival, but also our wellbeing for generations to come.

The Australian governments are fully aware of the fact that we are NOT citizens of this country; that we are still defined as 'aliens' under the constitution form Britain. We are outside the legal system as Robert Menzies said in 1968 and they have agreements with white lawyers and white institutions not to divulge the depth of these legal facts.

http://nationalunitygovernment.org/content/governments-attempting-counter-sovereignty-movement-understanding-when-we-are-winning

http://nationalunitygovernment.org/content/first-nations-peoples-australia-are-being-crushed-governments

http://nationalunitygovernment.org/content/government-asking-you-blindly-vote-changes-referendum-without-even-clarifying-final-wording

These 'Recognition' and 'Referendum Council' processes cannot be allowed to continue. They must be fully challenged and us First Nations must come together and talk as Aboriginal people imbued with Respect for Law and culture.

Ghillar, Michael Anderson
Convenor of Sovereign Union of First Nations and Peoples in Australia

Detailing the flaws and the farce of the Referendum Council's 2017 Sydney 'Dialogue'

22 March 2017 - By Sovereign Union Volunteers

Constitutional reform to amend the Australian Constitution to 'recognise' Aboriginal and Torres Strait Islander people is a highly contentious issue. An independent survey by IndigenousX found that 87% of Aboriginal and Torres Strait Islander people do not agree with constitutional 'recognition'.

The Referendum Council was appointed in December 2015 by Prime Minister Malcolm Turnbull and opposition leader Bill Shorten to advise on progress and the next steps to 'recognise' Aboriginal and Torres Strait Islander people in the Australian constitution. A significant proportion of the Referendum Council members are non-Indigenous business people and former politicians.

On February 10, 2016 Prime Minister Malcolm Turnbull declared that the first hurdle is to come up with a form of words for constitutional reform, and that: "It's got to speak to, it's got to sing to them, otherwise they'll wash their hands of it".

The Referendum Council has been holding a series of 'Dialogues' at twelve locations around Australia in 2017. Attendance is *by invitation only*. The Sydney 'Dialogue' was held on 10 to 12 March 2017.

The 'Dialogues' – not a people's movement

The Referendum Council of the Department of Prime Minister and Cabinet are convening the 'Dialogues'. The Referendum Council has been funded $9.5 million over two financial years and has been criticised for squandering taxpayers' money by Federal Coalition Senator Dean Smith.

AIATSIS, the Australian Institute of Aboriginal and Torres Strait Islander Studies, is involved in executing the 'Dialogues'. AIATSIS was approached by the Referendum Council to conduct the meetings, and who then sought $7.5 million to run them.

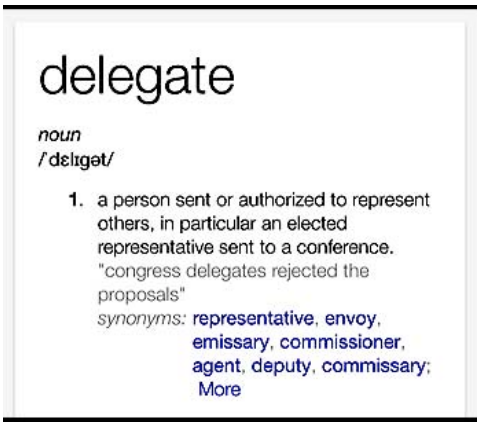
On 10 February 2016, Prime Minister Malcolm Turnbull announced an additional $20 million in funding for the work of the AIATSIS Collections over two years in his 'Closing the Gap' speech. AIATSIS Chairperson Mick Dodson said the additional $20 million allocation, "will allow AIATSIS to ramp up its work to collect, preserve, understand and share Australia's Aboriginal and Torres Strait Islander peoples' heritage and culture."

It was not announced in the Close the Gap speech whether AIATSIS would be using any moneys from this allocation of funds to run 'Dialogues' on behalf of the Referendum Council. If this in fact was the case, then at best it was misleading and an untrue statement about the use of taxpayer monies.

Who is attending?

The Referendum Council's website says that '60% of places are reserved for First Nations/traditional owner groups, 20% for community organisations and 20% for key individuals'. It is not stated whether they said who the key individuals are known to, or employed by, or support constitutional reform, nor is it clear how they have been selected.

Up to 100 Aboriginal and Torres Strait Islander people are attending each of the 12 sessions. According to the Referendum Council's website, five people from each 'Dialogue' will be chosen to attend the Uluru convention from 24 to 26 May 2017. However, around 10 people have been chosen from each area at these 'Dialogues' so far. This was the first example of where the Referendum Council diverges from what they say to what they actually do.



Not *delegated* to represent on constitutional reform

The 'Delegates' were hand-picked specifically to attend this meeting without going through a representative election process and were not specifically chosen by their communities to represent them on the matter of constitutional reform. Their selection did not meet even a western democratic standard of representation by election from the people to choose their own representatives, let alone follow First Nations' protocols.

Day One of the Referendum Council's secret Sydney 'Dialogue'

Friday 10 March was the first day of the Referendum Council's Sydney 'Dialogue'. It was held in the Rooty Hill RSL mega club. It was the start of a three-day meeting that very few people in the Aboriginal community even knew was occurring.

The Referendum Council's hand-picked attendees were comfortably ensconced in the second floor meeting room of the Rooty Hill RSL. They had been flown in and placed in luxurious hotel rooms nearby, and were hanging over the second floor balcony prior to the 'Dialogue' commencing.

It was an interesting venue choice. The first floor of the club was a veritable sea of poker machines, which keep low income earners in an endless poverty cycle and only provide true benefits to the corporations that own them. It appeared symbolic of the way that Aboriginal people are always at the bottom of Australian society, while the mainstream society and multinational corporations grow wealthy on resources and profits from Aboriginal land.

Downstairs in the RSL car park, a group of First Nations people were gathered to oppose the 'Dialogues' and the constitutional amendments. Children drew and adults painted posters on the concrete car park.

An independent journalist and photographer were the only media presence in the car park. They were refused entry to the 'Dialogue'. They had been also refused the right to film the Dubbo 'Dialogue' in February, because they were not 'delegates' and were openly supporting the 'Vote No to Constitutional Change' position.

At around 1 pm the First Nations group moved as a united front to the glass doors of the RSL. They started a smoking ceremony, an ancient ceremonial practice used for tens of thousands of years to cleanse and remove negative energies. It was also a powerful way to show cultural opposition to the selective, elitist meeting taking place inside the building.

Eucalyptus smoke rose from a coolamon and a tiny boy danced proudly to clap sticks. The smoke went straight up into the second floor balcony meeting room.

confrontation broke loose as the cops moved in - Source: Vote No to Constitutional Change

NSW Police and a fire engine arrived. They demanded that the smoking vessel be extinguished. A high- pressure water hose was blasted on the coolamon. A Yuin Elder was forcefully dragged by his arm. The children screamed in fear as the police dragged another man away (pictured above).

The 'Dialogue' that wasn't a Dialogue

Upstairs were the 100 inappropriately labelled 'delegates' who were handpicked to attend the 'Dialogue'. Also present was the co-chair of the Referendum Council, Pat Anderson, AIATSIS staff and a number of group and session facilitators.

They were all alerted to the actions of the NSW Police to the First Nations group below, but only about 10 people went over to witness what was happening under the balcony. The rest appeared to be indifferent to what was happening underneath, as they continued watching a video about historical injustices by filmmaker Rachel Perkins.

One of the 'Dialogue' facilitators, Roy Ah See, attempted to stop a few First Nations sovereign women, of the group downstairs, from entering the meeting room. Ah See is the Chairperson of the NSW Aboriginal Land Council and is a new appointee to PM Malcolm Turnbull's Indigenous Advisory Council.

Only the Referendum Council's hand-chosen 'delegates' could speak during the meeting.

Ah See was implored by a First Nations woman that to lock out Aboriginal people would be inappropriate. He reluctantly and most ungraciously permitted others to enter, then bluntly said that they could be silent observers but not participants in the 'Dialogue', and that the only ones who had the right to speak or participate were the people selected to attend.

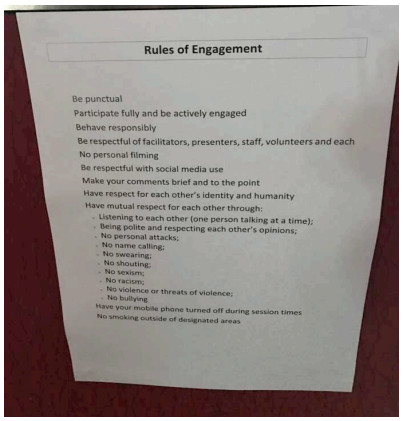
The co-chair of the Referendum Council, Pat Anderson, described the 'Dialogues' and the Uluru convention to be held from 24 to 26 May.

"Uluru is a decision-making place. Once you get there, you can't go back to your communities and say you have to consult with them."

Uluru was only weeks away from the Sydney "Dialogue".

The Referendum Council then imposed more rules. Only photographs taken by the Referendum Council photographers were allowed. Filming or photography of the meeting was not allowed, adding additional secrecy to the meeting in addition to the invite only, undisclosed locations of the "Dialogues". For such a major happening in this communication enabled era, it is highly suspicious, unethical and inappropriate that there is no complete public record of the 'Dialogues' and what was said.

A set of 'Rules of Engagement' was produced



It outlined that people were not to use the microphone to make personal attacks on other people, including no swearing and bullying. As the meeting went on the Referendum Council facilitators then breached the very Rules of Engagement they claimed to be enforcing, and strained to create an absolute sense of division in the room between 'delegate' and 'observer'.

There was blatant bullying by facilitators in an attempt to gain control of the discussion. Their behaviour was designed to oppress the First Nations 'observers', and to stop them from having

any opportunity to participate. It seemed like they were intent on creating two classes of Aboriginal people in the room.

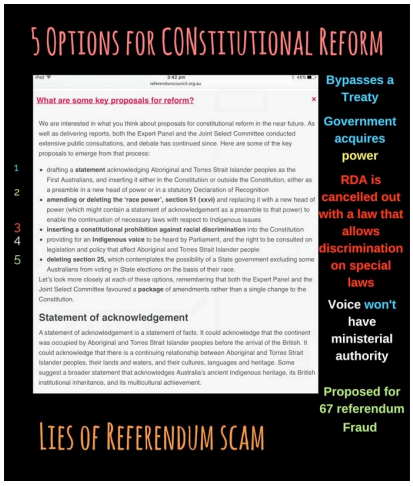
There was a lot of fiery discussion, however, among 'delegates'. Interestingly, it was the case that many vocal 'delegates' did not want to have Aboriginal People forced into the Australian Constitution at all.

The issues of Sovereignty and Treaties kept getting pushed off the agenda

It was like the Referendum Council and its facilitators thought these topics were a side issue, not the key issue at the heart of the matter.

The few people who expressed any support for 'recognition' generally wanted this only if there was a Bill of Rights put into the Constitution, with special rights enshrining the unique rights of Aboriginal Peoples. One man expressed his genuine concerns about constitutional reform and was cooed at patronisingly by a female facilitator, "Don't you worry yourself about that little book now" (the Constitution).

Some people talked about how, if Aboriginal People were 'recognised' in the Constitution, then Treaties must happen at the same time. The Perth 'Dialogue' had a hundred 'delegates' calling for a Treaty.



Source: Vote No To Constitutional Change - Photos)

The five key proposals. Many speakers wanted Aboriginal sovereignty and sovereign treaties to be the sole agenda, not the Referendum Council's five proposals.

(

Another man asked these simple and legitimate questions of the constitutional lawyer present: "Is the Australian Constitution *legal*? Was it ever passed into law by the British Parliament?" The lawyer fumbled around with an evasive non-answer. And the questions still stand.

A protest banner on display outside the Rooty Hill RSL club

Ah See then derided a Sovereign Elder who had attended the Dubbo meeting for daring to speak out, saying that it wasn't fair that the man spoke when he had spoken in February at the Dubbo meeting. Yet Ah See relentlessly controlled the mic, rambling about how hard it was for him as an Aboriginal man, and took a lot of time away from other speakers. He also shocked some with his foul language in front of small children and old people.

When two First Nations women silently unfurled a 'Vote No to Constitutional Change' banner, Ah See ranted that the banner was interfering with the speakers, and tried to get the whole group to decide to throw the women out. There were verbal threats of, "Call the police!" from the table next to the women which were intimidation tactics.

He then shouted, "If you don't agree with us, just get out of here, get out now!" And then this pearler: "Between the C and the T is the UN. You be a Treaty person and you die in a ditch". Seemingly, C refers to constitutional reform, and T is referring to Treaties. There were multiple breaches of the 'Rules of Engagement' during the 'Dialogue'.

This type of behaviour does not bode well for Ah See's new appointment as a member of the Prime Minister's Advisory Council. His behaviour was neither appropriate nor befitting for a person who holds the position of Chairperson of the NSW Aboriginal Land Council. In his own words he stated, "Maybe I'm not the right person to facilitate this meeting".

There was fury expressed by several 'delegates' at the low number of 'Dialogues'

Only 12 'Dialogues' are being held around the country. Eighteen meetings were promised at the Broome meeting, said one lady. Somehow this has now been reduced–lack of funds, apparently?

The Referendum Council was crying poor–please hop into this busted up Commodore and journey with us -we can't afford more 'Dialogues'. Another speaker commented that NSW, with the highest Aboriginal population in Australia, has a meagre two 'Dialogues' and the ACT have nothing at all.

Day two of the Referendum Council's secret Sydney 'Dialogue'

The second day descended further into malpractice as the facilitators became more aggressive in silencing the strong voices in the room from having their say. People were expressing the sentiment that 'Sovereignty was never ceded, our Law is the Law of this land, and the Australian government is still an illegal occupying power'.

When a First Nations woman asked for clarification of a single government law that has ever been positive for Aboriginal people, she received no answer from the floor and was shouted at for her

efforts.

No written wording of any proposed constitutional amendments were available

At the end of the second day, no written wording of the changes to the five clauses for amendment (from the government's perspective) had been provided to the group at all.

The government and whoever else has been behind constitutional reform, including the so-called 'Expert Panel' and the Referendum Council, must undoubtedly have prepared a set of their preferred wording for inclusion. It would have been carefully combed over by vastly overpaid constitutional lawyers, or they would not be asking for a decision at the end of this scripted process.

By this point in time, why are no actual proposed words to amend the Constitution available for public scrutiny or to the delegates at either the regional 'dialogues' nor the Uluru convention? It's rumoured that the words will be released in June or July 2017 - after the Uluru Convention!!

Outside the RSL club, the Constitution was being burned

The First Nations people opposing constitutional 'recognition', who had remained outside the RSL club, had lit a ceremonial fire containing the ashes from a number of Aboriginal Embassies around Australia. The Australian Constitution was burnt in a billycan to the sound of clap sticks. The fire-fighters came again with a contingent of police. But this time the fire-fighters would not put out the fire, and the police left too.

Firemen came again with a contingent of police

Australian Constitution in flames outside the Rooty Hill RSL Club

Day Three of the Referendum Council's secret Sydney 'Dialogue' - Voting Day

Day three was voting day. On the final day, the facilitators appeared confident; perhaps they thought that the cat was in the bag. So called 'delegates' were self-nominating or nominating each other to go to Uluru. Facilitators appeared to be making up the rules as they went along.

Ghillar (Michael Anderson), the only living member of the 1972 Aboriginal Embassy founding four, a leading Sovereignty activist and the Convenor of the Sovereign Union, had been a powerful voice on the room on day two. He couldn't attend the third day, yet wanted to attend at Uluru. He was nominated to attend by 'delegates' and had been chosen as a 'delegate' for the Dubbo 'Dialogue' but was not able to attend.

They said Ghillar, Michael Anderson, was not a 'Delegate'

The Referendum Council facilitators struck Ghillar off the voting paper and didn't mention that they had done this until challenged. They then said he was not a 'delegate', even though he was listed for the Dubbo meeting as a delegate. They then made up a rule that people who were not present on voting day could not be considered as nominees. No surprises there, yet what a shameful outcome, particularly as Ghillar is an authority in the Aboriginal Sovereignty movement and understands well the reasons why the Australian Government is seeking to 'recognise' First Nations the first place.

The nominees included a number of people who hadn't spoken out, or barely spoke, over the three days, who got up and spent from only 30 seconds to several minutes talking about who they are.

Only a few explained their position that they would take to the Uluru meeting on matters of constitutional reform

Several even said during their speeches, "I've never been to Uluru before", like they thought that they were in the draw for a free holiday. A number of speakers spoke passionately about Aboriginal Sovereignty–and they didn't get elected. The votes (ballot papers) were counted in some back room by whom, exactly, it was unclear. There were unethical processes all around from the Referendum Council.

Once the Referendum Council had their Uluru contingent, they couldn't have shut down the meeting faster. They had the outcome they wanted: thanks for showing up so we can photograph you, thanks for providing an appearance of consent. Have a ticket to Uluru.

The First Nations contingent outside, who were opposing 'recognition', stayed right up to the very end of the third day. Their presence, though being ignored, was undeniable.

Outside the Rooty Hill RSL

The questions that need answering

The Referendum Council somehow expects 'delegates' to consult with their communities by the Uluru convention in May. Presumably though, not with any communities who don't have a 'delegate' attending, or do they actually mean all Aboriginal and Torres Strait Islander people?

They seem to expect that 'delegates' can feasibly gain free, prior and informed consent from their communities, to explain the finer nuances and implications of constitutional law even though they themselves are not constitutional lawyers, and they are to do this with no actual wording on the table. What a sick joke: where would this be seen as an appropriate process anywhere else in society?

So far, no amendments have been produced for scrutiny

The Referendum Council is expecting a consensus on what constitutional changes, exactly? This is like asking people to sign a blank cheque on their rights, land and the future inheritance of their children's children. And they want this to be all signed off at Uluru from 24 to 26 May.

Where is the accountability or information to the community that is independent of how the Referendum Council disperses it? There's nothing for future generations, First Nations or the wider community, to understand the 'Dialogues', or to have the history available for the record–only an empty shell of a written government record, written by a government employee.

The Referendum Council's insubstantial and watered down communique on the Sydney Dialogue doesn't even mention the key discussion topic of First Nations un-ceded Sovereignty. Their report is a hollow mockery of what occurred. How can they pretend there was unity when the last statement to the group on the last day was by a First Nations 'Delegate' announcing a huge protest–a Sovereignty convoy to Uluru to contest constitutional recognition? Why are the Referendum Council and the government being so sneaky about this?

The Commonwealth Government knows full well that it does not have a valid claim to sovereignty

Is their only solution to coerce and assimilate Aboriginal and Torres Strait Islander Peoples into the racist constitution from Britain, so that there is no First Nations' sovereign voice left? Why on earth would they expect Aboriginal people to support this?

The NSW Aboriginal Land Council had a hefty contingent of its members and executive present.

Does the NSW Land Council formally support 'constitutional recognition', and if so, do their members support this position? Aboriginal land councils were created from the dream of self-determination and land justice–this is a far cry from that dream. Why were land councils so over-represented anyway? There are many other Aboriginal organisations and groups in NSW.

There is a heavy question mark over the neutrality of the 20% of community 'organisations' representation across all the 'Dialogues'

In 2015, Lateline exposed how Aboriginal organisations were been made to show support for constitutional reform as part of their key performance indicators. In Dea Theale's statement to ABC's Lateline from the Western Sydney AMS in 2015, she said:

"We understand that both the Minister for Indigenous Affairs and organisers of the Recognise campaign both deny that evidence of support for the Recognise campaign was being used as a requirement in funding submissions. Perhaps they should view the documents with greater detail as we did.

Unfortunately, this is not a matter of opinions here or there, but a fact. The guidelines for funding applications under the Indigenous Advancement Scheme (IAS) clearly list "Progress towards a referendum on constitutional recognition, participation in society and organisational capacity" as the main program outcome for the 'Culture and Capability Programme'.

Furthermore, under Key Performance Indicators, meaning, the main indicators which applicants must demonstrate how their proposed programs will achieve if funded, the first item listed is: "Increased opportunity to participate in constitutional recognition activities"….

The message that Treaties may come after constitutional recognition has been spun by the Recognise campaign, when all along conservative governments have clearly enunciated that there will be no Treaties arising from constitutional reform.

All states have now 'recognised' Aboriginal People into their state constitutions, but the plight of Aboriginal People all over the country is no different than before this occurred and the gap is not closing. Ironically, when the State of NSW recognised Aboriginal people in its Constitution, it was accompanied by an indemnity clause releasing the NSW Government from any liability for past wrongdoings.

The process and structure of the 'Dialogues', the incredible rush, is fatally flawed. The process has an agenda from which people are expected to select one, some or all of the five models of constitutional reform proposed, but with *no space to reject them outright*.

Although the Referendum Council professes neutrality, the meeting agenda is not at all fairly weighted to an open discussion in the language used or in the agenda itself. They want this passed. They are pushing their agenda by all means possible.

Constitutional 'recognition' is a bipartisan Commonwealth government agenda, not a people's movement

It is being paid for by government and corporations at vast expense. If they wanted a true 'Dialogue', as the 12 national meetings are purported as being, they would have taken into serious

consideration the views of all First Nations people who wanted to attend, including the Vote No campaigners outside. This could have been achieved by, at the very least, trying to listen to them to understand their perspectives.

Recognise and the Referendum Council

'Recognise' is a pro-constitutional reform public relations campaign run by Reconciliation Australia. Recognise is infamously supported by banks, mining companies, private prisons and big industry.

The Referendum Council is at pains to disassociate itself from the Recognise Campaign (but confusingly also admitted in the Sydney "Dialogue" to working with them regularly). The question from the Aboriginal community about 'Recognise' has been all along, if the mining companies and big business want it, then there surely must be something for them in it–and it's not going to be good for First Nations Peoples.

The government, the Recognise campaign and the Referendum Council have unimaginable resources at their disposal to push a Yes campaign at people. Recognise has even infiltrated sports, including the AFL, NRL and cricket. Has there ever been a referendum in the history of Australia that has received this level of taxpayer and corporate funding? It seems that in Australia, referendum outcomes can be bought.

The Recognise PR juggernaut has run in tandem to steadfast opposition and protest by Aboriginal individuals and groups including Sovereign Union. There are many other strong Aboriginal run Facebook pages opposing 'recognition'. Yet the Vote No grassroots campaign has not had a single cent put towards it, despite multiple calls for a formal No campaign funded to the same extent as the Yes campaign.

The Referendum Council's processes are out of line with international principles of free, prior and informed consent

The Referendum Council's pitiful efforts are a far cry from the open Dialogue needed. Perhaps it is the case that no matter what objections are raised to constitutional recognition or how much people talk about Treaty/ies and Sovereignty, this process appears to have a single agenda, to manufacture an appearance of consent to constitutional reform.

It's certainly out of line with the United Nations Declaration on the Rights of Indigenous People (UNDRIP) to which Australia is a signatory.

Deadly mob say NO to Recognition Source: Vote No to Constitutional Change

This is a further indictment on Australia in its 229-year history of genocide and oppression of First Nations Peoples. It's made even worse by the fact that Aboriginal People are being used to silence and exclude other Aboriginal Peoples' voices in this process–known as the Black Wall.

It's all about the framing, and the devil is in the detail. They'll spin it how they want from here. The Referendum Council will finish their appointment and exit the stage, a dirty stain on the pages of history. But First Nations Vote No campaigners will continue to oppose constitutional reform, despite no resources and an apparent media block out. *No means No.*

Unpacking the Australian government's 'political will'

One of the main arguments used by facilitators for supporting the government's push for constitutional reform is that there is current political will and bipartisan support. But the will of Aboriginal people to retain our sovereignty is far more important than the government's will to obtain it by deception.

At the same time as this insidious constitutional reform agenda proceeds, two discourses are operating. Native Title is under attack. There are ongoing human rights abuses by the Northern Territory intervention and elsewhere, the deaths in custody, abuse of incarcerated First Nations children, the suicide rates, issues that we all know about.

These indicators are getting worse, not better, and some people have swallowed a message that constitutional reform is some kind of magical panacea that will change these things for the better. But what constitutional reform actually does is to give power to the colonial system to destroy our lives, give an authority to them that we accept the right for them to make all these bad, oppressive laws on our behalf. No way can Treaty/Treaties follow this!

Aboriginal people have held this land in wisdom and Law for countless millennia.

The writing is on the wall. Don't give your consent. Aboriginal Law is the Law of this land. The world's oldest continuing culture holds the key for a future where we can all survive.

Aboriginal sovereignty, Aboriginal ownership of our lands and territories, the need for our inherent human rights to be respected, and importantly, the moral responsibility to provide extensive reparations to First Nations people for past and present injustices are the most important issues in Australia.

CONSTITUTIONAL REFORM IS NON-EST FACTUM

non est factum Meaning: a plea that a written agreement is invalid because the defendant was mistaken about its character when signing it. (Acknowledged Internationally)

Critique of wrong legal advice from two professors on Referendum outcomes in lead-up to the Referendum Council meeting
at Uluru 24-26 May 2017

A critique of legal advice regarding the impact of the referendum on First Nations sovereignty, from Professors Megan Davis and George Williams by Ghillar, Michael Anderson:

How can the governments talk about deliberative democracy when the Referendum Council, which has a budget of millions of dollars tells us, because of the lack of money, they cannot organise community meetings and greater representation at their 12 'Dialogue' regional meetings? To ban people from attending these Dialogue meetings, such as they have done in many places, the latest one being in Perth, cannot in an way shape or form be seen, or be construed, as true deliberative democracy, because our Peoples are being denied a right to be fully informed and to contribute their point of view in a process that will affect our children's children inheritance and sovereign status.

The denial of a voice in a so-called democratic society is but dictatorship and tyranny.

If Referendum Council Co-Chair, Pat Anderson's history of participation in Aboriginal Affairs is used as a measuring tool of success, heaven knows what we can end up with, considering we now have military law controlling First Nations' land and communities through the Northern Territory Intervention, which came from her "Little Children Are Sacred Report". This did not stop there. We now have the Basic Card being rolled out in Aboriginal communities across the continent. It is very constraining and demoralises the people knowing that their social services payments are being restricted in terms of how much independent money they have.

Then we look at Professor Megan Davis, who is also on the Referendum Council, and we ask the same thing. What has she ever done to free her People and gain the rights that we are entitled to under international law and Human Rights Conventions? Megan is promoted as a leading legal expert in constitutional reform, primarily because she is a professor and held the position of the Chair of the Permanent Forum at the United Nations. But when we look at this body within the UN, it is in fact a lame duck and of no real consequence in terms of liberation and independence.

Our First Nations Peoples need to understand that the Indigenous Permanent Forum at the UN is not about Human Rights and equal suffrage, but rather about informing developers and mining

companies of the need to conduct best practice. This is then taken up by institutions such as the World Bank and IMF when trans/multinational corporations apply for development funds to establish their major extractive industries on and within Indigenous lands and territories throughout the world. The Permanent Forum has failed to effect positive change, because we still have no veto rights, nor power to protect and save our sacred sites around the world from these extractive industries. In the Permanent Forum we are not even allowed to criticise the colonial power/the UN Member State that oppresses us.

One would have thought that people like Megan Davis and Michael Dodson, together with Les Malezer, would have understood the true nature and purpose of the Permanent Forum and directed it to addressing the protecting our sacred lands and places of spiritual worship from exploitation and destruction by these transnational companies. It should also be pointed out that participants to the Permanent Forum are not themselves true NGOs, Non-government Organisations, in particular Australia. I might add the United Nations already knows this. The majority delegates that attend and represent Aboriginal interests at the Permanent Forum are government funded and not true NGOs .

It must be said therefore that since these people delude themselves into believing they are contributing towards justice for our Peoples, then it is no wonder why they cannot see themselves as being people running with a deceitful lie for and on behalf of the government, in order to promote their own status and achievements within a non-Aboriginal society.

What hurts most is the fact that people like Megan are assisting our oppressor, the occupying colonial power to completely bury us, while peddling a deceitful campaign orchestrated by the Referendum Council to the public to win their hearts and minds by pulling at the heart strings when they say to the public: 'Don't you think its time we recognised our poor First Nations people in our constitution?' Of course the public will support such a sob story but the public are not fully aware of the hidden agendas to steal our patrimony by assimilating us into their colonial Constitution.

The following extract from a book co-authored by Professors Megan Davis & George Williams called *'Everything you need to know about the Referendum to Recognise Indigenous Australians'* has been used by many misinformed people to support the concept of constitutional inclusion of First Nations Peoples into the Australian Constitution.

In the accompanying video https://youtu.be/SokvYKWAhRM I analyse the false reasoning of the two professors regarding the impact of the proposed Referendum on First Nations' sovereignty.

I quote from end of page 121 through to top of page 122:

> *"Underlying the High Court's reasoning is the view that the sovereignty of Australia's first peoples was displaced by British settlement and the introduction of their law. This was brought about by the assertion by the British of their sovereignty over the Australian continent. All of these occurred before the Australian Constitution came into force in 1901. That document created a new nation upon a continent that the British already regarded as theirs. Changing the Constitution in 1967 did not alter this, nor would changing the Constitution today.*

"This of course represents the position under Australian law, of which the Constitution is the ultimate expression. It does not affect how Aboriginal people view their own sovereignty. As a result, it does not prevent them from asserting their own independence and the continuing validity of their laws and customs.

"Quite apart from these arguments, none of the changes proposed to the Constitution in any way touch upon anything to do with sovereignty. Voting Yes in the recognition referendum would therefore not amount to any surrender of sovereignty, and none of the changes suggest that Aboriginal people are submitting to the nation state or surrendering their claims to self-government, If that was the intention, a different set of words would need to be inserted into the Constitution. It has not been suggested that this should occur. Doing so would run counter to the idea of recognising Aboriginal and Torres Strait Islander peoples in the document, which is to acknowledge, rather than to suppress, Australia's long Indigenous history."

Transcript of video critique by Ghillar, Michael Anderson, of an extract from '*Everything you need to know about the Referendum to Recognise Indigenous Australians*' by Megan Davis & George Williams.

Ghillar, Michael Anderson: There's a conference coming up soon of selected Aboriginal People, who were hand-picked to attend regional meetings about the Referendum in respect to the inclusion of Aboriginal People in the Constitution. I'm amazed, but at the same time I'm not shocked, that they've engaged people like Pat Anderson and the likes of Noel Pearson, and people like Megan Davis and people like ... You know the New South Wales Land Council together with other land councils around this country. The land councils, by the way, were ... particularly the Federation of Land Councils outside of New South Wales, were the mastermind of a fellow called Dr H.C. Coombs, the late 'Nugget' Coombs, as they called him.

Now this fellow really got peeved off with Malcolm Fraser, because Fraser didn't want him associated with negotiating a treaty and the terms of a treaty. And so he and his white support group, treaty support group were disbanded when they realised that us Murris were pretty smart, and that we're engaging some very clever lawyers and economists, political scientists, to work with us to talk about the establishment of a framework for a national treaty under the old NAC. [National Aboriginal Conference]

Interviewer: What years are you talking about?

Ghillar, Michael Anderson: All of that formulation was occurring from '79 right through to 1985, so there was this long period where a lot of community research was done, and they were not regionalized meetings. They were going into individual communities and talking to people. The only criticism that was coming back from the likes of Lois O'Donaghue and others was that we were talking to people in English, and that they should be given data and information in their own languages, whether it be in written form, or whether it be in video form, and we agreed with that. Everybody agreed with that; that that was the proper way of doing things. So that was the criticism for that treaty process back then, saying that people were not fully informed, and that they were not being told in their language of all of this. They were arguing that there was not two sides to the story here, you know. Okay this is the pro and this is the con.

Now, here we only have a con operation going on in respect to the treaty. Sorry, the Referendum. And so when I look at this here, I'm informed that there's a book authored by Megan Davis and George Williams called, "Everything You Need to Know About the Referendum to Recognise Indigenous Australians". Now when you look at this here, there's some very interesting comments in this paper, book. Like here, all right, one quote from the end of page 121 to the top of 122, and so on. And this one here says, "Underlying the High Court reasoning is the view that the sovereignty of Australia's First Peoples was displaced by British settlement and the introduction of their law." Now I find that quite extraordinary, because here you have this fellow, this Professor George Williams saying that our sovereignty was displaced by the introduction of their law, British law.

That's absurd, because when they settled Australia they came here as a penal colony. So there was no civil law, there was only one law. The Admiralty brought them here, and they were in Australia under Admiralty Law, but operating a prison, operating a penal colony. So this here, there was no civil law came into Australia at that time at all. It was just a prison, all right? Now then they go, "This was brought about by the assertion by the British of their sovereignty over the Australian Continent." Now, what happened here, was that as they're saying there that to be able to assert their sovereignty as we know, they did it on the basis of there was no one here, *terra nullius*.

And so, the King planted a flag and everything that's wherever he planted, and if there's just one continuous land mass, he owned everything. Now, if you go back in history, you'll see where the King stood on, I think, somewhere near Dover or some place over in England, looked across, and he might have been able to see on a clear day, part of Calais over on France land and then, all of a sudden, he waved his hand and said, "I own all that." And of course, anybody with any common sense would tell you that's absolutely ridiculous. And so, that statement there is just as ridiculous as someone standing on Dover and saying, "Oh I can see land over there, so I own that too." Right? Just never mind the people living on it.

Now, that's just absurd. So there is a formula, and in international law, at the time when they did that, that made that very different. And they totally ignored all those laws. Now then they go, "All these occurred before the Australian Constitution came into force in 1901." Now, I have absolutely no idea why they bother to say that, because you see, the Federation had nothing to do with the sovereignty that was asserted back then. Because all those colonial states, the colonies, New South Wales, Victoria, Queensland, West Australia, South Australia, Tasmania, were already in existence and so they were claiming [sovereignty]. So through those colonies, that's where they were asserting [sovereignty] and forming government, in those colonies.

So to come up and say, oh you know, and to think that the Australian Constitution had something to do with British assertion of sovereignty is absurd. So you can throw that one aside and all they did was just create another tier of government. That's all they did with the 1901 Constitution. Then you've got, "That document created a new nation upon a continent that the British already regarded as theirs." So they make their own statement and confirm that that's the case.

"Changing the Constitution in 1967 did not alter this, nor would changing the Constitution today." Now for educated people to write that is absolutely irresponsible, because that's misleading, completely misleading altogether. Because you see, when they say that changing the Constitution in 1967, did not alter this, there is something that's important, and that is that if you go to '63, '64, and '65 and look at the Hansards when they were talking about establishing the Bill to get the 1967 Referendum up, you will see in there where Beasley Sr. said that he led a parliamentary inquiry around Australia looking at Aboriginal Peoples' citizenship and he said in the Parliament, that it's ridiculous that we here in Australia have a Federation, and we still do not recognise Aborigines as citizens. Okay?

So if he was saying that in '63, '65, well then when did they make us citizens, because the 1967 referendum certainly didn't do that? And so this fellow here, George Williams, is missing the mark as a constitutional expert, because he professes he is. No doubt he is, right? He has that status. But, then they go here and they say that , "nor would changing the Constitution change that today". Now that's not quite true either, right? And so we need to go through that. Right.

"This of course represents the position under the Australian law of which the Constitution is the ultimate expression. It does not affect how Aboriginal people view their own sovereignty." That may be so, but there's a caveat here when you say that. Let me just go through the rest of this first.

Interviewer: Maybe you should explain what a caveat is.

Ghillar, Michael Anderson: No, no, no, I'll talk to that here. "As a result it does not prevent them," being us Murris, Yolngu, Anangu People, "from asserting their own independence and the continuing validity of their laws and culture." Now you see how clever they wrote that? They don't say continuing to exercise our sovereignty, but we can continue to exercise our Law and culture. Right? So they show themselves up in that paragraph. So the caveat that I talk about, when we say this here, the caveat is that Aboriginal People view their own sovereignty. A caveat is when you place something on top to hold it or to have another interest in it, and so you're saying there is another interest and that has to be represented. So I'm not going to agree with that because there's something else that should be included in this here. And so that's why you say you've put a caveat on it, because there is another interest. Okay? That has to be considered.

Now, here. Then they go, "Quite apart from these arguments, none of the changes proposed to the Constitution in any way touch on anything to do with sovereignty." Not true, because you see the moment you put the word Aboriginal in there, and you give them a constitutional head of power to pass laws for Aborigines and Torres Strait Islanders, well then they can pass laws to control us any way they want to. Because they got that power, and again unless you say, unless it is specifically stated that inclusion in the Constitution, does not impact continuing Aboriginal sovereignty under their law and culture, well then that's a furphy. That's an absolute lie, and so once they put the word in there, you've given a constitutional head of power for the government, the executive government of Australia to pass any kind of law

specifically for Aboriginal Torres Strait Islander people.

Right now, as it stands, under Section 51, Subsection 26, they can pass laws for the Aboriginal *race*. So what does that mean? That means we're *outside* the system. We're not *inside* the system, and I don't know how to say it other than just like that, because you're either on the inside, or you're on the outside. You're not in between when it comes to law like that. So at present under the Australian Constitution, *we are a race outside the system*. And if you don't believe me, read the 2005 *Aboriginal and Torres Strait Islanders Act,* Commonwealth law, and you will see in there, that the definition means that that's for the Aboriginal and Torres Strait Islander race. So we're an *independent race*. We are not citizens of this country. We're outside the system, and Robert Menzies warned them of that. You take the word Aboriginal out of there, and you say that we can pass laws for Aboriginal People, that's not what the '67 Referendum said. The Referendum wiped out, "except the Aborigines of the states." So that merely made it possible for them to pass laws for that race of Aborigines in the states. So they could reach into the state and pass a law for them. Whereas previously when it said, "except the Aborigines of the states", that meant the Commonwealth couldn't pass law for Aboriginal people.
Now the question is, what power do the state Parliaments have to pass laws for Aborigines? Because, you see, constitutions is what everybody tells you that governs you. So all the powers in the Constitution that establish that Parliament and the powers of that Parliament, if there's no constitutional head of power that allows the state government even to pass laws for Aborigines, then the state should not be passing laws for Aboriginal people at all. They don't have a constitutional head of power. So in the Constitution here, the Australian Constitution, they're trying to put the word Aboriginal in there so they can get the power to pass laws for Aborigines.

And then to say here, "Voting 'Yes' in the recognition referendum would therefore not amount to any surrender of sovereignty." Who are they trying to kid? Whilst they may say, no, we're not surrendering, Aboriginal People are not surrendering, the Australian government are not going to use the word Aboriginal sovereignty at all. They can't, because the moment they mention the word Aboriginal sovereignty, they wipe themselves out of existence. And so then you've got two societies living on one land, one passing laws for the immigrants and the British subjects, who now live here. But the other fellows who are the Aboriginal and Torres Strait Islanders, we can't pass laws for them, but we use the race power to do it and control them and have them subjected to our laws. But then when the High Court came down in *Mabo* and said that our laws and culture survived, then we, me, under my Law and culture, I'm loyal to my Law and culture. I'm loyal to Aboriginal Law and culture. I'm not loyal to a whitefella's culture. I'm not loyal to the British legal system.

And so this here, where they say, "will not surrender our sovereignty", they will not say that will they? I bet they are not prepared to put anything in there to say that this referendum will not impact in any way whatsoever or shall be construed to impact or affect the continuing sovereignty of Aboriginal Torres Strait Islander People. That's the wording that's got to be put in there if they're not going to impact on our sovereignty. That's not going to happen. That's not going to happen at all.

Now, so, then you've got here, then Megan Davis and them go on, "And none of the

changes suggest that Aboriginal People are submitting to the nations, state or surrendering their claim to self-government." What a lot of rot, because it has to be *stated.* So they're going to have to write that up as a statement in this Constitutional Referendum. So this is what gives us cover. If they're not going to write that up in the constitution as a preambular statement, a legal statement to any referendum, then this is all just a lot of political rhetoric to try and pretend to the Aboriginal People, "Oh look we've got George Williams here, this big professor of law, and this Megan Davis, an Aboriginal professor, an Aboriginal person who've been in the United Nation and Chair of the Permanent Forum." So what? *These people are misrepresenting what's going on*. And these people here are worse than Captain Cook and the first mistake that was made, and the first theft that was made.

Unless what they're saying here, is stipulated in writing in a preambular statement to any Constitutional Referendum, so the public knows that this is not going to happen. Well then this is all a waste of time. It's a lie. It's deceiving the people about the real truth of what's going to happen here. And so those Aboriginal People over there, who are going to Uluru, we just need to make sure that those people understand that they do not represent their nation states. What they're using is a Western Democratic process, so-called, to get Aboriginal voices heard so that they can give government direction about the grassroots Peoples' interest in this. That's not happening.

I was in Western Australia in the last couple of days, and the Bropho family went to go into the meeting, and they blocked them. They banned them from going into the meeting in Perth. As they've done with other people in other places, and tried to shut them down, because they said, "Oh no you were not invited as a delegate. You were not invited as a delegate, therefore you can't be elected to go to Uluru." So we're not going to pay your way. What happens to the rest of the people out there in those isolated communities, rural communities, who don't speak this language, and don't understand what's going on? They are deceiving our People. This is a rogue movement by this Referendum Council. Those Referendum Council, truly, they need to be exposed for one of the greatest crimes about to be committed on Aboriginal People in this country. And it's worse than James Cook, worse than Phillip, and it's worse than a lot of those massacres, because here they are, they're cutting our throats while we're looking at them. And they're stabbing us in the back and deceiving us as they talk to us.

You know this is a horrible way to watch our People die, and be consumed by an illegal system, and these fellows think they're doing the right thing by us. This is one of the greatest deceits of all time. And if you talk about genocide, when this here happens here, we got no right to say no, because the executive government will be given the powers to pass laws for Aboriginal and Torres Strait Islander People. If that's what you want, well then my mob, we say: You pass it for the people who agree with it, but us mob here Euahlayi, and no doubt I think the Gomeroi People will say: We are not included in this. Yeah? All you other fellows who wanted to be included in it, go ahead if you want to give all that away. Go and talk to Megan Davis and George Williams and all them clowns that are running around on that council.

That council are the most dangerous group of people ever, and so people need to really think about what they're doing, and this is not about status. This is not about

getting a good job. This is not about becoming famous. "I was on the Referendum Council, and I got this passed in the Referendum, and my name goes down in history." Your name will go down in history, and you will be - cursed will be your footprints on this earth, because you will have committed a major crime against our People.

Interviewer: One last question, so can you explain why there's this massive millions of dollars poured in, why it's so urgent for them to put Aboriginal People in the Constitution?

Ghillar, Michael Anderson: I have absolutely no idea why the urgency. All of a sudden, after 2011, when we were told by the United Nations, you have to reset your relationship with Aboriginal People. And of course you go back to all the stuff that we've been doing with the UDIs, Universal Declarations of Independence, and we've been writing to the states and telling them you no longer have authority. And the fact that we're creating an environment where those of us who are pushing sovereignty are saying, "Well wait a minute, you can't pass those laws for us. You can't impact on us like that there. You don't have those powers anymore because we have contested sovereignty here."

I believe that there's all of a sudden, a sudden push, and according to that advice by the Sir Samuel Griffith's Society of Lawyers to John Howard in 1998. They were saying we've got to become familiar with all the international laws that the Aboriginal People are getting in the United Nations, and are being supported in terms of their rights in their countries; look at the decolonization process; and the way in which we're pushing UDIs now, which are accepted internationally. There are several international advisory opinions to the United Nations Security Council on the UDIs and supporting the right of People to rebel against oppressive and tyrannical rule, and free themselves from subjugation by colonial rule. So we get outside of that system and we have a right to self-determination.

Now instead of Australia trying to support us in this here, they're oppressing us. They're pushing us. And so they've started a regime, and they're spending millions and millions of dollars on trying to convince the Australian public that, "Oh look, don't you think it's time that we recognise the Aborigines in the Constitution?" They're not even telling the Australian public what's going on. They're not telling the Australian public what will happen as a consequence of this Referendum if it gets up. And quite frankly, us Blackfellas ... when we fought for rights before, this is a time when we really need to get out there and have our guts kicked in to show to the public we're not going to lay down, die here. We're not going to let this happen. And as I said before, this is evil, and it is going to be so destructive. It's going to wipe out all our kids' rights in the future.

So for those people who say, "Oh I'm talking about ... What about my grandchildren and great-grandchildren and great-great-grandchildren?" Well if you say that, act on it, and protect their rights. That's what has to happen. We can't allow this to happen. No.

Ghillar, Michael Anderson 17 April 2017, Canberra.

Conclusion:

These breaches of due process by the Referendum Council are truly against the UNDRIP (United Nations Declaration on the Rights of Indigenous Peoples) to which Australia is a signatory, and go against the internationally understood concepts of free, prior and informed consent.

We believe that what is happening at Uluru is a farce, and is a highly unsatisfactory and unfair pretence at a consultative process. It is one that seeks to bypass a Treaty/ies Mechanism in Australia and is an attempt to usurp the inherent sovereign rights of First Nations people by seeking to create or manufacture an 'appearance of consent'.

We strongly resist the flawed process of selecting 'delegates' for the Uluru Convention as they were hand-picked by invitation only. First Nations peoples and communities had no opportunity to select their own representatives whatsoever, which does not even meet the requirements of a western democratic process to elect chosen representatives. We continue to experience undue hardship and oppression in these our lands, by the laws and polices created by successive colonial governments.

We assert that constitutional reform is 'non est factum' and is an act of fraud being perpetuated by the Australian government on First Nations Peoples.

Marbk
[Elder-in-residence, Aboriginal Embassy]

Maureen Davis
[Elder-in-residence, Aboriginal Embassy]

Ghillar, Michael Anderson
Convenor of Sovereign Union of First Nations and Peoples in Australia
and Head of State of the Euahlayi Peoples Republic

Mogila Station, Goodooga NSW 2838

ghillar29@gmail.com, 0499 080 660 www.sovereignunion.mobi