

Constitutional recognition



Reconciliation
AUSTRALIA

National Reconciliation Week
Let's walk the talk!
27 May – 3 June

In 1901 we saw the birth of Australia as a federation, in a process that specifically excluded Aboriginal and Torres Strait Islander peoples.

Despite many years of progress in the understanding and respect between Aboriginal and Torres Strait Islander peoples and other Australians, our founding document, the Constitution, does not recognise the unique contribution of the First Australians to our nation.

At the end of 2010, Prime Minister Julia Gillard appointed an Expert Panel to lead a national conversation about making the recognition of Aboriginal and Torres Strait Islander peoples in the Constitution a reality.

How was 'Australia' formed?

On 1 January 1901, six colonies came together and Australia became a nation. The basis for Federation was provided by the Australian Constitution, which sets out the rules for our system of government and tells us how power is shared and exercised by our political and legal institutions.

Who wrote the Constitution?

The text of the Constitution was written by representatives of the six colonies during a series of conventions in the 1890s, and then endorsed by electors at a referendum in each colony. The Bill was then passed by the British Parliament, becoming law on 9 July 1900, when Queen Victoria gave her assent.

Were Aboriginal and Torres Strait Islander peoples included in this process?

Aboriginal and Torres Strait Islander peoples were not asked to help write the Constitution or to vote for it in any of the referendums in 1899. At the time, the only mention of Aboriginal and Torres Strait Islander peoples in the Constitution was of exclusion.

How do you change the Constitution?

The power to change the Australian Constitution is in the people, through a national referendum. This is not an easy or a fast process. Normally there are years of planning and discussions involved to the point that the Government agrees to hold a referendum.

A successful referendum requires a proposed amendment to be approved by a 'double majority', which means:

1. A national majority of voters say 'yes', and
2. A majority of voters in a majority of States say 'yes' (four out of six States).

History tells us that this is quite difficult to achieve – only eight out of 44 Australian referendums have been successful!

Did the 1967 Referendum address past injustices?

In 1967, over 90 per cent of Australian voters said 'yes' to change the Constitution to:

- include Aboriginal and Torres Strait Islander peoples in the counting of the Census, and
- provide the Commonwealth with the power to make laws for 'the people of any race for whom it is deemed necessary to make special laws'.

The 1967 referendum removed some constitutional discrimination against Aboriginal and Torres Strait Islander peoples, but it did not recognise them as the nation's first peoples.

Today, Australia continues to have a Constitution that does not recognise Aboriginal and Torres Strait Islander peoples as the nation's first peoples, or recognise their existence in Australian society today. In addition to this, it also allows the possibility of racial discrimination (against people of any race).

Aboriginal and Torres Strait Islander peoples and the Constitution

Our Constitution was written more than a century ago. By then, Aboriginal and Torres Strait Islander peoples had lived in this land for more than 40,000 years, keeping alive the world's oldest continuous cultures. But Australia's founding document did not recognise the first chapter of our national story.

It mentioned Aboriginal and Torres Strait Islander peoples only to discriminate. For the first six decades of our democracy - until 1962 - Indigenous Australians could not vote federally, and were excluded even from being counted as citizens until the 1967 Referendum.

Today Australia prides itself on being a place of fairness. But our Constitution still does not recognise the first Australians. And it still says the States can ban people from voting based on their race.

We need to fix this, and bring the country together after so many chapters apart. It is the next step in reconciling our past. And it's the right thing to do.

You can find out more or join the people's movement for change by visiting www.recognise.org.au.



Recognition of the First Australians and their cultures—past and present—in our Constitution would show their valued place as part of our national identity.

Discussion topics

1. Australia has only had eight successful referendums – discuss some of the factors that you think would lead to a successful or an unsuccessful referendum. In particular, why do you think the 'Yes' vote so high in the 1967 referendum?
2. The 1967 referendum had over 20 years of lobbying and involvement from Aboriginal and Torres Strait Islander peoples wishing to seek change. If Australia is going to have a referendum to formally recognise Aboriginal and Torres Strait Islander peoples, how would you get the message out to all Australians? (E.g. Newspapers, TV advertisements, Facebook?)