

Indigenous community voices must be heard in the recognise debate

Isn't it strange we didn't find out which Indigenous leaders were attending a constitutional recognition summit until the day of the meeting? @IndigenousX host Darren Parker demands transparency



Tony Abbott and Bill Shorten pose for a photograph with Indigenous leaders before a meeting to consider the model for a referendum on Indigenous recognition in Kirribilli, Sydney. Monday, July 6, 2015. Photograph: David Moir/AAP

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So a “historical” meeting is taking place today. The prime minister, the leader of the opposition, and a number of Aboriginal and Torres Strait Islander representatives will meet to discuss solidifying a proposal for constitutional amendments “recognising” Australia’s Indigenous peoples.

I would truly love to provide you with a full list of the attendees to this meeting, however the official list has not been released publicly*. Does this seem strange to you? It sure does to me. Why all the secrecy?

While some names have been reported recently and some knowledge of attendees is known across many Indigenous communities, it is only a partial list – approximately 18 of the stated 40 people invited. It is better known in communities who is not invited (hint: the largest Aboriginal organisation in the country was *not* invited – the NSW Aboriginal Land Council). It appears that history is being repeated and not being made, in this sense.

Now yes, I am an Ngunawal man and you may think that means I have an intrinsic bias about this matter; that being Indigenous somehow skews my viewpoint here. That I am also legally trained or that I am one of four (perhaps five) Indigenous constitutional lawyers/academics – may further reinforce your opinion of my perceived bias. All these things are true, however to allow them to influence you here, may speak more of your bias than mine.

In terms of bias, some have stated that today's meeting is a complete waste of time and have even advocated for a "flat-equality", that we should all be treated the same – the faux equality of the bigot. That is utopian in its naivety, to say the least, and conveniently masks the systemic and institutionalised bigotry of the past. Let alone does such "equality" begin to address the daily occurrences of casual racism. Put simply, while we are all human, some of us were treated less human than others and in many ways our federal constitution contributed to this – one only need read through the original constitutional convention debates to understand that.

This is where a non-discrimination clause such as proposed by the insertion of s116A into the constitution would take hold. It is such a clause that is strongly endorsed by Indigenous communities across the country – as seen in the results of a [recent Indigenous survey](#). Critically, such a clause would work for all people, not just Aboriginal and Torres Strait Islander peoples – you see, we can make it better for all of you too. Any calls labelling such a clause a "Bill of Rights" are little more than hyperbole.

Plainly, a non-discrimination clause means not enacting legislation that discriminates on the basis of race. It is hardly a radical clause in a so-called modern democracy. It is bizarre that advocates for such flat equality are usually the same that advocate *against* a non-discrimination clause. Regardless, it is hoped that attendees of the meeting forcefully reflect the wishes of communities in this regard and do not back away from it in exchange for the hollow poetry of symbolic recognition alone. But who are all the attendees? What do we know of their advocating skills?

Importantly, the concealment around full publication of attendees at today's meeting should strike you as peculiar too! This is because it is *your* constitution as well. Furthermore, if *any* proposal is actually put to referendum then it is all of us that will be voting upon it.

After all, as we all know, successful referendums have to pass the double hurdle contained in s128 of the constitution: a "*majority* of people in a *majority* of States". Therefore, this meeting should perhaps be as much a concern to you as it is to me.

This referendum is important for all of us yet it would be the Indigenous peoples of this land who are at the centre of *any proposal*. This was as much true in 1967 as it is today. And it is due, in part, to the unintended consequences of 1967 that we find ourselves at this point today. As was enunciated by the high court in the Hindmarsh Island Bridge case when stating that the, *amended* "race power" in s51(xxvi) of the constitution, post 1967, allowed the commonwealth government to pass laws which had a detrimental impact upon Indigenous peoples. Such unintended consequences of that victory in 1967 were not fully anticipated at the time – and let us all not repeat that history. Perhaps then, this is why knowing who is attending the meeting is so critically important.

Though not confirmed, it is understood that there are only two legally trained Indigenous attendees at today's meeting. That there are only two Indigenous lawyers attending should

strike you as highly irregular, as this meeting has to do with the legal re-drafting of the country's foundational legal document. More legally trained Indigenous attendees are absolutely required at the table today as well as Indigenous national leaders. After all, constitutional re-drafting is not some slapdash "she'll be right, mate" venture. Nor is taking the outcome of today's meeting back to Indigenous communities a simple perfunctory exercise in "this is your lot". Both of these points require critical engagement, particularly the latter, as being a representative is not the same as having the authority to represent. Unequivocally, Indigenous community voices must therefore be heard.

Without Indigenous voices which are either legal experts and/or national leaders on this constitutional matter present at the meeting (or any future meetings) it would seem that history is indeed, repeating itself. That is something we should all rally against.

- A full list of attendees was released by the Prime Minister's Office on the day of the meeting, Monday 6 July 2015.
- *"Our stories, our way" – each week, a new guest hosts the [@IndigenousX Twitter account](#) to discuss topics of interest to them as Aboriginal and/or Torres Strait Islander people. Produced with assistance of Guardian Australia staff.*