

**Submission to the Joint Select
Committee on Constitutional
Recognition of Aboriginal and
Torres Strait Islander Peoples**
on the
*Inquiry into Aboriginal and Torres
Strait Islander Recognition Bill 2012.*
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1. Introduction

This submission provides a response by the Australian Psychological Society (APS), endorsed by the Australian Indigenous Psychologists Association (AIPA) to the Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples on the *Inquiry into Aboriginal and Torres Strait Islander Recognition Bill 2012*.

We understand that the purpose of this Bill is *recognising the unique and special place of Aboriginal and Torres Strait Islander peoples as the first peoples of our nation*. As an interim step towards recognition of Aboriginal and Torres Strait Islander peoples in the Constitution, we support the intent of the Bill to *assist in raising awareness and building a national consensus for constitutional change*.

2. Summary of recommendations

Recommendation 1: The APS believes that Constitutional Recognition is a national imperative if we are to close the gaps in Indigenous and non-Indigenous health and wellbeing, and therefore endorses the Aboriginal and Torres Strait Islander Peoples Recognition Bill 2012.

Recommendation 2: The APS supports the 2009 Boatshed Racism Roundtable Declaration's position on Constitutional Recognition – that there be a preamble to the Constitution that recognises the rights of First Nations peoples, followed immediately by the establishment of a treaty that details a formal agreement between the Australian Government and Aboriginal and Torres Strait Islander peoples, and a framework for national action.

Recommendation 3: The APS supports the intent of the Bill to 'assist in raising awareness and building a national consensus for constitutional change' on the recognition of Aboriginal and Torres Strait Islander peoples, acknowledging the potential harmful impacts of a 'failed referendum' if held prematurely.

Recommendation 4: Recognising the significant link between racism and poor mental health and wellbeing, as well as the importance of language to Indigenous culture and sense of belonging, the APS recommends that the new sections 116A Prohibition of racial discrimination and 127A Recognition of languages be included in the current Bill, as recommended by the Expert Panel.

Recommendation 5: The APS strongly believes that constitutional reform is only one of a number of actions needed to close the gap in Indigenous and non-Indigenous health and wellbeing, and recommends that the Government work in close partnership with Aboriginal and Torres Strait Islander people in all areas of policy, practice and standards.

3. The Australian Psychological Society

The Australian Psychological Society (APS) is the premier professional association for psychologists in Australia, representing more than 20,000 members. Psychology is a discipline that systematically addresses the many facets of human experience and functioning at individual, family and societal levels. Psychology covers many highly specialised areas, but all psychologists share foundational training in human development and the constructs of healthy functioning.

The APS Code of Ethics reflects psychologists' responsibilities, based on three core principles of respect for the rights and dignity of people and peoples, propriety and integrity (Australian Psychological Society, 2008). The Code is complemented by sets of ethical guidelines, including guidelines on the provision of psychological services to, and the conduct of research with, Aboriginal and Torres Strait Islander people. The Universal Declaration of ethical principles for psychologists explicitly recognises that Psychology, as a science and a profession, functions within the context of human society, and as such has responsibilities to society that include using psychological knowledge to improve the condition of individuals, families, groups, communities, and society (International Union of Psychological Science, 2008).

A range of professional Colleges and Interest Groups within the APS reflect the Society's commitment to investigating the concerns of, and promoting equity for, Aboriginal and Torres Strait Islander peoples. In particular, Psychology in the Public Interest is the section of the APS dedicated to the communication and application of psychological knowledge to enhance community wellbeing and promote equitable and just treatment of all segments of society.

4. The Australian Indigenous Psychologists Association

The Australian Indigenous Psychologists Association (AIPA) is an unincorporated national body comprising a Steering Committee and a membership of approximately 50 registered Indigenous psychologists. It was first established in July 2008 with the funding and support of the Australian Psychological Society. Over the course of four years, AIPA has made

considerable achievements, including (1) increasing its membership, (2) providing national leadership on issues related to the social and emotional wellbeing and mental health of Aboriginal and Torres Strait Islander peoples, (3) leading national workshops to provide the non-Indigenous mental health workforce with the cultural competence (skills, knowledge and attitudes) within a social and emotional wellbeing framework and (4) leading the development of a Reconciliation Action Plan within the Australian Psychological Society. Major aspirations of AIPA are to ensure the inclusion of Indigenous studies in psychology courses and to engage in Indigenous psychological research to generate improved assessment, monitoring and policy development in relation to the social and emotional wellbeing and mental health of Aboriginal and Torres Strait Islander peoples at a high standard, aspiring to be at the forefront of Indigenous psychology in Australia.

5. Psychology, the APS and Indigenous Australia

For more than twenty years, the APS has been active in developing an understanding of, and commitment to working respectfully and effectively with, Aboriginal and Torres Strait Islander people and communities. In 1991 the APS Aboriginal and Torres Strait Islander Peoples and Psychology (ATSIPP) Interest Group was established as a national partnership between Indigenous and non-Indigenous psychologists. In 1997 the APS was a signatory to the Australian Council of Social Services (ACOSS) Statement of Apology and Commitment to the Stolen Generation of Aboriginal Children. In 2008 the Australian Indigenous Psychologists Association (AIPA) was launched as the national peak body representing Aboriginal and Torres Strait Islander psychologists in Australia. AIPA is auspiced by the APS and currently has more than 50 members.

In June 2009 the APS was co-facilitator of the National Roundtable on Racism towards Indigenous Australians. The Roundtable brought together over 40 researchers and public figures from across Australia to discuss research concerning racism towards Aboriginal and Torres Strait Islander Australians. The two-day meeting culminated in the production of a [declaration on racism](#) towards Aboriginal and Torres Strait Islander Australians, which among other things acknowledged Indigenous people as the First Nations peoples of Australia, and recommended that *there be a preamble to the Constitution that recognises the rights of First Nations peoples, followed immediately by the establishment of a treaty that details a formal agreement between the Australian Government and Aboriginal and Torres Strait Islander peoples, and a framework for national action* (University of Western Australia, 2009).

Furthermore, in September 2012 the APS launched its inaugural Reconciliation Action Plan (RAP). The RAP is an illustration of the APS's commitment to reconciliation and was developed in partnership with the AIPA and Reconciliation Australia by a Working Group of diverse Indigenous and non-Indigenous members and community representatives (Australian Psychological Society, 2012). The RAP focuses on four key areas of priority:

1. Respectful relationships
2. Governance
3. Cultural competence
4. Indigenous education and employment.

In particular, Action 1.3 of the APS RAP commits the Society to work in partnership with the Australian Indigenous Psychologists Association (AIPA) and Reconciliation Australia to coordinate a campaign leading up to the referendum to publicise the APS position and commitment to the recognition of Aboriginal and Torres Strait Islander Australians in the Constitution (Australian Psychological Society, 2012).

6. The importance of Recognition for the Social and Emotional Wellbeing of Aboriginal and Torres Strait Islander Peoples

The APS acknowledges the important distinction between concepts of 'social and emotional' wellbeing and 'mental health', whereby social and emotional wellbeing within an Indigenous context 'recognises the importance of connection to land, culture, spirituality, ancestry, family and community and how these affect the individual' (Social Health Reference Group, 2004, p9). A range of risk factors that threaten Indigenous social and emotional wellbeing have been identified, including unresolved grief and loss, trauma and abuse, domestic violence, removal from family, substance misuse, family breakdown, cultural dislocation, racism and discrimination, and social disadvantage (Kelly et al, 2009).

The link between racism and mental health and wellbeing in particular has been clearly identified, as stated in the Boatshed Declaration - racism acts as a barrier to the progress of Australian Aboriginal and Torres Strait Islander peoples towards improved futures, having a destructive impact on Aboriginal and Torres Strait Islander peoples' education, health and wellbeing, well beyond its immediate impact.

The gap between Indigenous and non-Indigenous health and well-being continues to be a shameful reflection of the damage of the past and the continuation of direct and systemic discrimination against Aboriginal and Torres Strait Islander people.

It is also important to recognise that, despite the fundamental and momentous impacts of colonisation, Aboriginal and Torres Strait Islander people, culture and languages have survived and their cultures continue to evolve and grow. Connection to land, culture, spirituality, ancestry, social cohesion, and sense of wellbeing, are all important protective factors that provide strength and resilience against serious psychological distress (Kelly et al, 2009).

There is agreement that Aboriginal identity is predicated upon descent and country of origin, about knowing and being a part of an Indigenous community and perceiving oneself as Indigenous...Descent is about belonging to a people and a place...The relationship Aboriginal people have to their country is a deep spiritual connection that is different from the relationship held by other Australians. (Dudgeon, Wright, Paradies, Garvey & Walker, 2010, pp32-33).

The importance of language learning and the national recognition that several hundred unique Indigenous languages were spoken for tens of thousands of years is also inherently linked to Aboriginal and Torres Strait Islander communities' sense of culture, pride and belonging (Parliament of Australia, 2012).

Finally, Indigenous wellbeing cannot be separated from their relationship with governing institutions and laws which, according to the Australian Constitution's declaration of terra nullius, do not officially recognise their presence at the time of colonisation or their continuing cultures, languages, heritage and relationship with traditional lands and waters.

The APS therefore concurs with the position statement of the Royal Australian and New Zealand College of Psychiatrists (RANZCP):

The lack of acknowledgement of a people's existence in a country's constitution has a major impact on their sense of identity, value within the community, and perpetuates discrimination and prejudice which further erodes the hope of Indigenous people. (RANZCP, 2011, pp1)

7. APS Response to the Aboriginal and Torres Strait Islander Peoples Recognition Bill 2012

The APS welcomes this move towards constitutional recognition of Aboriginal and Torres Strait Islander peoples and recognises the Government's commitment to build awareness and support to maximise the likelihood of a successful referendum.

In line with the 2009 *Boatshed Declaration* from the National Roundtable on Research on Racism towards Indigenous Australians, the APS sees constitutional recognition as an integral step in the road to reconciliation and in the nation's efforts to close the gap between Indigenous and non-Indigenous health and wellbeing. The APS acknowledges the extensive consultation conducted with Indigenous and non-Indigenous Australians, governments and organisations in the development of the Report of the Expert Panel and recognises the Panel's finding that there is a need to lay groundwork for public awareness and support to maximise the likelihood of a successful referendum.

Recommendation 1: The APS believes that Constitutional Recognition is a national imperative if we are to close the gaps in Indigenous and non-Indigenous health and wellbeing and therefore endorses the Aboriginal and Torres Strait Islander Peoples Recognition Bill 2012.

Recommendation 2: The APS supports the 2009 Boatshed Racism Roundtable Declaration's position on Constitutional Recognition – that there be a preamble to the Constitution that recognises the rights of First Nations peoples, followed immediately by the establishment of a treaty that details a formal agreement between the Australian Government and Aboriginal and Torres Strait Islander peoples, and a framework for national action.

The APS acknowledges the purpose of the sunset provision in providing impetus for a future Parliament to put forward a referendum to amend the Constitution to recognise Aboriginal and Torres Strait Islander peoples in line with the recommendation of the Expert Panel, recommendations of the Joint Select Committee, and any subsequent consultation and recommendations. This is strengthened by the preamble which clearly states the Parliament's commitment to place before the Australian people a referendum for constitutional recognition. Moreover, Section 4 lays out the requirements to review and report on the Act within 12 months of commencement.

The APS concurs with the Expert Panel's finding that:

For many Australians, the failure of a referendum on recognition of Aboriginal and Torres Strait Islander peoples would result in confusion about the nation's values, commitment to racial non-discrimination, and sense of national identity. The negative impact on Aboriginal and Torres Strait Islander peoples would be profound. (Commonwealth of Australia, 2012, p xvii)

The APS would argue that there would be similar consequences should the Parliament and future governments not uphold the commitment put forward in the Bill, namely to actively build awareness and support, to further consult with Indigenous and non-Indigenous Australians, and to put forward a referendum in a timely manner.

Recommendation 3: The APS supports the intent of the Bill to 'assist in raising awareness and building a national consensus for constitutional change' on the recognition of Aboriginal and Torres Strait Islander peoples, acknowledging the potential harmful impacts of a 'failure' of a referendum if held prematurely.

The APS supports the Expert Panel's recommendations for inclusion of new sections of the Constitution on recognition of languages and prohibition of racial discrimination, and notes the absence of the latter clause in the Bill.

While we understand the need for a consensus model, the APS supports the recommendations of the Expert Panel, in particular the insertion of a new 'Section 116A' prohibiting racial discrimination (Commonwealth of Australia, 2012). This section would be an acknowledgement of the racism of the original Constitutional assertion of terra nullius and the systemic discrimination which occurs as a result of the assumptions and attitudes associated with it. It would signify an official end to government-endorsed discrimination and a move toward a society which not only values, but, by its constitution, upholds the right of all Australians, and in particular Aboriginal and Torres Strait Islander people, to live their lives free from discrimination and racism.

Along with the Racial Discrimination Act (1975), the prohibition of racial discrimination under the Australian Constitution would enforce the obligation of governments and all other institutions to consult with affected communities in culturally appropriate ways that reflect Aboriginal and Torres Strait Islander models of decision-making, and to ensure free, prior and informed consent, consistent with the Principles of the UN Declaration of the Rights of Indigenous Peoples.

Recommendation 4: Recognising the significant link between racism and poor mental health and wellbeing, as well as the importance of language to Indigenous culture and sense of belonging, the APS recommends that the new sections 116A Prohibition of racial discrimination and 127A Recognition of languages be included in the current Bill, as recommended by the Expert Panel.

8. Beyond Constitutional Recognition

The APS believes that Constitutional recognition of Aboriginal and Torres Strait Islander peoples, while of immense importance, is only one aspect of addressing Indigenous disadvantage and improving health and wellbeing outcomes. As stated in the Boatshed Declaration, along with constitutional recognition, the following are equally important:

Policy – That policies that affect and impact on Australian Aboriginal and Torres Strait Islander peoples must be based on their full involvement and engagement to ensure appropriate agendas and appropriate levels of resourcing are applied.

Practice – That effective and genuine partnerships with governments and capacity building agendas be recognised as essential pathways to improving the outcomes for Aboriginal and Torres Strait Islander peoples' education, health and wellbeing.

International Union of Psychological Science (2008) *Universal declaration of ethical principles for psychologists*.

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Parliament of Australia (2012) *Our land, our languages: language learning in Indigenous communities*, House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, September 2012.

http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=atsia/languages/report/index.html

Royal Australian and New Zealand College of Psychiatrists (2011) *Position Statement 68: Recognition of Indigenous people in the Australian Constitution*, Royal Australian and New Zealand College of Psychiatrists.

http://www.ranzcp.org/Files/ranzcp-attachments/Resources/College_Statements/Position_Statements/ps68-pdf.aspx

Social Health Reference Group (2004). *National Strategic Framework for Aboriginal and Torres Strait Islander People's Mental Health and Social and Emotional Well Being 2004-2009*. National Aboriginal and Torres Strait Islander Health Council and National Mental Health Working Group.

University of Western Australia (2009) *The Boatshed Racism Roundtable Declaration*, National Roundtable on Research on Racism towards Indigenous Australians, 1-2 June, 2009, The University of Western Australia

www.telethonkids.org.au/globalassets/media/documents/aboriginal-health/working-together-second-edition/the-boatshed-racism-roundtable-declaration.pdf

See also:

http://www.psychology.org.au/inpsych/roundtable_racism/#bd