
PROPOSAL 4 - COVENANTING COMMISSION - STATEMENT FROM THE HEART

That the Synod resolve:

1. To support the 2017 Statement from the Heart made at Uluru as a consensus position of 250 Aboriginal and Torres Strait Islander leaders from across Australia as the preferred pathway towards reconciliation, and urge the Commonwealth Government to implement:
 - 1.1 The establishment of a First Nations Voice enshrined in the Constitution to empower First Peoples to have a greater say in policy and legislation which governs their affairs and, in so doing, improve their autonomy and prosperity;
 - 1.2 The establishment of a *Makarrata* Commission to supervise a process of agreement-making between governments and First Nations, and provide a means for truth-telling about the history of Australia's First Peoples.
2. To urge the Western Australian State Government to establish an independent Commission to advance the development of treaty making with Western Australian Aboriginal Nations;
3. To commend the Statement from the Heart to congregations, presbyteries and agencies for prayerful engagement and discussion.

Mover: Rev Robert Jetta

Seconder: Rev Steve Francis

Rationale

'God was in Christ reconciling the world to himself... and entrusting the message of reconciliation to us.'
(2 Corinthians 5:19)

Paragraph 3 of the Uniting Church in Australia (UCA) constitution reminds the Church that it is called to work towards, and bear witness to the gospel of reconciliation proclaimed in the life, death and resurrection of Jesus Christ, in order to build a community of reconciliation and renewal on earth.¹

The Church acknowledges reconciliation is of God, and is an expression of renewing life based on love and forgiveness. In our being a uniquely Australian expression of God's Church seeking reconciliation in this land, First and Second Peoples have committed to walking in a Covenantal relationship to share in the struggle for a more just and equitable society, bound together by a common faith.

Sovereignty

The recent expression of the Church's commitment to honour this relationship was the consensus resolution of the 15th UCA Assembly² to affirm that First Peoples of Australia are sovereign Peoples in this land. Taken from the *Statement* itself, the UCA now understands First Peoples' sovereignty to be "a spiritual notion, reflecting the ancestral tie between the land and the First Peoples." This was a landmark moment in the long journey between First and Second Peoples walking together in the Church.

¹ 2 Corinthians 5:19

² See resolution: Fifteenth Assembly minutes 18.09

In continuing this journey, and guided by the leadership of the Uniting Aboriginal and Islander Christian Congress, the UCA at the 15th Assembly stated it had become ready to offer ‘moral leadership’ to affirm First Peoples’ Sovereignty. The Uniting Church in Western Australia can help grow this movement of the Spirit within the Church by supporting the *Statement from the Heart*, including its two proposed reforms.

WA Treaties

This proposal also has a state perspective that forms a local outworking of the *Statement from the Heart*. The recommendation is to follow the model begun in Victoria for developing State-based treaties. The Victorian Treaty Advancement Commission³ is currently establishing an Aboriginal Representative Body and an ongoing strategy for future treaty negotiations, which is expected to be complete by the end of 2019. This process is fully supported by the Victorian government with corresponding legislation to advance and ensure this process continues.

The development of any state-based treaties is not meant to undermine the process that has occurred with the development of the South West Native Title Settlement (the Settlement)⁴. The Settlement is an attempt to resolve the Nyungar native title claims in the South West of Western Australia in exchange for a package of benefits, but it is currently subject to judicial review and so has not been enacted. It has been described by some as a treaty⁵ although this is disputed by others who suggest that a treaty would acknowledge sovereignty whereas the Settlement would concede it.⁶ If the ongoing disputes continue to delay the Settlement, it is hoped that many of the proposed benefits of the Settlement could be reconsidered under a new treaty-making process that could see a way forward, although this would ultimately be at the behest of the Nyungar people. Even if the Settlement is enacted we would encourage the exploration of treaty-making possibilities with Nyungar people to compliment the terms of the Settlement. Aside from the South West area there are numerous other Aboriginal nations with whom the WA Government could begin exploration of treaty-making without such complications.

The Statement From The Heart

In recognising its commitment to covenanting and reconciliation, the Uniting Church in Western Australia seeks to further its call towards a reconciled future between First and Second Peoples. This proposal offers a way for intentional and meaningful engagement with the *Statement from the Heart*. The proposal invites the Church to consider the meaning and intent of the *Statement* and its implications for Australia. Through public support of the *Statement*, the Church is saying that it has listened to what was said at Uluru, and recognises that it represents a legitimate and salient voice from First Nations Peoples who have proposed a preferred way to a fairer and just society.

The *Statement from the Heart* was made by the First Nations National Constitutional Convention in May 2017 at Uluru, and was facilitated by the Referendum Council. It was a historical moment in Australian history as the coming together of 250 Aboriginal and Torres Strait Islander leaders to articulate the nature of reforms desired by First Peoples.⁷

The *Statement* put forward two reforms:

1. The establishment of a First Nations Voice; and
2. A *Makarrata* Commission.

First Nations Voice

³ For further information, see: <https://www.vic.gov.au/aboriginalvictoria/treaty/treaty-bodies/victorian-treatyadvancement-commission.html>

⁴ <https://www.dpc.wa.gov.au/swnts/South-West-Native-Title-Settlement/Pages/default.aspx>

⁵ <https://static1.squarespace.com/static/56cac409d51cd4381775480d/t/5b10e012758d46284f9ac724/1527832598645/The+Noonqar+Settlement+First+Australian+Treaty.pdf>

⁶ <https://www.ohchr.org/Documents/Issues/IPeoples/EMRIP/FPIC/McGladeHannah.pdf>

⁷ The *Statement from the Heart* can be found at the Referendum Council's Website: <https://www.referendumcouncil.org.au/>

The establishment of a First Nations Voice to Parliament will require a successful referendum before any change to the constitution could be made. It is not intended for any proposed Voice to interfere with Parliamentary supremacy.⁸

The purpose of establishing some form of a constitutionally enshrined First Peoples' Voice is to allow a greater say in policy and legislation governing their affairs and, in so doing, improve autonomy and prosperity of First Peoples.

There is currently no proposition to amend the constitution before Federal Government, however, several options were suggested in the final report of the Joint Select Committee on Constitutional Recognition Relating to Aboriginal and Torres Strait Islander Peoples.⁹

Makarrata Commission

Makarrata is a word from the Yolngu People in Arnhem Land that speaks to treaty and agreement-making, and reflects an intention to heal conflict and division by making things right between two sides. A *Makarrata* Commission would not need any constitutional change to exist, and could be effected through legislation.¹⁰

The *Makarrata* Commission would have two main purposes:

1. Propose a treaty making or agreement-making process between the Federal Government and First Peoples; and
2. Provide a means for truth-telling about the lived experiences of First Peoples to be articulated and heard.

⁸ Referendum Council 2017, 'Final Report of the Referendum Council', Commonwealth of Australia, p.38. Available at <https://www.referendumcouncil.org.au/final-report.html>

⁹ For the full report, please see:

https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/2015_Constitutional_Recognition_of_Aboriginal_and_Torres_Strait_Islander_Peoples/Constitutional_Recognition/Final_Report

¹⁰ Melbourne Law School 2018, 'Uluru Statement from the Heart: Information Booklet', The University of Melbourne', p.5. Available at https://law.unimelb.edu.au/data/assets/pdf_file/0005/2791940/Uluru-Statement-from-the-Heart-Information-Booklet.pdf