

10 myths and misconceptions about the Voice to Parliament

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The [Uluru Statement from the Heart](#) is a generous invitation to all Australians from First Nations Peoples to walk together towards a better future. Having a referendum on a First Nations [Voice to Parliament](#) is the first step on that walk; a chance to change the Constitution to enable First Nations people to be heard in matters which affect them. It is that simple. Yet there are many myths and misconceptions muddying the waters, whether intentional or not. Here we seek to debunk 10 of them.

Myth 1: It will amount to a third chamber of Parliament and therefore impact parliamentary sovereignty, a fundamental element of our constitutional system of government.

What is proposed is a voice *to* Parliament, not a voice *in* Parliament. It will have no role in passing legislation; that will continue to be left to our elected representatives in the House of Representatives and the Senate, as currently prescribed by the *Constitution*. The proposed Constitutional amendment states that the Voice ‘may make representations’ to Parliament. It will be up to Parliament to decide what it does with those representations. Indeed the proposed Voice to Parliament is a very [conservative change to our Constitution](#).

Myth 2: It will be a lawyer's picnic, and lead to lots of High Court challenges.

How Parliament responds (or does not respond) to any representations made by The Voice would be non-justiciable, that is, it [could not be subject to any court challenge](#). This is because the courts have always been reluctant to interfere with the internal workings of Parliament.

Myth 3: It will not help to Close the Gap or have a positive impact on the lives of First Nations Peoples.

The Voice will provide advice to the Parliament on proposed laws affecting First Nations. Accordingly, Parliament will be better informed about the impact of the proposed laws on First Nations peoples and can amend where appropriate. A better-informed Parliament is likely to lead to better laws that will have a positive impact on First Nations lives.

Myth 4: It will give First Nations peoples special rights.

The Constitutional Expert Group comprising nine experts (including former High Court judge Kenneth Hayne) and chaired by the Commonwealth Attorney-General has advised that a First Nations Voice [will not give First Nations peoples special rights](#). All Australians have the right to make representations to Parliament which is guaranteed by the constitutional Implied Freedom of Political Communication. The First Nations Voice is simply a permanent one.

Myth 5: Australians should be allowed to see all the proposed legislation establishing the Voice before voting in the referendum.

Too much detail will lead to confusion, and many people will likely not want to read a lengthy document. There is already a detailed report which sets out what a legislated Voice

could look like: [Indigenous Voice Co-design Process Final Report](#). Demanding to see draft legislation ahead of the referendum, suggests a lack of trust in Parliament, given that the proposed constitutional amendment gives Parliament the power ‘to make laws with respect to the composition, powers, functions and procedures’ of the Voice. It is sufficient to have a [detailed set of principles](#) on which the Voice will be based. The Uluru Statement from the Heart website also contains a [set of design principles](#).

Myth 6: There’s no need to enshrine the Voice in the Constitution.

By enshrining the Voice in the Constitution, it will not be able to be abolished at the whim of Parliament / the Government, in contrast to ATSIC (and just about every other Indigenous advisory body set up by the government). It will also not be afraid to give frank and fearless advice. Its composition, powers and procedures will, however, be able to be amended by Parliament to ensure its effectiveness.

Myth 7: It will divide the nation

The Voice to Parliament will unite the nation because it will be a big step towards reconciliation. A successful referendum on the Voice to Parliament will mean the Australian people have emphatically said that they want Parliament to listen to First Nations people, thereby signalling that they have accepted the invitation in the Uluru Statement from the Heart to walk *together* for a better future.

Myth 8: Indigenous Australians are divided over the Voice therefore it shouldn’t be supported.

Although there are some high profile Indigenous Australians who do not at this point in time support the Voice (e.g. Jacinta Nampijinpa Price, Warren Mundine and Lidia Thorpe), a significant proportion of First Nations people do support the

Voice. An [IPSOS poll](#) conducted in late January 2023 found that 80% of First Nations people support the Voice.

Myth 9: It offends the notion of equality which underpins the Constitution and our democracy.

Our Constitution does not protect equality, and actively allows for racially discriminatory laws by virtue of s 51 (xxvi) (the race power). Further, the race power has only ever been used to make laws for Aboriginal and Torres Strait Islander peoples, laws which are not required to be beneficial laws. The structure of our Parliament is also not equal – the Constitution requires the Senate to have the same number of senators from each State (12). This means that Tasmania, with a population of approximately 571,500 has [the same number of senators](#) as Victoria, which has a population of 6,613,700. Amending the Constitution to provide First Nations Peoples with a voice to Parliament does not offend notions of equality, rather it is acknowledging the finding of the High Court in [Mabo v Queensland \(No. 2\)](#) that “Their dispossession underwrote the development of the nation.”

Myth 10: The history of referendums in Australia means that it is likely to fail.

The most successful referendum in Australia’s history of referendums was in relation to Aboriginal people (1967). [Over 90% of Australians voted ‘yes’](#) to amending two sections of the Constitution to ensure that Aboriginal and Torres Strait Islander peoples would be counted as part of the population and that the Commonwealth would be able to make laws for them. This bodes well for a referendum on The Voice.

Also, social media has changed the landscape; times are different; polling shows relatively consistent support; and approximately [90% of the first 2,554 submissions](#) to the [Co-design Process](#) were in favour of the Voice being constitutionally enshrined. And although bi-partisan / multi party

support would be preferable (and has been crucial to the success of previous referendums), it is arguably no longer a determinative factor due to the changing political and social media landscape. The result of the marriage equality postal survey, where Australians voted “Yes” despite a lack of bi-partisan support, is indicative of this.

Conclusion

We encourage all Australians to do their own research to make sure they are well informed about what the Voice is, and what it is not. Don't get sucked in by myths like the 10 we have debunked above. The Voice is nothing to be scared of. On the contrary, it is something we should be proud of. Amending our constitution to give First Nations People a voice to Parliament would demonstrate that we are a mature nation, that is ready to recognise past injustices and committed to building a better future in which the rights and dignity of all Australians are protected equally.