



7 October 2023

LAWASIA STATEMENT REGARDING THE AUSTRALIAN VOICE REFERENDUM

Summary

LAWASIA has always supported the principle that all are equal before the law and must enjoy equal protection of the law.

At the referendum to be conducted on 14 October 2023, Australians have an opportunity to amend the Australian Constitution in a manner that will conform with international human rights law obligations.

Statement

On 14 October 2023 a referendum will be held in Australia where voters will be asked if they agree or disagree with the proposal to 'alter the Constitution to recognise the First Peoples of Australia by establishing an Aboriginal and Torres Strait Islander Voice'.

The intended Voice would

- be empowered to make representations to the Australian Parliament and the Executive Government about matters relating to Aboriginal and Torres Strait Islander peoples;
- operate only as an advisory body and will not have a veto power; and
- would consist of Aboriginal or Torres Strait Islanders, and would be chosen from each of the states, territories and the Torres Strait Islands.

LAWASIA respects the sovereignty of Australia and notes that it is a matter for Australian citizens to make decisions as to whether the Constitution of Australia should be altered. However, LAWASIA notes that the referendum is an important opportunity for a reform to be considered by Australia which will align Australia's laws with international human rights law.

Article 19 of the [United Nations Declaration on the Rights of Indigenous Peoples](#) provides as follows:-

“States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and

informed consent before adopting and implementing legislative or administrative measures that may affect them.”

LAWASIA notes that a large group representative of almost all indigenous communities in Australia issued the [Uluru Statement from the Heart](#) (2017), which called for, among others, ‘*the establishment of a First Nations Voice enshrined in the Constitution*’

The Australian Human Rights Commission has encouraged discussions on the Voice from a human rights perspective, and has produced a very useful set of resources¹. LAWASIA supports this move, and urges all Australians to consider the human rights dimensions of this important vote.

The status of Aboriginal and Torres Strait Islander peoples as the First Peoples of Australia is not mentioned, nor acknowledged, in any way in the Australian Constitution. Further, there is no provision in the Australian Constitution that provides a mechanism for Aboriginal and Torres Strait Islander peoples to express views about laws with respect to matters relating to Aboriginal and Torres Strait Islander peoples. The Voice proposal would change this and align Australia’s Constitution with international human rights law.

Indigenous peoples in Australia and across the Asia Pacific region are some of the more severely under-represented in the political system, and are subjected to systemic inequalities.

The proposed Voice will be empowered to express views to the Parliament and Government on behalf of Aboriginal and Torres Strait Islander peoples to develop effective and durable laws relating to Aboriginal and Torres Strait Islander peoples. It will then be a matter for the Parliament and the Government as to whether and how they take those views into account when developing laws relating to Aboriginal and Torres Strait Islander peoples.

The Law Association for Asia and the Pacific (LAWASIA)

LAWASIA is an association of legal organisations, lawyers, judges and jurists in the Asia and Pacific region. The mandate of LAWASIA is to advocate and promote the administration of justice the rule of law in Asia and the Pacific region.

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¹ <https://humanrights.gov.au/our-work/aboriginal-and-torres-strait-islander-social-justice/voice-referendum-understanding>