

‘Political Timetables Trump Workable Timetables’: Indigenous Constitutional Recognition and the Temptation of Symbolism over Substance

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Introduction

In 2012 the Prime Minister’s Expert Panel on the Recognition of Aboriginal and Torres Strait Islander Peoples in the Constitution (the panel) delivered its final report. At the beginning of 2016 the substantive model of recognition is no closer to resolution, although this is not as inauspicious as some suggest.¹ Negotiating and designing a constitutional amendment is legally and politically complex. In addition, the challenges or ‘lacks’ identified in the panel’s report have played out over the years – including the wider Australian community’s lack of civics knowledge and low level of knowledge of Australian history, especially Aboriginal history. Moreover, presciently the panel’s report identified a major stumbling block to the current recognition project: the long-held aspirations of Aboriginal and Torres Strait Islander communities on the unresolved question of Indigenous sovereignty and a post-colonial treaty process. The panel sought to capture these aspirations, although did not deal with them in any substantive way.² This is an under-appreciated factor in the political analysis surrounding constitutional recognition; recognition as a concept is not easily contained and it inevitably invokes scrutiny, by the recognised, of the fundamental issues relating to the dispossession of Aboriginal land and the lack of reckoning by the nation of the events that followed.

* A version of this chapter was first published as: ‘Political timetables trump workable timetables: Indigenous constitutional recognition and the temptation of symbolism over substance’ (2014) 8(15) *Indigenous Law Bulletin* 6. It is published with the permission of the *Indigenous Law Bulletin*.

1 See Mick Gooda, Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report* (Australian Human Rights Commission, 2014) 36; See also Australians for Native Title and Reconciliation (ANTAR), ‘NGOs: clear path to a referendum held no later than 2016 is needed, racial non-discrimination must stay’ (Media Statement, 17 October 2014) <http://antar.org.au/sites/default/files/ngos-clear_path_to_a_referendum_is_needed_racial_non-discrimination_must_stay.pdf>.

2 The final report contained a chapter on Treaty and a chapter on Sovereignty which were the primary issues raised by Aboriginal and Torres Strait Islander Peoples during consultations across Australia.

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