

Reflection on the Voice to Parliament

I have to say I felt completely empty in the aftermath of the referendum; no words felt right. It is only now that, with the support of Michelle Grattan and the thoughts of Wiradjuri Elders ringing in our ears, that we have been able to reflect on what happened and assess potential next steps.

The following article is written in the spirit of *Yindyamarra Winhanganha* and recognition that to strengthen Australian democracy we are all responsible for supporting the needs and future aspirations of First Nations communities.

The Voice to Parliament and the Silent Majority

Mark Evans and Michelle Grattan

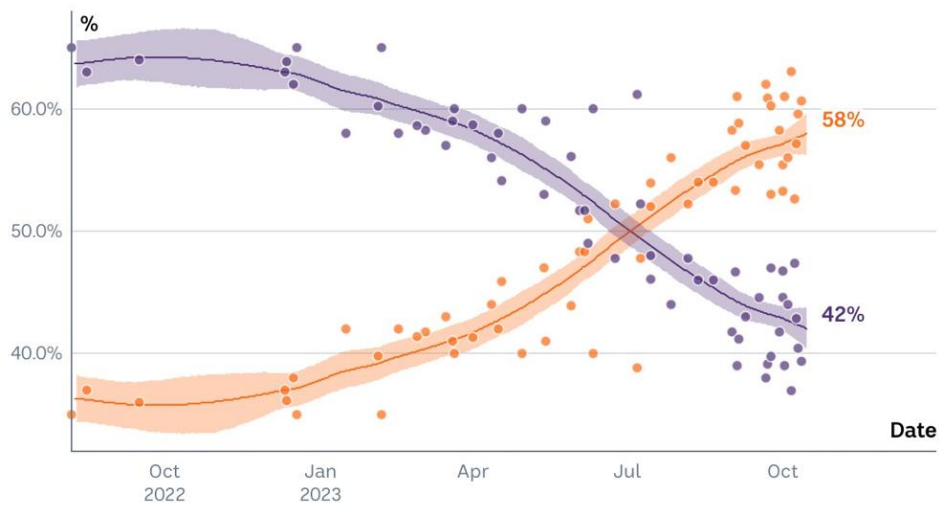
The Albanese government's referendum on the Voice to Parliament was a gamble against the odds of history. Only eight of the previous 44 referendum questions had been passed. None had succeeded where there was a split between the major parties, and it was always likely Opposition leader Peter Dutton would make a fight of the issue. For Prime Minister Anthony Albanese, on many fronts a cautious leader, this was a major roll of the political dice. And for First Nations people too, the referendum was yet another test of their faith in the ability of Australia's democratic settlement to right historic wrongs.

In this article, we outline the background to the Voice to Parliament, and the political struggle around it. We offer an explanation for both the "No vote" and why First Nations people themselves were divided on the issue. And we conclude by identifying a set of policy instruments – some old and some new – for rebuilding trust between government and First Nations people.

Sighting shots

On election night in May 2022, Albanese recommitted to the 2017 Uluru Statement of the Heart, which called for a Voice embedded in the Constitution, as well as "a Makarrata Commission to supervise a process of agreement-making between governments and First Nations and truth-telling about our history". Albanese hoped the Voice would be the big social reform of his first term in government. For a time, polling suggested his optimism might be vindicated, before the electorate's conservatism about constitutional change and concern about the nature and consequences of the proposed body, fanned by a scare campaign, decisively sank the Voice (see Figure 1).

Figure 1. The Polls and a Voice to Parliament



*Last updated 15 October
Where polls report undecideds, these are excluded
Shaded area shows 95% credible interval for mean*

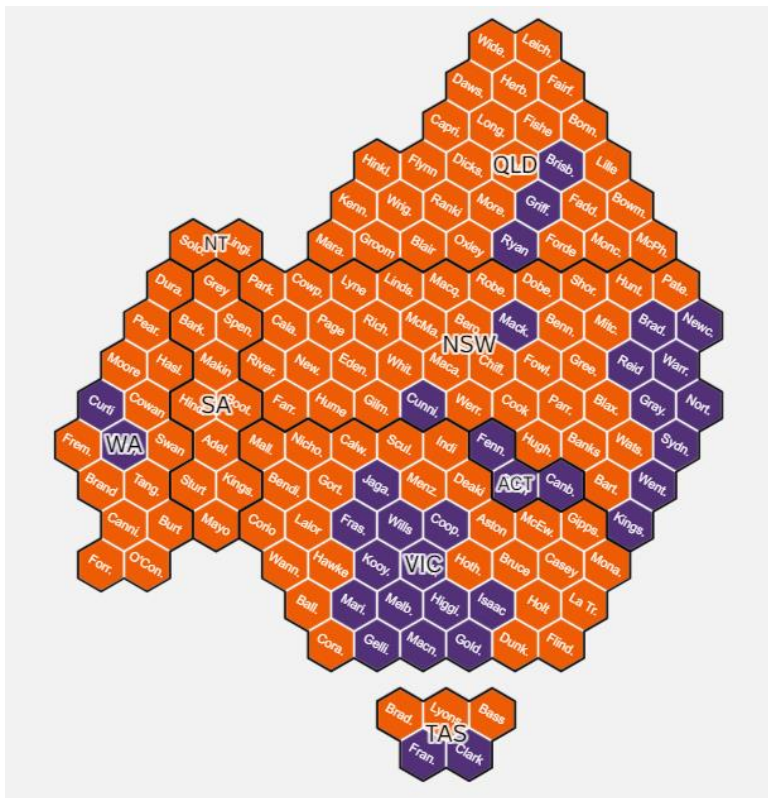
Source: Professor Simon Jackman and ABC News

About six in ten Australians voted “no” in the October 14 2023 referendum. The campaign was notable for being led by First Nations people on both sides. Particularly effective on the “no” side was Northern Territory senator Jacinta Nampijinpa Price. Price had entered the Senate only at the 2022 election. Ironically, she was catapulted into the post of shadow minister for Indigenous Australians because its previously occupant, Julian Leeser, quit the frontbench to campaign for the “yes” side. Having Price and another First Nations leader, Warren Mundine, front the “no” campaign further polarised debate.

A striking feature of the result was how the “yes” attitudinal pattern broadly resembled that of the 1999 (unsuccessful) referendum for a republic. Both proposals had the strongest support among better educated, prosperous progressive voters, who are attracted to social change issues (see Figure 2). ABC election analyst Antony Green noted, “how much lower the Yes% vote was in many traditional Labor seats. The seats where the Yes% was higher are clustered in seats won by Greens and ‘teal’ independents at the 2022 election, and also several Liberal seats gained by Labor”.

The results do not tell us anything about how people are likely to vote at the election due by May 2025 (just as the 1999 referendum voting pattern wasn’t a predictor of the 2001 election). They do, however, suggest the prospect of the government, if re-elected, going ahead with a referendum for a republic has been greatly reduced.

Figure 2. The referendum outcome by seat



Source: ABC Election Analyst, Antony Green

Steps to a voice

There were multiple attempts at building representative and advisory bodies for First Nations people before the Voice proposal. The most important of these was the Aboriginal and Torres Strait Islander Commission (ATSIC), instituted by the Hawke Labor government; it had a much more ambitious remit than the Voice because it had both representation and executive functions. It was abolished by the Howard government in 2004, despite calls for it to be reformed rather than scrapped. Before the 2007 election Howard promised if re-elected he would hold a referendum “to formally recognise Indigenous Australians in our Constitution”; there was no suggestion of a Voice.

Over the subsequent decade, an enormous amount of work went into the question of constitutional recognition. The work proceeded along several separate but interconnected tracks, including through parliamentary inquiries, by conservatives who favoured constitutional recognition and – ultimately the most important – through a process of First Nations consultations that resulted in the Uluru Statement, issued at what its authors described as “the 2017 National Constitution Convention”. Calling for a Constitutional Voice, the statement referred back to the landmark successful referendum of half a century before: “In 1967 we were counted, in 2017 we seek to be heard”. The statement, however, received a cold reception from the Turnbull cabinet, which rejected the Voice as a “third chamber” of parliament. The Morrison government commissioned an inquiry by First Nations leaders Marcia Langton and Tom Calma on the Voice, but opposed putting it in the Constitution and preferred local and regional voices than a national one. In the end, nothing was achieved.

The campaign

On July 30 at the 2022 Garma Festival in the Northern Territory, Albanese proposed draft wording for the Voice which stated that the Voice “may make representations to Parliament and the Executive Government on matters relating to Aboriginal and Torres Strait Islander Peoples”. The parliament would have power to make laws on the “composition, functions, powers and procedures” of the Voice. Over the year that followed, the argument about the Voice would involve many issues: the right of one group to have a special place in the Constitution, its potential for dividing, or conversely uniting, the country, the likely effectiveness of the Voice in helping to “close the gap” of First Nations disadvantage, and whether the Voice would disrupt government and trigger legal challenges.

Legal experts Frank Brennan and Greg Craven, long-time participants in work for a Voice, were among those who warned of potential unintended legal consequences of the wording, although many other experts, including former chief justice Robert French dismissed potential legal concerns. Attorney-General Mark Dreyfus did try to secure some recalibration; a minor wording change was made but Albanese’s advisory referendum working group would not go as far as Dreyfus had proposed. The government bolstered its argument against legal critics with advice from the Solicitor-General.

When support was high the government had considerable faith in a positive “vibe” helping to carry the Voice – people recognising the justice of what Albanese referred to as First Nations people’s “generous invitation” and responding positively to it. The government did not want to allow the debate to bog down in detail. But, especially after Dutton in April declared the Liberal party’s opposition to the Voice (the Nationals were already declared against) it became clear a lack of detail was a serious handicap for the “yes” campaigners. Even if it had wanted to, the government could not have provided full detail as that was to be settled, in consultation with First Nations people, after a successful referendum.

The campaign presented a dilemma for the government. It was not directly running, and so controlling, the “yes” campaign, although this was its referendum and it was obviously campaigning hard for a “yes” vote. Another problem was that Albanese’s messaging suffered from a lack of clarity. On the one hand, he presented the Voice as simply an opportunity for First Nations people to be heard, on the other he suggested it would be a very powerful instrument in closing the gap. Opponents to the Voice took advantage of this ambiguity by adopting the high impact campaign slogan “if you don’t know, vote no”. A simple campaign bumper sticker which made it easier for Australians to vote “no”.

The “no” side would always have the easier task. It simply had to fan doubts, and ask questions to which there were no answers. As the months dragged on, the campaign became nastier, bringing racism to the surface. This was the first referendum in the era of social media, and debate raged about “misinformation” and “disinformation”. Much information was hotly contested.

It is important to note that the 2023 Edelman Trust Barometer revealed that [Australia was already on a path to polarisation](#), driven by a series of macro forces (distrust in key societal institutions, namely, government and media, a lack of shared identity, systemic unfairness, heightened societal fears and economic pessimism) that are weakening the country’s social fabric and creating increasing division in society. The report finds that almost half of Australians (45%) say the nation is more divided today, than in the past – with the rich and powerful identified as a major dividing force (72%), followed by hostile foreign governments (69%), journalists (51%), and government leaders (49%). Only 41% of Australians trust their government leaders. Not a strong context for history making reform.

First Nations Trust – hard to build, easy to lose

The Yindyamarra Nguluway research program at Charles Sturt University led by Stan Grant Jnr involved yarns with 24 Wiradjuri Elders before, during and after the referendum campaign.¹ The findings are worth noting here because they show that despite the [national polls reporting significant First Nations support for a “yes” vote](#), Elders were initially divided on voting “yes”, fatalistic about the prospects of change and distrusting of the process:

“We’ve been here before countless times. Promises, promises but little has changed for my family and community.”

There was also deep disdain that the change process was couched in the context of giving a Voice to Parliament to nations that have never ceded sovereignty.

“We have been nations for thousands of years. We don’t need to be granted a Voice to Parliament to be a nation. It has such a colonial feel to it.”

Although the Uluru Statement from the Heart is viewed as an important step forward many Elders view it to be an élite invention:

“As beautiful as it is, it didn’t involve us. It was designed by self-appointed leaders who don’t live on country. At the very least a grassroots process of reconciliation across all of our nations should have come first.”

Nonetheless the general view that emerged by the end of the yarns was that the Voice was an imperfect but necessary gateway to a more detailed conversation about the future of Australian democracy.

“I couldn’t look my Grandmother in the face if I didn’t vote yes. All she’s struggled for lost in the stroke of a pencil”.

Across the yarning it became evident that despite misgivings Wiradjuri Elders had become marginally more trusting, confident and future focused. As one Elder put it:

“We started to believe”.

Ultimately, [areas with the largest proportion of First Nations people](#) in Australia heavily backed a “yes” vote.

Understanding “No”

There are those that have argued that the “no” vote was simply a matter of poor timing with the referendum perceived by the silent majority to be a tiresome distraction from cost of living problems. Certainly zero-sum ultimatums don’t tend to go well in times of economic uncertainty as the case of Brexit in the United Kingdom shows.

Others have pointed to poor process arguing that if the referendum question had been confined to constitutional recognition for Australia’s First Nations it would have got up. This is in keeping with the argument that Australians would have been more comfortable with a constitutional statement that recognized the historic claim of right of First Nations. A “fair-go” rather than the “better go” that may or may not have been delivered through a Voice. We say this because consultative mechanisms even with constitutional force can still be ignored by stealthy governments.

There are others that argue that something more deep rooted was at play; continued commitment to assimilation and a latent discomfort with multi-culturalism. As former Prime Minister John Howard recently put it to the Alliance for Responsible Citizenship (Arc) in London: “I think one of the problems with multiculturalism is we try too hard to institutionalise differences, rather than celebrate what we have in [common].” Hence for Howard, the “no” vote was a vote for “unity”.

We also have a rights tradition in Australia that is good at protecting mainstream individual rights especially those of the wealthy but the state of human rights for many disadvantaged groups, particularly First Nations, remains precarious. In 2017, the Australian government was subject to a [damning critique](#) of its human rights record by the United Nations Human Rights Committee with regard to the rights of children, the treatment of refugees, domestic violence, transgender rights, the sterilisation of intellectually disabled women and girls, and the impact of anti-terrorism laws on civil liberties. This assessment was given further validation by the Human Rights Measurement Initiative in 2021 which reported [“strikingly poor results”](#) for Australia, “particularly in terms of who is most at risk of rights abuses” such as Aboriginal and Torres Strait Islanders, people with disabilities, people with low socioeconomic status, and refugees and asylum seekers.

The consequences of failure

Many First Nations people and others blamed Dutton for the referendum’s defeat. While the Liberals’ opposition was undoubtedly the nail in the coffin, it is very doubtful the “yes” case would have prevailed if Dutton had taken a more benign attitude. The most he could have delivered would have been a free vote for Liberal MPs, and whatever he did many Liberals and others on the right would have run a fierce campaign against the Voice.

When the polling showed the Voice headed for defeat, there were calls for Albanese to scrap or delay the referendum. This was never realistic. He had gone too far. Indigenous people would have seen it as a betrayal. But there are reasonable questions about whether he should have promised a constitutional Voice in the first place when it was obviously going to be extraordinarily difficult to deliver. The alternative would have been a legislated Voice, to be put into the Constitution at a later date if and when there was a strong prospect of success. That would not have satisfied those driving and supporting the Uluru Statement but others would say it would have been better than nothing.

The referendum has not only ended with no Voice – it has had other negative consequences for First Nations people. It has opened the way for an unravelling of the bipartisan support for the treaty process in Queensland. It has also led to some questioning of welcome-to-country ceremonies. A process designed to address racial bigotry and promote reconciliation, unleashed racism and set back reconciliation.

What can be done?

As a parting shot, we held a panel discussion in Canberra a few days before the referendum and our last question to a Wiradjuri emerging leader was what will happen if the referendum doesn’t get up? She answered, “Then Wiradjuri nation building goes on as it has for thousands of years”. How then can we use the spirit of the “yes” vote to support the needs and future aspirations of First Nations communities?

First, as Stan Grant Jnr put it with his final words on Q+A earlier this year, we need a commitment to *Yindyamarra Winhanganha*. The phrase, which is sacred to the Wiradjuri people, means the wisdom of respectfully knowing how to live well in a world worth living in". Recognition that we are all responsible for closing the gap through strengths-based interventions.

Second, the Voice would have been of symbolic significance in high politics as an act of restorative justice but it matters most at the local scale in improving the lives of First Nations people. International evidence suggests that the best way of achieving this is through Community Development Councils (CDCs) that develop their own community plans, prioritize initiatives through whole of community direct decision-making, make bids for development funding to (for example) a First Nations Solidarity Programme and manage and deliver their own development projects. CDCs are designed to reduce poverty by empowering communities through improved governance, and social, human, and economic capital. The establishment of directly elected CDCs lies at the heart of this strategy; putting communities in charge of their own development process and providing them with technical support and resources to deliver co-designed projects that matter to them.

Third, co-design by default, supporting the expectations of First Nations communities inevitably requires both a better understanding of their service needs and aspirations and a service culture that attempts to see like First Nations people. This is why co-design has moved to centre stage in public sector production around the world for both on-line and off-line citizen interactions.

It places the citizen, or in this case the First Nations community or citizen at the centre of a planned process of collaborative learning. The process of learning focuses on the achievement of very specific outcomes; such as a fit for purpose nation building plan. It draws on ways of working that are commonplace in product design and formulates interventions through understanding the lives of others and walking in their shoes. Co-design has been widely used in the development of interventions to combat various forms of marginalization, new governance practices or service innovation. In sum, design thinking has become a fundamental tool of public policy design and analysis and should be mandatory for all services, programmes or projects aimed at supporting First Nations communities.

Of course, there is also a chance that next generation voters will take the initiative and right historic wrongs. According to Democracy 2025's survey of next generation voters (2021), young Australians want to see a more participatory and representative democracy with the capacity to address long-term policy problems. A fairer, tolerant egalitarian democracy. "Indigenous Constitutional Recognition" is their third priority issue above gender equality and climate change. Given that [young Australians](#) are now amongst our most active and engaged citizens the promise of change remains.

Notes

¹We acknowledge the traditional owners of the lands on which we developed this article – the Wiradjuri, Ngunnawal and Ngambri people. The yarns, led by Stan Grant Jnr and observed by the co-author were held at the Warangeseda Festival in Darlington Point, Canberra, Bathurst, and Wagga, Wagga. The interpretation of the data from the yarns rests with the co-author.