

About 100 people gathered at the Sydney Hyatt last October for a discussion about human rights in Australia, organised by the Australian Human Rights Commission. OLGAYOLDI reports.

Australian voices

A national conversation about human rights



Protesters participate in a Black Lives Matter (BLM) rally at The Domain in Sydney, 5 July, 2020. AAP



Free and Equal: A national reform agenda for human rights in Australia for the next decade was the main theme of this conference, which attracted human rights activists, academics, advocates and community leaders. It covered issues ranging from Indigenous, disability and gender rights to strategies to bolster and future-proof current Australian human rights frameworks.

Australian Human Rights Commission president Professor Rosalind Croucher AM said the conference was born out of a desire to bring people together to reimagine our system of protecting human rights, look at what kind of Australia we want to live in and consider the kind of legacy we want to leave our children.

“The debate that has dominated over human rights recently has been largely unproductive, pitting different sectors of society against each other and dividing the community, resulting in a stalemate,” she said. “We have lost the art of making a debate respectful and tolerant of expressions that are different.”

Professor Croucher said that while we have a good sense of rights and freedoms in Australia, we don’t have a well-understood, let alone embedded, framework to help us with the challenges that confront us. “While our laws are important, they are just a one type of action that ensures human rights are realised,” she said. Multiple actions across multiple areas are required to make progress.”

Our current human rights framework consists of federal anti-discrimination legislation including the Sex Discrimination Act (1984), Age Discrimination Act (2004), Disability Discrimination Act (1975), Racial Discrimination Act (1975) and the Australian Human Rights Commission Act (1986).

A new draft bill on a Religious Discrimination Act is now being reviewed. “Prohibiting discrimination on the grounds of religious beliefs or activities is consistent with the tolerant, pluralistic nature of Australian society,” Professor Croucher said, “but the draft bill now under consideration needs changes to make sure everyone’s rights are protected. Religious freedom [should] not come at the expense of others’ rights, including the right of protection from discrimination.” she noted that while our human rights system was innovative in the 1980s, it had been surpassed by developments in other countries: “We have lost sight of the overall purpose of protecting the human rights of the whole community.”

The UN High Commissioner for Human Rights and former president of Chile, Her Excellency Dr Michelle Bachelet, who delivered the keynote address, said Australia lacked a comprehensive national charter of human rights laws, and that multiple actions across

multiple areas were needed to make progress in this area: “The patchwork of laws need updating, its gaps filled and its broad exemptions clarified.” She said the present laws also tended to be framed in negative terms, prohibiting particular action rather than in positive, proactive terms: “As a result the model is dispute-focused rather than system-focused.”

She mentioned that 600 Australian children under the age of 14 were locked away in youth jails, with Indigenous children almost 70 per cent of the total. “This is harmful and not in the best interest of the child.” She urged the government to lift the age of criminal responsibility – now just 10 – to at least 14.

Dr Bachelet spoke about the Australia’s human rights trajectory and raised concerns about Prime Minister Scott Morrison’s criticism of the UN, noting that the scrutiny Australia received was based on standards we had helped create.

“Australia has benefited from a wealth of advice and recommendations from the UN Human Rights Commission. It has ratified most core treaties. It has been reviewed regularly by international human rights bodies and has received at least nine visits by UN special rapporteurs.

“Sometimes I do hear Australian commentators bemoan all this attention, suggesting the UN human rights machinery should focus its attention elsewhere, but this scrutiny is not the function of some international policing system enforcing rules from outside,” she said. “It is based on international standards that Australia has helped to create, which successive Australian governments have voluntarily adopted and which Australians themselves have sought to engage and leverage in their efforts to make Australia a better, more inclusive and humane place.”

Dr Bachelet raised concerns about Australia’s mandatory detention policy. “I know Australia’s asylum and migration policies have become entrenched over the years by successive governments. But I strongly believe that we are at a point now where it is time to roll back these policies or at least mitigate their worse effects.”

She urged the government not to reverse small steps taken such as by repealing the Medevac law, which allows doctors to recommended medical transfer of sick asylum seekers and refugees from offshore centres to Australia, which she saw as a small improvement to Australia’s upholding its asylum obligations. “I am concerned that plans to repeal this law may mean more and costly court battles, with lives put at risk.”

Dr Bachelet also raised concerns over gender inequality in Australia and said enabling women to gain positions of leadership in politics and society would help achieve a more equal and freer nation. She believes Australia needs to acknowledge human rights violations against Indigenous people, particularly as their pain and trauma continues to scar our society today. This resonated with Indigenous speakers at the conference, who said acknowledgement of history was essential for Australia to be able to advance human rights. They recommended a truth-telling process to achieve healing and reconciliation.

Indigenous defence lawyer and also activist Teela Reid, who advocates constitutional recognition of Indigenous people, said she felt inspired by her discussions with Indigenous women and girls across the country and spoke about the importance of including women in these debates. Ms Reed, a Wiradjuri woman, was part of the leadership meetings that began the foundation for the Uluru Statement from the

Heart, which seeks to enshrine a First Nations voice to Parliament through changes to the Constitution.

Last year the Minister for Indigenous Australia, Ken Wyatt, promised a referendum on an Indigenous Voice to Parliament and started engaging with the Council of Indigenous Leaders as the best way forward.

While having a voice is seen as essential for Indigenous Australia, child psychiatrist and Emeritus Professor Helen Milroy reminded the audience of the importance of addressing inter-generational trauma. “We cannot talk about human rights and freedoms until we address the unresolved historical legacy of trauma and land

“We cannot talk about human rights and freedoms until we address the unresolved historical legacy of trauma and land dispute...”

Helen Milroy



Protester holding a stop racism now placard outside Flinders Street Station in Melbourne, Australia



Supporters of asylum seekers protest outside the Mantra Hotel in Preston, Melbourne, Saturday, May 16, 2020. The refugees detained at the hotel were on Manus Island before coming to Australia under the medevac laws. (AAP/Michael Dodge)

dispute ... we need to think hard about what will be required to safeguard the future of our children.”

For Northern Territory Professor Mick Dodson, a treaty between Indigenous and non-Indigenous Australians is the way forward: “Treaties have the potential to fix the relationship between colonisers and Indigenous people.” He advocated for the adoption of international legal standards for dealing with the past and framing the future, saying The Uluru Statement from the Heart may not only enable Indigenous Australians to have a voice, but also can help in the formation of a commission to establish treaty and truth-telling processes.

Dr Dodson also advocated for a First Nation’s

government. “We would do so much better if we were allowed to govern ourselves and make our own decisions. Evidence overseas shows that Aboriginal-controlled institutions do much better.” He noted that a First Nations government exists in Canada (for the Inuit) and the US (for Native Americans), where Indigenous people run their own affairs. “We need to support this concept in Australia,” he added. Dr Dodson acknowledged it may take decades to negotiate a self-government system: “The challenge is to maintain political pressure and public interest when those processes take such a long time.”

There was consensus among Indigenous speakers that it is time for all of us to work together to move forward. “One thing people don’t have is time, but we

... human rights are absent from the current public policy debate in Australia, yet all political decisions should be informed by human rights considerations and politicians should be held accountable to that standard.

can achieve much if we all focus on the same goal, so I say ‘Stand up, speak up, walk with us to achieve this together’,” Dr Dodson said.

Yet change cannot take place until we embed the language of human rights in the political discourse. Professor Croucher said that because human rights involves a language of dispute, “each time a controversy arises people are entrenched in their own views and not on the broader conversation we need to have”. Indeed, human rights are absent from the current public policy debate in Australia, yet all political decisions should be informed by human rights considerations and politicians should be held accountable to that standard. After all, Australia was a leader in the framing of the Universal Declaration of Human Rights, has ratified most core treaties and supported and promoted human rights in the past, is a member of the UN Human Rights Council and has committed to advancing human rights globally.

Only Victoria’s government, following that of the ACT, took the lead in 2006 by enacting a Statutory Charter of Rights, where submissions to Cabinet about new laws and major policies must be accompanied by a human rights impact statement. If parliament enacts laws which are inconsistent with human rights, it must publicly justify its actions, explicitly recognising that parliament has a responsibility to uphold human rights.

The conference offered an opportunity to reflect on the Australian human rights journey, the steps forward, backwards and – most importantly – the steps that need to be taken, particularly in relation to advancing Indigenous rights. It is also time to examine our treatment of asylum-seekers and look at how best we can comply with human rights conventions, rather than relying solely on domestic laws that don’t reflect our international obligations.

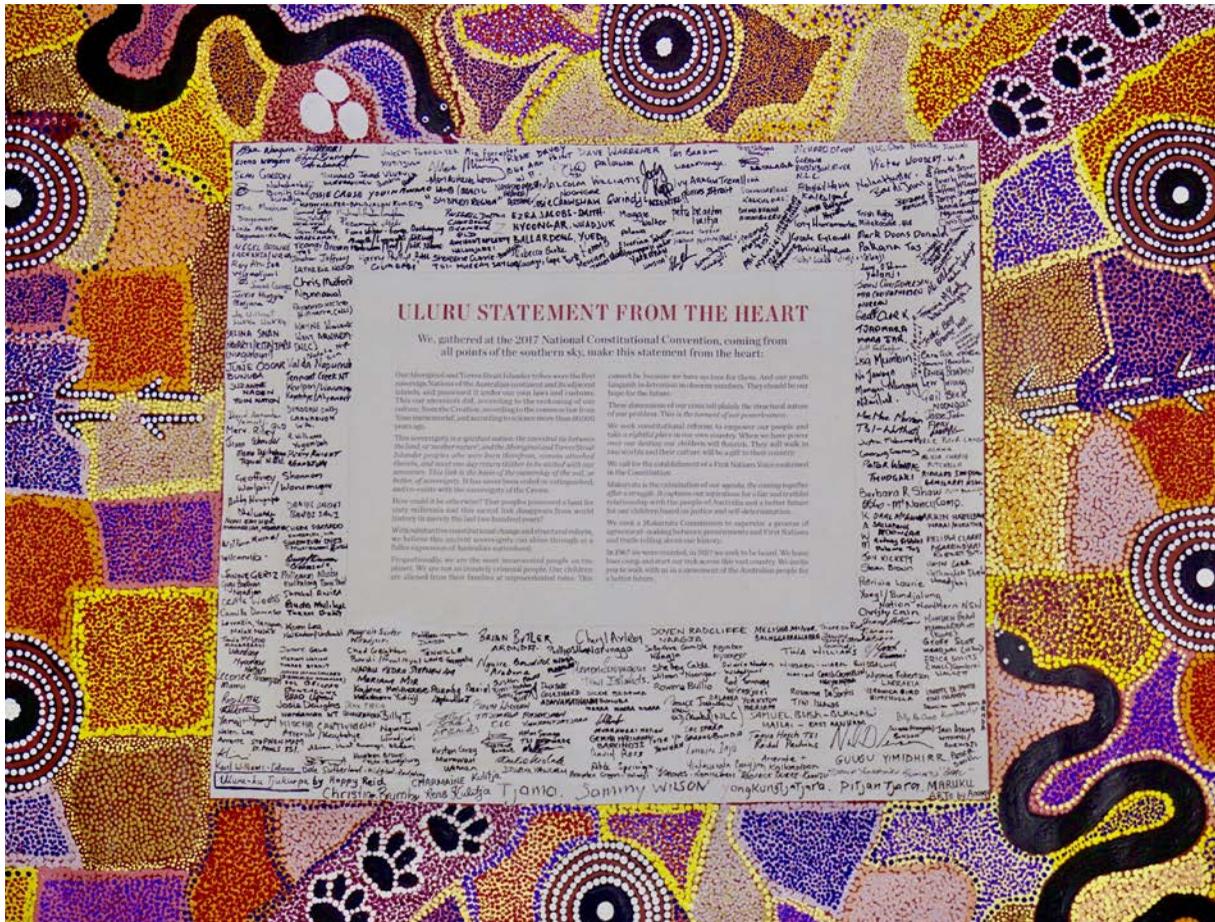
Professor Croucher recommended an agenda for federal law reform, particularly federal anti-discrimination laws, to make them more comprehensive and fairer, and easier to understand. She also mentioned the need to create an Australian human rights act and adopt a Bill of Rights.

The commission is inviting public submissions as part of a national conversation on a roadmap to guide government action and community partnerships to fully realise human rights and advance equity.

As the world changes and new and unexpected challenges such as the COVID-19 pandemic and the Black Lives Matter movement arise, there has never been a better time than now to get our house in order. R

For more information visit: humanrights.gov.au

“We hear everything in our hearts. We hear it all with our heart, mind, body and soul as one.” – Rene Kulitja



Uluru statement from the heart. Artist, Rene Kulitja. Source: fromtheheart.com.au

The Uluru Statement from the Heart was translated into more than 63 different languages for Australia’s multicultural communities by SBS.

Uluru Statement From The Heart

We, gathered at the 2017 National Constitutional Convention, coming from all points of the southern sky, make this statement from the heart:

Our Aboriginal and Torres Strait Islander tribes were the first sovereign Nations of the Australian continent and its adjacent islands, and possessed it under our own laws and customs. This our ancestors did, according to the reckoning of our culture, from the Creation, according to the common law from 'time immemorial', and according to science more than 60,000 years ago.

This sovereignty is a spiritual notion: the ancestral tie between the land, or 'mother nature', and the Aboriginal and Torres Strait Islander peoples who were born therefrom, remain attached thereto, and must one day return thither to be united with our ancestors. This link is the basis of the ownership of the soil, or better, of sovereignty. It has never been ceded or extinguished, and co-exists with the sovereignty of the Crown.

How could it be otherwise? That peoples possessed a land for sixty millennia and this sacred link disappears from world history in merely the last two hundred years?

With substantive constitutional change and structural reform, we believe this ancient sovereignty can shine through as a fuller expression of Australia's nationhood.

Proportionally, we are the most incarcerated people on the planet. We are not an innately criminal people.

Our children are alienated from their families at unprecedented rates. This cannot be because we have no love for them. And our youth languish in detention in obscene numbers. They should be our hope for the future.

These dimensions of our crisis tell plainly the structural nature of our problem. This is the torment of our powerlessness.

We seek constitutional reforms to empower our people and take a rightful place in our own country. When we have power over our destiny our children will flourish. They will walk in two worlds and their culture will be a gift to their country.

We call for the establishment of a First Nations Voice enshrined in the Constitution.

Makarrata is the culmination of our agenda: the coming together after a struggle. It captures our aspirations for a fair and truthful relationship with the people of Australia and a better future for our children based on justice and self-determination.

We seek a Makarrata Commission to supervise a process of agreement-making between governments and First Nations and truth-telling about our history.

In 1967 we were counted, in 2017 we seek to be heard. We leave base camp and start our trek across this vast country. We invite you to walk with us in a movement of the Australian people for a better future. 𐞖