

# Noel Pearson on recognition: no ‘radical’ shift in position

- SHIREEN MORRIS
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Amos Aikman (*The Australian*, August 1) claims Noel Pearson was once in favour of modest reform but has now joined the radicals. He does not understand that Pearson argues for the radical centre on recognition. There has been no shift in position. Anyone who has followed Cape York Institute’s work would know this.

It was conservatives — the same conservatives who opposed a racial non-discrimination clause — who first wisely advised the institute not to try to do everything in the Constitution but to put a modest “hook” in there off which legislative reforms can hang. The institute has advocated this since at least 2014.

The hook must be modest, but it must also be functional, to propel reform. You can’t hang practical reform off a pretty preamble. Liberal senator Dean Smith is correct in saying that the Constitution is not the place for symbolism. Anyway, symbolism alone will do nothing to address the miserable lack of political accountability, indigenous responsibility and input, and appropriate checks and balances in indigenous affairs.

The hook proposed is an indigenous advisory and representative body, constitutionally empowered to provide non-binding advice to parliament. A first nations assembly could give indigenous people a voice in laws and policies made about them, holding parliament to account to indigenous views and urging politicians to act when they fail to do so.

Aikman correctly describes this proposal as modest. Greg Craven of the Australian Catholic University describes it as both modest and profound. It takes on board legitimate conservative concerns as well as indigenous advocacy for increased political representation in their affairs. The radical centre can be sensible, pragmatic and paradigm-shifting all at the same time.

On Saturday, Aikman said this proposal offered hope because it was supportive of parliamentary supremacy and was devised in dialogue with conservatives. Two days later he claimed Pearson had joined the radicals. Yet Pearson’s position hasn’t changed for the past two years.

Aikman’s account misrepresents the debate. Since 2014 the institute has argued indigenous recognition can be a package of reforms, including legislative reforms. This package should include an extra-constitutional declaration, as developed by conservatives Julian Leeser and Damien Freeman, containing inspiring symbolism without risk of unintended legal consequences. The declaration could be incorporated into a statute of reconciliation, setting out agreed principles to create a fairer relationship between indigenous people and Australian governments.

Perhaps this statute could be enacted unanimously by all Australian parliaments, displaying unity in reconciliation — as proposed by Craven. Its terms could be negotiated by governments with the indigenous body. Like any legislation, this obviously would be subject to political will. But the day Australian parliaments enacted this statute would be a solemn and special day, a day of settlement.

At last year's Port Douglas native title conference, Pearson laid out further legislative elements of the proposed package, including mechanisms for ongoing agreement-making supervised by a truth and reconciliation or settlements commission. The same kind of agreement-making largely already exists under native title structures (see for example the historic Noongar agreement). But an added emphasis on truth and reconciliation could enable greater practical benefit and healing.

Last weekend Pearson and the Yunupingu brothers talked again of the need for a settlement. The word encapsulates what we are trying to achieve through constitutional recognition. In June, *The Australian's* columnist Chris Kenny wrote that recognition needs to “provide some sort of institutional end point”. It can't just be symbolism because, as Kenny noted, “the public will be unlikely to engage it and support change if they know it resolves little”. Grappling with apparent tensions between treaty and constitutional recognition, Kenny asked: “Would it not be better to consider the totality of the debate at once?”

Kenny's point is well made. A package of constitutional, institutional and legislative reforms should aim to address the totality of this debate. The right package could be a settlement of the unfinished business that remains a legacy of the way in which this nation was founded. The Yolngu word *makarrata* means coming together after a struggle. It is an elegant summation of the task at hand — which is why Pearson supported Galarrwuy Yunupingu's revival of its use. A Makarrata Declaration and Act would be fitting titles for the declaration and statute envisioned by conservatives. Makarrata reinjects an ancient Yolngu concept into the discourse and conceptually bridges the gulf between treaty and constitutional recognition.

Yunupingu and Pearson were right to draw the debate to this higher plane, for the task at hand requires not only a reconciliation between peoples and politics but a reconciliation of concepts.

The perceived dichotomy between constitutional recognition and a treaty mostly melts away when you look at the reforms being discussed. Both conversations call for an indigenous representative body. Both raise ongoing agreement-making. Both advocate recognition of language and culture. Both conversations at their core are about reforming this perennially flawed relationship.

Pearson, like many indigenous leaders, is seeking a pathway to consensus. Dismissing his proposals as radical is misguided and premature. The ideas need to be discussed in upcoming indigenous dialogues. They will also ultimately require agreement from government and the people.

The making of peace, the reaching of a settlement, requires agreement from all sides. This is the great thing about agreements: they don't exist unless the parties negotiate and agree. If the proposals are too far-fetched, agreement will not be reached. Governments will not sign up and no reform will be achieved. Settlements are about compromise. No one understands this better than Pearson.

These reforms are not new. Pearson was not shifting position. He was synthesising conversations and concepts that have been discussed over decades. He was bringing longstanding indigenous aspirations for a settlement together with the high compromise package he has explored with conservatives.

Pearson was painting a picture of an exciting but achievable package of reforms: pragmatic yet paradigm-shifting; modest yet profound. Pearson's proposals are neither radical left nor radical right. Rather, Pearson elucidates a potential radical centre, which should be discussed and debated.

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