

# **Custodianship in the 21<sup>st</sup> Century**

## **The Vincent Lingiari Memorial Lecture 2015**

**Charles Darwin University August 6<sup>th</sup> 2015**

**Jeff McMullen**

**I acknowledge the Larrakia traditional owners, their elders and ancestors on whose land we gather.**

**I honour the Gurindji family of one of our most inspirational Australians and the courage of all who struggle for human rights and equality.**

The great power of Vincent Lingiari's story is that it teaches us how this land sings to us all, how it holds us and nurtures us. This is the common ground that we share. When the Gurindji leader and his people walked off Wave Hill Station, camping by the Victoria River and then eventually by Wattie Creek at Dagaragu almost half a century ago, they understood that the land was their birthright and their destiny. The Old Man also knew in his wisdom that a sharing of the living environment, a responsible Custodianship of the land, was the key to the common good for all Australians. With patience, humility and extraordinary dignity, Vincent Lingiari's fight for genuine Land Rights shows us how it is possible to unite and inspire enough Australians to move the country towards a legal settlement that is fair in the eyes of most reasonable people.

This is a priceless lesson as Australians once more contemplate many different views on recognition of the rights and rightful place of the First Peoples. Vincent Lingiari was not a bit interested in the imperial delusions of the Australian Constitution or its negative concepts of racial superiority that leave a deep stain of discrimination on this outmoded document. He simply wanted recognition of the truth and legal acknowledgment that Australia's First Nations had been dispossessed unreasonably and unlawfully for two centuries. The lesson for us all at this hour of our history is that the most important changes required for the wellbeing of Aboriginal and Torres Strait Island people are legal empowerment, meaningful recognition of their voices at a national level and the full establishment of Land Rights across the country.

**Our nation has wasted too much time on empty promises of equality, on self-serving wedge politics and power plays in Canberra by the Great White Protectors, on naked greed that threatens the common good and ravages the land and on divide and conquer tactics that split communities and set Aboriginal leaders against one another, brother against brother and sister against sister. After such a long period of oppressive policies that clearly fail Aboriginal people we need to think more deeply about Vincent Lingiari's conviction that it is possible to share this land fairly with everyone who now calls this country home.**

**As a senior lawman, Vincent Lingiari was drawing on his grandfather's knowledge and connection to Gurindji country, reclaiming and asserting the core responsibility of custodianship. Like the very strongest earth science, this foundational concept of the Aboriginal system of knowledge gives every man, woman and child some responsibility to help maintain the balance of the living system of life, the source of wellbeing for all creatures now and into the future. This view of humans as sentient custodians is an optimistic and enlightened philosophy that gives us the very best chance of maintaining the health of our species and others. It stands in marked contrast to the ravenous selfishness of the predatory human who takes only what he wants with no consideration of the common good.**

**After wandering the world for well over sixty years I have experienced the best and worst of the human species. Squeezing ten lifetimes into one, seeing the beauty and the horror, I am now certain that for the first time in the history of the earth a single species threatens the very balance of the interconnected systems on which all life depends. After witnessing some thirty wars, the impact of genocide in Cambodia, Guatemala and Rwanda, and the suffering in the man-made famines in Eritrea and other parts of Africa, I realised that I was watching not a sentient custodian but a natural born killer, the most predatory species to ever stalk this earth. Criss-crossing the world in perpetual motion I came to see that "we are at war with one another and with the earth itself."<sup>1</sup>**

**Since the end of World War Two, according to the British earth scientist, Norman Myers, humans have devoured more raw materials than all of our ancestors combined.<sup>2</sup> Many species apart from humans are being liquidated at an astonishing pace. By the end of this century one third of all living species may be gone. Watch the birds on the wing because of 10,000 species, 7000 are in drastic decline. Take a long wander across the land and drink deep on its beauty because up to 50,000 of the world's 250,000 kinds of plants are expected to disappear over the next few decades. As the palaeontologist, Richard Leakey has declared, the Earth is going through the Sixth Period of Mass Extinction. We human beings are driving this devastation.**

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<sup>1</sup> McMullen, Jeff. *A Life of Extremes, Journeys and Encounters*, Published by HarperCollins Australia, Sydney, 2001.

<sup>2</sup> Meyers, Norman. *Global Security, Essay in Life Stories, World Renown Scientists Reflect on their Lives and the Future of Life on Earth*, published by University of California Press, Berkley Los Angeles, 2000.

Throughout much of my life, Aboriginal people have helped educate me to understand the sharp cry of the land when it is being damaged by our carelessness. Ernie Grant, the Jirribal elder at Tully in far north Queensland, was so articulate about minute or dramatic changes to the environment that I came to see that Aboriginal custodianship, like earth science, is warning us not to surrender to the kind of irresponsible exploitation that is based only on short term profit. This is the same enlightened message that one of Australia's eminent earth scientists, Bill Gamage, offers us in his book, **THE BIGGEST ESTATE ON EARTH**, a wonderful homage to Indigenous custodianship of land and sea.

Vincent Lingiari above all was a custodian of his land. It is many years since I first walked Gurindji country and felt the pain there. Something was broken and out of balance. I wandered the ghostly ruins of Wave Hill Station with Jimmy Wavehill and Gus George, two of the two hundred that walked off behind the Old Man on 23<sup>rd</sup> August 1966. Jimmy, who is now almost 80, was a young stockman back then and Gus was the boy he had carried on his shoulders.

“They treated us like slaves,” Jimmy told me. “That’s why we had a meeting and told Vestey’s, you mob been using us like a slave. We had enough.”

Under a midday sun we walked on in silence at Wave Hill, a reverence for those who were there before us. Amidst the tin shed ruins and broken timbers Jimmy spotted an old rusted drum. He stared at it, his eyes filling with tears as he described how his wife of all these years, Bidy Wavehill Nangala, when she was just a slender young girl, worked as a domestic servant inside the Vestey’s homestead. Bidy bowed and scraped at the table spread with white linen. She also was made to carry buckets of filth from the homestead, on a yoke across her shoulders, stumbling across the red dirt for over half a mile. Jimmy loved that young woman and he felt her shame.

It was a brutal life and like today so much was clearly wrong. A Vestey’s station man carried a .303 rifle and barked at them that if they didn’t do what they were told he would shoot them. There was good reason for the fear in the air. From around 1882 when the Gurindji land was first taken by the pastoralists until well into the 1920s, many killings took place round there. Mounted Constable W.H. Wilshire led what he called reprisal raids but there was also unrecorded slaughter of Aboriginal people in nearby camps. At Blackfeller Creek I studied two circular areas of scattered stones. Jimmy Wavehill stood there with his hands on his hips and Gus George trembled with emotion as he whispered, “A lot of people killed here. Old people, women and babies.”

The Wave Hill Walkoff clearly was a magnificently principled struggle for justice, a struggle for the truth that has been hidden or denied by some until this very day. The Aboriginal stockmen and their families *were* treated like slaves, given only enough flour, tea and sugar to keep them alive so that they could be callously exploited. They were robbed of their land and yet were virtual prisoners, confined to the pastoral stations and unable to express their concerns about the harshness of the conditions, just like so many remote communities today.

To understand the roots of the discrimination that persists to this day remember that after Aboriginal stockmen in Western Australia organised their famous Pilbara Strike of 1946 in search of fair wages, the Bateman Royal Commission observed that it was really pointless to give Aboriginal people more money. This racism was so deep it was economically damaging to Aboriginal people for many generations. Despite their skilled horsemanship and hard yakka on Wave Hill Station, Vincent Lingiari and the others were never fairly paid. They rounded up thousands of cattle to make the Vestey's empire even richer but the Aboriginal families lived in poverty: no sanitation, no fresh water, just thrown the head or feet of a slaughtered bullock. It was like Native Title, actually, just making do with the scraps the white man had left them.

Vincent Lingiari measured his response to this oppression calmly and carefully. Forever peaceful and patient, he knew that some day justice would come and he made it clear throughout almost nine years of stoic resistance and tireless campaigning, that the real struggle was for Land Rights, the cultural connection to country. It still is the real Struggle.

How revealing to examine carefully this great man's words in the light of the contemporary assault on the right to land and culture, as so many loud voices claim that it is time for people on the smaller homelands to move to the towns. I recall that back in Lingiari's day in 1965 when the Conciliation and Arbitration Commission opened its hearings on equal wages the pastoralists then argued that Aboriginal people who lived the tribal life could be denied wages because money was not part of their culture. It is intriguing that those who constantly try to control Aboriginal people, move them off their country and exploit the wealth of their lands, so frequently use some variation of this twisted argument about culture. Aboriginal culture is put forward as a reason not to pay people fairly or to deny them for so long the same rights as other human beings. But if Aboriginal people explain in a very serious way that culture connects them to the land and gives them their identity and life force, this is rejected as mere romanticism.

Once more the assimilationists now say that It is time for Aboriginal people to modernise, time to renovate your culture and time to give up what Tony Abbott called "the lifestyle choice" on some of the homelands. Why is it time to give up your connection to your country and your community? The Prime Minister, several Premiers and Chief Ministers have repeatedly suggested that the answer is... because it costs too much money. To Tony Abbott and the others who dismissively see living on the homelands as a "lifestyle choice", rather than a sacred birthright, I say that we all must reply, like Vincent Lingiari did.

The Old Man fully understood that in renewing their life force at Dagaragu the Gurindji were connecting to who they really are and where the land holds them. It was not about money. When money was offered by Vestey's men to try to bribe the stockmen to come back, Vincent Lingiari said:

**"You can keep your gold. We just want our land back."**

**Australians should never forget these words.**

**Vincent Lingiari guides all Aboriginal decision makers faced with the choice of a 99-year lease and giving up communal control in exchange for basic human services. The Old Man could not be bought and nor could the land.**

**“You can keep your gold. We just want our land back.” Remember these words as the Government attempts to repatriate the Aboriginal Land Rights Act (Northern Territory) 1976 and rework its provisions to weaken the influence of Traditional Owners, Land Councils and ultimately the community.**

**Remember these words when the mining companies come looking for gold, iron ore, bauxite, coal or uranium and offer a pittance of the wealth that they will extract.**

**“You can keep your gold. We just want our land back.”**

**When a federal Government refuses to dump nuclear waste, hazardous for 250,000 years, on large military reserves and then looks for Aboriginal land in exchange for a few million dollars, ask yourself, what would Vincent Lingiari say to such an offer?**

**Can I hear you say it? “You can keep your gold. We just want our land back.”**

**When the Federal Government and multinational companies press on with their Northern Development Strategy and talk about turning the Top End into an Asian food-bowl, or when China’s Government wants to stake out a giant agri-business, ask what legal agreement has been made with Aboriginal people to see the wealth of their land and their coastal waters improve the wellbeing of their people? Ask, also, how would the proposals for Constitutional Recognition give Aboriginal people national voice and real influence on decisions that have bearing on their true land rights. Most importantly, in this very oppressive political season when Federal, State and Territory Governments are allowing the homelands to wither on the vine or threatening to close many of them, remind the politicians of Vincent Lingiari’s words: “We just want our land back.”**

**Should we also remind Tony Abbott, who declares himself the Prime Minister for Indigenous Affairs, of what another Prime Minister said as he ran Gurindji soil through Vincent Lingiari’s hands in 1975?**

**Handing back the Gurindji country that was always theirs Gough Whitlam said, “ *I want to acknowledge that we Australians have still much to do to redress the injustice and oppression that has for so long been the lot of Black Australians.*” And then, Prime Minister Whitlam added, “*this land will be the possession of you and your children forever.*”**

We need to consider the mutual trust implicit in Gough Whitlam's pledge and the wonderful hopefulness of that moment of history at Dagaragu when Vincent Lingiari replied, "Now we can all be mates."

It is a confronting truth that after raising Aboriginal expectations like this so many times the Australian nation has betrayed that trust over and over again. Australia took such a long time to recognize the humanity of Indigenous people in the most basic way but soon after abandoned them to second-class citizenship. We stopped classing Aboriginal people as flora and fauna but then forgot that they were human when we forcibly removed their children from their families. We treated people like those on Wave Hill Station as lowly servants and then Governments had the audacity to argue over the stolen wages for decades. We ignored the truth of Australia's own slavery and the death of up to fifteen thousand South Sea islanders in the first year of their grueling toil on Queensland's sugar plantations. Instead, through the stinging racism of the White Australia policy, we shamefully deported tens of thousands of the Islanders.

Remember this Australia as Adam Goodes dances courageously across the sporting arena taking aim at racism today. Racism is ingrained in our history. As a nation we need to rise above it, striving to do better as this Aboriginal champion does. It is a hopeful sign, once more, as many Australians around the nation speak up in support of Adam and all who feel the deep and damaging hurt of racism. But are we willing to take action to bring serious change to our society, to press on towards a fair and just nation?

Even after the promise of the 1967 Referendum when over 90 per cent of Australians thought we were voting for equality, the politicians failed to lead. At another moment of hope and opportunity the federal parliament showed timidity and short sightedness and could not deliver the nation-wide Land Rights and meaningful self-determination that would bring Aboriginal people to equality and this nation closer to greatness.

The Australian Constitution is still stained with racism and discrimination. There is no recognition of the Indigenous sovereignty that was never ceded and not even a signpost on the road to a Treaty or any binding legal agreement that would set things right. Instead of the trust that would close this space between us, we always see the very old pattern of treachery in the Government relationship with the First Peoples.

Every time a promise is made, a law passed or a hand held out in mate-ship and respect, our political process lapses once more into treachery.

Think about it. It took Australia over two centuries to see past the great historical fiction of *terra nullius*. Yet as fast as Australian Governments could they unpicked the Wik and Mabo High Court judgments and lodged appeals against many Native Title Settlements.

**As my old friend from Yorta Yorta country, the late and great songman, Jimmy Little, told me “They moved us off country to the Mission and then the courts said, you haven’t had a continuous relationship with the land and so, no Native Title for you.” There it is, the trust and the treachery!**

**Is this what we see once more as Australian Governments deceitfully persist with attempts to move so many communities off country? Ever since the deliberately humiliating dismantling of the Aboriginal and Torres Strait Islander Commission (ATSIC), which had previously ensured that a lot of houses were constructed, all levels of Australian government have disgracefully failed to provide adequate services to most remote communities.**

**Constitutionally speaking the responsibility for the 1187 so called discrete Indigenous communities may be shared, but Federal, State, Territory and Local Governments have never provided adequate safe and sanitary housing for all who call this country home.<sup>3</sup> This is a central failure by our nation, a critical underlying factor in so many of the social problems faced by Indigenous people. Shirking its responsibility, the Federal Government refuses to provide the States and Territory Governments with adequate funding for a decent level of community life, thinly disguising the real political agenda.**

**The social engineering across Australia is a neo-liberal plan to modernize or renovate Aboriginal culture as some put it, by moving many people to the towns<sup>4</sup>. Ask any of the fearful remote communities about the threatened closures and they will tell you that hundreds and then possibly thousands of people will end up as the new fringe dwellers. In Broome and Kalgoorlie, in Alice Springs, Katherine and Tennant Creek, the town camps are becoming more desperate. The numbers of homeless people and long grass drifters are growing dangerously. The white man’s poisons, grog, Ice and indifference, will destroy these human beings unless we act now to remind government of the solemn promise made to Vincent Lingiari and his people.**

**Like all those who supported the Gurindji we should now stand with Aboriginal people in their fight. We must resist oppressive, discriminatory policies and focus the national conversation on the meaning of genuine Land Rights. If we think carefully and calmly like that Old Man, it is clear that a fair share of the extraordinary wealth that is flowing from Aboriginal lands could sustain remote communities. One mining executive informed me that the Australian people get only about 6% of the mineral wealth of this nation. The Australia Institute estimates that well over 80% of the mining industry is foreign owned.**

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<sup>3</sup> Ed Wensing, *In denial and disarray: Funding for municipal and essential services in discrete/remote Aboriginal Communities*. National Centre for Indigenous Studies. ANU. Canberra. May 2015.

<sup>4</sup> Jeff McMullen *Dispossession : Neo-Liberalism and the Struggle for Aboriginal Land Rights in the 21<sup>st</sup> century*. Essay in *In Black & White – Australians all at the Crossroads*, Edited by Rhonda Craven, Anthony Dillon & Nigel Parbury. Connor Court. Ballarat. Victoria. 2013. p 105-1126.

Clearly if Indigenous Australians enjoyed sub-surface mineral rights like Native Americans do in the United States, they would have the capital to finance their rapid development. Of course this may seem too bold an idea for our politicians but it would overcome the impasse of our fourth world poverty trap. At present, Aboriginal communities cannot say 'No' to mining and, once more, are forced to accept the scraps in very unfair negotiations.

While we debate meaningful recognition of Aboriginal people, why not recognize that on Aboriginal lands it is reasonable to legislate guidelines that would leverage mining and agricultural development to finance the housing and new technologies that can overcome the isolation and the inadequacies of remote community life? The multinational corporations say that this is an Australian government responsibility but if they are going to extract extraordinary wealth from the lands now being staked out, Australians surely can demand of our government a reasonable investment of these profits in Aboriginal advancement.

Despite the Luddite views of our Prime Minister on wind turbines, all earth scientists know that alternative energy systems can help power communities across this land. A technological revolution around the world is shifting access to education, health and digital information away from 19<sup>th</sup> century classrooms and offices so that homes, schools and businesses can be connected everywhere. The Chief Minister in the Northern Territory pointed out this week that so many communities have not been provided with this new technology that can connect all of our citizens. Let's get on with building real communities.

To compliment technological innovation, desert knowledge, land and coastal custodianship, are among the most valuable offerings from Indigenous people for the sustainable development of this nation. This means that we should support the knowledge and commitment that comes from Aboriginal people living on country. For reasons of long-term population planning, national security and sustainability we should not be considering concentrating more people on urban fringes when immigration flows now and into the future are directed there. Creative decentralization is far more viable. This is genuine long-term custodianship. For effective management and a brighter future for remote communities we need to see not a shift of people but a shift of power and trust by all Governments. All Aboriginal leaders, no matter where they stand, believe that responsible and adequately financed local decision-making is essential.

For many decades I have tried to present to our nation evidence that explains rapid improvements that I have witnessed by some Indigenous people in other nations. It is not assimilation, social-engineering or punitive interventions that have brought health and economic improvements to the Saami people across Norway, Sweden and Finland, or to some of the First Nations in the United States that have made remarkable progress since I began filming there for the ABC's Four Corners in 1973.



Over three decades of research by Professors Steven Cornell and Joe Kalt for the Harvard Project on American Indian Economic Development has established emphatically that the key to progress in wellbeing, education, housing and employment is genuine sovereign control.<sup>5</sup> This kind of self-determination by nations within a nation allows effective local decision making through legal agreements with government and also local and national councils that give voice to the concerns of First Peoples in a representative way. Will any genuine self-determination emerge from the proposed referendum on Constitutional recognition?

The architects of the Northern Territory Intervention obviously ignored all of the global evidence on Indigenous development and instead concentrated on a draconian state of emergency that crushed most local decision-making. Unlawfully and in that old pattern of relentless political treachery, Aboriginal people were not consulted and clearly gave no prior, informed consent to this suffocating imposition of state control.

In these targeted communities people were stereotyped, shamed, disempowered and punished.<sup>6</sup> There was little thoughtful effort to improve life for Aboriginal children, despite Prime Minister John Howard's hypocritical statement that he had no time for constitutional niceties when the wellbeing of children was at stake. Just look at the evidence.

A child born in 2007 in the first year of Howard's Intervention and raised under the so called Stronger Futures legislation of the Rudd and Gillard versions of Intervention will spend the first fifteen years of life living in an 'occupied territory' under extraordinary social controls. Most of these controls are so discriminatory that the Government initially lifted the protection of the Racial Discrimination Act from the 73 communities. Just three times in Australian history have our lawmakers abandoned our commitment to bar all racial discrimination and each time it was the First Peoples who were subjected to this injustice.

It is a disturbing truth that while Australia helped the world build the international institutions and draft our noble human rights conventions and declarations, we have broken them all here at home.

In my lifetime, the Northern Territory Intervention is the most disastrous policy inflicted on Aboriginal people since the Stolen Generations because it has produced an ongoing social catastrophe. All indicators of wellbeing, levels of sickness, self-harm, suicide, incarceration and homelessness, have risen so alarmingly that it must be said that the shock and awe and disempowerment of the Intervention have created a bigger crisis.<sup>7</sup>

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<sup>5</sup> Cornell, Steven and Kalt, Joseph, eds, *What Can Tribes Do? Strategies and Institutions in American Indian Economic Development?* American Indian Studies Centre, UCLA, Los Angeles. 1992.

<sup>6</sup> Jeff McMullen, *Rolling Thunder : Voices against Oppression*. In, *The Intervention – An Anthology*. Edited by Rosie Scott and Anita Heiss. Published by concerned Australians. 2015.

<sup>7</sup> **The health and welfare of Australia's Aboriginal and Torres Strait Islander peoples: 2015**

**Australians must try to understand that we are standing by and watching a totally preventable and unnecessary loss of human life and potential. I have had many distraught phone calls at all hours of the day and night, as well as many face to face conversations with Aboriginal parents who share the loss of one of their children who has taken his or her life.**

**A 16 year-old girl goes to her bedroom and leaves a note saying that she cannot live in this world anymore. A son suicides and breaks his mother's heart because as a teacher in their community she thought she had raised her children to be strong. An older man tells me that only his culture allows him to go on after the suicide of his son. Sometimes these people, overwhelmed by sadness, ask my family to help them buy a wooden box to bury their child or to gather the family who have been scattered in the town camps. There are no words to deal with such loss and it is happening at a terrifying rate. In the first five years of the Northern Territory Intervention the Australian Human Rights Commission reported a 160% rise in the rate of Indigenous youth suicide. All this is occurring in one of the healthiest and happiest societies on earth, according to the OECD's wellbeing index.**

**Across Australia there is another genuine social crisis far more threatening to the fabric of our society than homegrown terrorism. The Australian Law Council considers that we now may be at a tipping point where Indigenous disadvantage, crime and incarceration require a whole new approach to criminal justice. Over the last fifteen years, Indigenous incarceration has increased by more than 57% while the non-Indigenous imprisonment rate remains largely the same<sup>8</sup>. 'Racking and stacking' human beings in an industrial prison business is not the answer. We need to change the system and redirect our effort and our greatest investment towards the social determinants that fuel this national human disaster. Don't say that we are doing it already because the truth of the disastrous Government policies is that they have failed miserably at nation building for First Nations people.**

**There is overwhelming evidence, here and in the most hopeful Indigenous societies overseas, that an essential facet of wellbeing is the strong and positive environment that we call cultural security. To have mental balance and avoid the downward spiral of crippling depression, Aboriginal people, like the rest of us, need to feel confident about their identity and have recognition not only that they were here before Europe existed, but of their on-going custodianship of the land and of their cultural essence that helps us all define what it is to be Australian.**

**When most of the world recognizes the uniqueness of Australia's Aboriginal heritage, how tedious that our Prime Minister, as well as some public intellectuals and media voices, continue to wage a very damaging war on Aboriginal culture.**

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(AIHW) <http://www.aihw.gov.au/publication-detail/?id=60129550168>

<sup>8</sup> Law Council of Australia. Media Release June 15 2015 and Law Council Indigenous Imprisonment Factsheet.

Tony Abbott almost singlehandedly has fanned the flames of the Culture Wars. First he dismissed the Welcome to Country as “out of place tokenism.” He then hailed the arrival of the First Fleet as the defining moment in Australian history without any appropriate admission of the devastation caused by invasion and dispossession. With a whiff of *terra nullius* the Prime Minister declared that the country was “just bush” before the British arrived and then he added his infamous insult saying that living on the homelands was a lifestyle choice.<sup>9</sup>

You may see the Prime Minister’s litany of stupidity as merely a series of gaffes but I believe that his words point to a more troubling insensitivity, a failure to comprehend the strengths of Aboriginal culture and the resilience displayed throughout the longer timelines of history. I am thinking again of Bill Gammage’s appraisal of Aboriginal ‘farming without fences’, the custodianship that created the sweet grasses that so delighted the English pastoralists. The mosaic of fire-stick farming and management of resources over many millennia is worthy of our admiration, not mere acknowledgement. The Aboriginal writer, Bruce Pascoe, in an essay called, BREAD, celebrates this custodianship as Aboriginal genius.

Djinyini Gondarra and Richard Trudgen also patiently explain in their landmark book, WHY WARRIORS LIE DOWN AND DIE, how culture traditionally has been the stabilizing ingredient of Indigenous life. This message about the important social value of culture is reinforced by the elders of the Culture is Life group. All insist that a healthy recognition of the positive contribution by Aboriginal and Torres Strait Islander people to our society is essential to reduce the contagion of suicide. We must remember this and be careful of the tone of our discussions during the current debate on racism and rights, recognizing that most Aboriginal voices have never been heard.

Prime Minister, if you follow up your zealous desire to be seen as a leader for Indigenous people with more of an effort to be aware of the strengths of their cultures you will also see the importance of Land Rights. You will recognize the world’s most ancient land tenure. You will see the world’s oldest multi cultural country. You will discover that this diversity of Indigenous peoples through countless millennia, linguistically, culturally and with creatively different ways of problem solving, is in fact a magnificent foundation for modern multicultural Australia. Understanding the beauty and the accomplishment of Aboriginal and Torres Strait islander people allows us all to discover the genuine reasons for recognition and respect, not some empty form of symbolism that someone later like you Prime Minister will decry as tokenism.

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<sup>9</sup> Tony Abbott in Interview with ABC Radio Kalgoorlie March 9 2015 said : “ What we can’t do is endlessly subsidize lifestyle choices if those lifestyle choices are not conducive to the kind of full participation in Australian society that everyone should have.”

**Sadly, Australia pays only lip service to one of the essential cultural rights, the right of Indigenous people to speak their languages. We seem to have forgotten that many of our most inspiring Australians, including Vincent Lingiari, Eddie Mabo, Faith Bandler and Oodgeroo Noonuccal, to mention just a few, all recognized that one's language is the most powerful expression of cultural value and vitality.**

**Australia's Federal, State and Territory Governments have inconsistent and even contradictory policies on the importance of indigenous languages. NSW now encourages the maintenance of languages including Wiradjuri and Gamilaraay but in the Northern Territory, bilingualism has been subject to the fickle fashion of bureaucrats who apparently have never fully grasped the educational evidence that multilingual children have an intellectual asset, that they learn more effectively when the language they dream in or speak at home with their families, is recognized and utilized in their schooling.**

**In some ways Australian Government policy towards Aboriginal culture is sheer barbarism. The threats to evict people from their homelands or to let them wither and die makes no allowance for the fact that very often this country is sacred, a place of spiritual importance like a great Cathedral or a field full of graves after a war. The West Australia Government has attempted to deregister the heritage protection over some of the world's oldest and largest sites of Aboriginal rock art. On the Burrup Peninsular of the Dampier Archipelago a visitor will be mesmerized by the human faces and extinct animals that look up at you from the carved stones.**

**To the rest of the world, this enthralling antiquity and unbroken story of so many millennia of human existence is the very essence of Australia's character. This is an Aboriginal land and Aboriginal people stand with arms wide open offering to share this story with us all.**

**Surely we must celebrate this heritage, live it naturally and confidently, like Vincent Lingiari did, because I believe that this is the key to our future greatness, no matter how detached some are today about the importance of defending land and culture.**

**When Vincent Lingiari led his people on the longest strike this nation has known, many were convinced that he would change his mind about the land, because the forces of assimilation have always been so relentless. No one banked on the Old Man's powerful inner belief, on the fierce advocacy of Dexter Daniels, the storytelling role of the novelist, Frank Hardy, of the staunch support of union men like Brian Manning, Jack Phillips and Kerry Gibbs who made the long drive from Darwin in an old Bedford truck to haul food supplies to the Gurindji.**

**Brian Manning told some of us once that the Wave Hill Walkoff fundamentally succeeded because "many people and their leaders stuck together" for the long haul. Manning also made a very challenging observation.**

**“The Gurindji are no longer at the mercy of Lord Vestey,” he said, “ but at the mercy of the government and its withdrawal of funding for the homelands in favour of hub towns.”<sup>10</sup>**

**It is time for Australian Governments to abandon once and for all the pointless addiction to the idea of forcible assimilation. Virtually all Government policies past and present towards Aboriginal and Torres Strait islander people are laced with the poison of assimilation and the patronizing belief that Government knows what is best for them...even when the First Peoples are always thought of last.**

**The prospects for meaningful constitutional recognition of the land rights, cultural rights, language rights and right to wellbeing of our First Peoples, will only be fully realized by a revolution of the Australian spirit. We must close the space between us by making this issue of far greater personal importance and we must be prepared to listen to Indigenous voices across the country.**

**Already the innate conservatism of many in our political classes is steering the discussion of genuine Indigenous rights towards a minimalist and almost meaningless constitutional conclusion. More tokenism is not what most Indigenous people want. Symbolism has not ended oppression or discrimination. Clearly we need both legal clarity and empowerment, the kind Vincent Lingiari and Gough Whitlam understood.**

**Some constitutional lawyers, as well as today’s Prime Minister, cringe at the effort required to once and for all banish official discrimination from our institutions and especially from our laws. We hear squeals that they don’t want a bill of rights like our neighbours in New Zealand. They don’t want to risk allowing our judiciary the plainly necessary checks and balances on those in the federal parliament who frequently trample the rights of Indigenous people. These same constitutional conservatives have no convincing answer to the problem that in Australia we have no constitutional protection of human rights and glaringly no protection for anyone against racial discrimination.**

**While this shortcoming remains, Australian governments can launch a Northern Territory Intervention anytime they feel like it. What an irony that the Gurindji, who were promised that they would forever be in control of their land, are among the communities disempowered by the Intervention’s crushing discrimination.**

**Our political history shows that federal parliament will often argue that it is acting in the best interests of Indigenous people in the same instant that it denies the Aboriginal right of self-determination and imposes harsh, discriminatory policies.**

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<sup>10</sup> Brian Manning quoted in Jeff McMullen article, *Still Walking*” in THE TRACKER magazine. September 2014.

Only a specific non-discrimination clause inserted in the Constitution could prevent the parliament from displaying its conspicuous disregard for international human rights covenants and passing unjust laws whenever some feel like discriminating against Indigenous people.

Given this pattern of discrimination, the anachronistic race powers in the constitution that allow a government to strip voting rights from a group of citizens and the deep historical stain of racism, I say that this *White Australia* constitution is not *my* constitution and nor does it represent *you* in our multicultural country.

In a submission to the Australian Government's Expert Panel on Constitutional Recognition of Indigenous Australians I proposed that Australians use the referendum to express a 21<sup>st</sup> century concept of our nationhood and ban all discrimination based on age, gender, race, religion, culture, disability and sexuality.<sup>11</sup> A confident assertion of our determination to ban all forms of discrimination would unify Australians in all of our diversity. By framing the constitutional amendment to apply not to past laws but to the future we would move our constitution into the 21<sup>st</sup> Century.

Overwhelmingly Indigenous people surveyed have said that they want a strong protection against discrimination. According to some opinion polls a majority of other Australians say that they too are ready to ban discrimination<sup>12</sup>. So it appears that only the lack of courage and conviction in Canberra that has dogged this nation for over two centuries on Indigenous issues is threatening to marginalize the genuine Aboriginal priorities.

This underscores the importance of establishing democratically the real views of a majority of Indigenous people, both during this consultative period and through a national body properly constituted and funded to represent their diversity and sovereign status.

The stunning simplicity in which ATSIC was swept away and the routine dismissal of advice from the National Congress of Australia's First Peoples or any one of the Government's many appointed advisory bodies, indicates that genuine Indigenous oversight and real influence on policy even by a statutory body will always be limited unless there is an unequivocal, binding legal obligation on Government. If a majority of Australians wants to recognize Indigenous Australians we need to pay heed to their needs and their views in a far more serious way.

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<sup>11</sup> Jeff McMullen submission to Expert Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander People Submission No 29 at 20. <http://www.recognise.org.au/blogs/a-change-of-heart-and-mind-the-way-ahead-a-submission-from-jeff-mcmullen/>

<sup>12</sup> Opinion polls cited by Professor George Williams in Sydney Morning Herald, *Proposal to give Aboriginal peoples a bigger say may be misplaced*. June 15 2015. Also *Indigenous X Constitutional Recognition Survey*. <http://indigenoux.com.au/constitutional-recognition-survey/>

Clearly what Australians are now discussing is far short of the Saami people's serious constitutional recognition by the Governments of Norway, Finland and Sweden. Our national debate also consciously avoids serious consideration of the sovereign-to-sovereign relationship of American Government and Native American nations.

We also seem afraid to recognize where we really stand in the world and how seriously we are judged by United Nations Human Rights authorities because of our persistent discrimination and our failure to uphold our commitment to self-determination.

Ultimately Australians must recognize that Aboriginal and Torres Strait Islander sovereignty was never ceded. There was no surrender or no treaty of resolution and so to this extent sovereignty exists regardless of anything written in the Australian constitution. Sovereignty is not something for other Australians to condescendingly bestow. It is there for us to recognize and for Indigenous people to reclaim. No doubt others will follow the lead of those First Nations already asserting sovereignty. For as long as we refuse to acknowledge this historical reality we undermine the chances of finally establishing a foundation of justice for our nation into the future.

So let us look ahead constructively. In our Constitution we already have section 105A that could be a useful legal framework guiding Government towards binding agreements on all of the issues of real importance to Indigenous people: Land Rights; compensation for historic injustices; housing; health; education and employment. All of this is doable. So let's be serious about change. I see none of this addressed in the current constitutional discussion because 'political realities' reduce us to symbolic or incremental change, the kind that Aboriginal people have endured for too long.

In conclusion, a significant change is required, a change in the law, a change in the constitution and a change in our hearts. All of this is doable too.

We have the wealth but we need the will to shift empowerment to Aboriginal people.

Can we forge a treaty or treaties, recognizing the truth of the past and legally supporting a fair and just future?

Can we rise above our doubts and flaws and in the 21<sup>st</sup> Century find the full expression of custodianship that Vincent Lingiari cherished?

The Old Man knew that the answer was in the hearts of good men and women who stood together as the *best of mates*. He never doubted what was right, no matter how long it took or how many tried to buy him off.

The Old Man outlasted all the naysayers because he *lived* his value system and he led good people with him on the long road towards equality.

Vincent Lingiari knew *who* he was and that this land held him close to its heart.

“You can keep your gold. We just want our land back.”

Jeff McMullen Charles Darwin University August 6<sup>th</sup> 2015