We know these things to be true

The Third Vincent Lingiari Memorial Lecture
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Chairman of the Northern Land Council
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Honoured guests, ladies and gentlemen and countrymen one and all.

Where we are now this is Larrakia country. Kulimbirign country. Like my clan the Gumatj, the Larrakia are a Saltwater people. To us the sea and the land are one. I wish to thank the Larrakia people for welcoming me to their country.

I acknowledge the great man who gives his name to this lecture. I acknowledge his family and the part they played in the struggle to win rights and recognition for Aboriginal people.

Men like Vincent Lingiari are our shining stars that we follow in the night sky. We follow them for direction and we follow them for inspiration. We never forget them and their work sustains our work and our culture.

We say thank you to this old man for his continuing guidance.

Tonight I want to take you through the last thirty years of the struggle for Aboriginal rights. I want you to understand the long, long history behind the issues which are facing us today, such as the recent debate over Native Title and the upcoming f ight over the Land Rights Act.

The reason for doing so is to help you understand the conflict between our laws; Yolgnu and Balanda law. I want you to realise how hard we have struggled to have our Yolgnu law recognised; how we have been burnt by your laws; why we are suspicious of your laws; and why there is conflict. But I also want to take you on a journey which I hope will show us propose a better way.

There is a solution to the constant conflict in our country, and that is my real message to you.

I want you to think of my stories as a map; a map which we can use to find a better way to the future. Some of the stories show the wrong way---dead ends---dangers---cliffs--and crocodiles. Some of the stories show the right way. Let us read the map together.

It’s really all about two laws - Yolgnu and Balanda - and the struggle we have had for Yolgnu law to be recognised. My part in these stories this history has been as one of the law-men, one of the Yolgnu lawyers, who has been there at every twist and turn to speak for our law.

I want to start by telling you two stories. Both of them are true, and they show you what I am talking about when I talk about the two laws, and the long struggle of Aboriginal people to have our law recognised.

Two hundred and ten years ago my ancestors were living here on this land. We had our own system of Government, law and land tenure.

A group of strangers arrived in a small wooden boat.

The strangers put a pole with a piece of colored material on it in the ground and spoke in a language we could not understand. These strangers then began to take our land. Many of our ancestors fought with the strangers to keep our land and our culture .

Many of our people were killed. Over time the strangers subjugated us and sought to apply their laws and culture to us. We resisted. We learned about the strangers' law because they, with very few exceptions, refused to learn about our laws. We learne d that their law told them a story called terra nullius, which meant that if you go to a land where the people don't look like you or live like you, then you can pretend they don't exist and take their land.

For the first 200 years wWe used the strangers' law to argue our case. After 204 years passed the strangers' senior law elders finally agreed with us that their first law which said Aboriginal people did not exist was a big mistake and "an unutter able shame". They discovered that our law had been there all along.

I think you might have guessed that my first story was about the very long time it took for Balanda law to recognise the continuing existence of Yolgnu law in this country. I'll return to this story later.

My second story started 38 years ago and is even closer to home, because it is about my family, and the great pain of my father when the bauxite mine was imposed on our traditional country against the will of the Yolgnu people.

I should just say that the last time I spoke about my father and our country in public I was deeply overcome with feelings of great strength and great sadness.

I suppose I was 16 when the news travelled urgently throughout Yirrkala that the sacred banyan tree at Nhulunbuy was going to be damaged by the mining company. There was a rippling anger that shot through the old people. People called out in the high upset tones of my people when they are under threat. Old men I knew to be strong and courageous and afraid of nothing were shaken.

We were led to the site by my father and a number of senior Yolngu men. I saw the tears in my father's eyes. I had never seen this before. I quietly asked why are you crying? I am sad and I am angry he told me. We have tried very hard to teach Balanda about our

land. We have tried to share this knowledge, free and open. And after all of that they cut that tree and it cuts me inside.

I was shocked. I had never seen my father in the position of not being able to stop someone doing something on our country. His authority had been absolute and now this mining company and these Balanda were ignoring us.

That tree is a special place – inside it are important things. It's like heart of the country – our beliefs about our land reside in that tree and at the site of the tree, they reside in the rocks, in the water and in our minds. We know these things to be true.

When I was very young my father would take me to this place of the banyan tree. We would always stop here as we walked across Gumatj land. The spirit marked by that tree was respected and it was felt truly in our hearts.

We often spoke about Yolngu people as that tree. Strong and firm and fixed to the land. He told me Yolngu people were stuck deep into the land.

He told me I should never forget this moment because it would test all of the skill and the knowledge of Yolngu people. It was only at that moment that we understood that in the eyes of the Balanda law we were no-one. Our ancient laws and our social systems were invisible to the legal and political system which had total power over our lives.

And I have never forgotten, because it was that story which caused us to start our great fight for land rights. Just as the old man we honour tonight was inspired by the injustices he saw to begin the great Walkoff, we began our fight that day.

In the early 1960s, this was the situation: despite the fact we were still living our traditional lives, hunting and fishing on our estates, performing the ceremonies for the land, and following the rules of kinship, we had no standing either as citiz ens of Australia, or as a people with our own law. We did not exist in Balanda law. The Commonwealth Government, the missionaries, the mining company, all had power. We, the people of the land, had none.

A group of strong Yolgnu leaders decided to fight this injustice. In the early 1960s, when the Gove bauxite mine began we began our fight. Yolgnu tribes from North East Arnhem Land took what is known as the Bark Petition to Canberra, to explain to th e government why our land is sacred.

Think about what they did for a moment. Using traditional methods, they prepared a document which expressed the most important aspects of Yolgnu law and society. The thirteen clans came together, negotiated what should be included, and set about prep aring this painting which was unique and unprecedented. It could be likened to the Magna Carta of Balanda law because it was the first time Yolgnu had ever set our law down for others to see.

The Bark Petition said in part:

… [T]he land in question has been hunting and food-gathering for the Yirrkala tribes from time immemorial; we were all born here. [P]laces sacred to the Yirrkala people as well as vital to their livelihood are in the excised land, especially Melville Bay. [T]he people of this area fear that their needs and interests will be completely ignored as they have been ignored in the past, and they fear that the fate which has overtaken the Larrakia tribe will overtake them…

That unique and powerful document was taken to Canberra, along with our sacred objects and symbols. And we were told that the government could not help us. We had given them the secrets of our law and they still refused to act. This was heartbreakin g for the Yolgnu; this was betrayal; and this was terra nullius in operation.

It was clear that our law was invisible, and that the only way to fight the Balanda was using Balanda law. This was the next step taken in the fight for land rights at Gove. At that time there were Balanda people keen to assist us, keen to challenge the legal lie of terra nullius. One such Balanda was the young Edward Woodward, who came to us to act in our case against the Commonwealth Government.

Woodward was the lawyer in that case, but I was a lawyer too. Along with my countryman Wali Wunungmurra, I was asked as a young man to act as an interpreter in the court because many of our senior people could not speak English. We had to speak for t hem, and to do that, we had to understand the important and complex concepts and laws they spoke of.

The best way to describe my preparation for that case is that it was like a Yolgnu law degree. I had to learn not only from my own father, who taught me the law which was my inheritance anyway, but from men from other clans. They took me out bush and taught me their law, law I wouldn't ordinarily know except on the surface. Because I had to speak their words in court they wanted me to know and understand what they were saying.

I did my law training in Yolgnu law as preparation for the first ever Native Title case. That's what the Gove case was; the first assertion of Native Title by Aboriginal people in an Australian court.

Those senior men - my father, Wandjuk Marika and the other leaders - put everything into fighting the Gove case, and their example is my inspiration to this day.

We tried to convince the judge that we had a system of law and Government. Indeed Justice Blackburn found that we did have such a system. It's just that he also said we weren't entitled to use our own system. We had to live by another system: the Ba landa system. Justice Blackburn said:

The evidence shows a subtle and elaborate system highly adapted to the country in which the people led their lives, which provided a stable order of society and was remarkably free from the vagaries of personal whim and influence. If ever a system coul d be called "a government of laws, and not of men", it is that shown in evidence before me.

But the Balanda system did not recognise our law. He said we were invisible, and that terra nullius was true.

A great friend of the Yolgnu, Professor Nancy Williams, has said that she thinks one of the reasons we lost the case is because we concentrated so much on the religious side of our relationship to land, and didn't show him the economic aspects of our l aw and society. Again this makes me very sad, although I think she may be right.

These stories, about terra nullius and the Gove case, highlight our bad experiences with Balanda law and the Balanda law-making process. These are examples of where we've been burnt by Balanda law. These are the signs to the wrong way on our map to t he future.

But there are also good experiences of our interaction with Balanda law, ones which can help us arrive at our destination by pointing to "a better way". I want to talk about these experiences and again I'll use two examples.

The first example in the "right way" story is the Aboriginal Land Rights (Northern Territory) Act 1976. This was the product of the two great struggles:

- the Gurindgji walkoff at Wave Hill lead by Vincent Lingiari, and
- the Gove case.

It was in response to these struggles that the then Prime Minister Gough Whitlam gave Justice Woodward a Commission to inquire into Aboriginal land rights. He gave this Commission in February 1973, just over two months after his historic election win. Twenty-five years later it seems to me that it was the way Woodward did his work as much as the outcome which helped deliver justice to Yolgnu people.

Woodward sat down and talked to us. He travelled around the country trying to learn about Aboriginal law and to understand our people and our culture. He is a lawyer, of course, so it was very hard for him! But he sat and listened and thought about what we told him.

When he wrote his first report, he didn't make many recommendations, except that he wanted to set up the Northern and Central Land Councils to help him in his work. He said that he couldn't fulfil his task without the wisdom and advice of senior Abori ginal people. He needed us to tell him what Aboriginal law said. This is how the Land Councils were born, and this is how they still operate. In that first report, Woodwarrad made some statements about what he had learnt from us, which showed how well he had listened:

The spiritual connection between a clan and its land involves both rights and duties. The rights are to the unrestricted use of its natural products; the duties are of a ceremonial kind – to tend the land by the performance of ritual dances, songs and ceremonies at proper times and places.

Woodward wrote his second report in July 1974, and provided a blueprint for the Whitlam Labor Government to implement Land Rights. He made some important statements about the aims of land rights, which it is good to look back on today. He said some o f the aims of land rights were:

1. the doing of simple justice to a people who have been deprived of their land without their consent and without compensation;
2. the promotion of social harmony and stability within the wider community by removing, so far as possible, the legitimate causes of complaint of an important minority group within that community;
3. the provision of land holdings as a first essential for people who are economically depressed and who have at present no real opportunity of achieving a normal Australian standard of living;
4. the preservation, where possible, of the spiritual link with his own land which gives each Aboriginal his sense of identity and which lies at the heart of his spiritual beliefs.

The battle for land rights was not won with the completion of the Woodward reports, however. Woodward's recommendations had to be made into legislation, and the legislation had to get through Parliament. The Aboriginal Land Bill had just had its seco nd reading on 11 November 1975 when the Whitlam Government was dismissed from power. But even with the rocky road which followed, the new Federal government delivered what is now regarded as not only the best land rights legislation in Australia but also one of our greatest pieces of social justice legislation.

As my friend Ian Viner said when the Act was passed by the House of Representatives on 17 November 1976:

I believe that the passage of legislation to grant land rights to Aboriginals in the Northern Territory will be a most significant and progressive step in the social and political history of this country. It will, at long last, signal acceptance of Ab originals as a people having a unique and distinct culture within Australian society.

Woodward said it was about "the doing of simple justice." He was right, but the Land Rights Act is more than that. It is the most mature step taken by an Australian government in recognising the continuing existence of another system of law in this country. And this is the message from my good news stories. When the Balanda law and their law-making process takes the time to properly engage with our law, we have shown that we can achieve a good result. This is what I have called our signp ost to a better way.

My second story is about how we got the 1993 Native Title Act. The original 1993 Act was the product of genuine engagement and negotiation with Aboriginal people. It produced an historic achievement, compromise and agreement in the spirit of reconcil iation. The Federal Government negotiated directly with the Indigenous peoples of Australia, and the Indigenous peoples made very generous compromises. The most important of these was to give Balanda people absolute security of tenure for all the land w hich they had come to own under Balanda law, even though the High court's Mabo decision said that Indigenous title may still exist.

Our grand gesture of giving absolute security of tenure to that land, the best and most valued land where all the major cities had been built, saved what could have been legal and financial chaos for Australia. In return the Government, the Parliament of Australia, gave us the right to negotiate over land where Native Title exists.

At the time, Indigenous people said that it was not the best deal possible, but accepted the outcome as the best possible under the circumstances. It provided a fair balance of Indigenous and Balanda rights, and more importantly it was a balance which was worked out in conjunction with the Indigenous people. It was an arrangement which arrived at bridging the gap between Yolgnu and Balanda law.

On our map we have now seen the signs for "wrong way-go back", and the signs for "a better way." Let me now turn to what I call the "danger" signs.

Let's now return to the Native Title Act now for a moment. As you should all know by now in 1992 the High Court's Mabo decision overturned the unjust doctrine of terra nullius. They also overturned Blackburn's decision in the Gove case. Chief Ju stice Brennan said "The fiction by which the rights and interests of indigenous inhabitants in land were treated as non-existent was justified by a policy which has no place in the contemporary law of this country."

In 1996 the Wik decision found that Native Title could co-exist on a pastoral lease. And now in 1998 for two whole days the non-indigenous law of this country held that Native Title rights existed in the sea around Croker Island.

On 8 July 1998 the Prime Minister John Howard and Senator Harradine combined to wipe out or extinguish common law Native Title rights in the sea. Let me explain to you what this really means.

When I am at home I love to go with the kids down to the beach and spear some fish. When we have enough I clean the fish at the water's edge. You know – cut the fish open and clean out the guts and scrape off the scales.

We love that. It's a great celebration of the way our country sustains us. We clean the fish and take it up to the houses and give some to our old people. Then we usually have a big barbecue and we eat and talk together.

Now after I've speared and cleaned the fish I can't put it back in the water and tell it to swim away. I look at that fish and say – well, you still look like a fish: why don't you swim away?

We all know it can't swim away: it's got no guts; there's nothing inside it; there's nothing that lets the fish live and breathe and swim. That's what Brian Harradine and the Howard Government have left us with – a gutless Native Title. A fish that c an't swim.

Sure the legislation still looks like a Native Title Act. John Howard can hold up the Native Title Act and say to the rest of the World "We are not mistreating these Aboriginal people; they've still got this law" – but most people can't see inside it; they can't see that the guts are missing.

Most people can't see that the parts that make the fish live and breathe are missing. Our beautiful Native Title fish has been cut open and gutted by Howard and Harradine.

Paul Keating described the original Native Title Act as "ungrudging and unambiguous recognition and protection of native title." The amended Act merely pretends to achieve these important goals; in reality, it diminishes and denies Native Ti tle.

On 6 July 1998, two days before Howard and Harradine took their sharp knife to the Native Title Act, Justice Howard Olney made a decision in favour of the Croker Island people. He said that Native Title exists over off shore seas and sea bed adjoining Croker Island off the north west coast of Arnhem Land. This was the third significant Native Title victory for Indigenous Australians.

Now Aboriginal people have said for a long time that our law never changes. And we have seen many non-indigenous laws come and go – but two days is a record even for Canberra. According to Canberra we held only those rights for two days – what a load o f rubbish. The Aboriginal people of Croker Island have held that title for thousands and thousands of years. They will continue to hold that title even if the politicians in Canberra pretend that they do not.

I rang Senator Harradine when he was in the final stages of his talks with the Prime Minister. I asked him not to change his mind about Native Title. He told me he was worried about the prospect of a race-based election and that Pauline Hanson's One N ation Party might hold the balance of power in the Senate if the Government held an early election. I told him it was better to risk all those things than change his mind. I asked him not to sacrifice Aboriginal people in order to keep John Howard in go vernment.

Aboriginal people asked Senator Harradine with all of their hearts not to change his mind and yet he did. And his one vote made all the difference to our rights. This is not the right way to protect such important, fundamental principles as Indigenou s rights. We should not be the pawns in political battles any more.

Legal advisers to the Northern Land Council tell me that Subdivision H of the Ten Point Plan amendments expressly state that all current and future commercial interests override off shore Native Title property rights. This means that contrary to the Go vernment's claims, the Ten Point Plan amendments extinguish common law Native Title rights.

In other words, our rights have been taken away by Balanda law, but they still exist in Yolngu law. As long as we live and breathe our rights will still exist, because land rights and Native Title are not pieces of paper: they are the Aboriginal peop le.

Native Title is in the ground and the trees, the rocks and the water; it's in the songs and the dancing, its in the painting; it's in me and it's in the land. I ask you to understand this. You can't separate us and you can't destroy it while there i s one Aboriginal person still alive who knows the law. That is why we know we have always had our Native Title and land rights and we always will.

My father and the other elders of the 13 Yolngu clans knew this; the old man Vincent Lingiari he knew this and I know this. We know these things to be true. I received the title in the land from those old people and there is nothing I can do: I cann ot refuse that title because it is inside me. Land rights and Native Title cannot really be taken away from us. The Balanda just think they can.

We have seen how the actions of the current government have undermined the gains under the Native Title Act, turning a great historic result into a tragedy. We should not allow the same mistakes to be made with the Land Rights Act.

It worries us that rights can be recognised and then taken away. It worries me that Federal Government John Reeves is cancurrently reviewing the Land Rights Act, but ignoring the wisdom of the Aboriginal people and that knowledge which has been accumu lated by the Land Councils– the representatives of the traditional Aboriginal owners and those who hold the law – where Woodward said he couldn't write his report without us. It makes me worry that we may have another fight on our hands.

The current Review of the Land Rights Act is denying the very principles which define land rights. We don't oppose the Review, in fact we support a process which looks at ways of improving the operation of the Act without taking away our rights. But I see that here is another intersection of Balanda and Yolgnu law and we need to avoid a damaging collision. I wrote to the Minister responsible, Senator John Herron, and the reviewer, John Reeves QC, suggesting ways of getting the most mutually benefici al outcomes. My suggestions were ignored. The Federal and NT Governments have made no secret of their intention to attack our rights through this Review.

We now face the most serious threat to Yolgnu law since the Gove case. What is at stake is the governments' desire to reduce our control of what happens on our country and in so doing gutting the essence of land rights. Not content with one line of a ttack, the Federal Government has also commenced a further review of the Land Rights Act under the

government's competition policy. This sums up the reason why Balanda law-makers can't grasp Yolgnu law. They look at our law in the context of economic ef ficiency.

It looks dangerously like another bad intersection of the Balanda law process and the Yolgnu law. We want to avoid the fiasco which resulted in the recent amendments to the Native Title Act and we want to avoid the gutting of the Land Rights Act.

How can we avoid repeating the mistakes of the past?

So far tonight I have taken you on a journey into the past. But now I want to talk about the future.

You have seen from my story and my history that although Yolgnu law has stabilitystays the same, the Balanda law changes all the time and can wipe away our rights with the stroke of a pen. When the two meet, unless there are special measures made to h elp each law speak to each other and understand each other, we can get it very very wrong. This is not a very good system, and I am here to make some suggestions to improve it.

The recent debate over NT Statehood and a new NT Constitution has triggered a solution for this problem. On thinking about why Yolgnu law and Balanda law find it hard to sit together, I've realised that it is because our two laws are not the same. Th ey are not at the same level.

Our Yolgnu law is more like your Balanda Constitution than Balanda legislation or statutory law. It doesn't change at the whim of short-term political expediency. It protects the principles which go to make up the very essence of who we are a nd how we should manage the most precious things about our culture and our society. Changing it is a very serious business. If we are to get the balance of Yolgnu and Balanda law right, we need to get the relationship right.

To truly protect and recognise Yolgnu law I I think that constitutional change is the answer. We want our law to be protected by the highest law in Australia, and that's the Constitution. If our Indigenous rights were recognised in the Constitution, it would not be so easy for Governments to change the laws all the time, and wipe out our rights.

As Australia moves towards a new Constitution as part of the movement to a republic, I call on those Minimalist Republicans out there to listen to me. The first Aust ralian Constitution was developed without the consent of the Indigenous people and ori ginally only referred to us twice, both times in a negative way. Now, since the 1967 referendum, we are not in there at all.

There must be more changes to our Constitution than just changing the name of the head of state and where he or she comes from. Aboriginal people are not great royalists, but there is no reason for us to ac cept constitutional change if it is like 1901 all over again and leaves us out in the cold.

One commentator has described the lack of constitutional recognition of Indigenous peoples as "living the lie":

A country which lives the lie that it is a spontaneous creation of one or more European peoples, a grand expanse of opportunity created in a generous fit of reason, while the original inhabitants remain scattered around the fringes in poverty or are ha uled in to the jails as the result of the destruction of their societies, laws, self-governing arrangements, and culture by the European newcomers … such a country cannot bear the scrutiny of its own citizens, let alone the rest of the world.

A Constitution should be about the rights of the people, not the powers of Government.

We have a unique opportunity to practice try out these ideas in the Northern Territory. The Federal Government has recently announced that the move towards the NT becoming a State will be through a vote of both houses of Federal Parliament rather than through a national referendum.

You are probably all thinking that I am anti-Statehood and that I'm going to launch into a diatribe about why the NT shouldn't get any more power than it already has. Well, perhaps I'm going to disappoint you.

I do not agree with those who want to deny the Northern Territory its Statehood just because the CLP has been the political party in Government since self government was granted in 1978.

But you must recognise that the Northern Territory Government's direct opposition to a number of matters that have affected Aboriginal people directly during the period of self government have made Aboriginal people in general suspicious of the Governm ent's intentions.

Since self government in 1978 they have been politically and administratively hostile towards land rights, our people and our law. actions have included the expansion of Darwin's Town Boundaries to larger than those of greater London in an attempt to defeat the Kenbi Land Claim and the absolute opposition to the traditional owners having their land title to Uluru recognised. By opposing nearly every land claim the Northern Territory Government has also overseen the creation of a completely adversarial system in the Land Commissioner's Court.

In fact, my friend Professor Garth Nettheim has recently suggested that Indigenous people have a lot to thank the NT Government for, because by sending all those land rights cases to the High Court, it ensured that the judges all learnt a lot about Abo riginal law! By the time they were sitting on the Mabo case, they had already understood a lot about Indigenous land tenure and traditional law. No wonder they didn't have any problems in finding that native title still existed!

Aboriginal Territorians are entitled to question any supposed benefits of Statehood without being branded anti Territorian or mean-spirited. I shouldn't have to remind anyone involved in the political process that we are the original Territorians.

The introduction of mandatory sentencing, euthanasia and zero tolerance policing are examples of policies pursued by the Territory Government which are directly contrary to the wishes and interests of Indigenous Territorians.

Earlier this year, the NT held a "Statehood" convention. Most of the delegates were handpicked, and most of the Aboriginal delegates walked out because of the racism displayed at the convention, but the Government is still claiming that this convention reflected the "people's voice". The convention decided that the Northern Territory should become a State, that the State should be called the State of the Northern Territory, and that the Northern Territory become a State as soon a s possible, but did not finalise the form of the new Constitution.

In other words the most important issue that faced the convention – the real work of the convention - was not decided.

It was heartening to see that the convention did say that Aboriginal customary law should be recognised as a source of law within the new Constitution. But this is not enough. It is nowhere near enough for us to consent to Statehood.

The proposed Constitution as passed by the NT Parliament last week is a sad and sorry document. It is a weak Constitution. It is also an old-fashioned Constitution. An eminent Australian constitutional lawyer said last week that it is like a Constit ution from the nineteenth century.

It contains very few provisions which protect the human rights of all Territorians. There is still no provision for freedom of information, for example, or a guarantee of the separation of powers between the government, courts and executive. There ar e no brakes on the power of the executive to make decisions, and there is no change to the electoral system.

This Constitution doesn't work for anyone. I also doubt that the Federal Parliament would accept such a document as the Constitution for a new State.

We have now heard that there is only going to be one question on the referendum. That question will ask us whether we accept Statehood for the Northern Territory based on the Constitution which came out of the Convention and NT Parliament.

The only answer to that question can be NO.

We cannot accept that Constitution. This is not a no to Statehood, but a no to a Constitution which does not work for anyone.

Aboriginal people are moving quickly now to put together an alternative, for the benefit of all Territorians. This week in Kalkarindji, the home of the man whom we honour tonight, a gathering of the Aboriginal people of central Australia is taking pla ce to talk about Statehood and the Constitution. I was there with them earlier this week, and I can tell you that Aboriginal people are getting serious about protecting our rights.

The people of central Australia are developing their position, and electing their delegates to take their views to a Territory-wide Indigenous constitutional Convention which is being held in October this year.

At the same time, here in the Top End, ATSIC and the NLC are going around talking to Aboriginal people about what they want to see in a new Constitution.

Our Convention in October is going to be an historic occasion. We have been denied constitutional protection and recognition for 210 years. This is our chance to secure our ancient rights so that Governments can't just wipe them out, and so that our law stands equal with yours. Our convention is not so much about Statehood as about the terms of the Constitution. This is the important issue; this will be the highest law in the NT and it must protect the r ights of all Territorians.

I would like to try and advance the Statehood debate by proposing a couple of principles and a process that could ultimately lead to Aboriginal support for the Northern Territory becoming the seventh state of Australia.

Consent to Statehood from Aboriginal Territorians would have to be based on three conditions:

First, Aboriginal Territorians must be able to clearly see a benefit from any proposed changes. This means that the Constitution of the new State must protect our distinctive Indigenous rights, se cure the human rights of all Territorians , and guarantee an open, fair, accountable and democratic system of Government.

Second, we must be given a guarantee that any of our existing rights would not be altered without our express permission. This includes the Land Rights Act remaining with the Commonwealth Government, until such time as Aboriginal Territorians may agre e to its transfer the NT..

And third the Government meets a peak gathering of Aboriginal people to negotiate the final terms of Aboriginal support for Statehood.

It is my view that these are not onerous conditions. There is no need to rush into a referendum on these issues. The current proposal to conduct a referendum at the next Federal election will be counter productive. People can't be expected to make a decision on Statehood without first seeing the details of what it will mean, and this requires better knowledge of the proposed Constitution. Our voice has not been heard in the NT Government's current propo sal.

The question is: will the Northern Territory Government engage Aboriginal people in a real debate about Statehood and the Constitution? I truly hope so, because it is time that we had a better system of la ws in this country. It is time that Indigeno us law is recognised and protected, so that we do not have to fight for our rights all the time. We need some guarantees that Balanda law can't change our rights as often as it changes Federal Governments. We also need to show that Australia has grown u p as a nation, and can embrace us, the Indigenous people, and our culture, history and law.

Reconciliation is an easy word to say, but provides no mechanism for change. Constitutional change provides the mechanism to truly reconcile our two laws.

Friends: I thank you for listening to me tonight and I thank the organisers of the lecture and especially my friend, my sister, Professor Marcia Langton. I thank the Larrakia people for having us on their land, and the Gurindji people for giving us o ne of the finest role models we have; a man who never gave up.