

# The Sydney Morning Herald

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## Mature debate needed on Indigenous recognition

OPINION

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Labor leader Bill Shorten is accused of jinxing the "yes" case for a referendum on whether the Australian constitution should recognise Indigenous Australians. He is criticised for daring to agree that once constitutional recognition is achieved, a treaty might be in order.

As of now, the yes case is supported by 77 per cent of non-Indigenous people and 87 per cent of Indigenous people, according to recent polling. But the Prime Minister says this support could collapse if we start talking about a treaty. In other words, don't mention the war.

In his solo Q&A appearance on Monday night Mr Shorten was pressed on the question of whether he would describe British settlement of this country as an invasion. He conceded that if he were an Aboriginal or Torres Strait Islander, yes, he would. So far, so obvious. He also said that yes, we should "have our first Australians mentioned in the national birth certificate, the constitution," thereby agreeing with nearly all the 3000 non-Indigenous and 750 Indigenous people surveyed in March by the polling company Polity for Recognise, the lead advocacy group for constitutional recognition.

Mr Shorten went on to say he thinks we need to move beyond just constitutional recognition to talking about what a post-constitutional recognition settlement with Indigenous people would look like. Asked whether such a settlement could look like a treaty, he replied "Yes".

That is the basis on which Prime Minister Malcolm Turnbull accuses Mr Shorten of acting irresponsibly. "To introduce another element, a treaty, the terms of which is unknown, adds a level of uncertainty that puts at risk the constitutional recognition process," the Prime Minister said.

Why, in more than two centuries of white settlement, has it never been the right time for a treaty with Indigenous Australians?

Among the US, Canada and New Zealand, with comparable settlement histories, Australia is alone in failing to recognise Indigenous sovereignty by way of treaty. We have been talking about it since the Fraser years. Bob Hawke promised a treaty when he was Prime Minister. John Howard quashed it in 2000. No prime minister has championed a treaty since.

Who is Mr Turnbull really talking to by rebuking Mr Shorten in this way? He is talking to another white man, for one thing. He may also be seeking to assuage those in the right wing of his own party who are hostile to the concepts of "invasion" and "treaty".

If we have learnt anything from the sorry saga of failure in Indigenous affairs in this country it is that ignoring the views of Indigenous people on reforms meant to

change their lives is not just morally questionable but a very effective way to doom those reforms. If invasion and treaty are considered dangerously emotive words to use, think of child mortality, domestic violence, illiteracy, incarceration, discrimination, the dangerously emotive realities of life for the most marginalised Australians.

Last week the nation's peak Indigenous bodies joined forces to issue a historic manifesto. It called for Aboriginal and Torres Strait Islander voices to be heard and respected during the election campaign. It set out a detailed plan of what needs to be done to address the profound disadvantage faced by their communities. Crucially, it called for the next federal government, whether Coalition or Labor, to "commit to addressing the unfinished business of reconciliation ... which includes an agreement making framework (treaty) and constitutional reform in consultation with Aboriginal and Torres Strait Islander peoples and communities".

In light of this, Mr Turnbull's attempt to shut down any debate about a treaty, even while agreeing that "invasion" is a fair description for the arrival of the First Fleet in 1788, looks rather shabby.

A treaty is not an alternative to constitutional change. The two can proceed side by side. Is the Prime Minister looking for an excuse to kick the referendum into the future by setting the scare hares running on a treaty? No date has been set as yet.

Rejection of the recognition case at a referendum would be a terrible result. But if people want to talk about a treaty as well as constitutional reform, we need to talk about it. Even if it is a messy and complex discussion, we need to have it. The Herald calls on leaders of all sides to recognise this opportunity for transformational nation-building and lead it with the appropriate integrity.