Australian constitutional proposals will worsen Aboriginal oppression

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A 22-person panel appointed by the Gillard government released a report last month proposing changes to the Australian constitution that would purportedly give the federal government new powers for the "advancement" of indigenous people. Far from addressing the appalling social conditions of ordinary indigenous Australians, the amendments would authorise the imposition of regressive programs that will only worsen the plight of Aboriginal people.

In late 2010, the Labor government appointed a panel of politicians, business CEOs, government bureaucrats and academics to deliver a report on "Recognising Aboriginal and Torres Strait Islander peoples in the Constitution." Such recognition had been proposed by the previous Howard government in 2007, the same year in which it launched the unprecedented police-military intervention against Aboriginal communities in the Northern Territory (NT).

This intervention, based on a series of unproven news reports claiming that paedophilia and child prostitution were rampant in indigenous communities, vilified Aboriginal people as alcoholics and drug addicts, suspended the 1975 Racial Discrimination Act and imposed a series of anti-democratic measures against Aboriginal communities. Aboriginal land was compulsorily acquired or communities were coerced into signing long-term leases by cutting funds for essential services, and welfare recipients had up to 70 percent of their income "quarantined"—able to be spent only on food and essentials.

Since taking office in late 2007, the Labor government has not only extended the NT intervention, but broadened it to impose welfare quarantining in working class areas across the country. Four years after former Prime Minister Kevin Rudd issued a token apology to the indigenous population for past injustices, most Aboriginal communities still live in squalor, subject to discrimination, unemployment and denial of basic services.

Significantly, a Greens MP and independent Rob Oakeshott joined the government's panel, sitting alongside Labor and Liberal MPs, so that it represented the entire political establishment. More than half the panel consisted of indigenous business entrepreneurs, high-ranking public officials and university professors. They included Noel Pearson, the most vocal Aboriginal advocate of ending what the government terms "passive welfare dependency", in favour of pushing indigenous people into business ventures or low-paid employment, especially in the mining, pastoral and tourism industries.

The entire report was based on the program of "reconciliation," adopted over the past 40 years to incorporate this privileged layer into the political establishment. This perspective is built on identity politics—blaming "white society" instead of the capitalist system for the oppression of Aborigines, and seeking to divert from the ever-widening social divide between the corporate elite and the working class as a whole. The first "principle" guiding all the panel's recommendations was to "contribute to a more unified and reconciled nation."

The report's major proposal was the insertion of a new section, 51A, in the constitution, "acknowledging the need to secure the advancement of Aboriginal and Torres Strait Islander peoples" and authorising law-making "for the peace, order and good government of the Commonwealth with respect to" indigenous people.

This explicit "affirmative action" provision would

replace another clause, which was amended in 1967, when the Australian population voted overwhelmingly in a referendum to give parliament powers to legislate for "the people of any race, for whom it is necessary to make special laws." That power was also presented as a means to redress historic injustices. It has in fact been used for measures, such as the recognition of "native title" and other "land rights," that have only enriched a tiny Aboriginal elite at the expense of ordinary Aborigines.

Over the past 40 years, the High Court has also interpreted that power to legitimise repressive policies. In the 1997 case of *Kruger*, the judges unanimously dismissed legal action against the decades-long "stolen generations" policy of forcibly removing Aboriginal children from their parents. The court ruled that the policy—which sought to ultimately eliminate so-called full-blooded Aborigines—was adopted "in the best interests of the Aboriginals concerned or of the Aboriginal population generally." The new section 51A power would be interpreted no differently.

Another of the constitutional panel's recommendations was to remove an overtly racist provision of the constitution, section 25, which permits Australia's states to deny voting rights to Aborigines, as happened in Queensland until 1965. Section 25 was part of the "White Australia" policy, which sought to secure the continent as an outpost of the British Empire, while shoring up the position of the emergent Australian capitalist class. In its place, the nostrums of "positive discrimination" will be used to continue the oppression of the Aboriginal people.

The constitutional panel also recommended a new section, 127A, declaring English "the national language of Australia", and the Aboriginal and Torres Strait Islander languages "the original Australian languages." No explanation was provided for the reactionary English-language proposal, which could force indigenous schools to teach English as the first language and open the way for discriminatory official measures—such as English-language tests—against immigrants and other people from non-English speaking backgrounds.

Another section proposed by the panel, 116A, would ban discrimination on the grounds of "race, colour or ethnic or national origin," except "for the purpose of overcoming disadvantage, ameliorating the effects of past discrimination, or protecting the cultures, language or heritage of any group." This clause could be used to override the Racial Discrimination Act and authorise further NT-style interventions, under the banner of positive discrimination.

Significantly, the panel categorically ruled out any perspective that could entrench any universal political or legal rights in the constitution. In keeping with its origins, the Australian constitution has no bill of rights and provides no protection for even elementary democratic rights, including the right to vote. The panel specifically rejected calls for guarantees of equality, and emphasised it was "not advocating a bill or statement of rights."

Even so, the proposed section 116A came under immediate fire within ruling circles, in conditions where successive governments have made inroads into basic legal and democratic rights over the past decade. Liberal Party opposition leader Tony Abbott expressed concerns about a "one-clause bill of rights." An *Australian* editorial warned against introducing a "narrow rights dimension into our Constitution," with "unintended consequences and the risk of over-interpretation."

Far from correcting its historical crimes, the Australian capitalist class wants no legal barriers to the commitment of new ones. Over the past decade, a battery of anti-democratic measures have been put in place in the name of combating terrorism that will be used against working people as they resist the austerity agenda being imposed by governments. The democratic rights and living standards of Aboriginal people will only be advanced as part of the struggle by the working class as a whole to abolish capitalism and reconstruct society on socialist lines.