

A Synodal Church: Responding to the Signs of the Times

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I have been asked to consider two questions: Responding to modern challenges, how can the principles of synodality help the church navigate and respond to current social, cultural, and political issues?

Committed to inclusivity and participation, how can we involve all members of the church, including those who are often marginalised, in decision-making processes?

I will open up the two questions with two case studies: the Synod's handling of the issue of women's ordination, and our bishops' response to last year's referendum on the Voice.

First, women's ordination and the Church's response to an undoubted urgent sign of the times.

Second, last year's referendum and the ambivalence of our bishops while heeding the voice of NATSICC.

- **Women's ordination and the Church's response to an undoubted urgent sign of the times**

For many years, there has been discussion about two distinct matters: the theological possibility of women priests and the historical evidence for women deacons in various branches of the Catholic Church. Back in 1988, Cardinal Ratzinger, as he then was, spoke at an event in New York where he agreed 'that

the God of philosophy is neither male nor female, and the God of theology is both'¹. He told the audience that the matter of women's ministry as deacons or priests was under study by the Congregation for the Doctrine of the Faith. In 2002, after 28 years of consideration of the matter, the International Theological Commission could not come to a definitive answer on the historical reality of women deacons concluding that 'it pertains to the ministry of discernment which the Lord established in his Church to pronounce authoritatively on this question.'² Whatever that means!

In 2016, the International Union of Superiors General asked Pope Francis to consider the possibility of women deacons in the contemporary Church. He set up a commission. On 7 May 2019, Pope Francis was asked about the work of the commission during a press conference on a flight back to Rome. He said: 'The commission was created and has worked for almost two years. They were all different, all "toads from different wells". They all thought differently, but they have worked together and have agreed to a certain extent. But, each of them has their own vision that does not agree with that of the others. And there they have stopped as a commission and each one is studying how to move forward.' He concluded his answer by saying, 'we have reached a point and now each of the members is studying according to their thesis. This is good. *Varietas delectat*. (Variety delights!)'³

Some months later, the participants in the Special Synod of Bishops for the Pan-Amazon Region voted 137 to 30 in favour of the Pope investigating further the possibility of women deacons. In his final address to that Synod, Pope Francis indicated that he welcomed 'the request to reconvene the Commission and perhaps expand it with new members in order to continue to study the permanent diaconate that existed in the early Church'⁴.

¹ Quoted by Phyllis Zagano, 'The Question of Governance and Ministry for Women', *Theological Studies* 68 (2007) 348 at p. 364

² International Theological Commission, *From the Diakonia of Christ to the Diakonia of the Apostles*, 2002, p. 49 at

<https://www.vatican.va/romancuria/congregations/cfaith/ctidocuments/rcconcfaihp05072004diaconateen.htm>

³ Pope Francis, Press Conference, 7 May 2019, at <https://www.vatican.va/content/francesco/es/speeches/2019/may/documents/papa-francesco20190507macedoniadelnord-voloritorno.html>

⁴ Pope Francis, Closing of the Works of the Special Assembly of the Synod Of Bishops For The Pan-Amazon Region On The Theme: "Amazonia: New Paths For The Church And For Integral Ecology", 26 October 2019 at <https://www.vatican.va/content/francesco/en/speeches/2019/october/documents/papa-francesco20191026chiusura-sinodo.html>

One of those who served on the 2016 commission is the highly respected American theologian Phyllis Zagano. Prior to her appointment, she published an academic article on ‘Women Deacons in the Maronite Church’ stating, ‘Without question, women were ordained as deacons in many Eastern churches, as copious research demonstrates.’⁵ Since completing her term on the papal commission, she has published a book entitled *Women: Icons of Christ*. She concedes that ‘the Church teaches women cannot be ordained as priests’. But she then states correctly: ‘it does not teach definitively that women cannot be ordained deacons.’⁶ She reminds us that ‘Phoebe is the only person in Scripture with the descriptor “deacon” and that Paul did not feminise her title to “deaconess”.’ She concludes: ‘That women deacons existed cannot be denied, nor can their participation in sacramental ministry.’ What troubles her most is that ‘Beneath every objection to restoring women to the ordained diaconate is the suggestion that women cannot image Christ.’⁷ For her, this is not only a scandal: ‘it is the disfigurement on the entire Body of Christ’ and it ‘is probably formally heretical’⁸. I quote her because she spent years researching this topic before being appointed to the papal commission. She expressed such views before her appointment, and she has consistently expressed them since.

We who are called to share the bread of life believe that Jesus had to be human so that we might be saved. Being human, he had to be either male or female. He could not be both. That did not mean that only half humanity could be saved. Nor did it mean that only half humanity could be ‘icons of Christ’. Zagano demonstrates in her researches that women were ordained deacons in situations when there was a need for women to minister particularly to women and girls. They were ‘included in the order of deacon, not only in the early church but at least until the twelfth century in the west (and the East up to modern times)’⁹. Back in 2012, Zagano said, ‘at some point, however, bishops are going to have to answer the question the International Theological Commission attempted to answer.’¹⁰

⁵ Phyllis Zagano, ‘Women Deacons in the Maronite Church’, *Theological Studies* (2016) 593 at p. 595

⁶ Phyllis Zagano, *Women: Icons of Christ*, Paulist Press, 2020, Introduction, p. 3

⁷ *Ibid*, Conclusions, p. 1

⁸ *Ibid*, Introduction, p. 1

⁹ Phyllis Zagano, ‘The Case for Women Deacons’, *Commonweal*, 10 December 2012

¹⁰ *Ibid*.

Having reflected on the writings of Zagano, I now more readily understand why so many women in the Church are frustrated or angry or both. The question about women deacons deserves an answer now. Not even Pope John Paul II claimed to have closed the door on that one. The matter has been crying out for the discernment called for by the International Theological Commission in 2002 – 22 years ago! Having given up on his first commission of ‘toads from different wells’, Pope Francis set up a second commission. He then convened the 16th Ordinary General Assembly of the Synod of Bishops to consider the issue of synodality.

What is synodality? It is the ‘*modus vivendi et operandi* of the Church, the People of God, which reveals and gives substance to her being as communion when all her members journey together, gather in assembly and take an active part in her evangelizing mission’. The key concepts are communion, participation and mission.

The first session of the Synod on Synodality took place in October 2023. There has been a lot of praise for Pope Francis convening a synod where participants sat at round tables. Of the 363 eligible to vote, 54 were women. That’s a record – 15%- but not much to write home about. As the Synthesis Report published after the first session noted: ‘Women make up most of those in our pews’.¹¹ Yes, there were 54 women with voting rights, but also 54 cardinals. Though everyone sat at round tables, the clerics were all in their full clerical attire – and the zucchetos, the small skull caps, were always worn marking the clear order of precedence – white for the pope, red for cardinals and violet for bishops.

On the last day, the participants voted on the proposals put forward in the 41 page synthesis document which had been amended about a thousand times. Of the 81 proposals voted on, the most ‘no’ votes came for the paragraphs on female deacons.

The Synthesis Report made it clear that local churches were then to take up the issues raised, engaging in spiritual conversation and discernment, so that Synod participants could return to Rome this coming October. ‘Taking their starting

¹¹ XVI Ordinary General Assembly of the Synod of Bishops, First Session, *A Synodal Church in Mission: Synthesis Report*, p. 19.

point from the convergences already reached, (episcopal conferences were) called to focus on the questions and proposals that are considered most urgent.’¹²

Under each topic, the document set out convergences, matters for consideration and proposals. It described only four of these as urgent. They were climate change¹³, the need for unity in a world of violence and fragmentation¹⁴, support for families in ensuring that the online space is not only safe but also spiritually life-giving¹⁵, and ensuring that women can participate in decision-making processes and assume roles of responsibility in pastoral care and ministry¹⁶. Cardinal McElroy from the USA, one of Pope Francis’ captain picks in that divided bishops’ conference, made the point that of the 81 proposals voted on, ‘There’s only one that’s called urgent. And that is bringing women into greater roles of leadership at all levels of the church. Not a single one has the word urgent or any equivalent word except for that one.’¹⁷

At the 2019 Amazon synod, there had been talk of ordaining women as deacons. In the lead up to this Synod, Phyllis Zagano a long-time advocate for women’s diaconate predicted:

‘There will be significant argumentation against ordaining women as deacons, but to say women cannot be ordained, only installed to a quasi-diaconal ministry, insults their baptismal equality. The false argument against restoring women to the ordained diaconate—that women cannot image Christ—is implicitly if not directly the cause of the denigration and disrespect for women on every continent. As the *Instrumentum Laboris* points out, “A synodal Church must address these questions together, seeking responses that offer greater recognition of women’s baptismal dignity and rejection of all forms of discrimination and exclusion faced by women in the Church and society.”’¹⁸

¹² Ibid, p. 2.

¹³ Ibid, p. 10

¹⁴ Ibid, p. 12

¹⁵ Ibid, p. 33

¹⁶ Ibid, p. 20

¹⁷ See <https://www.ncronline.org/vatican/vatican-news/exclusive-cardinals-cupich-mcelroy-say-impossible-go-back-synods-without-lay>

¹⁸ Phyllis Zagano, ‘Women Deacons? The synodal process & women’s ordination’, *Commonweal*, 23 July 2023, available at <https://www.commonwealmagazine.org/synodality-francis-diaconate-women-clericalism-grech>

The section of last year's Synthesis Report entitled 'Women in the Life and Mission of the Church' commenced with what are said to be matters of convergence including these three:

1. 'We are created, male and female, in the image and likeness of God. From the beginning, creation manifests unity and difference, bestowing on women and men a shared nature, calling, and destiny, and two distinct experiences of being human. Sacred Scripture testifies to the complementarity and reciprocity of women and men, and to the covenant between them that lies at the heart of God's design for creation.'¹⁹
2. 'We have had a very positive experience of the reciprocity between women and men during this Assembly. Together we echo the call made in the previous phases of the synodal process, that the Church adopt a more decisive commitment to understand and accompany women from a pastoral and sacramental point of view.'²⁰
3. 'The Assembly asks that we avoid repeating the mistake of talking about women as an issue or a problem. Instead, we desire to promote a Church in which men and women dialogue together, in order to understand more deeply the horizon of God's project, that sees them together as protagonists, without subordination, exclusion and competition.'²¹

Moving on from convergences to matters for consideration, the document stated:

'Different positions have been expressed regarding women's access to the diaconal ministry. For some, this step would be unacceptable because they consider it a discontinuity with Tradition. For others, however, opening access for women to the diaconate would restore the practice of the Early Church. Others still, discern it as an appropriate and necessary response to the signs of the times, faithful to the Tradition, and one that would find an echo in the hearts of many who seek new energy and vitality in the Church. Some express concern

¹⁹ XVI Ordinary General Assembly of the Synod of Bishops, First Session, *A Synodal Church in Mission: Synthesis Report*, p. 18

²⁰ *Ibid*, p. 19

²¹ *Ibid*, p. 19

that the request speaks of a worrying anthropological confusion, which, if granted, would marry the Church to the spirit of the age.’²²

So we got the full spectrum of views there in the document published last October – from a full throated YES to an adamant NO, not ever.

Then came the proposals including:

- ‘**It is urgent** to ensure that women can participate in decision-making processes and assume roles of responsibility in pastoral care and ministry.’
- ‘Theological and pastoral research on the access of women to the diaconate should be continued, benefiting from consideration of the results of the commissions specially established by the Holy Father, and from the theological, historical and exegetical research already undertaken. If possible, the results of this research should be presented to the next Session of the Assembly.’²³

Christopher Lamb in *The Tablet* reported: ‘One source close to the proceedings put it this way: “The progressives got the process, and the conservatives got the content.”’

Consensus, or at least the necessary 2/3 vote on each proposal, obviously came at a price. But that price is altogether too high when we are told that the research and findings of two previous commissions on women’s diaconate be presented at this coming October’s session only ‘if possible’. If this was the only urgent proposal to result from this phase of the Synod, surely it was essential that these findings be published well ahead of the next session of the assembly, and surely the Pope should have been presented with a clear recommendation, one way or the other.

The document noted ‘Different positions have been expressed regarding women’s access to the diaconal ministry.’ But it said not a word about women’s access to priestly ministry. Does this mean that no one mentioned it or suggested it or even ruled it out. Why weren’t the drafters of the document able to say of

²² Ibid, p. 20

²³ Ibid, p. 20

women's priestly ordination what was said in part of women's diaconate, namely: 'For some, this step would be unacceptable because they consider it a discontinuity with Tradition. Others still, discern it as an appropriate and necessary response to the signs of the times, faithful to the Tradition, and one that would find an echo in the hearts of many who seek new energy and vitality in the Church. Some express concern that the request speaks of a worrying anthropological confusion, which, if granted, would marry the Church to the spirit of the age.'

At the same time as the publication of this church document, Australia's first woman chief justice of the High Court gave an interview on her retirement tracing the pioneering steps she had taken in the legal profession. Chief Justice Susan Kiefel said, 'At core, what we were looking for was simply an equal opportunity. We were looking for a fair go, and a chance to prove ourselves.'²⁴ When she commenced the practice of law, it was unthinkable that a woman would ever become a High Court judge. She lived to see a seven member High Court with a majority of women as the members. I have often mused that when my mother was growing up, it was unimaginable that a woman would be prime minister, governor-general or chief justice. Her daughters and grand-daughters have known all three.

The roundtables at the first session of the Synod was a good start. 15% of the voters being women was a good start. The spiritual conversation and deep, attentive listening was a good start. But there is still far too much of this being called Father, Your Grace and My Lord, with all the accoutrements of clerical office. From this other side of the world it does seem to me that during the first round, 'the progressives got the process, and the conservatives got the content.'

Last Tuesday, 4 male clerics gave a press conference at the Vatican releasing the *Instrumentum Laboris*, the working document for the next session of the Synod to be held in October.²⁵ The document is entitled 'How to be a missionary synodal church'. The document notes: 'Without tangible changes, the vision of a synodal Church will not be credible. This will alienate those members of the People of God who have drawn strength and hope from the synodal journey. This

²⁴ <https://www.afr.com/companies/professional-services/we-were-looking-for-a-fair-go-susan-kiefel-on-her-rise-to-the-top-20231031-p5eg8c>

²⁵ See <https://www.synod.va/en/news/the-instrumentum-laboris.html>

applies most especially to the effective participation of women in drafting and decision-making and taking processes'²⁶. You'd think they could have started with a woman member of the Synod presenting some remarks at the press conference announcing the next steps of the Synod to the world. But no, it was back to the old time Vatican approach, despite some splendid words of inclusion and transparency in the document, with the male clerics announcing the way forward. For example, the document states: 'It is difficult to imagine a more effective way to promote a synodal Church than the participation of all in decision-making and (decision) taking processes. This participation takes place based on a differentiated responsibility that respects each community member and values their respective skills and gifts in view of a shared decision.'²⁷ When asked about the four gentlemen in Roman collars presenting the document, Cardinal Jean Claude Hollerich SJ, the relator general of the synod, 'said that greater diversity is "the ideal situation where we want to go," but that the four European clerics at the dais are "the actual situation."²⁸

I have confessed to some fatigue and frustration with the synod process since Pope Francis' interview on CBS television on 20 May 2024 when he said unequivocally that he was ruling out the possibility of ordaining women deacons. He was asked if women would ever have 'the opportunity to be a deacon and participate as a clergy member in the church'. Francis answered promptly and unambiguously, 'No'. When pressed by the CBS reporter, he explained: 'If it is deacons with Holy Orders, no. But women have always had, I would say, the function of deaconesses without being deacons, right? Women are of great service as women, not as ministers, as ministers in this regard, within the Holy Orders.'²⁹

In this new document, there is a section entitled: 'Sisters and brothers in Christ: a renewed reciprocity'. It states: 'The first difference we encounter as human persons is between men and women. Our vocation as Christians is to honour this God-given difference by living within the Church a dynamic relational

²⁶ *Instrumentum Laboris (IL): How to be a missionary synodal church, Instrumentum Laboris for the Second Session (October 2024)*, available at <https://www.synod.va/en/the-synodal-process/phase-2-the-discernment-of-the-pastors/the-second-sessionofthe-XVI-assembly1/the-instrumentum-laboris.html> #71

²⁷ *IL*, #67

²⁸ See <https://www.ncronline.org/vatican/vatican-news/vatican-synod-agenda-focuses-participation-and-inclusion-not-hot-button-issues>

²⁹ See <https://cruxnow.com/vatican/2024/05/pope-francis-tells-cbs-news-women-cannot-receive-holy-orders-even-as-deacons>

reciprocity as a sign for the world.’³⁰ Talk of reciprocity and difference is fine provided that the inherent human dignity of all human persons is affirmed equally. If equality is absent, talk of reciprocity and difference can become a foil for ongoing, traditional, unwarranted, adverse discrimination.

Acknowledging that ‘God chose women as the first witnesses and heralds of the Resurrection’, the document affirms that ‘By virtue of Baptism, women enjoy full equality, receive the same outpouring of gifts from the Spirit, and are called to the service of Christ’s mission.’³¹ Reading this, I recalled the cartoon of the bearded apostles greeting the women with the words, ‘So ladies, thanks for being the first to witness and report the resurrection and we’ll take it from here.’

We are all called to ‘a conversion to a vision of relationality, interdependence and reciprocity between women and men, who are sisters and brothers in Christ, oriented to a common mission. The communion, participation and mission of the Church suffer the consequences of a failure to transform relationships and structures.’³²

After speaking of a multitude of ways in which women can be given more responsibility in seminaries and on canonical tribunals, the document then comes to the hot button issue of women’s ordination and kicks the can further down the road:

‘While some local Churches call for women to be admitted to the diaconal ministry, others reiterate their opposition. On this issue, which will not be the subject of the work of the Second Session, it is good that theological reflection should continue, on an appropriate timescale and in the appropriate ways. The fruits of Study Group 5, which will take into consideration the results of the two Commissions that have dealt with the question in the past, will contribute to its maturation.’³³

Study Group 5, like all 10 study groups, will not complete its work until June 2025, seven months after the conclusion of the synod. However the Study Group will present a progress report to the Synod in October.

³⁰ *IL*#13

³¹ *IL* #13

³² *IL* #14

³³ *IL* #17

Here in Australia where women's equal participation in all aspects of public life has accelerated rapidly this past generation, it is not surprising that young women, and young people generally, take exception to a church where all offices are not open to men and women. As we continue to discern the action of the Spirit in our church let's take heart from the observation in the *Instrumentum Laboris*:

'Adopting a synodal style enables us to overcome the idea that all Churches must necessarily move at the same pace on every issue. On the contrary, differences in pace can be valued as an expression of legitimate diversity and an opportunity for the exchange of gifts and for mutual enrichment. In order to be realised, this horizon needs to be embodied in concrete structures and practices.'³⁴

Let's hope our bishops are prepared to step out, if even ahead of their colleagues in Rome.

The *Instrumentum Laboris* acknowledges:

'The journey so far has led to the recognition that a synodal Church is a Church that listens, is capable of welcoming and accompanying, and is perceived as home and family. A need emerges in all continents concerning people who, for different reasons, are or feel excluded or on the margins of the ecclesial community or who struggle to find full recognition of their dignity and gifts within it. This lack of welcome leaves them feeling rejected, hinders their journey of faith and encounter with the Lord, and deprives the Church of their contribution to mission.'³⁵

Whatever our frustrations with the institutional church in the era of change, ageing and diminishment, we are urged to be 'pilgrims of hope' continuing 'to advance along the synodal path towards those who still await the proclamation of the Good News of salvation!'³⁶

Gerard O'Connell from *America*, the US Jesuit magazine, interviewed Cardinal Hollerich immediately after last week's Vatican press conference. O'Connell observed: 'What comes through most strongly in the working document is both

³⁴ *IL* #95

³⁵ *IL*, #33

³⁶ *IL* #112

the request and the need to affirm women, to promote women, to bring them into decision-making, to recognize that they are fully part of the church.’

Cardinal Hollerich replied: ‘That is the most important point for the church today. If women do not feel comfortable in the church, we have failed our living as Christians. Genesis tells us that God created man in his own image and likeness, woman and man he created them. Which means that if I do not respect women, if I think that they, for whatever reason, are less competent because they are women, it is a scandal today, and it cannot be accepted.

‘Now the question is, if this full equality of women and men means that they must also be ordained ministers, I do not know. But what is important for me is that ordained ministry should not be lived as the point where power is. In general, you should not speak about power in the church but about service. So if women feel that their voice is listened to as much as the voice of men, but they still feel, let’s say, discriminated [against] by not being admitted to the ordained ministry, we have to think about it.’³⁷

Is not the October session of the Synod the appropriate time to think about it? And would not the October session be the appropriate time to release the findings of the two commissions held by the pope to consider the question of women deacons? Is this not the bare minimum required for a transparent and inclusive, synodal church?

Sr Margaret Beirne RSC says it is very worrying ‘that, of the 10 study groups, the names of all members of nine are published, but Group 5, “particularly the question of the necessary participation of women in the life and leadership of the Church” has been handed over to the (almost) anonymous members of “the Dicastery for the Doctrine of the Faith and in dialogue with the Secretariat General of the Synod. The dicastery has initiated its study according to the procedures established in its own Rules of Procedure, with a view to the publication of an appropriate document.”’

We need to demand better process from the top if we are to be a synodal church.

³⁷ <https://www.americamagazine.org/faith/2024/07/12/cardinal-hollerich-synod-248352>

- **Last year’s referendum and the ambivalence of our bishops while heeding the voice of NATSICC.**

This past week is the first NAIDOC Week we have celebrated since the 2023 referendum. The theme for this year’s NAIDOC celebrations was ‘Keep the Fire Burning: Strong in Faith’. During the week, Dr Lisa Buxton, executive officer of the Archdiocese of Sydney’s Aboriginal Catholic Ministry, spoke at a book launch of two books reflecting on the referendum. She told us: ‘In the lead-up to the Referendum there was a sense of hope....Post-Referendum there is certainly devastation, grief within some communities, a sense of hopelessness—frustration. Not just in our communities, I don’t think. People who were allies voting alongside—there’s devastation in non-Indigenous communities, and especially in our Catholic communities. They don’t seem to see a way forward at this point.’³⁸ Many Aboriginal people and those of us with Aboriginal friends have had similar thoughts and feelings.

There was a lot of nastiness and bitterness during the referendum campaign. We should not be overawed by the naysayers. Now is the time for us all to reach out to our fellow Australians seeking truth, justice and reconciliation.

Let’s not lose sight of the hope expressed by the Indigenous leaders after they broke their silence a week after the referendum defeat. They wrote to all members of our parliament saying: ‘We have faith that the upswelling of support through this Referendum has ignited a fire for many to walk with us on our journey towards justice. Our truths have been silenced for too long.’³⁹

Professor Megan Davis, one of the key Indigenous leaders of the referendum campaign broke her own silence recently and gave us two key take home messages. She spoke about the discussions which had gone on in her own family circle immediately after the referendum and said:⁴⁰ ‘[I]n our family we do a deep dive analysis based on the data about what went wrong and you know we don’t

³⁸ See <https://www.catholicweekly.com.au/acu-voice-referendum-book-launch/?fbclid=IwZXh0bgNhZW0CMTEAAAR2IT1TbkNYD1P8aZpFwdBeNM53QpUPfMwDQ91Upngrf6CqIVivYE1L9s30aem83ia5rcGrZCvOfOswdiTDg>

³⁹ Open Letter to the Prime Minister and every Member of the House of Representatives and the Senate of the Commonwealth Parliament, 22 October 2023, available at <https://ulurustatement.org/statement-for-our-people-and-country/>

⁴⁰ <https://www.ey.com/enau/podcasts/change-happens/podcast-transcript-ey-change-happens-podcast---megan-davis>

want them just running around this world saying well the vote went down because the nation's racist. I don't think that's why the vote went down.'

It would be a mistake to think the country is racist and that no change is possible. Think only of the overwhelming 90 plus % result in the 1967 referendum and the additional genuine delight and pride when it is an Aboriginal athlete like Cathy Freeman or Ash Barty who brings home the prize.

After the 40:60 loss last October, some lamented that constitutional recognition could never happen and that all hope of change should be abandoned. Looking to the future, Megan Davis's second message is: 'Well, I hope at one point, we will have some form of constitutional recognition. It's the only thing we haven't tried as a nation. The only thing. We want to leave a better Australia, right? And if that means more Australians feeling a part of Aboriginal culture and more Aboriginal people feeling a part of Australian culture, that's the kind of nation that we want to nurture.'

I was privileged to attend Lowitja O'Donoghue's funeral in St Peter's Anglican Cathedral in Adelaide in February. Pat Anderson was a respected elder who worked closely with Megan Davis and Noel Pearson during the Uluru Dialogues. At the funeral, Pat recalled Lowitja's achievement with the native title negotiations in 1993. Reflecting on that achievement, Lowitja had said: 'We cannot lose the will to resolve these issues, because they will not go away. But tackling them half-heartedly or high-handedly will be a recipe for continuing failure. I believe that solutions are at hand. But they will require determination and patient effort, negotiation and compromise, imagination and true generosity.'⁴¹

In his first Boyer Lecture in 2022, Noel Pearson said that at the referendum each of us would vote on the question of whether the nation should build its greatest bridge – a bridge to unite at long last the First Peoples of this country with our British institutional inheritance and our multicultural achievement, under the Constitution.'⁴² He spoke of 'A bridge to join all Australians in common cause, to work together in partnership to make a new settlement that celebrates the rightful place of Indigenous heritage in Australia's national identity. A

⁴¹ Lowitja O'Donoghue, 'Past Wrongs, Future Rights', National Press Club Address, 29 January 1997 available at <https://www.austlii.edu.au/cgi-bin/viewdoc/au/journals/IndigLawB/1997/35.html>

⁴² <https://capeyorkpartnership.org.au/noel-pearson-boyer-lecture-one/>

constitutional bridge to create an ongoing dialogue between the First Peoples and Australian governments and parliaments, to close the gap between Indigenous and non-Indigenous Australians.’

It’s for that reason that I titled my book last year during the referendum *An Indigenous Voice to Parliament: Considering a Constitutional Bridge*.⁴³ It’s why I asked Grace Cossington Smith’s family for permission to use her 1930 painting *Bridge in Curve* on the cover of my new book *Lessons from Our Failure to Build a Constitutional Bridge in the 2023 Referendum*.⁴⁴ The painting depicts an incomplete Sydney Harbour Bridge. I chose the painting for three reasons. The colour evinces hope. The structure highlights the enormity of the task. And all of us, not just those who live in Sydney, know that it is inconceivable to have Sydney without the Harbour Bridge. So too there is the unfinished business of the Australian Constitution. It is inconceivable that we can have a properly constituted nation until there is due acknowledgment of the First Australians with a completed constitutional bridge.⁴⁵ When I explained the choice of the cover to a group of educators, one person observed that the incomplete bridge is buttressed by a set of cables which can be safely taken away when the bridge is complete; so too when we are a reconciled nation.

Doing the deep dive analysis of what went wrong in the referendum, let’s be gentle with each other. True to the theme for this year’s NAIDOC celebrations, let’s ‘Keep the Fire Burning: Strong in Faith’. May Lowitja O’Donoghue’s vision, hope and realism sustain us all as a new generation commits to completing our constitutional bridge.

No doubt there are lessons for government and Indigenous leaders from the failure of last year’s referendum. There are also lessons for the Church. This brings me to tonight’s second question:

Committed to inclusivity and participation, how can we involve all members of the church, including those who are often marginalised, in decision-making processes?

⁴³ Garratt Publishing, 2023 (3 editions, February 2023, May 2023, July 2023)

⁴⁴ Connor Court Publishing, 2024.

⁴⁵ See <https://www.eurekastreet.com.au/building-constitutional-bridges-in-conversation-with-frank-brennan>

In our Church, we have a stretched and under-resourced National Aboriginal and Torres Strait Islander Catholic Council (NATSICC). It was a first for our bishops last year when they allowed NATSICC unqualified space and licence to express their view about the referendum in the church's annual social justice statement entitled: *Listen, Learn, Love: A New Engagement with Aboriginal and Torres Strait Islander Peoples*.

NATSICC said:

‘Australians have an opportunity to begin a new chapter this year with the referendum on the Voice to Parliament. We in NATSICC know there are criticisms, even from Aboriginal people, but most Aboriginal and Torres Strait Islander people support the referendum. Just as the churches strongly supported the 1967 referendum, we hope that Catholics, along with other people of faith, will support the Yes campaign. It is a commitment to recognising Aboriginal and Torres Strait Islander peoples in the Constitution and promoting healing and unity. It will be the next step in a process of empowering us to participate in the decisions that will make a difference for the better for our people.’

‘We, NATSICC, feel that the referendum is too important to fail. The consequences for our people and the whole nation would be devastating.’

The bishops themselves were far more ambivalent about the referendum question. Some of them individually urged a YES vote. I am not aware of any who publicly called for a NO vote. Remember this was a referendum which attracted no support from members of the National Party in the Parliament, and from only three members of the Liberal Party in the Parliament. There was never a process or proposed set of words put forward, designed to win cross party support in the Parliament.

As a bishops' conference, the bishops conference said:

‘In 2021, we endorsed the Uluru Statement from the Heart, which speaks of the disempowerment of Aboriginal and Torres Strait Islander peoples and of their hopes for a better future for their young people. The Fifth Plenary Council of Australia also offered its support for the Uluru Statement in 2022. The Voice

referendum in late 2023 will be a significant moment in the struggle for justice by Aboriginal and Torres Strait Islander peoples.’

They went on to say:

‘No one should dismiss the recommendations of the Uluru Statement from the Heart lightly. The Aboriginal and Torres Strait Islander peoples who designed and led the process, who participated in the dialogues and the Convention and the many who support its recommendations, especially the Voice, deserve great respect and a serious consideration of their proposals and their reasons for it.

‘Some Aboriginal and Torres Strait Islander peoples oppose the Voice and the referendum. They propose a different way forward. They and their position deserve respect, too.

‘Many well-known Australians, including prominent Catholics, have voiced their support for the referendum. Some have also opposed it publicly. Many Catholic organisations support the referendum. NATSICC has expressed its support....The Australian Catholic Bishops Conference will not tell Catholics or their fellow Australians how to vote in the referendum. Instead, we ask all Australians to seek out information on the referendum proposal, especially from Aboriginal and Torres Strait Islander peoples.’

Some lay Catholics with a long time involvement in the public square were very critical of the bishops’ measured stance. For example, Francis Sullivan who has served the Church at top levels in Catholic health care, Catholic social services and as CEO of the Truth Justice and Healing Council, said, ‘Now more than ever Australia’s Catholic bishops should be standing up and declaring support for a Yes vote in the Voice referendum. It’s time Australia’s bishops follow the spirit of the Gospel and the Church’s teaching tradition on this issue instead of sniffing political moods.’⁴⁶

Emeritus Professor John Warhurst who was professor of politics at ANU and a longtime member of numerous national Church boards, said: ‘The Catholic bishops appear to be wiping their hands of the referendum choice and have chosen

⁴⁶ See

<https://static1.squarespace.com/static/5930ee9129687f4cfdcdbf6a/t/6503afeb3f960b5940d1a620/1694740460104/230915+-+MEDIA+RELEASE+-+Time+for+Catholic+bishops+to+stand+up+and+call+for+YES+vote.pdf>

to stand above the fray. This is a strange choice and a missed opportunity to demonstrate that the Catholic approach to justice defines the Voice as a moral question.⁴⁷

After the referendum loss, Warhurst wrote: ‘The Voice became a partisan issue once the Labor government’s proposal was opposed by the Nationals and the Liberals. But some leading Liberals/Nationals broke ranks to support the Voice even though this endangered their political careers. Within the church the ACBC refused to take sides on the Voice, but some bishops, including Vincent Long and Charles Gauci, bravely broke ranks to advocate YES.’⁴⁸

Having been involved in the public square agitating for Indigenous rights for 40 years, I was happy to declare that I would be voting YES despite flaws in the government processes and deficiencies in the wording of the proposal. Nothing in life is perfect. I thought the time had come for constitutional recognition in the form sought by the Indigenous leaders that the government had called to the table.

The most any senior Liberal ever committed to by way of wording was Julian Leeser’s formula:

129 Aboriginal and Torres Strait Islander Voice

There shall be a body, to be called the Aboriginal and Torres Strait Islander Voice;

The Parliament shall, subject to this Constitution, have power to make laws with respect to matters relating to the Aboriginal and Torres Strait Islander Voice, including its composition, functions, powers and procedures.

The government’s wording went well beyond this. The government never made any attempt to negotiate wording with Leeser or any other member of the Coalition. On 23 March 2023, the government’s wording was set in stone. And that was a week before the parliamentary committee was set up to consider wording and amendments. It was a farce. When it comes to constitutional change, process matters, and words matter.

⁴⁷ See <https://www.eurekastreet.com.au/in-the-chorus-of-yes-why-arent-the-bishops-joining-in>

⁴⁸ See <https://www.eurekastreet.com.au/what-connects-the-voice-and-the-synod-of-bishops>

I admire those Australians who throughout the campaign committed themselves unreservedly with their time and resources to advocating for the proposed amendment, despite the shortcomings of process and wording. Having been an advocate for Indigenous rights in the public square for the last 40 years, I thought it necessary to do all I could to improve the process and the wording. I failed, as did many others. I am sorry for the hurt caused to those who thought I should overlook the shortcomings in the hope that the public would get with the vibe, go with the flow, and vote Yes in overwhelming numbers. But that's just not the way that constitutional change has ever happened in Australia. And it won't next time, either. Buckets of money from the corporate sector in support of a worthy cause are no substitute for the hard work of getting the wording right and winning cross-party support in the parliament. We all need to have the humility to admit our mistakes, regroup, forgive the hurts, and move on, seeking the due constitutional recognition of First Australians. We won't ever amend the Constitution unless we first get most members of parliament on board, and unless we can assure the public that there is nothing to fear, and that there is no unresolved legal complexity and uncertainty. And when it comes to amending the Constitution to recognise the First Australians, there will be no point unless the key Indigenous leaders are advocating the change with one Voice. Though they were devastated by the 2023 defeat, these leaders had sufficient hope to declare in the midst of their despair: "We have faith that the upswelling of support through this Referendum has ignited a fire for many to walk with us on our journey towards justice. Our truths have been silenced for too long." We need to kindle that fire and continue that long journey.'

Committed to inclusivity and participation, we rightly expect our bishops to consult with those most affected by proposed laws and policies and to take advice from experts before they endorse or condemn government proposals. And we should expect that all members of the church should be committed to respectful dialogue, willing to learn lessons from past mistakes and failures.

The two case studies I have addressed this evening highlight the observation in the *Instrumentum Laboris* for October's Synod that our 'discernment should also include spaces for listening and dialogue with civil institutions, representatives

of other religions, non-Catholic organisations and society at large, in forms adapted to the diversity of contexts.⁴⁹

⁴⁹ *IL* #98