



Interview: Noel Pearson, Indigenous Leader and lawyer

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Emma Alberici speaks with Noel Pearson and he outlines why he doesn't think the Royal Commission will make a difference to Indigenous incarceration.

Transcript

EMMA ALBERICI, PRESENTER: Earlier this year Aboriginal lawyer and education advocate Noel Pearson mused on his greatest regret in life: that he hadn't entered the Parliament 15 years ago, when he could have made a real difference to the lives of Indigenous Australians.

At the Garma Festival on the weekend, he slammed Australia's "selective outrage": while we're filled with grief over the images from the Don Dale Youth Detention Centre, he says, we remain unmoved by the structural disadvantage that still sees Indigenous people imprisoned at 15 times the rate of non-Indigenous people.

In an interview recorded earlier this evening, Noel Pearson told me he had little faith in the ability of yet another royal commission to solve the underlying problems facing Aboriginal Australia.

Noel Pearson, good to have you back on Lateline.

NOEL PEARSON: Thank you, Emma.

EMMA ALBERICI: Are you pleased there are now two new commissioners: Mick Gooda and Margaret White?

NOEL PEARSON: I think that's a good decision: to have an Indigenous commissioner on this very important subject.

My underlying concern, though, is that the terms of reference don't really go to the crucial issue here which is: what is driving the egregious over-representation of Indigenous children in the youth detention system in the Northern Territory, let alone across the country? And I'm not sure that a commission that is simply largely focused on the events that took place is going to lead us very far, at the end of the day.

EMMA ALBERICI: The Royal Commission into Aboriginal Deaths in Custody in 1991: it recommended imprisonment be used only as a last resort. It wanted an entirely new compact with the Aboriginal community. It called for more justice re-investment, more diversionary programs.

Instead today, Indigenous Australians: as you say, the figures are 15 times now more likely to be incarcerated than non-Indigenous Australians?

NOEL PEARSON: Yes. We have more than doubled the number of Indigenous people in prison since that time.

One of the elusive things, though, in the original royal commission report by the late Elliot Johnston was this issue of empowerment. Elliot Johnston said, in the same way as Rex Wild and Patricia Anderson said in the Little Children are Sacred Report, "We've got to find the means of empowering Indigenous people to take charge of their own." Because at the end of the day, unless Indigenous parents, communities and families are empowered, we are not going to see a real change in these numbers.

And I suppose part of my dismay with these events concerning Don Dale - and you know, absolutely, I share everybody's distress about it. I absolutely do and I don't want to be seen to be derogating from that. But I have to say: we can't allow as Australians our outrage to be selective.

We should be outraged about those things that are driving the large numbers of those tragic juveniles, who were once little babies, who were once little toddlers and who have ended up with a bag over their head, being abused in an institution.

I'm interested in the question of: how do we stop these children from entering that system? How do we make sure that the children are protected at the earliest stages from ever leading that kind of life?

And I can tell you, those kids with the bag over their heads in the institutions that are coming in and out of Townsville and Aurukun or Don Dale and Yirrkala: those kids are going to end up in prison, as sure as night turns to day.

And I've got to say that we're very good here in Australia at being outraged at the end consequence. But let's be outraged at the drivers of this. For example: if a child is hungry, we have got to make sure the money that the adults receive on behalf of that child is spent not on grog or gambling but on the child's nutrition. And of course, when you get into that territory, all of a sudden there is controversy about the absolute practical solutions that are needed so a child grows up healthy, cared for, can go to school.

EMMA ALBERICI: Are you proposing something again like the Intervention?

NOEL PEARSON: No, I'm not. We've never proposed the Intervention in Cape York. But can I tell you: we've been hoeing a hard road these past eight weeks trying to protect probably one of the most important reforms that we have: that is, fixing up the schools. The Aurukun situation that we've been in over the last six weeks has been an absolute travesty, because the Queensland State Government has scapegoated the school for a juvenile problem, a juvenile crime problem in that community, when in fact the school is probably the most compelling solution to that very problem.

EMMA ALBERICI: Early this year you accused the political system of failing Indigenous affairs. And you said, "Reform required strong Indigenous voices inside the political system." Are they there now?

NOEL PEARSON: I think - I'm very pleased with Pat Dodson's ascension to the Parliament and Linda Burney and other representatives there.

I think at the end of the day, though, that this structural empowerment thing requires government to deal with communities on a more level playing field. That is why I have proposed that there be an advisory body to Parliament, made up of communities across Australia who can put a direct voice into the Parliament and into the Government about those policies that are too often failing us.

EMMA ALBERICI: Nigel Scullion had said in response to the Don Dale revelations that, in the past, the issue hadn't piqued his interest. How did you feel about that response?

NOEL PEARSON: Oh, you know, that was completely unfortunate. But it kind of... it spoke to the tenor of the times.

I think that we've grown so inured to the Indigenous problem here: this outrageous over-representation of our people in child protection. You could have an inquiry into any of those three projects: child protection, juvenile detention, imprisonment. The story leads from one to the other.

And I think Australians have become so inured to this problem that it is literally something that, unless you see very graphic images on television, we are largely unmoved. And can I say that the way in which we are moved, namely calling a royal commission yet again: we have had so many commissions of inquiry: the big one back in 1990.

But you think of all of the inquiries that have taken place in relation to child protection: every jurisdiction in this country has had an inquiry into child protection. And what has it led to? The numbers still seem to go northwards.

And the recommendations: the fundamental issue recommended by the royal commission back in 1990 about the empowerment of Indigenous people so that we take charge. But you see, in Cape York Peninsula we talk about taking charge as being Indigenous responsibility. Blackfellas have got to take charge and take responsibility for their own children. And of course government has to work in partnership with us and support us in every way.

But that part of the message really struggles to get traction in Australia. When we say that Indigenous people should take responsibility for things: that is when we kind of divide camps. We are united in relation to the outrage about the end consequences, but we are divided over the question of, well, whether Indigenous responsibility is a crucial part of the solution. And I say it is, but to hoe that road is very, very difficult.

EMMA ALBERICI: On the issue of constitutional recognition: you are on the Prime Minister's Referendum Council. How do you avoid a result now that amounts to meaningless symbolism?

NOEL PEARSON: Well, I think that... The important point is that we've got to get the balance right between an important moment for the country to recognise the Indigenous people, but also to have the practical benefit.

See, meaningless symbolism is not going to change anything. It is not worth doing something that is simply symbolic. I call it kind of a putting a little plaque into the Constitution: a kind of "We acknowledge the traditional owners of Australia" or something. A plaque's not going to do anything.

Rather, I propose a modest enabling hook or enabling clause: a provision, one of which I've been championing over the last two years, which is an advisory body. We need to have a voice. It is probably the most important thing.

EMMA ALBERICI: You mean at the Federal Government level?

NOEL PEARSON: A voice to the Commonwealth Parliament and to the Federal Government.

EMMA ALBERICI: Ken Wyatt says Bill Shorten has stepped away from bipartisanship by discussing the possibility of a treaty?

NOEL PEARSON: Well, there is a treaty discussion going on in the State of Victoria. And you know, this whole issue of constitutional recognition at the Commonwealth level and discussions like it taking place in Victoria: they ought to go on in parallel. There's...

EMMA ALBERICI: But to the point of Ken Wyatt: his criticism of the Opposition Leader reflects a view that also is held by Prime Minister Turnbull: and that is that talk of a treaty at this point may well distract, if not derail, constitutional recognition?

NOEL PEARSON: Things like agreement-making between governments and Indigenous groups: that can happen under legislation outside of the Constitution. Of course it is enabled by the Constitution, but legislation can be created by Parliament to enable a whole range of things to happen in Indigenous affairs that don't actually involve constitutional change.

So we should see the Constitution as an enabler, rather than trying to stuff everything, every reform we want into the...

EMMA ALBERICI: So you mean legislation, as opposed to trying to work too hard to a treaty?

NOEL PEARSON: If we need agreement-making between groups, such as - well, I think we forget the fact that we have agreement, quasi-treaty-making processes going on under native title.

The City of Perth: that whole south-east corner of Western Australia is now the subject of what in other language might be called a treaty. You know, they have settled - the Western Australian Liberal Government have settled an agreement about land with the traditional Noongar owners of that land. And essentially we have an architecture under the Native Title Act that allows these agreements to take place. And they are happening all over the countryside.

EMMA ALBERICI: Can the referendum be held by May next year?

NOEL PEARSON: You know, I don't know about that. But I can say that, for those people who doubt that we should do it by then: I think the symbolic importance of May 27, 2017 is a great rallying point for us, I think. And we shouldn't abandon that aim lightly.

I mean, I think this long, prolonged federal election and the time we've lost on that has made people think that the timeframe is now contracted so much that there is not enough time to finish the consultations and so on; has caused people to kind of retreat from that goal.

But, you know, I think the symbolic importance of that date for Australians who hearken back to 1967 is not an advantage that we should lightly throw away.

EMMA ALBERICI: Noel Pearson, as always, thank you so much.

NOEL PEARSON: Thank you, Emma.