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Truth Telling: The Yoo-rrook Justice Commission

Presentation by

Professor Eleanor Bourke

Chair, Yoo-rrook Justice Commission

Communities in Control Conference
Moonee Ponds, Melbourne, and online,
Monday–Tuesday, May 23–24, 2022

Video and audio versions of this speech are available at
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About the presentation

How can we ever move on from our past if we do not accept the truth? First Peoples have been calling for an Australian truth-telling process for generations – a process to establish an official record of the impact of colonisation, and allow us to acknowledge the human rights abuses that have occurred in this country since colonisation. In May 2021, the Yoo-rrook Justice Commission was established by the Victorian Government, the first truth-telling body in Australia. We all must hear the truth. We cannot ask for forgiveness until we have acknowledged what has transpired.

Denis Moriarty
I'd now like to welcome to the stage Professor Eleanor Bourke. Professor Bourke is a Wergaia Wamba Wamba Elder and is Chair of the Yoo-rrook Justice Commission, one of the most important commissions Victoria has ever undertaken.

Professor Bourke has held executive positions in community, state and federal government agencies. She was co-chair of Reconciliation Victoria for three years, board member for the Victorian Aboriginal Heritage Council for 12 years, and a board member of Native Title Services Victoria. In 2005, Professor Bourke participated in Victoria's first positive native title determination.

She has had an extensive career in academia. She was Professor of Aboriginal and Islander Studies and Director of Aboriginal Programs at Monash University. She was also previously an Associate Professor and Director of the Aboriginal Research Institute in the University of South Australia. She was inducted into the Victorian Honour Roll for Women in 2010 and the Victorian Aboriginal Honour Roll in 2019.

Professor Bourke has previously provided strategic guidance and advice to the former Victorian Treaty Advancement Commissioner, Jill Gallagher AO, in supporting the establishment of the First Peoples' Assembly of Victoria.

Today, Professor Bourke will be talking about the Yoo-rrook Justice Commission and why it is a pathway to a brighter, bolder future for all. Please make her feel welcome.

Professor Eleanor Bourke
Thank you. Thank you very much for that introduction. Good morning everybody. This is only the second time I've done such a large gathering this year since Yoorrook started, so it's nice to be out in the real world in one way and overwhelming in another, but, Denis, you made quite a long introduction about my work. I usually like to tell people that I've been retired for over 20 years now and the most exciting things have happened in those 20 years, here in Victoria anyway.

So I acknowledge the Wurundjeri Woi Wurrung people, their ancestors and Elders. I acknowledge other First Nations people who may be present today. I acknowledge your ongoing and unbroken connection to this land. I acknowledge the ancestors of any who may be watching us today. The wellbeing of First Peoples is fundamentally underpinned by our culture, our ancient inheritance of this land. Victorian First Peoples retain cultural connections to land and waterways and maintain sovereignty that was never ceded.

As you heard, I am a Wamba Wergaia woman through my mother. My line is unbroken through my mother and maternal line and through her mother, who had a very strong influence over our family and is partly responsible for how I can stand up here today and speak with you.

I'll just say a couple of things about my work. I lived interstate for nearly 20 years in the ACT and Adelaide and it was an education in itself living in places where you were embedded within Aboriginal community groups, whether they were existing or you created them, as in the case of the ACT, and for the ACT I was in the central office of the Department of Social Security responsible for Aboriginal and Torres Strait Islander social services and it was one of the most enriching experiences for me because the network was my state and territory and, of course, those relationships and friendships, even though I don't see people so much now, were so, so important in networking and friendships that went on for the rest of our lives.

Similarly in South Australia. A slightly different experience. Much, much stronger sense of identity, languages, people. Very much you had to be a Guarna, Ngarrindjeri or Narrunga person and you belonged and you could see what had been passed down in a very, very strong way in South Australia.

I returned to Victoria to work at Monash University, as has already been said, but I came back to a transformed Victoria really, having spent those 20-or-so years out, and one of the most important things for me was the 2005 native title determination for my so-called traditional owner group or groups. It was the first positive native title determination in Victoria, of

course coming after the Yorta Yorta case, which was the longest running and a negative case and which has really traumatised so many Yorta Yorta people and I don't know how you undo that kind of traumatising of people.

But for me the fact that the colonial law was able – what it is now was able to positively say that we, Wotjobaluk, Wergaia, Jardwa, Jardwajarli and Japagulk peoples, continue to exist, was really important in law. It sounds a bit silly, even to myself, but it was important, and that goes to something else that I'll mention a little bit later, and, as you've heard, my big responsibility now is as Chair of the Yoo-rrook Justice Commission, the first truth-telling process into injustices experienced by First Peoples in Victoria, a first for Australia.

The Commission was launched two months ago, and of course we had all the difficulties of COVID and the lockdowns and so we were very delayed in getting out – getting a work program up and getting out on country, which was one of the most important things, to go on country and engage with our people and inform them of what the Commission was about.

So we had a very truncated month just about a month ago now where we travelled in two groups and met with as many people as we could, but prioritising Elders from the many nations where we travelled. We heard many voices. We heard of the deep longing to tell stories and to be heard. Our people want our stories to be heard by those in positions of power and that other Victorians learn of the ongoing trauma and systemic impact of colonisation.

Just a month ago, we came back to begin our first block of hearings. We use the word [unclear; 00:08:11], Wergaia word – speaking together to name our hearings. So we prioritised these first blocks of hearings to Elders who, in many cases, may be in a vulnerable situation in many ways, because we wanted their stories on the record. These are people who have worked a full working life, made such contributions that their story needs to be on the public record.

Many of these stories have been told before but for others it will be the first time they've told their story, and, if they so choose, it will go on the public record. But in each case, the truth telling vividly illustrated experiences and themes that resonate through so many stories from our people.

The theme of this conference – to eliminate inequality and rebuild Australia – requires a reckoning with the truth of colonisation. It is through exposing that truth that we can strive for understanding, fairness and equality, and I'll just mention some examples of things we heard.

An Elder who appeared talked about being taken from his mother as a 15-year-old to a babies' home in the city. The family's destruction was legal according to government policy and it was designed to assimilate – to assimilate this boy into white society. He described his time at the Box Hill Boys' Home that he was sexually and physically abused, stripped of his Aboriginality. He said he was whitewashed. He didn't understand that. He says that now, as an adult – he was whitewashed. He spent a lifetime of shocking, shocking everyday racism. Being barred from a swimming pool in a country town because of his race when he was just a kid. Being refused, as an adult, a taxi ride unless he prepaid. And even recently, more recently in his life – he is a man now in his 70s – he was refused a ride in a taxi unless he paid up front, the same day that he had been celebrated as the Senior Victorian Aboriginal – Victorian Australian of the Year. So, you know, his life continues. He still struggles with that racism.

He did not see his mother until he was 18 and he was never able to meet his father in his father's lifetime. But it was through a successful career in the arts and the TV program *Who Do You Think You Are?* that enabled him to find his father's name, his Aboriginal father's name, and he was able to reconnect with some of his family and more of his story was revealed to him through him coming forward to tell his story. We had the information about his father that he never had in his lifetime.

Another Elder told the Commission about how his family's land was stolen. Stolen twice. First taken by the so-called protectors and the Indigenous people from there confined to the mission, confined under the legislation. The mission was established, grew to a significant-sized community, but it

was closed and families were forced to move elsewhere. His people's land was taken a second time, and this was after the First World War. Part of that land was divided up into soldier settlement blocks and was distributed to non-Indigenous soldiers from World War 1.

Now, this man has a very proud lineage in Australian ANZAC history. His father and four uncles were the only brothers, black or white, to serve in both of the two World Wars and fight for the British Empire. Many members of the next generation of that same family have served in wars since. Twenty-one members of that family have served in Australian military forces and all have survived.

But at the time those early uncles and the father served in World War I, Aboriginal people were excluded from the Australian Constitution. So when his father returned from his service in World War I, he found that the mission had been closed; the land had been allocated to four other returned soldiers. He was not allocated a parcel of that land because he was Aboriginal, so he felt that was a double theft of his country.

There are many stories like this and I just mention a couple from a couple of our Elders who appeared speaking about their treatment in hospital, a place up on the river where one of our Elders now as a 12-year-old was having her appendix out at this hospital, and while she was in bed recovering, her grandmother whispered to her, "Don't tell them you're Aboriginal because they'll put you out on the verandah." Aboriginal people were treated on that verandah until the 1970s.

So these are some of the stories we're hearing and they are hard to hear and they are very graphic when we hear them and they are from people who have contributed as valuable community members in their own communities and fought for services and better conditions for people. They're people that we like to recognise, not just as Elders but change makers and community leaders.

So the need for a truth-telling commission. How did we get here? This is an interesting story in itself. Most of you will possibly be aware of the truth-telling phenomena around the world at the moment. There's a lot of truth

telling happening in Australia too, and I bet there'll be a bit more after this weekend.

Commissioners heard stories of First Peoples being treated unfairly because of skin colour, children stolen from their parents, land stolen from the people. While there are so many differences across the different cultures – for example, between us, South Africa and Canada – there are experiences that can be drawn upon, and indeed we, as commissioners, try to keep across some of those issues and see what we can learn.

But I think the main purpose of some of the truth telling for most groups is about healing, understanding and transformation nationally. This has already been said. The Yoo-rrook Justice Commission is historic. It's historic because it's never happened in this country, and just think about it. Over 200 years and here we are going to try and tell the truth about the beginning of the ghosts that came to this country, as our people saw them.

Yoo-rrook is responsible for collecting data for the terms of reference about the stories of injustice, as I just outlined, and it's about ensuring that stories of our parents, grandparents and great-grandparents are recorded and remembered and can be part of the Victorian story. We've had many public enquiries, royal commissions at the state and federal level, relating to specific tragedies and instances of disadvantage within our communities, yet the official record of First Peoples' experiences of colonisation is incomplete. We wish to change that by including Aboriginal voices.

Yoo-rrook is unique in that it seeks to underpin the rich history of First Peoples' story telling with the authority of a royal commission. It aims to expose past and ongoing injustices experienced by all of our peoples since colonisation, and there is a connection from that beginning to now, and I note Ziggy's word “heaviness”. Heaviness. If you just think about it, it's a wonderful word because it's how we feel and it's what's happened to us. Every time there's some negative experience, we feel a great heaviness that builds and you feel like you're carrying something, which many of us do for the rest of our lives.

There's been much written about how this Victoria came into being but mostly by the colonisers, and they have actually written as well about taking the land and having to clear the land, and that meant of not just the kangaroos but the people, and that's in the record in very stark language, but our people still haven't told their story of what happened to them and their families in those spaces, and that will go on the public record from what we are hearing in our hearings and from submissions from the people who wish to go on the public record.

And we want others to know that, no matter what, people who have come here have come from another place, other lands. They have another country where their languages, their history and their social systems reside. But this is our country. Centuries. Centuries. This is the place from which our languages, culture and history emanate. It is embedded. It's embedded in the landscape. We are not leaving this place. Whatever remnants we have in our memory, we carry them with us. We are not leaving. We belong to the land and so too do our stories. They are intertwined with the landscape. You cannot understand this land if you do not know the stories.

But while they are First Peoples' stories, they are also stories for all Victorians who choose to live and work in this place on our land, and I think you should all know by now that we remain the longest continuous culture in existence.

Yoo-rrook's establishment has been built upon a momentum of land justice efforts that happened this century. When I talked about coming back to a transformed Victoria, it was coming back to some things that were happening here. We'd moved beyond the generic land rights. We've moved into saying our names publicly and saying we want to be responsible for certain spaces where things were not being looked after.

So in 2006, the Victorian Aboriginal Heritage Council sought to engage under its legislation more traditional owners in cultural heritage management, but, of course, it was always about protecting the government from part of the ugliness of what protecting heritage sites was about. But land justice advocates also worked then in Victoria on

drafting a Victorian Traditional Owner Settlement Act – I guess they were influenced, to some extent, by what happened with Yorta Yorta – so that the state could recognise traditional owner rights over land and waters. But this only formed a small part of the political and economic and spiritual entities of First Nations and not everybody has been able to be included or has wanted to be included.

And I do remember the early meetings and the first term of this particular state government the premier asking a group of some 30 of us, "What can I do? What can I do? What can be done by way of self-determination for your people?" Well, it took a few more meetings I think. I wasn't in those meetings continuously but I witnessed this particular one.

So not long after that, the government and First Peoples went to work on the concept of treaties and subsequently Commissioner Jill Gallagher was appointed to lead the preparation for a process that would lead to treaty. That involved conducting elections for a representative body, based again on the western democratic concept of five electorates and people standing according to population in that area, and the First Peoples of Victoria Assembly was created under that Act and they were inaugurated just before the pandemic in December – I think it was December 2018.

It was quite a moment, a very emotional moment for many of us, and on that day we did not have a politician in the room and we removed all the regalia, with the permission of the parliamentary people, that belonged to the British system, and brought in greenery and had our possum cloak which had been created pelt by pelt from more than 30 meetings that Commissioner Gallagher had been to – individuals were invited to just write or do a design on a pelt – and that lay across the table as the First Peoples' Assembly had its first meeting and selected their board.

So they've been operating for – well, the whole time since. Of course we had the pandemic almost straight after that. But they looked at what their charter was under the legislation, and they do have a really tough task, but they decided there could be no treaty without truth because, as one member said, "To know where you are going, you must know where you've come from."

So I acknowledge the Assembly's advocacy in calling for the establishment of this commission and we thank them for their work and they have also provided a report to us on some aspects of how they think we should progress and we are in that process now.

As a royal commission, we are independent – independent of government and independent of the Assembly. However, the Assembly is a major stakeholder, if you like, so we keep open communications about many matters. We are in the process of drafting an interim report currently and we are required to report in 2024 on the final findings of the Commission.

The terms of reference are very broad and different from other royal commissions and they give us an authority to conduct the Commission in a way that is culturally safe for all if it can be for us, but especially for our own people to feel safe and comfortable to give what they are going to give to us in terms of stories.

So we will be making many recommendations, I suspect, on matters to do with healing, systemic reform and practical changes to laws, policy and education as well as identify matters that may be included in future treaties. Our overall framework to achieve this has three components: truth, understanding, and transformation. The truth I think I've said enough about. It's about creating the formal and public record about what has happened in the past and is still happening and who or what is responsible. Understanding. All of this information is about sharing it with the rest of our population in Victoria, and beyond that we wish to ensure that the information from our people is included in the education of future generations in this state. Transformation, the final. The Commission will propose changes to laws, institutions and systems and matters which may be considered through treaty negotiation. And this is the greatest challenge of all. You heard Ziggy refer to deaths in custody and it is one of the biggest challenges for the system, for the government, for the police themselves.

So people coming before us can tell their stories to Yoo-rrook in a wide range of ways in order to enable people to be comfortable. A submission can be made by joining a yarning circle when we go out and maybe a

collective group not on the record but then a request for a one-on-one and lead to a preparation for a formal hearing or a formal submission. People can write something and we've already had something written from one of our meetings about being Aboriginal, and it can be an audio or video recording. It can be a dance, performance, poetry, cultural artefact, a photograph that triggers a story.

So all of this material will be protected through an Indigenous data sovereignty protocol that is being prepared, worked out, as we talk, because we are challenging some of the things that have happened in the past where much of our work, whether it's art or writings, has been taken by other people, stolen really, and we want to protect the copyright of people's data that we are collecting and give them the power to be able to say how it can be stored and how it can be used in the future.

We will also be speaking to many of the public institutions, the government and other entities, and non-government entities. Indeed, the Minister for Aboriginal Affairs, Gabrielle Williams, made her first appearance before the Commission at the start of this month, and she made quite an amazing statement about the settlement of the state, which I think people were surprised at how frank and – it was so obvious, really, when you think about it, but it is on the record.

So you're able to tell your story in a variety of ways and there's also ways to connect through the social media on the website and be in touch with staff about how to proceed.

Now to the theme of this conference: rebuilding Australia from the ground up all the way to the stars. It's an interesting aspiration and I hope that you ensure that it does work for a better future and be based upon a better and deep understanding of the past. We owe that to our Elders and our ancestors and all who will tell their stories over the life of the Commission. We must honour them and we all want to honour our parents and grandparents for what we are taking from communities. But at the bottom of and relating to your rebuilding of a better Australia, it cannot happen without a foundation of truth, understanding and transformation, and especially justice.

And Ziggy's mention of the word “heaviness” is kind of, I'd say, tumbleweed, the tumbleweeds of life. It is every experience that so many people have had and what we've already heard, confirming that the terms of reference are appropriate, whether the time is there to do justice in the way that we may emotionally feel, but rebuilding Australia has to be based on truth of the settlement of our country.

I feel so ridiculous now standing up and talking about terra nullius. An absolute lie. A ridiculous lie. And what has it done? What has it done? It's spawned a lawyer's picnic about whether or not – whether or not we are who we say we are. It's an absolutely ridiculous scenario, and this is what we're confronted with. So rebuilding Australia has to be on a solid and truthful foundation in order for all to move forward, and in this space, I do believe Victoria is leading the way.

So I thank you for the invitation and I wish the conference well. I hope you do come up with some forward thinking and innovative thinking.

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