

SUBMISSION: INQUIRY INTO AND REPORT ON ALL ASPECTS OF THE CONDUCT OF THE 2013 FEDERAL ELECTION AND MATTERS RELATED THERETO

Precis

The newDemocracy Foundation researches and operates practical trials of innovations in democratic process with our goal being to identify less adversarial, more representative and more trusted ways to make public decisions.

We submit to the Committee and the participating members that there is a high likelihood that any amendments to our democratic process will have to face an ever-increasing degree of public cynicism and scepticism which sees any change interpreted as being solely for the benefit of a particular political party or the major parties as a whole. This is not a comment on the merits of a particular reform – it is simply a comment about the importance of public trust and the inherent difficulties of holding elected office.

We ask the Committee to consider the merits of sharing their recommendations and the review task itself with a randomly selected cross section of the Australian public. This would be a deliberative jury process which is best understood as the opposite of an opinion poll: it gives a small sample of everyday citizens three months to read and investigate the inquiry's issue in detail, and to identify where a consensus can be found for improvements. In so doing, it considerably enhances the likelihood that reform proposals earn greater trust from everyday citizens and make the Committee's reform and innovation task simpler.

About The newDemocracy Foundation

The newDemocracy Foundation (NDF) is a not-for-profit research group, with a particular focus on best practice citizen engagement and innovations in democratic structures. NDF considers that many consultation processes consist of feedback forum events largely attended by interest groups and hyper-interested individuals and singularly fail to engage everyday people.

Such processes do not result in citizens feeling they have had a say. In contrast, NDF's proposal is to provide a jury-style process which enables a more representative section of the community to deliberate and find a consensus response. By combining the three elements of random selection, the provision of time and access to all information, and independently facilitated forums for dialogue, a much more robust and publicly trusted outcome can be obtained which can assist Government in achieving public acceptance of hard tradeoffs.

The newDemocracy Foundation provides design frameworks for public deliberation and overall innovation in democratic models. Our research and advocacy is focussed on identifying less adversarial and more inclusive public decision making processes. Our services are provided on a cost recovery basis only - consistent with our structure as a not-for-profit research foundation, with services provided pro bono on occasion. We are not a thinktank and hold no policy views. We are dedicated to the enhancement of democracy in the 21st century. Our Research Committee is led by Geoff Gallop and Nick Greiner as we build on the experience of those who understand the challenges of politics while demonstrating that NDF does not have any partisan alignment.

We also commission independent third party research which occurs in parallel to the process in order to ensure robustness and to capture the potential for improvements to existing democratic processes.

Rationale of Submission

We contend that if citizens learn of recommendations that are not only supported by a bi-partisan group of Senators but also an 80% supermajority of a random group of 100 everyday people who have had time to deeply consider the issue, then the standing of our Parliament and our electoral system will be improved.

We trust juries of citizens to decide guilt or innocence which might lead to lengthy prison terms, yet many of us tend to distrust elected officials deciding how to spend a few thousand dollars for play equipment in a public park. This is not to suggest that elected officials are making bad decisions: it is simply a comment about decreasing public trust.

The management of the rules and regulations surrounding the operation of democratic process is a 'special' area. While citizens have grown used to a certain amount of contest for major policy areas of health, welfare and taxation, the rules around electoral conduct warrant special respect. A partisan victory in this area cannot be considered a victory.

A reform agenda that is reviewed, deliberated upon and transformed by a representative community will engender trust as no other process can.

Transparency in Decision Making

Transparency is key to a successful reform process.

We trust jury selection. We trust lottery results. We have less trust in interest groups and, unfortunately, in existing government structures. This proposal aims to build on structures we trust today: the jury model is not "new", it would merely be being applied in a groundbreaking situation.

The emphasis on transparency also highlights the importance of avoiding a self-selection model, which can be flooded with participants representing a single point of view (which will be clustered along partisan lines by a willing media). Such a process is not just meaningless, but also counter-productive.

Random selection is a technique that ensures transparency. A randomly-selected group cannot credibly be accused of being biased or stacked by ‘faceless men’ or ‘well connected business people’. It also demonstrates a commitment to going beyond the type of tick-the-box exercise that discourages the community from participating in government reviews, which it views as having largely pre-determined outcomes.

Principles for Operating a Citizens Jury Process

Should the Joint Standing Committee on Electoral Matters find our proposal of interest we would be happy to provide a detailed process design for its operation since NDF has accrued considerable experience designing and implementing similar processes. At this initial stage, for the sake of brevity we list the principles applied to such a process for the Committee to consider.

- a. Panel participants should be randomly selected rather than self selected, to avoid the otherwise very high likelihood of a process being skewed by special interest groups.
- b. All parties have a right to submit their view and request to appear before this randomly selected panel.
- c. The jury style selection should be conducted by an agency at arm’s length to government, whether this is a foundation, a university or the Electoral Commission.
- d. Panel participants receive a reasonable per diem payment for their time.
- e. The community be given a pre-agreed level of authority for its participation, in order to encourage those without a direct interest to give up a substantial amount of their time. This can be a commitment to a tabling in Parliament and a direct, in-person response to the Jury from this Senate Committee.
- f. The panel has the right to determine the length of time it needs to complete its plan, with a mandated minimum time of at least five meetings across a four-month period.
- g. Panel participants have access to information and expertise within an agreed budget and be allowed to hear from a diverse array of expertise of their choosing.

What Constitutes a Decision?

In order to shift the public mindset from adversarial, either/or contests and to convey a message of broad-based support for the recommendations made, newDemocracy suggests that wherever a vote is required as part of a panel’s final decision, an 80% supermajority should be required. In practice, citizens’ panels tend to reach consensus (or group consent) positions with minority voices explicitly included in any report. It is rare for a vote to be required.

Case studies – recent experiences

a. Canada Bay Council

In August 2012 newDemocracy undertook an engagement process for the City of Canada Bay. Invitations were sent to 1577 addresses in the local government area, inviting participants to take part in a process that would set the range and level of Council services, and decide how these services should be funded.

The response rate of around 10% offered a pool of potential participants large enough to allow for targeted random selection, choosing a group that offered an approximate match to the area's Census profile in terms of age bracket, gender and ratepayer/ tenancy status.

Thirty-one people attended the first meeting, of whom 29 were still involved at the end of the process, three months later. The panellists, representing the views of the whole community, evaluated very detailed information and considered some difficult trade-offs. The panel reached a pragmatic consensus that reflected the actual financial position of the Council. Their set of resolutions was quite different to, and arguably more considered than, results from previous methods of community engagement. One notable recommendation acknowledged that for the services they wanted all but one participant could live with up to a 9% rate rise, as long as Council undertook 84 service level changes they had identified.

b. NSW Public Accounts Committee

newDemocracy completed a similar jury-style process for the Public Accounts Committee of the NSW Parliament, which achieved consensus recommendations in the highly complex, emotive and advocate-riven area of energy policy.

We convened 26 participants each in Tamworth (drawn from a 100km catchment radius) and the Sydney metropolitan area. Participants were not paid for their time, and were initially asked to attend four meetings. Both groups ultimately decided to devote more time to the process, and both groups delivered unanimous recommendations.

The energy inquiry also demonstrated the panels' ability to discuss, identify and agree on which expert speakers should appear before them. The complexities of energy policy are illustrative of the citizens' capacity to understand highly technical subjects. Their leading recommendations were (coincidentally) mirrored by a subsequent Productivity Commission report issued three weeks after the Jury process had reported to NSW Parliament.

c. A Safe and Vibrant Nightlife for Adelaide (Premier Weatherill)

In 2013 NDF was commissioned by the Premier to address a vexed political issue related to alcohol linked violence. Politically, any action to increase regulation would be reported on as "the rise of the nanny state", while conversely, not taking any action to increase regulation would be reported as "not protecting our children". Worse still, were a Premier able to assemble the 20 greatest minds in

the world on the topic and generate the perfect policy response, he was mindful the vast majority of the population would still think it was generated by vast lobby groups who are significant donors. The barrier, consistently, is public trust.

Premier Weatherill provided a commitment to take the Jury's recommendations – verbatim and unedited – to Cabinet and Parliament, and he spent an hour in-person discussing with jurors which parts of their report the Government would enact. The Government has chosen to act on the majority, but not all, of the Jury's findings which were predominantly unanimous.

Conclusion

We ask the Committee to acknowledge the challenge to improving the electoral process is one of public trust and the political appetite to enact reforms which may be viewed cynically by the electorate.

We would welcome the opportunity to appear before the Committee to answer questions that this submission may generate.

Iain Walker

Executive Director – The newDemocracy Foundation