

## Submission to the Inquiry into Nationhood, National Identity and Democracy

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We thank the Senate's Legal and Constitutional Affairs References Committee for initiating a conversation of such clear national importance, and for the invitation to make a submission.

We agree with the contention that democratic ideals are fundamental to our national identity and where we fit in the world: we are a free and fair country which has made sensible decisions on a range of major issues. Our opportunity is to build on this – a better democracy that citizens take pride in will strengthen our national identity.

**This paper argues that Australia should learn from Ireland's experience by bringing together a selection of citizens drawn via a Civic Lottery. They would deliberate alongside MPs from all parties to respond to this Inquiry's question.**

**Such a process should be the centrepiece of a 2-3 year national conversation which explores the Committee's concerns with all Australians. It has been transformative for the Irish, and we should build on their innovation.**

### *What is the Issue?*

We have a democratic system because we need a mechanism to achieve social cohesion in a population with diverse opinions and perspectives. At a simple level, there are public decisions that affect us all where we need to take actions that deliver the broadest benefit.

People often think of democracy as "the vote". We hold the view that democracy is acting on the informed general will of the people.

We would suggest the issue at hand is that our societies have changed considerably and we have not seen any comparable innovation in 'how we do democracy'. A voting mechanism which was already excessively responsive to *public opinion* rather than *public judgment* has come under severe strain as public opinion technologies have proliferated.

More acutely, if you accept that social cohesion and an informed general will are the reasons to have a democracy, then a sole focus on highly adversarial, professionalised election contests is a poor way to achieve this.

The issue is the lack of counterbalancing and complementary mechanisms to soften the hardest edges of the election contest, and to ensure that uninformed public opinion does not have excessive sway over decisions.

The issue being explored by the Senate Committee is our sole focus as a research institute, so we will offer an emphasis on potential solutions as the focus of this paper. We cannot ask people in elected office to ignore public opinion, rather, we must build a complementary public judgment mechanism as a counterweight.

### Why has the issue arisen?

Over time, loopholes are identified in all systems and processes. From taxation laws to urban planning to board games it is human nature to focus on ways to exploit a system to one's advantage. On its own this is no bad thing as this points to a type of entrepreneurial approach rather than passively following rules without challenge.

In an electoral system, the incentives are immense: there is no noble second place and no fun to be had in opposition. As a result, professional candidates will displace people coming from different careers across the community, and professional message-tested campaigning will replace the more 'raw'/unvarnished candidate.

The issue has arisen because, over time, the audience learns as much from this as the participants. Citizens understand that they are being presented a product or a brand and are being delivered 'audience democracy'.

Beyond this, consider that the television product citizens see every night does not emphasise how hard politicians work or the depth of deliberations and exploration of alternatives: *citizens do not see people working hard to solve problems which matter to their daily lives*. They see 'theatre' because we as citizens vote with our emotions rather than weighing the net benefit of programs and policies delivered. We have a system where we the citizens say we want considered policy, but analysts of elections suggest that in practice our vote is driven by very different motivations.

Concerns about "political divisions in society" are not a bug in the system – *they are a feature*. There are no political rewards from agreeing with your rivals. There is no political reward for an Opposition seeking to inform itself about a government policy and finding itself in polite agreement. An Opposition always has one goal (and no other job): to portray a government as incompetent, in chaos and in crisis.

Put another way, if airlines advertised and communicated the way political parties do (suggesting incompetence and disaster awaits by flying with their rival), we wouldn't simply avoid one airline or another. We would remain safely on the ground. That is what voters are doing today.

### What challenges does the issue pose?

The challenges are well known, so we will be concise. Our system is struggling to take long-term decisions that involve any kind of pain for the electorate: all the electoral incentives are to defer problems for tomorrow and engage in a wish-list conversation rather than a trade-off conversation.

The Greek example distils this effectively. Faced with a clear problem with public sector debt, if the electorate is presented with one candidate suggesting a reduction in spending, and a second candidate suggesting everyone can retire at 30 then the electorate will tend to favour the second candidate as the voting mechanism does not require thought or inflict a penalty.

The election mechanism is meant to offer accountability, but any benefits on this front appear to be outweighed by the impairment on decision making being created.

### *What opportunities does the issue present?*

As the Discussion Paper notes, around the world a significant trend is toward the outsider who can play effectively on the theme that existing party representatives don't care and aren't listening to 'people like you'.

**The opportunity is to add a mechanism by which “people like me” are heard in a way which earns public trust, while being based on informed public judgment not raw public opinion. The opportunity is to create a new method within our democracy to structurally include an ‘outsider’ voice.**

This is a solved problem where the methodology is known and understood. The opportunity is to learn from the experience in Ireland which we suggest to the Committee is an exemplar.

*Ireland's Citizens' Assembly.* This gave a blended group – comprised of everyday people picked through a Civic Lottery (66 people) and members of the Parliament (33 MPs) - the opportunity to learn and deliberate together on a vexed public decision before making considered common ground recommendations back to Parliament.

In Ireland, these citizens' processes have delivered recommendations on abortion law reform, marriage equality, fixed term parliaments, climate policies and their aging population. These are hard issues where having a complementary voice alongside those of the elected representatives demonstrably added to public trust and acceptance.

By working with members of parliament, citizens and MPs had a two-way trust building exercise: citizens had more time with MPs and learned the nuance required in the decisions at hand (and could talk publicly about their experiences in a way the wider community found credible), while MPs were able to witness first-hand the ability of everyday people to think critically and find common ground.

A simple approach would be to use a Committee's normal call for submissions as the first document to be read and considered by this type of Assembly and thus form the starting point/baseline for their deliberations.

In Ireland, the Prime Minister's Office has the capability to refer hard problems to an Office of Deliberation which runs a citizens' process where the recommendations are then used to inform the Parliament.

### *What action should be taken by governments or other relevant groups?*

Our recommendation is to start a multi-year public conversation on this topic which will allow the testing of multiple methods and approaches. We would use the general approach of the Irish model as a centrepiece and build some mass engagement components where the results would funnel into the Citizens' Assembly.

The very simple test of whether this has an effect will be seen in media response, and in the willingness of elected leaders to adopt decisions and recommendations that emerge. If the process engages with an 'all-walks-of-life' cross-section of the Australian community who have clearly *thought* rather than *reacted* then elected leaders will act.

We suggest that the gap between public opinion and public judgment is easy to spot: public judgment shows an acknowledgment of costs and trade-offs. Public opinion demands action on climate change; public judgement acknowledges what costs the population is prepared to bear and what benefits they are prepared to forgo.

In reading the Discussion Paper, a clear question emerged:

***Democracy is under threat. How can we do democracy better?***

A national conversation spanning 2-3 years could involve a wide cross section of the population to answer this question. To illustrate in general terms, this might be structured in six steps –

- a. Quantify the problem and start to listen: President Macron’s hastily organised Grand Debat (in response to the Yellow Vest protesters) appears to have served a cathartic purpose: let the population share what their concerns about our system of democracy today.
- b. Allow juries of citizens around the country - all picked via a Civic Lottery - to explore what they see as the themes that emerge and to outline what they see as the potential responses.
- c. Use what citizens write as the basis for a genuine national conversation. Picture a 16-20 page booklet written by everyday people being inserted in Sunday papers and distributed through schools and sports clubs and inviting people’s questions, support and concerns.
- d. Invite response to these themes from retired politicians, academics and former senior bureaucrats to create a discussion paper of responses and solutions to stimulate the thinking in the community around potential innovations available.
- e. Drawing on a second and final national jury to integrate the questions and concerns, and to weigh the merits of potential solutions, they would write a report would be offered to Parliament.
- f. Parliament would commit to a free debate on the recommendations and to offer a written and in-person response.

The purpose of this is to engage more people and start a conversation on democracy, rather than attempting to do this within the adversarial frame of a particular issue (energy, tax, welfare etc.).

*What is the opportunity?*

Government is such a significant part of the economy that finding a way to be a world leader in democratic decision making will confer a major economic advantage by making public decisions more streamlined, consistent and predictable.

We can be a country that gives welfare to those who most need it, without one eye on critical voter demographics (“Working Families”).

We can be a country that reduces the friction costs in development, infrastructure and planning by having one substantive conversation for the long term rather than pitched adversarial battles on each spot decision.

We can be a country that finds the ability to take long term public decisions with a greatly reduced encumbrance from election cycles and electoral impact by spreading the load and not making those in elected office saints and sinners responsible for all society’s ills.

The opportunity is to build a democracy the envy of the world. An aspiration it appears the Senate has the appetite to pursue.

**It is clear that a jurisdiction that successfully finds a way to counter this trend through innovation and reform will earn global attention and reverse the negative sentiment by which an increasing number of people view democracy.**

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The newDemocracy Foundation exists to solve the problem that people complain about the state of our democracy, yet comparatively little occurs in terms of real-world testing of what solutions may work to build public confidence that our mechanism for making public decisions is fundamentally fair.

Having operated over 25 demonstration projects and with a two year contract with the UN Democracy Fund to deliver demonstration projects in this field we are well placed to design, operate and oversee any trials the Committee wishes to pursue on a 'turnkey' basis.

We are happy to respond to questions and appreciate your time to consider this paper.

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## **Appendix 1 – Concise answers to Committee Questions**

As this topic is our sole area of research, we have chosen to provide short answers to most questions posed by the Committee.

What we view as the most important answers for the Committee are highlighted using this format.

### **Sustaining democracy**

- *What does a democratic culture look like and how can it be nurtured?*

A democratic culture encourages consideration of diverse perspectives and sources. It shares problems with citizens rather than selling solutions.

It thinks rather than shouts. It emphasises bringing together representative, diverse groups of people with varying life experiences and invites them to find common ground with the promise that this will inform elected leaders.

We lack these types of structures today.

- *Why are there declining levels of public trust and satisfaction with democracy? Is one factor a perceived or actual failure of democratic governments to deliver?*

Professionalisation means we no longer see “people like me” in public decisions. From advocates to MPs we see an elite class: fewer people from the Left of politics have been ‘on the tools’ and fewer people from the Right have run a business. A counterbalancing mechanism to restore this as a complementary voice is essential.

Whether governments have ‘delivered’ is arguable: our standards of living and benefits from technology are unimaginably higher compared with just 10 years ago. By many metrics lives are better. But in a political environment that emphasises division we have many advocates investing time to emphasise that division for electoral gain.

- *What are the implications of declining trust for Australia's democracy? How can these trends be reversed?*

Lack of trust impairs the ability of an elected government to take difficult decisions.

Lack of trust encourages polarisation as candidates benefit from driving to the extremes as there is no electoral benefit from being a moderate voice.

- *Would you distinguish between dissatisfaction with democracy and dissatisfaction with liberal democratic values such as the rule of law and separation of powers?*

Yes.

Liberal democratic values are not at threat and are not at issue. Dissatisfaction is focussed within the narrow definition of democracy (decision making by representatives). Innovating in how we make trusted public decisions is what we see as the core problem to solve.

- *What could be done to encourage adherence to liberal democratic norms and conventions? What is the role of gatekeepers, such as major political parties or the media, in preserving liberal democratic norms and conventions?*

The role of any actor is to play within the rules. The rules encourage a certain type of behaviour and we don't cast blame on parties or media who push to the limits of those rules.

As an example of how the rules might change and behaviours change with it, consider newspaper articles no longer ending with "Comment" (resulting in hot tempered attacks) but instead with "What do you need to know to reach an informed decision, and who do you trust to inform you?". If government would commit to procure answers from the leading 10 questions which emerge and offer a response then the nature and substance of the stories would change. With no way into the system, the reasonable response is to be extreme as part of the quest for attention.

- *What is the role of electoral systems including, for example, compulsory voting?*

Compulsory voting is viewed positively, for the simple reason that the alternative is far worse: elections turn into "get out the vote" exercises which are far more polarising.

Australia's political system has served its country well. British 18<sup>th</sup> Century Enlightenment thinking was arguably more successfully applied in the budding State colonies than elsewhere: Australia pioneered the world's first Independent Electoral Commission, the first woman candidate, preferential voting and, of course, the Secret Ballot.

While not an area of our research or advocacy, we would encourage the Committee to consider iVote systems as a way to (a) get more considered voting, as citizens will read more about the candidate with information on their phone and (b) as a highly effective way to mitigate the effect of donations on elections. Much as Google advertising was orders of magnitude more valuable than print advertising by being presented closest to point of purchase, so an iVote platform which offers space to candidates at no cost would be the most valuable media in an election campaign and substantively lessen the power of other advertising and the money which funds it.

- *What is the role of civics education?*

There is an obvious and much commented gap – but with a critical question being "what should you teach"?

We would suggest a simple step is to learn by doing: encourage a democratic culture in schools (e.g.: with direct power over reasonable decisions such as play equipment, approaches to discipline, school sports and the school canteen) with a freedom to explore a variety of democratic models including the radical. We learn best through experience; we learn about democracy by genuinely experiencing it.

Secondly, an emphasis on critical thinking within the education system would yield a better democratic culture. Citizens should question the motivation, relevance, breadth and accuracy of all sources they read and remedying this would have a significant civic benefit.

*• How should we consider the tensions between representative and delegative democracy? How should governments represent both the majority and the minority?*

Governments should encourage processes that seek to identify common ground positions and use this to inform the parliament before a decision is made. If given the time to find common ground the majority/minority distinction is blurred by finding an answer which addresses the underlying concerns of each position.

The current submission process encourages polarised positions to be offered to representatives. No harmonisation exercise occurs where a representative group (like a jury) hears all submissions and informs the parliament about where reasonable trade-offs exist.

*• Could Australia's democracy be enhanced through, for example, forms of deliberative democracy or participatory democracy?*

Yes, vastly.

The problems to be fixed revolve around the increasing primacy of shallow public opinion, and with a reaction against “insiders”. Deliberative processes provide a structure for counterbalancing the system with outsiders, and doing so in a way which seeks informed, shared public judgment rather than individualised public opinion.

*• How are the challenges and opportunities facing Australia similar or different to those of other democracies? What could Australia learn from other democracies?*

They are broadly applicable: the campaigning strategies used in other democracies will continue to provide a pool of lessons to apply in Australia. The fact political parties send campaign managers to their US and UK peers bears out this point. This also means that the polarising trends from Europe and the US are likely to build in Australia over coming years.

*• Is there a connection between satisfaction with democracy and economic conditions, such as living standards or wages growth?*

People will always have reason to be dissatisfied. Our concern is less with wellbeing (though this is of course one factor) than with the fact that parliamentary discussion and expenditure seems to have little bearing on our lives. Regardless of wealth, people want to be heard – and this is the central failing. Our democracies have failed to scale with population growth and change.

## Nationhood and the nation state

• *What constitutes a nation in the twenty first century? How have notions of nationhood developed over time?*

We think national identity continues to hold. While people also identify as part of other groups, an Australian identity built around fairness and equality can be expected to hold for decades. The opportunity exists to innovate with a democratic structure which aspires to more strongly uphold and exemplify those values.

• *What role does and should national identity play in a modern state? Is the nation becoming more or less connected to the state?*

It should play a role in the modern state: if we are to take decisions, and pay collectively, for certain services then our willingness to do must be based on some commonality.

• *What does it mean to be an Australian citizen, including any rights or obligations? What are the obligations of the state to its citizens?*

A democratic obligation of the state should be an equivalent chance to be part of a public decision. In practice, we do not have that equal opportunity today which leads to the system not being viewed as fair.

When an electoral system has a predominance of those coming from a narrow slice of society (former student politicians, former advisors, children of MPs) then the system appears to one skewed in favour of “insiders” to the point of seeming aristocratic.

Again, we see this as a reason for looking at counterbalancing measures.

• *How can the Australian nation recognise its Indigenous cultures, peoples and history?*

There is no ‘right’ answer to this question: the right answer is one which the wider community views as fair.

If a national process was to explore ‘*How can we do democracy better?*’ this would naturally be addressed as a topic. The Parliament should be open to any response emerging from across the population as to how this recognition could be achieved.

• *How does citizenship intersect with nationality?*

Citizenship comes with obligations which should align to our national values.

Our democratic challenges could be said to arise from a lack of an obligation to be part of public decisions – while noting the system does little to encourage people in.

- *How could a sense of shared civic community be encouraged for all Australians?*

Via the use of Civic Lottery, whereby small samples of people are asked to come together to offer an informed view to elected decision makers. We increasingly stay in bubbles of people who think just like ourselves: community will come from structures and processes which expose people to those different from themselves.

- *What is the role of governments, civil society, business, and others in shaping notions of nationhood or the nation state?*

The role of governments is to create the structures whereby input can be considered, and to ensure the formats are seen as fair and transparent.

### **Social cohesion and cultural identity**

- *What are the connections between national identity, cultural identity, and social cohesion?*

They are closely linked. People feel pride when we have cohesion – a shared experience that we can generally only find through sport.

The opportunity for this Committee is to challenge us to offer formats which let us find that cohesion in a shared public decision where citizens and MPs work together to find common ground. We think it is achievable. We think it would deliver a considerable public benefit.

- *How is national identity and social cohesion affected by the geographical location in which Australians live? Has the movement of Australia's population from the regions to the cities over time had an impact? Are you concerned about increasing political divisions between certain groups?*

Yes. The oft-aided notion of “national conversation” is a throwaway line rather than a formal practice (any conversation tends to take place between elite commentators, not everyday people).

We encourage the Committee to challenge organisations like ours to come up with implementable structures for a genuine national conversation that include scattered geographies and then bring people together to identify a common ground position we may all share as Australians.

- *Are you concerned about a decline in civic engagement? If so, what might be done about this?*

We are concerned about ghettos of like-minded people: people self-sort and self-reinforce. Public structures are needed to encourage greater mixing and consideration of perspectives different. A form of Civic Jury Duty can achieve this.

## Governing in a democracy

• *Is Australia's current approach to major policy problems working? How can governments, business, civil society and others best approach significant policy challenges?*

All parties have found it challenging to enact major policy reforms.

Our answer to this is in the highlighted box below regarding how best to engage with the public.

We would ask the Committee to consider the example of the 2015 Abbott Government and the Commission of Audit reporting (among other topics) on how to fund our healthcare system. By attempting to sell a solution (\$7 to visit the doctor) it faced a flurry of opposition and the rapid emergence of a slogan labelling it the “GP tax”. The underlying issue remains unresolved.

When reading the summary of our preferred methodology below (callout box on page 12), consider how this conversation may have gone if a random sample of the community was tasked with the open question “How can we pay for the health system we want?”. Because the answer would emerge from everyday people we are more likely to consider it on its merits rather than through a partisan lens.

• *What is the role of compromise in politics? What is the place for principled stances?*

A principled stand is likely to be overturned by the next change in government’s own principled stand.

The ability to reach common ground is an undervalued commodity. This is especially so if we acknowledge that there are few if any “right” decisions on most policy issues (how to fund healthcare; what is a fair level of tax and welfare; how tall a building should be) – there are simply decisions that the wider community views as fair.

We should aspire to building a democratic decision-making structure that rewards efforts to find common ground, and recognise that this is rarely rewarded today by our electoral systems.

• *How can our democratic institutions manage competing interests in a way that is respected by all participants?*

Giving competing interests a fair hearing through the convening power of government is a simple organising idea we utilise. A chance to make your case to a jury of your peers is seen as fair in decisions of criminality which could lead to life imprisonment: we should have the same chance when it comes to policy decisions.

We understand the public service has a preference to fact checking. We recommend shifting the bias in favour of publishing all views, noting who holds that view and encouraging critical thinking by the reader.

• *How can we encourage long term vision and planning in politics, when our election cycle is much shorter?*

By having a complementary mechanism alongside elected representatives, so that those in elected office have a cross-section of everyday people standing alongside them when difficult decisions are to be taken – which should minimise the electoral risk.

The rewards of the election contest makes us sceptical of those who benefit from it. Sharing decisions with those with clearly nothing to gain will aid public trust.

Most Australians laugh at the US for electing judges who campaign on the basis of their conviction rate: the need for re-election can be suggested to be an impairment on their judgment. This same parallel unfortunately exists in all decisions we put before those in elected office (fairly or not – we are commenting on public perception).

• *Does the rise in the number of independent agencies and commissioners appointed by governments harm democracy by passing contentious issues to bodies and individuals that do not face the accountability of elections?*

No, Royal Commissions and the Reserve Bank are among our most trusted public institutions and the public does not clamour to elect these people.

Yes, harm occurs when commissioners are seen to be political appointments – it is less a question of lacking electoral accountability than as an issue of cronyism. People don't see people like them in the decisions.

• *How can democratic institutions such as parliament best engage with the public?*

- Ask the public a question, rather than try to sell them a solution.
- Make available a broad cross-section of diverse sources of information.
- Bring together a random sample of everyday people who are a rough match to Census. There is a reason we don't have self-selection for the criminal jury: we would get six members of the victim's family and six members of the defendant's family turning up. Why do we then encourage self-selection for informing government on decisions? The idea/analogy of "juror" and "expert witness" as different roles should be brought to the parliamentary committee system.
- Have these people consider the information in depth and jointly write recommendations for the parliament to consider.
- Tell people upfront what you will do with their decision: who will respond, how, and when.

• *Is there a problem with how government communicates with the public? Is the language of politics broadly understood?*

Yes. But perhaps the problems are less with language and more with incentives.

We all pay tax, but nobody reads the Henry Tax Review. This is not because its inaccessible, but because of rational ignorance: as one of 16 million voters my rational choice is to play with the dog rather than study this. If I am one of 50-100 people picked via a Civic Lottery and told that if I spend 100 hours discussing this,

the group will get an audience with the Treasurer and our recommendations made public, then my incentives to read are vastly changed.

## Public debate

- *What opportunities and challenges are presented by social media?*

We separate the democratic tasks for citizens as agenda setting and decision (recommendation) making.

Agenda setting (e.g. “we want Parliament to discuss euthanasia”) is well suited as weight of numbers can mean something and there is no expectation to ground your view in facts – it can simply be an opinion.

Decision-making is singularly ill-suited. We define our problems with democracy as being an excess bias toward public opinion rather than public judgment. Social media is a large public-opinion machine.

It is difficult to find a single example online of people coming together, listening to the views of others, considering evidence and then acknowledging the merits of another’s argument. The Committee should consider this point when assessing the merits of online engagement.

- *Are you concerned about an apparent increase distrust of experts and their advice?*

Yes.

But some of the distrust is well earned as experts can be ‘coin-operated’ – if pushed you can find an expert to say anything.

We don’t suggest excluding expertise: we recommend creating formats where citizens (a) are exposed to a diverse range of expert views (rather than a single, curated font of truth) and (b) are offered the chance as a diverse representative group of citizens to identify the experts they want to have inform them and (c) are offered exercises in critical thinking to ensure that expert knowledge is interrogated well. We have repeated practical experience of the efficacy of this approach.

- *How is satisfaction with democracy influenced by the 24 hour media cycle and the high volume of news and analysis?*

Our democracy has an excess of public opinion and a shortage of public judgment. Our news media is primarily about opinion (cheap to produce, fun to consume) rather than judgment of comparative sources.

The media has no incentive to change. The Parliament does.

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