

Should our Electoral Commissions become Democracy Commissions?

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This paper draws lessons from newDemocracy's experiences operating various citizens' juries in Australia.

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What are the questions, and why do they matter?

Imagine a democratic country that took its democracy so seriously that it created a commission that explored methods for maintaining and improving the core pillars of democracy: trust, legitimacy, transparency, and representation. Not content with living with weaknesses that were emerging in a system of governance that is still relatively young, that country wanted to strengthen its democracy, to guard against any further erosion of trust.

Right now, the common refrain is that democracy is in crisis. Evidence for this claim is offered not just as declining trust, but also rising cynicism, misinformation, lack of diversity among decision-makers, polarisation, pork barrelling, nepotism, inability to act on pressing issues and more. The threat seems real, and the possible consequences alarming and these problems would form the remit given to any organisation charged with reforming democracy.

There are multiple potential solutions for 'fixing' the faulty system of representative government but who should be responsible for doing so? Who should have oversight of any changes to be made? There is no one with clear responsibility for addressing these flaws apparent in our democracy. The result is that little progress occurs. So, who should be responsible?

What are the usual answers, and why are they insufficient?

It is occasionally suggested that the Australian Competition and Consumer Commission (ACCC) could make judgments on misleading and deceptive content (i.e., misinformation in political speech) but democracy is not like the rest of the entities the ACCC oversees, and they show no appetite. However, there are other commissions that are closer to the mark.

In Australia, we have trusted commissions that have oversight of elections. There is the Australian Electoral Commission (AEC) as well as state-based electoral commissions or offices; each is legislated by the respective state or federal government. State electoral commissions are responsible for both state and local government elections. The AEC and the state and territory offices perform the same function. The AEC's purview is limited: to ensure that the correct procedure for formal elections is followed. The AEC and its state satellites are charged with maintaining 'an impartial and independent electoral system for eligible voters through active electoral roll management, efficient delivery of polling services and targeted education and public awareness programs.' (See, [AEC](#)). It is not responsible for *improving* democratic practices or innovating in any way. If elections are meant to provide a mandate to govern but rarely confer this power in practice, shouldn't those administering elections be looking for innovations that have the capacity to achieve that aim?

Australian states also have independent commissions against corruption¹. Their rules and roles vary and there is currently no federal commission despite public calls for one. These

¹ New South Wales (NSW) Independent Commission Against Corruption; Queensland Crime and Corruption Commission (Qld CCC); Western Australian (WA) Corruption and Crime Commission; Tasmanian Integrity Commission; Victorian Independent Broad-based Anti-Corruption Commission; South Australian (SA) Independent Commission Against Corruption

commissions play an important role but, again, they are monitoring current practices and, with their limited resources, acting on occasions against malpractice. Their job is not to find alternative ways of doing democracy but rather to protect the current system, not to be forward-looking innovators. They focus on eliminating or restricting *corruption* not on enhancing trust behind decisions.

In short, monitoring bodies, like the AEC, are designed to maintain and protect the current electoral system. They mirror the oft-quoted claim by Churchill "... it has been said that democracy is the worst form of Government except for all those other forms that have been tried". That belief is quite an impediment to innovation and is best left in 1947. Yet, no-one is really attending to other possibilities. Even the Australian Parliament's own Joint Standing Committee on Electoral Matters is focused on maintaining the status quo. Its role is to conduct "inquiries into such matters relating to electoral laws and practices and their administration" (See, [JSCEM](#)) Not much scope for innovation there.

Democracy is a work-in-progress

Democracy has been evolving or decaying through various cycles over thousands of years. The Athenian model in Ancient Greece gave us some democratic components the democratic lottery so that citizens could be ruled and could rule in turn. The various revolutions that occurred hundreds of years ago chose a republican model of elite rule which has given us many of today's methods. Since those revolutions, enfranchisement has grown to include more than male landowners. Younger people, women, and racially diverse people, all have been brought into the fold to enable them to vote every few years, to cast a ballot for a narrow field of candidates. Clearly, the democratic project has evolved and can continue to evolve to move beyond the current crisis.

However, there are obstacles that cannot be ignored. Media commentators feel like they are protectors of democracy but lack subject matter knowledge and power to advocate alternatives (especially in the face of docility from major parties). There is a clear lack of knowledge about alternatives. A chicken-and-egg problem exists: no one is responsible for improving the system because members of parliament (MPs) don't think there is enough of a problem for someone to be responsible for it.

What new answers could a Democracy Commission provide, and why would it be better than the current situation?

Imagine a commission whose task it is to actually look closely at the problem (rather than have the problem peripheral to its purview). This would mean that solutions would start to be aired. Right now, there is no incentive to offer possible solutions. To take one example: the problem of misinformation. It is unclear if anyone is listening or can enforce reform through appropriate procedures. Yet it is possible to address this problem.

Elections are simply one way to "do democracy" and we are blinkered right now, ignoring methods that could build trust, reduce the likelihood of corruption, introduce diverse voices, attend to pressing problems and more. We can strengthen democracy and take it to its next

Source: Parliament of Australia

https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/National_Integrity_Commission/Integrity_CommissionSen/Report/c03

level. We can do this by simply broadening the remit of organisations like electoral and anti-corruption commissions. We could start with a Democracy Commission.

This is not a new idea. The Conservative Party in the UK has promised to set up a 'Constitution, Democracy and Rights Commission' (See, [Proposed Democracy Commission](#)). Australia had the Commission for the Future (1986-1998) although its remit went beyond democratic practice (See, [Commission for the Future](#)). But Australia does have a proud history of democratic innovation: the right for women to be elected to parliament (1894), an independent electoral body before other countries (the 1850s) including the introduction of the secret ballot (See, [Australian History](#)). Australia once led the way.

A robust democracy commission would have to avoid replicating the current levels of mistrust. The AEC is trusted because it is independent. Creating an over-arching body should follow that method but could also display its democratic principles by being democratic in its own structure—providing everyday people with a significant role since they are surely the core of our democracy.

A robust democracy commission could also look at a variety of mechanisms – outside election periods – to connect citizens with the parliaments. newDemocracy has experience with citizens' juries and citizens' assemblies but these are certainly not the only methods that could reform democracy. Online agenda-setting technology exists—that's just one more example—but, again, currently this is no one's responsibility to systematically introduce such methods. MASS LBP in Canada has put forward a proposal to spend 5% of the cost of the national election to create a Democratic Action Fund. This Fund would be to bolster citizen participation and support as many as 100 Citizens' Assemblies conducted by federal departments, provincial governments and municipalities (See, [MASSLBP](#)).

Where to begin? State electoral commissions and offices have oversight of local as well as state elections so this could be a fertile area for trials given the extent of integrity issues ever-present in the local sector. Local government has proven to be the site for considerable democratic experimentation in Australia (See, [Geelong](#)). We could start there. A state Democracy Commission could open the discussion about democratic reform that is less corruptible than the current system.

Evidence from practice

There is a great deal of evidence from practice. For example, the OECD has released various reports detailing the rapid growth of deliberative methods worldwide. These are having an impact in multiple countries including our own (See, [OECD Report](#)). Democratic lotteries are proving to be a sound method for bringing citizens centre-stage in the next evolution of democracy. But what is needed is a place where citizens can start—an independent commission that has oversight of democratic innovations, a place where change can be suggested and acted upon. A bigger role for our trusted electoral commissions is the logical place.

Finally

Elections have become synonymous with democracy despite the inaccuracy of that assumption. It is likely that the strongest objections will be from those who would wish to adhere to the status quo—*if it ain't broke, don't fix it*. However, there is a big divide that must be acknowledged, between the trust that citizens have in the current system and those who occupy positions of power. The gap is widening (See, [Australian Election Study](#)).

The biggest problems in our democracy have nothing to do with counting votes—thankfully. But the time is right for electoral commissions to extend their remit, to take on the issues beyond overseeing fair and impartial elections. Of course, such democracy commissions need not be the purview of electoral commissions, but this note is designed to stimulate thinking about that option. Electoral commissions are simply the logical starting point for strengthening Australian democracy, enabling it to evolve, as it always has done.

What this note has not considered is: what power would a democracy commission have and to whom would it report? Right now, newDemocracy’s interest is in how a designated organisation could help communities think through possibilities, knowing that the finer details about its legitimacy and transparency will surely follow.