Risks and challenges to democracy and constitutional protections

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The Democracy Genus and its Species

Discussion of democracy is discussion of a generic term with a variety of specific manifestations. Its definition as 'government of the people by the people and for the people' leaves open the questions — what is 'the people' and what are the mechanisms by which they govern? There is a body of sophisticated literature and websites which discuss the taxonomy and purport to measure the characteristics of the varieties of democracy.

For our purposes it may be sufficient to identify:

1. Direct democracy — where citizens are directly involved in government decision-making — e.g. Athens.

2. Representative democracy — where citizens elect officials to legislate and govern on their behalf.

3. Parliamentary democracy.

4. Presidential democracy.

5. Federal democracy.

6. Unitary democracy.

Obviously, those categories are not mutually exclusive. In Australia we may speak of a representative parliamentary federal democracy.

We live in a time in which all democracies appear to face challenges of trust in the institutions of government, short comings in the functionality of government and polarisation of civil society generally. It is useful to mention some of the evidence of those challenges.

The global challenge to democracy – V-Dem

The V-Dem — the Institute for Varieties of Democracy — based at the University of Gothenburg in Sweden is a leading collector and reporter on data relating to democracy across the world. It publishes regular reports drawing on a massive, updated data set to measure the state of democracy by reference to five high-level principles labelled electoral, liberal, participatory, deliberative and egalitarian.

It reports on the state of democracy globally each year. The 2025 Report, which relates to 2024, is entitled gloomily '25 Years of Autocratization – Democracy Trumped?'[1]

Its essential conclusions are as follows:

- Democracy is losing out for most in terms of economic power: it is at its lowest level in over 50 years.
- There is a wave of autocratization. Eastern Europe and South and Central Asia are in particularly steep decline. North America and Western Europe are also no longer immune. The level of democracy in this region is back to 1983 by country averages.
- The world now has 88 democracies (liberal and electoral) and 91 autocracies (electoral and closed) – a full reversal from the last year.
- Liberal democracies have become the least common regime type in the world, a total of 29 in 2024. Nearly 3 out of 4 persons in the world – 72% – now live in autocracies.
- Attacks on freedom of expression continue at an alarming pace: Worsening in 44 countries by 2024, up from 35 in 2023.[2]

The Report identified four categories of regime: Closed Autocracy, Electoral Autocracy, Electoral Democracy and Liberal Democracy. It also identified a grey zone of overlap or measurement uncertainty.

In a Closed Autocracy there are no multiparty elections for the executive. There is an absence of fundamental democratic components such as freedom of expression, freedom of association and free and fair elections.[3]

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1 Marina Nord, David Attman, Fabio Angiolillo, Tiago Fernandes, Ana Good God and Staffan I. Lindbert, *Democracy Report 2025: 25 Years of Autocratization – Democracy Trumped?* (University of Gothenburg, V-Dem Institute, March 2025).

2 Ibid 9.

3 Ibid 13.

In an Electoral Autocracy, multiparty elections for the executive exist but there are insufficient levels of fundamental requisites such as freedom of expression and association and free and fair elections.[4]

The 'grey zone' refers to countries where confidence intervals overlap making classification uncertain.[5]

An Electoral Democracy is one in which multiparty elections for the executive are free and fair, and there are satisfactory degrees of suffrage, freedom of expression and freedom of association.[6]

The Liberal Democracy, of which Australia is one, is a democracy in which requirements of electoral democracy are met; there are judicial and legislative constraints on the executive, along with the protection of civil liberties and equality before the law.[7]

Australia — The Edelman Trust Barometer

The characterisation of Australia as a Liberal Democracy should not give rise to a sense of complacency. The 25th Anniversary Edition[8] of the survey-based Edelman Trust Barometer, published in 2025, offered a global report based on online surveys of 33,000 respondents over 28 countries. A quantitative measure of trust in business, government, media and NGOs is referred to in the Report as the 'Trust Index'. Features of the Australia Report include the following:

1. Low income earners report a lower trust index than high income earners.

2. The fear that government and business leaders, and journalist and reporters lie has increased significantly since between 2021 and 2025.

3. 72% of people surveyed agreed that the wealthy don't pay their fair share of taxes. 60% agreed that the selfishness of wealthy people causes many of Australia's problems.

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4 Ibid.
5 Ibid.
6 Ibid.
7 Ibid.
8 Edelman Trust Institute, *2025 Edelman Trust Barometer: Trust and the Crisis of Grievance, Australia Report* (2025) https://www.edelman.com/trust/edelman-trust-institute

4. The fear of being discriminated against is greatest among women and people over the age of 55. That fear decreased from 2021 to 2024, but has increased by 8 points between 2024 and 2025.

5. 62% of Australian respondents reported a moderate or higher sense of grievance against business.

6. A significant percentage of Australians classified by their self-reported low, moderate or high grievance saw NGOs as a unifying force bringing people together.

Australia's Edelman Trust Report on Acceptance of Aggressive Action

The Australian Edelman Report referred to a profound shift in acceptance of aggressive action and a wide-spread sense of grievance in Australia. 31% of Australians were said to support at least one or more of the following actions:

> Attacking people online, intentionally spreading disinformation, threatening or committing violence, damaging public or private property.[9]

That sentiment was said to have increased to 1 in 2 for Australians aged 18 to 34.

Australia — The Scanlan Foundation Report

More encouragingly, the Scanlan Foundation Research Institute published a 'Social Cohesion Report' in 2024,[10] the 18th in a series of surveys dating back to 2007, which reported stability in social cohesion in Australia across the previous 12 months. The results were said to reflect the resilience of Australian society and the bonds that connect people. Participation in the social and civic life of communities had been at least as strong as in previous years. Nevertheless, the sense of belonging and social justice was significantly below long-term averages. Acceptance of Australian diversity and multicultural harmony was also strained by the experience of discrimination and mistreatment.[11]

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9 Ibid 12.

10 James O'Donnell, Qing Guan, Trish Prentice, ' Mapping Social Cohesion' (Scanlan Foundation Research Institute, November 2024) https://scanloninstitute.org.au/wp-content/uploads/Mapping-Social-Cohesion-2024-Report.pdf.

11 Ibid 7.

Australia — civics education — a Parliamentary Report — February 2025

There is another feature of Australian democracy at present that needs to be highlighted. That is our inadequate standard of civics education generally. On 6 February 2025, the Joint Standing Committee on Electoral Matters released its report 'From Classroom to Community: Civics education and political participation in Australia'.[12]

In the 'Foreword' to the Report the Committee observed that:

> The strength and stability of Australia's democracy depends on the capacity of our citizens to confidently engage with politics and cast an informed vote. Australia's system of compulsory voting means that all Australians need to be informed to participate in our democracy and elections. This is particularly important at a time when democracies around the world, including Australia, are facing rising disengagement, distrust, and misinformation and disinformation in an increasingly complex online information environment.[13]

Teachers, students and other stakeholders in the field of civics education in schools have reported that its quality varies considerably between States and Territories and individual schools. It is often given little time to focus and content can be dry and lacking relevance to student's lives. It does not teach practical skills such as how to vote. National civics education assessments of students in Years 6 and 10 demonstrated the deficiency. There were said to be gaps in teacher training and confidence and a fear by teachers of backlash if they bring contemporary issues into the classroom that could be perceived as controversial.

The Committee recommended nationally aligned and mandated civics and citizenship content for high school students with greater accountability and consistency in how that is implemented by working more closely with State and Territory governments. The Committee reported on three online surveys which it had conducted between 5 June 2024 and 30 August 2024.

The Report made 23 recommendations,[14] which included:

- Full implementation and national alignment of the civics and citizenship curriculum across Australia with a view to creating a nationally mandated standalone civics and

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12 Parliament of Australia, Joint Standing Committee on Electoral Matters, 'From Classroom to Community: Civics education and political participation in Australia' January 2025, Canberra

13 Ibid iii.

14 Ibid xiii–xvii.

citizenship curriculum in the next version of the Australian Curriculum (Recommendation 1).

- A mandatory civics and citizenship course for all Year 11 and 12 students to prepare them to participate in electoral processes (Recommendation 4).
- Development and dissemination of practical, high quality and nationally aligned teacher professional development resources for the teaching of civics and citizenship to all Australian students (Recommendation 5).
- Civics and citizenship and debate-based education be mandated in all national professional development for Humanities and Social Sciences teachers (Recommendation 6).
- The Australian Government work more closely with culturally and linguistically diverse (CALD) grass-roots community organisations to develop and deliver civics education programs in community centres across Australia (Recommendation 10).
- The Australian Electoral Commission (AEC) specifically report on an annual basis on its work with CALD community organisations to co-design and disseminate culturally appropriate and accessible materials to support enrolment and voting at future federal elections (Recommendation 11).
- The AEC should develop and implement programs for engagement with CALD communities (Recommendation 12).
- ACARA, in collaboration with universities and other academics, design media literacy tools for the next version of the Australian Curriculum to support students' critical information processing, adaptable to a changing online environment (Recommendation 19).
- The Australian Government work with grassroots community organisations for CALD people and other vulnerable groups to develop and deliver co-designed media and digital literacy training to support members of those groups to build their skills to critically evaluate information sources and identify misinformation and disinformation (Recommendation 21).

- The Australian Government support research initiatives to gain a better understanding of how all Australians receive and process civics and electoral information on social media (Recommendation 23).

As a general observation, the landscape for civics education in Australia at present is fragmented and lacks an overarching coherent policy and implementation framework.

The architecture of Australian democracy

The formal architecture of Australia's democracy is to be found in the *Commonwealth Constitution*, the Constitutions of the States, the Self-Government Acts of the Australian Capital Territory and the Northern Territory and the common law, which Sir Owen Dixon described as our ultimate constitutional foundation.[15] These together constitute what I call the legal infrastructure within which the people of Australia may enjoy rights and freedoms, grow their capacities and potential and take up their opportunities.

The lawmaking powers

The *Commonwealth Constitution* provides in its first three chapters for the legislative, executive and judicial powers of the Commonwealth. The legislative powers of the Commonwealth Parliament are enumerated for the most part in s 51. For the most part they are non-exclusive with exclusive powers being referred to in s 52. The lawmaking powers of the Commonwealth Parliament are supported by a paramountcy provision rendering invalid State legislation inconsistent with valid Commonwealth laws. The States may, subject to that paramountcy provision, make laws under their own Constitutions on anything not precluded by express or implied guarantees or prohibitions under the *Commonwealth Constitution*. As a general proposition the *Constitution* puts boundaries around lawmaking powers in Australia. There is no such thing as an unlimited lawmaking power in this country. That said, laws can be made at both State and Federal level which infringe upon fundamental human rights and freedoms while the Commonwealth is constrained in the compulsory acquisition of property by the requirement to provide just terms in s 51(xxxi), States are not so constrained.

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15 Owen Dixon, 'The Common Law as an Ultimate Constitutional Foundation' in *Jesting Pilate* (Law Book Company, Melbourne, 1965) 203.

The executive power and responsible government

The executive power of the Commonwealth is conferred primarily by s 61 of the *Constitution* which is found in Ch II. One constraint on that executive power is that the *Constitution,* unlike that of the United States, establishes the principle of responsible government — whereby the executive government is responsible to the Parliament. Thus, s 64 requires that no Minister of State shall hold office for a longer period than three months unless he or she becomes a Senator or a Member of the House of Representatives. Ministers are appointed by the Governor-General and hold office during the pleasure of the Governor-General. As a matter of convention, the government holds office between elections so far as it continues to enjoy the confidence of the House.

Legal constraints on executive power

There is no such thing as unlimited executive power. No statute of the Commonwealth can confer absolute discretion on an executive official for such a conferral would not be limited by the constitutional boundaries around the law-making power. Members of the executive and officers of the Commonwealth cannot exercise power in excess of that which is conferred upon them. They must satisfy the conditions for the exercise of their powers. They are amenable to the original jurisdiction of the High Court conferred by s 75(v) of the *Constitution* which provides that:

> In all matters:
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> …
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> (v) in which a writ of Mandamus or prohibition or an injunction is sought against an officer of the Commonwealth;
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> the High Court shall have original jurisdiction.

This allows for reviewability of executive decisions for jurisdictional error which includes purported exercises of power which exceed legislative authority, including purported exercises of power which do not meet the conditions attaching to the exercise of power — Malaysian Declaration Case.[16] The jurisdiction is entrenched in the *Constitution* and cannot be removed short of a constitutional referendum.

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16 *Plaintiff M70/2011 v Minister for Immigration and Citizenship* (2011) 244 CLR 144.

Judicial constraints on State executive power

Protections against excess of executive power have been extended to the States by implication from Ch III of the *Constitution* and the combined effects of the decision of the High Court in *Kable v Director of Public Prosecutions (NSW)*[17] and *Kirk v Industrial Relations Commission (NSW)*.[18] Thus the Supreme Courts of the States cannot be abolished by the States. Their traditional supervisory jurisdiction over official action affected by jurisdictional error is preserved and cannot be removed.

Separation of powers and independence of the judiciary

An important feature of the *Constitution* is that it has been construed as establishing a clear separation between the judicial power on the one hand and its legislative and executive powers on the other.[19] While the States are not constitutionally constrained by a formal separation of powers doctrine, this is generally observed as a matter of convention. Importantly, State courts as repositories of federal judicial power cannot exercise functions incompatible with their essential characteristics as courts. Nor can State Judges be given such functions persona designate. The concept of a national unified judicial system is protective of the independence and institutional integrity of the Australian judiciary as a whole.

Power to the people — a constitutional evolution

The legal authority of the *Constitution* originally derived from the UK Parliament. It is s 9 of the *Commonwealth of Australia Constitution Act 1900* (Imp). The exercise of that legislative power by the United Kingdom Parliament was irrevocable and made more clearly so by the Statute of Westminster.

Is it meaningful then to talk of the people of Australia as the ultimate continuing source of the authority of the *Constitution*. On one view, 'the people' were there at the beginning of federation albeit under a more limited understanding of who they were than applies today. The enactment of the *Commonwealth of Australia Constitution Act* and the formation of the Commonwealth followed successful referenda in the pre-federation colonies of Australia,

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17 *Kable v Director of Public Prosecutions* (1996) 189 CLR 51.
18 *Kirk v Industrial Relations Commission (NSW)* (2010) 239 CLR 531.
19 *R v Kirby; Ex parte Boilermakers' Society of Australia* (1956) 94 CLR 254, 296.

albeit Western Australia gave its assent after the enactment of the *Constitution Act* and prior to the proclamation establishing the Commonwealth made on 17 September 1900.

The formal source of the legal authority of the *Constitution* was seen at the outset as the legislative power of the Imperial Parliament. Sir Owen Dixon said of it:

> It is not a supreme law purporting to obtain its force from the direct expression of a people's inherent authority to constitute a government. It is a statute of the British Parliament enacted in the exercise of its legal sovereignty over the law everywhere in the King's dominions.[20]

This may be contrasted with the shift in perception reflected in the observation of Chief Justice Mason in the *ACTV case* in which he said:

> the Australia Act 1986 (UK) marked the end of the legal sovereignty of the Imperial Parliament and recognized that ultimate sovereignty resided in the Australian people.[21]

In *Theophanous v Herald & Weekly Times Ltd*[22] Deane J observed that:

> The present legitimacy of the Constitution … lies exclusively in the original adoption (by referenda) and subject maintenance (by acquiescence) of its provisions by the people.[23]

McHugh J adopted the same view in *McGinty v Western Australia*.[24]

Locating the ultimate authority of the *Constitution* in the people does not of itself provide the practical mechanisms necessary for the support and protection of representative democracy.

The *Commonwealth Constitution* itself requires, in s 7, that the Senate be 'composed of senators for each State directly chosen by the people of the State …'. Section 24 provides that the House of Representatives 'shall be composed of members directly chosen the people of the Commonwealth'.

The concept of popular sovereignty so enunciated is functionally limited by the *Constitution* to the choice of representatives and the approval or disapproval of proposed alterations to the *Constitution* put to the people by their representatives. Its elaboration and application has been

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20 Sir Owen Dixon, 'The Law and the Constitution' (1935) 51 *Law Quarterly Review* 590, 597.
21 *Australian Capital Television Pty Ltd v Commonwealth* (1992) 177 CLR 106, 138.
22 *Theophanous v Herald & Weekly Times Ltd* (1994) 182 CLR 104.
23 *Theophanous* n 22, 171.
24 *McGinty v Western Australia* (1996) 186 CLR 140, 230.

left to the legislature along with the electoral system which it has established and what appears to be a constitutionally irreversible evolution of the franchise.

The electoral system

The electoral system is an essential element of the working of Australian democracy which is not spelt out in the *Commonwealth Constitution*. As Chief Justice Gageler observed in his George Winterton Memorial Lecture 2025:

> The democratic and inclusive Federation-era vision for the form of popular sovereignty empowered by the *Constitution* has been realised through Commonwealth legislation which has shaped and reshaped our national electoral system in a process which has both reflected and contributed to the representative nature of the Commonwealth Parliament and which has both reflected and contributed to a constitutional dimension of our distinctive national identify. The liberty the Australian people nurture, to repeat the words of James Bryce, is 'political liberty'. An Australian is an 'elector': to be Australian is to vote.[25]

The evolving understanding of the franchise and the people

In *Roach v Electoral Commissioner*[26] a provision of the *Electoral Act* prohibiting a person who was serving any sentence of imprisonment from voting was held to be invalid.

In his judgment as part of the majority, Gleeson CJ referred to the evolution of the words 'chosen by the people of the Commonwealth.' He agreed with what Gummow J had said in *McGinty*[27] that Australia had reached a stage in the evolution of representative government which produced the consequence that universal adult suffrage was a long established fact and that anything else could not now be described as a choice by the people. This reflected an observation made two decades earlier in the joint judgment of McTiernan and Jacobs JJ in *McKinlay v Commonwealth*.[28]

Gleeson CJ put it thus:

> Because the franchise is critical to representative government, and lies at the centre of our concept of participation in the life of the community, and of citizenship, disenfranchisement of any group of adult citizens on a basis that does not constitute a

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25 Chief Justice Stephen Gageler AC, 'Winterton Lecture: The Evolution of the Australian Electoral System as a Constitutional Process' (2025) 47 *Sydney Law Review* (advance).

26 *Roach v Electoral Commissioner* (2007) 233 CLR 162.

27 *McGinty* n 24, 286-87.

28 *McKinlay v Commonwealth* (1975) 135 CLR 1, 36.

> substantial reason for exclusion from such participation would not be consistent with choice by the people.[29]

An exclusion for a person imprisoned for a term of three years or more was upheld.

In *Rowe v Electoral Commission*[30] the Court upheld a challenge to the validity of changes to the period allowed for new enrolments and transfers of existing enrolments which would have narrowed the opportunity, particularly for new voters to exercise the franchise. Crennan J, who was part of the majority in that case observed that:

> the constitutional principles which distinguish between oligarchic and democratic government were fully understood at the time of the commencement of the *Constitution* and were always in consideration in respect of the drafting of ss 7 and 24. Sections 7 and 24 of the *Constitution* do not prescribe any particular franchise. However, they constrain the Parliament from instituting a franchise which will result in an oligarchic representative government and mandate a franchise which will result in a democratic representative government, the preferable term used by Mason J in *McKinlay* to describe the system of government, prescribed and maintained by the *Constitution*. What is sufficient to constitute democratic representative government has changed over time, as conceptions of democracy have changed, to require a fully inclusive franchise – that is, a franchise free of arbitrary exclusions based on class, gender or race.[31]

The exercise of the franchise is supported by legislative provisions for secret ballots and compulsory voting.

The secret ballot and compulsory voting

A short history of the secret ballot in Australia is set out in the judgment I wrote as a Federal Court Judge in *Yarran v Blurton*.[32] The relevant paragraphs are reproduced below:

> 28. The secret ballot was a late development in the modern electoral processes of the Western world. Secret voting had been used for the Comita Centuriata in Rome of the second century BC and in local government from medieval times in England until the Municipal Corporations Act 1835 imposed a uniform requirement for open voting. There is some evidence that a ballot was used for a single parliamentary election in 1577 – Fredman at p 2 note 2. Generally however parliamentary elections in Britian were conducted by poll whereby a voter's name, qualification and vote were recorded in a book open for public inspection. Lord Denning M.R. described the process in *Morgan v Simpson* (1974) 3 All ER 722 and said of it at 726:
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> > "Such was the method election at common law. It was open. Not by secret ballot. Being open, it was disgraced by abuses of every

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29 *Roach* above n 14, [7].
30 *Rowe v Electoral Commission* (2010) 243 CLR 1.
31 *Rowe* n 30, [367].
32 *Yarran v Blurton* (1992) 35 FCR 485.

> kind, especially at parliamentary elections. Bribery, corruption, treating, personation, were rampant. These were not investigated by the courts of law. They were the subject of petition to Parliament itself."

> 29. There were many attempts to introduce secret ballot legislation into the British Parliament from 1830 onwards but these were rejected by the House of Lords – The Australian Encyclopaedia (Grolier Society) – 4th Edition (1983) p 4. What were seen as the first statutory provisions for a secret ballot in the common law world were enacted in Victoria in the Electoral Act 1856 (19 Vic No 12) assented to on 19 March 1856. South Australia followed suit on 2 April 1856, Tasmania in February 1858, New South Wales and Queensland, limited to their Legislative Assemblies, in November 1858 and December 1859 respectively and Western Australia limited to its Legislative Council in 1877. Being something of a novelty at the time it was called "the Australian ballot" in Britain and the United States – Crowley – A Documentary History of Australia Vol. 2 p 324.
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> …
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> 32. The Australian ballot did not meet with immediate acceptance outside this country. A committee of the House of Commons in 1870 reported that the principal objections against it were that the act of voting was a public duty which should involve public responsibility, that it would lead to hypocrisy and deception, would do little to restrain the practice of treating and would increase bribery by making it more difficult to detect. Nevertheless it was adopted in the United Kingdom by the Ballot Act 1872 (35 and 36 Vic c.33)…

As I observed in setting out the purpose of the secret ballot:

> 41. In relation to parliamentary, local government and union elections, that purpose is to encourage voters to exercise a choice for their preferred candidate free from the possibility that any social, economic, physical or other sanctions may be applied to them for voting or not voting in as particular way. Where the vote cast cannot be known, promises to vote in a specific way cannot be verified. In the absence of information about the vote cast, threats and inducements have little or diminished force.

Compulsory voting

Compulsory voting was introduced by amendment to the *Commonwealth Electoral Act 1924.* Although enrolment for federal elections had been made compulsory in 1911, voter turn out at elections had remained low. Less than 60% of eligible people had voted in the 1922 election. Australia is presently one of only 32 countries to enforce compulsory voting. Turnout has never been lower than 90%.[33]

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[33] Parliamentary Education Office, *Commonwealth Electoral Act 1924.*

Australia's experience of compulsory voting has been described as distinctive.[34] Paul Strangio, an Emeritus Professor of Politics from Monash University, stated in his Senate Lecture, delivered on 26 July 2024:

> If not unique, Australia's experience of compulsory voting is distinctive for a number of reasons. First, its emergence in the early 20th century was consistent with the nation's larger tradition of precocious innovation and ready experimentation when it came to electoral institutions and practices. This record is typically traced back to the pioneering in the 1850s of the secret ballot (sometimes called the 'Australian ballot') in a number of the Australian colonies and the embrace of other advanced democratic measures in the second half of the 19th century. These included manhood suffrage, payment of members of parliament and the extension of the franchise to women, beginning in South Australia in 1894.

Australia's embrace of compulsory voting may be contrasted with the electoral systems of Britain, Canada, New Zealand and the United States which are all based on voluntary voting. Further, unlike other compulsory voting countries, Australian electoral authorities enforce compulsory voting. It has been successful in achieving high voter turnout.

Professor Strangio suggested that the compulsory ballot is one of the elements of Australia's democratic exceptionalism and one of the reasons why the political centre holds better here than in many other comparable societies. He referred to an observation by the late Professor Stuart MacIntyre of Melbourne University that unlike the case in the United States and parts of Europe, right-wing populist politics had not really taken root in Australia. Nevertheless, it was Strangio's view that 'particularly from 2001 onwards, conservative populism has been smuggled into mainstream Australian politics.'[35] He nevertheless accepted MacIntyre's fundamental point that Australia has been more resistant to aggressive political populism than have advanced democracies in Europe and North America. He referred to compulsory voting as generally recognised for its moderating influence ensuring that it was not only impassionate partisans at either end of the political spectrum who participate in elections and who are therefore the chief focus of governments and political parties. He stated:

> Under a compulsory voting system, middle-of-the-road citizens and their concerns and sensibilities count. Politics, as a consequence, generally gravitates to the centre inhibiting the trend towards polarisation and grievance politics so powerfully evident in other parts of the globe.[36]

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34 Paul Strangio, 'A century of compulsory voting and the character of Australian democracy' (Senate Lecture Series, 26 July 2024) 24 (footnote omitted). https://search.informit.org/doi/10.3316/informit.T20250905000004192101137976

35 Strangio n 34.

36 Strangio n 34 (footnote omitted).

He accepted that there are contrary views and quoted Professor Simon Jackson who had expressed a concern that in the midst of a rising tide of political grievance, compulsory voting was 'delivering to the polls a bunch of mad as hell voters that would probably have [otherwise] stayed at home.'[37]

An incomplete overview

There are other topics which are obviously relevant to the functioning of Australian democracy. These include the weighting of elector votes at Commonwealth and State levels. They also include the array of protections for the integrity of the electoral process and constitutional exegesis in relation to burdens on a free and informed vote and the implied freedom of political communication. Perhaps most important is the national political culture if such can be identified. Ultimately, culture will trump constitutions and laws. Culture resides in the people as Dr Ambedkar, Chairman of the Drafting Committee of the Indian Constitution said on the day before that Constitution came into effect:

> I feel, however good a Constitution may be, it is sure to turn out bad because those who are called to work it, happen to be a bad lot. However bad a Constitution may be, it may turn out to be good if those who are called to work it, happen to be a good lot.[38]

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37 Strangio n 34 at fn 36.

38 Address by the Prime Minister of India, Shri Atal Bihari Vajpayeec on the occasion of the 50th Anniversary of the Republic of India (27 January 2000) citing Dr BK Ambedkar participating in the Constituent Assembly Debate November 1949 <http://parliamentofindia.nic.in/jpi/MARCH2000/CHAP1.htm>.