



Australian
Human Rights
Commission

Inquiry into civics education, engagement, and participation in Australia

Australian Human Rights Commission

Submission to Joint Standing Committee on Electoral Matters

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1 Introduction

1. The Australian Human Rights Commission (Commission) welcomes the opportunity to make this submission to the Joint Standing Committee on Electoral Matters (Committee) in response to the [Inquiry](#) into civics education, engagement and participation in Australia.
2. The role of the Commission is to work towards a world in which human rights are respected, protected and fulfilled. The Commission is Australia's National Human Rights Institution. The Commission welcomes further opportunities to engage with the Committee.
3. The Commission recognises that barriers to civics education, civic engagement and political participation affect various communities within Australia. Drawing on the Commission's expertise and experience, this submission highlights just some of these barriers. This includes, in particular those that impact upon the rights of persons with disabilities and First Nations peoples with respect to which this submission relies on the specific expertise of the Disability Discrimination Commissioner and the Aboriginal and Torres Strait Islander Social Justice Commissioner.

2 Definitions

2.1 Misinformation and disinformation

4. Throughout this submission we have adopted the same definitions for these terms as provided by the Electoral Integrity Assurance Taskforce, namely:
 - 'Misinformation' is false information that is spread due to ignorance, or by error or mistake, without the intent to deceive.¹
 - 'Disinformation' is knowingly false information designed to deliberately mislead and influence public opinion or obscure the truth for malicious or deceptive purposes.²

2.2 Deepfakes

5. This submission defines deepfakes as referring to:

A digital photo, video or sound file of a real person that has been edited to create an extremely realistic but false depiction of them doing or saying something that they did not actually do or say.³

2.3 Recommender systems

6. Recommender systems, also known as content curation systems, are defined in this submission as:

The systems that prioritise content or make personalised content suggestions to users of online services.⁴

3 Political participation

7. The Terms of Reference for this inquiry refer to 'electoral participation', but the Commission encourages the Committee to consider political participation more broadly as it extends beyond the individual exercise of voting rights. Political participation should be understood to include the range of ongoing democratic mechanisms that enable public engagement and collective decision-making.
8. This principle of participatory decision-making is an overarching principle of human rights law, and one of the mechanisms for eliminating discrimination and marginalisation.⁵ In addition to being a key principle, political participation is also enshrined as a standalone right in international instruments, as described below.
9. Article 25 of the *International Covenant on Civil and Political Rights* (ICCPR) recognises and protects the right of citizens to take part in the conduct of public affairs, the right to vote and to be elected, and the right to have access to public service.⁶ This is taken to include public administration and the formulation and implementation of policy at all levels of government.⁷
10. As all rights are interdependent, political participation processes are also understood as necessary to the realisation of other substantive rights, such as the rights to self-determination, freedom of information and expression, freedom of association, and freedom of assembly.
11. In addition to universal obligations that apply to all, three thematic instruments outline measures to be put in place by Governments to

enable self-determination of particular groups, namely children, people with disability, and First Nations peoples.

- Article 12 of the United Nations *Convention on the Rights of the Child* (CRC) enshrines the rights of children to be heard on matters that affect them, including in policy and law making.⁸ Article 3 of the CRC requires State Parties to ensure that the best interests of the child are a primary consideration in all actions that concern them.⁹
- Article 4(3) of the United Nations *Convention on the Rights of Persons with Disabilities* (CRPD) imposes a general obligation on State Parties to 'closely consult and actively involve' people with disability in the development and implementation of legislation and policies.¹⁰ General Comment No. 7 elaborates on what full and effective participation entails, and suggests it needs to be embedded systematically into government decision-making.¹¹
- Article 18 of the United Nations *Declaration on the Rights of Indigenous People* (UNDRIP) asserts the right of Indigenous People to participate in decision-making where it would affect them, and to develop and maintain their own Indigenous decision-making processes.¹²

12. Australian Governments often engage in consultation processes and provide opportunities for public input into policy and law making. This is the case, for example, with the call for submissions into this Inquiry. However, as the Commission has highlighted in our *Free and Equal* report on revitalising Australia's commitment to human rights:

Despite general avenues for participation and ad hoc mechanisms, there are certain groups in society that may not always have their views adequately reflected in law, policy and administrative decision-making processes, because they may not be at the forefront of political considerations. This is by virtue of those groups representing a minority of the populace and lacking sufficient political power to have their voice heard, or due to barriers to participation related to vulnerabilities experienced by those groups (for example, children, who are unable to vote).¹³

13. Indeed, the Commission's work identifies a common factor with laws and policies that breach human rights: they are often developed without the participation of groups most impacted by those policies. There is a need for more robust implementation of the principles contained in the CRC, CRPD and UNDRIP.

14. In its proposed model for a Human Rights Act,¹⁴ the Commission introduces a participation duty as a means to realising key procedural elements of other rights proposed to be contained in the Human Rights Act.
15. The proposed participation duty would primarily operate as a binding duty on public authorities (the Executive) by requiring the participation of First Nations peoples, children, and persons with disability in relation to decisions that directly or disproportionately affect their rights.
16. The duty would also include a non-binding requirement for proponents of legislation to facilitate participation during the law-making process and to reflect what participation measures were undertaken in statements of compatibility. This would be subject to scrutiny by the Parliamentary Joint Committee on Human Rights. Failure to engage in or report on participation to Parliament would not affect the validity of the instrument in question.
17. The participation duty would not mean that every individual has a right to participate – rather governments will be required to identify who it has engaged in consultations, why that was appropriate in the circumstances, and how the consultation is connected to, and impacts, the reform in question.

Recommendation 1: The Australian Government should consider mechanisms for broadening and strengthening political participation in Australia, including mechanisms to involve children, people with disability and Indigenous people in the development and implementation of policies that affect them.

18. The Commission recommends the Committee consult existing extensive international guidance available on political participation; particularly, the Office of the High Commissioner on Human Rights (OHCHR)'s 2018 *Guidelines for States on the effective implementation of the right to participate in public affairs*.¹⁵

4 Barriers to electoral participation

19. The Commission identifies a number of barriers preventing or diminishing electoral participation, with a particular focus on people with disability.

4.1 Legislative barriers in the Electoral Act

20. Section 93 of the *Commonwealth Electoral Act 1918* (Cth) (Electoral Act) grants entitlement to electoral enrolment to all Australian citizens who are over 18 years of age, with the exception of:

- a person who, by reason of being of unsound mind, is incapable of understanding the nature and significance of enrolment and voting (93(8)(a));
- a person who has been convicted of treason or treachery and has not been pardoned (93(8)(b));
- prisoners serving a sentence of imprisonment of 3 years or longer (93(8AA)).

21. These three cohorts have traditionally been disenfranchised throughout Australia's history, although the scope of the exclusions has changed over the years. This submission will comment on exemptions for people who are 'of unsound mind' and prisoners.

22. The Electoral Act prevents the enrolment or right to vote to a person who 'by reason of being unsound mind, is incapable of understanding the nature and significance of enrolment and voting'.¹⁶ There is no test conducted when any person seeks to enrol or presents to vote. Rather, the 'unsound mind' provisions are set in motion when a person close to the elector initiates the process by raising a concern with the Australian Electoral Commission (AEC).¹⁷

23. The most recent publicly available data from the AEC on the impact of the 'unsound mind' provision is from 2012; it shows that between 2008 to 2012, 28,603 individuals were removed from the electoral roll on the basis of an unsound mind.¹⁸

24. The unsound of mind provisions were reviewed by this Committee in 2012, with the recommendation there was 'no pressing need to remove' that terminology or to expand on the professions able to make a

determination of unsound mind, due to the risk of broadening the disqualification and disenfranchising a greater number of electors.¹⁹

25. The Australian Law Reform Commission (ALRC) reviewed the provision two years later in its 2014 Report, *Equality, Capacity and Disability in Commonwealth Laws*.²⁰
26. Arguments to maintain the unsound mind provisions, and indeed around the enfranchisement of people with disability, relate to safeguarding the integrity of the electoral system. While the majority judgments in *Roach v Electoral Commissioner* made reference to the exclusion as being 'plainly'²¹ constitutionally valid, and its rationale as being 'obvious',²² the exclusion has attracted significant criticism. The ALRC found that 'there is no evidence that reform to remove the unsound mind provisions would cause any new problems with regard to the integrity of the electoral system, undue influence or fraud',²³ and recommended that the exclusion should be repealed. The Commission agrees with this recommendation.
27. The human rights argument to reform the unsound mind provisions seeks to address the fact that mental capacity and legal capacity are confounded.
28. It is disappointing that the Australian Government has not yet responded to the ALRC's report, which provides clear recommendations for the realisation of the right to equal recognition before the law.

Recommendation 2: The Australian Government should respond to the Australian Law Reform Commission's Report, *Equality, Capacity and Disability in Commonwealth Laws*.

Recommendation 3: The Australian Government should implement the Australian Law Reform Commission's National Decision-Making Principles to support people to exercise their legal capacity. Consideration should be given to complementary recommendations by the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability.

29. The ALRC calls for the repeal of the unsound of mind provisions, stating the 'phrase 'unsound mind' is derogatory, judgmental and stigmatising' and lowers the dignity of people with disability.²⁴ The recommendations go beyond an amendment in terminology to differentiate between mental and legal capacity as well as shift from an exclusionary to more inclusionary approach. This aligns with the human rights model of disability and obligations contained in the CRPD, and is explained below.
30. The Electoral Act implements a compulsory voting system, whereby any person whose name is on the electoral roll must be compelled to vote or to pay a fine, unless they have a valid and sufficient reason for failing to vote.²⁵ AEC Divisional Returning Officers (DROs) have discretion to determine what constitutes a 'valid and sufficient reason' for failing to vote.²⁶
31. The ALRC recommended a repeal of the unsound mind provisions, but noted that if these changes are implemented, Australia's compulsory voting system could inadvertently lead to the fining of persons with cognitive impairment who do not vote and who would have been previously exempt under the 'unsound mind' provisions.
32. The ALRC made a recommendation for amendments to provisions for compulsory voting so that people who lack decision-making ability are not penalised (i.e. fined) unfairly for not participating in electoral matters.
33. The ALRC recommendation would make it a 'valid and sufficient reason' for not voting if a person cannot:
- understand the information relevant to voting at the particular election
 - retain that information for a sufficient period to make a voting decision
 - use or weigh that information as part of the process of voting; or
 - communicate that decision in some way.²⁷
34. The above change would remove the requirement for a medical certificate and ensure that the person remains on the electoral roll for future elections.
35. The approach recommended by the ALRC suggests that some persons are unable to vote due to limitations in their decision-making capacity. When combined with a repeal of the unsound of mind provisions, the

recommendations remove the procedural requirement to obtain a medical certificate and change from a pre-emptive 'blanket' type of exclusion to a capacity test that is applied only for the purposes of removing the punitive measure associated with failing to vote in a compulsory voting system.

36. The ALRC recommendation shifts the assessment of capacity from a medical practitioner (to then be vetted by the Electoral Commissioner) to Divisional Returning Officers. This approach introduces a more diffused approach, which is not without risk, and needs further consideration. The ALRC does recommend that DROs receive guidance and training to assist with their assessment.
37. AEC Guidelines for the DROs applying section 245 of the Act should be developed in consultation with the AEC Disability Advisory Committee, as recommended by the ALRC, and which advise on how to fully support the exercise of the right to vote. These Guidelines should embed the concepts of presumption of capacity, the separation of mental and legal capacity, and supported decision-making, and the ability for a person with disability to receive support while maintaining their right to confidentiality.
38. Importantly, the capacity test put forward by the ALRC should not result in a higher threshold being applied to people with disability, in comparison with any other voter attending at the polling place.
39. Furthermore, additional supports are required to enable people to exercise their legal capacity. It is understood that, in a country where voting is compulsory, removing the exemptions for people with disability to vote without providing the commensurate and required support (see section 4.2 below), would result in punitive measures being unfairly applied in a discriminatory manner.
40. Consideration would need to be given to ensure that assistance and supports are provided as much as possible to enable people with disability to vote.

Recommendation 4: The Australian Government should reform the *Commonwealth Electoral Act 1918 (Cth)* in line with the recommendations of the Australian Law Reform Commission's Report, *Equality, Capacity and Disability in Commonwealth Laws*.

41. The data on fining of persons with disability and the intersection with unsound of mind provisions is not currently known.
42. The Electoral Act prevents the enrolment or right to vote to a person who is serving a sentence of imprisonment of 3 years or longer.²⁸
43. A person is considered to be serving a 'sentence of imprisonment' if 'the person is in detention on a full time basis for an offence against the law of the Commonwealth or a State or Territory'.²⁹ This should mean that persons serving non-custodial sentences retain the right to vote, as do individuals who are on remand as they are not yet convicted (i.e. awaiting trial), on bail, or have served their sentence.
44. These provisions of the Electoral Act have changed many times, lessening and augmenting the scope of the exclusion; at different times, the exclusion has been based on both potential and actual sentences and on different sentence lengths.
45. As at 30 June 2022, there were 40,591 people in custody across Australia; 25,624 of these were sentenced (data from February 2023)³⁰ and 14,864 were on remand.³¹ There is no data available on the average length of sentence or how many of the 25,624 sentenced prisoners were on a sentence of more than 3 years.
46. *Roach v Electoral Commission* is a 2007 High Court case challenging the constitutionality of legislation removing the right of all sentenced prisoners to vote in federal elections.
47. The High Court found that a blanket ban on denying prisoners the right to vote was unlawful and unconstitutional, but that it remained lawful and proportionate for prisoners serving a sentence of three years or longer to be denied the right to vote.
48. Any prisoner disenfranchisement provisions need to be carefully considered to ensure that they are proportionate and do not contradict the rehabilitative aims of a prison sentence.
49. It should be recognised that prisoner disenfranchisement provisions disproportionately impact on Indigenous people and people with

disability, given that these groups are overrepresented in prison populations throughout Australia.

50. Another important consideration is the practical application of any prisoner disenfranchisement provisions, to ensure that they do not inadvertently disenfranchise anybody within a prison who does retain the right to vote. The Commission is aware that efforts are made to provide voting facilities to people in prison, but how the provisions are operationalised beyond this point is not known. Further research and data is required and in particular, as to how prisoners serving a sentence of less than three years in prison (in relation to federal elections) are identified, and how people who have been found unfit to plead are supported to exercise their right to vote.

51. It is important to ensure the practical effect of these provisions is considered not only at the federal level, but also with respect to state and territory elections. A failure to ensure appropriate practical implementation may result in such provisions becoming arbitrary and therefore inconsistent with international human rights principles.

4.2 Supports for political participation

52. Article 12 of the CRPD relates to the right of persons with disability to equal recognition before the law. One of the key duties imposed on State Parties is found in Article 12(3) for States to 'take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity'.

53. In 2019, the La Trobe University's Living with Disability Research Centre collaborated with Inclusion Australia and the Victorian Electoral Commission to look into the voting experiences of people with intellectual disability.

54. It identified the following strategies to support voting for people with intellectual disability:

- peer outreach by self advocates
- capacity building of disability services
- family member capacity building

- reviewing electoral staff training and policy
- developing more accessible information about voting and political issues (see below)

55. The study led to a pilot, run by the Victorian Electoral Commission (VEC), whereby the VEC built the capacity of supporters of people with disability, such as staff in disability services and family members. While the pilot increased awareness about voting rights, voting rates of pilot participants remained low at about 50%.

56. Inclusion Australia and the VEC developed the [Electoral Inclusion Resource](#) and companion piece [I Can Vote](#) outlining a pathway to support people with intellectual disability to know their rights, to become politically informed, and to vote. It steps through ways to support a person to develop self-awareness of citizenship, local politics through to determining their voting preferences.

57. The Commission commends initiatives of this nature and recommends that more should be done to support people with disability to be able to exercise their democratic rights in elections.

4.3 Access to voting facilities

58. The Commission is aware of other barriers to electoral participation based on a person's residential circumstances at the time of elections (or referenda).

59. People who reside in closed environments, whether on a short- or longer-term basis, can be prevented from accessing voting facilities. This is especially the case for people who are in environments due to emergency circumstances (such as homelessness or domestic violence shelters) or where they are not permitted to leave at will, such as prisons (including awaiting bail or on remand), mental health units, aged care facilities or other disability accommodation.

60. The Commission is aware of recent efforts by the AEC to conduct outreach into aged care facilities, homelessness services and residential mental health facilities. The Commission welcomes these efforts and the collaborative efforts of service providers in these sectors to support their residents to exercise their democratic rights.

61. However, it has been brought to the Commission's attention that people in mental health units were not provided with mobile polling stations on the day of the Voice Referendum.
62. While some aged care facilities have locked wards, the majority of residents are not subject to restrictions on movement, and, usually, reside in these facilities on a long-term basis. This means they can more readily plan for early voting by post or otherwise, or can present at a local polling station on election / referendum day.
63. By comparison, some consumers in mental health units are detained on involuntary treatment orders, of varying duration (from 24 hours to longer term orders). Some may not have planned to be in a unit. Strict restrictions are also imposed upon people in correctional services who may be held on remand, bail, or on a sentence.
64. The Commission is aware that the AEC is assessing the extent of the issue and working with key stakeholders to respond to barriers and improve its accessibility in this regard.
65. It is critical that the AEC and State and Territory based Electoral Commissions continue to discharge key roles to enable all citizens to exercise their democratic rights.

5 Civics education and engagement

66. Education is 'both a human right in itself and an indispensable means of realizing other human rights'.³² It is fundamental to ensuring the realisation of individual potential, the full enjoyment of other human rights, and the active engagement of citizens in a democratic society.
67. The right to education is recognised in a range of international human rights instruments,³³ and 'considerable evidence supports the right to education as a norm of international customary law based on the universality of treaty provisions'.³⁴ It is also reflected in Sustainable Development Goal 4, which aims to ['ensure inclusive and equitable quality education and promote lifelong learning opportunities for all'](#).
68. Governments have obligations under international human rights law to ensure that education is available, accessible, acceptable, and adaptable.³⁵

69. Civics education seeks to advance individuals' 'meaningful engagement with and participation in the community, civil society and politics'.³⁶ It commonly encompasses teaching on democracy and democratic processes, government and politics, and legal systems.³⁷ It can also extend to include teaching on Indigenous history, international law, and human rights.³⁸
70. Civics education plays a vital role in healthy democracies, by generating higher levels of political knowledge, facilitating political expression and informed debate, and encouraging public participation by engaged citizens.³⁹

5.1 Civics education in Australia

71. Civics education can be provided through numerous avenues, including the formal education system, electoral commissions,⁴⁰ governments, as well as through informal avenues such as family and friends, the media, and social and cultural organisations.⁴¹
72. A key avenue for civics education in Australia is through the formal education system, with schools providing both civics teaching, as well as informal and extracurricular opportunities to learn about active and democratic citizenship.⁴²
73. While the delivery of civics education has evolved over the years, at present Australia's National Curriculum (ANC), which 'sets the expectations for what all young Australians should be taught' between the years of Foundation to Year 10,⁴³ includes a 'Civics and Citizenship Curriculum' (CCC).⁴⁴
74. The CCC aims to ensure that students develop:
- A lifelong sense of belonging to and engagement with civic life as an active and informed citizen in the context of Australia as a secular democratic nation with a dynamic, multicultural, multi-faith society and a Christian heritage.⁴⁵
75. The CCC includes teaching on Australia's system of democratic government, the key features of government, the Australian Constitution, Australia's legal system and the provision of justice, as well as citizenship, diversity, and identity.⁴⁶ The program also seeks to build key skills such as

questioning and research, analysis, synthesis, and interpretation, problem-solving, decision-making, and communication and reflection.⁴⁷

76. The ANC also includes a series of general capabilities and cross-curriculum priorities that relate to civics education, and are incorporated through learning area content, rather than separate subjects.⁴⁸
77. These include capabilities such as critical and creative thinking, intercultural understanding and personal and social capability which seek to equip students with the 'knowledge, skills, behaviours and dispositions to live and work successfully'.⁴⁹
78. Cross-curriculum priorities include 'Aboriginal and Torres Strait Islander Histories', 'Asia and Australia's Engagement with Asia', and 'Sustainability', which seek to support a 'relevant, contemporary and engaging curriculum that reflects national, regional and global contexts'.⁵⁰
79. States, territories, and individual schools implement the ANC.⁵¹ Some states, such as New South Wales, do not teach Civics and Citizenship as a standalone subject, but divide the content descriptions specified in the Australian Curriculum into traditional subjects like history and geography.⁵²
80. Studies have indicated that the delivery of formal civics education has slightly improved active citizenship in Australia over the years.⁵³ For example this has been achieved through building stronger political knowledge,⁵⁴ and providing greater opportunities for students to engage in school decision-making and participate in civic organisations.⁵⁵
81. However, the results of the most recent National Assessment Program for the Civics and Citizenship Curriculum (NAP-CC),⁵⁶ highlight that 'young people are not "acing" civics and citizenship understanding'.⁵⁷ The 2019 NAP-CC found that only 53% of Year 6 students and 38% of Year 10 students met or exceeded the proficient national standard.⁵⁸
82. Critics of the CCC have argued that the program is overly focused on providing top-down information about citizenship and related processes, which can be 'dull and disengaging', and of limited value to encouraging meaningful civic engagement.⁵⁹
83. Others have indicated that teachers lack the 'knowledge, time or resources' to effectively deliver civics education,⁶⁰ and have criticised the

'piecemeal' delivery of civics education by States and territories, which can undermine access to consistent and comprehensive civics learning.⁶¹

84. Further, several commentators have criticised the failure of Australia's formal education systems to deliver effective teaching about 'Indigenous people and their place in the Australian past, present and future'.⁶²

85. This can result in the dismissal or trivialisation of lived experience for First Nations peoples, and deny students the opportunity to understand the truth about colonisation and its ongoing impacts on First Nations communities and individuals, and to access Indigenous knowledges, understandings and skills.⁶³

5.2 Challenges for civic engagement

86. Reports of decline in civic engagement across Australia⁶⁴ suggest that civics education is not effectively achieving its core aims, including in the long term.⁶⁵ This is compounded by factors such as prevalent distrust in government, feelings of exclusion from the political system, and a sense of 'political powerlessness'.⁶⁶

87. For First Nations peoples, the above is often compounded with a sense the Australian Parliament and government do not effectively represent or support the needs of Indigenous communities,⁶⁷ and that Indigenous peoples' electoral power is limited.⁶⁸ This is impacted by their marginalisation from the political sphere which, in turn, weakens democracy as they are unable to bring their values and lived experience into decision-making.

88. In addition, First Nations peoples, particularly in remote communities face significant barriers to receiving information and to voting due to a disproportionate number of highly mobile people, those without a fixed abode, and those without access to reliable internet connectivity.⁶⁹

89. The right to participation is underpinned by free, prior and informed consent. This means that information key to decision-making is not only made physically accessible, but also in an appropriate language and format. To fulfil this right, there is a need for co-designed information for First Nations communities, including textual and audio-visual material translated into local languages. This would likely positively impact civic engagement and accessibility. However, broader efforts are needed to

address cycles of poverty, trauma mistrust and social disengagement stemming from colonisation.

90. These factors discourage public participation in democracy, and underscore a clear need to improve civics education, and other measures to advance civic engagement across the country.
91. The harms that can arise from the deficiencies in the present model of civics education in Australia were recently highlighted during Australia's referendum on a Voice to Parliament.
92. Reports highlighted the absence of adequate education about Australia's history, Indigenous peoples, and Indigenous issues.⁷⁰ These reports evidence the need within schools and the public sphere at large for a national truth-telling process. Further, many expressed that they did not feel adequately informed about the Voice Referendum, how the Voice would work, or their obligations to vote.⁷¹
93. The Commission confirms that there was a high uptake of its resources on the Voice Referendum in advance of the vote, indicating a clear appetite for human-rights based, community-informed perspectives on the subject.
94. Further, an analysis of the Voice Referendum and related social and political attitudes, by the Australian National University Centre for Social Research and Methods, indicates declining public confidence in government, and declining satisfaction in democracy.⁷² While this may be due to numerous factors, this does add weight to concerns that civics education is not effectively advancing civic engagement across the country.
95. In addition, there was a prevalence of misinformation and disinformation 'across both mainstream and social media spheres' ahead of the voting for the Voice referendum.⁷³ There have also been numerous instances of misinformation and disinformation impacting upon democratic processes and elections globally (see section 6.2 below).
96. The Commission recognises that misinformation and disinformation can have devastating effects on human rights, including the rights of First Nations peoples, and continues to work to understand and strengthen the protections against misinformation and disinformation, including through a commitment to truth-telling, raising public awareness and education initiatives.

5.3 Strengthening civics education and engagement in Australia

97. The Senate Legal and Constitutional Affairs Reference Committee (Committee), in their 2019 inquiry on [Nationhood, National Identity and Democracy](#) received widespread calls for more civics education, including increased class hours, to enable citizens to effectively engage in democracy.⁷⁴
98. The Committee also recommended key changes to the ANC's civics and citizenship module, calling for the inclusion of 'content about First Nations histories, and issues of civics and citizenship for Aboriginal and Torres Strait Islanders', and 'resources developed by First Nations people'.⁷⁵
99. Ensuring meaningful engagement with Australia's history and truth-telling about issues impacting First Nations peoples within civics education can foster greater understanding and trust within Australia's communities and encourage civic engagement.
100. There were also calls to reconsider the methods and models of teaching civics education to facilitate more creative and engaging ways for students to learn.⁷⁶ Suggested approaches include involving students, teachers, schools, and communities in designing and delivering civics education, as well as facilitating more 'hands on' activities.⁷⁷
101. The Committee accordingly recommended the review and redesign of the ANC's civics and citizenship module with a view to making the curriculum 'more engaging for students'. The Committee also specifically called for the module to be 'based on international best-practice, evidence-based pedagogical approaches ... [and to] focus on issues of interest to young people'.⁷⁸

Recommendation 5: The Australian Government should reform the Australian National Curriculum to enhance civics education, including through increasing learning opportunities and incorporating diverse and engaging learning activities.

Recommendation 6: The content of the Civics and Citizenship Curriculum should also be updated to ensure meaningful engagement with First Nations Histories and truth-telling about issues impacting First Nations peoples and provide scope for engagement with issues of interest to young people.

102. Providing adequate support for teachers is therefore vital to ensuring the effective delivery of civics education to students across the country.⁷⁹
103. People in official and support roles should also be supported to increase civics education and democratic engagement. This can enable more people to participate in democratic processes, and is especially important for marginalised groups, such as First Nations people, who are underrepresented in the political sphere to run for office.⁸⁰

Recommendation 7: The Australian Government should ensure adequate supports are provided to educators, including teachers in formal educational institutions, as well as those in official roles, workplaces and in the broader community to effectively deliver civics education.

5.4 Civics education and human rights

104. Including teaching on human rights within civics education is crucial to promoting mutual understanding, tolerance, and trust in diverse societies. This can encourage students to recognise that:

All human beings are of equal worth, have equal dignity, are entitled to equal respect and are entitled to exactly the same set of human rights and fundamental freedoms.⁸¹

Recommendation 8: The Australian Government should conduct a mapping exercise to ascertain the level of engagement with human rights education in primary and secondary schools throughout Australia.

105. In addition to human rights teaching within civics education, there is a need for a dedicated and focused program of human rights education, as the Commission has emphasised in its *Free and Equal* project final report.⁸²
106. The *United Nations Declaration on Human Rights Education*, adopted by the General Assembly in 2011, recognises human rights education as an obligation on states parties.⁸³
107. Such a program should encompass education about human rights and why they matter, and should be delivered in a way that respects the rights of learners and educators.⁸⁴ It should aim to empower learners to enjoy and exercise their own rights, as well as respect and uphold the rights of others.⁸⁵
108. Human rights education should ‘centre the lived experiences of individuals and communities whose human rights have been breached, or who are most at risk’.⁸⁶ It should also be strengths based, community-based and trauma informed, as well as be accessible to all learners.⁸⁷
109. Such a program could be delivered both in formal educational settings at various levels, as well as in other key settings, such as workplaces, and within the general community.⁸⁸ Delivering human rights education to Australian public servants in particular can enable them to both fulfil their role as duty-bearers and adopt rights-based approaches in the development and implementation of policy.⁸⁹
110. Human rights education aims to ‘improve knowledge, shift attitude and change behaviours’ – ultimately shifting culture across communities in Australia. A human rights education program would also support greater understanding and awareness of human rights in Australia, as well as foster a culture ‘rights-mindedness’ across the country.⁹⁰

Recommendation 9: The Australian Government should develop a human rights education program through a National Human Rights Education Action Plan, targeted to primary and secondary schools, workplaces, the Australian Public Service, and the general community.

6 The impact of technology

111. Technology plays an integral role in our everyday lives – it facilitates communication and allows for the free spreading of ideas and information. However not all people have the necessary access to technology to engage with democratic processes.
112. With almost 1 in 4 Australians being digitally excluded (having difficulty using technology due to access issues, affordability, or digital ability) this can have serious implications with how they attain accurate information about, and engage with, democratic processes.⁹¹ Digital exclusion may disproportionately impact those experiencing economic hardship or living remotely.

6.1 Artificial intelligence

113. Unchecked proliferation of powerful AI technologies may radically reshape economies and societies over the coming decade – for both better and for worse.⁹² As noted by the United Nations' General Assembly:

The improper or malicious design, development, deployment and use of artificial intelligence systems, such as without adequate safeguards or in a manner inconsistent with international law ... [could] undermine sustainable development in its three dimensions – economic, social and environmental; widen digital divides between and within countries; reinforce structural inequalities and biases; lead to discrimination; undermine information integrity and access to information; undercut the protection, promotion and enjoyment of human rights and fundamental freedoms, including the right not to be subject to unlawful or arbitrary interference with one's privacy; and increase the potential risk for accidents and compound threats from malicious actors.⁹³

114. The General Assembly resolution goes on to emphasise that 'human rights and fundamental freedoms must be respected, protected, and promoted throughout the life cycle of artificial intelligence systems'.⁹⁴ As Australia continues its work to develop appropriate regulatory and policy responses to AI, the protection of human rights should be a central priority.

Recommendation 10: Australia should adopt a human rights-centred approach to AI development and deployment.

6.2 AI-generated misinformation and disinformation

115. AI-generated misinformation and disinformation may harm several human rights. The Commission has previously emphasised that misinformation and disinformation can have devastating effects on human rights, social cohesion, and democratic processes. Indeed, this can be the very purpose intended by the release of disinformation.⁹⁵
116. The Australian Electoral Commission (AEC) recently told the Select Committee on Adopting Artificial Intelligence that it anticipates AI-generated misinformation to be spread during the next federal election.⁹⁶ The AEC went on to claim that AI poses a risk to democracy itself. This is concerning as the AEC has admitted it does not possess the legislative tools or internal capabilities to detect, deter or respond to synthetic content during the election process.⁹⁷ At the same hearing Human Rights Commissioner, Lorraine Finlay, raised concerns about how AI can undermine human rights.⁹⁸
117. While there is a clear need to combat misinformation and disinformation, there is also a real risk of different perspectives and opinions being targeted when doing so. Robust safeguards for freedom of expression must form part of any measures taken to combat misinformation and disinformation in order to ensure that Australia's democratic values are not undermined.⁹⁹
118. Misinformation and disinformation can pose a particular threat to democracy and trust in institutions. Some recent examples that highlight the potential for synthetic content to undermine democratic processes include:
- A deepfake video purporting to show the President of Ukraine, Volodymyr Zelenskyy, calling on Ukrainian troops to lay down their arms and surrender circulated on social media and was briefly placed on a Ukrainian news website in March 2022 before being removed.¹⁰⁰

- A video of Muhammad Basharat Raja, a Pakistani politician and candidate, that was altered to tell voters they should boycott the 2024 general election started circulating on Facebook the day before the elections.¹⁰¹
- More than 100 deepfake video advertisements impersonating the Prime Minister of the United Kingdom, Rishi Sunak, that were paid to be promoted on Meta between December 2023 – January 2024.¹⁰²

119. In 2024 the World Economic Forum declared that misinformation and disinformation would be the ‘most severe global risk anticipated over the next two years’.¹⁰³ The Organisation for Economic Co-operation and Development (OECD) has also stressed that the use of Large Language Models (LLMs) to spread disinformation can damage public trust in democratic institutions.¹⁰⁴

120. The risk profile of synthetic content is exacerbated by its ease of use and general efficiency.¹⁰⁵ AI models can be used to generate cheap, persuasive, and personalised content for harmful purposes.¹⁰⁶

121. It is also becoming increasingly difficult to identify synthetic content. For example, in February 2024 Open AI announced Sora AI which is an ‘AI model that can create realistic and imaginative scenes from text instructions’.¹⁰⁷ The Sora AI [demonstration](#) shows simplistic prompts generating hyper-realistic footage that appears to be genuine.

122. Sora AI is not yet available to the public, with Open AI saying it is ‘taking several important safety steps’, including working with experts in ‘misinformation, hateful content, and bias’ and ‘building tools to help detect misleading content’.¹⁰⁸

123. Synthetic content is capable of generating images, videos and audios of people doing or saying anything. These deepfakes can have real consequences. For example, a deepfake image of an explosion at the Pentagon resulted in the Dow Jones Industrial Index dropping 85 points (0.3 per cent) in four minutes.¹⁰⁹

124. In Australia only 35% of surveyed adults feel confident they can take steps to identify misinformation.¹¹⁰ And just 36% of young people agree that they can discern fake news from real news.¹¹¹ Given these low levels of media literacy in Australia, in conjunction with the rise of convincing synthetic content, there should be greater investment in media literacy.

Recommendation 11: The Australian Government should support both independent and government initiatives aimed at improving digital literacy in Australia.

125. Conversely the targeting of politicians by synthetic content makes it easier for some to avoid responsibility for their real actions or comments, by claiming to have fallen victim to AI-generated content.
126. There have been a number of examples of legislative responses to the problems posed by deepfakes being introduced. Examples include the *Deepfakes Accountability Act* being introduced in the US House of Representatives in 2019 (which required deepfakes to be digitally watermarked) and South Korea banning political content which involves deepfakes within 90 days before an election.¹¹²
127. The Australian Government is also considering voluntary watermarking.¹¹³ Given the increasing evidence of the harms that can be caused by deepfakes, the Commission would recommend that digital watermarks for AI-generated content should be adopted as a priority. Additional consideration should also be given to how synthetic content can affect elections and the role that watermarking could play in mitigating any adverse impacts.
128. The Australian Government's interim response on AI has also indicated a risk-based approach where 'high-risk' uses of AI will be subject to mandatory safeguards.¹¹⁴ Notably the EU (which has also adopted a risk-based approach) has not included deepfakes as a high-risk usage of AI. While it is unclear what constitutes 'high-risk' according to the Australian Government, it should include synthetic content such as deepfakes – particularly when used in pornography or to influence democratic processes.

6.3 Foreign interference

129. While social media has many positives, these platforms are increasingly being used in foreign interference operations to disseminate misinformation and disinformation.¹¹⁵ Interference during elections and referendums have increased significantly in the online environment in

recent years.¹¹⁶ As noted in the Commission's 2023 [submission to the Senate Select commission on Foreign Interference through Social Media](#), the rise of AI-generated misinformation and disinformation will likely increase in prevalence during democratic processes.

130. A key risk is that synthetic content is often disseminated on social media platforms, in a persuasive and authoritative manner. This often leads it to be viewed as news by end users.
131. The number of people using social media for news is only growing. Compared to last year, Gen Z users are increasingly using social media as a news source:
- 23% use YouTube (up 4%)
 - 10% use WhatsApp (up 4%)
 - 26% use Instagram (up 6%)
 - 17% use TikTok (up 4%).¹¹⁷
132. In consequence, there is a greater risk that synthetic content produced as part of foreign interference operations may be accepted as trustworthy or reliable by users.
133. Propaganda and disinformation will likely increase as deepfakes lower the cost to entry, while also expanding the reach of content shared online.¹¹⁸ In recent times propaganda has been generated by individuals in places such as China's '50-centres' and Russia's 'troll farms'.¹¹⁹ However AI-generated content will likely increase the prevalence and reach of misinformation and disinformation.
134. Foreign actors are able to use social media to skew public debate and undermine trust in democratic processes. The rise of AI only makes this process cheaper and more efficient.¹²⁰ More needs to be done to address foreign interference utilising synthetic misinformation and disinformation. The Commission would echo recommendation 11 of the Senate Select Committee on Foreign Interference through Social Media's Final Report.¹²¹

Recommendation 12: The Australian Government investigate options to identify, prevent and disrupt AI-generated disinformation and foreign interference campaigns.

135. There is still a clear need for further research about the prevalence and impact of synthetic content spread by foreign actors and how that adversely impacts Australian democracy. Accordingly, the Commission also emphasises recommendation 13 of the Senate Select Committee on Foreign Interference through Social Media's Final Report.¹²²

Recommendation 13: The Australian Government build capacity to counter social media interference campaigns by supporting independent research.

6.4 Recommender systems

136. A key component of many online media systems is their recommender algorithms – the sets of computing instructions that determine what a user will be shown based on many factors.¹²³ This is done by applying machine learning techniques to the data held by online services, to identify user attributes and patterns to make recommendations on the kinds of content they will be shown.¹²⁴ News websites, mobile apps, and social media platforms all make unilateral decisions about what content is shown to you. These decisions can be made by editors and journalists or by computer algorithms analysing information about other content you have consumed, or based on what you and your friends share and interact with on social media.¹²⁵ But equally, if a user spends time engaging with potentially harmful content, that same system may lead to them seeing more of the same material or increasingly harmful material in their feeds.

137. A key driver of risk comes from the way a service optimises its recommender systems for greater engagement. If it operates on an advertising-based business model, it has an incentive to increase user engagement – and particularly time online – to grow its revenue. This can lead to it promoting content based on engagement instead of quality.¹²⁶

138. Recommender systems, especially those that serve up content based on engagement, can contribute to content 'going viral' (spreading quickly and widely). This can encourage harmful behaviour, such as dangerous challenges and online pile-on attacks against targeted people.
139. Recommender systems can also amplify misinformation and extreme views, as well as hiding different viewpoints or valuable ideas that are not aligned with a person's existing opinions or understanding. Either separately or in combination, this can lead to what is commonly known as 'echo chambers' or 'filter bubbles' – where people are only served content that reinforces the content previously shown to them.¹²⁷
140. An 'echo chamber' may lead to people only encountering information, or opinions, which reflect and reinforce their own worldviews.¹²⁸ These echo chambers can play a role, in conjunction with limited content moderation, in facilitating the spread of misinformation and disinformation, reinforcing hate speech and prejudicial content online and allowing for amplification of extremist views and conspiracy theories.¹²⁹
141. Only a minority of people truly understand the role that algorithms play in content curation.¹³⁰ This can often make it difficult for users to escape online echo chambers and highlights the need for greater education about how algorithms use personal data to tailor online experiences.¹³¹
142. The collection of personal data by social media platforms allows algorithms to tailor content to individual users. This personal information helps to create a user profile which allows social media companies to tailor the user experience and sell targeted advertising.¹³²
143. An unfortunate side effect is that users tend to be shown more, and gravitate towards, sensationalist 'clickbait' – which can form the basis of misinformation and disinformation on social media.¹³³ This is due to a key goal of social media platforms being to maximise the time that users spend on their platform (which in turn increases advertising revenue potential).
144. Algorithms are incentivised to provide content which is meant to be more engaging for users. However, this material is often more extremist, sensationalist or plainly incorrect,¹³⁴ with algorithms having 'learnt' that such content generates greater engagement. It is by this process that inflammatory misinformation and disinformation is promoted –

encouraging further user engagement and amplifying the reach of the content.¹³⁵ The algorithms appear to prioritise optimising user engagement and advertising revenue over the human rights and safety of users.

145. Recommender systems can have a negative impact on democracy in numerous ways. Through its ability to ‘micro target’ certain parts of an electorate, recommender systems can be effective in pushing specific political agendas. This is particularly harmful for more vulnerable demographics, such as older individuals, who may be more vulnerable to this type of manipulation.¹³⁶
146. As such, there have been calls for the reform of social media recommender systems to protect democratic discourse.¹³⁷ Due to the tendency for recommender systems to create echo chambers, users tend to have selective exposure to content reflecting their own beliefs instead of being exposed to content promoting other political perspectives which can healthily challenge the user’s views.¹³⁸
147. This can be damaging to the normal functioning of political debate, a necessary hallmark of a properly functioning democracy. For example, previous studies suggest that being exposed to differing political opinions enhances a person’s tolerance – the ability to follow and engage with arguments of the opposing party.¹³⁹ For individuals to engage effectively in the democratic processes, they need to have the space and resources to make informed decisions. This process is compromised considerably through the inherent function of recommender systems to provide content that the user aligns themselves with, thus reinforcing their pre-existing political views.¹⁴⁰

Recommendation 14: The Australian Government should advance measures to facilitate independent research into the nature and impact of recommender systems on democratic processes and improve social media platforms’ transparency around the management and operation of recommender systems.

7 Recommendations

148. The Commission makes the following recommendations.

Recommendation 1: The Australian Government should consider mechanisms for broadening and strengthening political participation in Australia, including mechanisms to involve children, people with disability and indigenous people in the development and implementation of policies that affect them.

Recommendation 2: The Australian Government should respond to the Australian Law Reform Commission Report *Equality, Capacity and Disability in Commonwealth Laws*.

Recommendation 3: The Australian Government should implement the Australian Law Reform's Commission's National Decision-Making Principles to support people to exercise their legal capacity. Consideration should be given to complementary recommendations by the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability.

Recommendation 4: The Australian Government should reform of the *Commonwealth Electoral Act 1918* (Cth) in line with the recommendations of the Australian Law Reform Commission's Report, *Equality, Capacity and Disability in Commonwealth Laws*.

Recommendation 5: The Australian Government should reform the Australian National Curriculum to enhance civics education, including through increasing learning opportunities and incorporating diverse and engaging learning activities.

Recommendation 6: The content of the Civics and Citizenship Curriculum should also be updated to ensure meaningful engagement with First Nations Histories and issues impacting First Nations peoples and provide scope for engagement with issues of interest to young people.

Recommendation 7: The Australian Government should ensure adequate supports are provided to educators, including teachers in formal educational institutions, as well as those in official roles, workplaces and in the broader community to effectively deliver civics education.

Recommendation 8: The Australian Government should conduct a mapping exercise to ascertain the level of engagement with human rights education in primary and secondary schools throughout Australia.

Recommendation 9: The Australian Government should develop a human rights education program through a National Human Rights Education Action Plan, targeted to primary and secondary schools, workplaces, the Australian Public Service, and the general community.

Recommendation 10: Australia should adopt a human rights-centred approach to AI development and deployment.

Recommendation 11: The Australian Government should support both independent and government initiatives aimed at improving digital literacy in Australia.

Recommendation 12: The Australian Government investigate options to identify, prevent and disrupt AI-generated disinformation and foreign interference campaigns.

Recommendation 13: The Australian Government build capacity to counter social media interference campaigns by supporting independent research.

Recommendation 14: The Australian Government should advance measures to facilitate independent research into the nature and impact of recommender systems on democratic processes and improve social media platforms' transparency around the management and operation of recommender systems.

Endnotes

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