

# ASPG Paper 2014

## Disability, inclusion and democracy - an uncomfortable fit

By David Gibson MP

### Introduction

It would be easy to believe as a result of the bi-partisan support for the National Disability Insurance Scheme (NDIS) and with the various types of disability legislation enacted over the years at both State and Federal levels, that Australia has become a veritable paradise for people with disabilities. However the evidence shows this is not the case.

In asking the question “How representative is representative democracy?” specific attention must be given to the engagement of democratic processes with those citizens in their community who have a disability.

As a general principal within Australia the only individuals disenfranchised from the electoral process are those “*serving a sentence of imprisonment*”<sup>1</sup> or “*by reason of being of unsound mind, is incapable of understanding the nature and significance of enrolment and voting*”<sup>2</sup>. Therefore the majority of people with a disability would have not only the right to vote but also the legal obligation under our nation’s compulsory voting laws. Yet the harsh truth is that people with a disability face barriers to both access (equity) and opportunity (equality) to engage in the democratic process which results in them becoming a part of a broader body of disenfranchised voters.

In a modern and thriving democracy such as we have across Australia, the right to vote and to engage in democratic processes is widely recognized as a fundamental human right. Indeed in 2010 the Australian Human Rights Commission wrote that

*“A health democracy makes sure that all members of the community have equal access to the political process... However, even though almost all Australians over 18 years old have the right – and the obligation – to vote, not all Australians enjoy that right as a practical matter.”*<sup>3</sup>

So what has gone wrong?

In 2008 the Australian Government released a discussion paper on why Australia needed a National Disability Strategy and what might be included in such a strategy. The final report ‘Shut Out: The experience of People with Disabilities and their Families in Australia’ highlighted the ongoing barriers that people with disabilities face across a range of areas in contemporary Australia.

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<sup>1</sup> Sect 106 Qld Electoral Act 1992

<sup>2</sup> Sect 93, Commonwealth Electoral Act 1918

<sup>3</sup> The right to vote is not enjoyed equally by all Australians, Australian Human Rights Commission, Feb 2010

*“People with disabilities may be present in our community, but too few are actually part of it. Many live desperate and lonely lives of exclusion and isolation. The institutions that once housed them may be closed, but the inequity remains. Where once they were physically segregated, many Australians with disabilities now find themselves socially, culturally and politically isolated. They are ignored, invisible and silent. They struggle to be noticed, they struggle to be seen, they struggle to have their voices heard.”<sup>4</sup>*

## Historical context

Australia has had a long association with championing the rights of the disabled at the international level, being one of the eight nations involved in drafting the Universal Declaration of Human Rights which sets out amongst other rights, in Article 21 the right to vote for all citizens - including those people with disabilities.

In August 1980 Australia ratified the International Covenant on Civil and Political Rights which in article 25 again reiterates the right of people with a disability to vote. These rights began to be implemented through domestic law with the Disability Discrimination Act 1992 (Cth), and other State and Territory based legislation like the Anti-Discrimination Act 1991 (Qld).

Most recently the Australian Government formally ratified the UN Convention on the Rights of Persons with a Disability (CRPD) in July 2008, which includes under Article 19 includes the right to “... full inclusion and participation in the community” for people with a disability.

State parties to the CRPD are required to take appropriate steps to promote an enabling environment in which people with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others. They also have a duty to adopt positive measures to encourage the active involvement of people with disabilities in non-governmental organisations and associations concerned with public and political life, and in political parties, as well as the forming and joining of organisations of people with disabilities at the local, regional, national and international levels.

The promise offered by these international treaties along with the various Federal and State legislations was the realisation of the rights enshrined in those documents and a subsequent society where people with disabilities are recognised and valued as equal participants. Their needs are understood as integral to the social and economic order and not identified as being ‘special’.

## Research

As part of the research for this paper a confidential survey of all Australian State and Territory MP’s as well as MP’s from the Commonwealth parliament and those from the New Zealand parliament was undertaken using the web based Survey Monkey. A total of 77 responses were received from representatives across all parliaments.

Also in the preparation for this paper a review was undertaken of a variety of sources from both Australia, NZ, Canada and the UK. This included relevant academic literature as well as various government reports into disability and a NZ

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<sup>4</sup>SHUT OUT: The Experience of People with Disabilities and their Families in Australia, National Disability Strategy Consultation Report, 2009

Parliamentary report of the Government Administration Committee 'Inquiry into the accessibility of services to Parliament'.

This review of material confirmed the view that people with a disability face barriers in participation resulting in too few opportunities for meaningful engagement in democratic processes. The barriers result in isolation and frustration as they struggle to participate in political and public life on an equal basis with others.

Indeed the study contained in the Journal of Community Engagement and Scholarship, 'Civic Engagement and People with Disabilities: The Role of Advocacy and Technology'<sup>5</sup> observed that increasing the political engagement of people with disabilities will '*ensure that new policies do not continue the cycles of oppression and marginalization historically experienced by this population*'.

### Fast Facts

- Approximately 18.5% (4.2 million) Australians have a disability - 1 in 5 people. Of these, 1.4 million Australians had a profound or severe limitation affecting their mobility, self-care or communication.
- Rates of disability increase with age. Less than 1 in 20 children under the age of five have a disability, compared to almost 9 in 10 people aged 90 years and over. Just over half (52% of people) aged 60 years and over have a disability.
- 1 in 6 Australians have a hearing disability.
- 1.5% (357,000) Australians are blind or have low vision.
- 2.7% (668,100) Australians have an intellectual or development disorder
- People with a disability who were employed were more likely to be working part time (38%) than those with no disability (31%).
- Females with disabilities have a much higher rate of part time employment (56%) compared with males with part time employment (22%).
- In June 2011 around 819,000 people with a disability in Australia received the Disability Support Pension. (Disability in this instance is defined as being unable to work for two years because of illness, injury or disability or being permanently blind).<sup>6</sup>
- Disability is 1.2 times more common among men in regional and remote areas than major cities and at similar rates among women.<sup>7</sup>
- In non-remote areas, Aboriginal and Torres Strait Islander adults are twice as likely as non-Indigenous Australian adults to have a disability or long-term health condition that requires care, services or assistance to meet their self-care, mobility or communication needs.

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<sup>5</sup> S Parker Harris, R Owen and C De Ruiter, 'Civic Engagement and People with Disabilities: The Role of Advocacy and Technology', *Journal of Community Engagement and Scholarship*, 2012, vol 5(1), pp70-83, p 81.

<sup>6</sup> Australian Bureau of Statistics, [Australian Social Trends](#), March Quarter, Cat No 4102.0, ABS 2012

<sup>7</sup> National Rural Health Alliance, ['Delivering equitable services to people living with a disability in rural and remote areas'](#), 7 June 2013

## Survey Results

The survey looked at how MP's engaged with constituents who have a disability and what support their parliament provided them to undertake this engagement.

In summarising the survey results the following points can be made:

- Nearly 90% of respondents had a constituent with a disability contact them on an issue they felt strongly about in the past 12 months.
- Direct contact to an elected official or a Government Department or Minister is the most common form of activity at over 80% with methods like petitions the least common at below 18%.
- The majority of responses regarding assistance provided by the MP's parliament to engage with people with a disability focused on physical access.
- Majority of respondents had not used external support to meet with a disabled constituent.
- MP's generally indicated a broad understanding of the barriers faced by people with disability from civic participation.

The Council of Australian Governments (COAG) National Disability Strategy<sup>8</sup> (NDS) 2010 – 2020 identified six outcomes as part of its aim to develop a high level policy framework to guide all levels of government activity. Whilst all six policy areas are important in fulfilling our obligations towards the human rights of people with a disability the two relevant policy areas for consideration for the purposes of this paper are 'Inclusive and accessible communities' and 'Rights protection, justice and legislation'.

Clearly the role that Parliaments, MP's and Governments play in this space is an important one as it was recognised that people with a disability may experience restricted access to a range of events and opportunities; including political engagement opportunities, as a result of factors like the built and natural environment, services and programs and the way information is provided.

Whilst the NDS identified that

*"Sometimes societal barriers can stand in the way of people exercising their rights as citizens, including within the political and justice systems. For instance while most people with disability may not be directly excluded from voting, some experiences may discourage individuals from staying on the electoral roll."*<sup>9</sup>

Which resulted in an 'area for future action' being identified as

*"2.8 Ensure people with a disability have every opportunity to be active participants in the civic life of the community – as jurors, board members and elected representatives."*

However there is little evidence available of any proactive strategies in reducing the barriers for civic participation being implemented as a result of the NDS.

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<sup>8</sup> COAG, National Disability Strategy 2010 - 2020, 2011

<sup>9</sup> COAG, National Disability Strategy 2010 – 2020, p37

In response to question 4 *‘What assistance does your parliament provide your electorate office to engage with people with a disability?’* over 40% answers focused on the disability access to the building.

Of concern 20% of respondents indicated they were not aware of any support available or that cost was a limiting factor in obtaining support.

*“When we identify something that would help, we ask for it but cost is a factor. We have no steps to the office but an electric door would make it easier for those with mobility issues, but cost is prohibitive.”*

Some respondents indicated that their electorate office did not meet current disabled access standards and that the MP would conduct home visits or mobile offices to enable meetings with people with a disability in a more accessible location.

The inability of people with a disability to access an electorate office is a simple and yet powerful barrier to their full inclusion in civic participation.

Further barriers beyond the physical environ such as access to information or cost of engaging support services by Members of Parliament add to barriers that people with a disability face in having their voices heard by their elected representatives.

Despite the regulative oversights in place there remains a gap between the principals espoused in various statutes and reality faced by people with a disability.

Question 2 highlighted that constituents with a disability are likely to contact their elected member on an issue they feel strongly about, with only 12% of respondents indicating that they had no contact from a person with a disability in the past 12 months.

Contacts was more likely to be made on a local issue (78%) compared to a national issue (65%), with issues such as accommodation, transport and cost of living being mentioned along with the NDIS.

Surprisingly 66% of responses to question 5 *‘Have you ever had the need to use external support to meet with a disabled constituent? (Eg Deaf relay service, advocate etc)’* indicated they had not. This response runs contrary to the literature which indicated that people with a disability faced multiple barriers to civic participation including access to external support.

Possible reasons for the lack of use of external support by MP’s may be as a result of ignorance or misconceptions as to the support available or as a result of a lack of resources to engage that support.

The final question asked *‘What barriers are you aware of that prevent people with a disability from getting more involved in civic participation in their local community.’*

Most responses identified multiple barriers including the built environ (40%), lack of support services (48%), cost (7%) and societal attitudes (16%).

There were views displayed in response to this question that underscored the greatest barrier people with disability face is often confronting negative attitudes or outdated stereotypes – even amongst MP’s. One respondent indicated that

*“The biggest barrier is mainly their own mindset. There is so much help available.”*

Whilst another said

*“They are so preoccupied with caring for themselves and their disability to have time to participate.”*

These two responses were disturbing. However they honestly highlighted the societal barriers that are still faced by people with a disability.

### New Zealand report

As part of the literature review the 2014 report by the NZ Parliamentary Government Administration Committee - ‘Inquiry into the accessibility of services to Parliament’ was considered. As far as could be determined this was the only report into the accessibility of parliament undertaken by any Australasian parliament and is a credit to the NZ Parliament and the members of the Government Administration Committee both from the point of view of the subject matter considered but also from the engagement with the disabled community to ensure their views were considered.

The report addressed a range of topics including physical access to the parliament and members’ offices, the accessibility of information from the parliament, to people with a disability engaging with parliament and support provided to MP’s with a disability.

The very act of a parliament conducting a review into its own accessibility is one that all parliaments could benefit from. Any inquiry to ensure that a parliament complies with the human rights for people with a disability, will assist in increasing awareness of the rights themselves as well as addressing the very barriers that people with a disability face in accessing those rights.

### Conclusion

It is evident from the literature reviewed and the survey results received that there is still a long way to go in addressing the barriers that exists for people with a disability to participate and engage in the political and democratic processes within our society.

Despite international treaties being ratified and lofty policy intents being enacted in legislation, report after report highlights the failure to realise that basic of human rights – to have your voice heard – for people with disabilities.

It is acknowledged that these barriers to civic participation are complex depending on the person’s disability, and the intersection of that disability with the issue for engagement. It could be as simple as the physical barrier to accessing an electorate office preventing a meeting with their local MP, to those attitudinal barriers that exist by the elected representative.

It is evident that despite all the work undertaken to date that neither the physical nor societal barriers have been adequately addressed for people with disabilities.

Whilst Sir Winston Churchill famously said,

*“No one pretends that democracy is perfect or all-wise. Indeed, it has been said that democracy is the worst form of government except all those other forms that have been tried from time to time.”*

It is generally recognised that the strength of the Westminster style of democracy is that it recognises and protects the value and equality of each individual.

Parliaments, elected representatives and Governments at all levels have undertaken a vast body of work to try to ensure that they engage with all individuals in their society so that they can truly be said to be a 'representative democracy' however it is evident that there is still ongoing work need to ensure that voices of people with disabilities are properly involved.