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Editor - Sarah Moulds

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The APR is the official journal of ASPG, which was formed in 1978 for the purpose of encouraging and stimulating research, writing and teaching about parliamentary institutions in Australia, New Zealand and the South Pacific (see back page for Notes to Contributors to the journal and details of AGPS membership, which includes a subscription to APR). To know more about the ASPG, including its Executive membership and its Chapters, go to www.aspg.org.au

AUSTRALASIAN PARLIAMENTARY REVIEW

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* Indicates that the article has been double-blind reviewed.

From the Editor

It is with great pleasure that I introduce this Special Edition of the Australasian Parliamentary Review on the theme 'Connected Parliaments - Digitalisation, Innovation and Engagement'. This theme has been chosen in recognition of the rapid and dynamic changes that impact the way the public engages with the work of parliaments, and the way parliaments embrace new technologies and other innovations.

When citizens are connected to their parliament, they can feel empowered and valued, and may in turn develop relationships of trust with the parliamentarians that represent them, and the institution of parliament itself. However, when citizens are disconnected, they may become cynical or distrustful of the role of the parliament in our modern democracy. Because of this, as Cristina Leston-Bandeira reminds us, the concept of 'parliamentary public engagement' has become elevated in the corporate priorities of parliaments around the world, including our region. Indeed, in a global report released in May 2022, the Inter-Parliamentary Union and the United Nations Development Programme declared parliamentary public engagement was 'not a preference or a choice, but a necessity for effective representation'.

This Special Edition includes perspectives and contributions from a wide range of lived experiences – including from parliamentary staff, scholars of parliamentary practice and public law, as well as community-based organisations. It also lends itself to comparative case studies, and insights into particular areas of policy making or law-making, as well as consideration of how particular groups within our society embrace or are excluded by certain technologies or approaches. We are honoured to have contributions from around the world included in this volume.

The layout of this Special Edition also has a number of unique features to show case the diversity of contributions and case studies that speak to the theme of Connected Parliaments. It includes two separate 'Comment' sections. The first focuses on the importance of public engagement for parliaments, with contributions from Cristina Leston-Bandeira, Lyn Carson and Stephen Elstub, and Andres Lomp. The second Comment section provides a snapshot of case studies from a diverse range of jurisdictions, including perspectives from South Australia (Natalie Young), Queensland (Bernice Watson), Canada (Peter Price), Scotland (Emma Armstrong) and New Zealand (David Wilson and Amy Brier). The Special Edition also features full-length articles on the e-Poll Platform embraced by the Brazilian Chamber of Deputies, by Rodolfo Cezar Ranulfo Vaz; the potential for deliberative assemblies to enhance the constitutional referendum process, by Andrew Cole; the relationship between social media platforms and duty of care, by Rachel Tan; and the role petitions play in shaping our shared social history, by Jennifer Gallagher. The Edition also features thought provoking research in

the area of 'democratic taxation', authored by an international team of multidisciplinary experts: Jean-Paul Gagnon, Paul Emiljanowicz, Lucy Parry, Bomikazi Zeka, Nick Vlahos, Angela Tan-Kantor, Alex Prior, Adrian Bua and John Hawkins.

The Special Edition concludes with review of Alexandra Smith's *The Secret*, by David Clune and attaches the full text of 2021 publication prepared by newDemocracy on the topic of new options for parliamentary committees.

I express deep gratitude to all authors and encourage readers to *connect* with each other – and the with Review – as we celebrate this emerging area of scholarship and practice.

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November 2022

Comment

The Importance of Public Engagement for Parliaments

How public engagement has become a must for parliaments in today's democracies

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INTRODUCTION

The importance of public engagement for parliaments has been increasingly recognized in recent years. In a generalized context of decline in trust in politics, increase in populist politics and expansion of misinformation, public engagement is often seen as a way of addressing some of the contemporary democratic malaises. However, there is also a lot of misunderstanding and suspicion in relation to public engagement and therefore associated resistance to developing effective practices that enable meaningful engagement. This short text outlines why public engagement should be seen as a core activity together with parliaments' other core roles such as law-making, scrutiny and representation. I explore the societal and technological changes that have led to the emergence of public engagement, to then identify why public engagement is a must for parliaments today. I finish with a very short outline of what public engagement can entail and on core effectiveness factors.

The structural and institutional frameworks of parliamentary institutions draw still today predominantly from those deriving from the liberal representative wave of the 19th and early 20th century that institutionalized the principles of representative democracy: a governance that is undertaken on behalf of citizens, who confer it legitimacy through elections. Members of Parliament are elected for a period of years, during which they act on behalf of their voters to enable and scrutinize government. And up to the turn of the 20th to the 21st century, this seemed a settled and perfectly appropriate institutional framework. However, we have witnessed major societal and technological changes over the past decades, which all explain why representative democracy institutions need to adapt and integrate new practices that facilitate a more continuing dialogue with citizens. Mandates acquired through elections are of course

at the core of a working democracy – after all it is an efficient way to undertake governance on behalf of millions of citizens – but they need to be supplemented by other processes; those often referred to generically as public engagement, or more specifically sometimes as participatory democracy.

FIVE CORE CHANGES THAT EXPLAIN THE NEED FOR PUBLIC ENGAGEMENT

Change is complex and it is often difficult to single out individual causes. However, I identify five core changes that explain the need for public engagement by parliaments today: the rise of the so-called 'critical citizen'; the rise in expectations towards politics namely in relation to transparency and accessibility; the rise of the internet; the decline in trust; the modern trends of political participation.

- **The rise of the 'critical citizen'**: many authors refer to this idea, which is neatly encapsulated in the concept of 'critical citizens'.[1] This concept refers to how a rise in levels of education and in access to information has led to citizens being better equipped and more confident in making their own judgements, rather than delegating this to others, such as local elites or representatives; making citizens more likely to question and critique governance decisions according to their specific circumstances and experiences. One of the consequences of this is that whereas say in the 1950s citizens may have been more willing to delegate decisions to their representatives, today they are more likely to have their own views on a wider range of issues and not necessarily agree with their representative.

- **The rise in expectations in politics namely in relation to transparency and accessibility**: associated with the previous point, research shows that citizens' expectations of standards of governance have also risen. But, in particular, expectations in relation to transparency and accessibility are now much higher. This is partly because we now live in digital societies, where data and information are key and easier to disseminate; in part also due to considerable action globally towards promoting principles of transparency, openness and accessibility. This is

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[1] P. Norris, *Critical Citizens*, Oxford University Press, 1999.

reflected in the introduction in many countries of freedom of information requests laws, for example, and in movements such as Open Government.

- **The rise of the internet**: when most of our day-to-day actions are mediated by the internet, it is easy to forget the impact this has had on the relationship between citizens and governing institutions, namely parliament. However, this is perhaps the main change between 20th and 21st century representation. The existence of the internet explains, for example, why a Member of Parliament in the 1950s may only be contacted by their voters every so often; and why an Member of Parliament in 2022 will likely be contacted by voters every single day, multiple times. It has an impact on the type and volume of information made available to citizens, the ubiquitous nature of digital information and communications, but also in the possibilities of interaction both from representatives to voters, and vice versa, and even between voters. More broadly, it has consequences to our expectations and ability to interpret politics without mediators.

- **The decline in trust:** in great part as a consequence of the phenomena we mention in the previous points, namely more critical minds and higher expectations, the levels of trust in political institutions, and consequently on parliaments, have generally declined over the past few decades. There are of course counter-trends to this, particularly in the case of new emerging democracies where trust in political institutions may be associated in trust in new institutions. But, overall, trends portray a general decline of trust in political institutions.

- **Modern trends in political participation:** forms of political participation have also changed very significantly since the 1970s. It would be impossible to identify here all of those changes, but it is important to identify the following specifically, as they have a direct impact on parliamentary representation: lower voter turnout rates (though accompanied by more, and more frequent, elections, in line with more complex multi-level governance structures, and the more frequent use of referendums); electoral volatility (meaning that citizens are more likely to change their vote between elections); a more active civil society and of non-party political politics and movements; an expansion of non-representative forms of democracy, such as participatory and deliberative democracy (for example, participatory budgets or citizens assemblies), particularly at local level. These changes in modern trends in political participation can be summarised to a decline of formal participation accompanied by an expansion of non-conventional forms of participation.

Together, these changes explain why parliaments cannot simply assume the traditional institutional structures of representative democracy, which rely on legitimacy by voters

every four or five years. More than a potential cure for democratic malaises, public engagement is today an expectation of politics. Citizens have an expectation of being informed about politics and to be able to have a say during the time between elections – they may not wish to have a say, but the expectation is that should they wish to, processes should exist to enable this. Not meeting this expectation is simply reinforcing the perception of a gap between governing institutions and citizens.

Accepting the need for public engagement does not mean though a questioning of the principles of representative democracy. Members of Parliament are ultimately those who take decisions. The need for public engagement is about making sure that in taking those decisions, processes exist to facilitate public understanding and, where appropriate, public involvement to enhance law-making and scrutiny. In fact, when done right, public engagement enhances law-making and scrutiny, by enabling a closer link to the reality where policy is implemented and providing policy-makers with a better understanding of how policy is implemented and its consequences. When done right, public engagement can also lead to stronger trust.

We are still in a transitioning period. Most parliaments are still trying to figure out how to incorporate public engagement practices with the traditional representative democracy processes. This explains why, for instance, most of the development has been in the areas of information and education, rather than of consultation and participation which can be seen at odds with representative democracy. However, in the same token, many parliaments have been developing very innovative practices to enhance the involvement of citizens in parliamentary business – see for instance the wide-ranging case studies include in the recent Inter-Parliamentary Union and United Nations Development Program's *Global Parliamentary Report on Public Engagement*.[2]

But what exactly does public engagement entail? As I have recently outlined,[3] public engagement is ultimately about empowering people in relation to their surroundings. This may be because they feel better informed to follow politics, it can also be because they feel strongly about a policy issue and feel able to get involved in shaping it. In

[2] Inter-Parliamentary Union (IPU) and United Nations Development Programme (UNDP), *The Global Parliamentary Report on Public Engagement*, 2022. Accessed at: <https://www.ipu.org/our-impact/strong-parliaments/setting-standards/global-parliamentary-report/global-parliamentary-report-2022-public-engagement-in-work-parliament>.

[3] As outlined in Cristina Leston-Bandeira, 'The Public Engagement Journey', blog post for the *Centre for Democratic Engagement*, 2021. Accessed at: <https://cde.leeds.ac.uk/2021/03/24/the-public-engagement-journey/>.

order to identify what public engagement entails, it is useful to differentiate between types of activity (information, education, communication, consultation and participation), the effect on the citizen (for example feeling listened to, valued, disregarded, ignored, etc) and a broader democratic aim (including transparency, openness, legitimacy, trust).

Public engagement therefore is not simply just about providing information and/or education; likewise it is not simply about providing opportunities for participation. It is about all five types of activities, which are far more inter-connected than often thought, and, more importantly, it is about how they are implemented and the effect they have on the citizen. But to merely have the 'opportunity' of information or of participation does not mean this will lead to effective public engagement. We finish this short note by outlining some key factors that help enhance the effectiveness of parliamentary public engagement.

TEN FACTORS TO ENSURE EFFECTIVE PUBLIC ENGAGEMENT

Outlining factors ensuring effectiveness of public engagement would in itself take a whole new article. But, in short, I outline next ten key factors, which need to be considered regardless of the type of activity to develop effective public engagement practices: accessibility; reach of the audience; diversity of the audience; existing divides; use of different means of communication; issue-led rather than process-led; listening rather than broadcasting; closing the feedback loop; linking engagement with parliamentary business; evaluation and reporting of activities.

- *Accessibility*. This includes many elements. From making sure that parliamentary information is accessible to those with disabilities, to the development of resources that speak to audiences with low literacy skills. It is of particular importance when it comes to parliaments communicating with people external to the institution, as traditionally parliamentary language is very specialized and only accessible to very narrow groups of people. Accessibility needs therefore to also consider the language used in any communication with the public.

- *Reach of the audience*: This is at the core of public engagement in the modern parliament, as there is an implication that parliament and representatives engage with a group of people beyond the often referred to as the 'usual suspects'; the 'usual suspects' would be those who would engage with parliament anyway, as part of their work practice. The reach of audience will vary from issue to issue, but it is an important element to be considered, to go beyond what would be traditional parliamentary practice. The reach can be evaluated in many ways, from the

geographical distance from where the parliament is located, to the type of groups it reaches out to.

- **Diversity of audience**: Complementarily to the previous two points, diversity of audiences is also very important for parliamentary officials to consider. In activities where the views of the public are asked for, there is often a tendency for specific groups and types of people to dominate responses. Unless parliaments explicitly encourage a diversity of views, this does not happen naturally.

- **Existing 'divides':** For example, socio-economic, geographical, digital and/or ethnic divides. In order to be able to promote diversity, it is important to also acknowledge the existing divides within a nation; which groups are most likely to be more powerful, more active and with louder voices? By explicitly understanding and acknowledging key divides of a nation, parliaments can promote more inclusive practices of representation by trying to redress those divides and reaching out in particular to those less likely to be involved. This may take different forms, according to the type of divide; for example, by having transport subsidies to support visits to parliament or those further afield and/or from lower income backgrounds; or, for example, by not relying on digital means of communication for groups who may have poorer digital access and/or skills.

- **Use of diverse means of communication**: As a consequence of all the points raised above, it is always important to diversify the means of communication between parliament and people. Parliaments tend to produce a lot of text, typically in long documents. There are many reasons for this, in terms of the way it supports its work and legitimacy. However, when it comes to engaging groups external to parliament, who may be very diverse between themselves, it is important to consider a multiplicity of means of communication that may include invariably text, audio, video, visual, infographics, easy read etc.

- **Issue-led rather than process-led:** Parliaments are traditionally process led institutions. As a consequence of this, often initiatives which attempt to engage the public into parliamentary business are very procedural and, as a consequence, fail to actually engage citizens who know little about parliament. As a general principle, the most effective engagement initiatives tend to be issue-led, rather than process-led. Ordinary people are more likely to engage with parliament because they care about an issue, than because they know how a process works.

- **Listening rather than broadcasting**: Parliaments have traditionally been very good at broadcasting, that is sending out information about what they do. They are less good at listening, that is providing mechanisms through which citizens can express

their views and feel that their views are being listened to. Parliaments tend to be large abstract entities and citizens will see it in that way, unless they are aware of human side (official/Member of Parliament) on the other side. Feeling listened to is key for citizens to develop trust feelings. It is better to do fewer activities and make sure that listening processes are in place (such as appropriate acknowledgement of inputs submitted or effective closing of the feedback loop). Research has shown that citizens understand that their demands may not be met[4] – what they often wish is to be listened to and have a fair go at putting forward their point of view and/or lived experiences.

- *Closing the feedback loop*: linked to the previous point, citizens are unlikely to feel it was worth participating in public engagement initiatives if they feel it did not contribute to anything. Closing the feedback loop is about communicating to those citizens who got involved in an engagement initiative in what way the inputs collected informed parliamentary business. This is not always easy to do, but can be done through generic emails for instance, through online shorthand pages which identify what citizens said, and in what way it was considered, or simply by including details about engagement initiatives in a report and communicating this to those who got involved. Closing the feedback loop is about giving a sense that someone did listen, even if not to accommodate the exact demands made. In interviews for related published research,[5] this sentiment was predominant, as one interviewee said 'having submitted the evidence, it was as though I had tossed a ball into the ocean. No sign of it.' In this specific case, the public was not even sure if anyone had actually read their submissions.

- *Linking engagement with parliamentary business*: parliamentary public engagement often develops as a separate parallel activity to parliaments' main core business, such as law-making and scrutiny. For public engagement to be meaningful it needs to be linked and/or integrated with core parliamentary business. This applies to any public engagement activity. From a simple school visit to a parliament, which should not simply be about the history, the architecture and the paintings of

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[4] C. Carman, 'The process is the reality: perceptions of procedural fairness and participatory democracy, *Political Studies*, 58(4), 2010 pp. 731–51; Cristina Leston-Bandeira, 'Parliamentary petitions and public engagement: an empirical analysis of the role of e-petitions', *Policy & Politics*, 47(3), 2019, pp. 415-436.

[5] C. Leston-Bandeira and L. Thompson, 'Integrating the view of the public into the formal legislative process: public reading stage in the UK House of Commons', *The Journal of Legislative Studies*, 23(4), 2017, pp.508-528.

the building, but should also be about what the institution actually does and hopefully some involvement of its actors (such as Members of Parliament). When it comes to a consultation on a bill – if citizens are being asked about a bill, then their views need to be formally and actively linked to the process of considering the bill.[6] Developing a public engagement activity in parallel with the real world of parliamentary business is at best a missed opportunity, at worst yet another raised expectation not met.

- ***Evaluation and reporting of activities*:** finally, another core element to any public engagement activity is the need for evaluation and reporting. This is often neglected by parliaments, in great part because public engagement is a new activity for parliaments, in great part also because these institutions are not necessarily always great at evaluating and reporting on themselves. But as something about which we are all still learning so much about, it is vitally important to evaluate, learn lessons, and disseminate these to the rest of the institution. This can be implemented through short feedback questionnaires given to citizens attending an event, to an overview of the type of events undertaken for a specific need. Due to its newness element and to the fact that public engagement is about relating to groups outside the parliamentary institution, evaluating practice is particularly important.

CONCLUSION

Public engagement should today be seen as one of parliaments' core roles, to support and enhance its other roles of law-making, scrutiny and representation. Public engagement does not threaten representative democracy, it enhances it. In a 21st century society of 24/7 communication, ubiquitous digital interaction, very active civil society and acute visibility of politics, parliaments need to develop effective public engagement practices to stay relevant and meet public expectations of having a say in the period between elections. And public engagement has become a significant activity for parliaments, but this is still a fledgling activity and often one that is not fully embedded in parliamentary practice. There is still very considerable variation in parliamentary public engagement practice across the world and a lot to learn about

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[6] Leston-Bandeira and Thompson, *Integrating the view of the public into the formal legislative process*, pp.508-528.

what makes for effective practice. This is why a special issue such as this one is very welcome, to encourage reflection, experimentation, sharing and evaluation.

Comparing participatory and deliberative democracy *

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WHAT IS THE QUESTION?

The two terms *participatory* and *deliberative* democracy are often used interchangeably, and this can be confusing for policy makers. But are they the same? Is *deliberative democracy* simply *participatory democracy* with a more confusing name? If they are not the same, what are their similarities and differences, what are their strengths and weaknesses?

HOW ARE THEY SIMILAR?

Participatory democracy has a long history. In the West, it is associated more recently with the activist movements of the 1960s:[1] for example. civil rights, women's liberation and more, when people took to the streets demanding greater participation in government decision making. This can enable a public to help decision makers set an

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[1] C. Pateman, *Participation and democratic theory*, Cambridge: Cambridge University Press, 1970.

agenda by making their demands clear. Various recent examples of this are: Arab Spring, the Spanish Indignados and France's 'yellow vest' movement.

Deliberative democracy also has a long history. But it has a more contemporary expression that is rapidly growing. The theory gained traction, firstly, through academic literature, starting in the 1980s[2] when many of the current approaches first found favour among the conceptually- and empirically-curious;[3] writings and conferences on deliberative democracy have proliferated exponentially since then.[4]

The main similarity is that both these terms refer to the direct involvement of citizens in political decision making, beyond choosing representatives through elections. Both approaches to democracy, therefore, critique the current democratic system and seek to reform it by strengthening it.

HOW ARE THEY DIFFERENT?

The main differences concern: (a) the numbers of participants; (b) the type of participation; and (c) how participants are selected. This leads to advocating different types of institutions.

Numbers of participants

Clearly, there is a trade-off between large numbers of participants and in-depth participation.

Advocates of *participatory democracy* usually want to involve large numbers of people in political processes, ideally the entire citizenry, and its practitioners are ecumenical in their approach. The aim for them is to achieve breadth, with many participants - ideally, everyone affected by a particular decision, or all citizens (or residents) in a particular jurisdiction. Many advocates of *deliberative democracy* want to involve

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[2] For example, J. Cohen, 'Deliberation and Democratic Legitimacy', in A. Hamlin, P. Pettit (eds), *The Good Polity*, Oxford, Blackwell, 1989; J. J. Mansbridge, *Beyond Adversary* Democracy, Basic Books, 1980.

[3] For example, B. Barber, *Strong Democracy. Participatory Politics for a New Age*, Berkeley: University of California Press, 1984; J. Burnheim, *Is Democracy Possible? The alternative to electoral democracy,* Cambridge: Polity Press, 1985.

[4] For example, J. S. Dryzek, *Foundations and Frontiers of Deliberative Governance*, Oxford: Oxford University Press, 2010.

relatively small (but representative) groups of people, because it is very difficult to have deep deliberation among large numbers of people. Practitioners in this space are wrestling with the challenge of situating deliberation within a wider, deliberative system.[5]

Type of participation

Participatory democrats want more participation, in all aspects of politics (and sometimes in spaces beyond the political sphere, such as workplaces and universities), from all citizens who choose to be involved. They believe this is the essence of democracy—the only way to ensure that the 'people rule' is for them to be involved in making the decisions that affect them. Instead of specifying a preferred type of political participation, they embrace and encourage a diversity of opportunities for political engagement.

In contrast, deliberative democrats have a specific view on the type of political participation they want citizens to be involved in: deliberation. Deliberation requires that participants: (a) become well informed about the topic, (b) consider different perspectives, in order to (c) arrive at a public judgement (not opinion) about 'what can we strongly agree on?'. They consider this to be a superior form of political participation as it leads to more informed and rounded public opinion, and, arguably, better decisions.

Participatory and deliberative democrats therefore also favour different types of institutions and practices to promote these alternative approaches to political participation. For example, many participatory democrats see value in instruments of *direct democracy* which is exemplified by referenda or citizens' initiatives.[6] It can be further exemplified by participatory budgeting which spread throughout South America, starting with Brazil in 1988[7] and is now spreading worldwide. Participatory budgets were designed to widen participation for lower socio-economic groups, by

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[5] J. Parkinson and J. Mansbridge, (eds) *Deliberative Systems. Deliberative Democracy at the Large Scale*, Cambridge: Cambridge University Press, 2012.

[6] L. Carson and J. Steiner, *Swiss Model*, NewDemocracy Research Note, NewDemocracy Website, Accessed at: <https://www.newdemocracy.com.au/wp-content/uploads/2020/09/RD-Note-–-Swiss-Model-–-Updated.pdf>.

[7] B. Wampler, and J. Hartz-Karp, 'Participatory Budgeting: Diffusion and Outcomes across the World', *Journal of Public Deliberation*, 8(2) 2, 2012. Accessed at: <https://www.publicdeliberation.net/cgi/viewcontent.cgi?article=1241&context=jpd>.

allowing them an opportunity to make decisions about a small proportion of a city's spending. newDemocracy has experimented with deliberative, participatory budgets involving a small number (35-43) randomly-selected participants and a city's entire ten-year budget.[8]

Selection method

Participatory democrats usually favour self-selected participation, in order to enable as many people as possible to share the experience. This enables easy recruitment, can be less expensive, and is seen as equitable. Deliberative democrats tend to favour random selection, in order to assemble a public body that is: representative of the public; able to consider perspectives; and not be vulnerable to being stacked by representatives of powerful interest groups.

Many deliberative democrats believe that there is a trade-off between large numbers of participants and the quality of deliberation. Consequently, a strand of *deliberative democracy* wants to involve relatively small (but representative) groups of people in considerable depth. To achieve this, a civic lottery is used.[9] Deliberative democracy has found widespread, practical expression through randomly-selected citizens' juries,[10] citizens' assemblies[11] and methods which have come to be known generically as mini-publics although deliberative possibilities exceed these methods.[12]

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[8] See, newDemocracy, 'City of Melbourne People's Panel'. Accessed at:
<https://www.newdemocracy.com.au/2014/08/05/city-of-melbourne-people-s-panel/>.

[9] See, L. Carson, 'Sample Size for Mini-Publics'. Accessed at: <https://www.newdemocracy.com.au/wp-content/uploads/2021/02/RD-Note-Sample-Size-Updated.pdf>.

[10] See, D. Schecter, *Benefits of the jury model*, Research Note, NewDemocracy Website, Accessed at: <https://newdemocracy.com.au/wp-content/uploads/2017/08/docs_researchnotes_2017_August_nDF_RN_20170808_BenefitsoftheJuryModel.pdf >.

[11] See, L. Carson, *Integrating Citizen Deliberation into National Decisions: Ireland's Prime Minister's Office*, Research Note, NewDemocracy Website. Accessed at: <https://newdemocracy.com.au/wp-content/uploads/2017/05/docs_researchnotes_2018_June_nDF_RN_20180505_IrishCCandPMOffice.pdf.pdf>.

[12] See, O. Escobar and S. Elstub, *Forms of mini-publics*, Research Note, NewDemocracy Website. Accessed at <https://newdemocracy.com.au/wp-content/uploads/2017/05/docs_researchnotes_2017_May_nDF_RN_20170508_FormsOfMiniPublics.pdf>.

LARGE NUMBERS VERSUS HIGH QUALITY DELIBERATION

Participatory processes that prioritise large numbers, such as participatory budgets, certainly can involve more people than would usually be the case within a representative system of government. This gives opportunities to those who have traditionally been silenced or left unheard. An online or postal survey would be a form of participatory democracy as would an extensive system of public meetings or a mobilisation of people in a public square. These methods can deliver hundreds or thousands of opinions to a decision maker. Since direct democracy is also a form of participatory democracy, referenda, plebiscites and initiatives offer another way to gather public opinion—what people want. All of these methods involve more people beyond elected representatives.

Large numbers are useful for resetting an agenda and compelling the attention and response of a parliament, while deliberative models assist a parliament where there are considerable volumes of information and breadth of sources to consider before being able to make a meaningful contribution for elected decision makers.

Numbers are not everything. *More*, in terms of more *people*, more *responses*, can sometimes translate into *less* because of this tendency toward kneejerk feedback and vulnerability to emotional campaigns. Quality may be forfeited for quantity. newDemocracy considers that critical thinking is essential for deliberating about complex issues.[13]

A deliberative mini-public, made up of a diverse group of people, a microcosm of a population, is allocated considerable time and information and involves a commitment by a decision maker to act on the group's recommendations. The group is not merely considering what its members *want*, but also what *trade-offs* they can accept. The work is difficult, but citizens have shown the willingness and skill necessary. Three ideals would be prerequisites for a public deliberation:[14] inclusion or representativeness; deliberation, during which strengths and weaknesses of various options are

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[13] See, L. Carson, *Enhancing citizen jurors' critical thinking capacity*, Research Note, NewDemocracy Website. Accessed at: <https://www.newdemocracy.com.au/2017/03/17/enhancing-citizen-jurors-critical-thinking-capacity/>.

[14] L. Carson and J. Hartz-Karp 'Adapting and Combining Deliberative Designs: Juries, Polls, and Forums', in Gastil, J & Levine, P (eds) *The Deliberative Democracy Handbook: Strategies for Effective Civic Engagement in the Twenty-First Century*. Jossey-Bass, 2005, pp.120-138.

considered;[15] and influence or impact—the decision makers agree to act on the recommendations or state publicly why they have or have not done so.[16] Decision makers can be confident that the collective recommendations that they received reflect the views of the wider population, had that whole population had an opportunity to deeply consider the matter.

WHAT ARE THEIR WEAKNESSES?

Many advocating for deliberative democracy believe that more people means more *opinions*, not necessarily more considered public *judgement.*[17] Participatory democracy also runs the risk of replicating existing problems with the most obvious being that of centralised power. For example, an advisory committee or a public meeting or a campaign leader will tend to foreground *the incensed and the articulate*. This can undermine careful, collective decision making.

Deliberative methods also have weaknesses. They take time, are therefore more expensive and rely on decision makers who are prepared to hear whatever arises. Because they involve smaller numbers of participants, the wider population remains unchanged, unless it is combined with other methods. There are examples of this combination, the Irish Constitutional Convention being only one example.[18]

A sub-set of participatory democrats (many participatory budgeting advocates, for example) are particularly interested in participation as a strategy for increasing power of marginalised groups. They seek *rights* for participation throughout society in the workplace, civil society and politics in order to combat centralised power. This

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[15] See, L. Carson, *Deliberation,* Research Note, NewDemocracy Website. Accessed at: <https://newdemocracy.com.au/wp-content/uploads/2017/03/docs_researchnotes_2017_March_nDF_RN_20170322_Deliberation.pdf.>.

[16] See L. Carson and M. Gerwin, *Embedding Deliberative Democracy in Poland*, Research Note, NewDemocracy Website Accessed at: <https://newdemocracy.com.au/wp-content/uploads/2018/05/docs_researchnotes_2018_May_nDF_RN_20180508_EmbeddingDeliberativeDemocrac yInPoland.pdf>.

[17] D. Yankelovitch, *Coming to Public Judgment: Making Democracy Work in a Complex World,* Syracuse: Syracuse University Press, 1991.

[18] See newDemocracy, 'We the People—Citizen Assembly 2011'. Accessed at: <https://www.newdemocracy.com.au/2013/03/30/we-the-citizens-citizens-assembly-2011-ireland/>.

orientation seems less common among advocates of deliberative democracy although there has been some activity within *sectors* of a population. Examples include mini-publics among the impoverished,[19] those with disability and young people.[20]

FINALLY…

In summary, participatory democrats tend to care a lot about the numbers, the 'breadth' of people who participate, and less about the 'depth' of the participation. There may also be a tendency toward establishing political power. Deliberative democrats tend to be very concerned with the quality (deliberativeness) of participation, much less about large numbers, and emphasise the establishment of common ground.

Deliberative advocates are generally more willing to be policy agnostic as the processes are much less susceptible to being steered in a pre-agreed direction. They are process-driven rather than issue-driven.

Because newDemocracy works in decision-making arenas we focus on deliberative methods. We have tested these methods since our first foray—the Australian Citizens' Parliament in 2009.[21] With each project, we critically reflect on the experience in order to refine the practice.[22] Deliberative methods have also been extensively researched and evaluated by others as have participatory approaches.[23]

[19] S. Bice, 'Moving toward democratic decision making. Report on the Victorian Southern Region Citizens Panel', Brotherhood of St Laurence. Accessed at
<http://library.bsl.org.au/jspui/bitstream/1/3882/1/An%20Incredible%20Journey%20_%20Moving%20towards%20democratic%20decision%20making%20_%20Sara%20Bice.pdf>.

[20] H. Raisio and L. Carson, 'Deliberation within Sectors. Making the case for Sector Mini-publics' *International Review of Social Research,* 1(4), 2014.

[21] L. Carson, J. Gastil, J. Hartz-Karp, and R. Lubensky, *The Australian Citizens' Parliament and the future of deliberative democracy.* University Park Pennslyvania: Pennsylvania State University Press, 2013.

[22] See, newDemocracy, 'Projects'. Accessed at: <https://www.newdemocracy.com.au/category/library/our-work/project/>.

[23] See *Journal of Deliberative Democracy*. Accessed at: <https://delibdemjournal.org>.

NEXT STEPS

It has been suggested that we should be seeking a combination of participatory and deliberative democracy.[24] The combination of widespread participation and focused deliberation can be powerful. Bouricius,[25] and Schecter and Sullivan,[26] have proposed using the two approaches in different stages of policy making – using open, self-selected participation for developing initial proposals, and using mini-public deliberation for reviewing the initial proposals, developing final proposals, and deciding. A Madrid project which was unfolding is based on a similar logic, combining self-selected proposal submissions with mini-public review, and also giving the mini-public the power to submit proposals to a public vote.[27]

We could imagine a blended approach and think of their valuable differences as strengths, with citizens occupying both *insisted* and *invited* spaces—vocal activists insisting on a place at the decision-making table, and decision makers inviting a diverse group to that table but enabling the insistent voices to be heard as well.

Perhaps, if a one-off mini-public deliberation was part of every policy decision, or at least every major policy decision, there would be opportunities for many more people to participate over time. Another way of thinking about this is a combination of community development or community capacity building, and juries of citizens partnering with governments to make decisions. Deliberative bodies could consider the results of participatory processes and mitigate the worst excesses of them—a powerful combination to explore.

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[24] S. Elstub, 'Deliberation and Participatory Democracy', in A. Bächtiger, J. S. Dryzek, J. Mansbridge, and M. Warren (eds) *The Oxford Handbook of Deliberative Democracy*, Oxford: Oxford University Press, 2018.

[25] T. G. Bouricius 'Democracy Through Multi-Body Sortition: Athenian Lessons for the Modern Day,' *Journal of Public Deliberation*, 9 (1), 2013, Article 11.

[26] D. Schecter and B. Sullivan *Beyond Mini-Publics Alone*, Research Note, NewDemocracy Website. Accessed at: <https://www.newdemocracy.com.au/wp-content/uploads/2018/02/docs_researchnotes_2018_February_nDF_RN_20180215_BeyondMiniPublicsAlone.pdf>.

[27] See, *The City of Madrid's Citizens' Council*, Research Note, NewDemocracy Website. Accessed at: <https://www.newdemocracy.com.au/2018/11/15/the-city-of-madrid-citizens-council/>.

Taking community engagement to the next level

Andres Lomp[1]

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The worrying trend of declining public trust in our political institutions presents parliaments with challenges and, more importantly, responsibilities.

This is recognised in the latest global parliamentary report, published jointly by the Inter-Parliamentary Union and United Nations Development Programme (referred to as 'the global report'), focusing on public engagement in the work of parliament. The global report found that:

> *Declining trust in public institutions means that parliaments cannot simply continue business as usual. It challenges parliaments to assess the progress they have made and step up their efforts at engagement. Reversing the trend of disenchantment requires concerted action going forward.[2]*

As one of the authors of the report, I saw from the research conducted for it that parliaments across the world are concerned about the disconnect with the communities they represent and are looking for new ways to enliven their public engagement.

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[1] This article includes extracts from the Inter-Parliamentary Union (IPU) and United Nations Development Programme (UNDP), *The Global Parliamentary Report on Public Engagement*, 2022, for which Andres Lomp was one of the lead authors.

[2] IPU and UNDP, *The Global Parliamentary Report on Public Engagement*, 2022, p. 10. Accessed at: <https://www.ipu.org/our-impact/strong-parliaments/setting-standards/global-parliamentary-report/global-parliamentary-report-2022-public-engagement-in-work-parliament>.

An important theme of the report is that parliaments need to take their community engagement to the next level. It emphasises that engagement is not optional but rather an essential part of the work that parliamentarians and parliamentary administrations undertake.

There is much guidance in the report for parliaments big and small, including a series of recommendations focusing on being strategic, inclusive, participatory, innovative and responsive. An underlying theme in all the recommendations is that parliaments need to become more accessible if they are to remain relevant to the communities they represent, and no one should be left behind.

One of the ways in which parliaments can become more inclusive is by moving beyond just informing the community about its processes and work. Instead, the focus needs to shift to more boldly involving the community in that work. As the global report points out, '[i]t is a simple but powerful truth that people care about the issues that affect them. Engaging with people on issues that matter to them can help parliaments remain relevant to the communities they represent'.[3]

Due to the political nature of many issues, parliamentary administrations traditionally have been cautious about highlighting specific topics through their engagement, concerned that the apolitical nature of their staff might be compromised if they are seen to be pursuing agendas. The focus has tended to be on promoting the processes through which people can engage and leaving the discussion of issues to the elected representatives.

Issues-based engagement, however, is likely to be more impactful as people tend to take an interest in issues rather than procedures. By actively considering ways to better engage people with the issues that the community is interested in, parliaments can encourage public participation in their work. It is better for a parliament to be seen as a forum for ideas and dialogue rather than as a place of political machinations and mayhem. As the global report suggests:

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[3] IPU & UNDP, *Global Report*, p. 56.

> *One potential avenue is for parliaments to modify their existing procedures and processes so that issues proposed by the community can be discussed and investigated.[4]*

A petition system is one option. Some parliaments already refer petitions that gather enough signatures to committees for public hearings or to a plenary session for debate. Parliaments that do not have these kinds of processes could look at how they have operated in other jurisdictions and come up with similar community-activated methods for debate and review that suit their circumstances.

As committees are a primary avenue for engagement between parliament and the community, they have an opportunity when setting their agenda to open themselves up to new ways of interacting with the public on topics that matter to them. Committees could, for example, host forums, roundtables and workshops on subjects proposed by the community.

Another way parliaments can connect with the public is by commissioning research on topics that matter to the community. Parliamentary libraries or research departments could carry out this research independently or in partnership with other research bodies, including higher education institutions.

Traditionally, parliamentary researchers have focused on gathering information and examining topics to assist members of parliament in their legislative and committee work. The remit of parliamentary libraries and research departments could be broadened to include engagement with the community. In other words, they could prepare research material that addresses issues of concern in the community and informs members of parliament about these issues.

Parliament could also organise forums and seminars on topics proposed by the community. This would give people from across society an opportunity to influence the issues that parliament examines and debates.

Social media could be used to get the community involved more actively in such discussions and debates. Online forums broadcast through social media platforms, such as Facebook Live, can provide opportunities for interaction between members of

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[4] IPU & UNDP, *Global Report*, p. 56.

parliament and the community. This could include mixed panels comprising both parliamentarians and members of the public.

An interesting example of this occurred at the Victorian Parliament when the Electoral Matters Committee hosted an online forum through Facebook Live at the commencement of its inquiry into the impact of social media on Victorian state elections.[5] A mixed panel of committee members and community experts, including a youth representative, discussed the focus of the inquiry as a way of engaging the community with it and encouraging public submissions.[6]

Taking an issues-focused approach to education and youth programs about parliament can also make the experience more interactive and encourage participants to explore the topic rather than simply follow a procedure. Many jurisdictions offer role plays and youth parliaments, but their reach is often limited to schools that regularly enrol for those programs or to a select group of young people who nominate to participate.

Opportunities to broaden issues-based discussion and debate among students at the primary, secondary and tertiary level should be explored, including by supporting teachers to undertake such activities in the classroom. With limited resources, the challenge for parliaments will always be how best to engage with students at all levels, and that is why emphasis on teacher professional development can be a game-changer.

Community-activated pathways for engagement can allow parliaments to broaden and deepen their interaction, providing genuine two-way dialogue between electors and their elected representatives on issues that matter to the community. Enabling community members to influence the matters that parliament debates, investigates and researches gives the public a direct say in what parliament does and demonstrates its willingness to make engagement with the community more participatory.

Engagement shifts to a new level when parliaments collaborate with the community, working together to achieve mutually beneficial outcomes. This can also lead to co-creation that embeds the community in decision-making processes so that solutions are designed with people instead of for them.

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[5] Parliament of Victoria, *Inquiry into the impact of social media on elections and electoral administration*, Electoral Matters Committee, 14 September 2021, p.241.

[6] Electoral Matters Committee, *Inquiry into the impact of social media on elections,* p.241.

Collaboration can allow parliaments to access expertise and community members to interact with decision-makers. Limited resources can be used more efficiently, with parliaments and external partners setting up joint engagement initiatives rather than going it alone.

A more localised focus to engagement can be another advantage, enabling parliament to benefit from local knowledge and allowing local communities to get more actively involved in parliamentary programs and processes. Partner organisations that already have a membership base can connect parliament with new audiences.

Collaboration has become an important guiding principle for the Victorian Parliament's community engagement. Through a range of community partnerships, we are tapping into the mutual benefits of two-way interaction with various sectors of the community.

Our partnerships have brought about:

- a regular parliament news bulletin in Auslan, initiated through collaboration with a group of young Deaf community members

- a community toolkit about parliament, developed as a joint project with a group of culturally and linguistically diverse community members

- video, website and social media content for young people produced by young people

- a new education resource on Aboriginal history, culture and decision-making, developed jointly with a local Aboriginal college

- webinars conducted jointly with key Victorian institutions

- exhibitions as part of high-profile Victorian festivals, showing parliament as an active participant in community events.[7]

Each of these initiatives is helping parliament develop a network of organisations and people who connect us with diverse audiences across Victoria. By directly involving them in the co-design of resources and programs, community members develop a deeper appreciation of parliament and are more likely to become advocates for parliament.

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[7] See e.g. Parliament of Victoria Website. Accessed at <https://www.parliament.vic.gov.au>.

Such relationship building does take time, effort and funding. It should be seen as a longer-term investment rather than a quick fix. From our experience, it's an investment that pays dividends along the way and well worth it if we are to be serious about taking community engagement to the next level.

Comment

Engaged Parliaments in Action

Regional Education Outreach at the Parliament of South Australia: Strategies and Learnings

Natalie Young

Community Education Officer, Parliament of South Australia

CIVICS AND CITIZENSHIP EDUCATIONAL LANDSCAPE IN SOUTH AUSTRALIA

In 2021 the results of Australia's National Assessment Program – Civics and Citizenship (NAP-CC) 2019 test were publicised,[1] with challenging results for South Australia. NAP-CC testing is not as widely known as its literacy and numeracy equivalent (the NAPLAN), but the NAP-CC provides a helpful snapshot for educators of the depth of understanding of Civic and Citizenship skills and knowledge across the country, as well as a picture of youth trust in democratic institutions.

In South Australia, only 43% of year 6 students met the proficiency standard for Civics and Citizenship (the second lowest result in the nation),[2] and only 29% of year 10 students (the third lowest result in the nation).[3] The results also indicated that in South Australia, only 56% of year 6 students have trust in their civic institutions and processes, and 52% of year 10 students.[4] Year 10 students are usually 15-16 years old, approaching the point where they can pre-enrol to vote. It is concerning that the knowledge and trust indicators are low in South Australia, particularly in the age bracket where young people transition into their adult lives. Twenty-five per cent of

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[1] National Assessment Program, 'NAP CC Public Report'. Accessed at: <https://www.nap.edu.au/results-and-reports/national-reports>.

[2] National Assessment Program, *NAP CC Public Report*, 23.

[3] National Assessment Program, *NAP CC Public Report*, 24.

[4] National Assessment Program, *NAP CC Public Report*, 80.

the South Australian students tested were from regional and remote locations,[5] indicating that efforts to improve civic literacy and participation must extend beyond the metropolitan area.

Students in regional and remote South Australia cannot easily access the external Civics and Citizenship programs and opportunities available to metropolitan students. Excursions to Parliament House, the Courts, Government House, council offices, and more, are readily available to schools with public transport access, but regional schools can expect bus fares of $500-$2000 a day to try to have these experiences. Some of these experiences cannot be replicated by local offerings.

In an effort to support improved NAP-CC results for South Australia, and to facilitate access to Civics and Citizenship opportunities for regional and remote students, the Parliament of South Australia (Parliament) has developed a Regional Education Strategy. The Strategy has two key features. First, it aims to bring the Parliament out to the regionals via travelling programs, and second, it provides support for regional and remote schools to visit the Parliament of South Australia through the provision of financial assistance.

This Comment will explore the successes and learnings of the Regional Education Strategy and its two features, reflecting on how parliamentary education can be made more accessible.

APPROACH ONE: TRAVELLING EDUCATION PROGRAMS

The Parliament launched its first travelling regional education program in 2021. To determine the potential regions and locations to visit, the Parliament assessed its visitation data from 2017-2022 and collated lists of electorates with the lowest school visitation data within that period. The lists were then assessed against the Department for Education's Index of Educational Disadvantage[6] and the Index of Community Socio-

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[5] National Assessment Program, *NAP CC Public Report*, 167.

[6] Government of South Australia, 'Index of Educational Disadvantage by School'. Accessed at: <https://data.sa.gov.au/data/dataset/index-of-disadvantage-by-school>.

Educational Advantage,[7] so that the Parliament could determine the electorates with the lowest visitation data and the schools with the lowest educational disadvantage scores. Multiple electorates were identified and arranged in order of need, and the ability to access the areas with the education equipment. For the pilot travelling program, the Hammond electorate was selected. This electorate covers South Australia's Murray-Mallee region.

The Parliament approached every school in the Hammond electorate via telephone calls and emails to offer a free 90-minute incursion experience. A schedule was devised to incorporate as many schools as possible, allowing for travel time between each destination. Not all schools took up the opportunity, but every school who expressed interest received a program.

The program included a focus the key principles underpinning parliamentary systems in Australia, including the separation of powers, Westminster Conventions, and rules governing elections. It also discussed the different levels of government in Australia, and the functions of different officials and decision-makers including the role and responsibilities of members of parliament. The program also includes a demonstration of the passage of the bill and a number of interactive activities relating to how students can participate in 'active' citizenship.

Special equipment was procured for the program in an effort to bring the Parliament to life outside of the physical building, including six metre by four metre floor mats of the House of Assembly, Legislative Council and steps of Parliament House. The equipment also included a replica Mace and Black Rod, wigs, robes, ballot boxes, bells and debate scripts.

The Hammond trip took a 'roadshow' format due to the distance between each school and the size of the communities. For context, at the time of the visit the Hammond electorate extended approximately 177km north-south, and 218km east-west (reaching the Victorian border), covering much of South Australia's wheat growing region.[8] Towns visited ranged from populations of 427 (Langhorne Creek), 2,644

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[7] Australian Curriculum Assessment and Reporting Authority, 'Guide to Understanding the Index of Socio-educational Advantage (ICSEA)'. Accessed at:< https://www.myschool.edu.au/media/1820/guide-to-understanding-icsea-values.pdf>.

[8] South Australian Electoral Districts Boundaries Commission, 'Electoral District Maps'. Accessed at: <https://edbc.sa.gov.au/redistributions/2016/2016-electoral-district-maps.html>.

(Mannum) to 22,348 (Murray Bridge), skewed more towards the townships with less than 1000. Two staff members drove from school to school, setting up equipment at each site. The local MP, Adrian Pederick MP, was invited to attend and assisted delivering one of the sessions. The program reached 350 students across a widespread region of South Australia. The program was well received, assessed by way of feedback forms provided to participants. Feedback asked how the program would impact teaching in class, and what could be improved.

Following the Hammond trip, the Parliament has conducted a further four regional trips – each time modifying the offering based on the destination.

The second program involved travel to the regional township of Whyalla in October 2021. Whyalla is a coastal town and the fourth most populous city in South Australia, approximately 4.5 hours drive from the Adelaide metropolitan area. The town of Whyalla served as a 'hub' that could be accessed by a range of communities in the local area. The population density of approximately 22,612 and school locations around Whyalla allowed the Parliament to set up equipment in a central community centre for the one-week duration. The Parliament funded shuttle buses to support schools on the outskirts of Whyalla to access the community centre. Using a community centre also allowed the regional program to extend to teachers, with a teacher professional learning session hosted on one of the evenings.

A third program was conducted in Mount Gambier in March 2022. Mount Gambier is South Australia's second largest city (population 29,000) and an important community centre for a number of townships in the south-east section of the State. The Mount Gambier program was also organised in a 'hub' format. The Mount Gambier program was extended again, by adding a general community seminar to the program, so that students, teachers, and the broader community all had access to a program.

The community seminar received registrations from local public servants, interested citizens, parents and other community members. Unfortunately, due to COVID-19 restrictions the planned in-person community seminar was cancelled, and the participants were offered an online alternative.

Travelling education programs continue to be hosted each school term (south-east SA May 2022, mid-north South Australia August 2022, Port Lincoln November 2022), with plans to continue on an ongoing basis. Where hub options are available, all regions will be offered student, teacher and general community sessions.

APPROACH TWO: FINANCIAL ASSISTANCE – CIVICS IN THE CITY

The Parliament launched its regional and remote financial assistance program, 'Civics in the City', in 2022. Civics in the City is a joint initiative between the Parliament and South Australia's Commissioner for Children and Young People ('the Commissioner'). The Commissioner undertakes an independent statutory role tasked with advocating for South Australia's young people.[9] The intention of Civics in the City was to support regional and remote schools with low educational disadvantage index scores with funding in order to visit to the Parliament and the Adelaide metropolitan area for Civics and Citizenship education programs.

The Parliament and Commissioner worked together to determine eligibility criteria, which resulted in a concerted focus on engaging with category 1-5 schools on the Department for Education's Index of Educational Disadvantage,[10] or under 1000 on the Index of Community Socio-Educational Advantage[11] (Catholic and Independent schools); and schools more than 20km from the Adelaide CBD.

All eligible schools were emailed and advised that five schools would be selected to receive money to support travel and accommodation costs to Adelaide, on the condition that the schools booked in a visit to Parliament House during their city stay. The amount of money available depended on distance from the Parliament:

Figure 1.   Funding for travel

Distance from SA Parliament	Travel and Accommodation Grant Funds (per student head)
Adelaide outer suburbs (over 20km)	$20
Inner regions (over 50km)	$60
Outer regions (over 150km)	$100
Outback (over 500km)	$120

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[9] *Children and Young People (Oversight and Advocacy Bodies) Act 2016* (SA).

[10] Government of South Australia, *Index*.

[11] Australian Curriculum Assessment and Reporting Authority, *Guide*.

Schools were invited to apply on a form that asked questions about their previous experiences with Civics education, other opportunities the students had received, including, for example, whether they had engaged with the regional programs described above.

This program was promoted in a range of different ways, including direct contact with educators and communities and via social media. The announcement was also closely timed to the South Australian state election and the Federal election. It attracted a larger than expected number of applications, covering almost 70 schools.

Various reasons were advanced in the applications for financial assistance received from eligible schools. Many applications made reference to the fact that although Civics and Citizenship had been included in the school curriculum, there were limited practical supports provided to teachers in regional areas, particularly in the context of teaching arrangements that combined the Civics and Citizenship content with other topics. Other compelling reasons advanced in support of financial assistance included:

- the need for students to understand the power of their voice and their impact (including use of Indigenous voice);

- the growing student interest in in Civics and Citizenship in the wake of 2022 State and Federal elections;

- financial constraints on parents, some of whom cannot afford the excursion fees;

- the need to provide an opportunity for students to travel to metropolitan Adelaide, some for the first time;

- the high costs of bus transport from some regional areas to Adelaide; and

- the limited options for Humanities and Social Studies themed excursions in the school's location.

The applications were assessed having regard to the strength of the arguments advanced in the application, whether the program could meet the specific needs advanced in the application, the school's socio-economic category and need for financial support; and the potential to reach the school via alternative regional outreach programs.

Consideration was also given to the potential to develop further supporting resources in the process, for example, language translation of existing materials into Pitjantjatjara, a key Aboriginal language in South Australia.

The final five schools selected ranged between 247km and 1398km from the Adelaide metropolitan area.

The first recipients of the grant, Leigh Creek Area School, visited Parliament House in September 2022 for a 2.5 hour program covering, elections, debating and more. The local Member of Parliament, Geoff Brock, joined the school and participated in 'question time' with the students in the House of Assembly chamber. The Commissioner for Children and Young People came to listen to their concerns about their community.

SUCCESSES AND LEARNINGS

The various regional outreach programs described above have been well received by participants and highlighted a sustained interest to strengthen links between the regional South Australian communities and the Parliament that represents them. Teachers have contacted the education office with comments such as:

> *Several weeks later and the students are still talking about it!*

> *It was incredible. Informative and engaging. The students will take away some great new learning.*

> *Fantastic to bring the learning to life through hands of role play that engaged students.*

Useful specific feedback has been received by regionally located schools and communities. For example, feedback has included requests for more time for the program (more than 90 minutes), more support to bookend the program in classrooms, or highly tailored resources for student context.

The Parliament will reach approximately 3000 regional and remote students in the 2022 calendar year through these initiatives, which improves upon its reach of 226 in 2019 (the last calendar year not impacted by COVID-19 restrictions).

The main learning from the initiatives relates to resourcing, particularly financial and human resourcing. Each travelling regional program is offered for free, and the Civics in the City initiative involves granting money to schools directly. In order for these programs to remain sustainable and continue to grow (with the goal of free access for all), budgeting is a large consideration. The Parliament is seeking contributions from other Government sources to help grow the programs.

In addition, the time required for education staff to travel out of the office, plan the program delivery, and facilitate Civics in the City is a significant but essential

component of the success of the programs. In order to make the regions as a priority, metropolitan based initiatives must be set aside.

CONCLUSION

All programs offered by the Parliament are designed to increase public contributions to law shaping and law-making processes, highlighting the Parliament's democratic function. The Regional Education Strategy works towards this goal and will incidentally support increased *National Assessment Program – Civics and Citizenship* results for South Australia and more youth engagement. Staffing and financial resources are challenges for a smaller jurisdiction, but the feedback and interest in the program provides strong justification for building and enhancing regional programs. The success of the programs also indicates a growing demand for civics education and valid justification for further funding and staffing of education units generally.

Queensland Parliament's Portfolio Committee System: Ten Year Anniversary Event

Bernice Watson

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INTRODUCTION: THE TEN-YEAR ANNIVERSARY EVENT

July 2021 marked ten years since the commencement of a new portfolio committee system in 2011. The anniversary was celebrated in October 2021, when the Queensland Parliament held its first 'livestreamed' public event: a panel discussion about the impact of portfolio committees in Queensland.[1] The live-stream was via the Queensland Parliament's Facebook page 'facebook live' function. It took advantage of social distancing restrictions to highlight that parliamentary committees are moving into the digital space, with improved accessibility as a result.

Hosted by Curtis Pitt, Speaker of the Legislative Assembly and moderated by Neil Laurie, Clerk of the Parliament, the panel members included former Members of the Parliamentary committee responsible for developing the recommendations which led to the establishment of the unique portfolio committee system, Judy Spence, and Lawrence Springborg. As the former Chair and Deputy Chair of the 'Review of the Parliamentary Committee System Committee' respectively, they shared some of the considerations and the expectations held by that Review Committee when it made its report to the Legislative Assembly in 2011. The independent Member for Noosa,

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[1] See Parliament of Queensland, *Parliament's Portfolio Committee System: 10 year anniversary event*, 15 October 2022, Transcript of Proceedings. Accessed at <https://www.parliament.qld.gov.au/Work-of-Committees/Ten-Year-Anniversary>.

Sandy Bolton, was able to offer a cross-bench perspective on how the system is working now.

An audience of 20 attended the event in the Legislative Council Chamber in person, and 51 participated via the Parliament's Facebook live stream.[2]

An important part of the event was the 'Q & A' aspect. The event program was limited to one and a half hours, with the capacity of a primarily online audience in mind.

THE PORTFOLIO COMMITTEE SYSTEM IN QUEENSLAND

In 2011, with the Queensland Parliament failing many international benchmarks relating to scrutiny and accountability,[3] the Assembly established its new committee system with two primary, inter-related functions: scrutiny of the Executive, supported by greater public participation in the processes of Parliament.[4]

The new portfolio committees assumed a number of oversight and scrutiny roles over sectors of the government that in other parliaments would be performed by several separate functional committees, notably: the scrutiny of Bills and subordinate legislation, the examination of public accounts and public works, the examination of budget estimates, oversight of statutory office holders, and undertaking major policy inquiries referred by the Assembly.[5]

At the same time, the Assembly modified its Standing Orders and Sessional Orders to ensure that the work of portfolio committees is central to the Assembly's consideration of Bills.[6] One of these changes was to provide, for the first time, dedicated time on the

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[2] Parliament of Queensland, 'Parliament's Portfolio Committee System: 10 year anniversary event'. Accessed at: <https://www.parliament.qld.gov.au/work-of-committees/introduction/history>.

[3] Neil Laurie, *Submission to the Committee System Review Committee*, Parliament of Queensland, 25 May 2010. Accessed at: <https://documents.parliament.qld.gov.au/com/CSRC-E8C4/QPCSR2010-1F97/submissions/00000023.pdf>.

[4] Parliament of Queensland, 'Work of Committees'. Accessed at <https://www.parliament.qld.gov.au/Work-of-Committees/Introduction/History>.

[5] *Parliamentary Committees Act 2001* (Qld) ss92-94.

[6] Parliament of Queensland, Legislative Assembly, *Standing Orders*. Accessed at: <https://documents.parliament.qld.gov.au/assembly/procedures/StandingRules&Orders.pdf>. See in particular *Standing Orders* 194-200.

Parliamentary agenda each sitting week for committees to meet, and for the debate of committee reports which were automatically listed for debate - other than Bill reports, which expressly inform second reading debates.

During the Ten Year Anniversary event, a number of significant committee inquiries conducted by portfolio committees in the preceding ten years were noted, including the Civil Partnerships Bill in 2011, which attracted 6,000 written submissions and, noting these were the early days of the new system, heard from 20 witnesses in person;[7] the North Stradbroke Island Protection and Sustainability Bills in 2015-16, which attracted over 300 submissions, with the committee holding hearings on North Stradbroke Island and in Cleveland, hearing from 114 witnesses in person;[8] the Human Rights Inquiry in 2015, which inquired into whether to introduce human rights legislation in Queensland,[9] and the subsequent Human Rights Bill inquiry;[10] along with an inquiry into the introduction of four-year parliamentary terms in Queensland which as well as including hearings around the state, began what is still a fairly occasional use of online tools to enable public participation, with an online survey.[11] More recently the inquiries into Coal Workers' Pneumoconiosis,[12] End of Life Care and Voluntary

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[7] Parliament of Queensland, Legal Affairs, Police, Corrective Services and Emergency Services Committee, *Civil Partnerships Bill 2011*, Report No. 7, November 2011, p 1. Accessed at: <https://documents.parliament.qld.gov.au/tableoffice/tabledpapers/2011/5311T5935.pdf>.

[8] Parliament of Queensland, Finance and Administration Committee, *North Stradbroke Island Protection and Sustainability (Renewal of Mining Leases) Amendment Bill 2015 and North Stradbroke Island Protection and Sustainability and Other Acts Amendment Bill 2015*. Report No. 21, 55th Parliament.

[9] Parliament of Queensland, Legal Affairs and Community Safety Committee, *Human Rights Inquiry*. Accessed at: <https://parliament.qld.gov.au/Work-of-Committees/Committees/Committee-Details?cid=197&id=3558>.

[10] Parliament of Queensland, Legal Affairs and Community Safety Committee, *Human Rights Bill 2018*, Report No. 26, 56th Parliament, February 2019. Accessed at: <https://documents.parliament.qld.gov.au/TableOffice/TabledPapers/2019/5619T7.pdf>.

[11] Parliament of Queensland, Finance and Administration Committee, *Inquiries Into Possible Changes to Queensland Parliamentary Terms*. Accessed at <https://www.parliament.qld.gov.au/Work-of-<Committees/Committees/Committee-Details?cid=187&id=3348>.

[12] Parliament of Queensland, *Coal Workers' Pneumoconiosis Select Committee*. Accessed at: <https://www.parliament.qld.gov.au/Work-of-Committees/Former-Committees/Former-Committee-Details?cid=180>.

Assisted Dying,[13] and Termination of Pregnancy[14] attracted significant levels of public participation from across Queensland.

The Review Committee envisaged, and Parliament adopted legislation and processes designed to ensure, that portfolio committees are open and transparent in the way they take evidence from stakeholders, and air a range of perspectives through their inquiry process. The viewpoints, facts presented and experiences shared by those who make submissions, speak for themselves and are in the public arena, to inform public debate. In his opening remarks, the Speaker observed that as well as informing members' contributions to parliamentary debates, the public nature of the evidence given to committees ultimately helps the people more broadly to make assessments that hold the Government to account in the most fundamental way – at the election.

HOW WELL ARE COMMITTEES LIVING UP TO EXPECTATIONS?

The panel members considered that committees have made a big difference in the level of public engagement with the legislative process, which is borne out by statistics. Ultimately, it was suggested a panel member that the test is whether the parliament would be 'worse off' if it did not have this committee system, to which the broadly agreed answer was clearly that it would. That is not to say that there are not features which could be improved, in the interests of greater accountability and transparency.

Spence observed that the Review Committee had always known that governments would continue to make the decisions that they wanted to make, because that is what they were elected to do; but that governments had benefited from the engagement undertaken by committees.[15] The Review Committee had also seen that committees would be a 'rolled gold' opportunity for the opposition, for both public engagement, and for learning about each portfolio area. It was agreed by the panel that members

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[13] Parliament of Queensland, Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee, 'Inquiry into Aged Care, End of Life and Palliative Care and Voluntary Assisted Dying'. Accessed at: <https://www.parliament.qld.gov.au/Work-of-Committees/Committees/Committee-Details?cid=188&id=3383>.

[14] Parliament of Queensland, Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee, 'Termination of Pregnancy Bill 2018'. Accessed at: <https://www.parliament.qld.gov.au/Work-of-Committees/Committees/Committee-Details?cid=188&id=3437>.

[15] Parliament of Queensland, *10 year anniversary event*.

of the Assembly have become much more informed about the legislation it considers, as a result of the work done by committees.[16]

Panel members identified a number of recommendations made by the Review Committee which were not adopted by the Legislative Assembly or for other reasons have not been fully implemented and do not form part of committee practice now. These included referral of petitions to committees for review; a requirement for bipartisan support of (more) key statutory appointments, and an estimates process free from strict time allocations.[17]

As an example, Bolton expressed her view that cross-bench members are not given a sufficient amount of time to ask questions at estimates hearings: while comprising 17% of the non-government seats in the House, they did not get 17% of the time (informally allocated by chairs) to non-government questions.[18]

The Review Committee panel members explained that the intent behind the removal of strict time limits for questions was that in the portfolio committee model, committee members would have developed sufficient knowledge of their portfolio areas to engage with the executive, asking relevant questions which support the parliament's accountability function. They expressed a view that the extent to which a free-flowing process happens is hampered by 'immaturity' and that it is great to see chairs and ministers who are in control of their portfolio areas, and therefore confident enough to let questions be asked as they will, including referring them to department officials without necessarily knowing what the answers would be.[19]

Perhaps, as Springborg suggested in response to an audience question, ensuring that opportunities for direct questioning of Ministers (and, as the Speaker suggested, CEOs of more government entities) by committees was not limited to an annual event could

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[16] Parliament of Queensland, *10 year anniversary event*.

[17] Despite the removal of time limits for estimates questions from standing orders as part of the 2011 reforms, an informal allocation of 'government' and 'non-government' blocks of time for questions is a standard practice. Significant attention is paid by members to that time allocation. See Parliament of Queensland, *10 year anniversary event*.

[18] Parliament of Queensland, *10 year anniversary event*.

[19] Note that since 2011 reforms, committees now can and do ask questions directly of Directors-General and CEOs of government entities. See Parliament of Queensland, *10 year anniversary event*.

overcome the focus on attempts at 'gotcha' moments, that continue to characterise the estimates process.

The transparency of committee deliberations was another area of focus. Spence and Springborg highlighted the importance of committee deliberations – not just proceedings – being public. Springborg noted the risk that behaviour can become less accountable when actors think that their actions will not be made public; and that this can impact on public confidence. He considered it important that the deliberations of what is in effect the highest court in the state, should be public. Other panel members thought that total transparency could have the unwanted effect of members behaving in an even more partisan manner knowing they are in the public eye, as occurs in the Chamber. A culture of working collegiately in committees was required to achieve the best outcomes, Bolton noted, and she observed that chairs using a casting vote was not in the interests of that objective.[20]

Whether or not the portfolio committee system, which replaced the previous function-based public accounts, public works, scrutiny of legislation and subordinate legislation committees, were adequately progressing these functions on behalf of the parliament in the context of their legislative work, was also discussed by both panel members and an audience member. There were suggestions that these areas may have suffered and needed greater focus.

Audience questions also explored the possible impact on parliamentary committees of fixed parliamentary terms; the impact of the *Human Rights Act 2019* (Qld) on committees; the (in)ability of committees to amend legislation (they make recommendations to the House, but do not have direct power to amend); assumptions in data used to measure committee performance; and whether overall, the committee system offered a counter-balance to the government of the day.[21]

The Speaker made the point that there is an evolving recognition in parliaments of the distinction between being a politician, and being a parliamentarian, with the latter required of committee members if committees are to add maximum value to the parliament's scrutiny function as intended.[22]

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[20] Parliament of Queensland, *10 year anniversary event*.

[21] Parliament of Queensland, *10 year anniversary event*.

[22] Parliament of Queensland, *10 year anniversary event*.

Summing up, the Clerk noted that there was general agreement that there have been significant gains, particularly in respect of supporting the Parliament's legislative function.   Reflecting that, amendments to Queensland's Constitution in 2016 incorporated requirements for Parliament to establish portfolio committees and for all legislation be referred to a portfolio committee. However, it was clear there was agreement that there is room for further reform.

Virtual Parliaments in Canada: Pandemic Responses or Permanent Solution?

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INTRODUCTION

Late in the evening of 3 February 1916, flames engulfed Canada's parliament building. By sunrise the next day, the bell that once rang from its tower lay amid a heap of ashes, covered in ice. The fire was eventually ruled an accident, a consequence of a time when parliamentary business typically featured the hazardous pairing of paper piles and cigarettes. The day following the fire, however, the House of Commons met as it was scheduled to do, down the road in the Victoria Memorial Museum. For four years, both chambers of Canada's Parliament conducted proceedings uninterrupted in the exhibition halls of the museum, amid dinosaur bones and prehistoric fossils.

A century later, a virus swept across the globe and again forced parliamentarians to conduct business in an unconventional place – this time, in front of webcams in their homes and offices. While the fire of 1916 eventually prompted a celebrated return to a newly built Parliament Building, the COVID-19 pandemic has prompted a discussion of whether there should be a full permanent return to in-person meetings.

In Canada, as elsewhere, the adoption of virtual participation in parliamentary proceedings has shifted from a response to the exigencies of a global pandemic to a consideration of more modern and efficient means of conducting parliamentary business. Members of the House of Commons and the Senate continue to actively debate what the future of a 'hybrid parliament' will look like, or whether it ought to continue at all. After two years of adapting technology to accommodate remote participation in proceedings, significant challenges remain to ensure its seamless integration.

This article gives a brief survey of the adoption of virtual parliamentary proceedings in Canada, beginning with a summary of its rapid implementation in 2020 in response to the COVID-19 pandemic. While remote participation sometimes featured technical hiccups and procedural predicaments, it also raised serious questions about Executive control of parliamentary business in the early phases of the pandemic. The article then discusses specific institutional complexities in adopting virtual participation, including the challenges of accommodating parliamentarians who live in areas where highspeed internet connection is unavailable or unreliable, maintaining simultaneous interpretation of all proceedings in Canada's two official languages, and ensuring that technological resources are shared adequately between both chambers of Canada's parliament. In light of these challenges, parliamentarians in Canada remain divided on whether hybrid parliament is a unique response to a pandemic or the beginning of a new form of parliamentary participation.

COVID-19 AND THE ADVENT OF VIRTUAL PARLIAMENT IN CANADA

Before the COVID-19 pandemic necessitated the move to virtual proceedings, there had been little serious consideration of adopting virtual participation in either chamber of Parliament. While committees in both chambers sometimes used videoconference technology for witnesses appearing remotely, it had never been seriously considered for members in the chamber. Only a year before COVID-19 spread with speed across the world, the House of Commons and Senate moved to new temporary chambers while the century-old Centre Block that had housed both chambers underwent significant renovations. It was certainly not countenanced at the time of the move that the new interim chambers would have to be refitted within a year to accommodate large screens to beam in members participating remotely. In fact, until 2019, debates in the Senate were not filmed at all, the original chamber being too small to accommodate video equipment.

The first case of COVID-19 in Canada was diagnosed on 25 January 2020, and within a month it had spread throughout the country. The House of Commons and the Senate were in session at the time and were scheduled to sit until the end of June. On 13 March, both chambers adjourned because of the unfolding health emergency. Members of Parliament were recalled several times during the adjournment to vote on emergency COVID-related bills and financial measures, though these in-person meetings had capacity limits to allow for physical distancing in the chamber.

In the early months of the pandemic, the absence of videoconferencing technology effectively disbarred some parliamentarians from participating in proceedings,

whether because of physical distancing capacity limits in the chambers or provincial travel restrictions that constrained mobility. In those same months, the Canadian government proposed sweeping financial aid bills that were debated and passed by Parliament in an expedited manner. The Order Papers of the House of Commons and the Senate became well-lubricated legislative luges, giving rise to concern that the pandemic was severely diminishing the role of Parliament against a more centralized and powerful Executive.[1] Given the challenge of balancing parliamentary independence and public health imperatives, facilitating virtual participation was broadly supported as a necessary response to the immediate pandemic reality.

The Procedure and House Affairs Committee of the House of Commons conducted a study on changes required to allow Members of Parliament to carry out their duties in the pandemic.[2] The House of Commons began sitting in a hybrid format on 23 September 2020. The Senate authorized a motion to adopt hybrid sittings on 27 October 2020, with the first full hybrid sitting beginning the following week.[3]

Despite the logistical and technological challenges of moving parliamentary proceedings to a hybrid format, it was effectively implemented without significant technical problems, apart from issues like microphone muting that became a hallmark of pandemic life. On one occasion, a temporary internal outage caused the virtual platform to go offline, halting parliamentary business for one evening.[4] The most noteworthy hiccups of virtual parliament related to parliamentarians' struggles in adjusting to the new technology. One Member of Parliament caused a stir after inadvertently appearing virtually in the House of Commons without clothes on. That same member stepped aside from his parliamentary duties after a second incident in which he again appeared virtually in the chamber engaging in imprudent conduct with

[1] The centralization of power in the Prime Minister's Office and the subsequent erosion of parliamentary independence has been a common element of Canadian political science discourse; see for example, Donald J. Savoie, *Governing from the Centre: The Concentration of Power in Canadian Politics,* University of Toronto Press, 1999.

[2] House of Commons, Standing Committee on Procedure and House Affairs, 'Parliamentary Duties and the COVID-19 Pandemic', Website, May 2020. Accessed at: <https://www.ourcommons.ca/DocumentViewer/en/43-1/PROC/report-5/ >.

[3] Marc Gold, Canada, *Parliamentary Debates,* Senate, 27 October 2020. Accessed at: <https://sencanada.ca/en/content/sen/chamber/432/debates/005db_2020-10-27-e#63>.

[4] Kevin Lamoureux, Canada, *Parliamentary Debates,* House of Commons, 21 June 2022. Accessed at: <https://www.ourcommons.ca/DocumentViewer/en/44-1/house/sitting-93/hansard>.

a coffee cup.[5] Another Member of Parliament apologized to the House of Commons after participating in House proceedings from a washroom stall.[6]

A more serious procedural dilemma emerged in the Senate when a member was found to be in violation of the rules after participating in committee meetings – including proposing and voting on legislative amendments – from her hotel room in California.[7] The Senate's order of reference for hybrid sittings included a stipulation that members attending remotely must be within Canada. As a result, the Senate took the unusual step of reopening the committee's consideration of the bill so that members could vote again on amendments within the rules. These indiscretions made headlines in the media but also highlighted the limitations that attend the flexibility of remote participation in parliamentary proceedings.

INTERNET CONNECTIVITY AND REMOTE PARTICIPATION IN PARLIAMENT

One of the most significant and persistent challenges of hybrid parliament in Canada has been inconsistent and at times unreliable highspeed internet connectivity, which is essential for the smooth execution of meetings that involve remote participation. The challenge is largely predicated on geography; though Canada is the second largest country in the world by land area, it has a population of 38 million spread primarily among major urban areas. While the infrastructure for highspeed internet is well-established and reliable in urban and suburban areas, it is less so in rural and remote areas, including northern and Indigenous communities. Though nearly 90% of Canadians have access to broadband internet, the number is closer to 50% for those who live in rural areas.[8] This imbalance raises questions about the equitable access to Parliament for members who represent regions that do not have strong internet connectivity.

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[5] 'Liberal MP's Latest Exposure Incident Being Taken 'Extremely Seriously', Says Whip,' *CBC News,* 28 May 2021. Accessed at: <https://www.cbc.ca/news/politics/will-amos-safety-1.6044371>.

[6] Shafqat Ali, Canada, *Parliamentary Debates,* House of Commons, 9 May 2022. Accessed at: <https://www.ourcommons.ca/DocumentViewer/en/44-1/house/sitting-67/hansard>.

[7] Rosa Galvez, Canada, *Parliamentary Debates,* Senate, 14 June 2022. Accessed at: <https://sencanada.ca/en/content/sen/chamber/441/debates/053db_2022-06-14-e#8>.

[8] Canadian Radio-television and Telecommunications Commission, 'Broadband Fund: Closing the digital divide in Canada,' 4 August 2022. Accessed at: <https://crtc.gc.ca/eng/internet/internet.htm>.

One clear example of the challenge posed by unreliable internet connection in hybrid proceedings occurred at the Senate Social Affairs Committee during a clause-by-clause review of a bill to amend Canada's Old Age Security Program. A senator from Nunavut – the largest constituency by land, comprising much of the Canadian Arctic – participated in the meeting remotely, but his internet connection grew unstable during the meeting. The senator sought to propose a technical amendment to the bill, but the constant freezing of the internet connection precluded him from explaining the amendment to members of the committee. The committee chair called the technical interruptions 'really quite disturbing,' though the committee's constrained timeframe for considering the bill meant that is had to move on without the full participation of the senator attending remotely.[9]

BILINGUALISM IN HYBRID PARLIAMENT

French and English are the official languages of Canada. Parliamentarians have a constitutionally protected right to speak in either official language and can listen to proceedings in their preferred language through simultaneous live interpretation. All official documents, including chamber and committee transcripts, are translated each day and made available in both languages. The machinery that enables Canada's Parliament to be functionally bilingual has been in operation for over six decades, but the COVID-19 pandemic quickly presented a significant strain on its viability.

Soon after the House of Commons adopted hybrid proceedings, the adverse impact on simultaneous interpretation became apparent. Parliamentarians and committee witnesses appearing remotely did not guarantee the same audio quality control that is found in parliamentary premises. Interruptions in proceedings because interpreters could not properly hear a speaker appearing via remote video link became routine frustrations. Even minor gaps in a sentence caused by technical blips affect interpreters' ability to accurately convey what is said in a different language.

At times, audio quality issues effectively compromised the requirement that parliamentary debates be instantly available in both official languages. In a debate on a financial supply bill in the Senate, a French-speaking senator was unable to ask a

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[9] Parliament of Canada, *Report,* Standing Senate Committee on Social Affairs, Science and Technology, 28 February 2022. Accessed at: <https://sencanada.ca/en/Content/Sen/Committee/441/SOCI/07EV-55394-E>.

question to the bill's critic because the interpreter could not hear well enough to provide English translation. Since the technical issue could not be resolved, the Speaker advised the senator to pose the question at Third Reading.[10] This was a highly unusual exclusion of a parliamentarian from debate due to linguistic interpretation challenges.

The union representing Parliament's interpreters raised concerns that the difficulty of hearing and providing simultaneous interpretation in a hybrid context caused significant cognitive strain. As a result, many had to work shorter shifts or take more time off between shifts. Beyond the concern over the quality of interpretation in virtual parliamentary proceedings, the health effects caused by sudden and loud audio interferences, known as 'acoustic shocks,' placed a significant strain on Parliament's capacity to ensure bilingual interpretation. The occurrence of acoustic shocks rose considerably after the adoption of hybrid parliament, resulting from the use of poor-quality microphones or headsets, unsteady internet connections, and technical interferences. Acoustic shocks can cause nausea, tinnitus, migraines, and other concussion-like symptoms and form a major workplace hazard for interpreters. The president of the union representing parliamentary interpreters told a House of Commons committee that there were more acoustic-related injuries reported by interpreters in the first three weeks of hybrid parliament than in the entire preceding year.[11] In February 2022, the union filed a formal complaint with the responsible government department for failing to provide interpreters with a safe working environment.[12]

SHARING RESOURCES IN A BICAMERAL PARLIAMENT

Canada's bicameral parliament consists of the House of Commons, which is an elected chamber based on representation by population, and the Senate, which is an

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[10] Renée Dupuis, Canada, *Parliamentary Debates,* Senate, 14 December 2021. Accessed at: <https://sencanada.ca/en/content/sen/chamber/441/debates/011db_2021-12-14-e#59>.

[11] Standing Committee on Procedure and House Affairs, House of Commons, *Evidence*, 4 May 2020. Accessed at: <https://www.ourcommons.ca/DocumentViewer/en/43-1/PROC/meeting-14/evidence>.

[12] Canadian Association of Professional Employees, 'CAPE Issues Complaint Against the Translation Bureau for the Failure to Meet its Obligations to Protect Interpreters' Health and Safety,' 2 February 2022. Accessed at: <https://www.acep-cape.ca/en/news/cape-issues-complaint-against-translation-bureau-failure-meet-its-obligation-protect>.

appointed chamber based on regional representation. Much of the parliamentary agenda is driven by the House of Commons, which is where the Prime Minister and cabinet conventionally sit. The Senate, often dubbed the chamber of 'sober second thought,' typically fills a more revisory role and tends to be less partisan, and therefore holds a lower profile in media and public attention. Both chambers are legislatively co-equal, though the appointed Senate has a long tradition of ultimately deferring to the will of the elected House of Commons.

The allocation of resources required to facilitate hybrid parliamentary proceedings placed a significant strain on the ability of both chambers to operate at full capacity. The strain was especially acute in the Senate, which is less than one third the size of the House of Commons. It took the Senate months longer than the House of Commons to switch to a full hybrid model. Senators expressed frustration that the transition to a format that would allow virtual participation took so much longer in their chamber. With the implantation of travel restrictions, many senators from outside of the national capital region were unable to attend in-person sittings during the early parts of the pandemic. In June 2020, following a three-month period in which the Senate had only met four times, a senator moved a motion calling for an extensive review of the technological incapacity of the chamber, stating:

> *there is no question there is a growing frustration and exasperation*
> *from many colleagues in my group as well as in other groups for not*
> *being able to fully participate in the debates.*[13]

The strain on resources was most noticeable in the functioning of Senate committees, which struggled to operate at full capacity throughout the pandemic. Committees are often viewed as the workhorses of the Senate, where detailed scrutiny and special studies are conducted. Typically, each committee convenes two meetings each week, but this regular pattern dissipated during the pandemic.[14] Logistics formed a large factor in the crippling of committees, notably the strain on technical support for virtual meetings and the shortage of language interpreters. Many of the Senate's committees

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[13] Scott Tannas, Canada, *Parliamentary Debates,* Senate, 16 June 2020. Accessed at:
<https://sencanada.ca/en/content/sen/chamber/431/debates/022db_2020-06-16-e#65>.

[14] Peter Mazereeuw, 'Senate leaders promise progress on committees, some of which have barely met since the last election,' *Hill Times,* 22 March 2021. Accessed at <https://www.hilltimes.com/2021/03/22/senate-leaders-promise-progress-on-committees-some-of-which-have-barely-met-since-the-last-election/289642>.

could not hold regular meetings during the first year of the pandemic, despite the House of Commons running nearly at regular capacity.

HYBRID PARLIAMENT IN CANADA GOING FORWARD

The future of virtual parliament remains an active matter of debate in Canada. On 22 June 2022, a majority in the House of Commons voted in support of a motion to extend hybrid proceedings to June 2023. For many parliamentarians who endorse virtual parliament, what started as an emergency response to the COVID-19 pandemic has become a model of a modern and more efficient parliament. Many members who spoke in favour of the motion noted that hybrid allowed greater personal flexibility to balance work and family life. One Member of Parliament stated that because of virtual Parliament, 'I am a better father. I am also a better parliamentarian and certainly a better husband.'[15] Political observers have noted that the permanent adoption of virtual parliament could make politics more attractive to women and young people, given that the Canadian House of Commons does not have strong parental or other 'workplace accommodations.'[16]

When the Senate resumed sitting after the summer 2022 adjournment period, it returned to a pre-pandemic setup without a virtual component. The frustrations related to the diminution of committee time and the constraints of shared resources were so significant that senators let the motion authorizing hybrid proceedings expire. The question of whether to resume a hybrid model remains under active discussion in the Senate, though its adoption will likely be predicated on a guarantee that it does not encumber the Senate's ability to operate at full capacity. In the meantime, Canada's Parliament offers a direct comparative assessment of virtual parliaments with one chamber using technology to facilitate remote participation and the other operating fully in-person. It is clear, however, that the debate about keeping hybrid is no longer about public health measures, as it was in 2020; it has now become about the best, most efficient way to represent Canadians in Parliament and to provide better work-life balance for parliamentarians. As the experience of virtual parliament moves into a

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[15] Nathaniel Erskine-Smith, Canada, *Parliamentary Debates,* House of Commons, 2 June 2022. Accessed at: <https://www.ourcommons.ca/DocumentViewer/en/44-1/house/sitting-80/hansard>.

[16] Amanda Bittner and Melanee Thomas, 'Making a Bad Thing Worse: Parenting MPs and the Pandemic,' *Canadian Parliamentary Review,* 43(3), 2020.

post-pandemic stage, debates about its endurance will centre more directly on the question of whether it strengthens or impedes parliamentary independence and democratic accountability.

Digital Innovation and Public Engagement at the Scottish Parliament

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INTRODUCTION

This article provides an overview of how the Scottish Parliament's public engagement strategies and use of digital platforms and tools has evolved over time. The content on current services is mainly focussed on work that the Parliament Communications Office is involved in and does not reflect *all* digital engagement and innovation across the organisation. For example, we have expanded into other areas such as online education sessions and major events, which have become increasingly relevant post Covid. These services are led by other teams however and so are not discussed in this article.

BACKGROUND

The founding principles of the Scottish Parliament, when established in 1999, were that it should be accessible, open, responsive, and that it should develop procedures which would facilitate public participation. A bold commitment to involving the people of Scotland in the consideration and scrutiny of policy and legislation from the outset. We hit the ground running in this respect, with an extensive outreach and education programme, a website that made it easy for citizens to find and read what was happening, live webcasting and the world's first parliamentary public petitions system.

But the social and political landscape in Scotland has changed considerably since then. New technology and social media have revolutionised the way people communicate with each other, what they expect in terms of services from public bodies, and the kind of participation they feel entitled to. Whereas our digital channels were originally

about informing and educating, there is now a demand to use them for meaningful interactions. However, information sharing is still a key part of the engagement continuum. Information raises awareness, education increases understanding, communication keeps people up to date; all these are prerequisites to citizens confidently taking part in consultations or deliberative events.

The Commission for Parliamentary Reform, established by Ken MacIntosh, Presiding Officer in 2016, to review the effectiveness of the Parliament, noted that it had initially led the way in ensuring society had the opportunity to learn about the work of the Parliament and to get involved.[1] It cited several effective engagement activities by committees (e.g. fact-finding visits, deliberative events etc) that had proactively sought to involve people with lived experiences in their work. However, the number of these events had diminished over time, and indeed were later stalled entirely during the COVID pandemic.

Digital tools provide the opportunity to 'do' engagement work more quickly and cost efficiently. They allow us to reach a wider, younger, more diverse audience and overcome the barriers of geography and accessibility. Engaging with citizens on the channels they communicate on presents the Parliament as an open, modern, relevant, and accessible institution. While the Parliament's digital offering had evolved over time, and we were already using, for example, social media to target hard-to-reach groups and seek their views, the Commission's recommendations validated this approach and called for more innovation.

Language was also a recurring theme, with the Parliament's website coming in for criticism for its use of parliamentary terminology, and because the user required existing knowledge of the Parliament's structure and functions in order to be able to use it effectively. In an effort to be open and accessible we had effectively created an unwieldy website full of content people couldn't find or understand. The need to simplify our language was a precursor to us becoming more digitally inclusive.

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[1] Parliament of Scotland, Commission for Parliamentary Reform, *Report*, 20 June 2017. Accessed at: <https://parliamentaryreform.scot/>.

PUBLIC ENGAGEMENT STRATEGY

While digital engagement offers great potential, it also comes with challenges. At the most basic level we need to ensure that digital is not the only way citizens can find out about and interact with us. A digital-*first* solution is not a digital-*only* solution; we need to make sure that we are not excluding people who are not online, for example older people, people with poor connectivity, or people on lower incomes who do not have ready access to devices.

We also need to make sure that the engagement we seek is relevant and matches a need; that it is integrated into parliamentary business and that there is an outcome. We want people to feel that something happens as a result of their feedback. The public's trust in both the institution and our processes are at risk if they feel that we are not listening.

It is therefore essential that digital engagement sits as part of a wider engagement strategy, so that our digital activity is planned alongside other engagement activities as part of an integrated campaign. At the outset of a campaign (such as a committee inquiry), we should be clear about its purpose and aims, and know what we need to find out and from whom. We should also know what we are hoping to do with what we get back, and set realistic and measurable targets so we are able to assess whether we achieved what we set out to.

In recognition of this, the Public Engagement Board (PEB) and the Public Engagement Group (PEG) were established in 2013. Although the Parliament had always prioritised public engagement, and this had often been collaborative in nature, the planning and reporting of activities had previously been led by individual offices. This was the first time that engagement had been formally recognised as a strategic priority that required a defined cross-office structure to deliver it through.

The current Public Engagement Strategy (PES) covers Session 6 (2021-26), with a key aim of increasing engagement with groups of people who are less likely to do so.[2] Our priorities are to develop a better understanding of what barriers there are to public engagement, developing partnerships and connecting communities, and building on the digital means we relied on during the pandemic to expand engagement

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[2] Parliament of Scotland, 'Public Engagement Strategy'. Accessed at <https://www.parliament.scot/-/media/files/spcb/strategic-plans/public-engagement-strategy.pdf>.

opportunities. The importance of the need to continue to innovate and try new things with our digital channels and engagement tools is an important part of this.

One of the outcomes of the Commission for Parliamentary Reform's work in 2016 was the establishment of a dedicated Committee Engagement Unit (now the Participation and Communities Team – PACT), a team responsible for diversifying the groups and people the committees generally consulted with to include a wider spread of voices, people with lived experiences rather than experts in a particular field. It was recognised at the same time that our engagement methods also needed to change, and that communications and participation experts had as important a role in this as those immersed in the detail of a committee inquiry.

This resulted in more joined-up planning from the start of a campaign. While the unpredictable timetables that committees work to, and the lack of lead-in time, often hinders the planning process, the new collaborative approach at least ensured that committees were asking the key questions about who they needed to speak to and what they really needed to learn before launching a call for views. It also enabled us to think more carefully about how to reach our target audiences and devise comprehensive and integrated communication plans to support this. Social media and digital tools played an increasingly important part of this, giving us cost-effective ways of reaching specific targeted groups.

WEBSITE

As noted above, the Parliament trail-blazed in this area when first established and committed to publishing as much as possible long before freedom of information legislation stipulated this. We were one of the first parliaments to provide both a live webcasting service and a video archive, and our e-petitions system was unique in that every petition submitted was (and still is) considered by the Parliament regardless of the extent of its support. But for various reasons we did not capitalise on this head start and the website became something of a behemoth, a repository that was too big to be easily searchable, and without a content strategy or governance model that enabled us to manage content more effectively.

This was addressed in a recent change programme to replace the website as well as its technical infrastructure, but which also had content management at its heart. The starting point was our users and what they need, shifting from the previous position of the website being largely built around the structure of the organisation. Previously users had to have some prior knowledge of how the Parliament worked and who did what to be able to use it effectively. The findings from the Commission for

Parliamentary Reform also reinforced the need to change in this regard. Recognising the importance of informing and educating as enablers to participation, the website, as the primary and authoritative source of parliamentary information, simply had to be better.

The latest iteration of the website (which went live in 2021) is more accessible, stripped-back, and is structured based on what users told us during the extensive user-research phase of the programme.[3] Our content strategy mandates that content is written in a way that is easier to understand and more findable, and that content is only published because there is either a clear user need or we have a legal obligation to make it available. There are now significantly fewer people producing content, which makes it easier for the central team to oversee what is being published and focus on continual improvement.

Alongside the build of the main site a new petitions system was introduced which significantly simplified the user journey for a petitioner or a potential supporter. Enhanced clipping functionality on Parliament.tv was also introduced, making it much easier for users to pull clips of parliamentary footage for usage on their own channels.

But it remains a work in progress, as indeed all websites are. There is still work to be done to further embed content strategy across the organisation, but there are many examples of good content that has been co-produced between offices and content designers (such as Plain English Bill summaries), and the benefits this approach brings. We also have a roadmap for ongoing development of the site itself. Current priorities include improving search and web accessibility, making changes to some of the key content areas to respond to feedback already received. We proactively use analytics and continue to conduct research and user testing to inform our priorities.

SOCIAL MEDIA

We were quick to adopt social media as an easy and quick way of getting our messages across, updating people on parliamentary activity and news, and promoting the Parliament as a place to visit for events or exhibitions. While our channel content strategies have evolved over time, our overarching social media policy remains

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[3] Scottish Parliament, 'Homepage'. Accessed at <http://www.parliament.scot/>.

relatively unchanged. We use it to help us deliver the public engagement strategy by raising awareness, widening reach, targeting specific audiences, engage with audiences in the space they are already in, listening and gaining audience insight, marketing the Parliament as a place to visit, and promoting events and exhibitions.

The Parliament has had a presence on Twitter since 2011 and the main @scotparl account now has almost 170,000 followers. There are also several satellite accounts, including the majority of our committees. While we aim to be responsive on all of our channels, our Twitter accounts are more business focussed than others, and are more about amplification or sharing information to groups with specific interests. It is also where we do most of our social listening, using Hootsuite Enterprise to manage and coordinate our content across channels, as well as monitoring and responding.

We have had a Facebook page since 2012, which now has over 81,103 followers.[4] As the channels themselves change we have adapted our content strategies accordingly, but Facebook remains more of a generalist channel than our others. In the first phase of activity our content was mainly imagery, but over time we have made more use of video functionality, stories, reels etc. We started using Facebook to encourage public participation in committee consultations, producing more video and explainer content to bring the often dry calls for views to life. This worked well for consultations that covered issues pertinent to people's everyday lives – access to railway stations, parking laws, education standards and so on. Topics that everyone could contribute to without having to be an expert or understand complex terminology.

However, while Facebook Insights offer sophisticated analytics and reporting options, it was difficult to process comments efficiently. It is now more likely that we will use Facebook to point to online surveys (see digital tools below) with clear calls to action, and use targeting to reach specific audiences identified during the engagement planning.

We encourage interactions and welcome comments on our posts but this comes with the responsibility to moderate and manage effectively to make sure that people are complying with our rules of engagement (avoiding offensive language etc), and that

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[4] Scottish Parliament, 'Scottish Parliament Facebook Page'. Accessed at: <https://www.facebook.com/scottishparliament>.

our own content remains impartial.[5] This often a challenge at politically charged times, so we also use Facebook's reporting mechanisms when required, also applying functionality such as turning off comments for specific posts.

We have had an Instagram account since 2016, initially to help us reach and engage with a younger audience.[6] Our strategy was to showcase the building and bring to life what it's like to come or work here. We successfully covered events and exhibitions, ran photo competitions, hosted 'insta-meets' and shared user generated content. Within 6 months we had gained over 2,000 followers, a figure which has now grown to almost 20,000. Following feedback from users we began to look at how we could use the channel to promote parliamentary business and encourage interaction, but with a 'behind the scenes' tone that helped humanise the institution somewhat. We now use stories and reels to complement our more 'business' focussed content elsewhere, although it remains the channel we use most for visitor marketing.

We have recently updated both our Facebook and Instagram strategies to reflect the new public engagement strategy, so are using more ads and targeting to reach the audiences that new strategy has prioritised (minority and ethnic groups, people with disabilities, younger people and those on lower incomes). This is a shift from trying to use the channels for the engagement itself; instead, the aim is to use the appropriate channel and format of content to match specific aims for specific audiences.

While Twitter advertising remains blocked to us as a 'government' or 'political' organisation, we have been restricted to purely organic content here, hence why these above efforts are more focussed on Facebook and Instagram. We have amplified ongoing business content that would have otherwise performed poorly in order to get it in front of more people or indeed fewer people but with specific interests.

An example is a recent inquiry on Ferry procurement, of particular interest to Island communities but much less so to the bulk of our audience which is based around Scotland's central belt.[7] We streamed a ferry-related committee meeting as a

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[5] Scottish Parliament, 'About the Scottish Parliament: Policies'. Accessed at: <https://www.parliament.scot/about/how-parliament-works/parliament-policies/online-discussion-rules#topOfNav>.

[6] Scottish Parliament, 'scotparl' Instagram Account. Accessed at: < https://www.instagram.com/scotparl/?hl=en>.

[7] Parliament of Scotland, 'Scottish Parliament Facebook Page – Videos', Accessed at <https://www.facebook.com/scottishparliament/videos/306071478316626/>.

Facebook Premiere, then used this as the basis of an advertisement that targeted island communities in the west coast up to Shetland and Harris, focused on those aged 18-48, interested in politics and public transport. The ad earned over 800 plays, 15,700 impressions directly attributable to the targeted community, 114 reactions, 22 shares and 91 comments. A subsequent campaign used copy tailored to two different island groups, and featured video clips of witnesses from those islands. Over 7 days, these ads earned a total of 556 link clicks to our digital consultation hub, and 59 shares.

As an example of content tailored to minority ethnic communities, we recently created a video, featuring a woman of south-Asian background who had addressed Parliament the previous year.[8] The purpose of this content was to demonstrate the relevance of the Parliament to this community which traditionally does not engage with us. We visited her in her parents' shop and filmed a video in which she discussed her identity and feelings about Parliament. We also included her mother in the piece, discussing her experience in moving to Scotland and her experience as an older person in relation to Parliament. The video ad was targeted in and around Edinburgh to Urdu and Punjabi speakers and earned 13,000 impressions and 288 clicks to our digital consultation hub

To further target those from different minority ethnic backgrounds we also ran ads in Polish and Urdu. For both ads we created an eye-catching graphic featuring Polish and Urdu text, and used Polish and Urdu copy in each respective ad. These ads were targeted at large Polish and Urdu-speaking communities around Glasgow and Aberdeen who were also identified as being interested in politics. These ads generated 371 clicks to our engagement platform, reached nearly 8000 people from those communities, and also generated 371 clicks to our engagement platform

DIGITAL ENGAGEMENT TOOLS

Governments at various levels increasingly are using digital consultation tools to seek views on a range of public policy and service delivery issues. Parliaments need to keep up with this trend, or they risk becoming less relevant. If people can use platforms outside of parliament for civic engagement, and if they are quicker and easier to use

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[8] Parliament of Scotland, 'Scottish Parliament Facebook Page – Videos', Accessed at <https://www.facebook.com/scottishparliament/videos/578720060314583/>.

than our established channels, then what is the incentive for citizens to get involved with us instead of, say, local government or community networks?

A recognition of the need to keep abreast of these developments, and diversify in our use of engagement tools, was behind the establishment of a Digital Engagement Tools Team (DETT) in 2018. Until then we were becoming more sophisticated in how we used our digital channels to raise awareness and point people to consultations, but we were still relying on people providing us with lengthy Word documents in terms of conversion. The purpose of DETT is to explore new opportunities for digital consultation, collaboration and co-production. The key idea was to trial low cost standalone digital tools for public engagement that could be tested quickly and easily. The group secured a modest budget which enabled us to procure and test 3 tools. One of these tools, Citizen Space, a survey-based consultation platform, is now the standard tool for committee calls for views.

Not only does this make it easier and quicker for people to respond to our calls for views (including the ability to submit videos), it is an effective way of focussing responses around the specific areas the committee wants to find out about. Its reporting functionality also saves significant time for researchers responsible for analysing and summarising these responses. For high profile inquiries, such as the recent Coronavirus (Recovery and Reform) (Scotland) Bill 2022, committees are able to take dual approaches, creating short surveys that allow most members of the public to share their overall opinion on a subject, while also undertaking a more formal consultation which allows experts to have the space to share their views. With this Bill we received nearly 4,000 responses to the survey, giving a view of the public's perspective, and nearly 100 detailed responses.[9] Combining these into one consultation would have discouraged many people from taking part.

We also use a tool called Your Priorities; members of the public can submit ideas on a given topic, or be given pre-prepared ideas, such as sections of a Bill. Users can then discuss and prioritise these ideas. This helps committees assess the significance of ideas proposed and discussed, see the key issues the public think committees should consider, and discover key themes based on the experiences of participants. The use

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[9] See Parliament of Scotland, COVID-19 Recovery Committee, *Coronavirus (Recovery and Reform) (Scotland) Bill - Stage 1 scrutiny - Paper 1 - Note by the Clerk*, CVDR/S6/22/11/1, 31 March 2022. Accessed at <https://www.parliament.scot/~/media/committ/2952>.

of this tool has so far enhanced committee work including business planning, inquiry development, generating questions and experiences to support direct questioning of ministers and officials, scrutiny of legislation, scrutiny of government policy and delivery; and seeking feedback from the public and stakeholders on the content of committee reports.

There has been a positive reaction from Members of Parliament to the use of both tools, who are pleased to be hearing from members of the public in this constructive manner. The Team is currently investigating video submission tools to make it easier for the deaf community to respond to consultations using British Sign Language. DETT proactively reviews the digital landscape on a regular basis to identify further opportunities to improve our digital participation capacity.

All trials undertaken to date have tested the various tools against different types of consultation, and different target audiences. Feedback from participants is a key factor in our consideration of whether a new tool adds value. Any new tool procured has to offer something new or better than what we are already using. The inquiries we use these tools for continue to be supported by our other digital channels. These have added substantial value to committee engagement work and were crucial tools for enabling us to sustain public engagement for committees during the COVID pandemic. But we expect this approach to remain in place and are hopeful that they will accelerate the pace of digital transformation.

CITIZEN PARTICIPATION AND PUBLIC PETITIONS COMMITTEE INQUIRY

The Citizen Participation and Public Petitions Committee, which has broadened its remit beyond dealing with petitions this Session, recently launched an inquiry into public participation, and is looking at if and how people's voices are heard as part of the Parliament's scrutiny role. This is an important inquiry in that it has been driven by members of the committee, who recognise the importance of effective public engagement. It is a good example of how we have used a combination of digital and face to face methods to hear from different people and explore some of the issues in more depth.

The Committee ran two different online surveys - a short survey aimed to find out about the people who have or have not been involved in the Scottish Parliament's work, and their experiences, and a longer survey asking people to share their views on what can be done to improve public participation in more detail. We built on the examples above on using different languages to target specific communities and created a Facebook advertising campaign featuring video and images to target Urdu

and Polish speakers. We targeted the Polish content at Polish speakers in and around Aberdeenshire who were interested in politics, and replicated this for Urdu speakers, with those interested in politics in and around Glasgow. These advertisements generated 371 clicks to our engagement platform and reached nearly 8000 people from those communities.

In total there were 340 survey responses. The Committee also held 10 focus group sessions, involving 119 people, which gave them a chance to share their views directly with politicians. These groups were selected to ensure there was representation from people less likely to get involved in the Parliament's work, including minority ethnic groups, people living on a low income and disabled people. They were facilitated by organisations and groups who actively work with such people.

One of the findings, perhaps unsurprisingly, was that the majority people who praised our engagement work were people who were already actively engaged, and had direct experience of, for example, submitting views to a committee inquiry. Others said that they didn't know how to get involved and found it difficult to find out what consultations were underway on the website. The website also came under criticism for not promoting outreach work and showcasing examples of successful engagement activities. Language and accessibility came up frequently - the need to be clearer about what we are asking from people and what the outcomes may be, as well as the ability to provide evidence in different formats, such as video or audio.

This inquiry is still ongoing however the findings so far support the Parliament's direction of travel in terms of the new engagement strategy, and a commitment to working across offices, and with external partners, to deliver an appropriate blend of on and offline engagement activities based on need. It is clear that, in particular, the Participation and Communities Team (PACT) and the Parliament Communications Office (which includes the Digital Communications and Content Team) need to work closely together to bring these together. This is from the planning, promotion and recruitment right through to evaluation.

TRAINING AND SUPPORT FOR MEMBERS

A final point is that for many people the Parliament is made up of the politicians they vote for, and they expect them to represent their interests and address their concerns. Their experience with engaging with the Parliament will be entirely through their Members – through surgeries or direct communications. It is therefore important to recognise the important ongoing role Members have in helping foster a positive engagement culture. This is both individually, the way in which they engage with

people in their local area or region, and collectively, through parliamentary processes and structures**.** It includes both what they do to *contribute* to planned parliamentary engagement activities (such as helping to promote a committee consultation or taking part in a fact-finding visit), and how they *respond* to what they have found out as a result of the activity (ensuring that the activity is meaningful because there is some sort of outcome, and people feel they have been listened to).

Members have to be aware of and have bought in to our engagement strategy for it to be truly effective. This requires educating and informing Members and their support staff about good practice approaches, particularly when they are newly elected. This something that the Public Engagement Group is considering how to address.

Meanwhile, for the last couple of years, we have been more proactive in providing Members with training on how to use social media, how to stay safe online, and how to get the best out of video. This has involved semi regular drop-in sessions with input from Facebook and Twitter representatives, as well as Police Scotland. The focus of these sessions is on how Members can secure their accounts, what they can do to manage their interactions, and what channels are available to them should they get in to trouble, how to report incidents and knowing when to escalate.

We have also run training sessions on how to get the best out of social media, which includes setting up pages, managing and planning content, and any new features from the channels which we feel would be of interest. These are mainly on Facebook, Instagram and Twitter, but as the sessions are interactive we try and answer any questions they have on any others. The sessions are open to both Members and their staff and are now an important part of induction for new Members following an election.

Engaging the public with Parliament in Aotearoa New Zealand

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BEGINNINGS OF PARLIAMENTARY ENGAGEMENT WORK IN AOTEAROA NEW ZEALAND

Since 2016, increasing public awareness of the role of Parliament and members, and public participation in the work of Parliament has been the major strategic focus for staff of the New Zealand House of Representatives. In the face of declining participation in key democratic processes,[1] low trust of politics[2] and an apparent decrease in the relevance of Parliament to the lives of New Zealanders, the Clerk of the House made building engagement with Parliament the strategic priority. Despite low levels of corruption and generally well-functioning civic institutions,[3] members of Parliament are consistently regarded as one of the least-trusted professions in Aotearoa New Zealand. In a democracy, public feedback and consent to be governed

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[1] Voter turnout declined from a high of 93.7% in 1984 to 77.9% in 2014. Voting is not compulsory in New Zealand.

[2] 'Trust survey results revealed: MPs, journalists least trusted', *New Zealand Herald*, 9 June 2015. Accessed at <https://www.nzherald.co.nz/nz/trust-survey-results-revealed-mps-journalists-least-trusted/UA6ZFS62NMZKNP5MV3NDACA6MA/>.

[3] Transparency International, *Corruption Perceptions Index 2021,* 2022. Accessed at: <https://images.transparencycdn.org/images/CPI2021_Report_EN-web.pdf>.

gives legitimacy.[4] This is why building greater levels of trust and participation in parliament was a crucial focus for the Office of the Clerk.

Parliament's engagement work began modestly. Initially, the focus was on improving the reach and accessibility of existing means of communication, such as the Parliament website, Hansard reports, and captioning of Parliament TV. Webcasting of select committees was piloted in 2015 but discontinued because of a lack of funding.[5] Social media channels were tentatively explored with the use of Twitter to communicate and the establishment of select committee Facebook pages. In 2018, the Speaker and Clerk launched the first engagement strategy with a focus on connection, engagement, inspiring future voters, and making it easier to be involved in Parliament.[6] A second iteration was launched by the Office of the Clerk and the Parliamentary Service in 2021,[7] laying out the three-year plan to achieve the vision that everyone understands how to engage with Parliament, and has access to the right tools and information to do so.

RESOURCING AND RESEARCH

Public engagement is a parliamentary function jointly resourced by the Office of the Clerk and the Parliamentary Service, and has been recognised by both agencies as a shared strategic challenge.[8] This shared function evolved as an extension of the Office of the Clerk's secretariat work in relation to the House and committees, petitions, broadcasting and publishing, and of the Parliamentary Service's responsibilities for welcoming visitors to Parliament and maintaining Electorate and Community Offices around Aotearoa New Zealand. This led to the establishment of a dedicated Parliamentary Engagement team in 2018, jointly resourced by both agencies, which is focused on strengthening the connections between citizens, their Parliament and their elected representatives, and supporting greater levels of public participation.

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[4] P Gluckman, A Bardsley, P Spoonley, C Royal, N Simon-Kumar and A Chen, *Sustaining Aotearoa New Zealand as a cohesive society*, Auckland: University of Auckland, 2021.

[5] Office of the Clerk, *Annual Report*, Wellington: Office of the Clerk of the House of Representatives, 2016.

[6] Office of the Clerk, *Parliament Engagement Strategy 2018-2021,* Wellington: Office of the Clerk of the House of Representatives, 2021.

[7] Office of the Clerk and Parliamentary Service, *Parliament Engagement Strategy 2021-2024,* Wellington: Office of the Clerk of the House of Representatives.

[8] Office of the Clerk and Parliamentary Service, *Parliamentary Sector Annual Report 2020/21.*

No matter their function, staff across both agencies recognise the strategic priority to engage more citizens with the work of Parliament and contribute to this goal as part of their work. The Parliamentary Engagement team works across the agencies and has four streams dedicated to increase engagement:

- Communications, which creates information to support public understanding of, and participation in, parliamentary business, and which works with news media.

- Digital, which maintains Parliament's website, social media channels and online video (including live and on-demand digital coverage of proceedings and engagement videography).

- Education, which runs educational programmes and activities such as school visits and community outreach, supports members with their work with young people, and provides training and seminars on Parliament for public servants.

- Inter-Parliamentary Relations, which is responsible for Parliament's relationships with overseas parliaments, inter-parliamentary organisations, and other organisations.

Members and their Electorate and Community Offices also play a key role in connecting Parliament and the people, and their support is critical to the success of parliamentary engagement work. A cross-party Member Parliamentary Engagement Committee act as a reference group providing feedback on engagement activities, championing initiatives with their caucuses, and providing recommendations on the implementation of the Parliament Engagement Strategy.

Research has been fundamental in the development of the engagement strategies. In 2017, the Office of the Clerk and Radio New Zealand commissioned joint qualitative research to provide insight into what people valued and understood about the democratic process, how they accessed and interacted with information, and their perceived barriers to engaging with Parliament.[9] This informed the vision and focus of the first Parliamentary Engagement Strategy. Subsequent annual research measures

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[9] Office of the Clerk, 'Exploring New Zealanders' understanding of, and engagement with, Parliament and the democratic process', *Radio New Zealand*, 5 October 2017.

public perceptions of Parliament, the effectiveness of the engagement work, and helps inform the focus of future work.[10] This research has been critical for providing up to date data on attitudes about Parliament, the drivers of advocacy for Parliament, the channels through which people hear and learn about Parliament, and the awareness of and participation in parliamentary processes.

PUBLIC ENGAGEMENT

The following areas have been the focus of engagement efforts.

Engagement at Parliament

Visiting Parliament, whether to watch from the public gallery, attend a committee hearing, tour the buildings, or enjoy the grounds is a way that many people engage. Around 100,000 visitors a year participate in public tours and school visits. To help demystify and make Parliament more relatable, public events are now hosted at Parliament. Events of this nature have included Children's Day, Suffrage Day and Matariki celebrations, featuring a range of family activities, entertainment, specialised tours, and have even involved clowns and ice cream trucks.

School visits form an important part of our engagement activity, are offered at all levels from primary to tertiary, with activities and resources linked to the school curriculum. The goal is that every young person will visit Parliament during their schooling, either physically or virtually.

Engagement in the community

Engagement with the work of Parliament frequently takes place in members' Electorate and Community Offices (ECO's)across the country. These are often the most accessible way for the public to raise issues, ask for assistance, or learn more about Parliament. Offices are supported with a toolkit of resources to help constituents engage with Parliament and supporting ECO's with parliamentary engagement is a focus for both the Office of the Clerk and the Parliamentary Service.

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[10] New Zealand Parliament, 'Engagement research' Parliament of New Zealand: 2022. Accessed at: <www.parliament.nz>.

To reach a wider and more representative audience, and in particular groups that might not connect with Parliament through more formal channels, the Parliamentary Engagement team has begun to have a presence at a range of markets, festivals, and events around the country. These include smaller community festivals, larger events such as Pasifika Festival and Field days, and conferences like Festival for the Future.[11]

Introduced three years ago, the Speaker's Outreach programme has seen the Speaker and cross-party groups of members visit schools and community groups around the country.[12] The programme usually involves visits to one or more local schools, and a tertiary institution or community group that provides the public with the opportunity to meet and talk to members. Outside of this programme, members of Parliament often visit schools, and parliamentary staff offer assistance for these visits in the form of training and resources.

Digital engagement

Parliament's website serves around 3 million users each year[13] and is operated by the Office of the Clerk with technical support provided by the Parliamentary Service. Content on the website includes official records and proceedings, information about parliamentary business and rules, contact details and biographical information for members, general information for visitors, resources for educators and students, and access to live and on-demand video. The website now offers online tools for the public to create petitions and electronic submissions to select committees.[14] Public participation by these methods is now significantly more common and has led to a huge increase in volume of submission and petitions.[15]

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[11] Office of the Clerk, 'Parliament is coming to YOU!', Parliament of New Zealand: 2021. Accessed at: <https://www.parliament.nz/en/get-involved/features/parliament-is-coming-to-you/>.

[12] Office of the Clerk, 'Speaker's Outreach Programme', Parliament of New Zealand: 2021. Accessed at: <https://www.parliament.nz/en/visit-and-learn/speakers-outreach-programme/>.

[13] Office of the Clerk and Parliamentary Service, *Parliamentary Sector Annual Report 2020/21*, p 9.

[14] Office of the Clerk, 'Have Your Say', Parliament of New Zealand: 2021. Accessed at: <https://www.parliament.nz/en/get-involved/have-your-say/>.

[15] Between 1 July 2021 and 30 June 2022, 159 petitions were presented to Parliament. The Justice Committee received over 107,000 submissions on the Conversion Practices Prohibition Legislation Bill, the most submissions ever made on a bill. Office of the Clerk and Parliamentary Service, *Parliamentary Sector Annual Report 2021/22*, p 9, 14.

On behalf of the House and its committees, the Office of the Clerk operates more than 20 social media channels, with over 100,000 followers across Twitter, Facebook, Instagram, LinkedIn and YouTube.[16] Social media accounts publish content intended for a general audience, such as information about tours, current business, opportunities for public participation, video guides to Parliament's history and processes, and livestreams of events and ceremonies. They also provide information to more specialist audiences about matters of interest, such as when a bill receives Royal assent.

Use of online video content has increased dramatically and is getting high audience uptake. Videos produced include guides to accessing parliamentary tools or information, explanations of parliamentary procedure and history, video reports on events such as inter-parliamentary delegations, calls for select committee submissions, and feature-length documentaries on issues of historical and parliamentary significance.

Parliament can also be experienced through 360 virtual reality tours (which have supporting education resources), augmented reality filters to see elements of Parliament in a new interactive way, and an immersive Virtual Debating Chamber experience.[17]

Select committee engagement

A great deal of engagement and communications activity relates to select committees, including the use of social media, videography, live broadcast, and written content. Each committee has its own page on the Parliament website, and (with few exceptions) its own stand-alone social media presence. Select committee social media is used primarily for livestreams of public hearings, notifying when items of business open for submissions, explanatory videos (often featuring committee members), and other information and news about committees' work.

New technologies, such as electronic submissions through Parliament's website or witnesses giving evidence remotely via video conferencing, have reduced the barriers

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[16] Office of the Clerk, 'Connect with Parliament on social media', Parliament of New Zealand: 2022. Accessed at: <www.parliament.nz>.

[17] Office of the Clerk, 'Experience Parliament virtually', Parliament of New Zealand: 2022. Accessed at: <www.parliament.nz>.

to public participation. This has contributed to a significant and ongoing increase in the volume of both written and oral submissions, and a growing public awareness of the committee process.[18]

In 2020, the Standing Orders Committee recommended that select committees encourage alternative forms of public engagement to reach a wider range of New Zealanders and address these barriers, with four guiding principles for this 'alternative engagement:[19]

- Target engagement efforts at groups whose interests are most relevant to the business at hand, or who tend to be overlooked by traditional engagement.

- Make it easier for people to submit in the way that best suits their needs.

- Gather information in order to add value to consideration, not just for its own sake.

- Provide updates or feedback to people who submit, so they know that their information was considered, and their contribution mattered.

Alternative engagement campaigns of this kind were piloted in 2021 and are now offered to all select committees for use in suitable circumstances. The structure of each campaign is tailored to the item of business and the areas the committee wishes to explore, but typically features modes of participation like simple surveys, interactive social media content, informal question-and-answer sessions, and direct contact with relevant groups.[20]

Reference group engagement

Reference groups focused on demographic groups have been established to support engagement work. These are the:

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[18] Phil Smith, 'Submission rising: Parliament's feedback flood', *Radio New Zealand*, 17 October 2021.

[19] Standing Orders Committee, *Review of Standing Orders 2020*, Parliament of New Zealand: 2020, I.18A pp 29-30.

[20] See e.g. Office of the Clerk, 'Parliamentary Engagement (Briefing on survey results)', Advice provided to Justice Committee on Harmful Digital Communications (Unauthorised Posting of Intimate Visual Recording) Amendment Bill, Parliament of New Zealand, 31 May 2021. Accessed at: <http://www.parliament.nz>.

- Teachers' reference group, formed to provide feedback and guidance on our programmes, resources, and delivery.

- *Rito*, a youth reference group, established to work with young people in co-designing initiatives that increase youth engagement with Parliament.

- Accessibility Reference Group, comprising of people who have lived experience of disability and a working group of staff from across the Office of the Clerk and the Parliamentary Service to drive suggested changes.

These reference groups have helped reach a wider range of communities than would traditionally engage with Parliament. In addition to this work, engagement resources are available in te reo Māori, New Zealand Sign Language, and Pacific Languages. Through continuing to develop engagement opportunities with disadvantaged groups, it is hoped that this work will continue to empower people to connect with Parliament and further enhance the functioning of, and engagement with, Parliament. This mahi (work) is key to enhancing trust in important institutions and increasing civic participation.

ENGAGEMENT WITH DEMOCRATIC INSTITUTIONS MORE IMPORTANT THAN EVER

In 2022, efforts to engage the public with Parliament seem more important than ever. Social, political, and economic disruption in recent years have made the future of democracies less certain. Democratic norms have shown signs of weakening across the globe. In some well-established democracies, disruptions have exposed institutional weaknesses.[21] Newer media platforms cater to human's instinctive attraction to information that matches their perspectives and prejudices.[22] Algorithm-targeted

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[21] R Wike and J Fetterolf, 'Global Public Opinion in an Era of Democratic Anxiety', *Pew Research Centre,* 2021. Accessed at: <https://www.pewresearch.org/global/2021/12/07/global-public-opinion-in-an-era-of-democratic-anxiety/>.

[22] A Anderson and L Rainie, *'The Future of Truth and Misinformation Online'*, *Pew Research Centre,* 2017. Accessed at: <https://www.pewresearch.org/internet/2017/10/19/the-future-of-truth-and-misinformation-online/>.

messaging can take intentional disinformation to a new level[23] and the issue will only grow more complex over time.

Global trends in misinformation and the undermining of democratic norms are present in Aotearoa New Zealand, though they have been slower to take root.[24] In recent research into views on political reform in developed countries, New Zealanders were the least likely to consider that their political system needed complete reform or major changes.[25] However, dangerous and anti-democratic trends are certainly present. The recent occupation of Parliament grounds by a diverse range of conspiracy theorists, white supremacists, prosperity gospel-preaching fundamentalists, and other fringe groups shows there are people in Aotearoa New Zealand with no faith in democratic institutions and little regard for societal norms. While the occupation was ended by police action, it would be naïve to think that the protestors, or their grievances, have gone away. A poll conducted at the time of the occupation found that 30 percent of respondents supported elements of the protest,[26] though their reasons were not recorded.

In the current environment, it is essential that Parliament does everything it can to make itself relevant, accessible, and responsive to the public. Underlying societal issues and overseas influences that may give rise to radical, anti-democratic activity are beyond the ambit of the Parliament to address. But it can certainly play its part in countering the sense that transparency and inclusiveness of our democratic processes has been declining.[27] It can do that by partnering with the public, continuing to change to remain relevant, and showing people that Parliament is their House.

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[23] William Dutton, Bianca Reisdorf, Elizabeth Dubois, and Grant Blank, 'Social Shaping of the Politics of Internet Search and Networking: Moving Beyond Filter Bubbles, Echo Chambers, and Fake News', *Quello Center Working Paper*, No. 2944191, 2017. Accessed at: <http://dx.doi.org/10.2139/ssrn.2944191>; Elizabeth Stewart, 'Detecting Fake News: Two Problems for Content Moderation', *Philosophy and Technology* 34(4), 2021, pp. 923-940.

[24] G Palmer, 'Rethinking Public Law in a Time of Democratic Decline', *Victoria University of Wellington Law Review*, 52(2), 2021, 413–462.

[25] Wike and Fetterolf, *Global Public Opinion in an Era of Democratic Anxiety.*

[26] Luke Malpass, 'Parliament protest: New poll shows 30 per cent of Kiwis support anti-mandate protest' *Stuff*, 18 February 2022. Accessed at: <https://www.stuff.co.nz/national/politics/127808790/parliament-protest-new-poll-shows-30-per-cent-of-kiwis-support-antimandate-protest>.

[27] Gluckman et al, *Sustaining Aotearoa New Zealand as a cohesive society*.

Articles

ePoll Platform: the citizen's first step towards legislative participation

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Abstract: Public participation is an important initiative to improve the law-making process and enhance democracy. Nonetheless, it is also a strenuous task, mainly in non-developed countries, due to citizens' low literacy combined with the use of a complex language in propositions, full of formal and unknown terms to the ordinary people. The Brazilian Chamber of Deputies, after launching an interactive tool called eDemocracia in 2009 and undergoing difficulties for the Brazilian citizens to participate, decided to start a new and simpler platform to engage citizens. The new platform, called ePoll, was expected to demand few minutes to participate, to be easily shared on social media, and to allow contributions in plain language, hoping to bring more people into the legislative realm. This paper describes the experience of the Brazilian Chamber of Deputies in this new and somehow obscure trail of citizen engagement.

INTRODUCTION

Digital democracy is a type of government in which all eligible citizens are allowed to participate in the decision-making process by means of digital technology. This includes the use of electronic voting machines, the internet, and other forms of communication. Digital democracy is presumably a more efficient and effective way of governing: as more voices are heard, decisions are expected to be better suited to the society.

With this in mind, the Brazilian Chamber of Deputies launched its first popular participation platform in 2009, called eDemocracia. The focus of this platform is to allow citizens to contribute by suggesting changes to the text of a given proposition. Using this tool, parliamentarians choose to make their proposals available to receive contributions from the society. However, difficulties associated with understanding the complex language of the propositions, combined with the low quality of education in Brazil, formed a strong barrier to the success of this solution.

To get around this problem, the Brazilian Chamber of Deputies sought a new solution that could attract greater participation from the society and, at the same time,

generate information that could help parliamentarians in the development of their proposals.

Electronic polls are surveys carried out over the Internet that offer ease both for the researcher, in terms of logistics and capture of responses, and for the respondent, who can choose the most appropriate moment to participate due to the convenience provided by technology. Moreover, democratic societies have been showing the interest to participate, as suggested by Weiksner.[1]

One of the characteristics of electronic polls is the possibility that they can reach thousands or even millions of citizens by being shared on social media (such as Facebook, Tiktok, and others) or messaging applications (such as WhatsApp, Telegram, and others), easily going viral when there is interest from the public. In addition, citizens who use the polls may feel increasingly attracted to using eDemocracia, the more advanced tool already available to them.

In order to get more than just a simple poll, the user should also be able to comment on the propositions. This would allow us to apply information technology to collect public opinion on the Internet about matters in the legislative agenda, thus reaching the 'second degree' (out of 5 degrees) in the digital democracy proposed by Gomes.[2]

Driven by the desire of having more people engaging with the Parliament, the ePoll was launched in 2017.

E-POLL: ELECTRONIC POLL

The use of electronic surveys presents several challenges, to the point that Rosenblatt says that:

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[1] Weiksner, apud Sampaio, R. C. Participação e deliberação na internet: um estudo de caso do orçamento participativo digital de Belo Horizonte. UFMG. 2005. Accessed at: <http://www.bibliotecadigital.ufmg.br/dspace/handle/1843/FAFI-84GJUX>, pp.167.

[2] Gomes, 2004, apud Silva, S. P. Graus de participação democrática no uso da internet pelos governos das capitais brasileiras. Opinião Pública, 11(2), pp. 450-468, 2005, pp.455.

future efforts to overcome these obstacles are likely to be problematic, not just technically, but also with respect to its effect on the political debate and the possibility of an electronic democracy. [3]

But with the view that participation is a gradual process of mutual learning for both society and parliament, the Brazilian Chamber of Deputies considered viable the use of electronic polls with the possibility of choosing options and sending suggestions, regarding voting results and messages from the citizens as a source of opinions for parliamentarians. The ePoll team also believes that such a platform would also contribute to the 'Education' component of participation predicted by Connor.[4]

There is no expectation that the result of the votes will reflect the will of the Brazilian society. As described by Freitas,[5] obtaining a statistically representative sample of the Brazilian population via electronic polls would be very difficult.

In the case of the solution developed by the Brazilian Chamber of Deputies, each proposal in progress automatically receives an electronic poll (ie, regardless of the author's or any other person's will), allowing citizens to express their opinion on all proposals.

Furthermore, a professional employed by the Chamber of Deputies prepares an explanatory summary of the proposition using simple language, so that citizens will be more likely to understand the reasoning, the purpose and the impacts expected by the author.

Finally, polls were chosen for demanding a short period of time to participate, and for the high potential to go viral on social media, contributing to increase the participation of citizens.

Citizens participate by choosing 1 out of 5 voting options, in addition to being able to leave comments indicating what they consider positive or negative in the proposition.

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[3] A. J. Rosenblatt, A. J. On-Line Polling: Methodological Limitations and Implications for Electronic Democracy. *Harvard International Journal of Press/Politics*, 4(2), 1999, pp.32.

[4] Desmond Connor. A new ladder of citizen participation. *National Civic Review*, 77(3), 1988, pp.250.

[5] Henrique Freitas *et al*. Pesquisa via internet: características, processo e interface. Revista Eletrônica GIANTI, Porto Alegre. 2004. Accessed at:
<https://www.academia.edu/21080920/Pesquisa_via_internet_caracter%C3%ADsticas_processo_e_interface>, pp.3.

These comments left by the citizens are the source of suggestions for authors and other parliamentarians. As citizens can post many comments, especially on propositions that are covered by the mass media or that go viral on social media, a clustering Machine Learning algorithm is applied to reduce hundreds or thousands of comments to a few dozen groups of similar ideas.

This algorithm, currently in operation, uses Natural Language Processing techniques and was developed, and continues to be improved, by the University of São Paulo, and serves as a study case for post-graduation students who use Machine Learning techniques.

With this solution, the authors of the proposals and other parliamentarians can, in a short time frame, read the main ideas and promote changes in the text or explain the intention of a certain article questioned by the citizens, using the official communication network of the parliament or their own social media platform.

OPERATION

To maximize the chances of having the polls shared on social networks, and reach as many citizens as possible, the poll was designed to be simple to use, to work on any device with Internet access (through responsive pages) and to facilitate the understanding of the proposition.

Figure 1. First screen of the ePoll platform[6]

Figure 1 represents the main page for participating in the ePoll. In it, item '1' presents the official identification of the proposition in which the citizen can participate.

Item '2' presents a summary of the proposition. Every proposition in the Brazilian Chamber of Deputies has a summary. In addition, a professional employed by the Chamber of Deputies prepares an explanatory summary of the proposition using simple language for some types of propositions, using more accessible language than that used in the proposition. So, when this explanation exists, it is automatically presented in this area of the poll.

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[6] Directorate of Information Technology, Brazilian Chamber of Deputies, 'ePoll system'. Accessed at: <https://forms.camara.leg.br/ex/enquetes/2195517>.

Item 3 shows the citizen which committees the proposition has already passed through. Item 4 presents the options that citizens have for their vote: 'Fully agree', 'Mostly agree', 'Neutral', 'Mostly disagree', and 'Fully disagree'. Item 5 is the button to cast the vote. Item 6 allows the citizen to see the results of the votes so far. Item 7 allows citizens to consult the terms of use of the Chamber's website.

When clicking 'Vote' or 'See the results', the citizen will see **Figure 2**.

Figure 2.   Result screen of the ePoll platform[7]
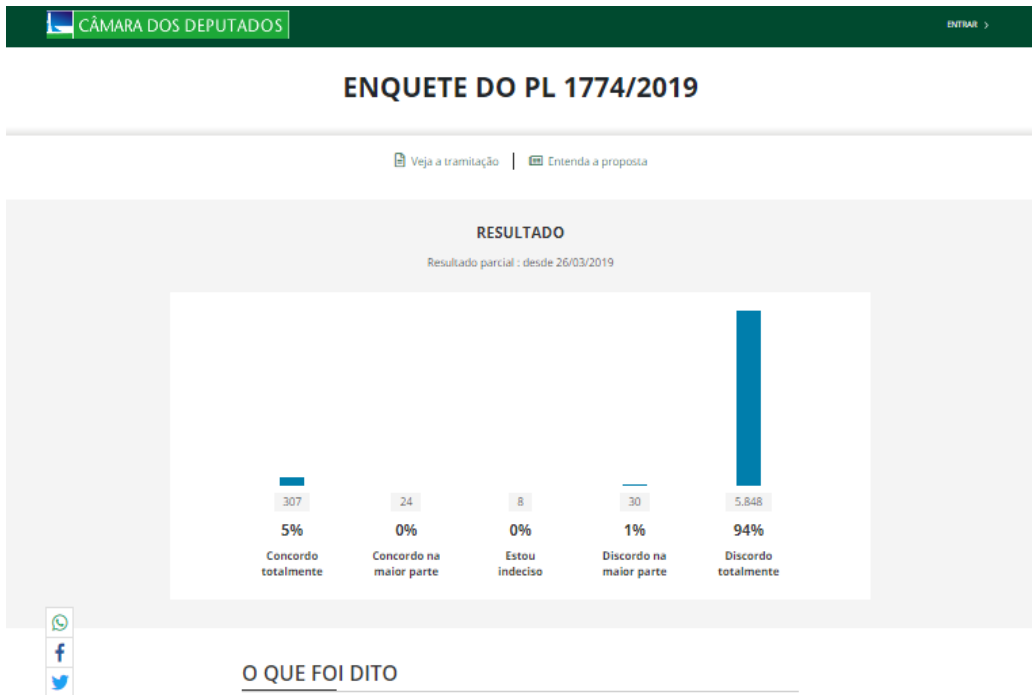
Additionally, other users' comments are shown and the citizens will be able to make their own comments as seen in **Figure 3**.

Figure 3.   Comment screen of the ePoll platform[8]
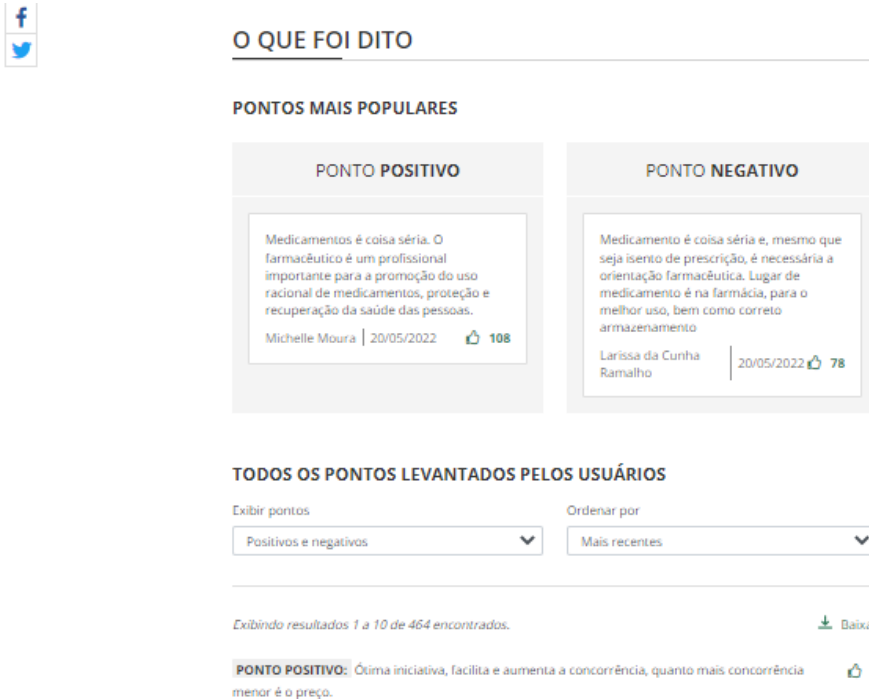
Figure 4 (below) contains an example of the comments that the Natural Language Processing Machine Learning algorithm processes and groups. Each group represents the central idea of a set of comments for a proposition.

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[8] Directorate of Information Technology, Brazilian Chamber of Deputies, 'ePoll system'. Accessed at <https://forms.camara.leg.br/ex/enquetes/2195517/resultado>.

Figure 4. Consolidation of comments in groups using Natural Language Processing algorithm[9]
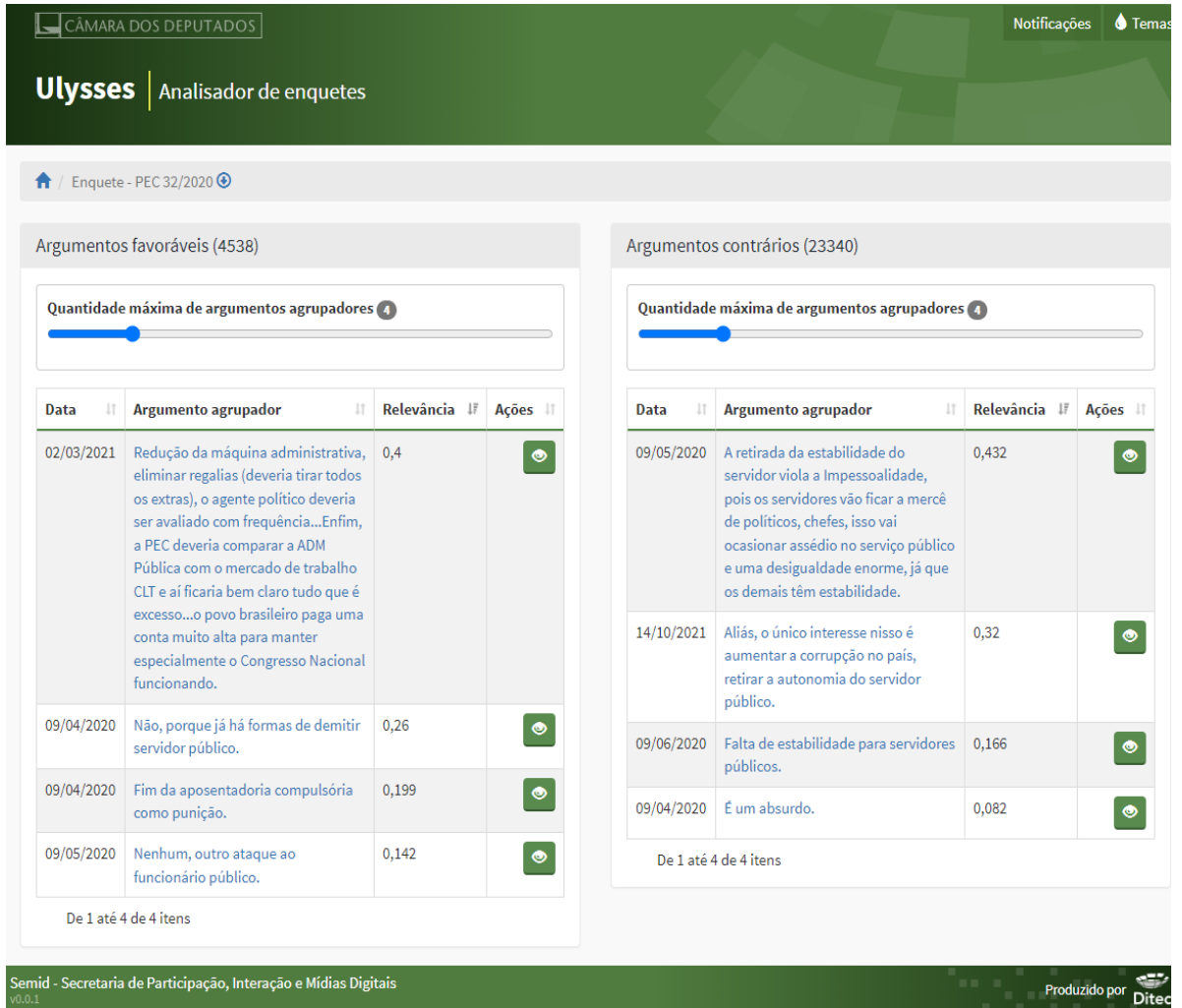
Critics of digital democracy argue that it can lead to a form of cyber-bullying, as people are able to make negative comments anonymously about others without consequence. Because of this, identification is mandatory to use the ePoll platform.

On the other hand, with identification being mandatory, some argue that digital democracy is simply a way for the government to collect data on its citizens. To avoid that, ePoll records sensible data in a way that makes it almost impossible to determine if a specific citizen has voted for or against a proposition (unless there's only one vote for a proposition).

RESULTS

Citizen participation depends on the legislative agenda: propositions that deal with matters reported by the mass media or that are of interest to some groups in the society become more easily shared on social media and bring more people to participate. Collecting the statistics from 2019 to 2022 (up to July, Q2), we have a quarterly average of 30,000 comments submitted by Brazilian citizens.

Figure 5.   Citizens' comments[10]
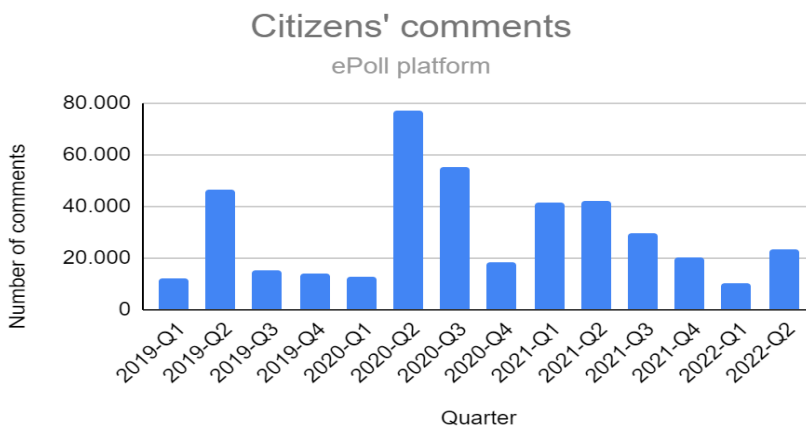
[10] Directorate of Information Technology, Brazilian Chamber of Deputies, 'Data collected from the ePoll system database on 22 July 2022'. Accessed at: <https://forms.camara.leg.br/ex/enquetes/2195517/resultado>.

As for the number of votes, we have a quarterly average of 288,000 votes cast by citizens (**Figure 6**). This means that approximately 10% of the citizens who vote have sent suggestions or comments about the proposition.

Figure 6.   Citizens' votes[11]
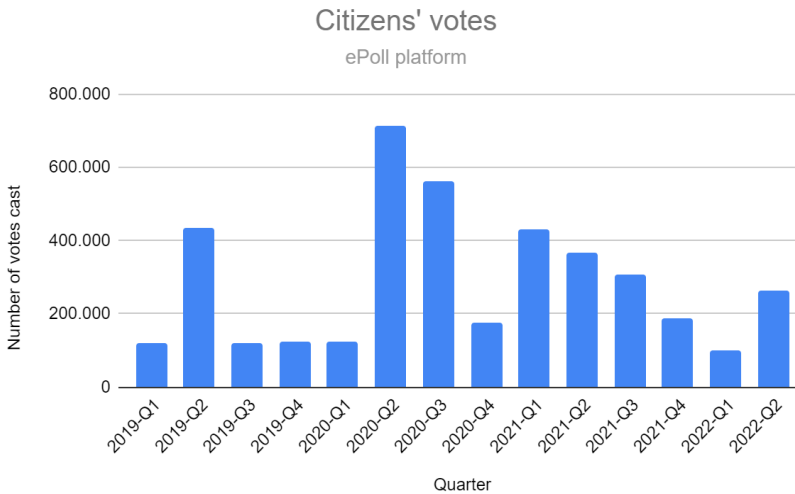
The team expected this result, considering that voting is faster to participate than making comments, especially when using mobile devices, the main platform used by the Brazilian citizens nowadays to access the Chamber's website (**Figure 7**).

[11] Directorate of Information Technology, Brazilian Chamber of Deputies, Data collected from the ePoll system database on 22 July 2022. Accessed at <https://forms.camara.leg.br/ex/enquetes/2195517/resultado>.

Figure 7.   E-Poll's Google Analytics Audience View [12]

Device Category ?	Acquisition	
	Users ? ↓	
	140,227,847 % of Total: ∞% (0)	
1. mobile	**94,221,131** (67.29%)	
2. desktop	**44,866,608** (32.04%)	
3. tablet	**939,458** (0.67%)	

Comparing the citizens' use of eDemocracia and ePoll platforms, it is possible to see a big difference in participation. With the data obtained from the eDemocracia platform, we have the following result for comments and votes:

Table 1.   Number of comments per year for ePoll and eDemocracia platforms[13]

Year	ePoll comments	eDemocracia comments
2019	87,881	114
2020	163,387	633
2021	134,206	35

[12] Directorate of Information Technology, Brazilian Chamber of Deputies, 'Data from the Google Analytics database for the Chamber's website from1 January 2022 to 4 October 2022', collected on 5 October 2022. Accessed at: <www.camara.leg.br>.

[13] Directorate of Information Technology, Brazilian Chamber of Deputies, 'Data collected from the ePoll and the eDemocracia systems databases on 22 July 2022'.

Table 2.   Number of votes per year for ePoll and eDemocracia platforms[14]

Year	ePoll votes	eDemocracia votes
2019	802,798	1,235
2020	1,576,653	5,579
2021	1,296,997	277

Several reasons may explain these big differences:

1. participation in a poll is simpler than in eDemocracia, which requires more user knowledge;

2. the eDemocracia platform shows only the propositions that parliamentarians explicitly make available, while on the ePoll platform all propositions are automatically configured to have a poll;

3. the ePoll requires a very short time to participate, compared to that needed for eDemocracia;

4. the ease of sharing a poll on social media.

CONCLUSION

The polls are presented as a way to allure citizens to get to know the legislative process, and draw attention to the discussions that are taking place in the parliament. It is a quick and simple way to participate, promoting education, and contributing to a better understanding of democracy by the citizens.

The use of the gathered information can contribute to improving the outcomes of democratic debates in parliaments, taking the opinion of the citizens (at least of those who participate) more and more into account. The use of Natural Language Processing technology is essential to allow parliamentarians to become aware, in a timely manner, of the large amount of citizens' comments. This is especially important in a country like

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[14] Directorate of Information Technology, Brazilian Chamber of Deputies, 'Data collected from the ePoll and the eDemocracia systems databases on 22 July 2022'.

Brazil, with more than 210,000,000 inhabitants, which generate, on average, 30,000 comments per quarter, a number that tends to increase as the solution becomes better known and issues of public interest enter the legislative agenda.

NEXT STEPS

Reviewing the phase diagram (**Figure 8**) proposed by Van Djik[15], ePoll contributes mainly to 'Policy Preparation', while having a minor impact on 'Decision Making'.

As next steps, we understand that the 'Feedback' phase is very important to foster citizen participation: when they figure out that their contributions have in fact been considered by parliamentarians, it is believed that citizens will be prone to participate more and more, as well as promote family and friends to engage, thus creating a virtuous circle.

Figure 8.   Phases in the Policy Process[16]
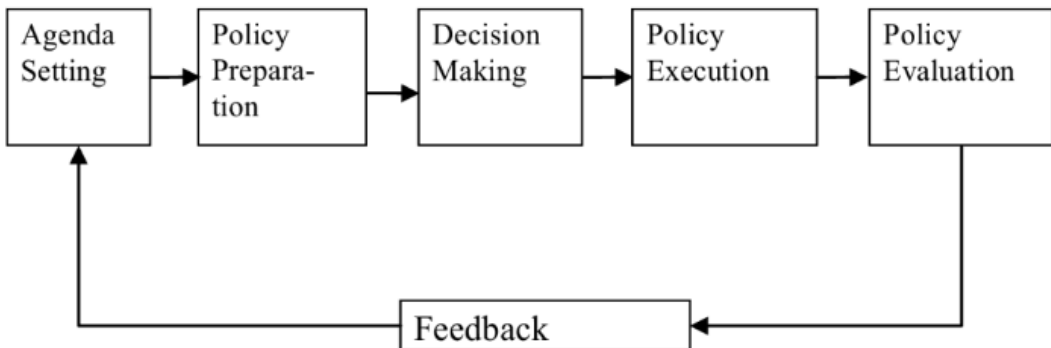
Therefore, the goal is to allow the parliamentarian to tag that a certain group of comments was taken into consideration, either for voting or for proposing amendments to the original text.

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[15] Jan Van Djik, 'Digital Democracy: Vision and Reality', in I. Th. M. Snellen et al. (eds), *Public Administration in the Information Age: Revisited*. IOS Press, 2012, pp.49-62.

[16] Van Djik, *Vision and Reality,* 2012.

This indication, made by the parliamentarian, will automatically forward a message to each of the citizens whose comments were in that cluster created by the Machine Learning algorithm. The citizens will then understand the power of their contributions.

As a consequence, it is expected not only greater participation in other surveys, but also greater interest in the legislative process, information seeking and education on the subject, hence gradually increasing the participation in the more complex and complete eDemocracia platform.

Hopefully, this will lead Brazilian democracy to a new level of commitment and stability.

Deliberative assemblies to enhance the constitutional referendum process

Andrew Cole

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Abstract: This Article provides an overview of the referendum proposals advanced in Australia in recent decades, offering observations as to their democratic and political contexts, having regard to the work of the Senate Legal and Constitutional Affairs Committee's 2019 *Inquiry into Nationhood, National Identity and Democracy*. It considers one of the major recommendations made by the Committee, namely a need for a greater level of engagement and consultation through such devices as 'deliberative exercises' and explores the meaning of the term 'deliberative'. The Article then discusses how we might maximise the deliberative quality of any constitutional referendum process, before concluding with a proposal for change that would see constitutional referendums augmented with a system of deliberative assemblies to be held in each State and Territory.

INTRODUCTION

In July 2022, Prime Minister Anthony Albanese announced his intention to progress a constitutional referendum to enshrine an Indigenous 'voice to parliament' through his commitment to implement the 'Uluru Statement from the Heart' in full.'[2] This is a significant commitment by the Prime Minister, especially considering the low success rate of constitutional referendums. Adding to its significant intrinsic commitment is the

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[1] Disclosure: The author was a delegate to the second Nuclear Fuel Cycle Citizens Jury, which reported to the South Australian Premier in November 2016.

[2] Anthony Albanese, *Prime Minister's Address to Garma Festival*, delivered at East Arnhem Land, 30 July 2022. Accessed at: <https://www.pm.gov.au/media/address-garma-festival?>.

likelihood that the outcome of this current proposal will greatly impact the prospects for any future referendum on an Australian republic.[3]

The referendum requirement for a constitutional amendment places an admirably democratic mechanism at the heart of the process. In casting our eyes forward to these referendum proposals while bearing in mind their democratic context, this Article first considers the current state of health of Australian democracy, drawing on a recent examination by the Senate Legal and Constitutional Affairs Committee. It draws attention to one of the major recommendations of that inquiry's final report, namely a need for a greater level of engagement and consultation through such devices as 'deliberative exercises'. This Article considers what is meant by the term 'deliberative'. It then discusses how we might maximise the deliberative quality of any constitutional referendum process. This Article concludes with a proposal for change in augmenting constitutional referendums with a system of deliberative assemblies to be held in each State and Territory.

DEMOCRACY IN DECLINE?

A formal inquiry into the state of health of Australian democracy was established by the Commonwealth Senate in July 2019 and was referred to the Legal and Constitutional Affairs Reference Committee.[4] The scope of the inquiry encompassed such matters as what might be meant by nationhood and citizenship, the rights and privileges of citizenship, and the meaning of the nation-state in the twenty-first century. Over two hundred submissions were received from a wide range of stakeholders. The Inquiry's report declared that:

> *politics is broken, not democracy. Or, more specifically, something is broken in the way we are conducting politics.[5]*

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[3] George Williams, 'Let's decide on the voice, then get to the republic', *The Australian*, 13 September 2022, p. 11.

[4] Parliament of Australia, Senate Legal and Constitutional Affairs References Committee*, Inquiry into Nationhood, National Identity and Democracy*, 2021. Accessed at:
<https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/Nationhood>.

[5] Legal and Constitutional Affairs Committee*, Inquiry into Nationhood,* Report, p. 156.

The report continued:

> *The way politics functions is alienating citizens; causing them to turn away from established political parties and mainstream political processes.* [6]

As a remedy, the report observed:

> *[W]e must listen and respond. Whether through deliberative exercises, or other forms of consultation, governments must seek input from citizens, and meaningfully engage with that input'.* [7]

The Senate Inquiry heard claims about allegedly declining levels of trust in government. One evidence source was data derived by the Australian Election Study (AES) comprising surveys associated with every Federal election since 1969.[8] The AES data does indeed appear to show recent declines among its respondents in levels of satisfaction with Australian democracy. However, drawing on the same AES source, Dassonneville and McAllister[9] have recently found no clear long-term trend towards a decline of political trust notwithstanding fluctuations from time to time. Their interpretation is that perceptions of trust are most affected by short-term factors: the degree of economic prosperity at any particular time impacts the level of expressed satisfaction with Australian democracy, as does perceptions of the performance of the incumbent government and the level of engagement with voters. These short-term factors, they argue, are not entrenched and are reversible.

The Senate Committee considered a submission from the Museum of Australian Democracy (MoAD) which is based in Old Parliament House, Canberra. As part of Democracy 2025's Public Trust Program, MoAD has conducted a national survey of opinion in public trust which augments the AES survey series. The MoAD study concludes that, while Australians generally seem happy with the structure of

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[6] Legal and Constitutional Affairs Committee*, Inquiry into Nationhood,* Report, p. 156.

[7] Legal and Constitutional Affairs Committee*, Inquiry into Nationhood,* Report, p. 158.

[8] I. McAllister, J. Sheppard, C. Bean, R. Gibson, T. Makkai, 'Australian Election Study 2019'. Accessed at: <https://australianelectionstudy.org/>.

[9] Ruth Dassonneville and Ian McAllister, 'Explaining the decline of political trust in Australia', *Australian Journal of Political Science*, 56(3), 2021, pp. 280-297.

representative democracy, they seem less happy with the way that democracy works.[10] The MoAD study suggests that Australia may have reached a worrying 'tipping point' due to an increasing gap between levels of trust and distrust.

While the Senate Committee itself was reluctant to claim any definitive long-term trend towards declining political trust, its final report in 2021 recommended that the Federal Government should work to improve the level of input from citizens and increase meaningful engagement to demonstrate that the government was listening and responding to the voting public. The Committee advised that this could be attempted through deliberative exercises or other forms of consultation and engagement.

It is in the spirit of the Senate Committee recommendations that this article proposes that deliberative democratic exercises should be incorporated within future constitutional referendum processes.

DELIBERATIVE PROCESSES

The term 'deliberative' can encompass a variety of meanings[11] and the understanding of the term among political theorists has evolved through several waves or generations of thinking. An early contributor was Cohen, for whom a deliberative democracy was as 'an association whose affairs are governed by the public deliberation of its members'.[12] Later, Gutmann and Thompson proposed a more activist perspective: that, in deliberative democracy, citizens should not be seen as just passive actors but as people to whom reasons should be given to provide sufficient justification for the adoption of laws in terms that are both mutually understandable and agreeable.[13]. More recently, Dryzek and colleagues have proposed a more nuanced conception befitting a modern pluralist democracy and more attuned to the practical implications

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[10] Democracy 2025 Project, 'Trust and Democracy in Australia: democratic decline and renewal', December 2018. Accessed at: <https://www.democracy2025.gov.au/documents/Democracy2025-report1.pdf>.

[11] J. Uhr, *Deliberative Democracy in Australia: The Changing Place of Parliament,* Sydney: Cambridge University Press, 1998, p. 4.

[12] J. Cohen, 'Deliberation and Democratic Legitimacy', in James Bohman and William Rehg (eds) *Deliberative Democracy: Essays on Reason and Politics*, Cambridge: MIT Press, 1997, pp. 67-91.

[13] A. Gutmann & D. Thompson, *Why Deliberative Democracy?* Princeton: Princeton University Press, 2004, p.3.

of how deliberative exercises can be structured in large complex societies to build 'essential democratic capacity'.[14]

For Dryzek and colleagues, 'deliberative' means 'mutual communication that involves weighing and reflecting on preferences and values, and interests regarding matters of common concern'.[15] The role of deliberative exercises is to enable its participants to understand issues, their own personal interests, and the interests and perceptions of others in relation to a particular proposition. It seeks agreement where possible and, where agreement is not possible, it seeks to clarify any conflict in positions and intentions. This is definition provides a useful starting point for the following discussion.

REFERENDUMS AND DELIBERATION

Lawrence LeDuc has examined the relationship between referendums and deliberation, posing the question of what counts as good deliberation during a referendum campaign. Le Duc introduces a contrast between what he describes as the 'voice' and the 'vote' functions of referendums.[16]

By 'voice', LeDuc means the general conception of deliberation that allows for a process to consider various positions and to discuss issues that can enable the voting public to make an informed decision. By 'vote', he means the discrete final act of completing a written ballot at the end of the referendum campaign process.[17] The distinction is intended to provide a normative framework to support the proposition that auxiliary deliberative elements are needed for a better referendum process.

LeDuc concedes that deliberation theory and referendums might not, at first sight, seem to have much in common:

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[14] A. Bächtiger, J. Dryzek, J. Mansbridge, and M. Warren, 'Deliberative Democracy: An Introduction', in A. Bächtiger, J. Dryzek, J. Mansbridge, and M. Warren (eds), *Oxford Handbook of Deliberative Democracy*, Oxford: Oxford University Press, 2018, p. 31.

[15] A. Bächtiger, J. Dryzek, J. Mansbridge, and M. Warren, *Deliberative Democracy: An Introduction*, p. 18.

[16] This has a certain resonance with the vocabulary of the 'voice' constitutional proposal by the Prime Minister.

[17] L. LeDuc, 'Referendums and deliberative democracy', *Electoral Studies*, 38, 2015, p.139.

> *A deliberative model emphasizes the importance of voice whereas referendums by their very nature concentrate on votes.*[18]

Referendum ballots require a formal decision to be made based upon available information in a possibly highly partisan environment, whereas deliberative theory requires a process of rational debate, respected opinions, and freedom from 'coercion, deception or invective'.[19] LeDuc argues, however, that the institutions and processes surrounding referendums do share common elements with deliberative democracy, such as the need to establish an environment conducive to discussing issues publicly and a 'highly visible test' of acceptability of a particular issue.[20]

LeDuc identifies twelve influences which can affect the degree of good deliberation. Here I concentrate on just four of the more significant of these elements.

The first of these is 'motive'. This recognizes that referendums are not necessarily called for purely deliberative reasons. The motive, whatever it is, can influence the resulting level of deliberation and the referendum outcome. In the Australian case, the decision to progress an amendment proposal through the Commonwealth Parliament is a conscious decision of the government of the day. In this sense, it is a political calculation. The complex path leading to the 2017 Australian Marriage Law Survey by the Australian Bureau of Statistics illustrates some of the political factors which can be in play.[21]

The 1967 Constitutional Referendum, after passing both Houses of Parliament, saw more government resources devoted to promoting the first question (proposing that the government be able to increase the number of House of Representative members without necessarily increasing the number of Senators) as opposed to the second question (proposing that the Commonwealth be empowered to make laws regarding

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[18] L. LeDuc, 'Referendums and Deliberative Democracy', Conference Paper at the International Political Science Association World Congress, Fukuoka, Japan, 9-13 July 2006, p. 2. Accessed at: <http://paperroom.ipsa.org/papers/paper_5268.pdf>.

[19] LeDuc, *Referendums and Deliberative Democracy*, p. 1.

[20] L. LeDuc, 'Voice vs. Votes: Adapting the Institutions and Processes of Direct Democracy to Improve Citizen Engagement and Participation', *Lightning Policy Brief*, Canada Europe Transatlantic Dialogue, March 2016, p. 4. Accessed at: <http://labs.carleton.ca/canadaeurope/we-content/uploads/sites/9/LeDuc-CETD-Brief-Final.pdf>.

[21] See e.g. Kildea, Paul Kildea, 'Australia's Same-sex Marriage Survey: Evaluating a Unique Popular Vote Process', *Monash Law Review*, 46(2), 2020, pp. 107-40.

Aboriginal Australians and for their inclusion in the census). The overall campaign by the Holt Government has been described as rather 'lackluster'.[22] As it happened, the first referendum question failed (with only NSW voting 'Yes' and a national 'Yes' vote of just 40.25%) while the second question passed with all six States voting 'Yes' and a national 'Yes' vote of 90.77%.

A second, and related, element of LeDuc's framework considers the role of the government of the day. If the motive to propose a referendum question is based upon political decisions or assessments, then it can be inferred that governments are not neutral when it comes to their role in prosecuting a referendum campaign. If a government decides to put a referendum question forward, it usually does so with the expectation of winning. Referendums are not usually initiated to see them fail. However, sometimes the government may instead be seeking just to neutralize an issue. The 1999 Republic referendum could be such a case, with Prime Minister John Howard acknowledging his own opposition to the amendment proposal.[23] In that referendum, the first question regarding becoming a republic was lost with no States voting 'Yes' and a national 'Yes' vote of only 45.13%. The second question regarding a new Preamble was also lost, with no States recording a 'Yes' vote and a national vote of 39.34%.

A third of the LeDuc elements is that an informed process needs the referendum question to be clear and concise. LeDuc acknowledges that clarity is not an easy attribute to define or achieve.[24] The impact of poor clarity, however, may be that the available time to deliberate or publicly engage over a particular referendum question is taken up with arguments over the wording of the question as opposed to the substantive issues at stake. This problem is lessened if there is only one referendum question put to the voting public. Where there are multiple questions, LeDuc suggests that a lower quality debate or deliberation may result.

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[22] B. Attwood and A. Markus, *The 1967 Referendum, or When the Aboriginals Didn't Get the Right to Vote*. Canberra: Aboriginal Studies Press, 1997, p. 37.

[23] Howard's opposition to change can be seen in his formal statement in support of the 'NO' case'. See Australian Politics, 'John Howard's Statement Against a Republic'. Accessed at: <http://australianpolitics.com/1999/10/25/john-howard-statement-against-a-republic.html>.

[24] LeDuc, *Referendums and Deliberative Democracy*, p. 12

A fourth element derived from LeDuc relates to whether a referendum proposal involves a 'multiplicity of issues'.[25] The 1999 Republic referendum is an example of a referendum raising complex constitutional and political issues beyond the actual question itself. An inability to separate out such complex issues could affect the outcome of the ballot. For LeDuc, deliberation can be strengthened if the public discussion can focus on one single issue. Australian constitutional referendums have included several where multiple questions have been put. For example, the 1944 Referendum included a proposal to insert a new Clause 60A into the Constitution encompassing fourteen new legislative powers related to post-war reconstruction.[26] This referendum passed in just SA and WA, and achieved a national 'Yes' vote of just 45.99%.

What is a 'successful' referendum? 'Success' could be simply understood as the approval of the referendum proposal. Alternatively, it might, from an initiating government's point of view, mean a 'No' result which is welcome because it puts aside a troubling but previously unresolved issue. From a procedural perspective, 'success' might mean a referendum process that is conducted well irrespective of the 'Yes' or 'No' outcome. This is the perspective adopted for the purposes of this article: a 'successful' referendum involves a high-quality deliberative process (or 'voice') leading to an informed 'vote' irrespective of the 'Yes' or 'No' outcome.

A PROPOSAL

Having reflected on these experiences and perspectives, I contend that the time is right to consider a fresh proposal to enhance the constitutional referendum process in Australia.

My proposal is both practical and moderate. It incorporates additional deliberative democratic elements into the Australian constitutional referendum process. The proposal is consistent with the role of our existing representative institutions. It can

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[25] LeDuc, *Referendums and Deliberative Democracy*, p. 16.

[26] C. Fox, 'The fourteen powers referendum of 1944 and the federalization of Aboriginal affairs'. *Aboriginal History*, 32, 2008, pp. 27-48.

be implemented without itself needing to be ratified by a formal constitutional amendment.

I acknowledge that this is not the first proposal for tweaking the referendum process in a deliberative direction. In the aftermath of the 1999 Republic constitutional referendum, John Uhr put forward several ideas for a more deliberative style of constitutional amendment process.[27] Uhr envisaged three main elements. These were constitutional conventions constituted on an elected basis, an all-party parliamentary Select Committee on matters relating to referendums, and the establishment of a new statutory authority (a 'Referendum Commission') to regulate referendum information and to provide for a 'fair and balanced' referendum process.[28]

My proposal is more incremental and moderate. It simply proposes to establish a series of deliberative assemblies to consider any proposed constitutional amendment after it has been endorsed by the Commonwealth Parliament. These deliberative assemblies would be conducted in the capital city of each State and Territory. Each deliberative assembly would comprise at least one hundred eligible electors, selected to be broadly representative via a statistical method and convened over a series of weekends.

I am wary of proposing too numerous an assembly. The larger the number who are meeting, the more likely it seems that factions may form which weaken the deliberative integrity of the process. That may be the lesson of the South Australian 2016 Nuclear Fuel Cycle citizen jury where the assembly participants for the final sessions numbered 328.[29]

An opportunity to deepen the 'voice' of deliberation, with elements such as deliberative assemblies, can create a catalyst for broader discussion and public opinion formation regarding the proposed constitutional change. Deliberative assemblies incorporated, as proposed here, as an auxiliary mechanism in considering proposals for a constitutional amendment would be consistent with maintaining the legitimacy of the parliamentary process to initiate constitutional referendums and with recognizing the authority of the final national and State-by-State vote in determining the outcome.

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[27] J. Uhr, 'Rewriting the Referendum Rules' in J. Warhurst and M. MacKerras (eds) *Constitutional Politics: The Republic Referendum and the Future*, St Lucia: University of Queensland Press, 2002, pp. 177-200

[28] J. Uhr, *Rewriting the Referendum Rules*, p. 197.

[29] L. Carson, 'Learnings from South Australia's Nuclear Fuel Cycle Jury', 4 September 2017. Accessed at: <https://www.newdemocracy.com.au/2017/09/03/learnings-nuclear-jury/>.

The notion of deliberative democracy puts respectful community engagement at the centre of democracy. As stated by Dryzek and colleagues, this is where:

> *people come together, on the basis of equal status and mutual respect, to discuss the political issues they face and, on the basis of those discussions, decide on the policies that will then affect their lives.*[30]

It is time to broaden and deepen the engagement process of constitutional referendums in this way.

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[30] Bächtiger, Dryzek, Mansbridge, and Warren, *Deliberative Democracy: An Introduction*, p.18.

'TaxTrack': Introducing a Democratic Innovation for Taxation*

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Abstract: In this article we introduce an input-oriented democratic innovation – that we term 'TaxTrack' – which offers individual taxpayers the means to engage with their political economies in three ways. After joining the TaxTrack program, an individual can: (1) see and understand how much, and what types, of taxes they have contributed, (2) see and understand how their tax contributions are, or have been used, and (3) control what their tax contributions can, or cannot, be spent on. We explain this democratic innovation in two ways. The first is through evocation to prefigure what the innovation could look like in future practise which raises the

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prospects for both good and problematic outcomes. The second is through formal theory to produce a detailed model of the innovation to assist theory building. We conclude by discussing three interactive outcomes of 'TaxTrack' through the democratic innovations literature to establish the beginnings of a theory for the model. This theory tells us that 'TaxTrack' can return benefits to its users and the democratic regimes in which they are located but it may also place restrictions on output-oriented innovations like Participatory Budgeting.

INTRODUCTION: BORN IN 'THE GREAT DISCONNECT'

Central to discussions on democracies in crises[2] – otherwise termed the 'democratic malaise'[3] discourse – is the claim that elected governments, public servants, and public things[4] (e.g. institutions, infrastructure, common goods, services) – hereafter public affairs – are falling out of the frame of concern[5] for individuals and groups in their day-to-day affairs. The explanations for why this trend of apathy or aversion toward mainstream democratic governance and the management of every-day public goods that people depend on are many.[6] We do, however, judge that one of the most salient explanations for this complex and often pernicious dynamic is the now well-

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[2] The crises literature is too vast to cover in references, so we offer here instead a selection of notable and well-cited readings: Takis Fotopoulos, *Towards an Inclusive Democracy: The Crisis of the Growth Economy and the Need for a New Liberatory Project.* Bloomsbury Publishing, 1997; Wolfgang Merkel, 'Is there a crisis of democracy?' *Democratic Theory*, 1(2), 2014 pp. 11-25; Selen Ercan and Jean-Paul Gagnon, 'The Crisis of Democracy: Which Crisis? Which Democracy?' *Democratic Theory*, 1(2), 2014, pp. 1-10; John Dryzek et al 'The Crisis of Democracy and the Science of Deliberation'. *Science,* 363 (6432), 2019. pp. 1144-1146; Nadia Urbinati, 'Reflections on the Meaning of the Crisis of Democracy'. *Democratic Theory,* 3(1), 2016, pp. 6-31; Peter Dahlgren, 'Media, Knowledge, and Trust: The Deepening Epistemic Crisis of Democracy'. *Javnost – The Public,* 25 (1-2), 2018, pp. 20-27.

[3] See e.g. Luigi Di Gregorio, *Demopathy and the Democratic Malaise.* Cheltenham: Edward Elgar, 2021

[4] Bonnie Honig, *Public Things: Democracy in Disrepair.* New York: Fordham University Press, 2017.

[5] Rod Dacombe and Phil Parvin, 'Participatory Democracy in an Age of Inequality'. *Representation,* 57(2), 2021, pp. 145-157.

[6] See, for example, Steve Davis, Larry Elin, and Grant Reeher (eds), *Click on Democracy: The Internet's Power to Change Political Apathy into Civic Action.* London: Routledge, 2002; Viktor Dahl et al 'Apathy or Alienation? Political Passivity Among Youths Across Eight European Union Countries'. *European Journal of Development Psychology,* 15(3), 2017, pp. 284-301.

documented[7] disconnect between institutions of governance and the citizens, residents, and visitors – hereafter people – that fund them through their taxes.

There is growing interdisciplinary research that demonstrates how institutions of governance – parliaments and associated policy networks, for instance – that are meant to serve people are simultaneously one of the main causes for people's growing disinterest in public affairs[8] and lack of trust in government. As Bertsou observes, 'political distrust is intertwined with the failure of representation' as failures of transparency and accountability amongst representatives (as a supposed 'political class') are frequently assumed to be endemic to their relevant institutions.[9] The existential risk for democratic regimes – such as those of the Australasian region[10] – who continue to suffer from this 'disconnect' should not be underestimated. Indeed, this disconnect has been attributable to the reason why certain demographics – young adults in particular – are demonstrating tolerance for, even open acceptance of, non- or less-democratic regime types.[11] As Curry and Romano[12] intimate, for a democracy to be sustained by its people, they must hold the 'perception that the system works' for their benefit. We further add the importance of inclusive social capital connections and the ability for individuals – regardless of class, race, ability, and gender – to participate in institutions and processes of formal-technocratic governance. Perhaps the central component to meeting such requirements is that people can see, for

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[7] See, for example, Susan Haarman, 'Public Work for Public Problems'. *Philosophical Studies in Education,* 51, 2020, pp. 117-128; Carolyn M. Hendriks, Selen A. Ercan, and John Boswell, *Mending Democracy: Democratic Repair in Disconnected Times.* Oxford: Oxford University Press, 2020.

[8] Chase Foster and Jeffry Frieden, 'Crisis of trust: Socio-economic determinants of Europeans' confidence in government.' *European Union Politics*, 18(4), 2017, 511-535; Eric Uslaner, 'Trust, Democracy and Governance: Can Government Policies Influence Generalized Trust?,' pp.171-190 in M Hooghe, D. Stolle, (eds) *Generating Social Capital*. New York: Palgrave Macmillan, New York, 2003.

[9] Eri Bertsou, 'Political Distrust and its Discontents: Exploring the Meaning, Expression and Significance of Political Distrust.' *Societies*, 9(4), 2019, pp.1-18, p.1.

[10] Mark Chou, Jean-Paul Gagnon, Catherine Hartung and Lesley J. Pruitt, *Young People, Citizenship and Political Participation.* London: Rowman & Littlefield, 2017, chapters 2 and 3 in particular.

[11] Keith Heggart, *Activist Citizenship Education: A Framework for Creating Justice Citizens.* Cham: Springer, 2021, pp. 37-52 in particular; Peter Walker, 'UK Poised to Embrace Authoritarianism, Warns Hansard Society'. *The Guardian*, 8 April 2019. Accessed at: <https://www.theguardian.com/politics/2019/apr/08/uk-more-willing-embrace-authoritarianism-warn-hansard-audit-political-engagement>.

[12] Todd A. Curry and Michael K. Romano, 'Ideological Congruity on State Supreme Courts'. *Justice System Journal,* 39(2), 2018, pp. 139-154, p. 140.

themselves, that they are able to access reliable information[13] to make informed decisions that impact their lives – which increasingly means seeing that information for themselves without mediation or redaction by state authorities.[14]

The literature is also clear that there are dividends to be paid to elected representatives who try to re-connect people with the parliaments and other public institutions that serve them[15] through 'democratic innovations'.[16] These include deliberative,[17] direct,[18] O2O (online-to-offline),[19] or agonistic[20] approaches, among others,[21] for people to collaborate with the institutions that govern them or otherwise serve them. Outside of politics, economics is portrayed as a technocratic space where 'ordinary' citizens cannot effectively participate due to insufficient knowledge and training. This, if anything, renders the economy a risky policy field to experiment with vis-à-vis sortition

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[13] Agustin Goenaga. 'Who Cares About the Public Sphere?' *European Journal of Political Research,* 61(1), 2021, pp. 230-254.

[14] Eline Severs and Alexander Mattelaer. 'A Crisis of Democratic Legitimacy? It's About Legitimation, stupid!' *European Policy Brief,* 2014. Accessed at: <https://aei.pitt.edu/63549/1/EPB21-def.pdf>.

[15] However, it is also important to point out that representatives do not always see citizen-institution connections as their responsibility. Discussing the case of the UK, Norton observes that traditionally 'MPs were keen to promote themselves [but] devoted little time to the collective activity of promoting the institution of which they were a member. They were prepared to use it for their own purposes, but that did not necessarily enhance public awareness of, and support for, the institution of Parliament'. Philip Norton, 'Parliament and Citizens in the United Kingdom.' In Cristina Leston-Bandeira (eds), *Parliaments and Citizens*, New York: Routledge, 2013, pp.139-154, p.147.

[16] Kenneth Newton,'Curing the Democratic Malaise with Democratic Innovations.' in Kenneth Newton and Brigitte Geissel (eds) *Evaluating Democratic Innovations: Curing the Democratic Malaise?* London: Routledge, 2012, pp. 3-20.

[17] Jonathan William Kuyper, 'The Instrumental Value of Deliberative Democracy – or, Do we have good reasons to be deliberative democrats?' *Journal of Deliberative Democracy,* 14(1), 2018, pp. 1-35.

[18] Menno D. T. de Jong, Sharon Neulen, and Sikke R. Jansma, 'Citizens' Intentions to Participate in Governmental Co-Creation Initiatives: Comparing Three Co-Creative Configurations'. *Government Information Quarterly,* 36(3), 2019, pp. 490-500.

[19] Jingrui Ju, Luling Liu, Yugiang Feng, 'Design of an O2O Citizen Participation Ecosystem for Sustainable Governance'. *Information Systems Frontiers,* 21, 2019, pp. 605-620.

[20] Mark Wenman, *Agonistic Democracy: Constituent Power in the Era of Globalization.* Cambridge: Cambridge University Press, 2013.

[21] Sortition mechanisms, legislative theatre, electoral reform toward mathematically 'fairer' models like Mixed Member Proportional Representation, and radical practises of representation (e.g. 'flatpack democracy') are a few examples. For an example of how sortition can be used to meet 'financial sustainability challenges' at the local government level, see Joseph Drew, 'Sort[ition]ing Out Local Government Financial Sustainability'. *Public Administration Quarterly,* 44(2), 2020, pp. 262-287.

or governance of the economy by randomly chosen people. Citing Wolfgang Merkel,[22] George Vasilev and Jean-Paul Gagnon aver that there is an 'exclusivity from democracy that economies in representative democracies have been enjoying since the 1970s'.[23] Considering this, the dynamic of the 'disconnect' is arguably more pernicious in the policy field of economics.[24] A number of these reconnective arrangements, therefore, take public finance, taxes, budgets, and spending as their primary concern.[25] The technique known as Participatory Budgeting (PB) is arguably the standout example from among them. PB, or *Orçamento Participativo* in Portuguese, is a direct-democracy technique established by the Brazilian Workers' Party[26] in the 1980s and first institutionalized by Porto Allegre's mayor Olívio Dutra in 1989 at the city level.[27] The idea of PB is to enable citizen participation in budgeting processes. It is *output* oriented. The rationale behind PB is that citizens have the right to determine how public moneys will be spent and, when they participate with state-sponsored budgeting officers in this, they also learn about the mechanics, procedures, and nature of the governance structures that rule them.[28] The expressions of sovereignty and civic learning from participants in PB, some researchers claim, can lead to strengthening democratic

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[22] Wolfgang Merkel and Jean-Paul Gagnon, 'Democracies and Their Crises Reconsidered'. *Democratic Theory,* 3(1), 2016, pp. 91-109.

[23] Jean-Paul Gagnon and George Vasilev 'Opportunity in the Crisis of Democracy'. *Democratic Theory,* 3(1), 2016, pp. 1-5.

[24] As Dean, Asenbaum and Gagnon (2019, p. viii) state: 'the economy and the workplace should receive much more attention from democratic theorists than it currently does'. Rikki Dean, Hans Asenbaum, and Jean-Paul Gagnon, 'What Is Democratic Theory?' *Democratic Theory,* 6(2), 2019, pp. v-xx. Similarly, Carole Pateman, in an interview with Graham Smith, rhetorically asks: 'What's politics about these days, largely? It's about the economy' (p. 113). Her encouragement for democratic theorists is for them to focus more on 'social and economic structures'. See Carole Pateman and Graham Smith, 'Reflecting on Fifty Years of Democratic Theory'. *Democratic Theory,* 6(2), 2019, pp.111-120.

[25] For example, social capital investment has been shown to create new opportunities for participation in economic life but is heavily dependent on local political, economic, and social contexts which determine delivery, outcome, and effectiveness.

[26] Adalmir Marquetti, Carlos E. Schonerwald da Silva, and Al Campbell, 'Participatory Economic Democracy in Action: Participatory Budgeting in Porto Alegre, 1989-2004'. *Review of Radical Political Economics,* 44(1), 2012, pp. 62-81.

[27] Andreas Novy and Bernhard Leubolt, 'Participatory Budgeting in Porto Alegre: Social Innovation and the Dialectical Relationship of State and Civil Society'. *Urban Studies,* 42(11), 2005, pp. 2023-2036 at p. 2027.

[28] Sebastian H. Schneider and Stefan Busse, 'Participatory Budgeting in Germany – A Review of Empirical Findings'. *International Journal of Public Administration,* 42(3), 2018, pp. 259-273.

attitudes among participants.[29] Similar claims have been made about deliberative citizens juries convened to discuss matters of public finance.[30]

Yet, despite the increasing popularity and uptake of PB and similar democratic innovations,[31] concern remains about the impact, efficacy, and sustainability of these events and processes.[32] There is further need for innovations in the provision of democratic innovations that are concerned with public finance. Thinkers like Dongwon Lee and Sujin Min[33] or Sun-Moon Jung[34] are, for example, investing their resources into improving existing arrangements, such as PB, to address these shortcomings. However, despite such efforts, these projects are not focusing on the *input* and individualised prospects of democratically engaging with taxes. The discussion to date has been budget or *output* oriented and is, therefore, concerned with collective prospects. We argue that this is a gap in both our theoretical and applied frameworks that concern people's democratic participation in public finance or state economics more broadly. We further suspect that democratising taxation, at the *input* stage, can productively, even provocatively, interact with the *output* stage – thereby having the potential to address the aforementioned criticisms, malaise, and gaps in PB and other democratic innovations.

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[29] Françoise Montambeault, 'Learning to be 'Better Democrats'? The Role of Informal Practices in Brazilian Participatory Budgeting Experiences'. In Maxwell A. Cameron, Eric Hershberg, and Kenneth E. Sharpe (eds) *New Institutions for Participatory Democracy in Latin America.* London: Palgrave MacMillan, 2012, pp. 99-122.

[30] Sara A. Mehltretter Drury, Stephen Elstub, Oliver Escobar and Jennifer Roberts, 'Deliberative Quality and Expertise: Uses of Evidence in Citizens' Juries on Wind Farms'. *Journal of Public Deliberation,* 7(2), 2021, pp. 31-44. See, also, the Participedia cases on the 'Penrith Community Panel in New South Wales, Australia'. Accessed at: <https://participedia.net/case/4408>; the 'Yarra Valley Water Citizens' Jury'. Accessed at: <https://participedia.net/case/5870>; and the state of Victoria's 'Transport Network Pricing Community Panel'. Accessed at: <https://participedia.net/case/5934>.

[31] For 28 cases that link participation to economic advancement, see Participedia's collection on that theme here: Accessed at: <https://participedia.net/collection/6774?page=1>.

[32] See Schneider & Busse, *Participatory Budgeting in Germany*. For empirical data from Germany. See also, Leonardo Avritzer, *The Two Faces of Institutional Innovation: Promises and Limits of Democratic Participation in Latin America*. Edward Elgar Publishing, 2017.

[33] Dongwon Lee and Sujin Min, 'Participatory Budgeting and the Pattern of Local Government Spending: Evidence from South Korea'. *European Journal of Political Economy,* 2022, Article #102235.

[34] Sun-Moon Jung, 'Participatory Budgeting and Government Efficiency: Evidence from Municipal Governments in South Korea'. *International Review of Administrative Sciences,* 2021 Accessed at: <https://doi.org/10.1177%2F0020852321991208>.

We have reason to believe that when people participate in a formal model known as 'TaxTrack' – which enables an individual user to see what types of taxes they have contributed, the amount in total, where their dollars are being held or have been transferred to and to what function, and on what their dollars have been allocated and spent – they will be more inclined to participate in, for example, PB processes and engage with their governments when it comes time to decide how a budget will be spent.[35] This is because prior research has shown that if people participate in a successful (here meaning politically impactful with obvious legislative or regulatory outcomes) democratic innovation they are more likely to do so again, and with increased political efficacy.[36] Further, we also argue that people will likely demonstrate more engagement in public affairs, and that they will likely demonstrate stronger democratic attitudes, if they are awarded the capacity to determine what their tax contributions can, or cannot, be spent on and to see that these controls have thereafter been adhered to by those authorized to spend them. This verification function can be provided to people by giving them access to the paid invoices in which all, or some portion of, their tax contributions have been used.[37]

These controls on individual tax contributions have the capacity to shape budget outcomes. Mapping tax contributions would further underline the values of co-creation and co-participation with those paying the taxes and for whom these tax contributions are intended to benefit. However, this limits the scope that governments and their partners in, for example, PB processes must spend at their discretion as they may face surpluses predetermined by TaxTrack users in certain areas like education,

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[35] The difference between the two models is that in TaxTrack an individual can determine, privately, how their tax contributions should or can be spent. In Participatory Budgeting, the same individual can participate with others in making determinations about the total budget, or a portion of that budget. TaxTrack is oriented to the individual who can engage with the model privately and make determinations about their tax contributions or the input of one person's tax moneys. Participatory Budgeting is oriented to the collective who can publicly engage with budgets or the output of many people's tax contributions.

[36] Ross Ferguson, 'Convergent Evolution: The Development of Online Engagement in Westminster and Whitehall Through the Use of Online Forums'. *Parliamentary Affairs,* 61(1), 2008, pp. 216-255, at p. 221. Michael A. Neblo, Kevin M. Esterling, and David M. J. Lazer, *Politics with the People: Building a Directly Representative Democracy*. Cambridge: Cambridge University Press, 2018.

[37] Verification of adherence is fundamental to accountability and the success of such a program. For example, in the US and Canada, there have been tensions when PB outcomes go against government interests and then lead to declining levels of participation (re: policing budgets). For more on the interplay between PB and power, see Gianpaolo Baiocchi and Ernesto Ganuza, 'Participatory Budgeting as If Emancipation Mattered'. *Politics & Society,* 42(1), 2014, pp. 29-50.

environmentalism and healthcare and shortfalls in typically less popular – but arguably necessary – areas such as defence, policing and politician salaries. There may, therefore, be a negative interaction between TaxTrack at the *input* stage and PB at the *output* stage – hence the provocation – which warrants further research.

Our aim in this article is, however, to introduce the TaxTrack model. To do this, we begin with an evocative explanation of the TaxTrack model from future user-perspectives and then from future analyst perspectives.[38] An artist-activist technique of running future situations to establish present-day concepts is the method followed in that section.[39] Importantly, budget allocations of public taxes also reveal what types of present-futures participants and governments are actively trying to create.[40] We then transfer the evocative expression of the model into formal logic. As Robinaugh et al explain, 'we must equip researchers [we would add parliamentarians, too] with tools that allow them to better generate, evaluate, and develop their theories'.[41] It is only when we render our theories into the confines of formal expression that we lay bare their nature, fix their essential properties, and are then able to exercise our 'fine callipers'[42] upon them. To assist in achieving Robinaugh et al's desired function of formalized theory, and to stimulate discussion, the model is given in two forms: (1) a simplified model and (2) a pluralized model. We conclude by discussing the simplified model in relation to the democratic innovations literature to establish the beginnings of a democratic innovations-informed theory for TaxTrack. We do this to demonstrate that there are numerous potential normative and instrumental benefits, or 'goods',[43]

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[38] The first-person, or actor's role, is adopted for the user-perspectives and the third-person, or observer's role, for the analyst perspectives to offer a more diverse evocation of the TaxTrack model.

[39] Taeyoon Choi, Aaron Labbe, Annie Segarra, Elizabeth Sweeney, and Syrus Marcus Ware, 'Disability and Deaf Futures'. *Studies in Social Justice,* 15(2), 2021 pp. 334-343.

[40] Through democratizing economic planning participants have direct say in what kind of economic future they want.

[41] Donald J. Robinaugh, Jonas M. B. Haslbeck, Oisín Ryan, Eiko I. Fried, and Lourens J. Waldrop, 'Invisible Hands and Fine Callipers: A Call to Use Formal Theory as a Toolkit for Theory Construction'. *Perspectives on Psychological Science,* 16(4), 2021, pp. 725-743, at p. 725.

[42] Robinaugh et al, *Invisible Hands and Fine Callipers,* p. 725.

[43] Busk wisely advises researchers not to over-estimate such 'goods' as these outcomes should be brokered by the demos. Otherwise, 'In the end, advocating for [any type of democracy or democratic innovation] is nothing more than advocating for a certain form of politics, with or without the *demos*' (p. 694). See Larry Alan Busk, 'Schmitt's Democratic Dialectic: On the Limits of Democracy as a Value'. *Philosophy and Social Criticism,* 47(6), 2021, pp. 681-701.

that may come to individuals using the TaxTrack model – chief of which is engagement with public affairs – which warrants further research and feasibility studies by governments, scholars and practitioners, alike or together.[44]

'TAXTRACK' IN EVOCATION

The artist-activist method, which Syrus Marcus Ware co-develops over several creative works and speeches,[45] invites the user to offer emotive and relational 'portraits' of a concept in action – usually in one or more future times and usually from more than one perspective. This technique has the potential to consider the perspectives of disempowered or otherwise marginalized users by adopting an intersectional approach.[46] Ware has demonstrated his method through theatre, documentary, film, drawn or painted portraits, and collective imagination facilitated through text (written, spoken). We follow his method by using textual accounts of TaxTrack in use in the future and from two different perspectives for a total of four short scenarios. This, as Ware makes clear, enables us as writers and you as readers to 'shed light on theoretical problems' and to 'present activist struggle' in 'these times'. The four scenarios are given as: (1) The Future User, reality 1, (2) The Future User, reality 2, (3) The Future Analyst, reality 1, and (4) The Future Analyst, reality 2.

Portrait (1) The Future User, reality 1

Consider yourself in the future. It is that day of the week for your customary outing and you travel to your preferred shop to tend to your satisfactions. At the teller, you

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[44] Normatively, the emphasis in this article is on researching together. Asenbaum, for example, demonstrates that 'democratizing' research by working together can lead to empowering participants and the research project alike. See Hans Asenbaum, 'Doing Democratic Theory Democratically'. *International Journal of Qualitative Methods,* 21, 2022, pp. 1-12.

[45] See, e.g. Syrus Marcus Ware, 'Irresistible Revolution: Black, Trans, and Disabled World-Making Through Activist Portraiture'. *PhD Dissertation,* 2021. Accessed at:
<https://yorkspace.library.yorku.ca/xmlui/handle/10315/39041>; Ware, 'The Black Radical: Fungibility, Activism, and Portraiture in These Times'. In Eliza Steinbock, Bram Ieven, Marijke de Valck (eds) *Art and Activism in the Age of Systemic Crisis: Aesthetic Resilience*. New York: Routledge, 2020, pp. 158-168.

[46] Marta Wojciechowska, 'Toward Intersectional Democratic Innovations'. *Political Studies,* 67(4), 2019, pp. 895-911.

present your goods and, when it is time to pay for them, you are prompted by a now familiar message:

>> *please provide your TaxTrack number prior to payment<<*

You quickly enter your number by tapping your government-issued TaxTrack card, you pay and carry on with your day. In the background, through digital channels embodied and connected by the usual boxes, wires, and satellite dishes, each of your tax dollars are 'laced'[47] with your number and then sent to their respective locations pursuant to context: municipal, state, territory, province, region and federal/national treasuries.

Fast forward in this cassette of time to when you are paying your taxes to your state government. These are annual property taxes. For example, in the State of Victoria, Australia, if your property was worth $950,000 you would pay $975 plus 0.5% of your property's worth over $600,000. In this example, your property tax contribution for this year is $18,475.[48] Again, you are invited to enter your TaxTrack number when submitting that payment. Fast forward again and again to when you are paying capital gains tax, income tax, various excise taxes (e.g. for motor fuel, tobacco), foreign income tax, 'stamp' duties, import taxes, and so forth. On each of these occasions you have entered your TaxTrack number and on each of these occasions your tax dollars were 'laced' with it.

Still later in time, you find yourself having a spare moment in your doctor's waiting room, so you open your mobile device, select the TaxTrack application, work through your identification security screening, and then begin to explore the information provided to you by the app. Since registering with TaxTrack you have contributed over one hundred thousand dollars in taxes to the federal/national treasury and sub-national treasuries like those of your state/territory/province and municipality. The app tells you that the national/federal government has used your money to service the country's debt, to fund a ministerial inquisition into environmental degradation in one of your country's World Heritage Sites, to increase policing budgets, and that several

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[47] The logic of 'lacing' is similar to the 'encryption' method used by End-to-End Auditable Voting Systems which is designed to allow an individual to anonymously track and verify if their ballot has been counted correctly. For more on the end-to-end method, see Lowry and Vora, 'Desirable Properties of Voting Systems', End-to-End discussion paper, 2009. Accessed at: <https://www.nist.gov/publications/desirable-properties-voting-systems>.

[48] For the State of Victoria's property tax scheme, see State Revenue Officer of Victoria, 'Land Tax Current Rates', Website. Accessed at: <https://www.sro.vic.gov.au/land-tax-current-rates>.

thousand dollars were spent on ammunition for your country's armed forces. The municipality used your money to support a public fund that is being grown to generate sustainable funding through monthly interest returns for the homeless people in your town, and then to pay for the repair of a road, and lastly to pay for the salary of the town's mayor.

You select further information by clicking on an invoice for the road repair, noting your surprise of the high cost of this work. At this juncture, you furrow your brow and wonder why your money was used to buy ammunition but also given to support the local mayor's salary – whose name you only just found out whilst perusing through the app. You then open the 'spending controls' tab in the app and stipulate that your tax contributions are *not* to be spent on ammunition nor for the salary of the mayor (as you don't understand what it is they exactly do – perhaps you will change this setting later when you know more). You also select that 25% of all your state/territory/provincial tax contributions *can only* be spent on healthcare, as wait times and prescriptions prices are on the increase. At the same time, you stipulate that only 5% of your tax contributions can be spent on policing, as you are wary about unfolding militarization of, and discrimination in, that particular public service.

Portrait (2) The Future User, reality 2

TaxTrack has been in use for decades now. The news reports that rates of participation steadily increase and are sustainable year-over-year. Even though you are a modest pensioner, with no schooling beyond year ten, you are a firm believer in education and have stipulated the control in your app that your tax dollars can only be used for educative purposes, irrespective of which level of government your money has gone to. At the municipal level, in your country town, your money will hopefully be used to support the after-school clubs and holiday camps for local kids. At the sub-national level, your money will hopefully be used to lower prices for children at the canteen. And at the federal/national level your money will hopefully end up funding more places so that disadvantaged people can pursue their dreams beyond secondary school, beyond year ten, without having to think about generating income and avoiding crippling debt – concerns that were once yours. In fact, you regularly check the invoices and make virtual appointments to see your treasurers in government or their aides (or representatives in parliament who scrutinize and oversee them), as needed, when spending isn't happening your way. You feel motivated to contact your elected

representatives to communicate your concerns over spending.[49] So much so that public servants, Jess and Philomena, at the sub-national treasury now know you by name and make sure your contributions are, as you say, 'correctly spent'.

Portrait (3) The Future Analyst, reality 1

Reya, a computer scientist, former social worker, and presently serving senior analyst for the intergovernmental TaxTrack programme, is in full concentration over the algorithmic projections for her client's (governments') budgets. She, like dozens of other analysts, provide up-to-date reports on several municipal government budgets and fields questions from the officers of those budgets. There are separate interdisciplinary teams for the sub-national and national/federal government budgets. What Reya sees is a constantly fluctuating projection of available moneys and the permissions or restrictions associated with them in aggregate, as determined by the individual *inputs* constituting them.

This level of individual control over spending started well in its initial premise: citizens, residents, even temporary visitors were engaging with the application. Over time though, as people, especially policy communities, wealthy individuals, large businesses, and business blocs became familiar with the model, governments had to discuss unintended outcomes. For example, despite the larger number of less wealthy people who are individually and sometimes collectively placing controls on their spending, this proved to not be enough to outweigh the special interests of the wealthier minority.

Municipal, sub-national, and national/federal governments are all facing the same issue when it comes time to prepare budgets and spending protocols with their citizen partners in various participatory budgeting arrangements. They are forced to spend on certain policy fields to the detriment of others that would benefit the greater number. This is why a national deliberative citizens' assembly, which will deliberate with a parliamentary committee in numerous stages over two years, has been convened: all governments need further guidance from their sovereigns (citizens) on how to respond to strategic controls on spending by wealthy minorities. The citizens' assembly on

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[49] A question to explore in further research is whether TaxTrack can (a) lead to more communication between voters and their elected representatives and, if yes, then (b) does this support the scrutiny function of parliament over government finances? This line of inquiry may promote a more participatory approach to supporting a parliament's oversight in relation to spending by government.

TaxTrack will advise parliament on this topic, feeding into the next round of review for the model.

Portrait (4) The Future Analyst, reality 2

Sarak works with the interdisciplinary team that manages his country's national TaxTrack application. They feel that the model is a responsible bargain between individual users, their elected representatives (i.e. parliamentarians), and groups of citizens who participate with their representatives when it comes time to plan and spend the budget. As TaxTrack gained prominence in their country, Sarak kept a close eye on the news about how the national/federal government perceived its potentials and risks, partly out of curiosity over this novelty but also out of career strategy: they just finished a Master of Political Science, specializing in artificial intelligence, systems of democracy, and public finance.

The values held by the government initiating the first TaxTrack trials at the national level were socially progressive but fiscally conservative. It was, therefore, decided that the TaxTrack model should first be in the service of long-standing national priorities like poverty alleviation, environmental regeneration, and stimulating local business acumen. Therefore, no controls would be placed on the choice that people of lower income have about what their tax dollars can/should or cannot/should not be spent on. For the individuals, which includes corporations, earning over a certain threshold, the government decided that they could only determine a maximum of 50% of their tax dollars. The other 50% would be controlled by the government and its citizen partners in various PB arrangements. This would enable the government and its partners to sustain environmental regeneration and local business development programs without, at least in this scenario, the strategic interference of moneyed interests.

TAXTRACK IN TWO FORMAL MODELS

These four scenarios offer an evocative explanation of the TaxTrack model if it were built into the fabric of society – if it became institutionalised, competently implemented, and common in use. As we hope to have made clear in these 'portraits', TaxTrack is unlikely to be antidotal to long-standing and new policy problems nor to political considerations over stability and responsible governance. It is, we assert, most promising in its capacity to assist in the kaleidoscope of ongoing efforts to re-connect, re-interest, and re-engage people with their public affairs and institutions, in particular with parliaments.

Our model's capacity to do this is entirely due to its *input* orientation. We are primarily concerned with democratizing taxation to the level of the private individual and not the public collective as happens through PB for example. This, in the model, can afford the individual secure access to their government's invoices, spending, and the public/civil service teams or personnel responsible for the spend and the public or private partners who got the work done. This level of detail – which an individual can engage with privately – renders the financial trails in parliaments and government ministries, departments, and offices more transparent to taxpayers, thus supporting democratic accountability. It can, likewise, afford the individual the capacity to establish what they consider an acceptable use of their tax contributions. We will explain the potential benefits that these dynamics can yield for individuals and their democratic regimes in the next section by relating them to similar dynamics that have already been thoroughly tested in the democratic innovations literature.

Presently, our focus is given to the formal presentation of our model in two registers: (1) the simplified model and (2) the pluralized model. This formalization renders the evocative explanation of TaxTrack into rigid logical parameters which makes theory-building more feasible.

The Simplified Model

The simplified TaxTrack model is rendered into formal terms as follows. A, which represents the individual, contributes B, which represents taxes. This is given as:

$$A \rightarrow B$$

The B that A contributes is recorded by C, which represents the TaxTrack application.

$$A \rightarrow B \rightarrow C$$

C communicates D, which represents financial information, back to A but also to E, which represents the spending authority (e.g. the officers a government appoints for this purpose).

$$A \rightarrow B \rightarrow C \ then \ C \rightarrow D \rightarrow A \ \& \ E$$

E spends B as controlled by A. This is given as:

$$A \rightarrow B \rightarrow C \ then \ C \rightarrow D \rightarrow A \ \& \ E \ then \ E \rightarrow B(A)$$

F, which represents feedback on A's controls and interactions with the app and E's spending and associated records (e.g. invoices, contracts, etc.,), informs A and E

through C. F can modify A's behaviour prompting A to place controls on their prospective B. It can equally modify E's behaviour as, for example, it affords E the capacity to plan responses to A's controls or to message A to increase their engagement levels. This modified behaviour is represented as $A \rightarrow C(B)$. This is given as:

$$F \rightarrow A \& E \text{ then } A \rightarrow C(B) \text{ and } E \rightarrow A(C)$$

At this point, the circuit closes as A, after placing controls on their B in C, will continue to contribute B which is then recorded by C. Likewise, E is responding to data from A. This is given as:

$$A \rightarrow B \rightarrow C \text{ then } C \rightarrow D \rightarrow A \& E \text{ then } E \rightarrow B(A) \text{ then } F \rightarrow A$$
$$\& E \text{ then } A \rightarrow C(B) \text{ and } E \rightarrow A(C) \text{ then } A \rightarrow B \rightarrow C \text{ etc}$$

We have now established the simplified model. The complete simplified model proceeds in six steps as follows:

> *(1) A (an individual) contributes B (tax money) which is recorded by C (the TaxTrack application). Then, (2) C (the application) communicates D (financial information) to A (the individual) & E (the spending authority). Then, (3) E (the spending authority) spends B (tax money) which is controlled by A (the individual). Then, (4) F (feedback) informs both A (the individual) and E (the spending authority) through C (the application). Then, (6) A places controls on their B in C and E communicates back to A through C. Then, (6) A (the individual) contributes B (tax money) which is recorded by C (the application), and a new cycle begins.*

The Plural Model

In the plural model, there are infinite A (individuals) whose participation in the application fluctuates from no use to constant use. This is represented as: A^n (infinite individuals) and $A^{0,1}$ (an individual's use of the application, where 0 represents no use and 1 always in use). They are referred to as the 'As'.

The As contribute finite B (tax moneys, e.g. income tax, sales taxes, property tax, etc.,) which fluctuate in amount based on the economic activity of the As from low contributions to high contributions. B therefore becomes B^n to represent the finitude of tax moneys, and, $B^{0,1}$ to represent fluctuating contributions where 0 is low contributions and 1 is high contributions. These are referred to as the 'Bs'. Given that

0 and 1 are not maximalist values, as a person participating in society will invariably contribute taxes to some degree, the parameters for 'low' and 'high' are individual-specific and can be worked out, over time, through an individual's use of the TaxTrack application.

The Bs (finite and fluctuating tax contributions) of the As are recorded by C (the TaxTrack application) which communicates D a finite amount of financial data, from simple mediated information to complex raw information, back to the As and to a finite number of E (spending authorities). D therefore becomes $D^{0,1}$ where 0 refers to simple mediated information and 1 to complex raw information. It is possible here for an A or an E to select either 0 or 1, perhaps even select an artificial intelligence mediated information product in between the two parameters. As with the Bs above, 0 and 1 in relation to D are not maximalist parameters and this information needs to be defined by both TaxTrack users and spending authorities.

Whilst $D^{0,1}$ is communicated to As through C it is also communicated to E, which now refers to a finitude of spending authorities (e.g. local or municipal, state/territory/provincial/regional or sub-national, and federal/national) which is represented as E^n but referred to as 'Es' for simplicity. Given that informational asymmetry is already well-documented in the intergovernmental relations literature, there is scope for $D^{0,1}$ to provide real-time public finance information to all Es simultaneously through their use of C.

The F, or feedback, on the way Es spent the Bs is reported to the As and the Es through $D^{0,1}$ in real time. Different to the simplified model, in the plural model F is merely the function that feeds information presented by $D^{0,1}$. D and F are the same except they perform different functions. $D^{0,1}$ presents financial information through C to As & Es and F feeds that information into D. This is given as $(F)D^{0,1}$.

In the pluralized model, each of the Es has the authority to apply rules to the way As can control their tax contributions and to what extent. This is represented as $As(Es)$. As can work together to formulate political strategies by placing spending controls on the Es. This is represented as $As(Es) \rightarrow C(B)$. $D^{0,1}$ affords both Es and As equal opportunity to engage with budgeting information which may, or may not, constitute risk to state security and lead to improved or worsened intergovernmental relations. The pluralized model is given as follows:

$$As \rightarrow Bs \rightarrow C \text{ then } As(Es) \rightarrow C(B) \rightarrow (F)D^{0,1} \rightarrow As \text{ \& } Es \text{ then } Es \rightarrow Bs(As) \rightarrow F$$

$$\text{then } F \rightarrow D^{0,1} \rightarrow C \rightarrow As \text{ \& } Es \text{ then } As \rightarrow Bs \rightarrow C \text{ etc}$$

Discussion

The simplified model portrays a staged and circuitous system that allows individuals the opportunity to understand how many tax dollars they have contributed from the time they registered to use the TaxTrack application. Users can understand where their tax dollars are housed, by whom, and what role they are fulfilling or have fulfilled as per the spending authority's discretion. Some users may be able to control all or some of their tax contributions before they are spent or are assigned to some other financial operation, such as a public savings plan. Others may see that their dollars have already been issued to some purpose and may, therefore, place controls on their future tax contributions. This behaviour is informed by the feedback mechanism.[50]

Opportunities and risks abound in the simplified model. For example, TaxTrack may prove capable of combatting the influence of lobbyists on governments, pork-barrelling by governments, and it could also shed more light on public private partnerships, quasi-governmental contracts, and other network-governance arrangements. It may even lead to an increase in people's discussion over whether governments should be funding more services, which may increase taxes, or less, so that private industry fills the service gaps and for taxes to be lowered (i.e. big state vs. small).

TaxTrack opens consultation. Deliberation can, for example, be concurrently organized to discuss how controls by users should be conducted or to discuss how financial information is presented to both users and spenders in the TaxTrack app. Further, people can opt-into public/participatory budgeting processes within the app and be drawn randomly from there. People may also discover their future tax contributions are earmarked for historically agreed projects and this may cause tension if they are not in favour with the project or the cost of the spend. Unions invested in the project could end up having to convince people to continue funding public servants or to increase their pay and benefits. People, through collective action, may decide to implement social accountability mechanisms to ensure vulnerable or marginalized members of their community receive adequate support. Conversely, a user's controls

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[50] A government using the TaxTrack application may opt to implement 'nudges' to inform a TaxTrack user about the behaviour of their peers using the app. For example, an infographic may state that the average user spends 27% more time examining invoices than they do (therefore hoping for increased engagement with spending records) or that 74% of users are supporting a temporary healthcare tax levy (therefore hoping for increased support of the levy).

over their tax contributions may lead to budget shortfalls in key areas for governments which may result in, for instance, their inability to meet international treaty obligations and pensions for the aged (especially in contexts where young people outnumber older adults). Indeed, demographic selfishness and short-term values exhibited by users through their controls may lead to social dysfunctions or, in a more generous reading, people and governments may anticipate this risk and start conversations on how to avoid, or justify, anticipated dysfunctionalities. These risks, and their mitigation strategies, will need to be carefully investigated in controlled studies.

The pluralized model also portrays a circuitous system but one that is complicated by real time information exchange and that offers more choice and complexity. Participants are many, their levels of engagement with the app fluctuate, their tax contributions are finite but may fluctuate from year to year as individual spending habits are rarely fixed. Tax contributions in this model go to a finite number of government treasuries with controls that can be stable or with controls that fluctuate as fast as a user can manipulate the app – this may constitute a digital security risk that may require mitigation through an algorithm product. The application can return simple or complex financial information to its users (tax payers) and, also, to government authorities (spenders) which may be fully autonomous and randomly selected individuals running a government-sponsored Participatory Budgeting process or the opposite.

In the plural model, the governing authority may choose to restrict the amount of control users have over their tax dollars or to assign specific permissions to specific income brackets or types of persons (thinking, here, especially of corporations as persons). Users may, in turn, decide to pool their controls in bids to restrict or otherwise outmanoeuvre one or more spending authorities or other user cabals.

The equitability of access to financial information given through the TaxTrack app may raise concerns over state security as foreign agents with nefarious purposes or other people with criminal intent may use this information to gain advantage for their sponsors or to their criminal interests. There is also concern over the abuse of individual tax controls by violent partners or guardians as domestic tyrants may be able to manipulate the choices of their victims. We have further concerns and questions such as over digital exclusion as not everyone has the capacity to access the required technology to use the TaxTrack app, over the age that a user should have to participate (we suggest that a person crosses the boundary the minute they contribute their first tax dollar), and over what TaxTrack data may look like for spending authorities who are typically accustomed to viewing more static or fixed data on their budgets.

If TaxTrack were used, it may spell boon or bane to its users: individuals, governments, institutions of governance such as parliaments, and policy communities alike. And whilst all TaxTrack's prospective claims and questions raised merit testing and exploration in controlled research trials, we will, instead, here draw out interactive situations from TaxTrack that have already been thoroughly researched in the democratic innovations literature to establish the beginnings of a theory for the model. We do this to demonstrate that TaxTrack can offer normative and instrumental benefits to its users – both individuals and the democratic regime(s) that have implemented the model.

CONCLUSION: A DEMOCRATIC INNOVATIONS-INFORMED THEORY

Three interactive situations are drawn out of the TaxTrack model as they relate, thematically, to previously conducted studies in the democratic innovations literature. They are (1) when a person gets information from their TaxTrack app [when $D^{o,1}$ is communicated back to As through C], (2) when a person can interact with the spending information from the app [when As interact with $D^{o,1}$ through C], and (3) when a person can place controls on how their future, or unspent, tax contributions can or cannot be spent by the spending authority [when As determine controls in C]. The first situation is an invocation of transparency in governance. The second situation is an invocation of accountability and anti-corruption in governance. And the third situation is an invocation of sovereign control in governance, or, to put it differently, of direct engagement by citizens.

The democratic innovations literature is replete with evidence of the normative and instrumental benefits or 'goods' that come to individuals when they can access information, hold individuals in government or other positions of power to account, and exercise their power in the governance of themselves and of others.[51] We will work through each interactive situation to demonstrate the likelihood of reproducing these

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[51] See, Francesco Veri, 'Mapping Democratic Innovations: A Bottom-Up Empirical Perspective.' *Representation*, Online First, 2022. Accessed at: <https://doi.org/10.1080/00344893.2022.2075032> and Graham Smith, Robert C. Richards Jr., John Gastil, 'The Potential of Participedia as a Crowdsourcing Tool for Comparative Analysis of Democratic Innovations.' *Policy and Internet*, 7(2), 2015, pp. 243-262, for discussions about insights from *Participedia*, the largest database documenting democratic innovations from around the world.

outcomes should TaxTrack be used, be embedded,[52] in the real world and in contexts where other democratic innovations are already in use. As Frank Hendriks reminds, any 'theory of democratic innovation' must be 'aware of and [be] sensitive to the reality of democratic hybridization'.[53] Of particular interest to us is, therefore, to study how TaxTrack may interact (beneficially or not) with PB and democratic deliberation processes more generally – especially over matters of public finance.

Further, we would like to explore Culawaerts and Reuchamps claim[54] that a democratic innovation's disruptive potential to the governing order is *not* related to its perceived legitimacy. We understand legitimacy as something that is built, over time, through a thing's increased usage and proven capacity.[55] Therefore, it may be possible for TaxTrack to make inroads towards participating in, and hopefully sustaining, existing democratic innovation systems.

Interactive Situation 1, Transparency

Archon Fung writes in his portrait of 'infotopia'[56] that for people to engage with transparency it needs to satisfy four principles. These are, first, that information 'should be rich, deep, and readily available'. The second is that the provision of this information should not jeopardize people's interests (e.g. reveal state secrets, leak private information, etc.,). Third is that information 'should be organized and provided in ways that are accessible' to users. And the fourth is that it should be possible for users to act based on the information they have been given access to. If these conditions are met in TaxTrack, Fung's theory suggests that the application can lead to civic learning (as also indicated in *Future User, reality 2*). More specifically, use of the

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[52] Sonia Bussu, Adrian Bua, Rikki Dean and Graham Smith, 'Introduction: Embedding Participatory Governance'. *Critical Policy Studies,* 16(2), 2022, pp. 133-145.

[53] Frank Hendriks, 'Democratic Innovation Beyond Deliberative Reflection: The Plebiscitary Rebound and the Advent of Action-Oriented Democracy'. *Democratization,* 26(3), 2018, pp. 444-464.

[54] Didier Culawaerts and Min Reuchamps, 'Generating Democratic Legitimacy through Deliberative Innovations: The Role of Embeddedness and Disruptiveness'. *Representation,* 52(1), 2016, pp. 13-27.

[55] This can particularly be seen in the field of environmental sustainability as noted by Inge Stupak, Maha Mansoor, and C. Tattersall Smith, 'Conceptual Framework for Increasing Legitimacy and Trust of Sustainability Governance.' *Energy Sustainability, and Society*, 11, 2021, Article #5. Accessed at: <https://energsustainsoc.biomedcentral.com/articles/10.1186/s13705-021-00280-x>.

[56] Archon Fung, 'Infotopia: Unleashing the Democratic Power of Transparency'. *Politics & Society,* 41(2), 2013, pp. 183-212.

application may lead to individuals obtaining information about their contributions to public affairs, how their contributions are used by the agents that govern them, to what effect, and how individuals can then respond to this information.

Interactive Situation 2, Accountability and Anti-Corruption

Fung's theory of transparency unlocks the TaxTrack user's capacity to hold agents of the state, and the businesses (public, private or otherwise) that have been commissioned by the state to conduct works on behalf of people to account. In clientelist states with patronage problems, transparency of information can even lead to diminishing patron-client relationships and therefore result in a decrease of the patronage problem.[57] In TaxTrack, this is especially true of individuals being able to read the invoices that their tax contributions were used to pay in full or in part. An over-reliance on one firm could, for example, raise red flags around competition fairness or the ties a government official might have with that firm.

As Stephen Elstub and Oliver Escobar write, 'we live in a time where the ideal of democracy is widely loved, but its practices are broadly criticised'.[58] Designing systems in which individuals can participate, can practice civic arts, appears to be a means to alleviate this pernicious dynamic. When it comes to an individual who is reading invoices through TaxTrack they are ensuring that spending decisions are not made privately. From user to invoice, from invoice to its issuer, and from the person who paid that invoice to the issuer, a direct line of accountability can be created by the user themselves, over and over again.[59] Such 'lines of accountability',[60] as Graham Smith attests, can combat corruption and lead to people trusting their governments more which may lead to reinforcing a person's commitment to their democratic regime or to other regimes which offer similar democratic services to their people. It may also prove

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[57] Julien Talpin, 'When Democratic Innovations Let the People Decide: An Evaluation of Co-Governance Experiments'. In Kenneth Newton and Brigitte Geissel (eds) *Evaluating Democratic Innovations: Curing the Democratic Malaise*? New York: Routledge, 2012, pp. 184-206.

[58] Stephen Elstub and Oliver Escobar, 'Introduction to the *Handbook of Democratic Innovation and Governance:* the field of democratic innovation'. In Elstub and Escobar (eds), *Handbook of Democratic Innovation and Governance.* Cheltenham: Edward Elgar, 2019, pp. 1-10.

[59] Graham Smith, *Democratic Innovations: Designing Institutions for Citizen Participation.* Cambridge: Cambridge University Press, 2009.

[60] Smith, *Democratic Innovations*, p. 64.

the opposite and lead to declining levels of trust in cases where TaxTrack inputs are noticeably ignored by government.[61]

Interactive Situation 3, Direct Engagement

Albert Dzur[62] advises his readers not to fall into the trap of the 'insanity problem': which is to try the same thing over, and over, again expecting different results. His interjection is given in the democratic innovations literature to chide static representative governance: more of the same, of keeping people at arms-length from exercising their sovereignty, will not fix democratic malaises. Dzur's chiding, however, falls short of a full criticism which Jäske and Setälä[63] round out by advising that once people *are* directly engaging, when something new *is* being tried, it is imperative to focus on the function that the people are performing and the results of their functions. If we do not focus on function, then this 'something new' may fall into a symbolic role and lead to repetition.

Direct participation *and* effective functions of the people participating need, therefore, to be demonstrated and, frankly, as Pogrebinschi and Ryan[64] make clear, this can perhaps only be done, or be best done, through 'output legitimacy'. In other words, the users of TaxTrack, for example, will only gain a sense of participating in something new and impactful if they, themselves, can easily see the result of their engagement. Placing controls on spending (e.g. all treasuries that taxes are contributed to by a person cannot, as per their controls, be spent on anything other than environmental programs) is one means for doing so. The user can even verify that the invoices in which their tax contributions have been used are for environmental programs. If it is spent on something tangible, like tree planting or reflooding a marsh, the user could conceivably gain permission from the relevant authority and visit the places the work is or was conducted to satisfy their instinct for personal, or independent, verification.

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[61] Paolo Spada and Matt Ryan, 'The Failure to Examine Failures in Democratic Innovation'. *PS: Political Science & Politics,* 50(3), 2017, pp. 772-778.

[62] Albert Dzur, 'Democratic Innovation in Public Administration'. *National Civic Review,* 107(3), 2018, pp. 4-17.

[63] Maija Jäske and Maija Setälä, 'A Functionalist Approach to Democratic Innovations'. *Representation,* 56 (4), 2019, pp. 467-483.

[64] Thamy Pogrebinschi and Matt Ryan, 'Moving Beyond Input Legitimacy: When Do Democratic Innovations Affect Policy Making?' *European Journal of Political Research,* 57(1), 2017, pp. 135-152.

In this, the user's function is clear as is their capacity to determine the legitimacy of their output by seeing for themselves.

To end, as Åström, Jonsson and Karlsson demonstrate in their study of the efficacity of democratic innovations to 'reverse declining trust' in democratic regimes such as Sweden's,[65] it takes both the competent implementation of a democratic innovation and an individual's feeling, or sense, that their participation matters or that it really has made a difference.[66] Both the competent implementation of a hypothetical democratic innovation like TaxTrack and the way an individual feels after participating in it are not given nor guaranteed. Outside of actual testing, through experiments and feasibility trials, and theory building generated by that work, all we can say in this article is that the democratic innovations literature points to likelihoods of normative and instrumental goods for both TaxTrack users and the governments that serve them. We also hypothesize that TaxTrack will likely interact with other democratic innovations like PB – and with other political processes, institutions, and practices across state, civil society and private sectors – in both good and problematic ways. TaxTrack therefore has the potential to help in the effort to reconnect people with their public affairs – parliaments in particular – and to do so in a way that may both sustain, and challenge, existing arrangements in a democratic system that is already using other democratic innovations.

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[65] The Åström, Jonsson and Karlsson study is but one from a large literature on the efficacy of democratic innovations for engaging citizens with government of, more generally, 'deepening democracy'. See e.g. Graham Smith, *Democratic Innovations: Designing Institutions for Citizen Participation.* Cambridge: Cambridge University Press, 2019; Archon Fung and Erik Olin Wright, 'Deepening Democracy: Innovations in Empowered Participatory Governance'. *Politics & Society,* 29(1), 2001, pp. 5-41.

[66] Joachim Åström, Magnus E. Jonsson, and Martin Karlsson, 'Democratic Innovations: Reinforcing of Changing Perceptions of Trust?' *International Journal of Public Administration,* 40(7), 2016, pp. 575-587.

led decolonization programs spearheading the world's indigenous renaissance movement, and are in opposition to the continued exploitation of indigenous lands, peoples, cultures, and heritages by the colonist's continued myth of what they term Canada, the United States, Australia, New Zealand, Algeria, Northern Ireland, Spain, etc. The authors would also like to thank Sarah Moulds, her editorial colleagues at the Australasian Parliamentary Review, and the two anonymous reviewers of this article for the time given to improving our work. That said, any errors remain ours and ours alone.

Petitions: A Voice for Sharing our Social History*

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* Double-blind reviewed article.

Abstract. From the earliest days of British settlement in Australia, petitions have been used by the public to voice their opinions on the issues and events that concerned them at the time. Often overlooked, they serve as a rich primary source of our social history. This Article will examine selected petitions from the Parliament of NSW's public website to hear directly from people living in the 19th, 20th and 21st centuries. Case study one examines the very first petition made to the new colonial parliament in NSW, which by default became the first petition in Australia. By examining the clues left in the petition and what it spoke against we learn about life in colonial Sydney. The second case study examines petitions written in response to the arrival of the AIDS virus, showing attitudes and fears at a time when the virus and its transmission were not fully understood and contracting it was considered a death sentence. The third case study looks at the growing importance of animals to the people of NSW, both as valued family members and in concerns for their welfare in the 21st century. Examining the voices and views contained within petitions at various times allows the people of New South Wales to tell our social history.

WARNING: Please note the following Article contains content which may be upsetting. The texts, which are available on the public record, have been used to show attitudes at a particular time for context and demonstrate how views have changed. It is not the intention of the writer to upset or offend and the views expressed are not endorsed by the writer.

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[1] At the time of preparing this Article Jennifer Gallagher held the position of Administrative Coordinator, Parliamentary Budget Office, Parliament of New South Wales.

INTRODUCTION

Chances are you have signed a petition during your lifetime. That petition was created because the issue was important enough to a person to ask those in power take action or make or prevent change and to you and others who sign and support that request.

For centuries, the community have used petitions as a way to inform leaders of the issues significant to them. While today's growing access to and use of the internet and social media allows people to freely express their thoughts and opinions, these are only recent platforms. In previous decades and centuries, the everyday person had to seek outlets like petitions to have a voice and convey their views.[2] Those voices found within petitions serve as valuable evidence for uncovering and understanding the social history of a community.

History has typically been written and presented by the elite from their own biases and world viewpoint or academics who rely on interpretation of a time or event they were not present for. Accessing the views that are recorded in petitions provides a unique primary source of social history. Petitions allow us to hear directly from people living through and directly impacted by conditions and events of that time. They also offer a voice for demographics rarely heard or recorded in history such as women, the poor, migrants or those with limited education. Considering the different viewpoints expressed within petitions can contribute to building a deeper understanding of life and society at that time.

This article will show how petitions can provide a rich firsthand source for the social history of the state New South Wales (NSW), Australia. Case studies will be presented using selected petitions made to the NSW Parliament during the 19th, 20th and 21st centuries.[3] Examining the opinions and information contained in these petitions alongside other evidence, I will show how they provide an understanding of the period they were created.

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[2] Although petitions are written by individuals and the community, Parliament of New South Wales, *Standing Orders*, Legislative Council, Order No 68(1) and Parliament of New South Wales, *Standing Orders*, Legislative Assembly, Order No 123 and 123A require a Member to present it to Parliament on their behalf.

[3] All petitions are publicly available on the Parliament of New South Wales website and are located under 'First Legislative Council', 'Minutes of the Proceedings of the Legislative Council', Hansard by date and 'ePetitions: closed for signature'.

The first case study was chosen as it is the first recorded petition received in Australia. It reveals life in the Sydney colony 40 years into European settlement. We see widespread theft of cattle being an issue and how the new government proposed to address it along with clues on life in early Sydney Town and the geographical boundaries at that time. The petitions used for the second case study are from the 20th century and were selected to demonstrate social attitudes in the years just prior to and following the arrival of the AIDS virus in NSW. While the content and language is uncomfortable reading it highlights how attitudes and fears around the gay community and AIDS virus have changed within the general community over the last forty years. The final case study shows examples of the growing focus on animals in the 21st century, both as valued family members who should be given more allowances in our society and greater concern for animal welfare. The petitions presented in this article provide a snapshot of what concerned the people in NSW from the earliest days of European settlement in NSW until today.

CASE STUDY ONE – THE FIRST RECORDED PETITION IN NSW

Like many practices inherited by newly established colonies, the right to petition was brought to NSW from Britain. Prior to the establishment of the NSW Legislative Council in 1823[4] the earliest residents had to petition the United Kingdom (UK) House of Commons to ask for change or make complaints against the governor.[5]

The first petition in NSW, and therefore Australia as its first settlement, was recorded in the NSW Parliamentary Papers in 1829. The petition was in response to a bill introduced by the parliament to address cattle stealing in the colony. During the 19th century, theft was widespread with Governor Macquarie reporting two years into his administration that the 'practice of stealing bullocks, oxen and other cattle prevails to an alarming extent'.[6] In the period 1819 to 1824, almost 83 per cent of cases relating to theft of livestock were for cattle, and in the month of November 1827 alone, 20

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[4] The first sitting took place on 25 August 1824.

[5] Gareth Griffith, 'e-brief: Petitioning Parliament, NSW Parliamentary Library Research Service, September 2010: p. 5. Accessed at: <https://www.parliament.nsw.gov.au/researchpapers/Documents/petitioning-parliament/Petitioning%20Parliament%20E%20Brief.pdf>.

[6] John Perkins and Jack Thompson, 'Cattle theft, primitive capital accumulation and pastoral expansion in early New South Wales, 1800–1850,' *Australian Historical Studies*, 29, 1998, p. 289.

people were put on trial for stealing cattle.[7] While slaughtering or selling stolen cattle could relieve hunger, holding on to the animals was one way to build personal wealth in the Colony. In their article 'Cattle theft, primitive capital accumulation and pastoral expansion in early New South Wales, 1800-1850', Perkins and Thompson explain the value in possessing cattle in the land-rich but money-poor economy of colonial NSW. Acquiring cattle, particularly if stolen, served as an incentive to move beyond the settled areas and use the animals to settle on and claim land further into the interior.[8] The animals also helped generate wealth for their owners via the demand for beef in the colony with Perkins and Thompson reporting farm workers were rationed between seven to ten pounds (3.17 to 4.5kg) of beef each per week.[9] In addition to their meat, cattle provided the settlement with useful products such as their hide for leather, untreated skin and hair for use in ropes, whips and for mending, their fat (tallow) used for grease and an ingredient in soap and candles, the collagen from their skin, bones and horns making glue as well as their physical power to clear trees and plough land.[10]

A desire to own such valuable animals lead to widespread theft in the colony and it was within this setting that the Regulation of Slaughtering Cattle Bill was introduced to address the issue. [11] The Bill aimed to control the butchery of cattle by requiring all slaughterhouses, excluding the killing of pigs and sheep, to obtain an annual license and provide notice of planned slaughters. Inspectors appointed by the Governor could visit the slaughterhouses and inspect slaughtered cattle or their skins to ensure compliance. Failure to hold a licence or produce evidence of the animals on inspection could result in fines or gaol.[12] This Bill prompted a resident of the time, Richard Brooks to write the first recorded petition made to a parliament in Australia. It was addressed to the governor and newly formed Legislative Council and spoke of the impact the Bill would have on him. Brooks declared:

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[7] Perkins and Thompson, *Cattle theft in early NSW*, p. 289.

[8] Perkins and Thompson, *Cattle theft in early NSW*, p. 290.

[9] Perkins and Thompson, *Cattle theft in early NSW*, p. 301.

[10] Perkins and Thompson, *Cattle theft in early NSW*, p. 302.

[11] Ralph Darling, 'A Bill for regulating the slaughtering of cattle', First Legislative Council, 25 August 1829. Accessed at: <https://www.parliament.nsw.gov.au/fcdocs/FCDocuments/1829/00995.pdf>.

[12] Darling, *Bill for regulating the slaughtering of cattle*, pp. 1-2.

To his Excellency the Governor, and the Legislative Council,

Having laid out a considerable sum of money, at the very extremity of the town adjoining Mr Dickson's steam engine, at the water-side, in the erection of a commodious and convenient slaughter house, I hope the above circumstances will allow my claim to be favourably considered by the Council assembled having taken the contract at a low rate, and any removals would be attended by a very serious loss.

I have the honour to remain your humble, obedient servant,

Henry Brook

Sydney, 7th September 1829 (Brooks, 1829)[13]

Although the petition is brief and cannot be fully understood on its own, it provides clues that when researched provide interesting insight into life and society in early Sydney town. Although we cannot be certain, research shows Henry Brooks may be, or is likely to be the son of, Richard Brooks (1765–1833) a British ship captain who transported convicts to NSW.[14] Later becoming a free settler, Brooks was granted land by Governor Lachlan Macquarie at Cockle Bay where he kept cattle and set up a successful business supplying meat to the public, ships and the government store.[15] The 1828 census shows a Richard Brooks as a landholder owning over two thousand cattle and a large number of sheep and horses.[16] The neighbour referred to in his petition, John Dickson (1774 – 1843), was a significant early settler. He migrated to the colony in 1813 and brought the first steam engine, mentioned by Brooks to Australia.[17]

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[13] A copy of the original handwritten petition can be found at Parliament of New South Wales Website, 'Documents'. Accessed at: <https://www.parliament.nsw.gov.au/fcdocs/FCDocuments/1829/00993.pdf>.

[14] According to the Australian Dictionary of Biography Richard Brooks had a son named Henry. Vivienne Parsons, 'Brooks, Richard (1765–1833)' in *Australian Dictionary of Biography, Volume 1* (2006) Accessed at: <https://adb.anu.edu.au/biography/brooks-richard-1830>.

[15] Vivienne Parsons, *Brooks, Richard (1765–1833).*

[16] New South Wales Government, '1828 Census of New South Wales, November 1828,' New South Wales State Archives and Records, 1828, pp. 140-141. Accessed at: <https://www.records.nsw.gov.au/archives/magazine/1828-census>.

[17] G. P. Walsh, 'Dickson, John (1774–1843)', *Australian Dictionary of Biography*, National Centre of Biography, Australian National University. Accessed at: <https://adb.anu.edu.au/biography/dickson-john-1977/text2395>,

This steam engine commenced in 1815 and powered a flour mill which helped provide bread for the colony.

Further investigation shows Dickson had been recommended by the Colonial Office as an 'excellent engineer and millwright' and was granted fifteen acres of land at Cockle Bay, along with a large portion of land in western Sydney.[18]

Brooks and Dickson's names reveal they were British and settled on land that had been claimed or granted to them. Brooks' reference to living on the extremity of Sydney Town highlights that while today Cockle Bay is part of the inner-city Darling Harbour waterfront entertainment area, during the 1820s it was considered the outskirts of the settlement. We know that the colony had both a steam engine and abattoir in operation and their location, as well as their contribution to early manufacturing and industry.

The petition also provides evidence of the diet of the Colony. As the Bill being objected to is concerned with cattle, it is clear that cows and bulls are being farmed in the Sydney area and local beef is being consumed.

Examination of the Bill itself provides enhances our understanding of life in early Sydney. Clause III of the Bill states people wishing to obtain a license for a slaughterhouse need to apply '… in Writing, to the Bench of Magistrates nearest to his, her, or their usual place of Residence'.[19] The use of 'her' indicates that although females were greatly outnumbered by males in the colony at this time it was known, or considered socially acceptable, for them to own or be in charge of a slaughterhouse. Clause VI of the Bill states that '… nothing in this Act contained shall extend to prevent any Person or Persons from slaughtering Cattle for his or her Family, Servants, or Labourers…'[20] provides a picture of the households during this time with many having convicts, or freed convicts taking on paid work to serve them. Finally, the reference to '…no Slaughter-house or Place for slaughtering Cattle shall be licensed in the Town of

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published first in hardcopy 1966, accessed online 9 November 2021 and 'Pier St Precinct - Archaeological Remains' Sydney Harbour Foreshore Authority. Accessed at: <http://www.shfa.nsw.gov.au/sydney-About_us-Heritage_role-Heritage_and_Conservation_Register.htm&objectid=160>.

[18] Walsh, *Dickson, John*.

[19] Darling, *Bill for regulating the slaughtering of cattle*.

[20] Darling, *Bill for regulating the slaughtering of cattle.*

Sydney'[21] assists us today in understanding where the boundaries of the Town of Sydney were at various times via the locations of slaughterhouses.

Examining the petitions contents, the Bill and environment of the time reveals the issues in society at the time and how people saw themselves impacted. Cattle theft and the government's attempt to control this via regulating their slaughter was an issue in the earliest days of colonial NSW and late in the next century, it was human casualties that concerned some of the community in NSW.

CASE STUDY TWO – THE CLIMATE AND FEAR IN THE ARRIVAL OF AIDS IN THE 1980S

The arrival of the AIDS virus and its associated death sentence in the early 1980s brought fear to many across the world, including the NSW community. To understand the attitudes and response to its arrival, it is important to look at the social environment during the period of the emergence of AIDS.[22]

As British colonies, all settlements within Australia inherited their anti-homosexual laws from the United Kingdom. The laws making homosexual acts illegal were maintained by the colonial governments. Following Federation in 1901, responsibility of its status fell to state governments who continued the practice of keeping homosexual activity illegal and subject to punishment.[23] During the late 1960s and 1970s lobby groups emerged seeking to decriminalise homosexuality. A march for gay rights in Australia took place in Sydney on the 24 June 1978 as part of a solidarity event with the San Francisco movement. The daytime march was followed by an evening march for those who felt being seen could put them at risk and impact on their employment. At the evening march, 53 people were arrested by police and two days later the *Sydney Morning Herald* newspaper published their names, addresses and occupations. Being identified lead to many participants losing their homes and jobs and

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[21] Darling, *Bill for regulating the slaughtering of cattle*, Clause XII.

[22] While the HIV virus was discovered as the cause of AIDS in 1984, I will use the term AIDS in this writing as it was the commonly used name for both during this period.

[23] At various times, punishment for gay sexual activity in Australia ranged from a life sentence to the death penalty, including imprisonment for life in NSW until 1924.

suicides occurred.[24] In response to the arrests, several petitions were presented to the NSW Parliament by various Members[25] speaking out against the treatment of protesters and asking '… that the Legislative Assembly ensure that all charges arising from the arrest of homosexual demonstrators on the nights of June 24 and 26, 1978, be dropped unconditionally'.[26]

While these petitions show support for the gay community and their right to protest without persecution, other petitions presented to the parliament expressed a less tolerant view. In 1981 the following petition signed by 404 citizens of NSW was received which opposed

> *… any changes in law which would legalise and/or encourage:*
>
> *Legalisation and recognition of homosexual unions as a legal marriage;*
>
> *Adoption of children by homosexual or lesbian partners;*
>
> *Legalisation of acts of sodomy in private or public;…*

The petition also requested that '… steps be taken to:

> *(1) Reject moves to amend the Crimes Act, 1900; to legalise sodomy;*
>
> *(2) Establish a special department within the N.S.W. Health Commission to:*
>
> *Develop methods of helping people to overcome or-deal with homosexual tendencies through counselling, psychological and medical assistance; and*

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[24] First Mardi Gras Inc., 'The First Mardi Gras'. Accessed at: <https://www.78ers.org.au/what-happened-at-the-first-mardi-gras>.

[25] See 'Homosexual Demonstrators' petitions presented to the Legislative Assembly by Knott and Peterson on 9 November, 21 November and 12 December 1978 and McGowan on 29 November 1978. Accessed at: <https://www.parliament.nsw.gov.au/hansard/pages/home.aspx?tab=Browse&s=1>.

[26] Legislative Assembly, *Homosexual Demonstrators petitions*.

conduct a vigorous campaign to combat venereal disease amongst practising male homosexuals; and

(3) Prohibit any films, material or books in State. schools which undermine the family and marriage by falsely presenting homosexual behaviour as a harmless, valid alternative life-style; and praying that the Legislative Council will take no measures that would legalise sodomy and so undermine marriage, child-care or the family which is the basic unit of our society.[27]

This petition provides a first-hand example of the level of public homophobia that existed in the early 1980s. The request for government to 'treat' people shows a belief that a person's sexual orientation could be 'overcome' by counselling or medical treatment, along with the fear that any acceptance or legitimisation of their lifestyle was a threat to traditional marriage and family and how they felt society should be.

Although anti-discrimination protection was legally granted in the year following this petition, homosexual activity remained illegal in NSW until 1984. It was in this context, with people who were gay often being seen as 'other' that a new, mysterious illness arrived. This virus, which was viewed as a death sentence in its early days brought fear to much of the community and added fuel to the homophobia of the day.

The first official report of a new infection attacking the immune system in young healthy gay men appeared in June 1981[28] and was reported in the Australian gay newspaper *Sydney Star Observer* in July 1981 and six months later in the mainstream *Sydney Morning Herald.*[29] Australia's first identified case was presented by an American tourist at St Vincent's Hospital, Sydney in October 1982.[30]

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[27] Parliament of New South Wales, *'Homosexual Acts' petition*, Minutes and Proceedings of the Legislative Council, 2 December 1981, p. 98. Accessed at: <https://www.parliament.nsw.gov.au/hp/housepaper/8733/Min-19811202-Cor.pdf>.

[28] The Albion Centre, 'A HIV/AIDS Timeline: Emphasising the Australian / New South Wales Perspective', 6th Edition, 2012, p. 6. Accessed at: <https://www.acon.org.au/wp-content/uploads/2015/04/History_of_HIV_5th-Edition.pdf>.

[29] The Albion Centre, *HIV/AIDS Timeline*, pp. 6,7.

[30] The Albion Centre, *HIV/AIDS Timeline*, p. 8.

In the early days, all cases of the new virus appeared in healthy young males who were gay and it was named GRIS (Gay Related Immune Deficiency) with some media referring to the virus as the ' gay plague' and 'homosexual cancer'.[31] The emergence of cases in intravenous drug users (regardless of sexuality) and prostitutes aligned this new disease to 'immoral behaviour' for many. When cases of AIDS being contracted through blood transfusions were seen in children and straight adults who were not injecting drug users, increasing fear struck the general community. In 1985, three-year-old Eve van Grafhorst, who had contracted AIDS via a blood transfusion, was banned from attending her local pre-school as it was feared she may infect other children. She and her family migrated to New Zealand to avoid the open discrimination shown towards her.[32] The same year, Australian airlines ANSETT and Trans Australia Airlines (TAA) banned HIV positive people from flying with them.[33] The image of AIDS being a frightening death sentence with the potential to infect and kill anyone was furthered by a national television advertisement showing the Grim Reaper targeting men, women and children and warning '… if not stopped it could kill more Australians than World War Two'.[34]

These examples reveal the growing fears within the community at a time scientists and doctors were working to understand the disease and its transmission. A combination of the limited knowledge of AIDS and how fast and wide it would spread, the gaunt images and deaths of people infected by the virus and the existing homophobic attitudes meant gay men were viewed by many as diseased and dangerous with the potential to infect and kill anyone. [35] Rather than being seen as victims who deserved sympathy, gay men were often viewed as deviant with the potential to inflict the virus on to

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[31] Jennifer Power, 'Movement, Knowledge, Emotion: Gay Activism and HIV/AIDS in Australia'. Canberra: ANU Press, 2011, p.31.

[32] Simon Royal, 'Eve van Grafhorst was diagnosed with HIV and hounded out of Australia, but her legacy endures', *ABC News*, 18 November 2018. Accessed at: <https://www.abc.net.au/news/2018-11-18/remembering-eve-van-grafhorst-after-hiv- diagnosis/10491934>.

[33] '2 Airlines Won't Carry AIDS Victims, Los Angeles *Times archive*, 23 July 1985. Accessed at: <https://www.latimes.com/archives/la-xpm-1985-07-23-mn-7381-story.html>.

[34] Simon Reynolds, 'Grim Reaper (advertisement)', April 1987. Accessed at: <https://www.youtube.com/watch?v=U219eUIZ7Qo>.

[35] Power, *Gay Activism and HIV/AIDS in Australia*, p. 31.

'normal' people.[36] These fears can be seen clearly in the following petition, one of many, presented to the NSW Parliament in 1985.

> *The Petition of citizens of New South Wales respectfully sheweth:*
>
> *That because of the dramatic spread of the AIDS disease in New South Wales, with more than 50 000 AIDS male carriers in Sydney, and because the AIDS cases are doubling every three months:*
>
> *Your Petitioners therefore humbly pray:*
>
> *That the Parliament of New South Wales will take urgent steps to prevent the spread of the AIDS disease among homosexuals; will introduce urgent measures to prevent the spread of AIDS disease among homosexuals; will introduce urgent measures to prevent the spread of AIDS to the heterosexual community, especially through blood transfusions; will immediately close all AIDS disease centres, such as homosexual bath houses, brothels, and so on; will commence compulsory blood testing of the homosexuals in Sydney to locate and treat the AIDS carriers; will repeal the homosexual schedule of the Anti-Discrimination Act, 1983, and will repeal Mr Wran's private member's sodomy bill, known as the Crimes (Amendment) Act, 1984[37]; and will institute a levy on all homosexual organizations, newspapers, clubs, bars, and so on, to pay for AIDS medical research and treatment.*
>
> *Your Petitioners therefore humbly pray:*
>
> *That your honourable House will protect our community from the AIDS epidemic, and will do all it can to promote the healthy heterosexual lifestyle, especially in our education system.*

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[36] Power, *Gay Activism and HIV/AIDS in Australia*, p. 44.

[37] The Act decriminalised homosexual acts between consenting males over the age of 18 in NSW.

And your Petitioners, as in duty bound, will ever pray[38]

This petition shows the fear around a new, little understood virus and the attitude towards the people they felt responsible for it in the 1980s. The references to homosexuals and promotion of a 'healthy heterosexual lifestyle' reveal an anxiety about the gay community who are viewed as 'other' and wielders of the disease. It is interesting to note that the stigma and blame being directed towards the gay community does not appear to be projected on to injecting drug users or any other demographic in any of the petitions relating to AIDS that were reviewed. The petitions in this article demonstrate social attitudes during a particular period and should be examined as part of a bigger picture of the views towards homosexuality and HIV/AIDS in NSW. Medical research and advances mean HIV is no longer a death sentence and the annual World AIDS day is openly supported by many public figures including NSW politicians from different parties who have spoken of their support and the work being done for people with the virus. [39] In another sign of change in social attitudes can be found is the most recent *Anti-Discrimination of New South Wales Annual Report.* It shows while 0.1% of enquiries received by them related to HIV/AIDS vilification, no complaints were made in 2020/21. Similarly, 0.1% of enquiries received during that year related to homosexual vilification with 0.4% of complaints made were related to sexuality-based discrimination. [40] Further evidence of community and social acceptance came at a federal level with the 2017 Australian Marriage Law Postal Survey which showed the majority of Australian's supported legalising same-sex marriage which resulted in the *Marriage Amendment (Definition and Religious Freedoms) Act 2017* (Cth) to allow this.

The petitions of 1981 and 1985 are examples of fears that existed during this time and how their authors and signatories believed society 'should' be. By following the story of HIV/AIDS from its early days until today we see social shifts in attitudes and growing

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[38] Parliament of New South Wales, *'Acquired Immune Deficiency Syndrome' petition*, Legislative Assembly, *Parliamentary Debates,* 13 November 1985, pp. 9519-9520, Accessed at:
<https://www.parliament.nsw.gov.au/hansard/pages/home.aspx?tab=Browse&s=1>.

[39] Such as Independent Alex Greenwich MP praising the Positive Life NSW organisation on 21 November 2013 and the Trevor Khan MLC speaking on the ACON Honour Awards on 18 September 2014, recorded in Parliament of New South Wales, *Parliamentary Debates*, 21 November 2013. Accessed at:
<https://www.parliament.nsw.gov.au/hansard/pages/home.aspx?tab=Browse&s=1#>.

[40] Anti- Discrimination New South Wales, *Annual Report 2020-21*, NSW, 2021, pp. 37-38.

acceptance. The increase in empathy and respect for a community that had been marginalised is also evident today in society's attachment to animals, particularly pets, and in concerns for animal welfare.

CASE STUDY THREE – THE ROLE OF ANIMALS

Animals, both domestic and wild, are growing in importance to our society today. On the 12 October 2021, the following two petitions were presented to the NSW Legislative Assembly:

> *To the Speaker and Members of the Legislative Assembly,*
>
> *It is hard to believe that in 2021 a property owner can refuse a tenant to have a pet   reside at a rental property for no good reason.*
>
> *The laws recently changed in Victoria to allow pets in any rental property and the owner had the right to request a pet 'bond' should any damage occur. Pets are part of the family, can be mental health assistance animals, and should be allowed to live anywhere without prejudice.*
>
> *Please change the law to reflect the fabric of a modern family and allow pets in rental properties.* [41]

And

> *To the Speaker and Members of the Legislative Assembly,*
>
> *Sydney Ferries currently allow dogs on ferries when the dog is contained within a box, crate, basket etc. Such an rule is both onerous and unnecessary. It acts as a deterrent to the use of an essential service. It doesn't meet community expectations of Sydney being a dog friendly city.*

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[41] Parliament of New South Wales, 'Mr Alex Greenwich—from certain citizens requesting the Legislative Assembly change the law so property owners cannot refuse pets in a rental property in New South Wales'. *Tabled Papers*, Legislative Assembly, 12 October 2021. Accessed at:
<https://www.parliament.nsw.gov.au/la/petitions/Pages/tabled-paper-details.aspx?pk=80250>.

This petition calls for a relaxation of the rules and Sydney Ferries to take a more dog friendly approach to the provision of services.

This petition proposes that the existing 'box' rule be replaced with a rule that allowing dogs on ferries when wearing a dog collar and dog lead and traveling within an area of the ferry to be designated by the vessels captain.[42]

These two requests emphasise the role and value of pets in our lives today. The desire for pets to be accepted as a norm for rental properties and a more dog- friendly approach on public transport shows NSW is part of the global trend of viewing pets as part of the family.

The view of pets as a family member in today's society, rather than property or working animals is supported via the increasing money spent on pets with gifts being marketed and purchased. Major retail businesses such as Westfield and David Jones offer pet photos with Santa alongside those offered to children, Kmart stores have multiple aisles dedicated to pet products and novelty clothing, hotels promote pet stays, the major Australian insurance companies now offer pet insurance and recent aviation rules allow for airlines to choose to carry animals alongside their owners in in aircraft cabins.

The increasing demand for pets, particularly the highly priced 'designer' breeds, has led to petitions not only seeking increased rights for pets and their owners but also concerns on how people are sourcing and obtaining their pets. A petition that is frequently presented to the NSW Legislative Assembly calls for a ban on selling pets in pet shops. It reads

Most puppies and kittens sold in pet shops are bred in 'mills' where dogs and cats are kept in sub-standard conditions and continually bred until they die. Cute puppies and kittens displayed in pet shops cause impulse purchases of pets. Thousands of these animals are dumped each year when people realise the time, cost and responsibility of caring for a pet. In New South Wales alone over 50,000 unwanted cats and dogs are destroyed every year in pounds and shelters.

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[42] Parliament of New South Wales, 'Petition of more than 500 signatures—Ms Felicity Wilson—from certain citizens requesting the Legislative Assembly allow dogs on lead be permitted on Sydney ferries', Legislative Assembly, *Tabled Papers*, 12 October 2021. Accessed at: <https://www.parliament.nsw.gov.au/la/petitions/Pages/tabled-paper-details.aspx?pk=80334>.

The undersigned petitioners therefore request a ban on the sale of pets from pet retail outlets; sales and advertising restricted to responsible breeders and those re-homing unwanted pets; and detailed information in responsible ownership provided when pets are sold, including an animal's expected lifespan, growth, dietary and exercise needs and expected costs of ownership.[43]

This petition shows concern for animal welfare and the impacts of impulse buying and overbreeding for profit. Public concerns about animal breeding practices have led to two NSW parliamentary committee inquiries with both receiving a high level of submissions and public interest demonstrating the passion held by many on this topic.[44] There is also an increase in the number of committee inquiries looking into animal welfare. Active committees and inquiries include the Select Committee on Animal Cruelty Laws in NSW, Greyhound Welfare and Integrity Commission, Use of primates and other animals in medical research in NSW, Animal Welfare policy in NSW and Use of Battery Cages for Hens in the Egg Production Industry.[45] The establishment of these inquiries show animal welfare is an issue being considered by politicians in NSW.

While animal welfare does not typically feature in election campaigning by the major parties, it was important to enough to people to elect two members of the Animal Justice Party, whose objective is to address animal welfare issues into the NSW Legislative Council. The Greens NSW, with six seats in the NSW Parliament hold an animal welfare policy supporting the rights and wellbeing of animals[46] and Independent Member for Sydney Alex Greenwich openly advocates for animals and was part of establishing the NSW Parliamentary Friends of Animals.[47] And while this

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[43] Parliament of New South Wales, 'Petition calling for animals not to be sold in pet shops', presented by Mr Alex Greenwich MP, 4 June 2019. Accessed at:
<https://www.parliament.nsw.gov.au/tp/files/75947/Petition%20under%20500%20signatures%20-%20opposing%20pet%20shop%20animal%20sales.pdf>.

[44] Parliament of New South Wales, Joint Select Committee on Companion Animal Breeding Practices in New South Wales, August 2015 and Select Committee on Puppy Farming in New South Wales, 2022.

[45] Parliament of New South Wales, *Committee Inquiries*, Website, 2022, Accessed at <https://www.parliament.nsw.gov.au/committees/inquiries/pages/inquiries.aspx>.

[46] The Greens New South Wales, 'Animal Welfare'. Accessed at: <https://greens.org.au/nsw/policies/animal-welfare> .

[47] Alex Greenwich, 'Friends of Animals', 29 June 2020. Accessed at <https://www.alexgreenwich.com/friends_of_animals>.

illustrates how the community want their representatives to address animal welfare in Parliament it should be noted that the Shooters, Fishers and Farmers Party were elected to represent five seats.

These recent petitions will show future readers and researchers the evolving view of pets as valued family members who should have easier access to be part of our lifestyles and growing attention to their welfare were important issues to the NSW population in the early 21st Century.

THE VALUE OF PETITIONS TODAY

While the lack of petitions being used as a resource by academia is covered in other writings[48] their value in providing material and evidence not found elsewhere should be considered. Petitions give a first-hand account from people living at a particular period of time and how they view issues taking place and how they see it impacting on them. Petitions provide a rare opportunity to hear from those who are not typically in control of the narrative and therefore offer a different source and perspective. While it can be easily found online today, it is rare to have such an abundance of primary viewpoints and evidence from previous times that is offered in petitions.

It is important to keep in mind that the arguments being made in a petitioner's request are likely to be one sided to present the case as most favourable to themselves. Readers should consider what could be missing in the story and where it could be found, or review petitions with an opposing argument for balance.

History is opening up to hearing and considering different viewpoints to allow for a more shared history. Accessing petitions as a source of social history allows us to hear a viewpoint to either confirm or challenge assumptions of the time. They provide an alternative source to textbooks or the traditional narrative and we can be enriched by hearing from those who did not leave many records such as migrants who wanted to assimilate quickly.

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[48] See Niamh Corbett, 'Parliamentary petitions: an untapped library resource'. *The Australian Library Journal*, 60(3), 2011, pp. 218-230; Jessie Kratz, 'Recovering the People's Voice: Unpublished Petitions and Their Impact on Publications, Legislation and History'. *Documents to the People,* 36 (1), 2008, pp.31-37.

Petitions can also be valuable today with the growing interest in family genealogy. People researching their ancestor's story can have their understanding of a particular region or community, the values and environment, migration patterns and existing prejudices enhanced by access petitions. Similarly, as post-European settlement Australia starts celebrating anniversaries (e.g. the Sydney Harbour Bridge or establishment of a regional town) petitions can be used with other historical documents to contribute to that story and reveal information not found in other resources.

CONCLUSION

As petitions are typically written in response to the issues taking place at the time, they are a valuable primary tool for understanding the social history of the people and places in NSW. The very first petition was the voice of an early settler who revealed the Sydney town boundaries, location of his abattoir and neighbour's steam engine and the early industry and beef being a food source in the Colony at this time. Examination of the Bill Brook was making his case against showed cattle stealing was a big enough issue in the Colony for the new government to address it.

Together these documents build a story of early NSW. The petitions of the late 1970s and 1980s demonstrate social history at a point in time where support for the rights of homosexual people existed but was greatly outnumbered by those speaking out against giving rights. However as seen in this example, if we limited ourselves to examining just one event or period of time, we fail to see a bigger, more complete picture. The final case studies in this article show the value of animals in our society today. Residents of NSW are asking for an easing up or removal of restrictions placed on renting and travelling with pets, reflecting the increasing role of pets as valued family members. Petitioning the parliament on animals extends to their welfare, as demonstrated in the call to stop the selling of animals in pet shops. Increasing concern for animal wellbeing has been reflected politically in NSW with the election of politicians speaking for animals and the establishment of various committee inquiries to look at concerns on their treatment. While there are increasing ways for NSW citizens to voice their complaints such as ICAC, Fair Trading NSW and the Health Care Complaints Commission and the large audience available via the explosion of social media, the tradition of citizens petitioning the powerful continues.

Next time you are asked to sign a petition, consider it adding your voice to speak on an issue that future generations and historians can look back on to see what was important to you.

Social Media Platforms Duty of Care – Regulating Online Hate Speech*

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* Double-blind reviewed article.

Abstract There has been a proliferation of social media usage over the past decade. Social media platforms offer a convenient mode for virtual social interaction by providing relatively simple access to most people. However, there has been a recurring theme of harassment or bullying by way of hateful speech that causes social harm especially following the Christchurch terrorist attacks in 2019. New Zealand is at a point of inflexion when it comes to updating its laws to combat online hate speech. The manner in which statutory duty of care is proposed as law in other comparative jurisdictions (such as the UK and Australia) will be explored in order to establish whether it is beneficial and necessary to be adopted in New Zealand.

INTRODUCTION

Social media platforms played a paramount role during the Christchurch terrorist events in March 2019. Facebook and Twitter came under public scrutiny on whether it had done enough to stop all harm that arose from its livestreams.[1] New Zealand is at a

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[1] Jenni Marsh and Tara Mulholland, 'How the Christchurch terrorist attack was made for social media'. *CNN Business*, 15 March 2019. Accessed at: <https://www.cnn.com/2019/03/15/tech/christchurch-internet-radicalization-intl/index.html>.

point of inflexion when it comes to updating its laws to combat online hate speech.[2] The scope of this Article is specifically on the concept of duty of care and whether a statutory one ought to be imposed onto social media platforms.

The manner statutory duty of care is proposed as law for the regulation of online hate speech in online platforms will be explored in two other comparative jurisdictions, United Kingdom and Australia. These two jurisdictions possess a comprehensive review of the relevant issues, best practices, and literature.

Considering that the landscape of social media has changed over the past decade, this too has changed the way people communicate. Especially in a time of a pandemic, social media has been used to communicate and as a form of escapism.[3] While social media giants such as Facebook and Twitter offer a convenient mode for virtual social interaction by providing relatively simple access to most people, there has been a recurring theme of harassment or bullying by way of hateful speech that causes social harm[4]. In early 2020, the Covid-19 coronavirus pandemic also resulted in a rise of online hate sentiments directed at people of migrant background and of Chinese ethnicity[5]. Many people of Asian background have come forward to indicate that there is presence on social media platforms of Anti-Chinese sentiment which disparages Chinese people[6]. This created a space for social media to step-up and be held accountable.

With all the negativity that social media has caused, it is therefore crucial to examine the existing legal framework and establish if accountability (whether it lies on the end-

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[2] Jacinda Ardern, New Zealand Governement, The Beehive Press Relese, 'Significant progress made on eliminating terrorist content online', 24 September 2019. Accessed at: <http://www.beehive.govt.nz/release/significant-progress-made-eliminating-terrorist-content-online>.

[3] Rachel Sue Yin Tan, 'Disabling access to illegal online content by way of takedowns'. *New Zealand Law Journal,* 10 2021, pp.341.

[4] Nikki Macdonald, 'Online harassment: the insidious face on an inescapable harm'. *Stuff*, 11 March 2019. Accessed at: <https://www.stuff.co.nz/national/crime/110956646/online-harassment-the-insidious-face-on-an-inescapable-harm>.

[5] Global Times, 'Trump's racist words spark hatred, fuel global xenophobia'. *Global Times*, 20 March 2020. Accessed at: < https://www.globaltimes.cn/content/1183207.shtml>.

[6] New Zealand Human Rights Commission, 'Meng Foon: Covid-19 coronavirus fear no excuse for racism'. Accessed at: <https://www.hrc.co.nz/news/meng-foon-covid-19-coronavirus-fear-no-excuse-racism>.

user or social media platforms) are set to curtail online hate.[7] Irrespective of the strategies social media companies are attempting to deploy, it does not seem to fix the situation.

To obtain a greater chance for success for the regulation of online hate speech, synergic regulation is key. Lessig's regulation theory indicates that regulating cyberspace is not only a legal problem, but it is also problem to end-users because coded software can affect and regulate the way people behave.[8] Murray further elaborates that by virtue of a dynamic regulatory model, regulators can design a synergic regulation with the pre-existing software infrastructure thereby creating a greater likelihood for success.[9]

In the Christchurch shootings, social media was used in the planning and aftermath of the events to distribute and disseminate images of the attacks. It was at the Global Internet Forum to Counter Terrorism ('GIFCT') that Prime Minister Jacinda Ardern and President of the French Republic Emmanuel Macron announced the implementation of the Christchurch Call to Action ('the Call') at the United Nations General Assembly.[10] The Call was adopted by Heads of States along with technology sector companies.[11] It was also announced that given the existing objectives to 'share knowledge and support research on terrorists' use of platforms'[12] the GIFCT will be relaunched and will become an independent body with new commitments set forth in the 'nine-point action plan'.[13]

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[7] Mathew Binny, Punyajoy Saha, Hardik Tharad, Subham Rajgaria, Prajwal Singhania, Suman Kalyan Maity, Pawan Goyal and Animesh Mukherje 'Thou Shalt Not Hate: Countering Online Hate Speech', *Proceedings of the International AAAI Conference on Web and Social Media*, (2019) 13(1).

[8] Lawrence Lessig, 'The New Chicago School'. *The Journal of Legal Studies*, 27(2), 1998, pp. 661-691.

[9] Andrew Murray, *The Regulation of Cyberspace*. London: Routledge-Cavendish, 2007.

[10] Ardern, *Significant progress*.

[11] Edgar Pacheco and Neil Melhuish '2019 online hate speech insights', Netsafe – Online Safety Help and Advice for New Zealanders. Accessed at: <https://www.netsafe.org.nz/2019-online-hate-speech-insights/>.

[12] Ardern, *Significant progress*.

[13] Global Internet Forum to Counter Terrorism, 'Actions to Address the Abuse of Technology to Spread Terrorist and Violent Extremist Content'. Accessed at: <https://gifct.org/press/actions-address-abuse-technology-spread-terrorist-and-violent-extremist-content/>.

HOW INTERMEDIARIES REGULATE ONLINE HATE SPEECH

An Internet intermediary is an entity which provides services that enable people to use the internet.[14] These are of two classes, conduits – which are technical providers of internet and hosts – which are providers of content.[15] Internet Service Providers are examples of conduit intermediaries, while Facebook and Twitter would be examples of hosts intermediaries. Internet intermediaries are technically designed to permit storage, creation of content and transmission of information.[16]

Figure 1.   The relationship between social media platforms and Internet Service Providers.
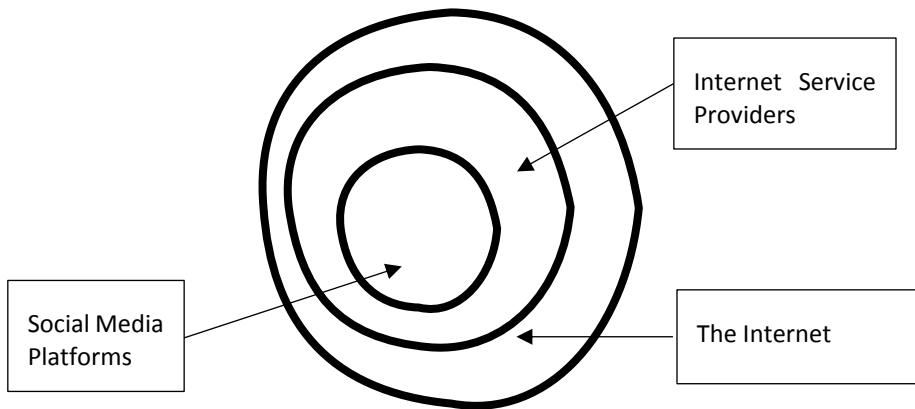
Social media is given an atmosphere to function within an Internet Service Provider ('ISP') as shown in the diagram above. Considering that online hate speech exists in social media platforms, we should examine if liability should exist for ISPs as well.

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[14] Association for Progressive Communications, 'Frequently asked questions on internet intermediary liability' Association for Progressive Communications. Accessed at: <https://www.apc.org/en/pubs/apc%E2%80%99s-frequently-asked-questions-internet-intermed>.

[15] Association for Progressive Communications, *Frequently asked questions.*

[16] Jaani Riordan, *The Liability of Internet Intermediaries.* Oxford: Oxford University Press, 2016.

Default mechanisms such as censorships, geo-blocking, web-filters and takedown of hateful content are used to help curtail online hate speech.[17] Community Guidelines have also been developed for this purpose.[18]

Community Guidelines have become a reference point for the way users behave and conduct themselves in respective social media spaces. They comprise of a set of rules laid out by respective social media platforms which enforce governance as a passive approach to moderating content.[19] This means that if a user acts in a manner that contravenes the Community Guidelines or rules, there will be a consequence. Examples of offences that can contravene community guidelines are cyberstalking, misusing intellectual property and of course, objectionable content in which online hate speech falls under. It is important to have community guidelines in place to ensure that the social media environment is a safe place for its users to interact and express themselves.

All of these mechanisms have been put into place by host intermediaries in an effort to self-regulate. However, these intermediaries were not being held accountable by existing laws. With the prolific expansion of the internet, which occurred during the late 2000s, national and international institutions expanded its regulations thus creating new liability rules.[20] The expansion developed new forms of secondary liability. As online content grew, there were also enforcement problems. This brought a dire need for stronger enforcement bringing new limitations to the fundamental rights of intermediaries and its users.[21]

However, there is a question on whether conduit intermediaries should also share accountability. From its early days, ISPs have resisted to be stifled by a legislative framework that would hold them accountable and liable.[22] The rationale and argument

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[17] Rachel Sue Yin Tan, 'Disabling access to illegal online content by way of takedowns'. *New Zealand Law Journal,* 10, 2021, pp.341.

[18] Barbara Perry and Patrik Olssen, 'Cyberhate: The globalization of hate'. *Information & Communications Technology Law*, 18(2), 2009, pp. 185-199.

[19] Jialun 'Aaron' Jiang, Skyler Middler, Jed R. Brubaker and Case Fiesler, 'Characterizing Community Guidelines on Social Media Platforms' *Association for Computing Machinery Digital Library.* Accessed at: <https://doi.org/10.1145/3406865.3418312>.

[20] Riordan, *Liability of Intenet*, p. 15.

[21] Riordan, *Liability of Intenet*, p. 15.

[22] E. Eugene Clark, *Cyber law in Australia*, Kluwer Law International, 2010, p.318.

for not having a legislative code for ISPs was that they viewed themselves as bookshops, libraries, and postal workers – in that they obviously would not have any knowledge of the contents of its entire catalogue of books, or its contents in envelopes.[23] In principle, an ISP may be primarily liable when it has knowledge, control or financial benefit for the information or content:[24] knowledge being the key factor.

Internet intermediaries can now be identified as 'Authority Gatekeepers'.[25] An internet service intermediary encompasses a relationship between infrastructure providers, the platform, small intermediaries (such as an Administrator of a Facebook Page) and the receptor or end-users (who could also be a creator of speech).[26]

With the evolution of the internet, internet intermediaries have become a vital and dependable part of any critical national infrastructure such as healthcare, communications, finance, food, public services, energy, and transportation.[27] Therefore, it has been in the best interest of governments to create regulatory frameworks to protect governmental institutions, businesses, and the general public from harm. This has changed the liabilities of internet intermediaries within the legal framework.

DUTY OF CARE IN THE SOCIAL MEDIA SPHERE

The concept of a legal 'duty of care' has been influenced by common law, and more recently, codified by statute in New Zealand. Questions relating to which entities owe a legal duty of care to which end-users, as well as the nature of that duty, are complex – particularly when it comes to social media platforms, which can be simultaneously described as 'intermediaries', 'services' and 'products', depending on the context.

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[23] Riordan, *Liability of Intenet*, p. 38.

[24] Clark, *Cyberlaw in Australia*, p. 314.

[25] Emily Laidlaw, 'Internet Gatekeepers, Human Rights and Corporate Social Responsibilities'. *London School of Economics and Political Science*. Accessed at: <http://etheses.lse.ac.uk/317/>.

[26] Laidlaw, *Internet Gatekeepers*, p. 317.

[27] United Kingdom Government, Cabinet Office, 'Cyber Security Strategy of the United Kingdom: Safety, Security and Resilience in Cyber Space'. Accessed at:
<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/228841/7642.pdf>.

One common approach is to conceptualise social media platforms as a form of internet intermediaries (a conduit between two or more individuals interacting with each other). Hutty, the Chair of EuroISPA's Intermediary Liability Committee, has a simple approach to describing the notion of limited liability of intermediaries based on a distinction between a *service* (such as a telecommunications service correctly described as an intermediary) and a *publisher* (such as a Newpaper Outlet that is not an intermediary).[28] According to this concept, when it comes to harm caused to an end-user by the action of another actor, intermediaries should be protected from liability. However, if the social media platform fails to meet the definition of an 'intermediary' – because, for example, it becomes seen as more actively involved in generating and distributing content - it is stripped of the protection that prevents them from being treated as though they are publishers.[29] This in turn has implications for the legal duties owed by the platform to its end users, including with respect to providing protection from online hate speech.

Whether or not any particular social media platform will be treated as an intermediary or publisher depends on the jurisdiction, and different national standards within and across jurisdictions.[30] This gives rise to significant complexity for end-users around the world, seeking to understand their legal rights when it comes to remedies for harm caused by online hate speech.

The European Commission President, von der Leyen, said that there ought to be a single legal framework that would stipulate the responsibility for the manner internet intermediaries:

> *disseminate, promote, and remove content…(sic). We want the platforms to be transparent about how their algorithms work*

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[28] EuroISPA is the world's largest association of internet service providers. See EuroISPA, 'Recap of Past Event: Liability of Intermediaries'. Accessed at: <https://www.euroispa.org/2021/10/recap-of-past-event-liability-of-intermediaries/>.

[29] EuroISPA, *Liability of Intermediaries*.

[30] EuroISPA, *Liability of Intermediaries*.

> *because we cannot accept that decisions that have a far-reaching impact on our democracy are taken by computer programs alone.[31]*

This emphasises the European Union's position that social media platforms should take on more accountability and embrace a duty of care approach, that more accurately recognises their role as providing both a service and a product to end users.[32]

The landmark case from tortious law, *Donoghue v Stevenson*[33] provides an example of how the common law approach to 'duty of care' could be applied in the context of social media platforms and online hate speech. In this case, the claimant drank a bottle of ginger beer that was purchased by her friend at a café.[34] Upon finishing her beverage, the claimant found a decomposing snail inside the bottle. She had not noticed the snail in the bottle beforehand as the bottle was opaque, and as a result, she fell ill and suffered nervous shock and gastroenteritis. In this case, the producer of the ginger beer was the defendant, Stevenson. Among the several issues arising in the case, were the following three questions:

- Whether there was a legal duty of care owe by Stevenson as producer of the ginger beer to Donoghue as the consumer.

- Whether it was relevant that Donoghue had not purchased the ginger beer and that her friend was the actual purchaser.

- Whether Donoghue had locus standi to bring the claim against Stevenson

These questions – relating to the scope of duty of care owed to purchasers and consumers - also arise in the context of users interacting with social media platforms, particularly if social media platforms are seen as offering a 'product' rather than merely being an 'intermediary' or forming part of a service. In this way, the findings made in

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[31] Ian Wishart, 'EU Chief Takes Aim t Internet Giants Over Freedom of Speech'. *Bloomberg News*, 26 January 2021. Accessed at: <https://www.bloomberg.com/news/articles/2021-01-26/eu-chief-takes-aim-at-internet-giants-over-freedom-of-speech>.

[32] Ian Wishart, *Internet Giants*. The European Commission President also added that while there was a duty to disable Donald Trump's Twitter account, who was President of the United States of America at the time, following the events of 6 January 2022, it was at the same time the discretion to disable it should not have been entirely up to Twitter as it posed such an adverse effect on the freedom of expression.

[33] *Donoghue v Stevenson* [1932] UKHL 100 '*Donoghue v Stephenson*'.

[34] *Donoghue v Stevenson*.

Donoghue v Stevenson can be drawn upon to conceptualise the legal responsibility owed by social media companies to the users of their platforms.[35]

For example, in the case of *Donoghue and Stevenson*, the Lord Atkin held that 'a manufacturer of products, which he sells…to reach the ultimate consumer in the form in which they left him…, owes a duty to the consumer to take reasonable care'.[36] In another landmark torts case, *Bourhill v Young*, Lord Thankerton observed that:

> *The English cases demonstrate how impossible it is to catalogue finally, amid the ever-varying types of human relationships, those relationships in which a duty to exercise care arises apart from contract, and each of these cases relates to its own set of circumstances, out of which it was claimed that the duty had arisen. In none of these cases were the circumstances identical with the present case as regards that which I regard as the essential element in this case, namely, the manufacturer's own action in bringing himself into direct relationship with the party injured. I have had the privilege of considering the discussion of these authorities by my noble and learned friend Lord Atkin in the judgment which he has just delivered, and I so entirely agree with it that I cannot usefully add anything to it.[37]*

This suggest that, in the context of social media platforms such as Facebook, Twitter and TikTok, a duty of care extends to the end-user of a social media 'product' and that when discharging that duty, reasonable care must be taken to protect end users from harm, including harm caused by online hate speech.

If a common law duty of care does exist between social media platforms and their users, which extends to a duty to take reasonable care to protect users from online hate speech, this could play an important role in addressing some of the short comings

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[35] Kylie Pappalardo and Nicolas Suzor, 'The Liability of Australian Online Intermediaries'. *Sydney Law Review*, 40(4) 2018, pp.469.

[36] *Donoghue v Stevenson*.

[37] *Bourhill v Young* [1943] AC 92 at 603. ('*Bourhill v Young*').

arising from the largely 'self-regulated' approach to protecting social media users currently evident in New Zealand and Australia.

Self-regulation by content hosts has become prevalent on social media platforms as demonstrated in the image below. It depicts Radio New Zealand (RNZ),[38] being a host on Facebook, self-regulating its comment section in line with its obligations under the *Harmful Digital Communications Act 2015* (NZ) ('HDCA').[39] The intention and purpose of the HDCA is to protect users from harm caused over the internet, but the legislation relies on a predominantly 'self-regulated' approach to enforcement of and compliance with safety standards by social media platforms and content hosts.

In the below example, RNZ sought to implement its responsibilities under the HDCA by adding a 'formal and visible warning on all our platforms so the public is aware of what...'[40] will occur should the lines get crossed. In addition, as a content host, RNZ initiated switching comments off on posts that had a likelihood of either abusive or harmful comments. RNZ also refers to Facebook's Community Guidelines when taking these actions, taking an active role in self-regulating its content on Facebook.[41]

Figure 2.   Diagram 2: RNZ's Comment Section on Facebook

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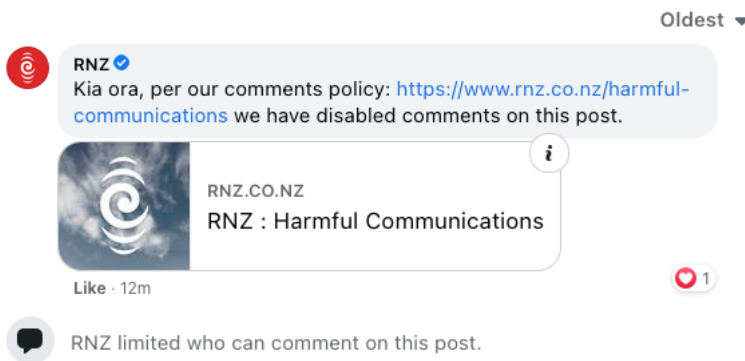
[38] Radio New Zealand (RNZ) is an independent public multimedia organisation which is also a Crown entity pursuant to the Radio New Zealand Act 1995 (NZ). See< https://www.rnz/about>.

[39] *Harmful Digital Communications Act 2015* (NZ).

[40] Radio New Zealand, '*Harmful Communications*'. Accessed at: <https://www.rnz.co.nz/harmful-communications>.

[41] Radio New Zealand, *Harmful Communications*.

As a host RNZ urges its users to contemplate the following questions prior to publishing on any of its platforms: 'Ask yourself: would this offend someone? Is it defamatory? How would you react if someone else wrote the same thing?'.[42] This could be seen as an attempt by RNZ to discharge its responsibilities under the HDCA, or alternatively, as a way of shifting the 'duty of care' from the host to the user. Either way, this example demonstrates the clear limitations on the effectiveness of self-regulation as a form of protection from online hate speech and highlights the need to consider imposing enforceable statutory obligations on key actors within the social media sphere.

A STATUTORY DUTY OF CARE ONTO SOCIAL MEDIA PLATFORMS - UNITED KINGDOM

The United Kingdom has experimented with imposing statutory duties of care on social media platforms, with mixed success. In 2019 the UK Parliament considered the Online Harm Reduction Bill which proposed a comprehensive new legal framework imposing a new statutory duty of care on social media platforms.[43] The Bill is currently on the Report Stage in Parliament as of 12th of July 2022.[44]

The Online Harm Reduction Bill features a set of safety standards and statutory duties influenced by the Health and Safety at Work Act.[45] The Bill also proposes the formation of a separate and independent body to enforce those duties, the Office of Communications ('OFCOM'),[46] which is also tasked with developing codes practice in consultation with key industry stakeholders. The proposed OFCOM aims to provide a regulatory body that can take steps to reduce this harm by enforcing a statutory duty of care that is owed to every user of online platforms, including Facebook, Instagram, Twitter and TikTok. The Bill takes a 'deliberately consultative and iterative approach in

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[42] Radio New Zealand, *Harmful Communications*.

[43] Lorna Woods, 'The duty of care in the Online Harms White Paper'. *Journal of Media Law*, 11(1), 2019, pp. 6-17.

[44] UK Parliament, 'Parliamentary Bills – Online Safety Bills'. Accessed at: <https://bills.parliament.uk/bills/3137/stages/16798>

[45] Lorna Woods, William Perrin and Maeve Walsh, 'Draft Online Harm Reduction Bill: Explanatory Memorandum', Carnegieu UK Trust. Accessed at: <https://www.carnegieuktrust.org.uk/publications/draft-online-harm-bill/>.

[46] House of Lords, Select Committee on Communications, Parliament of United Kingdom, *Regulating In A Digital World*, 2nd Report, Session 2017-19.

developing the framework'.[47] This was designed to ensure that the legislation is 'coherent, proportionate and agile in response to advances in technology'.[48]

The Online Harm Reduction Bill imposes a legal duty on social media operators equivalent to the duty imposed on an employer under the Health and Safety at Work Act, based on the 'safety by design' approach.[49] It is designed to ensure social media platforms provide safe and healthy conditions and protect their users from stress or bullying in the design of the platform.

One of the benefits of the Online Harm Reduction Bill model is that it clearly recognises that hate speech in social media is in fact a form of harm. The Bill also recognises that there is a wide spectrum of harm that can occur within the online environment and there may be a need for specific harm reduction mechanisms that protect vulnerable groups.[50] Imposing a duty of care on larger corporations such as Facebook and Instagram aims to compel these entities to identify the *harm* by way of taxonomy and to take reasonable steps to mitigate such *harms.*[51] On the other hand, while this proposed approach may provide a framework to better understand the nature of the harm caused, it has not yet delivered a clear set of prescriptive rules or standards to follow.[52] This has compelled some social media platforms to continue to ascertain and improve their responses to harm reduction within a regulatory framework better suited to other forms of nationally-controlled telecommunication services albeit voluntarily.[53]

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[47] Secretary of State of Digital, Culture, Media and Sport, *Consultation Outcome - Online Harms White Paper: Full government response to the consultation,* December 2020. Accessed at: <https://www.gov.uk/government/consultations/online-harms-white-paper/outcome/online-harms-white-paper-full-government-response>.

[48] Secretary of State of Digital, Culture, Media and Sport, *Consultation Outcome*.

[49] Secretary of State of Digital, Culture, Media and Sport, *Consultation Outcome*.

[50] William Perrin, 'Government online harms proposals reflect Carnegie UK Trust work', Linked In post, 5 January 2021. Accessed at: <https://www.linkedin.com/pulse/government-online-harms-proposals-reflect-carnegie-uk-william-perrin?trk=public_profile_article_view>.

[51] William Perrin, *Government online harms*.

[52] William Perrin, *Government online harms*.

[53] William Perrin, *Government online harms*.

Applying legislation in the form of systematic duty of care to social media platforms would provide a framework that would result in consequences if not adhered to.[54] Such a methodology would obligate social media platforms to 'review user content or exercise more control over it.'[55]

The criticism for the UK's introduction of a statutory duty of care is that when enacted, the law sets such a high threshold to satisfy provisions, that it would make it almost difficult to prosecute.[56] When prescribing content based on universal standards for example, objectionable material, the proposed law does not consider the true potential harm thereby hyper-criminalizing actions in the online environment.[57] The operation of free speech may be seriously impacted by the unclear definition of hate speech, which can cause confusion among the general public, social media platforms, OFCOM, and even prosecutors.[58]

Even though the White Paper on Online Harms emphasizes that as it is a fundamental human right to communicate, there may be a positive obligation to intervene voluntarily, in regard to free speech, to regulate online service providers to ensure that the discriminated are protected.[59] The end goal is to achieve a reduction in online harms.

In summary, the UK's approach to a statutory duty of care is plausible and can provide for an additional boost to self-regulation (social media platforms are currently practicing by way creating a conscious duty to act on illegal content). However, there is still a debatable focal point about the definition of harm; should the interpretation of harm be narrow or wide. On its own, it cannot deal with the vigour and complexities of online hate speech or the social media environment in totality.

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[54] Daphne Keller, *Broad Consequences.*

[55] Daphne Keller, *Broad Consequences.*

[56] Coe, *Pandora's Box.*

[57] Coe, *Pandora's Box.*

[58] Coe, *Pandora's Box.*

[59] Tambini, *Differentiated Duty of Care,* pp. 28-40.

A STATUTORY DUTY OF CARE ONTO SOCIAL MEDIA PLATFORMS - AUSTRALIA

Since 2010, Australian governments have raised concerns about 'potential unsavoury characters to use the internet as a vehicle for distributing pornography and material of a violent nature to young or otherwise vulnerable individuals'.[60] In March 2010, the Australian Joint Select Committee on Cyber-Safety was established to inquire into 'how young people can be empowered and connect to the Internet, and use new technologies with confidence, knowing that they can use them safely, ethically and with full awareness of risks and benefits.[61]

Responding to the 2019 Christchurch attacks in New Zealand, the Australian government passed new legislation, the Criminal Code Amendment (Sharing of Abhorrent Violent Material Act 2019), that targets ISPs for failure to notify or delete live or streaming violent content.[62] Along with this, the Australian government has implemented reforms regarding child grooming, the regulation of online gambling promotion, the introduction of civil and criminal penalties for the non-consensual sharing of intimate images, and the introduction of the code, aptly named the Australian Code of Practice on Disinformation and Misinformation (the Code), which was developed by an independent body, the Digital Industry Group (DIGI).[63]

In a joint effort to combat online harms, Google, Facebook, Twitter, TikTok and Microsoft signed on a *code* that is governed by Australian legislation.[64]

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[60] Paula Pyburne, 'Australian Governments and dilemmas in filtering the Internet: juggling freedoms against potential for harm – Parliament of Australia', Parliamentary Library, Parliament of Australia, 8 August 2014. Accessed at:
<https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1415/InternetFiltering>.

[61] Pyburne, *Australian Governments and dilemmas in filtering the Internet*.

[62] Parliament of Australia, House of Representatives Select Committee on Social Media and Online Safety, *Report: Social Media and Online Safety,* March 2022. Accessed at:
<https://parlinfo.aph.gov.au/parlInfo/download/committees/reportrep/024877/toc_pdf/SocialMediaandOnlineSafety.pdf;fileType%3Dapplication%2Fpdf>.

[63] Select Committee on Social Media and Online Safety, *Social Media and Online Safety*.

[64] Asha Barbaschow, 'Facebook, Google, Microsoft, TikTok, and Twitter adopt Aussie misinformation code', ZDNet Website. Accessed at: < https://www.zdnet.com/article/facebook-google-microsoft-tiktok-and-twitter-adopt-aussie-misinformation-code/>. See also Digital Industry Group, 'DIGI is a nonprofit industry association representing the digital industry in Australia', DIGI Website. Accessed at: <https://digi.org.au/>.

The Code sets out a policy implementation roadmap to regulate the digital environment.[65] The code was developed with principles of protection of freedom of expression where 'the Code gives special attention to international human rights as articulated within the Universal Declaration on Human Rights, including but not limited to freedom of speech'.[66]

Importantly, the Code also offers a definition of *harm* thus providing clarity on what is and what is not harmful to the public.[67] In addition, the Code takes if further by defining and differentiating *misinformation* with *disinformation.*[68] This is beneficial as it provides a clear depiction of the two in the Code. The key difference between misinformation and disinformation is the element of intention. The former being the proliferation of false information regardless of intention to cause harm while the latter, is a deliberate act.

In addition to the Code, Australia's federal parliament enacted the Online Safety Act which came into force on 21st of January 2022, to improve and promote online safety.[69] The Act furnishes existing laws pertaining to online safety making them be more expansive and stronger.[70] Amongst many changes, the Online Safety Act introduces the creation of the role of an eSafety Commissioner to act as a government regulatory agency.[71] This is the first of its kind in the world. The removal of harmful and illegal material is determined by the eSafety Commissioner who has the power to disable access.[72] In taking a holistic approach, the new Act will make it mandatory for online

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[65] Commonwealth of Australia, 'Government Response and Implementation Roadmap for the Digital Platforms Inquiry', 12 December 2019. Accessed at: <https://treasury.gov.au/publication/p2019-41708>.

[66] Commonwealth of Australia, *Government Response and Implementation Roadmap*.

[67] Digital Industry Group, 'Australian Code of Practice on Disinformation and Misinformation'. Accessed at: <https://digi.org.au/disinformation-code/>.

[68] Digital Industry Group, *Australian Code,* s3.6.

[69] *Online Safety Act 2021* (Cth) ('Online Safety Act').

[70] eSafety Commissioner, Australian Government, 'Online Safety Act 2021 Fact sheet'. Accessed at: <https://www.esafety.gov.au/sites/default/files/2021-07/Online%20Safety%20Act%20-%20Fact%20sheet.pdf>.

[71] eSafety Commissioner, Australian Government, 'Online Safety Act 2021 takes effect'. Accessed at: <https://www.esafety.gov.au/whats-on/online-safety-act>.

[72] Katharine Gelber, 'A better way to regulate online hate speech: require social media companies to bear a duty of care to users'. *The Conversation,* 14 July 2021. Accessed at: <https://theconversation.com/a-better-way-to-regulate-online-hate-speech-require-social-media-companies-to-bear-a-duty-of-care-to-users-163808>.

platforms to develop new codes. When registered, these codes will in turn make the online industry obligated to act on illegal content.[73]

The Social Media (Anti-Trolling) Bill 2022 was introduced in February to address issues following the High Court decision of *Fairfax Media Publications v Voller*.[74] The Bill essentially 'unmasks' anonymous trolls who post defamatory content on social media. If enacted, this legislation would amongst many other powers, impose liability onto social media platforms by deeming them to be publishers.[75]

However, much of the success of the Australian approach depends upon active compliance by social media publishers. To this end, the Social Media (Anti-Trolling) Bill 2022 may hold important advantages as it aims to eliminate social media networks' ability to assert the innocent distribution defence concerning potentially defamatory content posted by Australian users.[76]

NEW ZEALAND

In New Zealand there are no laws explicitly targeting online hate speech. However, there are a range of other existing laws that have the potential to address some of the harm caused by online hate speech. These include important laws protecting the human rights of New Zealanders, such as the *Bill of Rights Act 1990* (NZ) and *Human Rights Act 1993* (NZ). These laws make it clear that the right to racial equality is protected by law. There are also laws designed to regulate the content of digital communications, such as the *Harmful Digital Communications Act 2015* (NZ) and the *Broadcasting Act 1989* (NZ), both of which aim to put in place standards that reflect

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[73] eSafety Commissioner, *Online Safety Act 2021 takes effect*.

[74] *Media Publications v Voller* [2021] HCA 27. See also Parliament of Australia, House of Representatives, Explanatory Memorandum, Social Media (Anti-Trolling) Bill 2022 (Cth). Accessed at: <https://parlinfo.aph.gov.au/parlInfo/download/legislation/ems/r6831_ems_d8a044e1-2ac3-4f15-b90a-7cf5d57b4b2e/upload_pdf/JC004985.pdf;fileType=application%2Fpdf>.

[75] Explanatory Memorandum, Social Media (Anti-Trolling) Bill 2022 (Cth). It should be noted that this Bill lapsed with the proroguing of the Australian Parliament in April 2022.

[76] Business Standard, 'Australia's social media anti-trolling bill raises alarm for tech giants', *Business Standard,* 7 March 2022. Accessed at: <https://www.business-standard.com/article/international/australia-s-social-media-anti-trolling-bill-raises-alarm-for-tech-giants-122030700244_1.html>.

community expectations; however in both cases, the enforcement of these laws has proven insufficient to give rise to effective protection against online hate speech.

As was highlighted in the Christchurch Call, at the Global Internet Forum to Counter Terrorism in Paris, France, that there is a need to take further steps to avoid online harm which include imposing a duty of care onto social media platforms.[77] According to the Helen Clarke Foundation, social media businesses need to invest in and take reasonable steps to prevent harm. This should include strengthening technology-based responses to online hate speech and/or changing their terms of service. The Foundation also recommends the establishment of a regulatory agency to oversee and monitor these social media businesses and impose penalties if they do not take positive action on harm prevention.[78] This regulatory agency should be independent to ensure that compliance of the duty of care are fulfilled by social media platforms.[79] In addition, the Foundation recommends that a suit of powers be bestowed onto this independent regulator for breach of such a duty, including the imposition of substantial fines and personal liability on individual members of senior management.[80]

Royal Commission *Inquiry into The Terrorist Attack on the Muslim Community in Christchurch* established a total of 48 recommendations and on the matter of online hate speech, the recommendations set out improvements to the current legislation.[81] There are existing criminal sanctions for incitement of disharmony on racial grounds. Still, there are no similar protections for hate speech arising from different opinions with regard to religious belief, disability, sexual orientation, or gender identity.[82] The Royal Commission proposes the inclusion of religion, gender, sexuality and disability in

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[77] Claire Mason and Kathy Errington, 'Anti-social media: reducing the spread of harm content on social media networks', *Helen Clark Foundation,* 14 May 2019. Accessed at: <https://helenclark.foundation/publications-and-media/anti-social-media/>.

[78] Masson and Errington, *Anti-social media*.

[79] Masson and Errington, *Anti-social media*.

[80] Masson and Errington, *Anti-social media*.

[81] Royal Commission, *Royal Commission of Inquiry into The Terrorist Attack on Christchurch Mosques on 15 March 2019,* New Zealand, 8 March 2022.

[82] David Seymour and Andrew Little, 'Freedom of speech: Do we need to update our Human Rights Act?', *Stuff New Zealand,* 28 June 2019. Accessed at: <https://www.stuff.co.nz/national/politics/opinion/113785976/freedom-of-speech-do-we-need-to-update-our-human-rights-act>.

the protected characteristics, therefore, providing broader protection against wider discriminated groups; adding that the Human Rights Act 1993 should express that 'trans, gender diverse, and intersex people are protected from discrimination.'[83] The hope is to bring about change and reform to the existing framework to include specific groups of people into 'protected categories' in the Act. The Royal Commission of Inquiry further proposes improvements to legislations including the *Human Rights Act 1993* and the *Crimes Act 1961*, to name a few; making these laws fit for purpose by recommending amending legislation to create hate-motivated offences.[84] The recommendations have not been executed by the government; however, it is on its manifesto to ensure that hate speech laws are extended to include more vulnerable groups.[85]

Netsafe, a non-profit organisation that collaborates with the New Zealand government on online safety issues such as education and research, works closely with the Ministry of Justice to provide the public and organisations with information on online safety guidelines and strategies. In addition, Netsafe provides the public with a reporting infrastructure on issues relating to fraud, privacy breaches, online trading complaints, online harassment or bullying and abuse.[86] At present, Netsafe has been developing a voluntary industry code, *Aotearoa New Zealand Code of Practice for Online Safety and Harms*.[87] This Code will establish a self-regulatory framework for the digital industry. Its development is based on a code of practices from other jurisdictions such as the European Union, the United Kingdom and Australia.

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[83] Ministry of Justice, New Zealand, 'Proposal against incitement of hatred and discrimination'. Accessed at: <https://www.justice.govt.nz/assets/Documents/Publications/Incitement-Discussion-Document.pdf>.

[84] R*oyal Commission of Inquiry Into The Terrorist Attack On Christchurch Mosques*, Part 10- Recommendations.

[85] Labour 2020 'Our Manifesto To Keep New Zealand Moving'. Accessed at: <https://www.labour.org.nz/policy>.

[86] Netsafe Report, 'Netsafe – Providing free online safety advice in New Zealand'. Accessed at: <https://www.netsafe.org.nz/reportanincident/>

[87] Netsafe 'Aotearoa New Zealand Code of Practice for Online Safety and Harms draft - Netsafe – Providing free online safety advice in New Zealand'. Accessed at: <https://www.netsafe.org.nz/aotearoa-new-zealand-code-of-practice-for-online-safety-and-harms-draft/>.

CONCLUSION

The above comparative analysis suggests that if lawmakers and the broader community are serious about addressing the harm caused by online hate speech, it is critical that we design legislative responses with care.

Statutory models that draw upon common law duties of care owed between manufactures and consumers can be instructive, particularly when used in conjunction with self-regulatory models.[88] The normative impact of these laws can also be enhanced by explicitly describing the nature of harm that can be caused in an online environment, but only if coupled with specific, enforceable statutory rules or standards that set out 'specific targets or quantifiable objectives, (sic) a broader definition of its values and protected groups of individuals'.[89]

In light of the tragedy of the Christchurch Call, New Zealand needs to develop and introduce a statutory duty of care framework to combat online harm. A holistic approach to tackle online harms should be considered, drawing inspiration from the United Kingdom and Australia. Only by adopting an explicit legislative response to online hate speech can lawmakers feel confident that they are taking protective measures on behalf of consumers of social media products.

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[88] Netsafe, *Aotearoa Code of Practice*.

[89] Tambini, *Differentiated Duty of Care.* p.33.

Book Reviews

The Secret, by Alexandra Smith. Pan Macmillan Australia, 2022, pp 262 RRP $36.99, ISBN: 9781761260742.

David Clune[1]

Honorary Associate, Department of Government and International Relations, University of Sydney

The *Sydney Morning Herald*'s Alexandra Smith is one of the most impressive journalists covering NSW politics in quite a while. She has now taken on the challenging task of a biography of Gladys Berejiklian, NSW Premier from 2017-21.

Berejiklian's parents were Armenian migrants who met and married in Australia in the 1960s, part of the global diaspora resulting from the Turkish genocide against Armenians in 1915. Her father was a welder and her mother a nurse. The family lived an unassuming life in middle class North Ryde in suburban Sydney. The Armenian community was close-knit, placing much store on tradition, values, family, and religion. Berejiklian imbibed all this, and it helps to explain her strong regard for personal privacy and self-contained inwardness. As a child, she was obviously bright, ultra-competitive, stubbornly determined, and not backward in saying what she thought, all life-long attributes.

Berejiklian attended the far from affluent Peter Board High in North Ryde where she distinguished herself academically and was School Captain. Smith comments:

> *She worked hard, learned to be self-disciplined, and, crucially, was forced out of her comfort zone and the over protectiveness of her tight-knit family.*[2]

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[2] Alexandra Smith, *The Secret*. Sydney: Pan Macmillan Australia, 2022, p. 33

Enrolling in an Arts degree at Sydney University in 1989, Berejiklian subsequently completed a Graduate Diploma in International Studies and a Master of Commerce at the University of New South Wales.

Always interested in public affairs, Berejiklian joined the Liberal Party in 1991. She was associated with the left faction in the Young Liberals and in 1996 organised one of the first protests against Pauline Hanson's racist rhetoric. Throughout her career, Berejiklian was committed to LGBTQ rights, anti-discrimination, and the advancement of women – although in the last instance she stated she did not want to 'be remembered for playing the gender card'.[3]

Berejiklian's factional colleagues could see she had potential with her ability, work ethic, gender, and ethnic background. After polishing up her dour, suburban image, they backed her for Young Liberal President in 1996, a contest she won. Berejiklian worked for Peter Collins, the Liberal MP for Willoughby, an electorate with a high Armenian population, for five years. She then gained experience in the commercial sector with the Commonwealth Bank.

When Collins decided to retire at the 2003 election, Berejklian won the Liberal preselection to succeed him. Things turned ugly when a substantial section of the local Liberal Party, unhappy with Berejiklian's candidacy, backed the popular Mayor of Willoughby, the convivial ex-Elvis impersonator Pat Reilly, who ran as an independent. She scraped in by 144 votes, a margin she greatly increased at the next election.

In the Parliamentary Liberal Party, Berejiklian's talent and drive led to quick promotion to the shadow ministry. Barry O'Farrell, Opposition Leader from 2004, became an important patron and friend, appointing Berejiklian to the key shadow transport portfolio. When O'Farrell won a landslide victory in 2011, she became Transport Minister, proving to be one of the new Premiers most capable ministers. According to Smith, 'Berejiklian hit the ground running the moment she left Government House after being sworn in … Her staff say she did not stop for the next four years'.[4]

In April 2014, at an Independent Commission Against Corruption (ICAC) hearing, O'Farrell denied he had received an expensive bottle of wine as a gift. Evidence quickly emerged that his normally excellent memory had betrayed him, and he had. O'Farrell

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[3] Smith, *The Secret*, p. 161.

[4] Smith, *The Secret*, p. 68.

called Berejiklian to say he was resigning and urged her to run, which she decided to do. The other leading contender was Treasurer Mike Baird, a good friend of Berejiklian's. Smith claims that Berejiklian had the numbers. However, she unexpectedly withdrew from the race, partly, it seems, because of friendship, partly because Baird was more acceptable to the Liberal right. Interestingly, Smith speculates that there may have been a secret deal where Baird promised to serve three years and then make way for Berejiklian.[5]

Baird proved to be a very popular Premier. However, two disastrous decisions undermined his standing: local government amalgamations and the banning of greyhound racing, the latter soon abandoned. Baird quickly went from being 'Magic Mike' to 'Nigel No Friends'. In January 2017 he resigned and was succeeded unopposed by Berejiklian.

Smith does not devote enough attention, barely a page, to Berejiklian's success in establishing herself as Premier and reviving the Government's fortunes. Wisely, she did not try to create a false, extroverted persona but relied on her positive image as a 'safe pair of hands'. Lacking the charisma of her predecessor, she had to convince the voters that she was trustworthy, competent and sensitive to their needs. She also had to stabilise the Government and show that it still had purpose and dynamism. The Government's re-election in March 2019 showed that she was extremely successful in meeting these challenges.

Smith gives interesting insights into Berejiklian's work habits as Premier:

> *Berejiklian's defining characteristics as a boss were her commitment to the trusted few in her inner circle and her insistence on micro-managing … Nonetheless, her office ran like a well-oiled machine, and her staff said Berejiklian signed off on all correspondence in her in-tray regardless of how insignificant it was … Staff would fill her in-tray with briefs at the end of the day, and she would work back in the office until she had worked her way through them all … Berejiklian*

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[5] Smith, *The Secret*, pp. 77-79.

was renowned for her frenetic energy, her ability to exist on very little sleep, and her supreme organisational skills.[6]

For the last years of her term, Berejiklian was preoccupied with crisis management: the catastrophic 2019-2020 bushfires and the COVID pandemic. Smith says of the latter that Berejiklian was 'lauded in Federal politics and business as the leader who kept the country afloat during its darkest hour outside wartime'.[7] This is an exaggeration of the significance of her role. However, she emerged from both crises with enhanced prestige. Berejiklian displayed leadership and resilience in adapting to changing circumstances. Importantly, she was able to communicate to ordinary citizens a sense of steadiness and purpose that gave them confidence to see the tough times through.

Two of Berejiklian's strongest character traits, obsessive secrecy and stubbornness, contributed to the end of her political career. ICAC was investigating the activities of disgraced former Liberal MP for Wagga, Daryl Maguire. Berejiklian appeared as a witness on 12 October 2020. In an astonishing disclosure, the Premier admitted she had been in a 'close personal relationship' with Maguire from 2015 which had only recently ended. Previously, the public perception of the private Berejiklian was that of a rather prim career woman wedded to her job.

On 1 October 2021, ICAC announced it was expanding the scope of its investigation into Maguire to include Berejiklian. Realising her position had become unsustainable, she resigned as Premier the same day. Key lines of inquiry concerned whether Berejiklian had breached the ICAC legislation by failing to report corrupt behaviour by Maguire and whether she should have disclosed the relationship under the Ministerial Code of Conduct. The subsequent evidence at the ICAC public hearings did not look good for her.

Smith handles the ICAC hearings well, making it clear how excruciating it must have been for someone as private as Berejiklian to have her personal life exposed in public. Yet the former Premier did not help herself. At the cost of some short-term personal humiliation, she could have declared the relationship and still been in office. Instead of stubbornly denying any impropriety, Berejiklian would have been wiser to take a more conciliatory line before ICAC, perhaps even admitting she had acted wrongly.

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[6] Smith, *The Secret*, pp. 221-23.

[7] Smith, *The Secret*, p. 181.

The Secret is a welcome contribution to the literature on NSW politics – although it is unfortunately flawed by the lack of refences and an index. It is a readable, well-researched book that gives new insights into Berejiklian and her time in office. Although Berejiklian did not co-operate, believing the book would be a 'political hit job', it is a fair and balanced account of the career of 'a hugely talented woman who, like the rest of us, is flawed'.[8]

[8] Smith, *The Secret*, p. 261.

Resource Attachment

New Options for Parliamentary Committees*

The newDemocracy Foundation

Options Paper independently produced at the request of the Speaker of the NSW Legislative Assembly[1]

Abstract: Parliamentary Committees are the backbone of our Parliament. They scrutinise problems and policy as MPs on these committees develop expertise in their particular subject areas, bringing an informed view to the consideration of legislation. At their best, they showcase elected representatives from all sides working together on the in-depth exploration of issues and the bi-partisan development of sound recommendations on challenging issues. They are the part of the Parliament we should most want citizens to see, yet they are the part least visible. The community's expectations about the kind of participation they have with their decision-makers has changed. Citizens are less trusting of Government and are now more engaged on issues that affect them and their community. They now expect to be involved in a range of ways that allow them to contribute to decisions that impact them. This enthusiasm can be productive as long as we can provide a format that is grounded in evidence and considered conversation.

These developments raise three basic but connected problems: (1) there are a wide range of views in the community, often all wanting different outcomes; (2) everyday people, without the time or incentives to read widely, lack the technical competence to make judgments about what policy decisions will have what impact: and (3) the people who do contribute to community meetings or are invited to give evidence at parliamentary inquiries are, more often than not, not very representative of the wider community.

These challenges are interlinked and pose an ongoing problem for our committee inquiries if not directly addressed. As they stand, they risk leaving the impression that

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parliament does not reflect what everyday people view as fair, further eroding trust in members and our institutions. This paper introduces to Committee Chairs a new set of inquiry elements, made available to the NSW Parliament's Committees, to address emerging challenges using deliberative processes. These methods combine democratic lotteries that select a representative mix of everyday people with deliberative exercises that help them listen, weigh expert testimony, apply critical thinking, understand biases, have honest conversations, and find common ground.

June 2021

newDEMOCRACY

New Options For
Parliamentary Committees

"Deliberative democracy is *'Democracy when people are thinking under good conditions'.* They are offering reasons, listening to the reasons offered by others, listening to the evidence and coming to considered judgments. It is democracy at its best and we need nothing less."

PROF JAMES FISHKIN

The Center for Deliberative Democracy,
Stanford University

In September 2019, I was part of a bi-partisan NSW Parliament delegation that participated in a seminar workshop on democratic innovations from around Europe. This paper, and the ideas and proposals it presents is a result of what was learned on that trip.

It is fair to say that some of us approached the trip as sceptics: genuine innovations in democracy are often more theoretical than practical. Yet as we learned more from global leaders, I noted genuine interest from the cross-party group and the Clerk of the Legislative Assembly who was also part of the delegation. The broad agreement among the group was a catalyst for us to look more closely at where innovations could best be applied.

The delegation was struck by the case study examples of the application of "Citizens' Jury" style projects, particularly in Ireland. We saw that highly complex and politically fraught topics were handled more substantively by the considered application of juries of citizens being given a significant and meaningful democratic opportunity in a format that assisted the elected representatives.

What follows is a result of what we learned there. As we enjoy one of the world's most stable and effective democracies, I am mindful that changes must be approached with genuine caution. Equally, we are all aware of threats to democracy around the world and making efforts to strengthen our democracy is an appropriate priority for this Parliament.

With the philanthropic support of the newDemocracy Foundation we have the capacity to run a project applying the methodology proposed here. As a previous Chair of the Public Accounts Committee that tested such an approach, I can recommend it for the right project. Should a Chair and the members of a Committee identify an issue that they would like to consider for this approach then I encourage you to pursue it.

Yours sincerely,

Jonathan O'Dea
Speaker of the Legislative Assembly

01

What is the problem that needs to be solved?

**Parliamentary Committees are
the backbone of our Parliament.**

They scrutinise problems and policy as MPs on these committees develop an expertise in their particular subject areas, bringing an informed view to the consideration of legislation.

At their best, they showcase elected representatives from all sides working together on the in-depth exploration of issues and the bi-partisan development of sound recommendations on challenging issues.

**They are the part of the Parliament
we should most want citizens to see,
yet they are the part least visible.**

The committees can be hindered by limited community engagement that makes them opaque to members of the public while also drawing heavily on active special interest groups as the primary focus for their evidence.

This can leave Committee members wondering what the views of everyday citizens would be if they were exposed to the same evidence being reviewed by MPs.

The community's expectations about the kind of participation they have with their decision makers has changed. Citizens are less trusting of Government and are now more engaged on issues that affect them and their community. They now expect to be involved in a range of ways that allow them to contribute to decisions that impact them. This enthusiasm can be productive as long as we can provide a format that is grounded in evidence and considered conversation.

These developments raise three basic but connected problems:

- There are a wide range of views in the community, often all wanting different outcomes.
- Everyday people, without the time or incentives to read widely, lack the technical competence to make judgments about what policy decisions will have what impact.
- The people who do contribute to community meetings or are invited to give evidence at parliamentary inquiries are, more often than not, not very representative of the wider community.

These challenges are interlinked and pose an ongoing problem for our committee inquiries if not directly addressed. As they stand, they risk leaving the impression that parliament does not reflect what everyday people view as fair, further eroding trust in members and our institutions.

This paper introduces to Committee Chairs a new set of inquiry elements, made available to the NSW Parliament's Committees, to address emerging challenges using **deliberative processes**.

These methods combine democratic lotteries that select a representative mix of everyday people with deliberative exercises that help them listen, weigh expert testimony, apply critical thinking, understand biases, have honest conversations, and find common ground.

Three different process options are offered to cover a range of common situations that Chairs find when exploring an issue, such as:

01. The public submissions are mostly composed of active special interest groups, and the Chair and members would like the additional input of a view from everyday community members on additional sources of information and questions they want answered.

02. The issue being considered is contentious, controversial or very polarised, and the Chair and members would like to involve an informed group of everyday people to discover where they can find a balance on public proposals.

03. The issue being explored is very contentious or involves significant trade-offs, and the Chair and members would like to see how citizens would answer the question. This involves having everyday citizens identify and explain critical trade-offs with the aim of increasing public trust in potentially controversial recommendations.

Each of these 3 processes will provide a genuine and meaningful role for citizens while:

a. Ensuring that their work is complementary and fully integrated to the Committee's process, and not something occurring 'outside' or in parallel.

b. Continuing the Committee Chair's clear and visible role as the primary decision maker.

c. Being mindful that bringing non-MPs into the Committee process must not create incentives or opportunities for 'lobbying' of the group.

Any changes that are made to the inquiry process to involve the wider community must meet these key outcomes:

i. The people we include in our inquiry processes are genuinely representative of the wider community.

ii. We provide a transparent and fair opportunity for these people to meaningfully contribute to outcomes.

iii. The people we involve in the process become public champions of the innovations we make.

An answer to these problems that has been proven to meet these outcomes is the increasing use of **deliberative engagement practices** around the world. Deliberative methods, whether used here in Australia or overseas in Ireland, improve transparency and policy making by bringing the perspectives of everyday people, their knowledge and their skills to Parliament. They come recommended by the United Nations Democracy Fund (UNDEF) and The Organisation for Economic Co-operation and Development (OECD), who in 2020 published a report noting a 'Deliberative Wave' with over 750 projects in OECD nations assessed.

Parliamentary committees are already deliberative in nature – taking time to consider a range of sources and perspectives and aiming for a considered common ground response to a complex problem. This means that integrating a role for deliberative citizens' process is natural and straightforward.

The aim of the three processes offered is to bring together a group of people from all walks of life:

- By age, background, job type, where they live

- Enable them to understand the complexity of an issue and offer an informed common ground view to Committee members. This will provide a new source missing from parliamentary work today.

02

Why is deliberation different?

Across the globe, public authorities are increasingly using representative deliberative processes to involve citizens more directly in solving some of the most pressing policy challenges.

Drawing on the evidence collected by the OECD and existing research in the field of deliberative democracy, there are five key reasons why representative deliberative processes can help lead to better public decisions and enhance trust:

01. Better policy outcomes because deliberation results in considered public judgements rather than public opinions.

Most public participation exercises are not designed to be representative nor collaborative. Consequently, they can be adversarial – a chance to air grievances rather than find solutions or common ground. Deliberative processes create the spaces for learning, deliberation, and the development of informed recommendations, which are of greater use to policy and decision makers.

02. Greater legitimacy to make hard choices.

These processes help policy makers to better understand public priorities, and the values and reasons behind them, and to identify where consensus is and is not feasible. Evidence suggests[1] that they are particularly useful in situations where there is a need to overcome political deadlock.

03. Enhance public trust in government and democratic institutions by giving citizens an effective role in public decision making.

People are more likely to trust a decision that has been influenced by ordinary people than one made solely by government. Committee Chairs and members can also demonstrate to citizens the difficulty of taking collective decisions and improve the public awareness of parliamentary process.

04. Make governance more inclusive by opening the door to a much more diverse group of people.

Deliberative processes, with their use of random selection and stratified sampling, bring in people who typically would not contribute to a parliamentary inquiry including people who are disengaged with politics, but also women, young people and minority voices into public policy and decision making.

05. Help counteract polarisation and disinformation.

Empirical research[2] has shown that echo chambers that focus on culture, identity reaffirmation, and polarisation do not survive in deliberative conditions, even in groups of like-minded people.

[1] Grönlund, Kimmo, Kaisa Herne and Maija Setälä (2015), "Does Enclave Deliberation Polarize Opinions?", Political Behaviour 37: 995-1020

[2] Ugarizza, J.E., Didier Caluawerts (2014), Democratic Deliberation in Deeply Divided Societies: From Conflict to Common Ground, London: Palgrave Macmillan

It is difficult for large groups of people to find agreement on complex decisions. The OECD recommends a set of principles that make group decision-making easier. These principles improve the deliberative quality of group work by creating the environment for the consideration of the broadest range of sources while giving participants time, an equal share of voice and authority.

These seven principles underpin the three options presented in this document:

01.

A clear remit:

A clear, plain-language challenge or question should be asked of the group. It should be a neutrally phrased question that explains the task, shares the problem and provides a strong platform for discussion about priorities and trade-offs. The question will determine the scope of the process, setting the boundaries for what the group is considering.

02.

Diverse information:

Participants should have access to a wide range of transparently sourced, relevant, and accessible evidence and expertise, and have the ability to request additional information. Detailed, in-depth information is provided to the participants to help them understand the dilemmas. Not all participants read everything, but collectively an enormous amount is read, understood and shared in the conversations and decisions. Citizens will also spend extensive time asking questions and identifying sources **they** trust for the information they need. Rather than filter, citizens are primed in critical thinking and unconscious biases.

03.
Democratic lottery:

A stratified random sample of the community is recruited through a democratic lottery. Simple demographic filters (age, gender, education, location) are used to help stratify this sample to reflect the entire population. Most engagement by government does not enable a representative cross-section of the community to be heard, instead incentives to participate are often geared to those with the most acute interest. The combination of random selection and a meaningful opportunity to influence a decision attracts people from all walks of life. This is common to all three processes.

04.
Adequate time:

These processes develop participants' thinking on a complex issue by giving them multiple opportunities to question experts, learn from one another and find agreement on trusted sources of information. As deliberation requires adequate time for participants to learn, weigh evidence, and develop collective recommendations, the more time they are provided, the more thorough their consideration of the issue.

The options presented in this document vary in the time they provide to participants. **To balance this,** Options A and B limit the scope of the questions they ask of participants. This allows those participants to focus their time on a specific aspect of the deliberation rather than attempt to inadequately cover everything in a reduced schedule.

05.
Influence:

It is important to be clear what impact the work of everyday citizens will have. The Chair should publicly commit to responding to or acting on recommendations in a timely manner. A meaningful opportunity to influence a decision must be demonstrated to participants before they commit their time.

For example:
i.   If they recommend sources for the inquiry to consider, will you commit to hear from each of them?
ii. Or, if they want specific questions to be answered, will you commit to answering them in your work?

06.
Dialogue and deliberation, not debate:

Group deliberation entails finding common ground; this requires careful and active listening, weighing and considering multiple perspectives, every participant having an opportunity to speak, a mix of formats, and *skilled facilitation*. The task for the group is to find common ground on answers to the question, this emphasises the avoidance of simple majorities and challenges them with finding where they can agree.

07.
A free response:

A group is not being asked to (critically) review a government or parliamentary reform proposal, so in this way the task is not framed negatively and does not seek to find gaps. They should be given a 'blank page' to provide their own response to their given remit (which is where any constraints or limits can be set by the Chair) with a rationale and supporting evidence that emerges from their shared learning.

03

Concept overview

This document provides options for Committee Chairs to improve committee inquiries and their outcomes by utilising a complementary role for everyday citizens.

The three options in this document are applications of the OECD's *"Good Practice Principles for Deliberative Processes for Public Decision Making"*. This ensures they're designed to achieve both high quality deliberation and results that are the most useful for everyone involved: The Chair, Committee Members, Participants and the wider Public.

To guarantee that assurance, we will seek **sign off on final operating designs from the OECD** to ensure they meet international best practice.

Each option includes a group comprised of 42 people from around New South Wales chosen through a democratic lottery open to everyone.

This lottery process begins with invitations sent randomly to homes throughout NSW, recipients who are available to participate register their interest and are chosen through a stratified random selection that matches the make-up of the group to the census profile of the state (by age, gender, education and geography). This ensures that while not everyone can be a member of the group, everyone has the opportunity, and everyone will see someone like them ultimately chosen.

Up to eight members of the Inquiry are chosen to accompany the jury (how and who are determined by the Chair).

OECD, 2020 *"Good Practice Principles for Deliberative Processes for Public Decision Making."*

Options for Chairs of Parliamentary Committees

These are three options for adding a citizen process to give Committees access to a common-ground view from an informed pool of randomly-selected citizens.

Use a hiker's map!

I'd ask an ophiologist!

Option A:

Add considered input from citizens

The public submissions are mostly composed of active special interest groups, and the Chair and members would like the *additional input* of a view from everyday community members on **additional sources** of information and **questions** they want answered.

Option C:

A Citizens' Jury in partnership with the Inquiry

The issue being explored is very contentious or involves significant trade-offs, and the Chair and members would like to see **how citizens would answer the question** and have this as an input in their deliberations - with a chance to include elements in their final report. This involves having everyday citizens identify and explain critical trade-offs with the aim of increasing public trust in potentially controversial recommendations.

Option B:

Finding a balance of submissions

The issue being considered is contentious, controversial or very polarised, and the Chair and members would like to involve an informed group of everyday people to discover where they can **find a balance** on public submissions.

Option A:

Considered input from citizens

This option presents a simplified addition to the inquiry process. It is drawn from the initial aspect of a longer deliberative process where agreement is found on what participants need to know and who they trust to inform them, **recognising that insistent and invited sources are often different.**

The panel will meet twice in Sydney over two weekends, MPs participating in the process are present for the morning of Day 1. Participants are selected through a democratic lottery and begin their learning by reading summary materials from Parliamentary Staff and the Terms of Reference of the inquiry.

On Day 1, MPs are invited to share their perspectives on the inquiry topic, helping explain the task and share the problem with citizens. The aim of Day 1 is to explore the topic and find a shared understanding of the issues at hand across all the members of the group. The citizens begin the process with standard deliberation induction activities that introduce critical thinking, unconscious biases and the skills they will need to work together cohesively.

Problem:

The public submissions are mostly composed of active special interest groups, and the Chair and members would like the *additional* input of a view from everyday community members on additional sources of information and questions they want answered.

Solution:

MPs work alongside randomly selected citizens in an opening 90 minute session in the first of two meetings over two weekends where those everyday people will assist by developing a short report that outlines the experts, information and questions citizens would like the committee to consider in order to feel greater assurance it made an informed decision on the issue.

MPs then participate in an exercise called "speed dialogue" where each MP spends a short amount of time with a group of five or six participants before rotating one by one through each group. **This practice allows MPs plenty of parallel time in small conversations with participants, maximising everyone's time and the depth of their interactions.** The aim of this exercise is to *help participants improve the quality of their own questioning* with the added insight from elected members. The group then hears from expert speakers in speed dialogue. They end the day working in small groups to explore what they think are the key questions for the inquiry before agreeing gaps in their knowledge and a list of expert speakers they trust to inform them on Day 2.

On Day 2, citizens hear from the speakers they requested, in speed dialogue which in turn will stimulate their understanding for further questions and areas of expertise they wish to see addressed by the Inquiry. They spend the rest of the process working in small groups, first discussing the information and materials they've covered so far, and then drafting their short report. The process concludes with citizens finding agreement on key experts and sources of information the group agrees the committee ought to hear from for their inquiry to be balanced and trusted. The report will also include a suite of guiding questions and issues they think the inquiry needs to address.
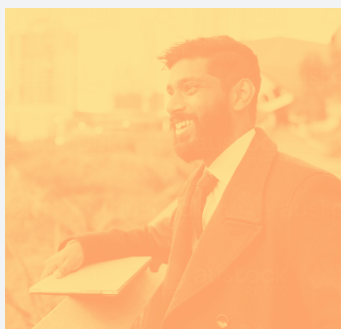
Option B:

Balance of submissions

This option is the bulk of a longer deliberative process where participants learn critical thinking skills, agree on what they need to know and who they trust to inform them, before finalising their work into recommendations with supporting criteria and reasoning. This recognises that finding a balance between public submissions benefits from **exploring the difference between people's five-minute view and their twenty-hour view.**

The jury will meet four times in Sydney over four weekends. There are options available to the Chair to involve MPs in each day. These options are balanced to ensure MP participation is fair and complementary. **This process focuses on having participants read the public submissions** (either prior or during: either can be accommodated) then builds on the elements from Option A: participants are randomly selected and spend the first half of the process learning and investigating the issue facing the inquiry. This involves hearing from expert witnesses, assessing their own information gaps and requesting additional speakers.

Problem:

The issue being considered is contentious, controversial or very polarised, and the Chair and members would like to involve an informed group of everyday people to discover where they can find a balance among public proposals.

Solution:

MPs work alongside randomly selected citizens at up to four meetings over four weekends to reach agreement on where a balance can be struck between expert proposals, providing a report supported by their reasoning and evaluation criteria.

This option allows participants to explore the topic more deeply by affording them additional time. Day 2 and Day 3 involve participants honing their knowledge base, finding agreement around key themes and beginning to develop their own evaluation criteria with which they will judge public submissions. These criteria will reflect the priorities and principles the group can agree on, providing insight into the outcomes an informed mix of the community can agree on.

The final day sees MPs and citizens working together to assess public proposals and co-author a short report to the committee that documents the public proposals the group found had common ground support, and the evaluation criteria the group used to reach this agreement.

There is a variation on Option B that shifts the process entirely online. This approach would reduce travel, catering and venue costs while adding some further facilitation and support costs. The aim of this variation is to lower the cost barrier while retaining the deeper deliberation of Option B. It would involve a reduction in the depth of the relationship participants build with MPs and the public-facing experience of everyday people working with MPs in Parliament.
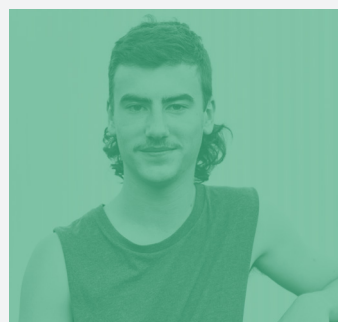
Option C:

A Citizens' Jury in partnership with the Inquiry

This option takes citizens and Members of Parliament through a long-form deliberative process. This is the **international gold standard for deliberative processes**, recommended by the OECD and supported by the United Nations Democracy Fund.

A jury finds agreement on recommendations that answer their given remit after they have settled on who they trust to inform them, agreed on key themes and priorities and have developed evaluation criteria for which they use to judge expert, Government and their own proposals.

The jury will meet for six full days in Sydney where participants and MPs complete a long-form process that builds on the elements of Options A and B while giving citizens more time to consider the issue in even more depth. It covers critical thinking, learning about the topic, hearing from expert speakers, requesting `additional speakers, agreeing on priorities and getting feedback from government and non-government experts before finding common ground on a set of final recommendations to the Chair.

Problem:

The issue being explored is very contentious or involves significant trade-offs, and the Chair and members would like to see how citizens would *answer the question*. This involves having everyday citizens *identify and explain critical trade-offs* with the aim of *increasing public trust* in potentially controversial recommendations.

Solution:

MPs work alongside randomly selected citizens in a citizens' jury process at six meetings over several weekends to find common ground on recommendations that answer the remit asked of them by the Chair.

At the end, a representative mix of everyday people will stand alongside Members of Parliament supporting the recommendations included in the report. They'll be able to publicly explain their reasoning and rationale for taking difficult trade-offs and offer the evidence they used to support these decisions.

Including this method of public input into Parliamentary Inquiries would add the New South Wales Parliament to the growing list of international parliaments institutionalising deliberative elements in their committee processes. These include the Belgian, Scottish and UK Parliaments, all of which have successfully included long-form deliberations into complex inquiry processes on COVID-19, Climate Change, the future of Primary Care, and Land Management and the Natural Environment.
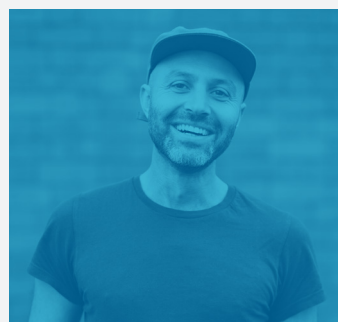
The above options are each distinguished by their set task. Each option has a varying measure of information, time and deliberation. Each will make a valuable contribution to the inquiry process by adding a role for everyday people, providing a substantive contribution to the depth and breadth of the public consideration of a complex issue.

Project outcomes

The lasting outcomes these options will deliver are:

01.

A **diverse group of everyday people** who have been given the opportunity to work alongside a Parliamentary Inquiry and contribute to its outcome.

02.

They **will work with Members of Parliament** to reach these final recommendations, showing people the work of an MP beyond what they traditionally see.

03.

Ultimately, everyday people from all over the State will see people like them involved in calm and sober conversation with MPs on complicated and controversial issues. This demonstrates the capacity for MPs and randomly selected citizens to work together in a complementary manner.

04.

Greater public understanding and trust in how NSW Parliament works for them.

05.

The **New South Wales Parliament sets the standard for public engagement in the committee process** within Australia and joins the growing list of international parliaments institutionalising deliberative elements in their committee processes.

04 Roles of the Members of the Committees chosen to participate by the Chair

The Chair will be the visible public owner of the project and they are responsible for choosing which MPs will participate as part of the deliberations.

MPs are required to attend meetings with citizens at Parliament House and participate as an equal part of a conversation with citizens.

Option A

requires MPs for a single morning (approximately 2-3 hours) where they play an informative role that contextualises the inquiry and lays the foundation for the citizens' work.

Option B + **Option C**

ask MPs to join citizens as an equal in part of a longer deliberative process that concludes in the group finding common ground on recommendations to the Committee. This involves MPs being familiar with the reference materials, background information and expert submissions provided to all participants. In the room they will participate in exercises that focus on small group discussions, listening and interrogating expert witnesses and working with citizens as an equal to reach an agreement on final recommendations.

It's important that MPs share their experience in the process with the public. Carefully explaining the process and its role in the inquiry will contribute to public awareness of the process and build trust in the decisions that result from it.

MPs that aren't a part of the process should be encouraged to come and observe the process. Seeing the mix of people in the room and the diligence with which they approach their task can contribute to institutional support for the outcomes of a process by developing understanding.

Operating summary: What happens each day

Project Outline

WEEK 1 | DAY 1

Option A
Option B
Option C

Activities:

- Introductions: Agenda, Purpose, Process
  — Chair, Facilitators, MPs participating, meeting one another
- Understanding the task: the question and our authority
- Skills: Critical thinking, unconscious biases, working as a group
- Hearing from MPs: speed dialogue
- Hearing from expert speakers: speed dialogue
- Small group discussions: insights from speakers and gaps in knowledge
  — What have we learned?
  — What are the gaps in our knowledge?
- Group agreement on speaker nominations:
  — What more do we need to know and who do we trust to inform us?

Outputs:

- Request for additional speakers
- Information requests for additional sources

WEEK 4 | DAY 2

Option A

Activities:

- Hearing from requested additional speakers: speed dialogue
- Small group discussions: insights from speakers
  — What key learnings are emerging?
  — Are there any key questions beginning to emerge?
- Small group conversations: our stories and perspectives on the issue
- Group brainstorming: what information sources have you found most important and what key questions do you think need to be considered?
- Group decision-making: group agreement on the contents of the final report

Outputs:

- A short report that details the common ground the group found answering their remit

WEEK 4 | DAY 2

Option B

Option C

Activities:
- Hearing from requested additional speakers: speed dialogue
- Small group discussions: insights from speakers
  — What key learnings are emerging?
  — Are there any key issues beginning to emerge?
- Small group conversations: our stories and perspectives on the issue
- Small group discussions: beginning to develop values assessment criteria.
- Small group discussions: is there anything else we want to know that hasn't been addressed?
- Group agreement on speaker nominations:
  — What more do we need to know and who do we trust to inform us?

Outputs:
- Request for additional speakers
- Information requests for additional sources
- Draft values assessment criteria

WEEK 7 | DAY 3

Option B

Activities:
- Hearing from requested additional speakers: speed dialogue
- Insights from speakers: small group discussions
  — What key learnings are emerging?
  — Are there any key issues beginning to emerge?
- Finalising values assessment criteria using draft from Day 2: small groups writing on laptops to capture and refine criteria.
- Small group discussions: is there anything else we want to know that hasn't been addressed?
- Initial look at the proposals: small group work that develops understanding of the options and simple pros and cons

Outputs:
- Information requests for additional sources
- Finished values assessment criteria

WEEK 7 | DAY 3

Option C

Activities:

- Hearing from requested additional speakers: speed dialogue
- Insights from speakers: small group discussions
    — What key learnings are emerging?
    — Are there any key issues beginning to emerge?
- Finalising values assessment criteria using draft from Day 2: small groups writing on laptops to capture and refine criteria
- Small group discussions: is there anything else we want to know that hasn't been addressed?
- Exploring a systems approach: Guided by the values assessment criteria, what mix of options might help to solve the problem? Small group discussion focused on 'themes'
- Group agreement on final speaker nominations:
    — What more do we need to know?
    — Who can help us develop ideas and solutions?

Outputs:

- Final speaker nominations
- Information requests for additional sources
- Finished values assessment criteria
- Draft 'themes' for systems thinking approach

WEEK 10 | DAY 4

Option B

Activities:

- Ideas rating: group review of public proposals aiming to get a sentiment snapshot
- A first go at evaluating proposals: small group work building on work from Day 3 that assess proposals
- Finding agreement, 'letting go' and consolidating around a set of proposals
- Draft writing of the report: working in small groups to provide rationale for proposals that draws on values assessment criteria
- Final report walkthrough: do we all agree?
- Presentation: report is presented to the chair

Outputs:

- Final recommendation report delivered to the Chair

WEEK 10 | DAY 4

Option C

Activities:
- Hearing from requested additional speakers: speed dialogue
- Insights from speakers: small group discussions
  — What key ideas or solutions emerged from those discussions?
- A systems approach: finalising the set of 'themes' that will help guide categorisation of ideas and solutions
- Initial ideas to solve the problem based on the systems approach concepts and values assessment criteria

Outputs:
- Information requests for additional sources
- Finalised themes for systems thinking
- Draft set of ideas

WEEK 13 | DAY 5

Option C

Activities:
- Using initial ideas from Day 4, development of draft recommendations with the use of templates
- Ideas rating: group review of draft recommendations
- Combining, 'letting go' and identifying any other missing ideas
- Refining draft recommendations: writing in small groups on laptops
- Advice from government:
  — Is the anything specific we would like comment on?

Outputs:
- Draft recommendation report for comment from government

WEEK 16 | DAY 6

Option C

Activities:
- Review of government's response to draft recommendations
- Writing: final review and refinement on laptops in small groups
- Walk through: final agreement, can we all live with it?
- Minority reports: additional words on recommendations that did not make it into the report but deserved comment
- Identification of participants presenting to the Chair
- Presentation of the final recommendation report to the Chair
- Final words

Outputs:
- Final recommendation report delivered to the Chair

Recruitment

Parliamentary staff will conduct a democratic lottery to recruit participants (nDF to assist with skills transfer – NSWEC may also be effective in this role). The specifics of this section are dependent on the option taken.

Option A

Option A uses a low-cost simplified model that matches its intended role while, both Option B and C are the more robust OECD standard democratic lottery models.

Option B + **Option C**

For Options B and C, approximately 30,000 invitations are sent out across the state. Jury members will be recruited from the pool of those who indicate their interest and availability to participate for the full process.

Option A

For Option A, registration for the process is made completely open and publicly available through an online and phone-based registration process. The aim of this approach is to flood the reservation pool with people who would typically not take part in a community engagement process. The usual self-selection demographics are diluted with those not normally interested because of the incentives in the meaningful opportunity potential participants are being presented with. A stratified random draw is then conducted that ensures the participants match the wider community. This method of stratified sampling has been successfully used by the newDemocracy Foundation in

Byron Shire Council where a diverse mix of people who predominantly had no engaged with the local council before were selected to participate, demonstrating that the processes are robust even in communities that tend toward high public engagement.

This stratification is not claimed to be a statistically perfect method, instead it delivers a more representative sample than any other community process. The strength of this selection process lies in the wider community clearly seeing "people like me" in decision making positions – descriptive representation in this way fosters trust in the substantive representation of the panel and ultimately trust in its decision making.

In order to achieve a descriptively representative sample, the OECD recommends using the four standard stratification variables of **age, gender, education and geographic locality.**

To achieve a genuine level of randomisation, it is necessary to avoid an overemphasis on connecting with those who are traditionally likely to opt-in to community engagement processes which means casting the net of invitations wide. To generate a sufficient pool of individuals from which to randomly select, it is recommend that the Committee extends a hard-copy invitation to a random sample of 30,000 New South Wales residents. This number is determined by taking a required pool to draw from (500) and an estimated baseline response (3%) rate and multiplying (and allowing a buffer).

It is important that people throughout the state are given a roughly equal opportunity to participate. These invitations will be sent to random physical addresses so as not to discriminate between those who own or rent their property. From this round of invitations, a conservative response rate of 3% will return a pool of approximately 900 (projects with clear and strong authority return better response rates). The size of this pool in combination with random selection sufficiently dissolves concerns of the narrowness of the reach and any possible skew that might entail. When combined with the stratification parameters outlined above, the risk of an inherent self-selection skew within the sample is negligible.

The invitations will come from the Parliament, emphasising the remit and commitments made by the Committee to the authority of the final report. Emphasis on the role of independent oversight and the independence of the selection process being outside the control of the Government will demonstrate the participants' autonomy and freedom in the project. This link to democratic reform and autonomy is crucial to capturing participant interest; it builds upon latent social disaffection with public decision-making by reinforcing the uniqueness of this opportunity. They have a significant and meaningful role in making a public decision that impacts their own lives.

Interested participants will register online or by phone to indicate that they are available for the final selection. This registration process involves collecting relevant stratification data. Based on the registrations received, the stratified random draw that matches to the demographic stratification data taken from the Census will then be conducted.

The drawn sample is then contacted to confirm and explain the process to participants when asking the recipient to confirm availability for selection in individual briefing calls. This exercise in personal communication establishes a relationship between staff and the participants – emphasising the independence of the process and the role of the participants. Additionally, contact with each participant builds a strong personal commitment to the process, noting that once underway it isn't possible to backfill for non-attendees. At this point, those who are not randomly selected in the second round will be advised and encouraged to follow the process by contributing to wider community engagement processes.

Just as in criminal juries, payment of per diems ($150 per day) is strongly advised to avoid excluding participants who may find participation difficult through hardship. Invitations will clearly note that this payment will be made for time, that meals are provided at the meetings and that necessary travel and accommodation will be covered, as well as any childcare needs.

APPENDIX 3.

Sources of information

Information and judgement are required in equal parts to reach decisions, and while the judgement of randomly selected everyday people has been shown to garner very high levels of public trust it is imperative that the information provided to them, and how it is provided, does not erode that trust.

The proposed options all provide incentives for participants to read widely and so the responsibility lies with the Committee and Parliamentary Staff to provide and gather information of sufficient breadth and depth.

Option A

The participants initially receive **the terms of reference and a short information booklet (15-20pg)** that introduces the topic, describes the trade-off or the 'what's hard' of the issue, the context for the inquiry and provides a summary of key stakeholders and expert witnesses.

The booklet should be **candid and in plain, easy to understand language** best suited to bring the unintroduced reader up to speed quickly. This is the jumping off point for the participants before they hear from a **curated selection of expert witnesses on Day 1.** These speakers are selected by the Chair with the aim that they represent the diversity of views on the issue.

The participants will then be simply asked: *"What more do you need to know and who do you trust to inform you?".* This means participants will have the freedom to ask for the information they need and request the sources they trust before they reach the conclusion of their work.

Option B

Similar to Option A, the participants will initially receive the **terms of reference and a longer information booklet (40-60pg)** that introduces the topic, provides detailed background information, describes the trade-off or the 'what's hard' of the issue, outlines the context for the inquiry and provides **input from key stakeholders** and expert witnesses.

The booklet should be **candid and in plain, easy to understand language** best suited to bring the unintroduced reader up to speed quickly. This is the reference document for the participants throughout the process and so it is crucial that it answers as many questions as it can before participants are in the room. The participants will want to ask plenty of questions and so the more staff can reference the information kit for answers the faster the process will progress.

The participants will hear from government speakers to present the context for the inquiry and the history of the issue. The participants will then hear from a **curated selection of expert witnesses on Day 1.** These speakers are selected by the Chair with the aim that they represent the diversity of views on the issue.

The participants will then be simply asked: *"What more do you need to know and who do you trust to inform you?".* This means participants will have the freedom to ask for the information they need and request the sources they trust before they reach the conclusion of their work. **This will then be repeated at each meeting** to ensure the group can be as informed as possible when developing their criteria and offering their recommendations.

The participants are then provided with a **series of proposals** the Committee has received from topic experts, interest groups and the wider public. These proposals must be of a standard where they sufficiently answer the remit proposed to the jury. It cannot be the jury's task to decipher and interpret poorly written proposals. Templated forms and encouragement to provide references and evidence will help here.

Option C

With this option, the participants will receive the terms of reference and **a longer information booklet (60-200pg)** that introduces the topic, provides detailed background information, the context for the inquiry, context for government policy now and previously, detail the 'levers' available for taking action and also provide **input from key stakeholders** and expert witnesses.

The booklet should be **candid and in plain, easy to understand language** best suited to bring the unintroduced reader up to speed quickly. This is the reference document for the participants throughout the process and so it is crucial that it answers as many questions as it can before

participants are in the room. It should err on the side of providing too much detail rather than too little. The participants will want to ask plenty of questions and so the more staff can reference the information kit for answers the faster the process will progress. This ensures the process starts on the front foot and the participants are given every opportunity to become as informed as possible.

The participants will hear from government speakers to present the context for the inquiry and the history of the issue. The participants will then hear from a **curated selection of expert witnesses on Day 1 and 2.** These speakers are selected by the Chair with the aim that they represent the diversity of views on the issue.

The participants will then be simply asked: *"What more do you need to know and who do you trust to inform you?".* This means participants will have the freedom to ask for the information they need and request the sources they trust before they reach the conclusion of their work. **This will then be repeated at each meeting** to ensure the group can be as informed as possible when developing their criteria and offering their recommendations.

Finally, the participants will be able to **test their draft recommendations** with the appropriate government agency. This dialogue helps the jury be sure that the clarity of their intent is there. They're able to be accurate with their recommendations and ensure what they have in mind is also how the body responsible for implementing decisions will interpret it in the same way.

APPENDIX 4.

What should you ask participants?

The remit is the task the Chair asks of everyday citizens. It needs to provide an open and non-leading question that clearly stipulates the topic while not curtailing the group's exploration of the issue from the outset.

Option A should ask a narrow question focused on the information and questions participants think the inquiry should hear:

What do we need to consider and who do we need to hear from?

Option B is tailored to asking questions about balance and evaluation criteria. Here's a generic example for illustration:

Public submissions contain some passionate viewpoints as they usually come from people and organisations with an active interest.

Where can you strike a balance between them? Why?

While **Option C** should ask an open question that shares the problem at the core of the inquiry.

There are four framing questions that inform any remit:

i.   *What question do citizens want to answer?*

ii. *How can we help focus them on the hardest part of the problem?*

iii. *How can they be of most value?*

iv. *What is accessible and understandable?*

For example, a questions for an inquiry into drug law reform would be phrased:

How can we best minimise the harm from illicit drugs?

The reason is that the phrasing question does not lead the group (even subtly) toward an answer.

APPENDIX 5.

Budgets

Option A

Invitation Online advertising	$5000
Facilitation 2-person team for 2 operating days and 4 preparation days	$30,000
Venue, AV, Staging, Security 2 days x $5,500 per day	$11,000
Catering 2 days x 50 pax x $55 day service	$5,500
Participant per diem payments 42 x $150 x 2	$12,600
Travel (worst case) 10% of participants outside Greater Sydney (5) x $1000 air/bus/accom average x 2 meetings	$10,000
Estimated Cost	$74,100

Option B

Invitation 30,000x print and postage	$35,000
Address Database Australia Post Address Reference File	$1000
Facilitation 2-person team for 4 operating days and 8 preparation days	$60,000
Venue, AV, Staging, Security 4 days x $5,500 per day	$22,000
Catering 4 days x 50 pax x $55 day service	$11,000
Participant per diem payments 42 x $150 x 4	$25,200
Travel (worst case) 10% of participants outside Greater Sydney (5) x $1000 air/bus/accom average x 4 meetings	$20,000
Estimated Cost	$166,300

Option C

Invitation 30,000x print and postage	$35,000
Address Database Australia Post Address Reference File	$1000
Facilitation 2-person team for 6 operating days and 12 preparation days	$90,000
Venue, AV, Staging, Security 6 days x $5,500 per day	$33,000
Catering 6 days x 50 pax x $55 day service	$16,500
Participant per diem payments 42 x $150 x 6	$37,800
Travel (worst case) 10% of participants outside Greater Sydney (5) x $1000 air/bus/accom average x 6 meetings	$30,000
Estimated Cost	$243,300

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