

Introduction

Never before have there been so many democracies in the world or so many competitive elections conducted at national, subnational and regional levels. Democracy is now prescribed as inseparable from good governance, a recipe for accountability and an antidote to corruption. At the same time, older established democracies seem to be suffering – citizens are disengaged, disenchanted with politicians and political parties, and voter turnout is falling. Some argue, however, that popular engagement with politics in the old democracies remains high but is expressed in different ways – for example, through political consumerism, Internet activism and local action on the environment and climate change. Is democracy flourishing and taking new forms in the 21st century or is ‘government of, by and for the people’, hollow at the core, with ‘the people’ turning their backs on it?

The separate colonies of Australia gained self-government during the nineteenth century and less than half a century later Australia became the first nation to vote itself into existence through popular referenda. While Australia’s identity as a pioneering democracy has been officially celebrated many times, no systematic assessment has been undertaken of whether Australia is living up to its founding myth. Suspicions exist that, in a number of corners, relics of a pre-democratic era linger on, like property votes in local government or the culture of secrecy in government. Major scandals remind us that Australia has been slipping backwards in terms of effective regulation of the role of private money in electoral politics. Moreover, Australian democracy seems to be failing to deliver on some basic economic and social rights for its citizens, especially its Indigenous citizens. By the time of the celebration of the centenary of Federation in 2001 it was already clear that some of Australia’s democratic machinery was badly in need of repair and renewal. This was the context for the birth of the democratic audit of Australia.

As with democracies everywhere, regular health checks are important. In order to undertake this assessment of Australia’s democratic health, the democratic audit builds on an international assessment methodology that has already been tested in a number of democracies, both old and new, including our close neighbour, New Zealand. This framework was inaugurated in the United Kingdom (UK) in 1991 by David Beetham and Stuart Weir and funded by the Joseph Rowntree Charitable Trust. It was further developed for international purposes under the auspices of the International Institute for Democracy and Electoral Assistance (IDEA) in Stockholm, a leading multilateral body formed in 1995 by a number of the older democracies, including Australia, to provide assistance to newer democracies.

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The IDEA democratic audit framework (now called the state of democracy framework) avoids the problems inherent in some other forms of democracy assessment. It steps back from institutional indicators of democracy, such as competitive elections, to consider underlying principles and related values. Such values might be achieved through varying institutional designs. The aim is to see to what extent both formal and informal institutions promote central democratic principles such as political equality, not just through competitive elections but between elections and at all levels of society. The democratic audit approach focuses on underlying values to derive questions that are equally relevant in new and old democracies. It enables the identification of strengths, weaknesses and sources of reform in different dimensions of democracy and does not attempt to aggregate these. Indeed the philosophy of the audit is not to provide a democracy 'score' for the information of international donors or financial institutions, but rather to assist debates over reform within the democracy concerned.¹ Applying audit indicators that have been developed with relatively new democracies in mind, such as the corruption indicators, provides a useful and perhaps salutary perspective on Australian democracy.

The use of the democratic audit framework and indicators that have been trialled in diverse countries also serves the interests of international comparability. It provides data in the standard format used elsewhere and answers the same questions about the quality of democracy. It enables a focused comparative perspective, comparing practices in Australia's own nine jurisdictions and in Canada, New Zealand and the UK. These international comparators have been chosen both on the 'most-similar case' principle and because they are countries that have already undergone democratic audits of their own. The audit maps the location of examples of good practice, whether within an Australian jurisdiction or within a comparator democracy.

Nonetheless, the Australian audit departs from previous democratic audits in some ways. For example, it grapples more explicitly with the issue of conflicting democratic principles, some of which impose constraints on others. Democracy remains a highly contested concept and, in addition, the differing values associated with representative democracy are not always in harmony. The basic principles identified in the IDEA democratic audit, or state of democracy framework are those of *popular control of government* and *political equality*. From these are derived a series of mediating values, likely to be institutionalised to a greater or lesser extent in democratic political systems. These values include participation, authorisation, representation, accountability,

¹ David Beetham, Sarah Bracking, Iain Kearton and Stuart Weir, *International IDEA Handbook on Democracy Assessment*, The Hague, Kluwer, 2001.

transparency, responsiveness and solidarity – the latter encompassing tolerance of diversity at home and support for democracy and human rights abroad.

The Australian audit team decided that the statement of the two basic principles did not sufficiently spell out other values that are implicit in the audit framework and that may require constraints on these two values. Rather than subsuming all democratic values under political equality and popular sovereignty, it was decided to spell them out as independent values necessary for the health of representative democracy. While the United Nations (UN) has recently affirmed the interdependence of democracy and respect for human rights and described the ‘rights of democratic governance’ as being akin to human rights and fundamental freedoms,² we would argue that in practice these values do not always enjoy such a close relationship. Since the attack on the World Trade Center in New York in 2001 appeals have often been made to majority opinion and the rights of elected governments when encroachments on human rights and freedoms have been proposed. We were particularly concerned about the populist challenge to many of the intermediary institutions essential to the functioning of representative democracy.

Hence we have sought to separate out from the core values of popular control of government and political equality the rather different core value of *civil liberties and human rights*. This value requires that unpopular individuals and minorities are protected from the will of the majority, as expressed through majoritarian government. It requires abstention from the kind of electoral popularity that can flow from a conjuring of threats to the majority, and then offering protection from those threats. It requires support within civil society and the media for the rights of marginalised groups, rather than the demonising of such groups in the interest of sales and circulation. This value is already tested for in the existing audit framework in terms of the protection and promotion of rights and the independence of the judiciary, but is worthy of greater emphasis in the context of trends towards populism. The human rights value also encompasses equal opportunity or access to equal enjoyment of human rights, something already tested for under the rubric of ‘inclusiveness’ but again deserving more attention where under challenge from the prioritising of ‘choice’ in social policy.

A second additional value identified by the Australian audit team is derived from the emphasis in contemporary democratic theory on deliberative democracy. This value is the *quality of public debate and discussion*. For many democratic theorists, the quality of public deliberation is the key to democratic legitimacy. Quality is measured by

2 UN Commission on Human Rights resolution 1999/57.

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the inclusiveness of public debate, the respect offered to differing perspectives and the preparedness to change positions after hearing a full range of evidence and argument.

This deliberative aspect of politics applies to institutions such as parliament, parties, and the legal system, but also extends into the media and more informal political interactions such as those involving non-governmental organisations. Although parliament is the defining institution of representative democracy, and takes its name from 'speaking', it does not necessarily fulfil the standard of inclusive and respectful public deliberation. Westminster traditions of adversarial parliamentary debate tend to constrain achievement of the deliberative democracy value, at least on the floor of the house. This value has been more fully achieved by parliamentary committees, but over the past decade such committees, for example, Senate committees, have been less likely to achieve consensus reports.

Political parties are another place where we might expect there to be extensive deliberation over policy and political values. There has been a general trend, however, in Western democracies for party leadership to allow policy deliberation within parties to be sidelined by polling and market research. Some theorists suggest that such market testing of policy is more democratic than deliberation and decision-making by the party membership, so rival democratic values come into play here.

Realisation of the deliberative democracy value can also be found in areas such as support for the participation of a wide range of community organisations in public debate and in the policy process, so that the perspectives of different sections of the community are heard before decisions are made. Australia has, in the past, provided public funding for community advocacy bodies, to strengthen weak voices in public debate. Support for the functions of community advocacy and representation, particularly of vulnerable or disadvantaged groups, is an important adjunct to deliberative democracy. It requires self-restraint on the part of governments who may find it difficult to accept criticism from bodies that it is funding, although the funding of loyal oppositions is an accepted part of the operation of Westminster parliaments.

Another key to the inclusiveness of public debate lies in media diversity. The concentration of media ownership in Australia, with two major corporations dominating the print media, is unparalleled among comparable democracies and raises significant concerns over media coverage of a plurality of viewpoints and perspectives.³ The media may reflect the corporate interests of their owners rather than a full range of perspectives

3 Reporters Without Borders, *Annual Worldwide Press Freedom Index*, 2007; Australian Press Council, *State of the News Print Media in Australia*, 2007, ch 3.

on issues. For example, in 2005, commercial television stations did not report the spate of criticism of the misuse of government advertising for partisan purposes. Government advertising provides significant revenue to such stations.

In auditing for quality of deliberation, we need to be aware of the degree to which debate and discussion can be limited in particular forums, for example by:

- An adversarial parliamentary culture that prevents respect being given to opponents and their arguments;
- Unequal resources (if, for example, only one side of a debate is adequately funded); and
- Commercial interests that restrict the range of perspectives represented in the media.

The aim of the Australian audit is to discover how well our political institutions measure up against these four basic democratic values – political equality, popular control of government, civil liberties and human rights, and the quality of public debate and discussion. We investigate whether our institutions really reflect current democratic values, as well as examining the bargains and compromises struck in the past – the accumulated history of an ‘old democracy’. We do so within the IDEA assessment framework, using the numbered indicators that have been used in other democratic audits and beginning with some basic data about Australia’s political history and institutions.

Political history

There is archaeological evidence of Indigenous settlement in Australia for at least 50,000 years. In 1770 Captain James Cook claimed the east coast of Australia for the British crown and British settlement began in 1788 when the First Fleet arrived with convicts. Following European settlement there was a drastic decline in the Indigenous population due to dispossession and introduced diseases. In recent years there have been significant increases in the Indigenous population as reported in the census (from 0.9 per cent of the population in 1971 to 2.3 per cent in 2006), partly as a consequence of a greater readiness of individuals to identify themselves as Aboriginal. The two groupings of Indigenous peoples of Australia are Aboriginal peoples and Torres Strait Islanders. Indigenous status in Australia is usually defined in terms of being of Aboriginal or Torres Strait Islander descent, self-identification, and acceptance as Indigenous by the relevant community.

By the 1850s the separate Australian colonies were achieving responsible government and democratic franchises for their lower houses.

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They introduced democratic innovations such as the use of government-printed ballot papers and written nominations for elections. By helping remove violence from elections these innovations removed one of the obstacles to the women’s franchise (see Table 0.1).

Table 0.1. Innovation in representational arrangements¹

Lower Houses

	Parliament	Manhood suffrage	Adult suffrage ²	Abolition of plural voting	Secret ballot	Abolition of open nomination	Payment of members	Compulsory registration of voters ³	First election with compulsory voting ⁴
Canada	1920	1920	1920	1874	1874	1867	–	–	
New Zealand	1879	1893	1889	1870	1890	1870	1924	–	
UK	1918	1928	1948	1872	1872	1911	–	–	
NSW	1858	1902	1894	1858	1893	1889	1921	1930	
Victoria	1857	1909	1899	1856	1865	1870	1923	1927	
Queensland	1859 ⁵	1905	1905	1859 ⁵	1872	1886	1914	1915	
WA	1907	1907 ⁶	1907	1877 ⁷	1895	1900	1919	1939	
South Australia	1856	1894	1856	1856	1856	1887	–	1944	
Tasmania	1901	1903	1901	1856	1858	1890	1930	1931	
Commonwealth	1901	1902 ⁸	Never existed	1901	Never existed	1901	1911	1925	

1. Except for the final column, the legislative date is given, rather than the date of coming into effect.
2. That is, votes for women. But note some States did not enfranchise Aborigines or indigent inmates of State charitable institutions until later and the Commonwealth franchise was not made uniform for Aboriginal Australians until 1962. In Canada the federal franchise was not extended to Inuit until 1950 and Status Indians in 1960.
3. Registration was not compulsory for New Zealand Maori until 1956, or for Indigenous Australians at the Commonwealth level until 1984. Requirements for Indigenous registration at the State level are not shown.
4. It was not compulsory for Indigenous Australians to vote at the Commonwealth level until 1984. Requirements for compulsory Indigenous voting at the State level are not shown.
5. On the separation of Queensland from NSW in 1859 it inherited NSW electoral law. It did not achieve its own electoral legislation until 1864.
6. WA gave some women the vote in 1899, on the same restricted franchise then applying to men.
7. For the elective element of the old Legislative Council before self-government.
8. As the States’ electoral laws were used for the first federal elections in 1901, women generally in SA, and some women in WA, had a vote. The first Commonwealth parliament then legislated for complete adult suffrage for subsequent federal elections (but see fn 2).

Source: Adapted from LF Crisp, Australian National Government, 5th edn, Melbourne, Longman Cheshire 1983, with new data from Peter Brent, Enrolling the People.

In the 1890s the Australian colonies embarked on a process of federation that was uniquely democratic for its time, or at least became so after initial attempts had faltered. Delegates were elected to the Constitutional Convention of 1897–1898 by popular vote in each colony and the resulting Constitution was then submitted to popular referenda. The new Commonwealth of Australia came into existence in January 1901 and the first elections to the new federal parliament were held that year. Yet the process of separation from Great Britain took place only gradually. The formal adoption of the *Statute of Westminster* in 1942 and the *Australia Act* of 1986 signalled the removal from Westminster of any remaining powers in relation to Australian legislation.

Basic political data

The Australian political system is broadly based on the Westminster tradition of responsible parliamentary government, complicated by federalism and by strong upper houses that are all now popularly elected. Apart from the Commonwealth parliament there are six State parliaments, deriving from the 19th century colonial parliaments, and two Territories that became self-governing in the 20th century (see Table 0.2). Northern Territory voters rejected a referendum proposal for full statehood in 1998. Many functions are shared across different levels of government, leading to the growth of ‘executive federalism’ and some issues of accountability that will be examined in the Audit.

In addition to the Commonwealth and State and Territory governments there is a third tier of government in all jurisdictions except the Australian Capital Territory. There are approximately 558 local councils, responsible for 4 per cent of total government revenue and 5 per cent of expenditure. By international standards, local government is relatively weak in Australia and is sometimes referred to as the Cinderella tier of government. It is completely subject to State governments (and in the case of the Northern Territory, the Territory government), which can, for example, dissolve councils and replace them with administrators. One exception to the general weakness of local government is the Brisbane City Council, the third largest council in the world, with a directly elected Lord Mayor and a budget bigger than that of the State of Tasmania.

There are also some external territories, of which one, Norfolk Island, is self-governing. The population of some 2000 has an elected Legislative Assembly of nine members. Norfolk Islanders may also enrol to vote in Australian federal elections, in a division that they nominate. Non-self-governing territories of Australia include the Cocos (Keeling) Islands and Christmas Island, both of which have elected local governments. Again, residents may vote in Australian federal elections but residents of these territories do not have a choice of division: enrolments must be in the division of Lingiari.

Table 0.2. The Australian political system, 2008

Jurisdiction	Date of self-government or inauguration	Head of State Head of Government	Parliament	Local govt
Commonwealth	1901	Queen/ Governor-General ¹ Prime Minister	Senate House of Representatives	–
NSW	1855	Governor Premier	Legislative Council Legislative Assembly	Local councils
Victoria	1855	Governor Premier	Legislative Council Legislative Assembly	Local councils
Queensland	1859	Governor Premier	— Legislative Assembly ³	Local councils
WA	1890	Governor Premier	Legislative Council Legislative Assembly	Local councils
SA	1855	Governor Premier	Legislative Council House of Assembly	Local councils
Tasmania	1855	Governor Premier	Legislative Council House of Assembly	Local councils
ACT	1989	Governor-General ² Chief Minister	Legislative Assembly	–
Northern Territory	1978	Administrator Chief Minister	Legislative Assembly	Local councils

1. The question of who is Australia's head of state, and whether it is the Queen (currently Elizabeth II in her manifestation as Queen of Australia) or her representative, the Governor-General, has been a matter of some controversy, particularly in the debate over a republic in the late 1990s. The monarchists argued that the Governor-General was Head of State, while the republicans argued that it was the Queen.
2. For most purposes the Chief Minister is Head of State in the ACT. However, the Governor-General has reserve powers and can disallow legislation, recommend amendments to legislation or, under extreme circumstances, dissolve the Assembly, including on recommendation from the federal parliament.
3. The Queensland parliament has been unicameral since 1922 when the Legislative Council was abolished.

The Aboriginal and Torres Strait Islander Commission (ATSIC) was established in 1989 as 'Australia's principal democratically elected Indigenous organisation'. Every three years Indigenous Australians elected local representatives to a network of 35 Regional Councils around Australia and these, in turn, elected Commissioners to an ATSIC Board. The board was responsible for allocating about half of the Commonwealth's

spending on Indigenous programs. ATSIC was accredited to the United Nations' Economic and Social Council as a non-government organisation (NGO), giving it an independent voice at United Nations forums. The federal government abolished ATSIC in June 2004, replacing it with a National Indigenous Council made up of appointed rather than elected officials. This in turn was abolished in 2008, with the recently elected Labor Government committing to establish some new form of representative body.

Basic socio-economic data

Australia comprises a land area of about 7,692,030 square kilometres – an area 32 times greater than the UK and almost as great as the United States of America, excluding Alaska. It is known as the 'Dry Continent' and 80 per cent of the land mass has a median rainfall less than 600 mm per year. There is sparse settlement in the arid interior, resulting in very large electorates and particular issues in relation to political representation. For instance, the federal electorate of Kalgoorlie is roughly the same size as France, Germany, Italy and Spain combined.

The Australian population recorded at the 2006 census was 19,855,288 people, of which 50.6 per cent were female and 49.4 per cent male. Out of the total population, 455,031 people identified themselves as Indigenous, and in the Northern Territory those identifying as Indigenous made up over a quarter of the population. In the Torres Strait there are some 8000 people, of whom about 6000 identify as Indigenous. These form a regional Melanesian community, distinct from mainland Aboriginal peoples, but perhaps three times as many Islanders actually live on the mainland.

Just over one-fifth of the Australian population was born overseas. In order, the three main countries of birth for those born overseas are the UK (856,939), New Zealand (389,463) and China (206,591). The next largest sources of immigration are Italy and Vietnam. The main languages spoken in Australia other than English are Italian (316,890 speakers), Greek, Cantonese, Arabic and Mandarin. Most immigrants from non-English speaking backgrounds live in capital cities, with two-thirds living in and around Sydney and Melbourne.

Australia is undeniably an affluent country. The 2007 Human Development Index, which ranks countries on the basis of factors such as life expectancy, literacy and education, and GDP per capita, puts Australia third in the world, ahead of countries such as Canada (4th), the United States (12th), the UK (16th) and New Zealand (19th). Only Iceland and

4 United Nations Development Programme, *Human Development Report 2007/2008 – Fighting Climate Change: Human Solidarity in a Divided World*, Basingstoke, Palgrave Macmillan, p 231.

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Norway, ranked first and second respectively, were higher.⁴ Australia recently enjoyed a period of prosperity and low unemployment (4 per cent in 2008).⁵ However, as we shall see in Chapter 4, this unemployment figure masks the increase in casual and part-time employment and counts as 'employed' anyone who has done at least one hour of paid work in the preceding week. Moreover, even in the midst of prosperity new problems emerged, such as homelessness – problems likely to be exacerbated by the global financial crisis that emerged in 2008. The implications of growing socio-economic inequalities between Australian citizens will be part of this examination of the health of Australian democracy.

5 Australian Bureau of Statistics (ABS), *Labour Force*, Cat No 6202.0, February 2008.