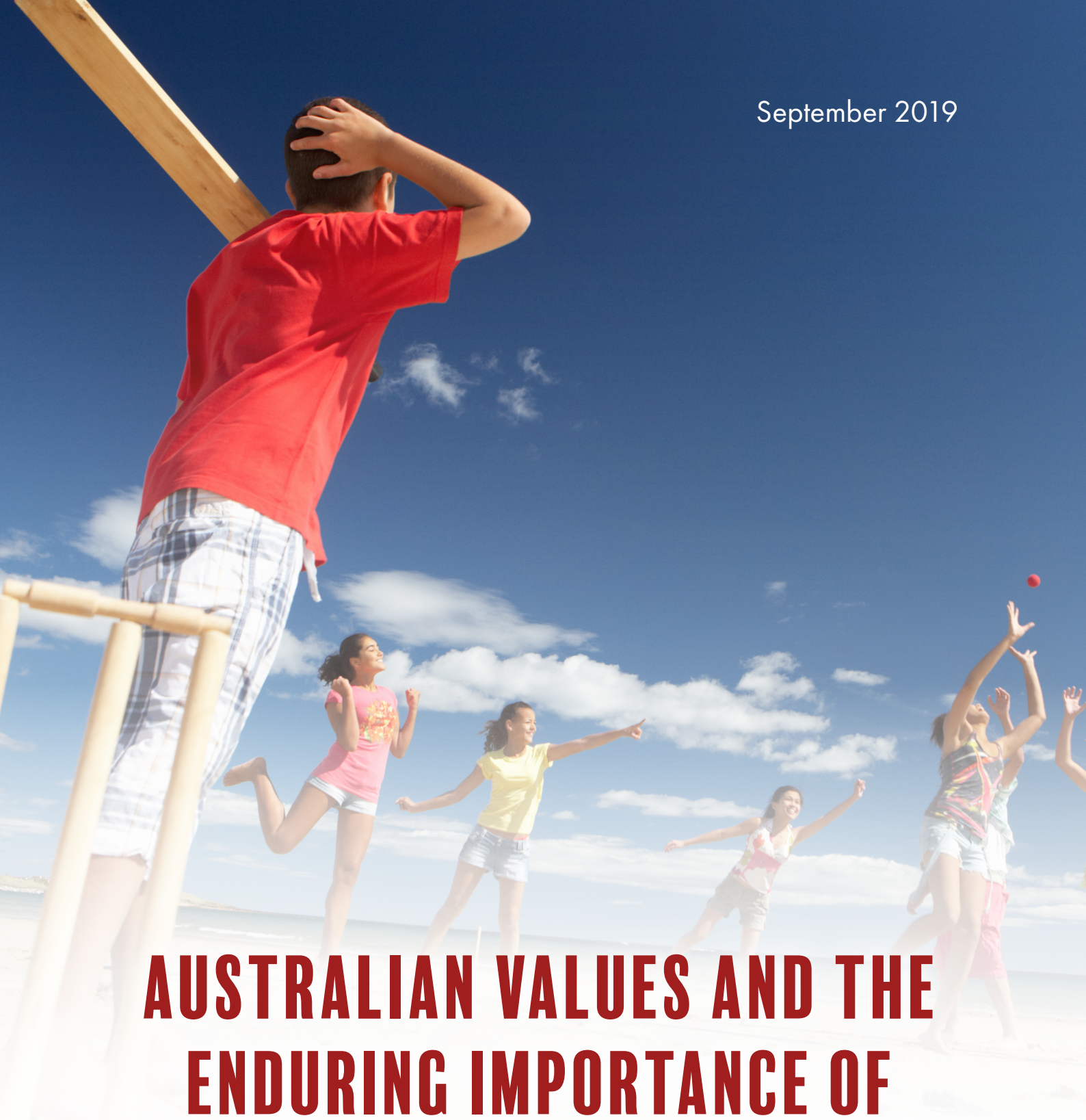

September 2019

AUSTRALIAN VALUES AND THE ENDURING IMPORTANCE OF THE NATION-STATE

Daniel Wild, Director of Research
Dr Zachary Gorman, Research Fellow
Andrew Bushnell, Research Fellow

Institute of Public Affairs

Contents

Introduction 3

1 - Australian values: Freedom, egalitarianism, and localism 4

2 - Asset-owning democracy: Giving Australians a stake in the success of the nation 12

3 - The nation-state secures freedom 18

4 - Popular sovereignty 26

5 - Democratic accountability 36

Conclusion 40

Introduction

The preparation of *Australian values and the enduring importance of the nation-state* is motivated by the Senate Legal and Constitutional Affairs References Committee's *Inquiry into nationhood, national identity and democracy*.[1] This inquiry's remit is broad and ranges from changing notions of nationhood, declining public trust in Australia's major political institutions, and the impact of globalisation and economic interdependence on the nation state. This report focuses on five areas.

First, this report outlines three key Australian values: political and economic freedom, egalitarianism, and localism and argues that these values are deeply ingrained in Australia's national identity. These values ought to be buttressed by broad protections for freedom of speech, association, and religion; low taxes and a tolerable regulatory regime so as not to discourage enterprise; and a return to the principles of localism and federalism upon which Australia was founded.

Secondly, it is argued that the society that will be best-placed to respond to the challenges identified in the Senate Committee's discussion paper is an **asset-owning democracy**, within which individuals have reason and incentive to pursue their interests to their own benefit and to that of their community and nation. There are five key components of asset-owning democracy which give Australians a stake in the success of the nation:

- ●Home ownership is a stake in one's local community and in the country.
- ●Work is a stake in one's dignity through personal responsibility.
- ●Enterprise is a stake in the economy and the success of others.
- ●Tax is a stake in the size and activity of government.
- ●Saving, especially for retirement, is a stake in the future of the country.

Thirdly, this paper considers the ongoing relevance and importance of the nation-state as a home where millions of individuals can live together with a shared set of values, customs, habits, and beliefs, and enjoy with one another a common heritage and tradition.

Fourthly, we consider the idea of popular sovereignty and argue that declining trust in Australia's governing institutions caused in part by the departure of our rulers from Australia's fundamental values. In particular, this section outlines the way in which freedom, egalitarianism, and localism have been undermined through government intervention.

The final section considers the notion of democratic accountability—of giving power back to the people—and the ways in which this can be implemented so as to restore trust among the public in Australia's governing institutions.

1 The details of the inquiry can be found at: Senate Legal and Constitutional Affairs Committee (2019), "Nationhood, national identity and democracy", https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/Nationhood [accessed 25 September 2019]

1 - Australian values: Freedom, egalitarianism, and localism

Australia is the home of a diverse nation with a proud history and a patrimony that extends both into the ancient past through Indigenous Australia and across the world to the United Kingdom from where we draw our political system and to all the other countries from which our people have arrived. The complexity and depth of our history has produced a political culture bound by particular values that are adaptive to the way that we live and the aspirations we have for our families and communities. These values are time-tested, providing the opportunity for all Australians to live good lives. They stand not on the abstractions of theory but on the historical success of our country and people.

Freedom

Central among those values is freedom. Individual freedom of speech, association, and religion, are the basis of Australia's political order, culture, and economy.[2] These individual freedoms recognise the inherent dignity of all Australians as Australians, irrespective of their race, gender, religion, or ethnicity. These freedoms, which are available to all Australians, bind this nation together, create trust, and underpin Australia's egalitarian nature.

Human dignity demands provision for and the expression of individual freedom. Freedom of speech is necessary for the proper functioning of the human mind: proper thinking can best be developed, errors best identified, and the truth best pursued through open debate and communication with others. Freedom of association means individuals are free to form relationships, families, and community organisations which provide them with dignity, meaning, and direction in life free from government direction or coercion. And freedom of religion—a special case of freedom of speech and association—means individuals can freely practice religion, and act in a way that is consistent with their conscience.

The recognition of the individual as the basic moral unit emerged through centuries of compromise between rulers and the ruled, and stems primarily from Australia's inheritance of the Western intellectual tradition and a specifically British political tradition. Through settlement, migration and a continuous exchange of people and ideas, Australia absorbed the 1200-year-old English and British political and moral tradition which stretches back to the time of the Anglo-Saxons.[3] This tradition includes the rights and liberties, along with the associated political system, that the British people were almost unique in enjoying at the end of the eighteenth century. Even from the beginning, it was necessary to extend and adapt these ideas and institutions to

2 David Kemp (2018), *The Land of Dreams: How Australians won their freedom,* Melbourne: The Miegunyah Press

3 John Maddicott (2013), *The Origins of the English Parliament,* London: Seldon Society

local circumstances in a manner that differentiated Australia from Britain. The absence of a hereditary ruling class in Australia meant transplanting the House of Lords was impractical, for example. In its stead, Australia implemented a Senate as the Upper House of Parliament which, as in the United States, was (and notionally still is) a chamber to advance the interests of the states that constitute the federation.

The British political tradition did not develop overnight, nor was it based on appeals to philosophical abstractions.[4] Rather, that political tradition was, and is, the product of rights and liberties fought for, and won, over a long period of time and through compromise. John Locke's *Second Treatise on Government*, for example, was published in December 1689 in the immediate aftermath of the Glorious Revolution of 1688, which saw King James II removed from the throne. That Revolution was in part a response to King James II, a Catholic, possibly extending a permanent Catholic rule over England and threatening the Protestant religion. However, the Revolution was also a response to the aspirations of James to dissolve the rights and liberties of Englishmen in his bid to assert an absolutist reign.

Following the deposition of King James II, the English Parliament passed the *English Bill of Rights* which outlined a number of rights and liberties familiar to us today. Amongst the provisions included prohibitions on the levying of taxes without a grant of Parliament; a right for Protestants to maintain arms for self-defense; a limited provision for free speech in Parliament; free elections of members of Parliament; and prohibitions on excessive bail and cruel and unusual punishments.

Importantly, the *Bill of Rights* was not an appeal to natural rights or other philosophical inventions. Rather, the Bill enunciated what were considered the 'ancient rights and liberties' of the English people which had been threatened by the absolutism of King James.[5] Britain's common law culture was suspicious of the creation of new and written laws, because it was believed that the common law had abstracted the wisdom of preceding generations creating something greater than that which could be abstracted from first principles.[6] But with the prospect of their ancient rights and liberties being dissolved by a King whose dispositions were fundamentally at odds with the English tradition, it became necessary for these rights and liberties to be made explicit.

Magna Carta, the Glorious Revolution, the *Bill of Rights*, the *Petition of Right*, and the *Habeas Corpus Act 1679* are all examples of what were considered to be the ancient rights and liberties of the English people in various forms being written down in response to over-reach from the ruling class of the time. Australians are proud custodians of this ancient political tradition. As a series of convict colonies, Australians were not immediately granted their political liberties in 1788. They had to be fought for by leaders like William Wentworth who, like their English predecessors, made

4 J.P. Kenyon (1986), *The Stuart Constitution, 1603-1688: documents and commentary*, Cambridge: Cambridge University Press

5 Goldie Mark (2019), 'The Ancient Constitution and the Languages of Political Thought', *Historical Journal* Vol 62, issue 3, September 2019, pp.663-684

6 David Chan Smith (2014), *Sir Edward Coke and the Reformation of the Laws: Religion, Politics and Jurisprudence, 1578–1616*, Cambridge: Cambridge University Press

their demands on the basis of history and custom.[7] As we explain in this paper, the Commonwealth was founded explicitly with the intention of safeguarding our free society. Our constitution does not bestow our rights—it preserves our ancient liberties, hard-won for us over the centuries, and secures the defense of the home in which they are made real.

Because of this heritage Australians deeply value freedom and expect the liberty of individuals to be protected from arbitrary government interference. Some 95 per cent of Australians, for example, think free speech is important to them, according to a 2017 survey of over 1,000 people undertaken by the IPA. Young Australians (those aged 16-24 years) are especially passionate about their freedoms, with some 63 per cent claiming free speech is very important to them, compared with the overall average of 57 per cent.[8]

Politically, freedom is recognised through Australia's democratic politics. Australia is a pervasively democratic country and very proud of that fact. After a false start in 1891, the federation process was deliberately democratic, involving first the direct election of delegates to the Constitutional Conventions and then the direct approval of the Constitution via a referendum in each Colony. The Federal Government's legitimacy still derives in large part from this initial and extraordinary act of popular sovereignty.

Australia's democratic culture had taken root long before 1901. The Australian Colonies were some of the first to introduce universal male suffrage and the secret ballot. Australia was also one of the first nations to introduce female suffrage alongside New Zealand. It should be acknowledged that Queensland and Western Australia denied Aboriginal Australians the vote, but this injustice was eventually overturned and the nation showed its overwhelming support for the recognition of indigenous people in 1967. Australia's democratic nature shapes the constitution, as might be expected. The only way to change the constitution is to go directly to the people of every Australian State through referendums mirroring those that created the country. Likewise our short election cycle, often bemoaned as leading to short-sighted policy making, actually reflects the democratic ideal of keeping the government as accountable as possible. Much of the push for democratic reform in the nineteenth century was based on the chartist program, and this had gone so far as to advocate annual elections.[9]

In the economic realm, Australians are a go-ahead to get-ahead people who aspire to create better lives for themselves, families, and communities. Throughout the nineteenth century many of Australia's political leaders were 'self-made men', who epitomised the success available to those willing to work for it. The Macarthurs for example, pioneered an industry and amassed a large fortune, and in doing so they transformed Australia into one of the world's great agricultural exporters. William Wentorth was conceived in an illicit coupling on a convict ship, but would go on to champion

7 Andrew Tink (2009), *William Charles Wentworth: Australia's Greatest Native Son*, Crows Nest: Allen & Unwin

8 Simon Breheny (2017), "Free Speech is not a Fringe Issues: Poll", https://ipa.org.au/publications-ipa/media-releases/free-speech-not-fringe-issue-poll [accessed 25 September 2019]

9 Paul Pickering (2011), 'A lesson lost? Chartism and Australian Democracy', *Agora*. Oct 2011, Vol. 46 Issue 4, pp. 4-10

fundamental legal rights and author the New South Wales Constitution. Similarly, Henry Parkes came from an extremely poor background, with his family being kicked off their ancestral property and having to scrounge for survival. At one stage Parkes was breaking rocks for road construction in a desperate attempt to support himself, yet in Australia he was able to make a go of it as a newspaper editor and eventually become the 'father of federation'.

This entrepreneurial spirit continues to today. Some 60 per cent of Australians aged 16-24 someday would like to start their own business, for example, according to a survey conducted by the IPA. This entrepreneurial spirit however, is often frustrated through disempowering public policy. Australia has one of the highest corporate tax rates in the developed world. Australia's top rate of 30 per cent is higher than the US (21 per cent), the UK (17 per cent from 2020), and Singapore (17 per cent). On top of this extensive tax impost is the burden of government regulation and red tape. Research by the IPA estimates that red tape reduces economic output by $176 billion each, which is equivalent to 10 percent of GDP.[10] This estimate captures all of the businesses never started, the jobs never created, and the aspirations never fulfilled due to over-regulation and red tape.

Egalitarianism

Alongside freedom as an important Australian value sits egalitarianism. Legally, egalitarianism is underpinned by equality before the law: the understanding that the law will act, as far as practicable, to treat all individuals the same regardless of their differences. Our institutions represent workable compromises between the different interests and commitments of the various people they govern, and our rules and procedures aspire to realise justice with minimal interference in the aspects of individuals' lives not directly pertinent to the matter being governed or adjudicated.

It is true that this aspiration is, and can only ever be, imperfectly realised. As discussed, our freedoms in this country are products of our own unique history, and both reflect and constitute the national identity that forms the background to our lives as individuals. This means that they do not affect a universal, abstract ideal of justice, but rather stand as concrete approximations of the deepest commitments of Australia and its culture. Moreover, properly understood, the historical nature of our institutions counts in their favour, not in condemnation of them. Equality before the law is a proven mechanism for managing a plural society. The alternative approach, whereby the state attempts to recognise differences among people and tailor rules and procedures to their differences, has comparatively little record of success.

Economically, egalitarianism is recognised through the concept of equality of opportunity - as distinct from equality of outcomes. Again, equal opportunity is an aspirational concept which is unlikely to be realised in practice, but nonetheless captures an important part of the Australian identity: that the opportunities people

10 Mikayla Novak (2016), *The $176 Billion Tax on Our Prosperity,* Melbourne: Institute of Public Affairs

receive should be based on their actions, merit, and what they have to offer, rather than on familial history, class, or immutable characteristics such as gender or race. This value of opportunity has been espoused by the Prime Minister in his slogan 'if you have a go, you'll get a go'. Perhaps one of the most evocative articulations of Australian values can be found at the Isurava battle site on the Kokoda Track. There etched on four stone pillars are the words 'courage, endurance, mateship and sacrifice'. Though an amorphous concept, 'mateship' in particular has long summed up what it means to be an Australian. The word suggests friendship, loyalty, and an easy-going, egalitarian nature that has little time for pomp or class.[11] These are simple yet powerful ideas that Australians aspire to live up to.

Localism

The third key Australian value is localism. Australians have historically demanded government be within their reach, rather than control being exerted from distant rulers. This instinct informed both the campaign for colonial 'responsible government' largely independent from Britain, and the decisions of Victoria and Queensland to split off from colonial New South Wales because they no-longer wanted to be governed from Sydney. The principle of subsidiarity suggests that every political decision should be made at the most local level possible, because this gives people more control and influence and is therefore not only more democratic but generally produces better outcomes. While Australians may be unaware of the theory, they have shown themselves to support localism in practice.

Australia was established as a federation and remains both institutionally and sentimentally six united but distinct States. Australia is so pervasively federalist that it often goes unnoticed that a myriad of national organisations have State based structures, often equalizing State representation over population.[12] Federation involved a deliberate process of deciding what issues needed to be made at a national level and the decision made by the elected delegates and subsequently approved by referendum supported localism in that only inherently national issues like the tariff and defence were to be controlled by the federal government.[13] Everything else was intentionally left with the States.

Australians have repeatedly shown that they support the localist principle and do not want their State's autonomy and separate identity to be subsumed by the Federal Government. This is demonstrated by the rejection of 36 out of the 44 referendums that have been conducted in Australian political history, most of which aimed to increase the power of the Federal Government at the expense of the States.[14] The exploitation

11 Nick Dyrenfurth (2015), *Mateship: A Very Australian History,* Brunswick: Scribe Publications

12 John Nethercote (2016), 'Australia's Talent for Bureaucracy and the Atrophy of Federalism' in William Coleman, *Only in Australia: The History, Politics, and Economics of Australian Exceptionalism,* Oxford: Oxford University Press

13 John Quick and Robert Garran (1901), *The Annotated Constitution of the Australian Commonwealth,* Sydney: Angus & Robertson

14 Australian Electoral Commission (2012), "Referendum dates and results", https://www.aec.gov.au/elections/referendums/referendum_dates_and_results.htm [accessed 25 September 2019]

of constitutional clauses to allow the Federal Government to assume powers that were never directly sanctioned by the Australian people is a great betrayal of our system of democracy. In some respects it threatens to undermine the original basis of the legitimacy of the Federal Government, because it is now engaged in activities that have no basis in the direct sanction of the people through either the federation referendums or subsequent referendums. Electoral mandates which by their nature have to cover a range of issues simultaneously are no substitute for this direct approval.

Australian national identity

While Australians have protected federalism, this has not been a barrier to the creation of a distinctly Australian identity. Just as in times past our citizens saw themselves as simultaneously Australian and proud members of the British Empire, they remain both Australians and New South Welshmen, Victorans and so on. Australians are united by a host of shared culture and symbols. Football codes simultaneously unite Australians and demonstrate their enduring State identities which inform both the code they are likely to follow and great spectacles like the 'State of Origin'. Every summer the Australian Cricket team makes an almost ritualistic tour around the country, playing in historic sporting grounds that almost always predate Federation. Indeed the team itself came before the country, with the first 'Test Match' taking place in Melbourne in 1877. Australian culture is present in food icons like Vegemite and the ANZAC biscuit that have never lost their prominent status despite the myriad of new options offered by our immigrant nation. Australian culture is also demonstrated in our language, as we have put our own unique spin on the English of the original colonisers. This runs the gamut from slang and colloquialisms, to the artistic mastery of the language demonstrated by icons like Banjo Patterson.

Australian symbols are as strong as ever. Australians place great pride in their flag, which is flown proudly and prominently all over the nation. Despite the sad disappearance of our WW1 and increasingly WW2 veterans, ANZAC Day attendance remains very strong.[15] This demonstrates our respect and appreciation not only for those who have sacrificed their lives to protect our nation, but implicitly of the free and democratic nation they were protecting. Despite the complaints of a loud minority, Australia Day continues to be a day of national unity and pride that the majority of Australians enjoy. Research from the Institute of Public Affairs has shown that as of 2019 support for keeping Australia Day on January 26 is at 75%, up from 70% the year before.[16] Australia Day is traditionally the day that many new Australians are inducted as citizens, going to considerable efforts to become part of our community.

15 SBS (2018), "Thousands gather across Australia for Anzac Day dawn services", https://www.sbs.com.au/news/thousands-gather-across-australia-for-anzac-day-dawn-services [accessed 25 September 2019]

16 Bella D'Abrera (2019), "Anti-Australia Day activists claim there is a groundswell against January 26. Polling says otherwise", https://ipa.org.au/publications-ipa/anti-australia-day-activists-claim-there-is-a-groundswell-against-january-26-polling-says-otherwise [accessed 25 September 2019]

That the Australian identity remains strong and overwhelmingly positive is remarkable considering our political elites and commentariat tries to actively undermine it. Despite the support for Australia Day, it is still subject to a debate every year pushed forward by media outlets who are clearly at odds with the mainstream opinion. Education has been used by many countries as an avenue of fostering national unity, but the national curriculum takes aim at what is good about Australia. The very concept of a national curriculum is an attack on federalism, because the Australian people never gave the Federal Government control over education. But beyond this, the national curriculum's treatment of history is discouraging. It swings between a loose concept of world history and Australia's indigenous history, with no clear narrative of how Australia grew to be one of the world's most successful liberal democracies.[17] While the historical treatment of Aborigines should and must be acknowledged, it should never be at the expense of what is good about Australia.

One element that is particularly lacking is any discussion of the impact Western Civilisation has had on Australia, despite the fact that it arguably makes up some of the defining characteristics of the nation. Western Civilisation is responsible for our parliamentary democracy, the rule of law, and our language, and it is also responsible for fundamental ideas like the value of the individual and the equal dignity of all human beings. That is not to say that Western Civilisation is the only civilisation that values these things, but the way they are understood in Australia and the reason why they are so pervasive is because our entire political society has grown up with them. We continue to evolve and adapt to our ever-changing conditions, but as we do this we need to recognise and preserve those things that have made us great.

To say that Australians share in a culture and values is more than mere sentimentality. Benedict Anderson famously described nations as 'imagined communities', but they are in fact quite tangible.[18] The nation is the largest community that people regularly come in contact with. It exists as an identity, a way in which people define themselves in relation to the rest of the world, a necessary and positive anchor. It also exists as a political forum in which important decisions are made that can ultimately affect how people live their lives, their opportunities to flourish, succeed, raise a family, and so on. In order for there to be any trust in this decision making process, there has to be common ground between the participants and a sense of the general welfare of all individuals. This is not something that can be manufactured; it must be innate and organic if it is to achieve its purpose.

17 Chris Berg (2008), *The National Curriculum: Ideology, Accountability and the Mega Regulators* Melbourne: The Institute of Public Affairs

18 Benedict Anderson (1983), *Imagined Communities: Reflections on the Origins and Spread of Nationalism,* London: Verso

The issues into which the Senate Legal and Constitutional Affairs References Committee is investigating with its *Inquiry into Nationhood, National Identity and Democracy* cannot be resolved unless we are clear in our minds about the history and character of Australia. We cannot begin to think about how our country should be or what its government might do unless we appreciate what this country is and where it came from. This is not to pretend that every moment in the country's history is a proud one; that is obviously not the case. It is instead to be realistic about how lucky we are to be Australian and to recognise the wisdom of the institutions, customs, and values that have created that luck.

2 - Asset-owning democracy: Giving Australians a stake in the success of the nation

At its best, the Australian Government gives expression to the values of freedom, egalitarianism, and localism. To meet the challenges outlined in the Committee's discussion paper, governments must begin by reestablishing what the Australian way of life is known to require: a democracy in which individuals have the opportunity to flourish, supported by institutions that create and sustain meaning, purpose, and dignity.

The society that will be best-placed to respond to the challenges identified in the discussion paper is an **asset-owning democracy**, within which individuals have reason and incentive to pursue their interests to their own benefit and to that of their community and nation.

Australia is, and has been, a society that has tied the individual to various stakes in the community:

- ●Home ownership is a stake in one's local community and in the country.
- ●Work is a stake in one's dignity through personal responsibility.
- ●Enterprise is a stake in the economy and the success of others.
- ●Tax is a stake in the size and activity of government.
- ●Saving, especially for retirement, is a stake in the future of the country.

1. Home-ownership: A stake in the community and country

Home ownership has always been an intrinsic part of what it means to be an Australian. This belief is still deeply embedded in the national psyche, including amongst younger Australians. In 2016 the Institute of Public Affairs commissioned a survey of 1,006 Australians aged 16-25 to gauge their views, attitudes, and beliefs on a range of issues from freedom of speech, to the role of government, to their views about the future. One question asked "When do you think you will be able to afford to purchase your own home?", to which only two per cent responded that "I don't want to own my own home." Similar results were revealed by political and cultural research firm *JWS Research* which found that 92 per cent of those who were currently renting one day aspired to own their own home.[19] A further poll of 2,500 Australians, conducted by the Australian National University in 2017 found that only 7 per cent thought owning a property was not at all important, while 75 per cent believed owning a home is "a part of the Australian way of life."

19 Reported in Isabelle Lane (2019), "Death of the Great Australian Dream", *The New Daily*, https://thenewdaily.com.au/money/property/2019/03/04/australian-home-ownership-poll/ [accessed 25 September 2019]

However, the aspirations of many Australians to own their home are no longer being realised. According to the Australian Bureau of Statistics, the percentage of Australians aged 25-34 who lived in their own home either through a mortgage or outright ownership declined from 60 per cent in 1961 to just 45 per cent in 2016. Similar rates of decline occurred for those aged 35-44, with a decline from 72 per cent in 1961 to 64 per cent in 2016.[20] Further evidence of the decline in homeownership is provided by the annual HILDA report produced by the Melbourne Institute at the University of Melbourne. The most recent report (from 2018) finds that the percentage of the population living in rental accommodation has increased from around 24 per cent in 2001 (when the series started) to around 27 per cent in 2016 (which is the most recently available data). HILDA also provides information demonstrating the extent to which renters transition into homeowners. They find that from 2001-2004, 13.6 per cent of Australians aged 18 and over shifted from renting to home ownership, but this had declined over the period 2013-16 to 10 per cent. The change was particularly marked for Australians aged 18-24 who experienced a reduction of 13.5 per cent to just 7.6 per cent.

It is true that a part of the decline of home ownership rates is due to the tendency of young Australians to defer later into life decisions which usually accompany home ownership, such as family formation, and settling on a career and a geographical location in which to live. However, declining home ownership rates even for those in the 33-44 and 45-54 age categories suggest there are deeper, structural factors which are pushing home ownership rates down. Naturally, the key structural factor is rising house prices.

As the constituency of renters rises so too will their demands for government policy to cement favours in their interest. This would not be unreasonable. Renting can be inherently insecure (or flexible, depending on your perspective). As the proportion of those who are permanent renters rise, they will naturally seek stability. For example most tenancy agreements are for a fixed term of one year and then often convert to a month-by-month lease. According to the Grattan Institute, more than 65 per cent of private renters had moved in the past two years, compared to 24 per cent of owners with a mortgage.[21] Having to routinely move causes serious disruption to those with ties to a local area, particularly where they have school-aged children. Inevitably, calls for rent control and tenure control will grow louder, and as the constituency of permanent renters increases those calls will be answered, probably by the left, and certainly in a way that cements their electoral appeal to that class. The standard response from the right, that rent control will lock up supply and just exacerbate problems in the rental market are true, but will fall on deaf ears. As United Kingdom Spectator magazine astutely editorialised in 2018, "capitalism will never appeal to those without capital."[22]

20 Leith van Onselen (2018), "The sad death of Australian home ownership" Macrobusiness, 7 August 2018 , https://www.macrobusiness.com.au/2018/08/sad-death-australian-home-ownership/ [accessed 25 September 2019]

21 John Daley and Brendan Coates (2018), *Housing affordability: re-imagining the Australian Dream*, Melbourne: Grattan Institute

22 The Spectator (2018), "Editorial: A home truth for the Tories: Fix the housing crisis or lose power for ever", https://www.spectator.co.uk/2018/04/a-home-truth-for-the-tories-fix-the-housing-crisis-or-lose-power-for-ever/ [accessed 25 September 2019]

Home ownership, then, needs not just to be viewed as something that it is nice for people to have, but as an existential issue to the future of our nation and the free enterprise system. Home ownership gives people a material and moral stake in the future. They will tend to prefer stability, the preservation of the amenity of their local area, oppose radical change that will damage the value of their home, and become more attentive to the local politics of the area. Home ownership makes people mini-capitalists and mini-democrats. It teaches them the virtue of private property, and makes them skeptical about unwanted incursions by outside forces on that property.

Some of the most successful leaders in Australian history understood this reality. Australia's longest serving Prime Minister, Sir Robert Menzies, argued that "the home is the foundation of sanity and sobriety; it is the indispensable condition of continuity; its health determines the health of society as a whole." "National patriotism", Menzies continued, "inevitably springs from the instinct to defend and preserve our own homes." Indeed, Menzies openly promoted home ownership as a bulwark against communism in the 1950s and 1960s. To Menzies, those who were concerned with paying down their mortgage and engaging in home improvements tended not to be revolutionaries.[23]

There are several things the government can do to improve home-ownership, including reducing demand-side pressures stemming from mass migration into the major cities, reducing red tape on land release, construction and zoning laws, enabling greater supply and reduced cost of housing, and reducing financial market regulation to increase the availability of credit.

2. Work: A stake in human dignity

Work is the epicentre of the good life and a flourishing society. Most directly, work is the most effective mechanism to alleviate poverty: those who work, and their families, are far less likely to be in poverty than those who do not. This financial independence creates a series of far more important, albeit less tangible, benefits. Work allows for the development of self-sustaining families and communities. It facilitates home ownership. Children brought up in a household where at least one parent works fair far better in life than those brought up in unemployed households. People who work have superior physical and mental health outcomes compared with those who do not work.

More than this, though, work provides dignity and allows for human flourishing through earned success. Earned success arises wherever one applies oneself to create something of value that would not have occurred without one's action. Success can be earned in the social or economic realm. In the former it is through familial and community endeavours. In the latter it is through work – through the value we generate for ourselves and others (customers, shareholders, colleagues) when we engage in the foundational human action of creating. As Arthur Brooks, immediate past President of the American Enterprise Institute argued, "dignity is to be worthy of respect. That's

23 Sir Robert Menzies (1942), "The forgotten people", available at http://www.liberals.net/theforgottenpeople.htm

what dignity really means." People can be stripped of their sense of their dignity in a lot of ways, Brooks argues, "but the number one way that people are stripped of their sense of dignity is when they feel superfluous to society, when they feel that they are not needed."[24] And it is joblessness which can create a feeling of being superfluous.

Unfortunately many Australians are denied this chance as they are stuck in long term unemployment or trapped by a job market that provides inadequate opportunities for young people. Solutions include making it easier for employees to enter individual flexibility agreements, removing the 'conveniently belongs' provision which allows unions to monopolise workers, and reinstating the threshold for exemption from unfair dismissal laws for small businesses back to 50 employees. In essence this amounts to going some way towards re-establishing the freedom of contract and allowing individuals to seek out opportunities as they did in the era of the 'self-made men'.

3. Enterprise: A stake in the success of the economy

Creating economic prosperity is ultimately about allowing people to trade and cooperate with each other at increasing scales, which is why we must also foster a culture of small-business. Again, the way to do this is by removing government-imposed barriers, like cutting red tape and reducing the corporate tax rate. Enterprise should be allowed to flourish, not just because prosperity will benefit all Australians, but because hard work should be rewarded if we want a strong and successful nation. It is ultimately about fostering the right values. As discussed, Australian culture encourages a range of positive values, but government interference is liable to trample them.

There are signs that small businesses are struggling to form and grow in Australia. In particular, rates of self-employment are in decline. Owner-management rates provide a good proxy for entrepreneurship by showing the proportion of workers who run their own businesses.

- In 2000, 20 per cent of total employment was comprised of owner-managers. That rate dropped to just 16 per cent in 2018.
- Similarly, the percentage of total employment comprised of owner-managers with employees has declined from eight per cent to six per cent.

Similarly, a declining percentage of Australians are working in small businesses with less than 20 employees:

- The percentage of workers employed in small businesses has declined to 44 per cent in 2017 from over 50 per cent a decade ago.
- At the same time employment in businesses with more than 200 employees increased to 32 per cent from 27 per cent.

24 Jonathan Capehart (2017), "Arthur Brooks: the word 'dignity' explains why Trump is President", *The Washington Post* 25 January 2017, https://www.washingtonpost.com/blogs/post-partisan/wp/2017/01/24/arthur-brooks-the-word-dignity-explains-why-trump-is-president/ [accessed 25 September 2019]

Further, there has been a sharp drop in the percentage of small businesses expanding in terms of employment.

- Less than one per cent of businesses with one to four employees in 2017 transitioned into employing more than four employees in 2018. This is well below the historical transition rate of around six per cent.
- Less than one per cent of firms with 5-19 employees in 2017 transition into employing more than 19 employees in 2018. This is well below the historical transition rate of around four per cent.

4. Tax: A stake in smaller government

W.K. Hancock famously wrote that 'Australian democracy, has come to look upon the state as a vast public utility'.[25] While this was once used as a metaphor for policy experiment, it has become far too literal. According to KPMG, 60 per cent of Australian households pay zero or negative net income tax.[26] We cannot expect to have a healthy civic life when three out of five Australians do not make what is the central contribution to the public funds and are thus cut off from the costs of expenditure. To say as much is not to shame those who earn less nor to suggest that the rich should not bear the larger burden of taxation, it is simply to point out that there is a pivotal nexus between the government and the people which is now only being felt by 40% of the population. If we want informed electors that are less likely to run to the political fringes, we need to make sure that as many people as possible feel the consequences of political decisions. To do this we need to remove the income tax-free threshold and return the additional revenue through lower and flatter tax rates.

5. Retirement income: A stake in your future

Finally, if we want to see more grounded and long term policies being supported in Australia, we need to make sure Australians are actively engaged in securing their own futures. Right now people rely on compulsory superannuation to save for their retirement, often paying little attention to where their money is invested. This has allowed industry super funds to siphon off huge quantities of cash into union donations and political campaigns.[27] Compulsory superannuation should not be increased, and the government should encourage self-managed super funds to reward those who plan and pay attention. Getting individuals to think deeply about their own economic future is one of the best ways to get them to vote for long-term policies. It is certainly a better solution than trying to make elections less frequent because the political class does not trust electors to exercise their franchise wisely.

25 W.K. Hancock (1930), *Australia*, London: Ernest Ben

26 Reported in: Get Business, "Australia's poor join in negative gearing boom", 19 April 2017, http://getbusiness.com.au/australias-poor-joining-in-negative-gearing-boom/ [accessed 25 September 2019]

27 Morgan Begg and Simon Breheny (2017), *Rivers of Gold: How the trade union movement is funded by Industry Super*, Melbourne: Institute of Public Affairs

The Australian nation is constituted by individuals who have, or aspire to have, these stakes, and it is a product of their efforts. But the nation is more than just the individuals striving today; it is the bank of wisdom established by previous generations, and it is our hope for our children and their children. It is an expression of our existence in time, and of our need for stability and predictability in our relations with each other and for our plans as individuals and as families. The national identity, then, is integral to the planting of these stakes. In Australia, people flourish not merely as individuals, but as Australians

3 - The nation-state secures freedom

This chapter discusses the role that the nation-state plays in setting the background conditions of good lives for individuals and families. The national identity is embodied in our institutions, our customs, and our shared home. It is not merely something to be leveraged for the pursuit of ideological goals, nor is it an excuse for the cooptation of political power for sectional interests disguised as national priorities. Instead, it has both instrumental value as a basis for our common pursuit of good lives and a just society and intrinsic value as the fulfilment of our basic need to belong to a political community. The way to achieve both of these goods is to locate the national identity in history, place, and custom, rather than as something artificial, to be constructed and reconstructed upon command.

Changing politics around the world

The Senate's discussion paper frames the issue facing the Committee as one of declining confidence in democracy and its institutions, and suggests that as a result "the weight of political opinion has shifted away from the political centre". It is however, unclear whether this phenomenon is bad in-and-of-itself. If the political centre, such as it, represents a consensus that no longer serves the interest of constituents, it would be quite sensible for people to seek a new equilibrium. And indeed, the discussion paper goes on to outline a number of ways that voters around the world have deemed the political centre to have failed. We are told that the British vote to leave the European Union ("Brexit") was a product of "increasing political divisions in society", that the proposed constitutional recognition of Indigenous Australians "touches on questions of democracy and national identity", that the size of government is related to a "weakening in the fabric of civil society", that there is also a weakening "commitment as a culture to fundamental freedoms", and that "some hold concerns about declining levels of civic engagement". If some or all of these phenomena are real, then the political centre should not hold.

For further context, it is worth going beyond the discussion paper to note that similar concerns about the ability of the status quo to respond to the basic needs of citizens can be seen in, among other things: the 2016 election of Donald Trump as President of the United States; the establishment of non-liberal governments in European Union member states Hungary (since 2010), Poland (since 2015), and as part of a coalition, until recently, in Group of Seven member state Italy; the 2018 election of populist Jair Bolsonaro in Brazil; the greater assertiveness of Japan under Prime Minister Shinzo Abe (in office since 2012); the ongoing trade war between the United States and China; and the background of widespread questioning of the intentions of the Chinese Communist Party as the country it rules becomes more important in world affairs. Closer to home, these concerns also played a key role in the 2019 re-election of Australia's centre-right governing coalition, against the expectations of many elite opinion-makers.

In all of these cases, nation-states have reasserted their autonomy, even as their interests have seemingly become more integrated through supranational institutions and the globalisation of the economy. This suggests that the nation-state remains valuable to individuals and peoples and that the future of democratic government will depend on the recognition and preservation of this value. In particular, three key ideas about the nation-state have become points of contention in global politics (and especially in the West):

- National identity: the fellow feeling among a group of people who share values, institutions, and, usually, a home.
- Popular sovereignty: the self-governance of a people, who may or may not all be co-nationals, in a particular place.
- Democratic accountability: the institutions that connect the rulers of a place to those they rule.

These concepts are distinguishable but connected and mutually reinforcing. The national identity motivates the desire for popular sovereignty, and the exercise of sovereignty by representatives of the people gives rise to the demand for accountability, in the sense that the actions of the rulers ought to be explicable in terms of the values and common sense understandings of the people. Conversely, through the mechanisms established to make representatives accountable, and through their exercises of sovereignty, the national identity is reinforced and developed.

What we have seen in politics in recent years is a response to this structure becoming destabilised. Around the world, people have lost faith in the ability of their societies' institutions to faithfully represent their interests, as defined by their national cultures. Moreover, there is a growing suspicion that these interests are being actively discarded by a ruling elite that does not see any need to account for its decisions to people in terms they can understand. Instead, the ruling class has taken it upon itself to remake the national culture and identity so that it is, allegedly, more just and inclusive. But such a project necessarily disrupts the relationship between the state and the nation, between rulers and ruled, since it substitutes the beliefs and interests of the former for the inherited ways of life of the latter.[28] Populism in politics should therefore be seen as a reassertion of the traditional balance of power within the nation-state.

In Brexit, the Abe administration, and the US-China trade war, we also see the effect of the resurgence of the nation-state on international affairs. This is a response to perceived encroachments on states' ability to pursue their interests by international institutions, changing geopolitical realities, and economic globalisation. It is important to note that these concerns are continuous with domestic concerns about the disestablishment of national identity and the weakening of popular sovereignty and democratic accountability. The ability of the governments of nation-states to respond to the needs and desires of their populations is, or can be, constrained by the nation-state's involvement in international institutions and by a weakened position in international affairs. For example, to the extent that the priorities of the European Union

28 Andrew Bushnell (2018), "Relaxed and comfortable with conservative populism", *Meanjin* Autumn 2018

conflict with the British government being able to satisfy popular policy preferences regarding, say, immigration, then Brexit is to that same extent perfectly reasonable, all else being equal. Similarly, if the global system of trade agreements reduces the US government's ability to enable good lives among its middle and working classes, the trade war with China is a reasonable extension of the Trump administration's populism.

The disruption of domestic politics caused by the inattentiveness of governments to the complex basis of their legitimacy, namely the expression of national identity through shared institutions and values, therefore has international effects, and these effects in turn play into the domestic politics of other nation-states. This is why cooperation between populists in different countries is not contradictory—all have a shared interest in a new modus vivendi that reestablishes the nation-state as the primary actor in international affairs. And all of these cases from around the world, individually and collectively, make plain that post-Cold War hopes of the emerging universality of liberal democratic government were at least misplaced, and, more likely, unfounded. We did not reach the end of history—and we will not, because history is not an arc bending anywhere but just the sum of all the things that people have done. We remain free to choose the future for ourselves and for our country.

The nation-state unifies Australians

The underlying problem is that the particular attachments of people to each other, to places, and to shared values and ways of life have been devalued. Instead of recognising the special duties that we owe to our families, to our friends and colleagues, and to our communities, government has increasingly encouraged a flattening, and deadening, standardisation of relationships. From interference with the freedom of religious organisations and other civil society organisations, through the bizarre prominence of aggregate 'identities' in our politics, to the regular exhortation to act as a 'citizen of the world' that accompanies discussion of issues like climate change, what gets lost is the necessary situation of individuals in contexts particular to themselves and how this bears upon what they can and should do. At an even more basic level, the ability of people to set down roots and develop these attachments is being diminished by government policies that make it harder to get a job, buy a house, and start a family. It is almost as though governments around the world have become actively opposed to the formation of meaningful lives.

Therefore, if we aim to address the issues raised by the discussion paper, we need to rediscover the importance of home. The impediments to individuals making a home in the world and to the state properly expressing itself as the home of the nation are connected: individuals without homes become a people without a home, and they feel this loss keenly because it both diminishes their autonomy and erases the values to which their autonomy might be directed. The philosopher Roger Scruton has written of 'oikophobia', an irrational fear of home that has overcome the West, described as "the disposition, in any conflict, to side with 'them' against 'us', and the felt need to

denigrate the customs, culture and institutions that are identifiably 'ours'".[29] Though Scruton's main point here is that the ruling elite of the nation-state has adopted a preference for international interests, the dynamic he describes can also be seen in government policies that interrupt the process of family formation, enterprise, and investment in the future, with people being incentivised to turn to state action in place of individual or local action on the premise that one's partiality to one's own interests is somehow déclassé or unbecoming.

The recognition of Australia as a home for a particular people living their own particular lives helps us to understand the institutions through which sovereignty is exercised and which exist to make government accountable to the people. The Australian nation-state is founded on values, and expressed in institutions, that are particular to us as a people and to this place as our home. Among these institutions are our fundamental freedoms: the rights we have against the state and against one another to speak our minds, to found families and organisations, and to practice our religions. These are derived from our history as a colony of the United Kingdom and from the longer history of Western Civilisation, but adapted to our unique circumstances as a plural nation formed by successive waves of immigration built upon the ancient history of the land's Indigenous people. Edmund Burke understood that natural rights are always "refracted" by a nation's culture, "like rays of light which pierce into a dense medium".[30] Our fundamental freedoms, then, are not mere manifestations of the universal spirit of history but the hard-won products of our specific history. Their value is not derived from theory, but from their suitability to the governance of the nation, time-tested and proven by the flourishing they enable for individuals and society. When we forget the particulars of our nation, we lose the animating force of our institutions, including our freedoms. The result is a fractious politics that is increasingly alienated from ordinary people and their concerns.

The value of the nation-state

The nation-state is constituted by a complex network of institutions and values that give structure to people's lives and make their choices meaningful. As such it is a key enabler of opportunity for individuals and families.

In the literature on national identity, one prominent theme is the instrumental value that a shared national identity has for individual rights and democracy. Burke's point that natural rights become real only within the context of a sovereign state is echoed in the observations of Alexis de Tocqueville about the importance of community for motivating the individual to look beyond his own interest, and in Hannah Arendt's discussion of how being stateless is to be without rights.

29 Sir Roger Scruton (2006), *England and the need for nations (2nd edition)*, London: Civitas, p. 36

30 Edmund Burke (2003), *Reflections on the revolution in France*, New Haven: Yale University Press, p. 52

The national identity provides a proxy for trust; it communicates who is likely to share fundamental values and habits, and so can be trusted with the autonomy created by the recognition of rights and with the exercise of political power. National identity enables power sharing across society by tying people together in a way that is prior to their political engagement.

It is a mistake though to limit the value of national identity to only this instrumental role. Doing so implies that were individual rights and democracy and the other goods that in fact have usually ever existed within the nation-state to somehow become available to us without nationality, we would lose nothing by the elimination of national identity. But this is not how people feel about their nations. We need then to recognise that the national identity is itself intrinsically valuable.[31] This means that having a national identity is good for people in and of itself, and not just because it enables the attainment of other goods. Having a stable national identity that connects you to other people and the place you and they call home is good, not just because that connection gives you the opportunity to better your own circumstances but because, as in the well-known quote from Aristotle, "man is by nature a political animal", meaning that our definition of human flourishing, and our flourishing in fact, depends on our situation within a community of other individuals. This notion descends to us via Burke's observation that artificial society is man's natural environment. In our present age, it is the nation-state that gives expression to our nature and talent for political organisation.

National identity versus nationalism

The importance of national identity to the proper administration of states and the lives of their citizens can easily be confused with the idea of *nationalism*, which is a somewhat imprecise concept. Nationalism is relatively uncontroversial when used to refer to the idea that people are better off if the world is a collection of sovereign nation-states, rather than if they are subject to imperial or even global jurisdictions.[32] This proposition stands independently of debates about the proper role that national identity should play within those sovereign states. Though it is possible that a national identity could be valuable in the above senses even where not connected to, or expressed by, a particular state—as for example in the constituent nations of the United Kingdom—recent history suggests that members of nations tend to prefer their own states. Hence the proliferation of the number of states worldwide, and the return of debates about global integration discussed above.

31 David Miller is one philosopher who recognises that national identity is both intrinsically and instrumentally valuable. See the subsequent sections for a discussion of where his 'liberal nationalism' goes awry. See for example: David Miller (2018) 'Nationalism and immigration control: one view' (Janus Lecture at Brown University, 16 February 2018, given again at the University of Melbourne, 19 April 2018); David Miller (1997), *On nationality*, Oxford: Oxford University Press

32 Yoram Hazony (2018), *The virtue of nationalism*, New York: Basic Books

However, nationalism is more problematic when it refers to the idea that because the national identity is valuable, the state ought to try to maximise this value. We have good reason to reject this project, which Scruton describes as a "pathology" of national identity.[33]

Broadly speaking, there are two kinds of nationalism that pose a problem, each seeking to maximise one part of the value of the national identity: progressive nationalism, which seeks to maximise the instrumental value of the national identity for the achievement of ideological ends and exclusive nationalism which seeks to maximise the value that members of the nation derive from control of the state, to the exclusion and expense of non-members.

On the progressive nationalist view, the national identity is purely functional towards the goals of whatever ideology is seeking to exploit state power. The national identity is considered to be "imagined" and therefore changeable over time. The national identity becomes whatever it needs to be to provide motivation for the ideological project. This is, for example, the view of liberal nationalists, who argue for a civic national identity—one that is tied to mutual participation in shared institutions and which is therefore shaped by the deliberations of citizens. On this view, it is the state that creates, and recreates, the national identity, deploying it towards ends identified by democratic processes. One prominent real world example of this kind of nationalism is the philosophy of the Scottish National Party.[34] But this idea of national identity is contradictory: it assumes a pre-existing national identity as motivation for its ideological project, which project then involves the changing of the national identity, eliminating the motivation. Put another way, it is a problem of circularity: we share institutions because we belong to the same nation, we belong to the same nation because we share institutions. The attempt to maximise the instrumental value of the nation-state is self-undermining, and risks the coherence and intrinsic value of the national identity.

Similarly, an exclusive nationalism that seeks to emphasise the control of the state apparatus by members of a pre-political nation poses a threat to the established order, to the extent that that order secures the rights and interests of non-members. In the same way that progressive nationalism seeks to involve everyone in a democratic project of nation-building, exclusive nationalism subordinates the private interests of members and non-members alike to the expression of national interests through the state. This emphasis on the intrinsic value of the national identity reduces its instrumental value by excluding some people from the full enjoyment of various institutions, including individual rights.

33 Scruton (2006),as above, p. 3

34 Chris Deerin (2018), "As the global far right rises, the SNP is offering an inclusive national", *New Statesman*, 21 June 2018 https://www.newstatesman.com/politics/staggers/2018/06/global-far-right-rises-snp-offering-inclusive-nationalism [accessed 25 September 2019]

For countries like Australia with national identities encompassing many different ethnicities, religions, and family histories, our states need to pay attention to a wider range of needs and interests than an exclusive nationalism allows. The point here is that, as a matter of fact, Australians have a wide range of interests and this rightly constrains government from pursuing too narrow an idea of national interest.

Rather than adopting either of these sorts of nationalism, we ought to recognise both ways in which the national identity is valuable. We do this by accepting the national identity as part of the background of everyday life. The national identity is not founded on today's political involvement or on unbreakable ethnic ties, but on history, place, and custom. It is patterns of life developed over time and suited to a place and the people who live there. A conservative or traditionalist view of the national identity enables enjoyment of the activities and spaces that actually constitute the national identity without involving individuals in outsized political projects. On this view, the various beneficial institutions of the nation-state, including and especially our fundamental freedoms, are particular products of trial and error over many years, and their adaptiveness to popular needs is evinced by their longevity.[35]

Identity politics: Against national identity and the individual

Importantly, this view of the national identity as something both received and adopted—as an inheritance of a particular history enacted in a particular place and so open to all who make their home there—contrasts with the unhappy reductionism of what has come to be known as 'identity politics'. On the analysis of identity politics, the received institutions of a nation-state are compromised by their historical origins. To the extent that they were founded amid injustice, they are unjust and in need of reform. The injustice claimed here is that governing institutions were usually founded without input from women, racial and ethnic minorities, and disadvantaged groups, and that as such, they represent *only* the interests of the privileged and their descendants. There are a range of problems with the identity politics analysis: it assumes its conclusion, by asserting that the only legitimate institutions are those that are formed on today's ahistorical standards of inclusion; it often asserts without evidence that historical injustices are replicated through the present-day operation of institutions, and the evidence that it does provide, such as disparate impact between different sociological groupings, is tendentious and morally dubious, eliding intent; and it eliminates individuality in fact by attributing all success and failure to institutions and other social phenomena while, almost paradoxically, at the same time promoting an unhealthy idea of individual liberation from social attachment as the highest good in life.[36]

On this last point, it is worth emphasising that identity politics is, despite its claims, antithetical to human dignity. By describing politics in terms of what is due to groups, identity politics erases the individual and his or her agency. The capacity of the

35 Bushnell (2018), as above

36 Andrew Bushnell and Daniel Wild (2018), "How identity politics divides us", *IPA Review*, January 2018 https://ipa.org.au/wp-content/uploads/2018/01/IPA-Review-693-Andrew-Bushnell-and-Daniel-Wild-How-Identity-Politics-Divides-Us.pdf

individual to make choices is denied, and his or her preferences are replaced by the assumptions embedded in the political description of his or her membership classes. From the perspective of the state, a member of a recognised minority is no longer an individual possessed of reason, will, and responsibility; instead, the state interacts with a caricature derived from aggregate statistics that may bear little or no relation to the individuals who constitute the class.

All of this is profoundly inegalitarian as well, since it is only some people whose lives are reduced to caricature. The main division in identity politics is between those who the state determines belong to groups that require to be patronised, and those who do not. This latter group are seen to be privileged because the institutions of society anticipate their identity and so interact with them fairly, in a way that is not true of others. This formulation assumes that the advantage of one is the disadvantage of another, and that our institutions are necessarily zero-sum. It is self-defeating to think this way, since if institutions are zero sum as alleged, then politics is reduced to a scrabble for status and cooperation becomes unmotivated, if not impossible. That is, there is no reason for the top-dog to yield to the underdog absent some shared identity that motivates their cooperation. The function of equal citizenship is to enable this kind of trust. As such, dignity comes from being treated the same as everyone else, not from the recognition of difference.

In practice, these distinctions between national identity, nationalism, and identity politics mean that the institutions of state and society do not need to be, and should not be, turned away from their traditional functions and towards ideological goals. As the IPA's Dr Bella D'Abrera has shown, Australia's higher education system, and in particular its history curriculum, has been overtaken by the faddish preoccupations of identity politics.[37] At the same time, Australia's universities have turned against their traditional role as a home for open inquiry. A 2018 report by the IPA's Matthew Lesh found that only one of Australia's 42 university campuses has adequate protections for freedom of speech.[38] This finding led to the recent French Review into freedom of speech at university, which recommended that universities formalise their commitment to open inquiry.[39] However, universities are not the only institutions that have traded history for ideology and thereby put at risk the stable and healthy Australian national identity. Recent years have seen attacks on freedom of speech, freedom of religion, and other Australian institutions. These attacks are discussed further in the next chapter.

37 Bella D'Abrera (2018), *Australian history's last stand: an audit of Australian history teaching at universities*, Melbourne: Institute of Public Affairs

38 Matthew Lesh (2018), *Free speech on campus audit 2018*, Melbourne: Institute of Public Affairs

39 The Hon Robert S. French AC (2019) *Report of the independent review of freedom of speech in Australian higher education providers*, Canberra: Australian Government

4 - Popular sovereignty

Australia became a nation through an extraordinary act of popular sovereignty. Federation had initially been an example of top-down politics in the sense that Henry Parkes was famously prompted to launch his campaign for Federation by the goading of the Governor Lord Carrington. The Federal meetings of 1890 and 1891 likewise involved delegates appointed by the various Colonial Governments with little democratic oversight. The draft constitution that emerged from this process was attacked for being insufficiently democratic and failed to pass the New South Wales Legislative Assembly. In response to this failure, federalists had to go back to the drawing board. A second round of conventions was organised on the democratic model proposed by John Quick, involving ten delegates for each Colony directly elected by the people. Once these delegates had finished drafting an updated constitution it was then subject to referendums of approval in each of Australia's six Colonies. The constitution set up our fundamental political framework: parliamentary democracy, responsible government, bicameralism, a governor-general with reserve powers, a commonwealth government with restricted powers and States with residual authority over everything else. But it also built on the existing and successful colonial democracies. Foundations like the rule of law, freedom of the press, and a bustling civic culture had already been established as both part of our British cultural inheritance and through the political battles of the nineteenth century.

However, the notion of popular sovereignty is broader than how political power is wielded. It refers to the connection between the national identity and the institutions which provide structure to people's lives. Institutions should be invested with the values and customs of the people, as this creates the bonds of trust necessary for civil peace. If the Australian people are losing faith in their institutions, as the Senate's discussion paper suggests, this is likely because they are noting the various ways in which those institutions are failing to recognise the values and needs of Australians, and the shared Australian identity. In this chapter, we discuss some of the impediments to the Australian nation-state giving expression to the values of the Australian people.

In many countries, fundamental rights are upheld by a bill of rights. Australia has not gone down this path due to both a respect for the British tradition of parliamentary sovereignty and a fear that a bill would force democratically unaccountable judges to make essentially political decisions. The lack of a bill of rights means that it is up to the parliament itself to ensure that legislation never interferes with the fundamental rights of all Australians. Unfortunately, the government has failed to live up to the trust it has been given, and Australian freedoms are being curtailed on many fronts. This could help account for the increasing alienation and polarisation in Australian politics, as individual freedoms are now traded for political expediency.

Attacks on the Freedom of Australians: Freedom as Discrimination

One of the principle ways in which freedom has been undermined in Australia is via its reframing as the right to discriminate. This can most obviously be seen with both freedom of speech and freedom of religion. The canonical example of restrictions on freedom of speech is Section 18C of the *Racial Discrimination Act (1975)*. Section 18C makes it unlawful for a person to engage in an action, including speech, which is reasonably likely to "offend, insult, humiliate, or intimidate another person or a group of people" on the basis of their "race, colour, or national or ethnic origin". Aside from constituting an egregious limitation on the natural right to freedom of speech as outlined in chapter 1, the most immediate problem with Section 18C is its inherently subjective nature: it is not possible to objectively define when somebody may be offended or insulted by a particular action or word. In principle, anybody could choose to take offense to anything stated by someone else.

This stands in contrast to the generally accepted notion that speech can justifiably be limited only when it conflicts with the rights of others, as noted in the IPA's report, *The case for the repeal of Section 18C of the Racial Discrimination Act*:

> Archetypal examples include, but are not limited to, incitement to violence, fraud, and, more controversially, defamation. In each of these cases there is a definite material rights infraction directly caused by the speech: incitement leads either to physical harm or reasonably apprehended danger, fraud causes financial or material loss, and defamation compromises the ability of an affected individual to operate in society by tarnishing his reputation. Identifying a harm of this nature in offensive speech is considerably more difficult, if not impossible.[40]

However, it is perhaps the way in which Section 18C reframes freedom of speech that causes the most damage. Following Section 18C is Section 18D which provides for a series of exemptions where offending, insulting, humiliating, or intimidating someone on the basis of their race, colour, or national or ethnic origin is permitted. In particular, Section 18D exempts anything done or said reasonably and in good faith "in the performance, exhibition or distribution of an artistic work"; or "in the course in the course of any statement, publication, discussion or debate made or held for any genuine academic, artistic or scientific purpose or any other genuine purpose in the public interest"; or "in making or publishing: a fair and accurate report or any event or matter of public interest, or a fair comment on any event or matter of public interest if the comment is an expression of a genuine belief held by the person making the comment."

There are a number of problems with the construction of a law in this fashion, not least of which is the reversal of the onus of proof. Under complaints under Section 18C, the onus is always on the actor to prove that his or her act or speech was legally permissible. A more fundamental problem is how Section 18C reframes freedom. Prior

40 Berg at al (2016), *The case for the repeal of section 18C of the Racial Discrimination Act,* Melbourne: Institute of Public Affairs, p. 18

to the introduction of Section 18C in the *Racial Discrimination Act (1975)* Australians had a far more expansive scope for freedom of speech. Government action via Section 18C subsequently circumscribed this freedom, only for it to be partially handed back via the provisions in Section 18D. That is, individuals who were previously free to engage in certain speech and actions must now prove to government through Section 18D that that same speech is still legally permissible. This process reverses the basis of freedom: rather than freedom being a natural human right that predates government, it becomes something granted to citizens by government, and as such something which can be confiscated by government edict.

A similar re-defining of freedom has taken place with freedom of religion. At both the Commonwealth and state levels there are various restrictions placed on the freedom of religion via anti-discrimination laws. At the Commonwealth level, for example, there sits the *Age Discrimination Act 2004*, the *Disability Discrimination Act 1992* , the *Racial Discrimination Act 1975*, and the *Sex Discrimination Act 1984*. On top of Commonwealth anti-discrimination laws sit legislation at the state level, including, but not limited to:

- *Australian Capital Territory – Discrimination Act 1991*
- *New South Wales – Anti-Discrimination Act 1977*
- *Northern Territory – Anti-Discrimination Act 1996*
- *Queensland – Anti-Discrimination Act 1991*
- *South Australia – Equal Opportunity Act 1984*
- *Tasmania – Anti-Discrimination Act 1998*
- *Victoria – Equal Opportunity Act 2010*
- *Western Australia – Equal Opportunity Act 1984.*

As with Section 18C, anti-discrimination laws reverse the concept of freedom from one of a natural human right to a government-given privilege. The way in which most anti-discrimination laws operate is they outline a broad set of behaviours, actions, or speech which are prohibited. Certain groups, in this case religious groups, then argue that these limitations affect their ability to fully actualise their views, beliefs or convictions. The government then provides an exemption from anti-discrimination laws by bestowing legal privileges on these groups to "discriminate", which returns to them the freedom that was originally confiscated by government. In returning this freedom the government has changed the meaning of freedom to mean the government sanctioned right to discriminate.

The abandonment of equality before the law

The fundamental freedoms of the Australian Commonwealth, which are characteristic of the Australian national identity, reflect a deeper philosophical commitment to a particular notion of equality and fairness. One of the key ideas of Australia as a nation-state and as a home for Australians is equality before the law: the understanding that the law will act, as far as practicable, to treat all individuals the same regardless

of their differences. Our institutions represent workable compromises between the different interests and commitments of the various people they govern, and our rules and procedures aspire to realise justice with minimal interference in the aspects of individuals' lives not directly pertinent to the matter being governed or adjudicated.

Despite its evident value and sense, equality before the law is perhaps the most endangered of Australian values. The rigid application of identity ideology in our universities and schools risks raising a generation of Australians unfamiliar with the benefits of our traditional equality and instead possessed of a malignant certainty that the state exists to equalise outcomes and can do so by bestowing privileges on certain groups and imposing costs on others. The folly of all this is that the emergence of equality before the law in history was in response to the needs of precisely those disadvantaged minorities that identity politics claims to care about.

Perhaps the signal example of the new approach is the proposed Indigenous Voice to Parliament. In response to the manifest failures of Indigenous policy across all levels of government, and in recognition of pre-existing Indigenous identity, it was proposed in the Uluru Statement from the Heart, produced at a meeting of Indigenous leaders in 2017, that the constitution be amended so as to require the establishment of a body to represent Indigenous views of policy affecting Indigenous people.[41] That Indigenous policy has largely failed to improve the quality of life of Indigenous Australians, and especially those still living on country in regional Australia, is undeniable. This failure contributes to health, economic, and justice outcomes that are, on average, much worse than those of non-Indigenous Australians.[42] But the debate about whether constitutional recognition of Indigenous Australians is required, and, more specifically, whether the constitution should require an Indigenous Voice, is not just about these outcomes, but a debate about the proper role of the constitution. The constitution sits at the apex of Australia's political-institutional structure. Its role is to bind Australians together based on what we share, not to set us against one another, and it provides a space within which our disputes can be worked out to mutual satisfaction. This role is incompatible with institutions that purport to distinguish between Australians on the basis of race, or on the basis of other immutable characteristics. This is true notwithstanding the failures of Indigenous policy.

In their forthcoming monograph, *Race has no place: The positive case for equality in Australia's constitution*, the IPA's Daniel Wild and Morgan Begg show that the racial neutrality of the constitution is central to its function as an enabler of good lives for Australians. They write:

> Inherent to the principle of the rule of law and equality before the law is a concept of equal and inviolable human dignity. Human dignity recognises that humans possess unique and intrinsic value by virtue of being human, and that this intrinsic value is shared equally across all humans and cannot be negated by the particular characteristics (such as race or gender) or actions of any one individual.[43]

41 The Uluru Statement from the Heart can be found at: https://www.1voiceuluru.org/

42 Andrew Bushnell (2017), *Indigenous Australians and the criminal justice system*, Melbourne: Institute of Public Affairs

43 Daniel Wild and Morgan Begg (2019), *Race has no place: the positive case for equality in Australia's constitution*, Melbourne: Institute of Public Affairs (forthcoming), p. 1

Identity politics argues that individual dignity depends on the recognition of particular attributes that are associated with disadvantage because of the historic injustice of the country and its institutions. But the truth is exactly opposite. It is because of our shared history but diverse individuality that dignity depends on being treated the same as everyone else. As Wild and Begg note, "the fundamental underpinnings of a successful life are not culturally contingent".[44] One of these needs is the need to belong to a stable political community in which members are bound by reciprocal and equal rules and expectations. Australia's traditional standard of equality before the law enables the trust and solidarity characteristic of national identity and foundational to a free society, and in this way recognises the universal needs of Australians.

The current attacks on Australia's tradition of formal equality therefore contribute to Australians' loss of confidence in our institutions by striking at the heart of our national solidarity and undermining confidence in the ability of our shared institutions to provide opportunity for all and even in the possibility of popular sovereignty established in shared institutions.

The unaccountable bureaucracy

The identity politics critique of our shared institutions fails, but this does not mean that all of our institutions are working as they should to give expression to the values and customs of the Australian people. In fact, our government is more distant and self-interested than ever. The identity politics critique is in a sense too narrow, believing that our government is specifically failing only certain groups when in reality it is failing all of us in some very basic ways.

The feeling that the system of government is somehow rigged against the middle and working class has been a prominent theme in elections around the world over recent years. For example, Donald Trump campaigned on "draining the swamp", promising to take on America's ruling class, symbolised by the state employees and crony capitalists who have grown rich even as many in their country saw their communities sink into despair.[45] Brexit was in part about the loss of sovereignty to the European Union. Closer to home, the current government attributes its recent reelection to the votes of "Quiet Australians", evoking a middle and working class breaking a long and frustrated silence.

44 Ibid p. 9

45 The suburbs of Washington DC are the highest-earning on average in the United States. At the same time, many parts of that country are seeing an increase of "deaths of despair" caused by drug and alcohol abuse and suicide. Gaby Galvin (2018), "The 10 richest counties in the US", *US News and World Report,* 6 December 2018, https://www.usnews.com/news/healthiest-communities/slideshows/richest-counties-in-america [accessed 25 September 2019] David DiSalvo (2019), "'Deaths of despair' from drugs, alcohol and suicide have reached a record high, warns new report", *Forbes,* 14 June 2019, https://www.forbes.com/sites/daviddisalvo/2019/06/14/deaths-of-despair-from-drugs-alcohol-and-suicide-have-reached-a-record-high-warns-new-report/#f1d67567098c [accessed 25 September 2019]

Australia has its own swamp. It is a system of government departments and publicly-funded quangos that exist to fleece the taxpayer and tilt our politics towards elite opinion. The IPA estimates that the Canberra swamp costs taxpayers at least $8 billion per year, a figure composed of higher public service wages, grants to organisations that exist to lobby government for more money, public broadcasting, payments to international organisations, and the money that political parties have decided to award themselves.[46]

This waste distorts our economy, and, perhaps more alarmingly still, it distorts our politics. Government bodies like the Australian Human Rights Commission, State equal opportunity commissions, and recipients of multiculturalism largesse all advocate partisan political views and tendentious philosophy. All of this comes out of taxpayer pockets, often with little scrutiny. The government contributes around 38 percent of the revenue of the non-profit sector. This money is then often used to agitate for self-serving policy positions. When the Commonwealth held a parliamentary inquiry into freedom of speech, which investigated the utility of Section 18C of the Racial Discrimination Act and the Australian Human Rights Commission, 42 of the public submissions came from publicly-funded groups.[47] The Canberra swamp is a system for subsidising marginal viewpoints that provide an excuse for centralisation and bureaucratisation. It is no wonder then that people increasingly see the state as hostile to their interests. It is.

This hostility is not just manifest in the quasi-corruption of swamp churn, it can be seen in the activity of the burgeoning administrative state. Australia is over-burdened with regulation, preventing individuals from creating and exploiting opportunity, and this makes us all poorer. As noted above, IPA research estimates that red tape—defined as regulation that is more than the minimum required to achieve a given purpose—costs the Australian economy $176 billion each year in foregone growth. This is equal to 10 percent of GDP.[48] World-leading joint research between the IPA and the Mercatus Centre at George Mason University in the United States found that the number of regulatory restrictions has increased almost 50-fold since 1975. A count of clauses in law and regulation that include words like 'shall', 'must', 'may not', 'required', and 'prohibited' found that the number had increased from 2000 in the late 1970s to 95,000 in 2015.[49]

The volume of unnecessary regulation is increased yet further when we include the 'dark matter' of government publications that are intended to influence private actors' behaviour. Five major government agencies, the Australian Security Investment Commission, the Australian Prudential Regulation Authority, the Australian Competition and Consumer Commission, the Australian Accounting Standards Board, and the

46 Adam Creighton (2019), "'Canberra Swamp' costs us $8bn a year", *The Australian*, 28 January 2019 https://www.theaustralian.com.au/nation/canberra-swamp-costs-us-8bn-a-year/news-story/f646228505aef1d3cee7c05e0624c9ce [accessed 25 September 2019]

47 Daniel Wild (2017), "Who will drain the Canberra Swamp", *IPA Review* June 2017

48 Novak (2016), as above

49 Adam Creighton (2019), "IPA supports war on 'strangling' red tape", *The Australian*, 14 August 2019, https://www.theaustralian.com.au/nation/politics/ipa-supports-war-on-strangling-red-tape/news-story/55a3f315e7e2125f3920728f7301b1d1 [accessed 25 September 2019]

Auditing and Assurance Standards Board, are responsible for 75,976 pages of regulatory dark matter, including 19,011 pages of legislative instruments and 56,965 pages of quasi-regulation like guidance material. For every page of enabling legislation passed by Parliament, there are another eight pages of regulation imposed by these agencies.[50]

Australia's economic regulation also often comes with criminal penalties attached, penalties that the explanatory dark matter documents frequently suggest will not be used as anything other than threats to encourage a pliant attitude among the regulated. In this way, regulation trades on public respect for the criminal law—which is supposed to represent our common understanding of what constitutes a serious offence against society—to micro-manage Australian enterprise.[51]

The over-extension of government is to its discredit. As government expands, its accountability contracts. The ability of any Australian to understand even those parts of government that directly affect him or her is swamped by the overload. Governments should not mistake concerns about diminished sovereignty with concern that government does too little. In fact, the zeal of incompetent government is one of the main drivers of the public loss of confidence in our institutions and our ability to govern ourselves.

Unnecessary international commitments

The Commonwealth is also responsible for seeking out new reasons to regulate our economy and culture by unnecessarily signing up to international commitments that represent international concerns without due deference to local priorities.

The best example of this is governments' fixation on climate change, and in particular, the Paris Climate Agreement. In 2016, Australia signed the agreement, pledging to reduce our greenhouse gas emissions by 26-28 percent on 2005 levels. IPA research estimates that meeting this target will cost Australians $52 billion in net present value terms over the period 2018-2030. Yet the agreement will make little impact on global temperature. Dr Bjorn Lomborg of the Copenhagen Consensus Centre estimates that if all Paris targets are hit, the projected rise in global temperature by 2100 will be reduced by just 0.05°C. The United States has withdrawn from the agreement. The world's largest emitter, China, is not obliged to reduce its emissions. As such, it is certain that Australia's commitment under the agreement will have no discernible impact on global temperatures, even though our target is the most severe in the developed world.[52]

50 Kurt Wallace (2019), *Regulatory dark matter: how unaccountable regulators subvert democracy by imposing red tape without transparency,* Melbourne: Institute of Public Affairs

51 Andrew Bushnell (2018), "Over-criminalisation as red tape" in Darcy Allen and Chris Berg (eds) *Australia's red tape crisis: the causes and costs of over-regulation* Brisbane: Connor Court

52 Daniel Wild (2018), *Why Australia must withdraw from the Paris Climate Agreement,* Melbourne: Institute of Public Affairs Daniel Wild (2018), *Ten points about the Paris Climate Agreement,* Melbourne: Institute of Public Affairs

It should not be controversial to say that the Australian government should, in all things, pursue the interests of Australians. Yet our policy in everything from environmental regulation to border enforcement is subject to international treaties and overseas scrutiny. In part, this is because of the overly-broad reading given to the external affairs power of the constitution. As Morgan Begg and Simon Breheny have written in the *IPA Review*, the external affairs power has "been used to concentrate power in Canberra":

> For instance, external affairs power enables the Commonwealth to give effect to several environmental treaties through the Environment Protection and Biodiversity Conservation Act 1999. Section 18C of the Racial Discrimination Act 1975 is justified through the Commonwealth being a signatory to the Convention on the Elimination of All Forms of Racial Discrimination.
>
> Due to the increasingly broad areas of policy covered by treaties made within international bodies such as the United Nations, and Australia's willingness to agree to these treaties, the Commonwealth has increased its power by passing laws to give effect to its 'international obligations'.[53]

When the government uses international treaties to empower itself to perform actions that are otherwise impermissible under the constitution, it acts lawfully but in contempt for the people that it serves. The subjection of nations to international rule-making has been a key theme in the recent political changes we have seen around the world, including Trump's renegotiation of trade deals including the North American Free Trade Agreement, Brexit, and the Brazilian response to recent international criticism of its management of the Amazon. It is a mistake for the Australian government to assume public support for the delegation of sovereignty to international organisations and agreements.

Globalisation's benefits and costs

Australia's international commitments are situated within the context of globalisation, which can be described as the intensification of international and interpersonal relations enabled by technologies of communication and transport. This process has had a wide range of benefits for many Australians and for people in other countries. Access to material goods has increased, and new industries have developed, including the expansion of tourism and the internationalisation of higher education. Although the often-told story of the rapid rise of human development and decline of poverty around the world is too simplistic, it is beyond question that the past few decades have seen the ranks of the global middle class grow.

This achievement, however, has not been without cost. Globalisation has been enabled by opaque global governance, operating at a distant remove from individuals and families. The creative destruction of the global market can seem, at the local level, like a cyclone beating a path across the suburbs and towns of the West, leaving once settled lives in pieces. And rapid population growth driven by immigration can have

53 Morgan Begg and Simon Breheny (2017), "The 10 worst constitutional mistakes", *IPA Review* December 2017

an unsettling impact on our cities by increasing competition for work, overburdening infrastructure, and destabilising widespread customs. Enabling individuals to realise the benefits of globalisation while being able to minimise and absorb its costs should be the goal of all nation-states—and especially a diverse, competitive and free-trading island nation-state like Australia.

One way of thinking about the emergence of populism and renewed interests in economic protection is as a loss of confidence in the ability of nation-states to achieve this balance for their citizens. Tone-deaf politicians refer to aggregate economic statistics like GDP growth to reassure the public, even though these statistics have little practical meaning in the lives of most individuals and families. In Australia, successive governments have lauded their economic performance by pointing to 28 years in a row of uninterrupted GDP growth. But as the IPA's Daniel Wild pointed out in *The Australian* in March, over this period of time there have been 18 quarters where per capita GDP has declined, revealing how overall economic growth does not necessarily mean better lives for Australians. In the same piece, Wild notes that "about 60 percent of total economic growth since the global financial crisis has come through population growth centred on immigration" rather than through increases in productivity.[54] Put another way, governments have preferred simply to add people to the economy to boost its size, rather than undertake the harder task of policy reform that enables economic production.

This is just one example of how globalisation has made it easier for governments to ignore their constituents and their problems. The costs and benefits of globalisation have not been dispersed evenly across populations. IPA Adjunct Fellow Matthew Lesh has described the development of a fissure between the beneficiaries of globalisation, *inners*, who tend to have knowledge economy jobs, inner city lifestyles, and left-wing social beliefs, and those who have borne the cost of globalisation, *outers*, who tend to have jobs in traditional industries and the service economy, lives in the suburbs or regions, and are more conservative in their beliefs.[55]

54 Daniel Wild (2019), "Our unproductive approach to growth", *The Australian*, 6 March 2019, https://www.theaustralian.com.au/commentary/opinion/our-unproductive-approach-to-growth/news-story/245abdf65396dbf7a81ce1f3cf6ea9cc [accessed 25 September 2019]

55 Matthew Lesh (2018), *Democracy in a divided Australia*, Brisbane: Connor Court

This fissure has discredited government in the eyes of many. Crucially, it is not the case that economic inequality itself has widened—Australia's GINI coefficient for both income and wealth has been stable for the past 15 years. Instead, what is lacking is the opportunity for Australians to get ahead in life. Across that period, the ratio of house prices to incomes almost doubled, the home ownership rate of those aged 18-39 fell by almost 25%, energy affordability declined so badly that low-income earners now spend 27 percent of their household incomes just keeping the lights on, the marriage rate hit an all-time low, and by 2016, there were 25,000 fewer businesses being created than 2004.[56] The restlessness seen in Australian politics, mirroring that seen in other countries, is driven by the overwhelming feeling that it is harder now to build a good life than it used to be. In part, this is the product, deliberate or otherwise, of a governing class that is out of touch with everyday concerns, because it is part of the class of inners who are insulated from the costs of globalisation.

56 Daniel WIld and Andrew Bushnell (2017), *Understanding inequality in Australia,* Melbourne: Institute of Public Affairs

5 - Democratic accountability

One of the keys to increasing democratic accountability and people's faith in our political institutions is localism. Political decisions should be made at the most local level possible because this allows people to have greater influence over the decisions that affect their lives. At a basic level this means keeping the scope of government as small as possible—the most localised decisions are those made by individuals. As a general rule, individuals have the greatest insight into what is best for themselves and what will make them happy. A smaller government lessens the need for the unaccountable bureaucrats identified above. We have a government which is now too large for the Parliament itself to keep track of; the very facilitator of Australian democracy is being crushed by the weight of what it itself created.

Federalism

The most immediate way in which the Federal Government can be brought back to a size capable of parliamentary management and through which the principles of localism can be fostered is a reinvigorated federalism. The federation process was a deliberate act of deciding what issues needed to be made at a national level and the conclusion was clear.[57] Australians only ever consented to inherently national decisions like those over tariffs and defence to be made by the Federal Government, everything else was *deliberately* left to the States and nothing barring a referendum can legitimately alter that fact. Despite the democratically articulated will of the Australian people the size of the Federal Government has greatly expanded into areas like health and education. The tools of that expansion are well known: the attached conditions of section 109, the external affairs power and other parts of the constitution interpreted more broadly than their drafters ever intended, and a monopoly on the major sources of taxation. Almost all of this has been facilitated by the actions of the unelected High Court.

Only the Federal Government has the power to end this detrimental status quo. It must not look to the initiative of State Governments themselves. The phenomenon of 'vertical fiscal imbalance', whereby the Commonwealth Government raises revenues in excess of its spending responsibilities, while State governments have insufficient revenue from their own sources to finance spending responsibilities, actually benefits the States. They seldom have to deal with the negative press that comes with increasing taxes, meanwhile when they have to curtail spending they can blame their commonwealth counterparts.

57 John Quick and Robert Garran (1901), *The Annotated Constitution of the Australian Commonwealth*, Sydney: Angus & Robertson

State Governments seem happy to avoid the accountability of raising revenue at the level it will be spent, as was demonstrated by their opposition to the Turnbull Government's short-lived proposal to give income taxing powers back to the States.[58] This is a negative for democracy and suggests that there is a self-interested mindset that has taken hold of the political class.

Electoral reform

The self-interest of the ruling class is also demonstrated in calls for longer and fixed terms. This zombie idea is promoted on the basis that short election cycles lead to short term policy making.[59] But if the voters vote for short term thinking that is their prerogative. The political class should not operate on the pretense that it knows better than the people who are the source of the authority they exercise. When it does it can undermine even the most well-tried of liberal democratic systems, as demonstrated by the current crisis in the United Kingdom. The fact that this issue continues to be canvassed is all the more remarkable considering the outcome of the 1988 referendum allowing for flexible four-year terms. This saw a 'yes' vote of less than 33 per cent and an outright rejection in all States.[60] As the issues discussed in this essay reveal, this is no time for politicians to be evading the scrutiny of voters.[61]

Reform must involve politicians becoming more rather than less accountable to the people who elect them. We can expand democratic accountability and increase the representativeness of the Parliament by increasing the number of Members of Parliament. Members would represent clearer 'communities of interest' rather than great swathes of population that have little or nothing in common. Australia's population has grown by two-thirds since the last significant increase in the size of the House of Representatives in 1984, leading to bloated electorates that undermine the direct connection between the people and the federal parliament, particularly in rural areas.[62]

The main impediment to increasing the size of the House of Representatives is the nexus clause, a constitutional provision which mandates that the House of Representatives be as nearly as practicable twice the size of the Senate.[63] Any increase in the size of the House of Representatives must thus be accompanied by an increase in the size of the Senate. The major political parties have been wary of expanding the House because it would result in Senators requiring a lower quota of votes to get elected, and therefore

58 Michael Koziol (2016), "States could collect income tax under radical plan backed by Malcolm Turnbull", *Sydney Morning Herald*, 30 March 2016, https://www.smh.com.au/politics/federal/states-could-collect-income-tax-under-radical-plan-to-be-discussed-at-coag-20160330-gntoar.html [accessed 25 September 2019]

59 Cathy Harper (2019), "Australia needs fixed four-year parliamentary terms", *Election Watch*, 7 May 2019 https://electionwatch.unimelb.edu.au/articles/australia-needs-fixed-four-year-parliamentary-terms

60 Australian Electoral Commission (2012), as above

61 Andrew Bushnell and Daniel Wild (2017), "Four year terms are a bad idea", *Spectator Australia*, 24 February 2017, https://www.spectator.com.au/2017/02/four-year-terms-bad-idea/ [accessed 25 September 2019]

62 Australian Bureau of Statistics (2019), "Population", https://www.abs.gov.au/Population [accessed 25 September 2019]

63 Zachary Gorman and Gregory Melleuish (2018), 'The Nexus Clause: A peculiarly Australian obstacle', *Cogent Arts and Humanities*, Volume 5, Issue 1

more representation for members of minor parties. Minor parties are arguably necessary to display the variety of views inevitable in a democracy but the political class has viewed them negatively—as demonstrated by even the discussion paper for the inquiry that prompted this paper. This has produced the perverse outcome whereby democratic representation in the Lower House is being held back on account of a fear of the consequences of democratic representation in the Upper House.

There may be a case for amending the nexus clause to allow for future increases in the size of the House of Representatives with less complication. However, given the difficulty of amending the constitution and the failure of the 1967 referendum on the issue, the better approach is to increase the House even if that means increasing the Senate. It is time for the established political parties to recognise the opportunity that an expansion of Parliament represents: greater representation will increase their legitimacy, and ultimately their ability to influence the policy direction of the country.

Finally, it should be noted that democratic accountability does not necessarily entail direct democracy. Direct democracy—getting the general public to vote directly on specific issues—while potentially a useful avenue for channeling the frustrations of mainstream Australians, does not offer the prospect of long-term solutions to the challenges outlined in this paper. Direct democracy for the most part merely changes the method of political decision making. If that decision making is carried out on a national scale each individual will still have limited influence, in some respects less influence because they can no longer lobby their local member and thus lose an important conduit of representative democracy. Translating the results of a referendum or plebiscite into law can be difficult where the result is contrary to the expectation of the political class: the failure of the British establishment to implement Brexit reveals that the problem of failing and corruption of political institutions cannot be resolved simply by bypassing them. On top of this, direct democracy does nothing to overcome the tyranny of the majority. Local communities and regions can still be overwhelmed and dictated to, leaving them alienated by the political process. This is one of the reasons why the referendum mechanism for changing the constitution requires the consent of a majority of the people in a majority of States, thus ensuring that NSW and Victoria cannot dominate the rest of the country. Direct democracy therefore presents as a simplistic approach to difficult problems of political organisation and legitimacy, and should be reserved for constitutional issues.

Local government and regions

There are other ways in which democratic accountability could be improved by carrying the principle of localism beyond federalism. Australia's system of local government was introduced with the intent of making people aware that government expenditure was 'putting a burden on their own backs'; that is, the relationship between the people making political decisions and who those decisions would effect would be as direct as possible.[64] Unfortunately, many voters now pay little attention

64 Zachary Gorman (2018), *Sir Joseph Carruthers: Founder of the New South Wales Liberal Party,* Brisbane: Connor Court.

to local elections as seemingly the least important of their three franchises, and this makes councils comparatively unaccountable. One remedy is to give states and local authorities more control over schools, hospitals, and services. This should not only lead to better decision making about issues directly affecting the local community, it will also give the electorate a reason to pay attention to local government elections.

Regional areas in particular need greater local control. Environmental legislation is increasingly drafted by city-based politicians and bureaucrats with little knowledge or regard for local conditions or the necessities of agriculture. The most egregious example of this is the Murray-Darling Basin plan which has created unnecessary hardships for farmers.[65] Similarly, restrictive land clearing laws have been known to accelerate bushfires, not only undermining any intended environmental impact but risking lives in the process.[66] One option is to create new states that are smaller, less city-centric and more responsive to the needs of their people, but this would only be worth considering once the principles of federalism are fully restored.

65 Murray Darling Basin Citizens' Association (2019), "The MDBA's man made drought: Topher Field", accessed 23 September 2019 https://mdbca.com/2019/05/09/the-mdbas-man-made-drought-topher-field/ ABC News (2011), "Suicides linked to basin plan", accessed 23 September 2019 https://www.abc.net.au/news/2011-01-03/suicides-linked-to-basin-plan/1892504

66 Ean Higgins (2019, "Queensland land clearing laws made bushfires worse: report", *The Australian,* 17 July 2019, https://www.theaustralian.com.au/nation/queensland-land-clearing-laws-made-bushfires-worse-report/news-story/15b7deb5a001b916ecd398eb0544b4c7 [accessed 25 September 2019]

Conclusion

The changing state of world politics presents a range of challenges for Australia. The return to prominence of national identity and the nation state suggests that Australia will be dealing with a strategic environment within which the legitimacy and usefulness of global governance is diminished, and increased strategic competition is likely to interact in complex ways with the process of globalisation. As a free-trading island nation-state, Australia is right to pay careful attention to these trends. However, we should be confident that the successful history of our country provides a set of values that will guide us through this period of uncertainty.

In particular, Australians remain committed to their national identity and to the institutions it secures. As a nation, we possess fundamental freedoms and shared commitment to equality before the law and the exercise of our popular sovereignty.

At its best, our country has manifested these values in an asset-owning democracy within which prosperity and opportunity are widespread. Recommitting to this path provides the best way to safeguard our future. This means promoting in our country the stakes that ground the individual in the community: home ownership, work, enterprise, sensible taxation, and secure retirements. Beyond the material, it means having a country within which sovereignty is exercised by reference to the customs, habits, and values of the people as they live now and have lived historically, rather than at the whims of a self-interested elite.

AUSTRALIAN VALUES AND THE ENDURING IMPORTANCE OF THE NATION-STATE

About the Institute of Public Affairs

The Institute of Public Affairs is an independent, non-profit public policy think tank, dedicated to preserving and strengthening the foundations of economic and political freedom.

Since 1943, the IPA has been at the forefront of the political and policy debate, defining the contemporary political landscape.

The IPA is funded by individual memberships and subscriptions, as well as philanthropic and corporate donors.

The IPA supports the free market of ideas, the free flow of capital, a limited and efficient government, evidence-based public policy, the rule of law, and representative democracy. Throughout human history, these ideas have proven themselves to be the most dynamic, liberating and exciting. Our researchers apply these ideas to the public policy questions which matter today.

About the authors

Daniel Wild is the Director of Research at the Institute of Public Affairs. He specialises in red tape, regulation, economic policy, the philosophy of free enterprise, and criminal justice. Daniel has authored research papers on economic policy, environmental regulation, and criminal justice reform.

Andrew Bushnell is a Research Fellow at the Institute of Public Affairs, working on the Criminal Justice Project. He previously worked in policy at the Department of Education in Melbourne and in strategic communications at the Department of Defence in Canberra.

Dr Zachary Gorman is a Research Fellow with the Foundations of Western Civilisation Program at the Institute of Public Affairs. He is a professional historian with a PhD from the University of Wollongong where he has worked as a Tutor of history and politics, and a BA with honours first class from the University of Sydney

Institute of
Public Affairs