

Glenn Barnes  
Co-Chair, Citizens for Democratic Renewal  
Email: [admin@democraticrenewal.org.au](mailto:admin@democraticrenewal.org.au)  
Webpage: <https://democraticrenewal.org.au>  
Mail: Citizens for Democratic Renewal  
PO Box R418, Royal Exchange NSW 1225

Committee Secretary  
House of Representatives Standing Committee on Social Policy and Legal Affairs  
PO Box 6021  
Parliament House  
Canberra ACT 2600

Phone: [+61 2 6277 2358](tel:+61262772358)  
Fax: +61 2 6277 8463  
[spla.reps@aph.gov.au](mailto:spla.reps@aph.gov.au)

In response to questions from the public hearing into constitutional reform and referendums we make this **Supplementary Submission** to The House of Representatives Standing Committee on Social Policy and Legal Affairs examining the 2019-20 annual report of the Attorney-General's Department, having particular regard to constitutional reform and referendums.

An opportunity exists for this committee to initiate a significant first step toward renewing citizen engagement with, and trust in, Australia's governance systems. This step relates to the committee's consideration of 'constitutional reform and referendums'.

***Specifically, we recommend that the Australian Parliament considers:***

"Establishing a permanent Constitutional Council of esteemed community leaders to specifically consider the constitution in the light of contemporary society and advocate appropriate change. The Council to be responsible for drafting any referendum questions and publicly presenting these to the parliament for action."

As a result, Australians would be far better informed about our Constitution and any needed changes prior to a referendum being run.

(Note: It is not proposed that the Constitutional Council impinge on the role of the High Court, who should retain the unfettered mandate for interpreting legal issues pertaining to the Constitution.)

Having a council separate from the body politic being the prime advocate for the Constitution and any proposed changes would avoid the cynicism toward, and lack of trust in, changes put forward by politicians. Once an issue has received broad public discussion and support, the Council could draft a referendum question to pass through the prescribed parliamentary processes before being put to the electorate.

The process of nomination for and selection of the members of a Constitutional Council will need to be carefully thought through, to ensure public confidence in the capability and independence of the council.

The power of leading constitutional change using a structured and transparent approach by a trusted group of citizens, not dominated by politicians, is best demonstrated by the major outcome of the Irish Citizens Assembly that resulted in a successful referendum removing the constitutional clause banning abortions in that country. We are recommending a permanent body to determine when a change to the Australian Constitution is considered appropriate, and to lead the public discussion and resolve for a referendum.

### ***Why do we believe this change is necessary?***

For many years now, concerned individuals and groups of citizens have been lamenting the deterioration in the level of public engagement with, and trust in, our country's governance systems. They have been pointing to the dangers that exist from loss of faith in our liberal democratic processes and potential for the unwinding of our social fabric.

To date, although some individuals have privately acknowledged the danger signs, political operatives generally have dismissed the problem as a transient issue.

It is interesting that the Senate Legal and Constitutional Affairs References Committee Inquiry into "Nationhood, national identity and democracy", which reported earlier this year, noted concerning issues regarding weak community engagement with, and trust in, government but viewed education of senior secondary school students as the key remedy. Given the concerning levels, and long term trends, in lack of trust and engagement in our political system by the community a more urgent and robust response was expected.

Our concern for the health of our democracy has been further heightened by a recent study by Core Data, for the newDemocracy Foundation, regarding Trust in Politics in Australia. In this study:

- Less than one quarter of those surveyed believed Australian politics to be:
  - Responsive to what Australians want for their country
  - Consultative
  - Efficient and effective
  - Balanced and fair
- More than 85% of those surveyed believed that the political processes in Australia 'fail' to deliver:
  - Outcomes that represent reasonable compromises

- Outcomes that are truly in the public interest
- Evidence-based, well considered policies and legislation
- Outcomes that truly consider and incorporate the views of everyday Australians
- Nearly 90% of those surveyed find Australian politics to be “Only beneficial to politicians”.

With this information as background, it is considered by Citizens for Democratic Renewal that the electorate is highly unlikely to pass any referendum proposals framed by politicians. This puts Australia in a position of continued constitutional inertia, and unable to respond appropriately to the contemporary governance needs of our society. That is, unless process changes are made that engage the confidence and trust of the electorate.

***In conclusion, we wish to put to you that:***

The establishment of a Constitutional Council has the potential for breaking the referendum inertia that exists in Australia. Additionally, this would be a good first step by politicians in re-build community engagement with, and trust in, our country’s system of government.

Other important steps that should be considered relate to:

- Improved transparency and accountability to underpin the integrity of our governmental and political processes
- Returning to the regular use of evidence-based processes for policy development
- Changes in government processes to increase the engagement of the broader population in transparently contributing to the development of policies for the common good, when action is required to address significant, complex and/or controversial issues.

The Australians who built our federation bequeathed us one of the world’s best liberal democratic systems. Since 1901 our society has seen massive changes on multiple fronts. The way we learn, live, work and play continue to change rapidly as technology and social attitudes evolve. Unfortunately, our governance systems and the politics within them have not kept pace with the changes going on around them. This has resulted in very concerning levels of dis-engagement with, and general distrust of, our elected representative’s motives and decisions. To re-engage the Australian public with our country’s governance systems and re-build trust in the decisions made by our elected representatives requires process change, not a system rebuild. The establishment of a Constitutional Council as proposed would be a significant first step in re-engaging the electorate and re-building trust in our liberal democratic system and those who serve within it.

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