



Professor Emerita Anne Twomey

21 May 2024

Ms Kate Thwaites MP
Chair
Joint Standing Committee on Electoral Matters
Parliament House
Canberra, ACT 2600

Dear Ms Thwaites,

Please accept this submission with respect to the Committee's 'Inquiry into civics education, engagement, and participation in Australia'.

My concern about the poor level of civics education in schools and general civics understanding across the Australian community has only increased in recent years. A lack of understanding about how our system of government works and where responsibility lies has a direct effect upon individuals, who often struggle to navigate the application of government services to them. Those who are most in need of government services are often the least equipped to make the most of them due to their lack of understanding of how all the pieces fit together and what recourse they can have when things go wrong.

More broadly, the Constitution confers direct constitutional responsibilities on "the people" – to choose the members of each House of Parliament in elections (ss 7 and 24) and to vote on proposed constitutional amendments in a referendum (s 128). This responsibility is predicated upon an assumption that "the people" will be equipped to fulfil that responsibility.

The High Court has recognised this through its development of the implied freedom of political communication, which is based upon the premise that in order to make a genuine and informed "choice" when voting, the people must have access to political communications. But in practice, they need more than this to fulfil their constitutionally prescribed role. They need sufficient education and knowledge to be able to make a genuine assessment of the political communications which they receive and the choices they can make.

The effect of social media on political communications

The advent of the internet and social media has transformed access to political communications. In the past, it largely occurred through media organisations (initially newspapers, and then radio and television news) and political parties through advertisements, townhall meetings, door-knocking and public speeches. There was to some extent a self-policing form of social responsibility, because if voters felt they had been misled or deceived, it would damage the reputation of the media organisation or party.

But now anyone, hiding behind an anonymous profile, can make any statements, no matter how baseless or irresponsible, with no accountability or loss of reputation, to a very wide audience. Indeed, the more outrageous or extreme the statement, the more attention it is likely to garner and the greater the following that is achieved. There is no self-policing of social responsibility, because anonymity destroys accountability, and notoriety maximises the wealth that can be earned through social media. While this is bad enough, it is exacerbated by the fact that fewer young people become informed about current affairs and political matters through the mainstream media. Hardly any would read a newspaper (even an online one), or watch a television news bulletin from the legacy mainstream media.

To the extent that young people receive information about such matters these days, it is primarily through social media. This is not only recorded through surveys, such as the NAP-CC assessment, but is also consistent with my own anecdotal experience as a university lecturer. One would imagine that law students in one of Australia's top law schools would be amongst the best informed young people in the country, but from my surveys of my classes, they inform themselves, if at all, through social media.

That is problematic for three reasons. First, they live in an echo chamber, only receiving news pitched towards their interests by an algorithm. This means they tend to have little understanding of other points of views, and no tolerance for the expression of counter-views. Any view different to the one they have been fed consistently for years by an algorithm is treated as giving rise to "offence" and must be "cancelled", rather than considered and debated. The rise of intolerance on campus is, in my view, a direct consequence of the operation of social media algorithms and the lack of exposure to and consideration of other perspectives.

Second, the quality and accuracy of the material fed to young people through social media is often questionable, and at worst intentionally false and manipulative. It is hard for young people to identify, from within the morass, which are the authoritative sources that should be taken seriously. Moreover, they are assailed with messages telling them that they are being lied to by the "establishment" and should therefore distrust authoritative sources from institutions that form part of the establishment.

Third, as social media platforms move towards excluding news reports from mainstream media organisations, because they do not wish to pay for them, this clears the field for the mad, the bad and the malicious to dominate political discourse. This should be a matter of great concern.

The need for better civics education

The Committee will be aware that civics and citizenship testing in Australia occurs approximately every three years on a sample basis. The latest NAP-CC study is currently being held from 6-24 May 2024. Accordingly, the results are not yet available, so we can only rely upon the last study which was completed in 2019 (with the longer gap between testing presumably a consequence of COVID-19).

The 2019 report was not heartening. Only 38% of Year 10 students met the proficiency standard set in the test. This low level of achievement was consistent with the 2016 assessment, but lower than those in 2013 and 2010.

Since 2010 the proportion of students in the lower levels of proficiency has expanded, at the expense of the middle. There are significant gaps in achievement between Indigenous and non-Indigenous students, and lower levels of achievement in regional or remote locations.

The NAP-CC assessments also show falling trust in political parties and the media. Only 55% of Year 10 students expressed trust in the Commonwealth Parliament and 43% expressed trust in Australian political parties. This is consistent with surveys of the general population which have shown falling trust in government and politicians generally, apart from a spike of greater trust during the pandemic, which has begun to dissipate. The Australian Electoral Study in 2022 found that only 30% of Australians expressed trust in government. This is worrying, because there is a close relationship between trust and acceptance of the legitimacy of the system of government (see, eg, Simon Longstaff, 'Democracy, Trust and Legitimacy', 2015).

Another indicator of the corrosion of trust in the system of government has been the rise of sovereign citizens. Courts have recorded a significant rise in litigants who reject the authority of the government or the rule of law and see themselves as falling outside of their jurisdiction. In the absence of a basic understanding of the system of government and law, people are vulnerable to being drawn in by these pseudo-legal arguments and are unable to discern the difference between genuine legal issues and legal quackery.

As a constitutional expert, I receive a *lot* of communications from people alleging all kinds of constitutional conspiracies and legal 'errors' (usually relating to seals, oaths, appointments, corporations, currency or treaties), which magically cause all law to be invalid in Australia and all courts to have no authority. I also receive many requests from fact-checkers to explain why these conspiracy theories are wrong.

The problem is that by the time I try to explain the misconceptions or falsities that are at the root of their arguments, the people making them are so far down the rabbit-hole and so committed to this fantasy world, that they cannot be brought back to reality. The only way that this can be headed off is for Australians, when they are young, to be given a sound understanding of the basics of the system of governance and law, so that they can easily recognise and dismiss pseudo-legal nonsense when they see it. Essentially, we need to be inoculating people by giving them knowledge and the skills to engage in logical reasoning, so they can make a rational assessment of the vast array of material that they are now exposed to on the internet, and discern what is authoritative and sensible as opposed to what is false and manipulative and derived from dubious sources.

We also need to treat this issue as one of national security. It has long been known that in war one of the greatest weapons is propaganda. Seeding distrust in a nation's system of government, undermining its legitimacy and demoralising its people is the easiest

way to defeat a country without firing any munitions. The internet has massively increased the ability of foreign powers to do so. They can manipulate voters during election and referendum campaigns. They can whip up hatred between groups, fracturing societal cohesion, by planting extreme views on both sides of any question. They can do so anonymously through social media, so that the recipients of this material have no idea of its source or the intent behind it and unwittingly become agents for foreign powers as they spread it to friends and followers.

Artificial intelligence and the capacity to make deep fakes is only going to make this worse. We can no longer believe what we see and hear. Again, we need to equip Australians with the capacity to recognise when they are being fed content that is malicious and untrue, and the best way of doing that in the long term is to educate young people well.

What can be done?

Evidence of the deficiencies in the teaching of civics and citizenship in Australia was laid bare by the Senate Standing Committee on Legal and Constitutional Affairs in its report ‘Nationhood, National Identity and Democracy’ from February 2021. The Committee heard evidence of a decline in civics education, insufficient dedicated time for teaching civics, the lack of training for teachers in the field of civics and the need to improve the quality and range of resources available for teachers.

These problems remain. The first problem is that civics is not taught in a substantial fashion in schools as a dedicated subject. It is an “add-on” in a crowded curriculum which is not treated seriously by teachers or students because it “doesn’t count”. In some jurisdictions, such as New South Wales, a civics topic will be taught in English, and another topic will be taught as part of geography or history, with no teacher or subject providing structured comprehensive instruction. While the national curriculum purports to provide for sequenced learning, in practice the teaching tends to be random and haphazard, so that students do not get a properly structured foundational understanding of the system of government.

Second, the topics are often taught at the wrong stage. For example, elections are studied in Year 5, even though students really need to know how they work in Year 10, when they come closer to being able to vote. By that stage they have forgotten everything that they learnt about elections in Year 5, which was probably cursory anyway given the young age of the students.

While bodies such as the AEC, MOAD, Parliament House and the High Court do terrific work as part of the PACER program in educating students on school excursions to Canberra, this primarily occurs when they are in Year 6, and again is forgotten by Year 10 in the absence of any subsequent reinforcement.

It would be better to focus on Civics and Citizenship as a full subject taught comprehensively in Years 9 and 10, so that the education is more sophisticated than at the primary level and is more likely to make a lasting impression.

Third, there needs to be much greater education of teachers, so that they can properly teach the subject. Currently, many of those who teach civics are untrained, with this being an additional burden added to their specialist teaching obligations in other subjects. The consequence is that students are taught material based upon urban myths and the general assumptions a teacher has formed about how government operates. Much of what students are taught is wrong. The textbooks that they use are also often wrong. I see this frequently in my university students – I have to tell them to ignore what they have been previously taught on certain issues, and then start over again, relying on facts and primary evidence, rather than “someone once told me...”

Even those who set the NAP-CC assessments of student knowledge of civics seem not to have a strong grip on the subject. One of the questions in the demonstration test is as follows:

In our government there is a ‘separation of powers’ between the parliament and the judges. The ‘separation of powers’ means that:

- judges separate laws from powers.
- parliament has the power to make laws.
- lawmakers need permission from judges to make laws.
- judges’ decisions are separate from parliament’s decisions.

The correct answer is supposed to be the last one – that judges’ decisions are separate from parliament’s decisions. But that, of course, is not what the “separation of powers” really means. Any sensible assessment of the separation of powers would start by looking at the different types of power, and who is entitled to exercise them and why.

What is desperately needed is better training of teachers by people who actually have expertise in the field, so that they can teach civics properly in schools.

Fourth, there is also a great need for better materials on the subject, given the poor quality of many of the textbooks and the ongoing need to update materials to accommodate current controversies and changing political circumstances. I have previously sought to contribute by writing a volume of materials for CEFA, much of which can be found on the Australian Constitution Centre website (<https://www.australianconstitutioncentre.org.au/resources/>), although many are already out of date. I also run my own YouTube channel called the Constitutional Clarion (<https://www.youtube.com/channel/UC3EJDfpqrtS0cX-uptWe8dg>) which allows me to deal with contemporary issues for a broader audience and to control both the content and the timeliness of its publication. But there is so much more that needs to be done.

Conclusion

For too long politicians have identified and complained about the deficiencies in civics education in Australia, but not done anything substantial about it. Every Member of Parliament will have personal experience of the problems that arise from public

ignorance of how the system of government works, and most will have received mountains of communications accusing them of treason and alleging all kinds of conspiracies. In my experience, and I expect in yours too, this is getting worse, as it is inflamed by social media. It is chewing up money, through the use of excessive court and police time, and it is corroding support for the democratic system, which is outright dangerous. It is time to take action.

Yours sincerely,



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