

Standing Committee on Social Policy and Legal Affairs
INQUIRY INTO CONSTITUTIONAL REFORM AND REFERENDUMS
Attorney-General's Department

Question date: 14 October 2021

Question type: Written

The Committee asked the following question:

Does the Department conduct research on public awareness of the Constitution?

- a. If so, what are the results of the research?
- b. How does public awareness in Australia compare to other developed democracies?

The response to the Committee's question is as follows:

The department does not conduct any research, and has not conducted any research on public awareness of the Australian Constitution, or public awareness of constitutions in other developed democracies. The department is unable to provide a comprehensive comparison of the Australian public's awareness of the Australian Constitution compared to other developed democracies. However the Committee may be interested in the following research on constitutional engagement in Australia and the United States of America:

- Griffith University Centre for Governance and Public Policy's *Australian Constitutional Values Survey 2021* (released March this year), found that 82.7% of those surveyed had heard of the Constitution before, but that only 47.6% had heard of suggestions that the Constitution be altered to provide for an Indigenous 'Voice to Parliament'. This survey (and those conducted in previous years), provide information about respondents' views about particular issues (such as the Voice, the republic debate, and recognition of local government), however does not consider constitutional engagement more generally. The 2021 survey was based on approximately 1,500 respondents with the results weighted in certain respects to reflect population distribution.
- More detailed data is available in relation to the American public's engagement with the US Constitution. The Annenberg Public Policy Center of the University of Pennsylvania's *Americans' Civics Knowledge Survey* (September 2021) found that 56% of American adults could correctly name the three branches of government; and that 17% of American adults were unable to name any of the freedoms guaranteed by the Constitution. 74% of respondents were able to name freedom of speech; 56% freedom of religion; 50% freedom of the press; 30% right of assembly; and 20% right to petition. The 2021 survey was based on approximately 1000 respondents with the results weighted in certain respects to reflect population distribution.

The department is also aware that the opinion has been expressed that the Australian public does not have detailed knowledge of the Australian Constitution (see, for example, P Kildea and R Smith 'The Challenge of Informed Voting at Constitutional Referendums' (2016) 31 UNSW Law Journal 368 at 387-388).

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Does the Department have programs that provide information to the general public or seek to engage them in relation to constitutional matters?

a. How does the department evaluate the effectiveness of any such programs?

The response to the Committee's question is as follows:

The department does not have programs that provide information to the general public or seek to engage them in relation to constitutional matters.

The department (including the Australian Government Solicitor) assists the Parliamentary Education Office to produce the pocket edition of the Australian Constitution, which includes the text of the Constitution, together with an overview, and notes. The most recent version of the pocket Constitution is of June 2020.

The Australian Constitutional Centre at the High Court provides information to students and the public about the Australian Constitution. Information about this program, administered by the Department of Education, Skills and Employment, was provided in the department's submission to the inquiry (see paragraphs 7 and 28 of that submission).

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The Committee asked the following question:

The Committee has received evidence proposing that constitutional conventions should be conducted more regularly, for example every three to five years, to better engage the public on constitutional matters.

- a. To what extent do constitutional conventions provide an opportunity for enhancing public awareness about the Constitution?
- b. Would regular constitution conventions or similar events help with public awareness?
- c. Are there alternative approaches to improving public engagement?

The response to the Committee's question is as follows:

Historically, there have been a number of constitutional conventions or similar events which are summarised in the department's submission, including royal commissions and parliamentary inquiries. The extent to which they enhanced public awareness about the Constitution is difficult to assess but previous conventions have provided opportunities for public engagement through community representations, calls for public submissions, and public forums. Obviously, where they have led to referendums, such as the 1988 referendums which followed the Constitutional Commission established in 1985, this has increased public awareness about the Constitution.

The extent to which future consideration of the Constitution (through a constitutional convention or otherwise), provides opportunities for public awareness is dependent on the activities undertaken by the group once convened or otherwise appointed to engage with the public. In general terms, it appears likely that regular constitutional conventions or similar events would increase public awareness of constitutional issues to some extent, but the department is unable to comment on their effectiveness in doing so as compared to other approaches. The extent to which a convention or similar event is able to engage with the public and raise awareness about the Constitution will be at least in part dependent on funding, which is always a question for the Government. Similarly, whether to pursue any proposals for constitutional change recommended by such a body would be a question for the Government.

One alternative to constitutional conventions is public education, such as that provided through schools and the Australian Constitution Centre at the High Court, which again are outlined in our submission. In addition to increased civics education, other mechanisms have been referred to in submissions to the inquiry by other parties, including public information

campaigns and ‘citizenship assemblies’ (a form of deliberative democracy).

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The Committee has received evidence proposing that a 'Referendum Panel' be established to oversee public education initiatives in the lead-up to a referendum and a 'Constitutional Commission' be established responsible for reviewing the Constitution, generating proposals for constitutional reform and consulting with the public on draft proposals.

- a. What is the Department's view on how a panel and commission of this kind could be arranged?

The response to the Committee's question is as follows:

The decision to establish a 'Referendum Panel' to oversee public education initiatives in the lead-up to a referendum or a 'Constitutional Commission' for reviewing the Constitution, generating proposals for constitutional reform and consulting with the public on draft proposals are matters for the Government.

The department's submission sets out historical examples of types of bodies that have been used to review the Constitution, consult with the public, and generate proposals. These include for example, the Australian Constitutional Conventions, the Constitutional Commission, and on a more specific proposal, the steering group and referendum taskforce established to develop policy for, and support the Republic referendum including overseeing public education initiatives.