

Submission to the Joint Standing Committee on Electoral Matters on *the Commonwealth Electoral Amendment (Lowering Voting Age and Increasing Voter Participation)* Bill 2018

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We welcome the opportunity to make a submission to the Joint Standing Committee on Electoral Matters on the *Commonwealth Electoral Amendment (Lowering Voting Age and Increasing Voter Participation)* Bill 2018.

We also commend the initiative of Senator Jordon Steele-John in introducing this Bill into the Australian Parliament. It comes at a time when the issue of political participation and specifically youth participation, has become a significant part of political debate and commentary here in Australia and in many western societies. We have seen in many western states a strong advocacy for enhancing youth participation to promote citizenship.

Today governments at all levels as well as institutions like schools, universities, hospitals, and welfare systems, NGOs and business entities routinely declare a commitment to consultation with, and enabling young people to have a 'real say' and exercise 'real choices' about decision-making, policies and services and particularly decisions that directly affect them. The proposal to lower the voting age to 16 acknowledges and builds on this broad public support. It also contributes to the ongoing democratic project that has seen suffrage extended over the past two centuries to more and more citizens.

We support the following changes that are proposed under the Bill which include:

- Lowering the voting age to 16 year-olds;
- allowing non-compulsory voting for 16-18 year olds (in the form of exemptions under s245 of the *Commonwealth Electoral Act 1918* and from associated penalties).
- allowing voluntary electoral roll registration for 14 year olds;

Lowering the voting age to 16 as this Bill proposes, extends a fundamental democratic and human right. The right to vote is one of the basic human rights in any democracy. Giving the right to vote to 16 year-olds is also consistent with modern understandings of young people's maturity and cognitive capacities. If adopted this legislation will strengthen our democracy, improve youth participation, increase future voter turnout rates, validate Australia's reputation as an advocate for human rights, and establish greater consistency between official rhetoric about the importance of fostering an inclusive society and the value of encouraging youth participation.

In what follows, we identify considerations that highlight why extending voting rights to 16 year-olds, and why allowing electoral roll registration for 14 year-olds is a timely and an overdue reform.

- 1. Extending the right to vote to 16 and 17 year-olds acknowledges that young people who are already actively engaged in the social and economic life of the community should have the right to vote. It also helps Australia meet its obligation under Article 12 of the United Nations Convention on the Rights of the Child (UNCROC)**

The right to vote is a human right that characterizes any liberal-democracy. A minimum voting age of 16 extends a fundamental democratic and human right to some 853,000 + young Australians. At the moment some 400,000+ people under the age of 18 in Australia have a form of paid employment,

and pay taxes on those incomes (Denny and Churchill 2016: 10).¹ The same young people can also be actively engaged in the defence of their country (for example they can enlist in the defence forces at age 16.5), can marry (at 16 with court approval), can have sex at 17, can drive in NSW and South Australia at 17 and can get a pilot's licence. Young people who are already actively participating in these kinds of social and economic activities deserve to have the right to vote.

To reiterate two old democratic principles. Firstly the principle of no taxation without representation or the right to vote is at stake. Secondly for any policy, law, or decision to be legitimate everyone affected by it ought to have a say in its adoption this is a core principle in the deliberative democracy tradition.

Lowering the voting age to 16 will also help Australia meet its human rights obligations under international law. The right to vote is a fundamental human right as stipulated by the Declaration of Human Rights (Article 21) and the International Covenant on Civil and Political Rights (Article 25). It has also been mandated in the UN Convention on the Rights of the Child (UNCROC) of which Australia is a signatory. Article 12 of the UNCROC states:

States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child (UNCROC Article 12 <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>).

The UN Convention on the Rights of the Child also stipulates that children and young people ought to have their opinions listened to and taken seriously.

2. Extending voting rights to 16 and 17 year-olds will help address widespread concerns about young people's withdrawal from electoral politics and address the perception that there is now a crisis of democracy and legitimacy.

Adopting this legislation will help address concerns about young people's disengagement from formal politics. Since the 1990s popular concern has accompanied considerable evidence of the withdrawal of young people from electoral politics in liberal-democratic states. That evidence includes falling voting rates, declining membership in political parties and civic organizations in major jurisdictions including the UK, USA and Australia (Martin 2012; Martin and Pietsch 2013; Manning 2015; Henn and Oldfield 2016). Recent research indicates that only 87 percent of Australians aged 18-24 are enrolled to vote compared with rate for the general population of 96.3 percent. Approximately 400,000 18-24 year-olds did not enrol to vote in the last federal election.

As Judge John Beecroft, the NZ Commissioner for Children argued in early 2018:

...a lower voting age could enhance turnout, ingrain the habit of voting, and give young people more rights. All that I have seen about our democratic system shows that those that are least involved and invested in it are our young. The lowest voter turn out is the 18-29 age group... we've got to do better (Cited Munn and Wood 2018)

Many young people no longer engage in electoral politics because they have little or no faith in the capacity of contemporary politicians to listen to them or to engage with issues they consider important (Pontes et.al 2017; Lawless and Fox 2015). According to the Australian Lowy Institute's 2018 annual public opinion poll, fewer than half of those surveyed (47%) and who were under 45 expressed a preference for democracy by agreeing that 'democracy is preferable to any other kind of government' (Lowy Institute, 2018 :17). This is not a one-off aberration, it is something that has

¹ In 2016 29% of 15-24 year-olds had full-time employment and 30% were in part-time employment.

been evident for some time. As research by Edwards et al. note, half of the young people (aged 15-24) they interviewed, believed that politicians and members of the government 'could not be trusted to act in Australia's best interests' and pointed to dishonesty, 'broken promises' and political conflict between politicians as 'turn-offs' (2006).

Many young people also felt marginalised, trivialised and stereotyped by politicians (Montero and Bessant 2018).

Since the 1990s the withdrawal of many young people from conventional (i.e. electoral) politics has been identified by political scientists as a looming problem often described as a 'legitimacy crisis', a 'crisis in democracy' or democratic disconnect (Harris, et.al 2008, Collin 2015, Chou et.al 2017)

For some observers concern about the withdrawal of young people from formal politics is also part of a popular, though mistaken claim that 'young people' are politically apathetic, disinterested in politics, and disinclined to engage in formal politics enrol and vote. Some have interpreted evidence like falling voting rates or declining membership in political parties as evidence of young people's 'apathy - or even as evidence of an anti-political disposition (Stoker 2006; Hay 2007). We argue however this view depends on on a too-narrow definition of what counts as political (Bessant 2014 a, Vromen, 2017, Loader et.al 2014). It denies the ways young people now engage politically that go well beyond what is described strictly in terms of conventional party or electoral politics (ibid, Chou et.al 2017).

The idea that 'young people' are generally politically apathetic not only relies on a constricted account of what constitutes politics but it overlooks the many and varied ways young people are engaging politically in both traditional forms of political dissent and mobilization as well as new kinds of on-line dissent and protest activity (Bessant 2014a). The proliferation of social movements and various other forms of social action, driven by and often led by young people, suggests that many young people do have a deep and powerful interest in politics thought this can be represented by governments and other power elites as problematic (Pickard and Bessant 2017).

Extending voting rights to 16 and 17 year-olds will help restore faith and trust in the political system on the part of young people. Lowering the voting age to 16 and 17 year-olds also sends a clear message to young people, that there is a place for them 'at the table' and that what they have to say are listened to and will be acted on.

3. Lowering the voting age to 16 sends the message that Australia values young people as citizens and encourages young people's contribution to Australia's democracy.

Giving 16 and 17 year-olds the vote is a major statement that young Australians matter. As the ACT Legislative Assembly Standing committee on Education, Training and Young People noted:

As the criteria for membership of the political community, the franchise is a valuable symbol of inclusion within democracies. Historically the vote has been claimed and won by a number of distinct groups (including non-propertied people, Aboriginal people and women). Consequently the criteria for enfranchisement have been expanded as our democratic system of government has developed and evolved. The vote, in this sense has political value (ACT Legislative Assembly Standing committee on Education, Training and Young People 2007:13).

Lowering the voting age will encourage young people's engagement in the political and civic culture by removing what is currently an obstacle to participation in electoral politics for 16 and 17 year-olds (Bessant 2014: 387- 404). Enfranchisement contributes to the building of a decent political order it encourages having attachment to things and people, and allows for a sense of control over one's

environment. (e.g. our political, and material context) (Nussbaum 2003, 2011). Even McAllister who is unimpressed by empirical evidence supporting this conclusion admits that ‘radical thinking is required if we wish to reverse the long-term decline in youth political engagement’ (2014:81).

Giving the right to vote to 16 and 17 year-olds is consistent with modern understandings of young people’s maturity and cognitive development. The voting age should be lowered because 16 and 17 year-olds, as much as their elders, can make informed and good choices.

This is not to deny that opponents of the idea of lowering the voting age to 16 claim that young people lack maturity, life experience or civic knowledge. At 16 and 17, critics say, young people are heavily influenced by adults like teachers and parents (and are potentially vulnerable to coercion). Some add that their ability to vote responsibly does not match other responsibilities young people have as they are still largely dependent economically on adults. According to McAllister e.g. young people are not ‘politically mature’ because they don’t know enough about ‘politics’ (2014). This research indicates that young people have lower levels of ‘political knowledge’ usually defined in terms of constitutional or technical questions. We suggest however the argument that young people lack maturity. i.e. political knowledge

- (i) overlooks the generally low level of political knowledge among older Australians
- (ii) relies on a too-narrow definition of what counts as political.

First, as Smith et.al argue, research shows that most Australians over the age of 18 have a weak grasp of the legal and technical details of their political system (2015 :4). For example they have greater knowledge of the political tasks they are expected to carry out themselves than they have of the more specialized tasks carried out by parliamentarians, government ministers, judges and the like. McAllister reports e.g. that in long running survey of voter knowledge that while in 1996 the ‘average voter could answer just 2.3 out of the six questions correctly, by 2010 that had increased only marginally, to 2.4 questions’. The idea that older Australians are ‘well informed voters’ is not well supported by robust evidence (2014:79).

According to Smith et.al Australians are generally able to submit (formal or informal) ballots that ‘seem to reflect their intentions on entering a polling booth’ (2015:4). Even so between two-fifths to one-half of the electorate rely on how to vote cards to order their preferences in lower house ballots, with almost all other voters successfully completing ballot papers’. Unintentional informal voting is low (2-3%), donkey voting even lower (<1%).

Secondly, McAllister makes a lot out of the fact that younger people 18-21 were ‘less well informed’ than older people: the average younger voter could correctly answer fewer than two questions (2014).² McAllister does not say how or why political maturity is connected to knowing the answers to particular civics questions.

Importantly, more compelling evidence exists that young people under 18 have a lively and well-informed understanding of major public issues like social justice, global peace and climate change (Lowry Institute 2018). Equally many have felt excluded from public discussion and decision-making about these issues because they do not have the right to vote.

The reasons why we do not allow sixteen and seventeen year-olds the vote are rarely articulated or defended. There is no doubt a popular anxiety that young people are too easily influenced by others

² Respondents needed to say which of the following statements was correct or incorrect: ‘Australia became a Federation in 1901’; ‘The Senate election is based on proportional representation’; ‘The Constitution can only be changed by the High Court’; ‘No-one may stand for Federal Parliament unless they pay a deposit’; ‘The longest time allowed between Federal elections for the House of Representatives is four years’; ‘There are 75 members of the House of Representatives’.

or lack the relevant experience. This anxiety often relies heavily on stereotyped age-based prejudice. This is especially so for those claiming that two decades of fMRI-based brain research confirms that young people (16-25) possess the 'adolescent brain' and that this explains why young people collectively are a 'high risk group' who lack judgment, moral restraint and are naturally deviant, irresponsible, and troublesome (Giedd 1999; Carr-Grieg 2006; See Crone and Dahl (2012) for a more nuanced account of adolescent development). The use of fMRI to support this idea about the 'adolescent brain' is not supported when it is understood precisely how fMRI's work and how the inherent limitations of this technology prohibit easy generalisations being made about visualizing conceptual or behavioral activities as neural processes (Schiffman 2015). That this bad science is then used to buttress dangerous 'ageist' stereotypes is intellectually reprehensible (Bessant 2008). Rather, we should be seeing and treating 'adolescence' as a time of social and affective engagement ie., a time when young people are primed to engage socially and politically.

Finally, it is noted that arguments claiming that young people are intellectually defective or incapable of mature political judgment follows a well-trodden path: historically other groups of disenfranchised people (like non-propertied people, Aboriginal people and women) were also deemed to lack the relevant intellectual competence to be trusted with the vote.

In the twentieth century Australia never imposed civics or cognitive or moral capacity tests on citizens as a prerequisite for voting. Young people do have the cognitive and moral capacity to exercise political judgment. Indeed many young people have a good working knowledge of politics and make the same kinds of judgments as older Australians. Many young people are also politically engaged and politically literate, but not in ways that some political scientists might recognize.

4. Extending voting rights to 16 and 17 year-olds will improve policy-making and decision making processes because it will encourage politicians to give greater regard to the voice of young people and to take their views and interests more seriously.

Extending the vote to 16 and 17 year-olds will improve the quality and effectiveness of policy-making and decision-making generally. This is because having the vote will enhance the political capital of these young Australians. Their experience, views and interests will need to be taken into account and more seriously by politicians and policy-makers than is currently the case.

In drawing on their own lived experience, young people themselves have a better understanding of how they themselves experience what is happening in their lives and what their interests are - rather than have others speaking for them and-or imagining what their the experiences are. Given this, those young people, as constituents, are best able to inform policy about matters in which they have a direct interest and insight into issues - such as education, employment, generational inequality, or affordable housing. For this reason, enfranchising 16 and 17 year olds, which allows them to cast a vote and have a say, can improve policy making and decision making generally. This in turn is also likely to improve policies that relate to this particular demographic.

This seems especially important at time when young people, are unequally bearing some of the costs of dramatic economic and technological change and policy settings. One third of all unemployed people in Australia are aged 15-24. The unemployment rate for 15-19 year olds is around 18 per cent and much higher than the 9 percent unemployment rate for 20-24 year olds. Additionally some 1.1 million or one in seven Australian children and young people are growing up in poverty (Smith Family 2018). This problem is increasing with the incidence of child and youth poverty steadily rising over the last decade to 17 per cent in 2014 (ACOSS 2017). Increasing student debt and access to affordable quality housing are also major policy issues. As Martin Parkinson, one of the most powerful bureaucrats in Australia, said in May 2015 in a graduation address to young graduates 'your generation is at risk of being the first in modern history whose living standards will be lower

than those of their parents' (Parkinson 2015:4).

Extending the right to vote to 16-17 might oblige professional politicians to treat young people on a par with older Australians and learn to listen to and from young Australians (Birch, Lodge and Gottfried 2013).

5. Lowering the voting age to 16 will bring Australian into line with a number of other international jurisdictions that have extended the franchise to 16 year-olds.

The last century has seen a continuing trend to lower the voting age.

At the start of the twentieth century the voting age in most countries was 21 years -or even higher. Many countries, particularly in Western Europe, began to reduce the voting ages to 18 years during the 1970s, starting with the United Kingdom (1969) followed by the United States of America, Canada, West Germany (1972), Australia (1974) and France (1974). By the end of the 20th century, 18 had become by far the most common voting age globally.

Around 2000 a number of countries began considering whether the voting age ought to be reduced further, with arguments most often being made in favour of lowering the voting age to 16. The first moves came during the 1990s, when the voting age was reduced to 16 in some German states and in Switzerland when voting in local elections. In 2007, Austria became the first member of the European Union to adopt a voting age of 16 for most purposes. Brazil lowered the voting age from 18 to 16 in 1988, Malta followed suit in 2013 along with Norway and the Philippines. In the UK, Scotland's parliament reduced the voting age in time for the 2016 General Election, while the Isle of Man, Jersey and Guernsey reduced the voting age to 16 for local elections in 2015. Argentina, Cuba, Ecuador, and Nicaragua have also reduced the voting age to 16. A number of countries also have 17 as the minimum age at which citizens are eligible to vote.

6. Allowing non-compulsory voting for 16-17 year-olds should be non-compulsory (in the form of exemptions under s245 of the *Commonwealth Electoral Act 1918* and from associated penalties).

We support the idea of making voting voluntary for all 16-17 year-olds. Voting would then become compulsory on or after the young person's 18th birthday.

The first argument for adopting this approach is that it will initiate a 'virtuous cycle' as 16-17 year-olds come to recognize their power to influence elections - which might then lead onto an enhanced positive predisposition towards electoral participation (Henn and Oldfield, 2016: 1259-80). This idea is favored by others who say that starting on a voluntary or non-compulsory basis for young first-time voters will:

- facilitate a habit for positive democratic engagement (Franklin 2004).
- help to 'kick-start a life-long habit of voting' (Birch, Lodge and Gottfried 2013: 21)

The second argument for adopting non-compulsory voting draws on an approach sometimes referred to as 'developmental ethics' or what philosophers Martha Nussbaum (2011) and Amartya Sen (1999) refer to as a 'capabilities approach'. The capabilities approach is a framework for promoting freedom to choose the life or being that one values. This they say it is critical for a just society. It is a perspective that is relevant for understanding citizenship (i.e. the terms and conditions of political membership in democratic societies). For Nussbaum and Sen, the various resources we have should not be misunderstood as ends or goals in their own right, but rather, they are needed to achieve

certain functionings or capabilities (Sen 1999, Bessant 2014 b: 138-153, Chou et.al 2017 Collin et.al 2018: 19-35).

Sen and Nussbaum argue that while young people ought to be accorded the same kind of freedoms and moral considerations as adults, this does not imply they should always be treated the same way as adults. As Sen argues, this is because people are different in their ability to turn resources into 'functionings'. That is *different people have different needs*. If we apply this reasoning to young people it follows that because they may be less experienced, less resourced, physically smaller than an older person, those differences actually impose an *obligation* or *duty of care* on others (elders) who are more able and better resourced to ensure the young person is supported in ways that make it possible for them to exercise their freedom by choosing what it is they value.

This thought can be used to inform the question: 'At what age should a young person be able to exercise substantive choice like voting?' The answer: at the age they express an interest in doing so. When a young person expresses an interest in exercising choice, that is when parents, educators and others in a relationship with those young people need to identify and engage with that interest, to promote inquiry and assist by offering relevant information about the viable options and to assist them in making good judgments about what they value. (Bessant 2014 b: 138-153).

Thinking about how to develop such capabilities underscores the obligation or duty of care elders have in supporting them - to make well informed decisions that relate to what those young people consider to be good and in their interests.

One way of doing this is to treat the activity of voting as an un-coerced, voluntary exercise in citizenship in which older people support younger citizen. This makes it clear that the question of voluntary voting for 16 and 17-year olds is separate and clearly distinguishable from questions of compulsory voting broadly.

As Manning argues, compulsory voting for 16 to 17 year olds can have a counter-productive effect. If people feel obligated to do something then we have little reason to accept their engagement as authentic support for the political system (Manning 2017:1-17).

7. Fourteen and fifteen year-olds should be allowed to register on the electoral roll in anticipation of them exercising their right to vote when they turn 16.

The provision to enable people aged 14-15 to enrol to vote would give effect to the capacity under current legislation that if you are 17 years old, you can provisionally enrol to vote. In this way a young person will be automatically enrolled when they turn 18, and thus able to vote.

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