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Date: 09 September 2025

Committee Secretary
Joint Standing Committee on Electoral Matters
Parliament House
Canberra ACT 2600

Submission to the Inquiry into the Conduct of the 2025 Federal Election

Dear Committee Secretary,

Please find enclosed my submission to the Joint Standing Committee on Electoral Matters in relation to its **Inquiry into the Conduct of the 2025 Federal Election**.

I am Dr Matthew Jennings, son of the late Roger Jennings QC, former Deputy President of the Administrative Appeals Tribunal. My research and advocacy work focus on democratic integrity, human rights, and legal reform.

This submission responds to several of the Committee's Terms of Reference, including:

- the increase in aggressive conduct, obstruction, and intimidation directed towards voters, political participants, volunteers, and AEC officials;
- the adequacy of safety and security arrangements to address such behaviour;
- the suitability of measures to ensure universal voter access; and
- reforms to address disinformation, incitement, and foreign or domestic interference.

The submission frames these issues through Australia's obligations under the **International Covenant on Civil and Political Rights** and the **Universal Declaration of Human Rights**, and it offers practical recommendations to strengthen electoral integrity and protect the principle of genuine, revocable consent.

I am content for my submission to be **published in full**, with personal contact details withheld from public release. Should the Committee find it useful, I would be pleased to provide additional material or to appear at a hearing.

Attachments:

- Full submission
- Executive summary
- Appendix A: Recommendations

Thank you for considering this contribution.

Yours sincerely,

[REDACTED]
Dr Matthew Jennings

Executive Summary

Submission to the Joint Standing Committee on Electoral Matters

Inquiry into the Conduct of the 2025 Federal Election

Author: Dr Matthew Jennings

Core Principle

- **UDHR Article 21:** Government must rest on the “will of the people” expressed in genuine elections.
- **ICCPR Article 25:** Citizens must have the right to participate in elections freely and equally.
- **ICCPR Article 19:** Protects freedom of opinion and expression.
- **ICCPR Article 20(2):** Requires States to prohibit advocacy of hatred that incites discrimination, hostility, or violence.
- **Framing shorthand:** *Revocable consent* = ICCPR Art 25 + UDHR Art 21; *Conscience vs coercion* = ICCPR Art 19 vs 20.

Key Concerns from the 2025 Election

- **Increased intimidation** of voters, volunteers, and AEC officials (inconsistent with ICCPR Art 25).
- **AEC lacks powers** to distinguish conscience-based protest (protected by ICCPR Art 19) from coercion/incitement (prohibited by ICCPR Art 20).
- **Universal access undermined** where intimidation or hate deters participation (contrary to ICCPR Art 25 and CERD).
- **Outdated authorisation framework** fails to address digital disinformation (weakening genuine consent under UDHR Art 21).
- **Foreign interference** often operates through disinformation and intimidation (contrary to ICCPR Art 25).
- **Structural gaps in law:**
 - **s 51(xxvi) (race power)** risks racial division (contrary to CERD, flagged in *Kartinyeri*).
 - **Incitement law** inadequate to meet ICCPR Art 20(2).

Recommendations (Legally Grounded)

Aggressive conduct & intimidation

1. Strengthen penalties for intimidation of voters, volunteers, or AEC officials (ICCPR Art 25).
2. Amend Electoral Act to expressly prohibit intimidation/obstruction (UDHR Art 21(3)).
3. Ensure swift investigation and enforcement to protect genuine participation.

Safety & security

4. Empower AEC to issue immediate directions where intimidation/incitement occurs (ICCPR Art 25; *Lange v ABC*).
5. Train AEC officials to apply a rights-based test: conscience (ICCPR Art 19) vs coercion (ICCPR Art 20).
6. Improve AEC–police–human rights coordination for proportionate responses.

Universal voter access

7. Expand definition to include civic safety and protection from intimidation (ICCPR Art 25, CERD).
8. Require AEC to report on both physical and civic accessibility.
9. Fund education clarifying persuasion = protected, intimidation = prohibited.

Authorisation & disinformation

10. Require digital authorisation for all paid election content (ICCPR Art 25).
11. Expand AEC monitoring and referral powers (ICCPR Art 19(3), Art 20(2)).
12. Clarify distinction between persuasion (Art 19 protected) and manipulation that denies rights (Art 20 prohibited).

Foreign/domestic interference

13. Enhance international cooperation against disinformation (ICCPR Art 25).
14. Strengthen transparency of foreign-linked funding (UDHR Art 21).
15. Anchor interference prevention in revocable consent principle (ICCPR Art 25, UDHR Art 21).

Composition of Parliament

16. Ground reforms to term length/representation in ICCPR Art 25 requirement of genuine, periodic elections.

Broader legal reforms (contextual)

17. Repeal s 51(xxvi) ("race power") to remove constitutional division, consistent with CERD and *Kartinyeri*.
18. Modernise incitement law to fully implement ICCPR Art 20(2), while preserving ICCPR Art 19 protections.

Conclusion

Australia must align its electoral law with the obligations it has already accepted under the **UDHR, ICCPR, and CERD**.

Protected: conscience, dissent, protest (ICCPR Art 19).

Prohibited: intimidation and incitement that silence or strip rights (ICCPR Art 20).

This is the legal line that preserves elections as genuine expressions of the people's will.

Submission to the Joint Standing Committee on Electoral Matters

Inquiry into the Conduct of the 2025 Federal Election

Submitted by:

Dr Matthew Jennings

Son of the late Roger Jennings QC, former Solicitor-General for Tasmania and Deputy President of the Administrative Appeals Tribunal

1. Introduction

I thank the Committee for the opportunity to contribute to its inquiry into the conduct of the 2025 federal election.

I am Dr Matthew Jennings, son of the late Roger Jennings QC. My professional and research interests focus on democratic integrity, human rights, and legal reform. I am also the author of *Australia's Democratic Crossroads: Learning from the Voice and the Rise of Antisemitism* (2025).

This submission proceeds from a guiding principle: **democracy depends on revocable consent**.

- **UDHR Article 21(3)**: "The will of the people shall be the basis of the authority of government... expressed in periodic and genuine elections."
- **ICCPR Article 25**: Citizens must be able to participate freely in public affairs, including through "genuine periodic elections" held by universal suffrage.

For elections to meet these standards, citizens must be able to say "yes" or "no" without intimidation, coercion, or manipulation.

Free speech is essential, but it must be understood accurately: **free speech protects conscience, not coercion**. Citizens must be able to voice belief or dissent, but speech that foreseeably silences others or denies them equal rights is not an exercise of freedom; it is an exercise of domination. This submission therefore argues that the Committee should address electoral intimidation, incitement, and disinformation through the lens of **conscience versus coercion**, ensuring that elections remain genuine, inclusive, and universal in both form and substance.

2. Aggressive conduct, obstruction, intimidation

Reports of hostility towards voters, campaign volunteers, and AEC officials raise serious concerns. An election is the practical expression of democratic consent. If that consent is extracted in an atmosphere of intimidation, it is not genuine. Both the **UDHR (Art 21)** and **ICCPR (Art 25)** require genuine, free elections.

Recommendations

1. Strengthen penalties for intimidation of voters, volunteers, or AEC officials (ICCPR Art 25).
2. Amend the Electoral Act to expressly prohibit intimidation and obstruction at polling places (UDHR Art 21(3)).
3. Ensure swift investigation and visible enforcement to preserve confidence in free elections.

3. Reform of safety and security arrangements

The Terms of Reference ask whether the AEC has sufficient powers to manage threatening or disruptive behaviour.

Currently, responses rely heavily on police presence. The AEC should be empowered to distinguish between:

- **Protected activity:** peaceful persuasion, dissent, protest — conscience-based speech (ICCPR Art 19).
- **Prohibited conduct:** intimidation, threats, or advocacy that incites hostility or violence — coercion (ICCPR Art 20(2)).

The **High Court in Lange v ABC (1997)** recognised the need for electoral integrity as part of representative government.

Recommendations

1. Empower the AEC with immediate powers to issue directions where intimidation or incitement occurs (ICCPR Art 25).
2. Train AEC officials to apply a rights-based test: protect conscience (ICCPR Art 19), prohibit coercion (ICCPR Art 20).
3. Improve AEC–police–human rights coordination to ensure consistent and proportionate enforcement.

4. Universal voter access

Universal access must include not just physical polling locations but also **civic safety**: the ability of all citizens to vote free from intimidation or vilification.

Antisemitic intimidation, racial vilification, and ideological coercion have become increasingly visible in public life. If such forces reach elections, vulnerable communities may effectively be disenfranchised.

- **ICCPR Art 25** requires universal and equal suffrage.
- **CERD** obliges States to eliminate racial discrimination in political participation.

Recommendations

1. Redefine “universal voter access” to include civic safety from intimidation or hate (ICCPR Art 25; CERD).
2. Require the AEC to assess and report on both physical and civic accessibility.
3. Fund education programs clarifying that persuasion is protected (ICCPR Art 19), intimidation and incitement are prohibited (ICCPR Art 20).

5. Authorisation framework and disinformation

Digital campaigning has blurred the line between persuasion and manipulation. Disinformation that undermines confidence in the process constitutes structural coercion.

The current authorisation framework was designed for traditional media. It has not kept pace with algorithm-driven digital platforms.

- **ICCPR Art 25:** requires elections to be genuine, based on informed consent.
- **ICCPR Art 19(3):** permits restrictions where necessary to protect rights of others or public order.

Recommendations

1. Require digital authorisation for all paid election content (ICCPR Art 25).
2. Expand AEC capacity to monitor online disinformation and refer cases involving incitement (ICCPR Art 19(3), Art 20(2)).
3. Clarify distinction between persuasion (protected opinion, ICCPR Art 19) and manipulation that foreseeably denies rights (prohibited incitement, Art 20).

6. Foreign and domestic interference

Foreign interference often takes the form of **structural coercion**: disinformation campaigns, targeted intimidation, covert funding.

- **ICCPR Art 25**: requires protection of the people's ability to participate in elections freely.
- **UDHR Art 21**: emphasises genuine, periodic elections reflecting the people's will.

Recommendations

1. Enhance cooperation with international partners to counter disinformation and incitement (ICCPR Art 25).
2. Strengthen transparency on foreign-linked donations and influence operations (UDHR Art 21).
3. Anchor interference prevention in the principle that consent must remain free and revocable (ICCPR Art 25; UDHR Art 21).

7. Composition of Parliament

While questions of term length and representation are important, they are secondary to ensuring elections remain free, genuine, and periodic.

- **ICCPR Art 25**: requires genuine periodic elections.
- **UDHR Art 21**: requires that the will of the people be the basis of government.

Recommendation

1. Ensure any reforms to parliamentary composition or term length preserve periodic, genuine elections that safeguard revocable consent (ICCPR Art 25; UDHR Art 21).

8. Broader legal reforms (contextual)

Though not strictly within this inquiry's Terms of Reference, two reforms are central to securing equal participation:

- **Race power (s 51(xxvi))**: The High Court in *Kartinyeri v Commonwealth (1998)* recognised it could be used adversely. This is inconsistent with **CERD** and undermines equality.
- **Incitement law**: Australia has ratified **ICCPR Art 20(2)** but has not legislated criminal prohibitions. Current reliance on s 18C of the RDA (civil only) is inadequate.

Recommendations

1. Repeal s 51(xxvi) to remove constitutional division based on race (CERD; *Kartinyeri*).
2. Modernise incitement law to fully implement ICCPR Art 20(2), prohibiting advocacy of hatred that *incites discrimination, hostility, or violence, or foreseeably leads to the coercive denial of human rights*, while preserving ICCPR Art 19 protections for opinion and dissent.

[Conclusion overleaf]

9. Conclusion

Australia has a proud democratic record, but our inheritance is incomplete. The 2025 election highlighted vulnerabilities: intimidation, disinformation, and incitement threaten the integrity of elections as genuine expressions of the people's will.

To safeguard our democracy, Parliament must:

- Empower the AEC to act against intimidation and incitement.
- Modernise authorisation rules for the digital age.
- Strengthen protections against foreign interference.
- Address deeper constitutional and legislative gaps, including the race power and inadequate incitement laws.

Democracy is not values-neutral. It depends on universal principles: equal dignity, equal protection, and freedom of conscience.

Protected: dissent, conscience, protest (ICCPR Art 19).

Prohibited: intimidation, incitement, structural coercion (ICCPR Art 20).

This is the legal and moral line that preserves elections as genuine, revocable expressions of the will of the people.

Submitted by:

Dr Matthew Jennings

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Appendix A: Recommendations

Submission to the Joint Standing Committee on Electoral Matters

Inquiry into the Conduct of the 2025 Federal Election

Author: Dr Matthew Jennings

Aggressive conduct & intimidation

1. Strengthen penalties for intimidation of voters, volunteers, or AEC officials (ICCPR Art 25).
2. Amend the Electoral Act to expressly prohibit intimidation and obstruction at polling places (UDHR Art 21(3)).
3. Ensure rapid investigation and visible enforcement to maintain confidence in free elections.

Safety & security arrangements

1. Empower the AEC with immediate powers to issue directions where intimidation or incitement occurs (ICCPR Art 25; *Lange v ABC* (1997)).
2. Train AEC officials to apply a rights-based test distinguishing conscience (ICCPR Art 19) from coercion (ICCPR Art 20).
3. Strengthen coordination between AEC, police, and human rights bodies.

Universal voter access

1. Expand the definition of “universal voter access” to include civic safety from intimidation and vilification (ICCPR Art 25; CERD).
2. Require the AEC to report on both physical and civic accessibility.
3. Fund public education clarifying that persuasion = protected (ICCPR Art 19) and intimidation = prohibited (ICCPR Art 20).

Authorisation & disinformation

1. Require digital authorisation for all paid election content (ICCPR Art 25).
2. Expand AEC monitoring and referral powers for disinformation and incitement (ICCPR Art 19(3), Art 20(2)).
3. Clarify distinction between persuasion (protected opinion, ICCPR Art 19) and manipulation that foreseeably denies rights (incitement, ICCPR Art 20).

Foreign & domestic interference

1. Enhance international cooperation against disinformation and incitement (ICCPR Art 25).
2. Strengthen transparency of foreign-linked donations and influence (UDHR Art 21).
3. Anchor interference prevention in principle of free and revocable consent (ICCPR Art 25; UDHR Art 21).

Composition of Parliament

1. Ensure any reforms to term length or representation safeguard periodic, genuine elections (ICCPR Art 25; UDHR Art 21).

Broader legal reforms (contextual)

1. Repeal section 51(xxvi) (“race power”) to eliminate constitutional division based on race (CERD; *Kartinyeri v Commonwealth* (1998)).
2. Modernise incitement law to fully implement ICCPR Art 20(2), prohibiting advocacy of hatred that incites discrimination, hostility, or violence, while preserving ICCPR Art 19 protections for dissent.