Australian Collaboration

# Current Federal Democratic Reform Initiatives

| REFORM REQUIRED | NEEDED ACTION (AS DESCRIBED IN DISCUSSION PIECES) | CURRENT STATUS AS AT MAY 2013 |
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| ELECTORAL REFORM | | |
| Automatic enrolment | Young people reaching the age of 18 to be automatically enrolled and people changing their address to be automatically re-enrolled at their new address.<br><br>Better registration of Indigenous births to apply reform universally.<br><br>(See: Direct enrolment) | In June 2012, the Electoral and Referendum Amendment (Protecting Elector Participation) Bill 2012 and the Electoral and Referendum Amendment (Maintaining Address) Bill 2011 were passed by both Houses. These Bills provide for the direct enrolment of eligible Australian citizens, reinstatement to the electoral roll and inclusion of votes of people who meet certain criteria and allow the Electoral Commissioner to update an elector's enrolled address following receipt and analysis of reliable and current data sources from outside the Commission.<br><br>An ARC funded project at Monash University has established that significant numbers of Indigenous births are not registered, and also that if registered, significant numbers are not obtaining copies of birth certificates, leading to issues with proving identity. The project seeks to develop evidence-based solutions. |
| Senate ballot papers | Above the line sections of Senate ballot papers should be redesigned to give voters greater opportunity to express their second, third and fourth preferences clearly and transparently.<br><br>(See: The redesign of Senate ballot papers) | Commonwealth Electoral (Above-the-line voting) Amendment Bill 2010 was introduced in September 2010, and remains before the Senate. |

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| ANTI-CORRUPTION | | |
| A national anti-corruption commission | A national anti-corruption commission should be established. It should be empowered to investigate corruption of all kinds including institutional and political corruption.<br><br>(See: Anti-corruption commissions) | The Joint Parliamentary Committee on the Australian Commission for Law Enforcement Integrity (ACLEI) tabled its unanimous report in July 2011. Recommendations include:<br>• establish second tier of jurisdiction for ACLEI to extend oversight<br>• review the Commonwealth Integrity system<br>• examine the merits of establishing a Commonwealth Integrity Commission with anti-corruption oversight of all Commonwealth sector agencies.<br><br>Victoria – The Independent Broad-based Anti-corruption Commission (IBAC) commenced operations on 10 Feb 2013, almost 2 years later than initially proposed.<br><br>South Australia – The Government will introduce legislation of a similar nature to Victoria's IBAC, and appointed a Commissioner in February (with the office to be functional by end 2013).<br><br>Australia completed a self-assessment report on its compliance with the United Nations Convention Against Corruption (UNCAC) in 2011-12. The Executive Summary of the subsequent independent review of Australia's compliance was tabled at the UNCAC Implementation Review Group meeting of 18 June 2012. Work on the substantive report is ongoing but the review team makes a number of recommendations in the Executive Summary, including for Australia to "continue the consultative process for the development of a comprehensive national anti-corruption action plan, which will include an examination of how to make anti-corruption systems more effective".<br><br>The Attorney-General's office has stated that the UNCAC review and the results of the current Organisation of Economic Co-operation and Development Anti-Bribery Convention review will be "closely considered" in the current development of the national anti-corruption plan. This plan will also be informed by the public consultations held in 2011-12. As of May 2013, the plan has not been announced. |

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| Electoral donations and campaign finance | In the short term, political donations should be regulated to force disclosure in a reduced timeframe, disclosure limits should be lowered to $1,000, and donation splitting should be prohibited. Payments made to attend functions with promised access to Ministers should be detailed. In the longer term, funding for political parties should be radically reformed as has occurred in Canada.<br><br>(See: Caps on donations) | In October 2010, the Government introduced the Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill, this Bill remains before the Senate.<br><br>In late 2010, the Government also agreed with the Independents to a national inquiry by a fully representative committee of the Parliament to report during 2011 to enable passage of legislation in 2012. This inquiry was carried out by the Joint Standing Committee on Electoral Matters (JSCEM). Its report into the funding of political parties and election campaigns was tabled on 9th December 2011. Recommendations in the report include:<br><br>• lowering the threshold for the reporting of donations to $1,000<br>• single donations over $100,000 to be reported to the Australian Electoral Commission within 14 days<br>• banning foreign donations<br>• limiting public funding of MPs to campaign funding<br>• banning the prevention of full disclosure through the splitting of donations<br>• money paid for attending political functions treated as a normal political gift<br>• extending the powers of the Australian Electoral Commission to conduct compliance reviews.<br><br>Two dissenting minority reports were tabled, one from Coalition members asserting that the reforms if implemented would give unfair political benefits and calling for a dedicated fraud squad within the AEC, and another from a Green Senator arguing that the reforms proposed do not go nearly far enough. The Government is still considering the JSCEM's recommendations. |

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| An independent appointment system to public offices | A merit based independent system of appointment to public offices is needed.<br><br>Legislation is needed to give force to the merit based selection process for the selection of heads of departments, agencies and statutory corporations.<br><br>(See: Independent public appointment systems) | In July 2008, the Government introduced a statement of policy and guidelines for a merit based selection process for the selection of heads of departments, agencies and statutory corporations (see http://www.apsc.gov.au/publications-and-media/current-publications/merit-and-transparency).<br><br>The National Broadcasting Legislation Amendment Bill received assent in July 2012, establishing a merit-based appointment process for the ABC and SBS non-executive directors for their respective boards and re-establishing the position of staff-elected director to the ABC Board. |
| Lobbying and post-retirement employment of ministers and others | The Lobbying Code needs to be extended to include in-house lobbyists and the prompt reporting of meetings and their details. Post retirement employment restrictions on ministers, shadow ministers and public servants should be strengthened.<br><br>Lobbying and post-retirement rules should be supervised by the proposed Parliamentary Integrity Commissioner.<br><br>(See: Post-ministerial appointments and lobbyists) | In 2010, then Special Minister of State, Senator Ludwig, initiated a review of the Lobbying Code of Conduct that was completed in July 2011. Two areas of the Code recommended for improvement were: (1) the need for lobbyists to disclose details of any former government representatives on their declarations related to the Code; (2) the possibility of electronic submission of statutory declarations.<br><br>Further reforms are needed to include details of all people engaged by lobbyists to assist their lobbying. The provisions relating to post retirement employment by ministers and others have not been strengthened.<br><br>In November 2011, the Senate referred the operation of the Lobbying Code of Conduct and the Lobbyist Register to the Senate Finance and Administration Committees for inquiry and report. The Committees' report was provided in March 2012. Its general conclusion was that the Code was operating effectively and meeting its defined objectives, therefore no recommendations for changes were made. |

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| STRENGTHENING THE ROLE OF PARLIAMENT | | |
| Reform of question time | The Standing Orders of the Parliament need to require relevancy and time limits on responses to questions, and enhance the ability of the Speaker of the House and President of the Senate to enforce these rules.<br><br>(See: Reform of question time) | Following the September 2010 agreement between the ALP and independent members, Standing Rules were amended to limit Ministerial Statements to 90 seconds, limit the times of questions and answers, provide times specifically for debate of Private Members business, and to oblige members to give answers which are relevant to the question. |
| Parliamentary Budget Office | A Parliamentary Budget Office would be a valuable new institution to give independent budget advice to all parliamentarians. | Agreements between the Government, Independents and Greens included the establishment of a Parliamentary Budget Office.<br><br>The independent Parliamentary Budget Office was established in July 2012, and its first work plan published in October 2012. The office is available to provide confidential budget analyses and policy costings to all senators and members. |
| CITIZEN ENGAGEMENT | | |
| Consumer rights and protection | Breaches of the consumer protection framework need serious attention and swift legal action against offending companies.<br><br>(See: Consumer rights and protection) | On 1st January 2011, the *Commonwealth Trade Practices Act 1974* was replaced by the *Competition and Consumer Act 2010* (the CCA). The new Act provides common standards and enforcement provisions for all Australian State and Federal regulators. It creates a national scheme for consumer guarantees and warranties, and introduces national standards for consumer safety.<br><br>Other measures as recommended by the Australian Consumers Association are yet to be addressed. These include 'cypres' remedies (which support consumer groups with settlement funds from consumer cases), a funded national consumer organisation, integrated competition and consumer regulation, and consideration of behavioural economics in the national scheme. |

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| GREATER ACCOUNTABILITY OF EXECUTIVE | | |
| Accountability of ministers for actions under their authority and ministerial codes of conduct | The responsibilities of ministers, including possible devolution of certain responsibilities, need to be clearly and formally defined.<br><br>(See: Accountability of Ministers) | Though there is no formal code of conduct, members and senators' conduct in Parliament is guided by the Standing Orders of the Senate and the House of Representatives. The Gillard Government agreed with the Independents to establish a Parliamentary Integrity Commissioner, who should have begun to independently uphold the Parliamentary code of conduct by September 2011. |
| Defined accountability responsibilities for ministerial advisers | A specific and formal code of conduct for ministerial advisers is needed. Advisers should be required to appear before Parliament when requested. The code must be independently enforced.<br><br>(See: Accountability of ministerial advisers) | There is a current code of conduct for ministerial staff but it does not oblige staff to appear before Parliament if called. The Gillard Government had agreed to establish a Parliamentary Integrity Commissioner, who should have begun to independently enforce the current code by September 2011. |
| Responsibilities of members of Parliament | A specific code is needed which defines the responsibilities and ethical obligations of members of Parliament.<br><br>(See: Ministerial codes of conduct) | The Government agreed with the Independents to the preparation of a code of conduct for members of the House and Senate.<br><br>The Parliamentary Committee for Privileges and Members Interests conducted an inquiry into a draft code of conduct for members of the House and reported in November 2011. A motion to endorse the draft code was debated in both May and September 2012. The Senate Standing Committee of Senator's Interests then conducted a parallel inquiry with reference to the draft code, and tabled its report at the end of November 2012. The draft code was not endorsed and the Committee recommended against the adoption of such a code. The Greens provided additional comments stating that they did not support the conclusion of the Committee. Further Senate discussion is anticipated. |

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| Parliamentary integrity commissioner | A Parliamentary Integrity Commissioner is needed.<br><br>(See: Parliamentary Ethics Commissioners) | The Government agreed with the Independents and Greens to establish, by statute, a Parliamentary Integrity Commissioner within 12 months of the commencement of the new Parliament. The parties remain committed to the agreement but the agreed deadlines have not been met. A Commissioner was not expected to be appointed until at least late 2012.<br><br>Bills introduced to the Senate and the House by the Greens in May 2012, seek to establish a National Integrity Commission. In the Senate, the bill has been referred for inquiry. In the House, the bill was referred to the Standing Committee on Social Policy and Legal Affairs for inquiry and report. Its report, tabled in September 2012, recommended that a parliamentary Joint Select Committee be established to investigate the feasibility and cost of establishing a National Integrity Commission. Further progress remains to be seen. |
| TRANSPARENCY, FREEDOM OF INFORMATION AND FREEDOM OF SPEECH | | |
| Protection of journalists and their sources | When journalists report on matters of public interest, they need protection from legal action which forces them to disclose the identity of their sources.<br><br>(See: Protection of journalists' sources) | The Evidence Amendment (Journalists Privilege) Bill 2011 was assented to in April 2011, extending protection to confidential communication between journalists and their sources.<br><br>These laws need to be uniform across jurisdictions. |

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| Protection of whistle blowers | Comprehensive protection is needed for whistle-blowers who make disclosures which expose corruption, malfeasance and/or mismanagement.<br><br>(See: Protection of whistleblowers) | In 2010, following a comprehensive 2009 report from a House of Representatives Standing Committee, Senator Joe Ludwig, then Special Minister of State, announced that the Government would introduce whistleblower protection legislation. In September 2010, the Gillard Government agreed with Independent members of Parliament Rob Oakeshott, Tony Windsor and Andrew Wilkie to introduce whistleblower protection legislation to the Parliament during 2011. No legislation was introduced in 2011, despite the State of the Service Report 2010-11 indicating that legislation was due in Parliament that year.<br><br>In November 2012, independent member of Parliament, Andrew Wilkie, introduced the Public Interest Disclosure (Whistleblower Protection) Bill 2012 to the House of Representatives. The Government, however, stated that the bill 'falls short' on practical grounds and announced that it is finalising its position in 2012 in order to introduce legislation in 2013.<br><br>Legislation introduced in the ACT in September 2012 (the Public Interest Disclosure Act 2012) has been endorsed by A.J. Brown, Director of Transparency International Australia, as the best protection laws in Australia and a model for national legislation. |

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| Media concentration | The media play a crucial part in an open democratic society. Diverse ownership of mainstream media is therefore of great importance.<br><br>Media convergence and interconnection clearly require policy review. Any changes which might take place as a consequence of such a review should, however, include the need for greater diversity of media ownership.<br><br>(See: Media concentration and media laws) | The Minister for Communications, Senator Stephen Conroy, announced in in December 2010 the establishment of a Convergence Review with wide ranging terms of reference to review the current policy framework and develop advice for the government on the appropriate policy framework for a converged environment.<br><br>The final report of the review was provided in March 2012, with some of the key recommendations being the establishment of:<br>• a new communications regulator<br>• a minimum number of media owners<br>• a public interest test<br>• content standards across platforms<br>• Australian content scale threshold and service criteria<br>In June 2012, the Greens introduced to the Senate the Broadcasting Services Amendment (Public Interest Test) Bill 2012 to create a new public interest test to be administered by the Australian Communications and Media Authority in the absence of a new regulator. This Bill remains before the Senate. |
| Public interest immunity claims | An independent statutory office accountable to the Parliament is needed to rule on government claims of public interest immunity from freedom of information applications and calls by the Parliament for the Government to produce documents.<br><br>While significant progress has been made (see next column) the question of further reforms remains unresolved, including reforms of the Freedom of Information Act in light of reforms in other jurisdictions.<br><br>(See: Freedom of information) | The *Australian Information Commissioner Act 2010* created the Office of Australian Information Commissioner to work in conjunction with the Privacy Commissioner and the Freedom of Information Commissioner and provide an independent review of freedom of information decisions made by agencies and ministers. In addition, the Government is considering legislation dealing with the determination of public interest claims in respect of documents called for by the Parliament and by the Information Commissioner.<br><br>In November 2012, the Government appointed Dr Allan Hawke to review and report on the operation of the *Freedom of Information Act 1982* and the *Australian Information Commissioner Act 2010* and the extent to which those Acts and related laws continue to provide an effective framework for access to government information. The review was completed 30 April 2013. The Attorney General is expected to present the report to Parliament by the end of June. |

# Other areas of needed democratic reform

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| ELECTORAL REFORM | |
| Fixed term elections and extensions of parliamentary terms. | Fixed term parliaments are in the long term fairer to all political parties since they do not allow incumbent governments the opportunity to choose politically expedient dates for elections. Four year terms are also desirable but require constitutional change. (See: Fixed term elections) |
| STRENGTHENING THE ROLE OF PARLIAMENT | |
| Strengthening of the Committee system of the Senate as an independent house of review. | A bipartisan committee dedicated to reviewing the budget and economic strategy drawing on the resources of the new Parliamentary Budget Office would be a very valuable addition to the Senate committee system. Independent committees fully funded through a parliamentary commission in the style of the UK are also highly desirable. (See: Strengthening the role of the Senate) |
| CITIZEN ENGAGEMENT | |
| Civil society and public advocacy | The roles and significance of civil society organisations should be formally recognised, including the right to disagree with government policy without penalties or restrictions of any kind. The Not-for-profit Sector Freedom to Advocate Bill 2013 was introduced to the Senate in May 2013, if passed, it will promote engagement and prohibit or invalidate clauses that prevent NFPs from advocating with regard to Commonwealth policy issues. (See: Civil society and public advocacy) |
| Citizen participation in Democracy | Governments should take all possible steps to encourage citizens to participate actively in the functioning of Australia's democracy. These steps should include a greater effort to make the activities of the government more transparent and understandable, greater investment in democratic education, and support for citizen initiatives such as citizen parliaments and attention to their outcomes. (See: Citizen engagement) |

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| TRANSPARENCY, FREEDOM OF INFORMATION AND FREEDOM OF SPEECH | |
| Public broadcasters | Given the great significance of their role in a country with a very high concentration of media ownership, funding for the public broadcasters should be increased. (See: Adequate funding for public broadcasters) |
| HUMAN RIGHTS | |
| A charter of human rights in Australia | A human rights charter was recommended by the National Human Rights Consultation (2009) and supported by the majority of Australians participating in the Consultation. Australia is the only English speaking country with a common law tradition without such a charter. In response to the Consultation, the Government announced a Human Rights Framework which it described as a 'package of measures to strengthen understanding and respect for human rights'. These measures included the establishment of a new Joint Parliamentary Committee on human rights and the combination of existing federal anti-discrimination laws into a single Act. Significantly, the Framework did not include a national charter of rights.<br><br>As one of the measures forming part of the Human Rights Framework, on 4 Jan 2012, *The Human Rights (Parliamentary Scrutiny) Act 2011* came into force. It requires all bills to be accompanied by a 'Statement of Compatibility with Human rights' - an assessment of compatibility against the seven main United Nations treaties to which Australia is a party. The Act also established the Joint Parliamentary Committee on Human Rights. (See: A national charter of rights and responsibilities) |