

Wake up Australia, a new Constitution is needed

Australia has participated in several questionable wars in recent years that resulted essentially from the decision by the PM rather than the federal Parliament.

Amazingly, the Prime Minister's position is not even mentioned in the Constitution. It is pertinent now to ask what are the Australian people doing about their archaic and undemocratic Constitution? The time has come for this multicultural society to raise this issue prominently and abandon the tendency of piecemeal tinkering. Politically and educationally the media, Independent MPs, the Greens and other relevant political actors need to speak up. Surely, this has to be part of the Republic preparation.

In a recent article of *The Saturday Paper* Professor Barry Jones, a former well-known senior ALP politician, entitled "The Constitution of a Mouse", the case for an entirely new Constitution was put very convincingly. The urgency of this reality was made clear in the context of the enthronement of King Charles III. Jones also provides a sensible pathway to make this possible within the framework of the existing Constitution.

He presents the recent statement by Charles III as King of Australia as a proclamation to the obedient underlings, expecting to show "humble affection". "When do we get up from our knees", Jones wondered. In 1999 the republic versus monarchy impasse demonstrated "a disturbing degree of Australian infantilism - a lack of faith in our own institutions". That infantilism, he argues, is a reluctance to leave home. "Home" being the Westminster system and colonial heritage. The last third of the article deals with "what is to be done?". That concentrates on a plebiscite for a new Constitution which, if passed, would then be put to the voters as a referendum in accordance with Section 128. Jones's article is frank, courageous, humorous and timely. Aged 90, here is a true Professor in Politics speaking candidly. Obviously, he is far ahead of Government thinking on this issue. That is to be valued. The conservatism on governance systems in Australia is truly astonishing, deplorable. and costly. However, the question is also: What kind of Republic really? If we continue to limit this to how the head of state is to be elected the progress will be very minimal.

Currently the advocacy for an Indigenous Voice referendum presented by PM Albanese at the Gamma Festival in Arnhem Land looks somewhat encouraging but it is still an exercise in piecemeal tinkering. Work towards a NEW Constitution could and should proceed straight away. In fact, the Government should realise that this Voice plan could just as well form part of a new Constitution. If Australians "want to do politics differently", as the first speeches in the new Parliament already strongly suggest, politicians need to present much bolder ideas as soon as possible. If these do not come from the major parties the several newcomers. many of them

independent women, surely have their work cut out for them. Really, they have much more to do than to look after their Single Member Electorates.

A few political history academics have begun to analyse the 2022 election results. Much of it is a review of the 20th century post-1945, especially of the Whitlam period and its aftermath. Whitlam made several serious attempts to renovate the governance systems in the 1970 - 1975 period and again in 1988 after a two-year period of extensive research into constitutional change by a highly competent team. To no avail, the four referendums to that end failed in 1988.

After the 2022 election, which resulted in a win by a cautious ALP, the emergence of a team of Independent women (TEAL), and strong Green support, two major governance system issues present themselves again. However, that commentary doesn't go further than finally questioning the adversarial two-party system. A few academics have sensibly mentioned Proportional Representation as an alternative to the Single Member District system, a very obvious superior alternative. Neither major party has been interested in that though, showing themselves still very much part of the Westminster electoral system heritage as well.

Constitutional law professors George Williams and Helen Irving, as well as journalist David Solomon have long attempted to move away from the fruitless piecemeal tinkering, amongst others.

Williams commented that "the Constitution is out of touch with political reality. The people know very little about their Constitution; it was not written as a people's Constitution but instead as a compact between the Australian colonies to meet the needs of trade and commerce, among other things". So, for instance, "it says very little about what it is to be Australian ...how we should behave towards each other as human beings and as Australians. The text of the Constitution does not match political reality because it is premised upon an understanding of the Westminster system of government operating in the United Kingdom".

The Constitution doesn't serve the economy well either an increasingly important aspect. Although High Court interpretation has enabled the federal parliament to control and regulate the national economy, the federal vision contained in the Australian Constitution is now inconsistent with modern understandings of the Australian economy. Williams wrote, "our economy does not consist of discrete and insular sectors of commerce within each state or even within Australia" (Section 92 refers). It exists within a world of global markets ..." To compete effectively on a global scale, given our small population and geographical location, Australia requires national laws on issues ranging from industrial relations to consumer protection and trade practices".

The Constitution is almost totally deficient in the areas of social justice and human rights. The framers of the Constitution chose to rely on the operation of the Common Law, but it is now quite widely accepted that this is indeed very inadequate. "The Constitution suggests that Australia is not an independent nation", argued Williams. This is the very opposite of an independent Republic. The mere creation of a Republic doesn't fix any of the many shortcomings either. Federation, electoral system and Indigenous affairs would remain unresolved.

Should there not be full recognition of the reality of political parties and how these should be organised? Should there not be a Bill of Rights? Should there not be recognition of the importance of the environment and provisions for the urgent need to combat climate change?

There is no provision for the appointment of Cabinet Ministers either as is the case in most European countries and in the United States. Why should they be chosen from MPs? Australian Governments have suffered greatly from sheer ministerial incompetence. The Constitution does NOT state that the Government derives its authority from the people's sovereignty either. Constitutional conventions should ALL be codified for them to be widely accepted.

The position of women and the issues of equality between the sexes and of gender in Australian society is NOT addressed anywhere in the Constitution. Given the continued discrimination of women in management and executive roles – and in political parties – this issue surely needs constitutional recognition.

The LBT QI group of people should be recognised and protected constitutionally. A democratic electoral system needs to be stated and explained in the Constitution. Amending the Constitution should be easy and not be avoided on account of likely failure, as frequently feared.

So, after the Indigenous Voice inclusion, the Voice of ALL Australians could be significantly improved in a NEW Australian Constitution.

December 2022

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