



THE UNIVERSITY OF  
MELBOURNE

—  
Melbourne School  
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in collaboration with

COVID-DEM

—  
**Building  
Democracy  
Back Better**

Submission:  
Senate Inquiry into  
nationhood, national  
identity and democracy

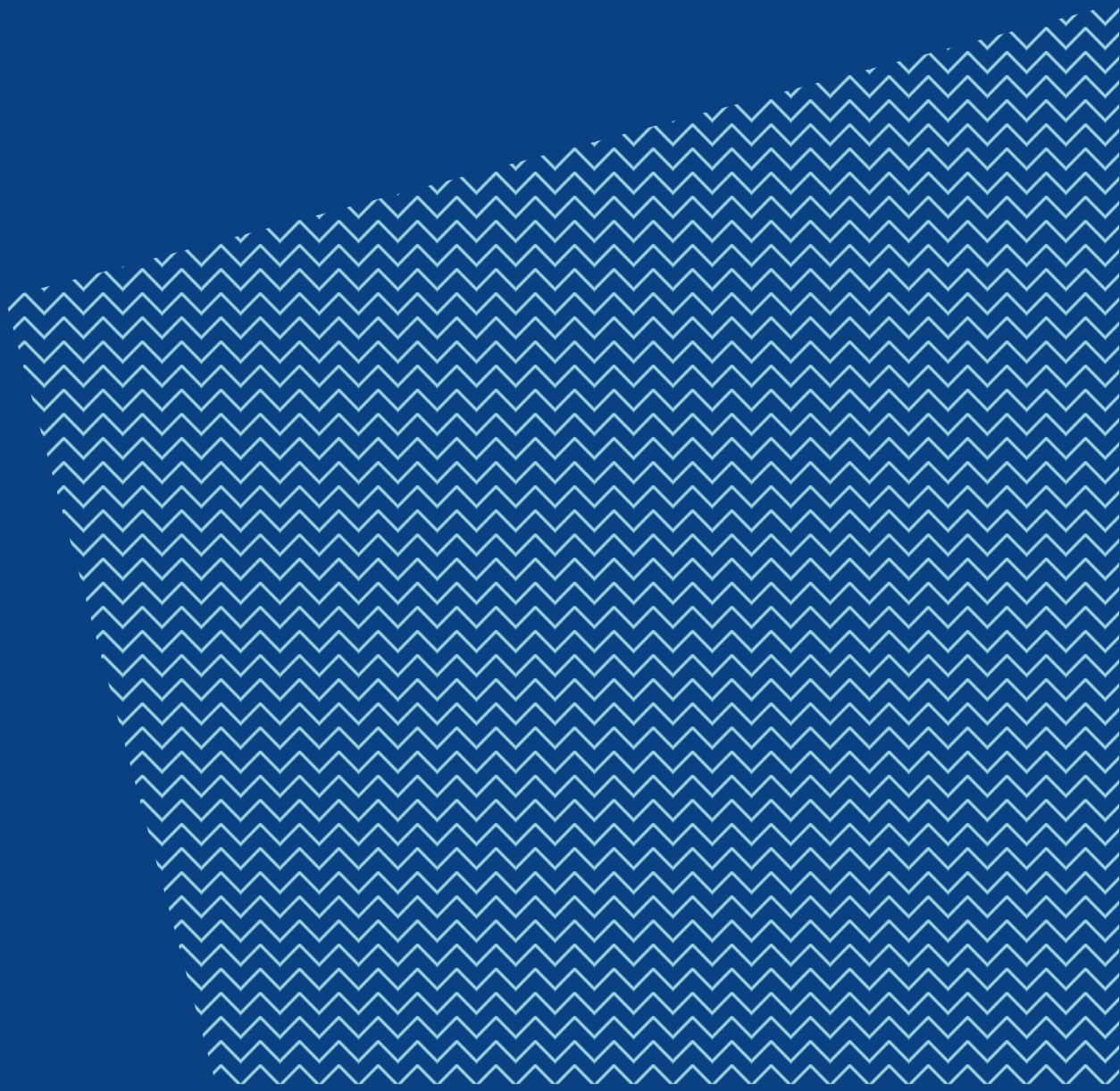
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30 August 2020

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# Executive Summary

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## Author and Focus of this Submission

This Submission, in response to the COVID-19 Discussion Paper, has been authored by Associate Professor Tom Gerald Daly, in his capacity as Deputy Director of the University of Melbourne's School of Government and Director of the [COVID-DEM project](http://www.democratic-decay.org) ([www.democratic-decay.org](http://www.democratic-decay.org)), which charts how the COVID-19 pandemic is affecting democracy in Australia and worldwide. Both are independent non-partisan entities, and the author remains personally responsible for the views expressed herein.

## Key Points

The Submission makes the following key points:

- (a) The COVID-19 pandemic has had a dramatic impact on democracies worldwide. An unprecedented number of states are simultaneously under a state of emergency, have restricted civil liberties, and postponed elections. Independent media are struggling.
- (b) Government responses in democracies worldwide can be divided into 4 broad categories: effective rationalists; constrained rationalists; autocratic opportunists; and fantasists. Australia's response falls into the 'effective rationalist' camp. The pandemic has been effectively addressed through fact-based policy, within the constraints of the law, with clear limitations placed on emergency actions, and through the development of innovative responses to address the crisis; principally, the National Cabinet.
- (c) That said, there is a need for attention to key deficiencies in Australia's pandemic response, including the sidelining of parliaments and transparency and accountability issues affecting key institutions such as the National Cabinet and the National Covid-19 Commission.
- (d) The pandemic has also opened opportunities to 'build back better' at home and employ Australia's soft power to better effect. In many ways, whether Australian democracy emerges stronger or weaker from the crisis is a matter of political choice.

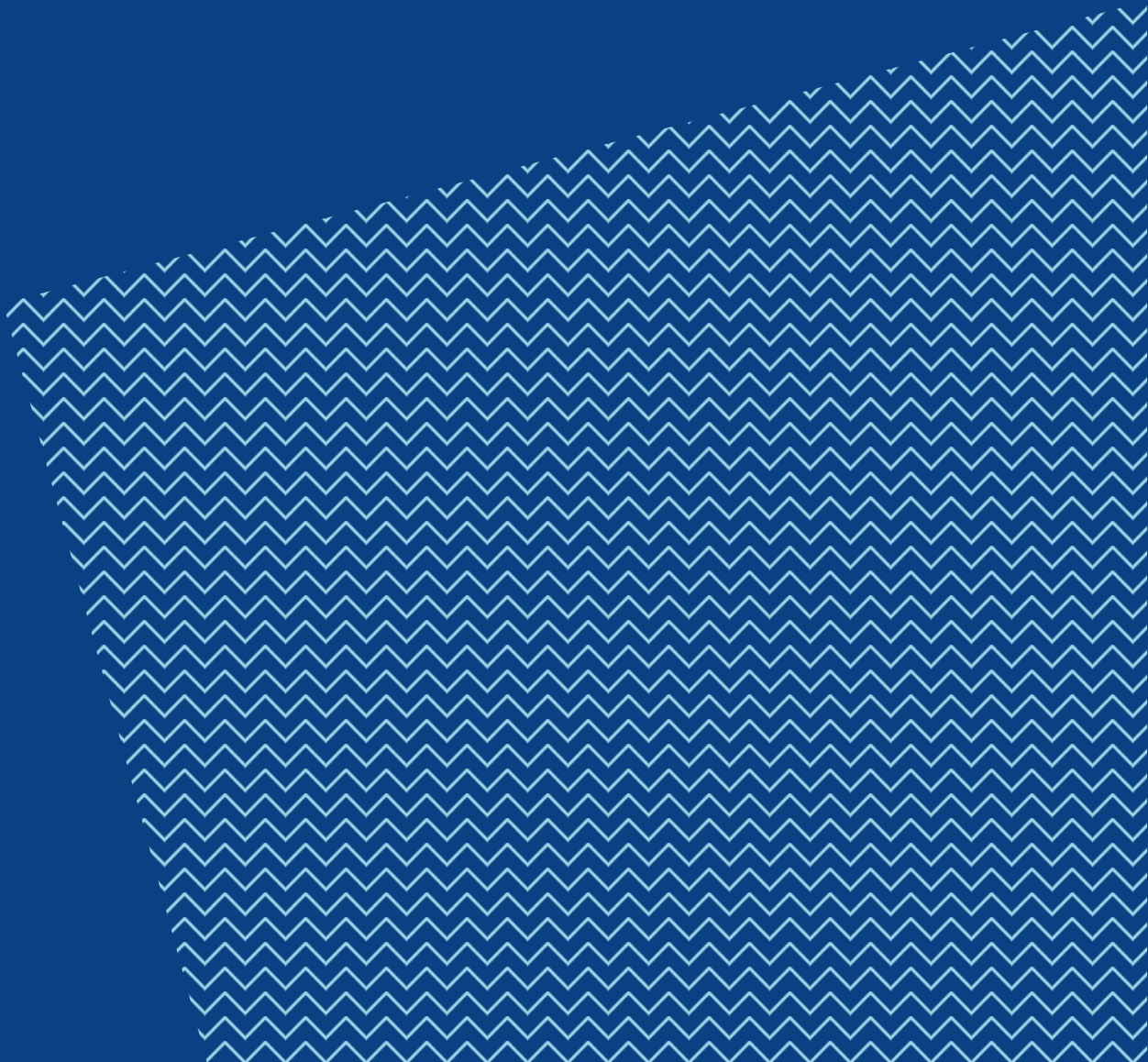
## Recommendations

The Submission makes the following recommendations to the Committee:

- (a) **Institutional rebalancing:** Measures should be taken across Australia to restore the position of parliaments as a central democratic forum and oversight mechanism for government.
- (b) **'Future-proofing' institutions:** Contingency plans should be put in place to ensure maximal democratic functioning (e.g. of parliaments and elections) in future crises.
- (c) **Ensuring effectiveness:** Every effort should be made to ensure that institutionalisation of the National Cabinet avoids the worst traits of the Council of Australian Governments (COAG).
- (d) **Ensuring transparency:** Serious attention needs to be given to the transparency and accountability deficiencies affecting the National Cabinet and National Covid-19 Commission.
- (e) **Enhancing participation:** The crisis, and the shift it has effected in the political climate in moving beyond 'politics as usual', should be seized on to consider democratic innovations such as citizens' assemblies, with the aim of giving citizens a greater voice in governance.
- (f) **Reviving independent media:** Urgent government action is needed to remedy the stark impact of the pandemic on independent media and public interest journalism.
- (g) **Leadership:** The crisis and its effect on key democracies such as the USA require a re-think in how Australia employs its 'soft power', to balance the current emphasis on 'hard power'.

# Submission

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## 1. Author and Focus of this Submission

This Submission, in response to the COVID-19 Discussion Paper, has been authored by Associate Professor Tom Gerald Daly, in his capacity as Deputy Director of the University of Melbourne's School of Government and Director of the COVID-DEM project ([www.democratic-decay.org](http://www.democratic-decay.org)), which charts how the COVID-19 pandemic is affecting democracy worldwide. Both are independent non-partisan entities, and the author remains personally responsible for the views expressed herein.

With reference to the Terms of Reference and Discussion Paper for this Inquiry, this submission focuses on placing Australia's pandemic response in global context, analyzing the strengths and deficiencies of the response, divining key lessons to be drawn from the crisis, and ways of 'building back better' to ensure that Australian democracy emerges stronger from the crisis. This submission draws on the author's academic research and policy work in the area covered by the Terms of Reference, including:

- 6 months of curating and publishing analysis of COVID-19's impact on democracy in Australia and worldwide through the [COVID-DEM project](#) (launched on 3 April 2020);
- Designing and leading the [Governing During Crises](#) project at the University of Melbourne's School of Government, especially a series of policy briefs produced since June 2020 (see p.14);
- Spearheading the 'Renewing Democracy' research theme at the School of Government.
- Speaking engagements, opinion pieces, and blog posts in national and international media.

## 2. Australia's Pandemic Response in Global Context

The global pandemic has evidently had a dramatic impact on democracy in Australia and worldwide. Curating analysis of the pandemic's impact on democracies worldwide since early April through the [COVID-DEM project](#), clear commonalities are evident. An unprecedented number of states have simultaneously declared a state of emergency (or at least emergency measures without a formal state of emergency, like Ireland or Poland); [postponed elections](#) (with often little certainty as to when and how they will be held); and accorded sweeping powers to government. Citizens have had to submit to rights restrictions, 'stay at home' orders, expanded police powers, and in some states, [surveillance apps](#), often without anything close to acceptable democratic scrutiny as [parliaments](#) (and the [media](#)) are hobbled by the lockdown. Concerns have been raised about '[pandemic backsliding](#)' worldwide.

Beyond these commonalities, we have seen four broad categories of government response:

- Effective Rationalists:** Some governments have effectively addressed the pandemic through rational fact-based policy, within the constraints of the law, and with clear limitations on emergency actions to preserve maximal democratic functioning. In [New Zealand](#), parliamentary committees have continued and an Epidemic Response Committee was established to scrutinise government action. South Korea flattened the curve primarily through [contact tracing](#) and [successfully held national elections](#) on 15 April – the first country to do so. These states benefited from their starting position of high-quality democratic governance, high state capacity, and the economic ability to assist individuals negatively affected by emergency measures. Australia belongs in the 'effective rationalists' category, as discussed in detail below.
- Constrained Rationalists:** Other governments have also taken a broadly rational and law-abiding approach but face serious limitations due to lower state capacity. South Africa, for instance, has taken measures such as appointing a [COVID-19 Designated Judge](#) to oversee the use of phone data for contact tracing. However, [lockdown enforcement](#) by police has been excessive and the state is said to be facing a '[state of disaster](#)' due to emergency measures preventing access to food, water, and even basic hygiene. The state is also less well equipped to address the economic fall-out of the lockdown, with uncertain implications for its fragile young democracy.

- (iii) **Autocratic Opportunists:** Some governments, while recognising the reality of the threat, have pounced on the crisis to further expand, and dismantle any remaining checks on, their power – accelerating an existing pattern of serious democratic decay. Hungary is the poster child, with the prime minister empowered to rule by decree, aided by unconstitutional extension of the emergency, and a controversial new law criminalizing “publication of false or distorted facts”. States like India and Indonesia suffer from a toxic admixture of the capacity constraints and authoritarian acceleration in categories (ii) and (iii).
- (iv) **Fantasists:** Key governments’ responses have been hobbled by partial or full denial of the facts presented by recognised experts, and engagement in conspiracy theories (e.g. that the pandemic is a Chinese bio-weapon). ‘Pandemic denial’ has turned the USA into a global outbreak hotspot with some 180,000 deaths, placed citizens in the unenviable position of risking their health and lives to exercise their democratic rights in primary elections, encouraged inaction at federal and state levels, and endlessly undermined any action taken. Similarly, Brazil’s death rate has climbed to almost 120,000 largely due to President Bolsonaro, who has simply refused to act and for whom, it has been said, “politics comes before truth”.

Both Brazil and the USA are extreme examples of what the US historian Sophia Rosenfeld has called ‘antitruth governance’, based on “indifference to the boundaries between truth and falsehood” and an aversion to objective institutional expertise.

We have seen global ‘best responses’ lists appearing, with front-runners generally being tiny states like Singapore, small states like Iceland, Denmark, Taiwan and the UAE, and mid-size states such as South Korea, Greece, Finland, and Norway. Australia’s pandemic response – despite the over three-fold rise in cases and six-fold increase in deaths since the end of June – remains among the most successful, especially when the cases and death figures are adjusted by population. Meanwhile, other early success stories, such as Argentina, have seen cases rise six-fold and deaths seven-fold since June.

Country	Cases	Deaths	Deaths per million (population adjustment)
<b>Low cases and/or deaths</b>			
New Zealand	1,376	22	4.56
Singapore	56,666	27	4.62
South Korea	19,400	321	6.26
Australia	25,547	600	22.86
Greece	9,800	259	24.85
Iceland	2,092	10	29.30
UAE	68,901	379	38.32
Norway	10,543	264	48.70
Finland	8,042	335	60.46
Denmark	16,700	624	107.73
<b>High cases and/or deaths</b>			
India	3,463,972	62,550	45.33
Russia	985,346	17,025	115.90
Argentina	380,292	8,129	179.86

Canada	126,848	9,102	241.32
USA	5,811,519	179,716	549.16
Brazil	3,761,791	118,649	562.22
Sweden	83,958	5,821	576.38
UK	331,648	41,486	611.11

Sources: World Health Organization (WHO) Coronavirus Disease (COVID-19) Dashboard; Our World in Data. Australian Government Department of Health. Date: 29 August 2020

### 3. Strengths in Australia's Pandemic Response

Australia's pandemic response has benefited from key features: rapid action; respect accorded to public health experts; effective coordination across the Commonwealth; clear communication with the public; and responsiveness to public concerns. Two bodies were key to the overall pandemic response:

- (i) **National Cabinet:** Established on 13 March, the new intergovernmental forum comprising the federal prime minister and all state and territory premiers and chief ministers has focused on 'executive federalism' as a way to achieve coordinated and swift action in response to the crisis, with each head of government responsible to their own cabinet and parliament, and with the states and territories largely responsible for implementing the decisions taken. Meeting multiple times per week, it has been essential to the pandemic response, especially given the early stages of the crisis, which saw state and territory governments acting unilaterally on measures such as border closures.
- (ii) **Australian Health Protection Principal Committee (AHPPC):** The key coordination committee for health emergencies, it comprises all state and territory chief health officers, is chaired by the Australian Chief Medical Officer and has assisted the National Cabinet in its decisions through the provision of data, modelling, and advice regarding the virus.

As a result of this coordinated response, while cases of COVID-19 initially rose sharply, peaking at 350 cases per day by end of March, they lowered to under 20 per day by the end of April. On 1 June the number of cases had reached 7,204 and the death toll stood at 103. With numbers rising again due to a sharp increase in new cases in Melbourne, a fresh lockdown was imposed on 4 July, which moved to stage 4 lockdown on 2 August. Daily cases nationwide, which had risen to a high of over 700 in early August, have been brought to 114 by 30 August. The cases now stand at 25,547 and the death toll is 600.

As indicated above, when viewed against the global context, Australia's pandemic response lies in the category of 'effective rationalists', having successfully addressed the pandemic through fact-based policy, within the constraints of the law, and placing clear limitations on emergency actions.

- (i) **Review:** Governments have ensured internal ongoing review of states of emergency, bolstered by external scrutiny through the federal Senate's Select Committee on COVID-19.
- (ii) **Responsiveness:** Democratic responsiveness has been reflected in, for instance, the Victorian government's quick reversal of its ban on visiting intimate partners living in another residence, following public outcry.
- (iii) **Voluntary measures:** Use of the contact-tracing app COVIDSafe has been made voluntary, compared to mandatory use in other countries (e.g. India).
- (iv) **Democratic innovation:** The National Cabinet has been a centre-piece of innovation in the pandemic response. Long-time critics of the political system's dysfunction have been surprised by the body's capacity to coordinate executives of different party colours across the Commonwealth, sidelining 'politics as usual' and cutting through the hyper-partisan *status quo* to achieve consensus and the necessary unity of purpose on nation-wide action.



The National Cabinet's achievements, in particular, lie in stark contrast to the chaotic tussles in the USA between federal and state governments, and two main parties, over everything from the validity of state lockdowns to the purchase and retention of protective equipment. The pandemic, instead of unifying the nation, has widened divisions, with the unequal impact of the virus meeting police brutality to produce a nationwide conflagration of protest against unjust and inept government. In the UK, divergent messaging from the Westminster government, in comparison to the devolved governments, and scandal surrounding its defence of senior adviser Dominic Cummings' lockdown violations saw public trust in Westminster plummet in June.

#### 4. Deficiencies in Australia's Response

It is important to emphasise here that democratic states have faced a twin challenge: to address the virus effectively without wreaking too much damage on the democratic system. Unlike undemocratic states like Singapore, the UAE, or China, where the state has a freer hand in implementing broad (and, in some cases, brutal) suppression measures, democratic states are under an obligation, and expectation, to ensure that measures only curtail democratic freedoms and institutions to the extent required to suppress the virus, are proportionate, subject to adequate scrutiny, time-limited, and comply with the rule of law (including that the law is clear and predictable).

Even in the world's top performers – democracies that have managed to effectively stem the spread of the virus while broadly maintaining respect for democratic governance – concerns have arisen. In New Zealand, for instance, analysts have debated the legality of the government's response, with some arguing that lockdown orders issued under the Health Act 1956 went beyond what the Act permits. Taiwan's legislative framework has been criticized as giving a 'blank check' to the executive.

In Australia, four key deficiencies in the pandemic response are of concern:

- (i) **Parliament:** The central democratic deficiency has been the failure to prioritise keeping parliaments open. Adjournment of parliamentary sittings since March has been criticized as hampering scrutiny of pandemic measures, especially in light of the shift to online and 'hybrid' parliaments (i.e. parliaments sitting through a mix of face-to-face and online means) in the UK, Canada and elsewhere. In the UK, the House of Commons was fitted with screens on 22 April, and made history when a new system mixing in-person and remote attendance was trialled for the first time. On 12 May the House voted remotely for the first time, from every corner of the country. It was not until 4 months later, on 24 August, that the federal parliament in Canberra held hybrid sittings for the first time, and this was after strong, but somewhat vague, resistance invoking the need for parliament to sit face-to-face. As indicated in the Committee's Discussion Paper, "even in a crisis, democratic governments must remain accountable to citizens."
- (ii) **National Cabinet:** Despite its effectiveness, the secrecy of the National Cabinet's deliberations has been criticized as problematic as regards transparency under freedom of information legislation and parliamentary scrutiny of its decisions. As a recent policy brief observed, the framework to address confidentiality should be tailored to its specific operation and not simply replicate the way 'ordinary' cabinet confidentiality works. More broadly, it was noted that "a range of questions about exactly where it fits in the Australian system of government need attention. Intergovernmental relations are inevitably the province of executive government but like every other aspect of the system of government they require ownership by and accountability to the public at large."
- (iii) **National COVID-19 Commission:** As a separate recent policy brief argued: "Several features of the NCC are of concern, including: a lack of any legislative underpinning and clear, independent appointment process typically expected of publicly-funded bodies; opaque operations; little legal clarity whether it can form 'part of' cabinet and rely on cabinet confidentiality; and the absence of a duty to publicly disclose conflicts of interest."

- (iv) **Surveillance:** Serious privacy concerns have been raised regarding the COVIDSafe app, which have been amplified by acute privacy failures overseas. Calls have been made since April for establishment of a tailored oversight mechanism: a COVIDSafe Privacy Advisory Committee. Dedicated oversight is already in place elsewhere (e.g. by appointment of a COVID-19 Designated Judge in South Africa). Had adequate oversight been put in place early on, perhaps the take-up by the public may have been better than the under 50% achieved. A recent poll (18 August) suggests the main reasons for not downloading the app related to concerns about the app itself; what government would do with the data; and government surveillance.

## 5. Truths Revealed by the Crisis

The pandemic has revealed a number of fundamental truths about democracy in general, and Australian democracy specifically:

- (i) **Authoritarian regimes are not better in crisis:** The biggest lesson from the pandemic is that it has destroyed growing claims that authoritarian regimes are better positioned to address crisis – and govern more broadly – due to their ability to act swiftly and decisively. The pandemic has revealed the weakness and ineptitude of many authoritarian regimes, from Tajikistan to Tanzania to Turkey. Evidence compiled by the COVID-DEM project chimes also with the Australia Institute’s findings, cited in the Discussion Paper, that the majority of top performers are democracies. Nor is there a simple division between the Global South and Global North, or between younger and older democracies. Instead, we see multiple fault-lines based on state capacity, effective government, fact-based governance, and citizen trust in government.
- (ii) **Leading democracies’ reputations have been hit hard:** We have seen a shift in global perceptions of some of the world’s leading democracies, not caused, but accelerated by the crisis. The failures of many of global democracy’s perceived ‘leading lights’ – particularly the USA and UK, but also countries like Sweden – has further tarnished their democratic reputations, which have been damaged for years now by the rise of authoritarian populist governance and political forces. Other democracies like South Korea, New Zealand and Australia are enjoying greater international visibility as examples of best practice (international media attention to Melbourne’s lockdown notwithstanding).

Within Australia, too, a number of truths have been revealed.

- (iii) **Government and leadership matters:** The crisis has reminded us that, when it comes to crisis, there is little substitute for government action, and that the approach and abilities of individual leaders are crucial. Inter-level, inter-state, and international comparisons have laid this bare.
- (iv) **Creativity and reform are possible:** The crisis has also shown that, when put under serious stress, Australia’s democratic structures and leaders are capable of achieving creative and effective institutional solutions to pressing problems. All that is needed for real reform to happen is political will.
- (v) **Collaboration builds trust:** As noted in the Discussion Paper, public trust in government has risen significantly during the pandemic crisis: for instance, trust in the federal government has almost doubled from 29% to 54%. While cross-party collaboration during the crisis is borne of the severity of the crisis, and it would be naïve to expect it to become the dominant feature of politics, this period has shown that the public rewards meaningful collaboration with greater trust. The significant rise in trust cannot be expected to last long if politics simply snaps back to ‘business as usual’ – or as one commentator put it, “when normal hostilities resume”.
- (vi) **Experts matter:** The respect accorded to public health experts by government, policymakers, and the public during the crisis should be taken as a long-term lesson that experts matter. Polls show public trust in scientists and experts is now as high as 77%. This is not an argument for

technocracy, but for policymaking to be based on a due respect for observable facts and recognised expertise across all sectors.

- (vii) **Parliament's importance has been questioned:** The crisis has raised difficult longer-term questions about how parliament is viewed. Concerns about the sidelining of parliament during the pandemic have been largely voiced by a minority of MPs, public figures (e.g. judges), and human rights organisations, and has not caused widespread public concern. What does this say about political and public perceptions of parliament as an institution? Serious reflection is needed on why parliament seems to be a marginal issue to most people, as disconnected from their lives.
- (viii) **Solidarity and community spirit remain strong:** Despite longstanding concerns that individualism and the recognition of distinct identities across Australian society will lead to a fragmented and atomised community, the overwhelming lesson from the crisis is that solidarity remains strong – as noted in the Discussion Paper, early research “indicates that many Australians identify the desire to protect the vulnerable, and to do ‘the right thing’, as their primary motivations for social distancing”. Moreover, unlike the US context, recent polls show that Australians’ views of suppression measures do not divide across party-political lines.
- (ix) **Participation is lacking:** The crisis has laid bare the strong tendency in the political system toward limiting space for genuine public participation in decision-making, especially through institutional mechanisms. The sidelining of parliaments and the focus on sectoral leaders through the National Covid-19 Commission can be seen against the historical withering of the referendum power, and compares poorly with the much stronger emphasis in other states such as the UK on keeping parliament open and experimenting with citizen-led discussions of economic recovery through citizens’ panels, e.g. in the West Midlands.
- (x) **Public space and scrutiny is under threat:** Existing concerns about the contraction of the independent media landscape and public interest journalism in Australia have intensified. The Australian Newsroom Mapping Project in June indicated that 200 media outlets have closed (or merged) since the crisis began. Growing swathes of the country are ‘media deserts’, especially at the local level. This has serious implications for Australia’s democratic system at all levels, across three dimensions: (i) the need for an informed citizenry, which is the basis for any democratic system; (ii) the need for informed government at all levels; and (iii) the need for transparency in, and scrutiny of, government and State institutions and agencies.

## 6. Building Back Better

The pandemic has challenged Australia’s democratic system but has also revealed many of its latent strengths and, most importantly, awakened a new sense of possibility and openness to reform. The real challenge is not to return to ‘business as usual’ but to seize on this moment to pursue reforms focusing on future resilience, meaningful representation, and participation. In many ways, whether Australian democracy emerges stronger or weaker from the crisis is a matter of political choice.

- (i) **Institutional rebalancing:** Measures should be taken across Australia to restore the position of parliaments as a central democratic forum and oversight mechanism for government. This not only refers to fully restoring parliamentary functioning across Australia in the short term, but reflecting more fully on how parliament’s role has been diminished over time.
- (ii) **‘Future-proofing’ institutions:** Contingency plans should be put in place in preparation for future crises, to ensure maximal democratic functioning. Best practice models should be concretised and clear crisis response protocols set out for both maintaining parliamentary operation and the conduct of elections. While the pandemic caught the political system unawares, there would be little excuse for a lack of preparation for the next crisis.

- (iii) **Ensuring effectiveness:** The replacement of the Council of Australian Governments (COAG) by the National Cabinet is welcome. However, in settling the National Cabinet's structure every effort should be made to avoid heavily bureaucratized, top-down COAG model, dominated by Commonwealth priorities and with weak implementation of decisions.
- (iv) **Ensuring transparency:** Serious attention needs to be given to the transparency and accountability deficiencies affecting the National Cabinet and National Covid-19 Commission. All deficiencies can be remedied through appropriate legislative and design measures. The transparency and accountability of the Commission, for instance, can be addressed through enabling legislation establishing it as an independent body, oversight by parliamentary committee, publication of its recommendations, and a public conflict of interest register.
- (v) **Enhancing participation:** The crisis and the move beyond 'politics as usual' has opened a window for fundamental democratic reform beyond what previously seemed possible. Democratic innovations beyond the National Cabinet should be considered, such as citizens' assemblies, to give citizens a greater voice in government, and more specifically, a voice in shaping the economic recovery.
- (vi) **Reviving independent media:** Urgent government action is needed to explore ways to remedy the stark impact of the pandemic on independent media and public interest journalism. For instance, recent research conducted by the Public Interest Journalism Initiative (PIJI) has indicated majority support for supporting public interest journalism through tax reforms. The viability of grassroots experiments should also be explored, such as cooperative citizens' media organisations, as recently trialled in Newham, UK.
- (vii) **Using soft power effectively:** The clearest emphasis in foreign policy during the pandemic crisis has been a greater focus on 'hard power', including sharper diplomatic language against disinformation campaigns by authoritarian regimes (especially China), backed up by a planned package of \$270bn defense spending over the next 10 years. It appears equally important to effectively employ and build Australia's soft power as a leading democratic nation, especially given the serious reputational damage and chaotic governance and foreign policy in the USA. This could include greater engagement with regional democratic partners that have achieved both effective *and* democratic responses to the virus, such as New Zealand and South Korea, to build 'best practice' models and provide assistance, especially for states that have not yet been fully hit by the pandemic, such as the Pacific states now facing a surge in cases.

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## Policy Brief Series: *Governing During Crises*

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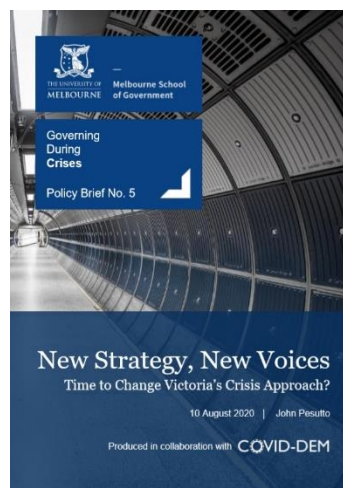
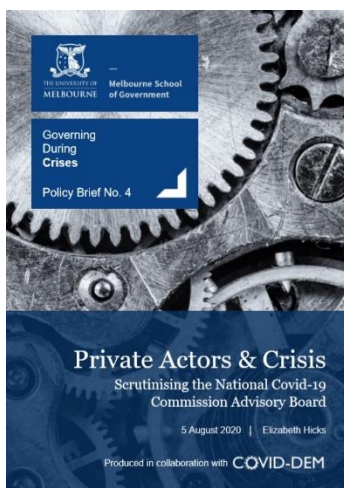
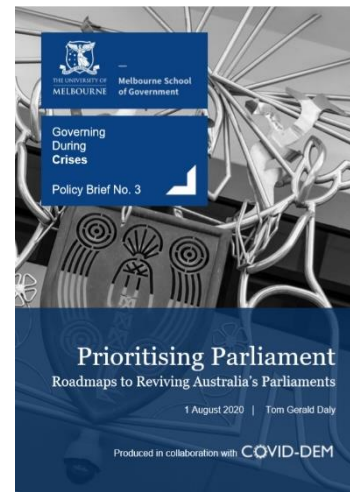
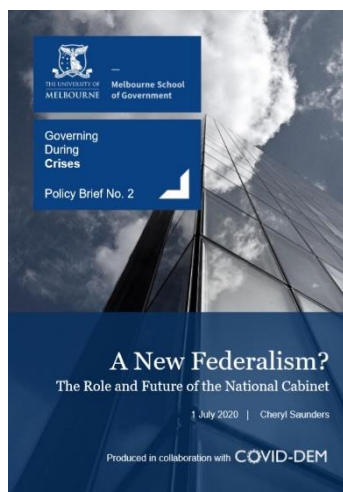
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