THE STATE OF DEMOCRACY: AUDITING FOR DEMOCRATIC VALUES IN AUSTRALIA[1]

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Never before have there been so many democracies in the world or so many competitive elections conducted at national, sub-national and regional levels. The rapid expansion of the number of democracies in the world has been accompanied by the equally rapid growth of the 'industry' of democracy assessment. Increasingly international donors and multilateral bodies see democracy as inseparable from good governance and as an antidote to corruption. They want ways to measure the degree of democracy in order to ensure that development assistance is not wasted.

At the same time, the older established democracies are suffering from a range of democratic ills, including disenchantment with politicians and political parties, falling voter turnout and citizen disengagement. The balance of power between elected legislatures and executive government had shifted in many countries and the basic requirements of transparency and accountability are often being ignored. What is needed is a form of democracy assessment that is both robust and reflexive–one that does not simply impose rankings from outside but rather is a way for both old and new democracies to identify strengths and weaknesses and promote reform. This means moving back from institutional indicators of democracy, such as competitive elections, to consider underlying principles and related values. Such values might be achieved through varying institutional designs. The aim is to see to what extent both formal and informal institutions promote central democratic principles such as political equality, not just through competitive elections but between elections and at all levels of society.

1. Origins and methodology of the democratic audit framework

The 'democratic audit' methodology for democracy assessment has its origins in the United Kingdom (UK), where there was concern in the early 1990s over the increased centralising of executive power in London and the potential for 'elective dictatorship'. With financial assistance from the Joseph Rowntree Charitable Trust, David Beetham and Stuart Weir developed a set of 30 criteria that were used to assess the state of democracy in the United Kingdom. With the assistance of the International Institute for Democracy and Electoral Assistance (IDEA), the methodology was further developed for robustness so that it could be applied to any democracy in the world.

The IDEA democratic audit framework (now called the state of democracy framework) avoids the methodological problems inherent in some other forms of democracy assessment, which provide aggregate 'scores' on the basis of disparate indicators. The best-known of these, the annual Freedom House ratings, produced since the 1970s, is based on seven-point scales of political and civil liberties. By contrast, the democratic audit framework enables the identification of strengths, weaknesses and sources of reform in different dimensions of democracy and does not attempt to aggregate these. Indeed the philosophy of the audit is not to provide a democracy 'score' for the information of international donors or financial institutions, but rather to enrich debates over reform within the democracy concerned.[1]

The audits seek to inform research and debate in four ways: raising public consciousness about aspects of democracy and how they relate to institutional arrangements; focussing on strengths and weaknesses of democratic practices; contributing to public debate on reform initiatives; and providing an assessment instrument to determine the impact of reforms. The assessment framework developed through IDEA is based on the two core democratic principles of *popular control* over public decision-making and decision makers, and *political equality* of respect and voice between citizens in the exercise of that control.[2] It can be argued that when these two principles are in conflict–that is, where popular majorities threaten equality of respect and voice for citizens–it is the political equality value that must always trump the popular control value.[3] We discuss later whether this is a sufficiently rigorous qualification to capture the tensions that are sometimes evident between majoritarian and liberal principles, or between majoritarian principles and deliberative democracy.

From the two core principles, a set of mediating values were developed. Assessments are made against these value criteria to determine to what extent the two principles are present in a democracy. The mediating values are: participation, authorisation, representation, accountability, transparency, responsiveness, and solidarity. Finally, to formulate an assessment, a series of 88 questions are grouped under four 'pillars' of democracy, which contain 14 sec-

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1. David Beetham, Sarah Bracking, Iain Kearton and Stuart Weir, *International IDEA Handbook on Democracy Assessment*, The Hague, Kluwer, 2001.

2. Ibid.

3. Marian Sawer, *The Democratic Audit of Australia: Populism vs Citizen Rights*, http://democratic.audit.anu.edu.au/papers/20060619_ipsa_sawer.pdf

tions in total (Table 1). A revised assessment framework has now been prepared, drawing on the experience of the range of national audits that have taken place so far. This has a similar format but has strengthened some areas, for example by having a separate section on the democratic effectiveness of parliament.[4]

Table 1 Democratic Audit Assessment Framework[5]

Pillar of democracy	Section	Over-riding question
Citizenship, Law and Rights	Nationhood and citizenship	Is there public agreement on a common citizenship without discrimination?
	The rule of law and access to justice	Are state and society consistently subject to the law?
	Civil and political rights	Are civil and political rights equally guaranteed for all?
	Economic and social rights	Are economic and social rights equally guaranteed for all?
Representative and Accountable Government	Free and fair elections	Do elections give the people control over governments and their policies?
	Democratic role of political parties	Does the party system assist the working of democracy?
	Government effectiveness and accountability	Is government accountable to the people and their representatives?
	Civilian control of the military and police	Are the military and police forces under civilian control?
	Minimising corruption	Are public officials, elected or appointed, free from corruption?
Civil Society and Popular Participation	The media in a democratic society	Do the media operate in a way that sustains democratic values?
	Political participation	Is there full citizen participation in public life
	Government responsiveness	Is government responsive to the concerns of its citizens?
	Decentralisation	Are decisions taken at the level of government which is most appropriate for the people affected?
Democracy Beyond the State	International dimensions of democracy	Are the country's external relations conducted in accordance with democratic norms, and is it itself free from external subordination?

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4. David Beetham, Todd Landman, Stuart Weir, *International IDEA Handbook of Democracy Assessment*, 2nd edn.

5. Beetham et al, *International IDEA Handbook on Democracy Assessment*, 1st edn.

1.1. Use of the audit framework

The initial United Kingdom audit assessment was published in 1996, with a second published two years later.[6] As we have noted, the framework was then elaborated to make it relevant to both old and new democracies. In 2002, IDEA published a comparative assessment of eight democracies–Bangladesh, El Salvador, Italy, Kenya, Malawi, New Zealand, Peru, and South Korea.[7] While these audits were undertaken directly under the auspices of IDEA, since then there has been a second wave of assessment including Bosnia and Herzegovina, the European Union, Ireland, Latvia, Mongolia, the Netherlands, Northern Ireland, the Philippines, South Asia (covering Bangladesh, India, Nepal, Pakistan and Sri Lanka), and another audit of the UK,[8] as well as Australia. In addition, a closely related democratic audit has been conducted in Canada, auditing against the values of participation, inclusiveness and responsiveness and resulting in nine books published in 2004–05 by UBC Press. The second wave of audits has been conducted largely independent of IDEA and has resulted from the deliberate selection of the audit methodology as the most appropriate of the many democratic assessment methods currently available.[9] They have attracted a range of funding sources and, in the case of the Philippines, different donors have supported different sections of the audit.[10]

The use of a standardised audit framework employing indicators that have been used in diverse countries serves the interests of international comparability. It means the differing national audits are answering the same ques-

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6. Francesca Klug, Keir Starmer, and Stuart Weir, *The three pillars of liberty: political rights and freedom in the United Kingdom*, London, Routledge, 1996; Stuart Weir and David Beetham, *Political power and democratic control in Britain: the democratic audit of the United Kingdom*, London, Routledge, 1998.

7. David Beetham, Sarah Bracking, Iain Kearton, Nalini Vittal, and Stuart Weir (eds), *The State of Democracy: Democracy Assessments in Eight Nations Around the World*, The Hague, Kluwer, 2002.

8. David Beetham, Ian Byrne, Pauline Ngan, and Stuart Weir, *Democracy Under Blair*, London, Politico's, 2002.

9. David Beetham, Todd Landman, Stuart Weir, *International IDEA Handbook of Democracy Assessment*, 2nd edn, Part 3, forthcoming.

10. For example, the Friedrich-Ebert Stifting supported the research process for two sections of the audit undertaken by the University of the Philippines: Edna Co et al, *Philippine Democracy Assessment: Free and Fair Elections and the Democratic Role of Political Parties*, Manila, Ateneo de Manila University Press, 2005.

tions about the quality of democracy and using similar standards for assessment (applying international norms and standards where relevant). It enables a focused comparative perspective, employing comparisons most relevant to the country concerned, including internal ones. While there is no assumption that democratic values can only be realised through one institutional template, good practice examples either from jurisdictions within a country or from similar countries help illuminate these comparisons.

1.2. The background to the Australian audit

The catalyst for establishing an Australian audit was the hundredth anniversary of the coming into being of Australia's federation in 1901. Australians are told about their proud democratic heritage: Australia is one of the oldest democracies in the world, the first to introduce the modern form of the secret ballot, the first country to vote itself into existence through popular referenda, and the first country in which women could both vote and stand for Parliament. After the arrival of the First Fleet in 1788, bringing convicts from Britain, there was the gradual establishment of separate British colonies, accompanied by a decline in the Indigenous population, due to dispossession and disease. By the 1850s the separate colonies were achieving responsible self-government and democratic franchises for their lower houses. They introduced democratic innovations such as the use of government-printed ballot papers and written nominations for elections. By helping remove violence from elections these innovations removed one of the obstacles to the women's franchise (see Table 2). By the 1890s experimentation also included the pioneering of the single-transferable-vote (STV) form of proportional representation for the Tasmanian lower house.

In the 1890s the Australian colonies embarked on a process of federation that was uniquely democratic for its time, or at least became so after initial attempts had faltered. Delegates were elected to the Constitutional Convention of 1897–98 by popular vote in each colony and the resulting Constitution was then submitted to popular referenda. The new Commonwealth of Australia came into existence in January 1901 and the first elections to the new federal parliament took place that year. Both the House of Representatives and the Senate were popularly elected, unlike the pattern of upper houses elsewhere at the time. As in the six States (based on the for-

Table 2 Innovation in representational arrangements in Australia[1]

Lower Houses

Parliament	Manhood suffrage	Adult suffrage[2]	Abolition of plural voting	Secret ballot	Abolition of open nomination	Payment of members	Compulsory registration of voters	First election w. compulsory voting
UK	1918	1928	1948	1872	1872	1911	–	–
Canada	1920	1920	1920	1874	1874	1867	–	–
New Zealand	1879	1893	1889	1870	1890	1870	1924[5]	–
NSW	1858	1902	1894	1858	1893	1889	1921	1930
Victoria	1857	1909	1899	1856	1865	1870	1923	1927
Queensland	1859	1905	1905	1859	1872	1886	1914	1915
WA	1907	1907[3]	1907	1877	1895	1900	1919	1939
South Australia	1856	1894	1856	1856	1856	1887	–	1944
Tasmania	1901	1903	1901	1856	1858	1890	1930	1931
Commonwealth	1901	1902[4]	Never existed	1901	Never existed	1901	1911	1925

1. Except for the final column, the legislative date is given, rather than date of coming into effect.
2. That is, votes for women. Aboriginal voting rights took longer in most cases; the federal franchise was not made uniform for Aboriginal Australians until 1962.
3. WA gave some women the vote in 1899, on the same restricted franchise then applying to men.
4. Women generally in SA, and some women in WA, had the vote in the 1901 federal election. The first federal parliament then legislated for complete adult suffrage.
5. Registration was not made compulsory for Maori until 1956.

Source: Adapted from LF Crisp, *Australian National Government* with new data from Peter Brent, *Enrolling the People*.

mer colonies), there was strong bicameralism, with the two houses of parliament having very similar powers.

While Australia is enmeshed in a range of bilateral and multilateral relationships with other countries, it is not part of a multi-country union, where some legislative responsibilities are ceded to a supranational organisation, as occurs for countries within the European Union.[11] While international law may be implemented through statute law or influence its interpretation, and while individual complaints may be taken to UN treaty bodies, the Australian Constitution is the highest law under which national and sub-national governments operate. The Constitution specifically demarcates the responsibilities of the Commonwealth (federal) government, with unmentioned policy areas assumed to be the responsibility of the States and Territories.[12] Any disputes regarding this division of powers are adjudicated by the High Court of Australia.

Australian federalism is more centralised in its mode of operation than many unitary systems, due to the vastly superior financial resources of the federal government by comparison with the component States and Territories. While in Spain the autonomy of regions such as Catalonia has been growing, the autonomy of the Australian States has been shrinking. Nonetheless the Constitutional division of powers and shared responsibilities in most policy fields means that much decision-making in Australia proceeds at the intergovernmental level. The institutions of federalism include the Council of Australian Governments and some 30 ministerial councils, which may also include the relevant New Zealand minister. The problem with this executive federalism, from a democratic point of view, is the closed-door nature of most of its decision-making. Heads of government may commit their governments to action without first exposing policy positions to deliberation in their respective legislatures, let alone to consultation with the broader community. There is a lack of transparency

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11. For information on a Democratic Audit of European Union governance issues, visit www.one-europe.ac.uk, which examined 10 EU countries – Belgium, the Czech Republic, Denmark, France, Germany, Norway, Poland, the Slovak Republic, Sweden, and the United Kingdom. The *Democracy Report for Italy*, by L. Morlino, D. della Porta, L. Francovich, S. Giusti, F. Legnaioli, and P. Milazzo, also addresses issues of supranationality, accessible at www.idea.int/publications/sod/upload/Italy.pdf.

12. See section 51 of the Australian Constitution.

with such decision-making, with often only a media release or communiqué being released, summarising decisions. The lack of transparency contributes to the problems of accountability. Decision-making becomes a complex process, and citizens are characteristically confused over which level of government bears the responsibility for poor policy outcomes. Nonetheless, the dispersal of power under federalism does provide opportunities for policy innovation and experimentation, including electoral experimentation.

Between 1948 and 2003, STV was progressively adopted for the Australian Senate, for upper houses in four States and for the Legislative Assembly of the Australian Capital Territory (ACT), as well as continuing in the Tasmanian lower house. The Tasmanian and ACT versions were boasted to be 'the most democratic electoral system' in the world, in part because casual vacancies were filled through 'count back' of the next preferences of the same minority of voters that elected the departed member, rather than through party nomination.

In general the advent of STV for upper houses strengthened their role in legislative and executive scrutiny, as the balance of power was now likely to be held by minor parties and Independents who would never be in a position to form government themselves but had a vested interest in increasing the power and independence of the legislature. Australian lower houses, where governments are formed, are generally elected through single-member electoral systems that result in a clear government majority. The combination of government control of the lower house with neither government nor opposition controlling the upper house has turned out to be a good institutional design in terms of popular control over government, although this was not necessarily the motivation for electoral system change.

While Australia's identity as a pioneering democracy had been officially celebrated many times, no systematic assessment had ever been undertaken of whether Australia is living up to its founding myth. The Australian political system embodies a number of bargains and compromises made long ago. Path dependence means that early achievements may come to stand in the way of further change. It was timely to do a stock-take, to consider to what extent the country's political institutions were still appropriate to achieving democratic values. In a number of corners, relics

of a pre-democratic era lingered on, like the existence of property votes in local government. In other areas, Australia had failed to keep up with other democracies, for example in the effective regulation of the role of private money in electoral politics or the adoption of a charter of human rights. Most clearly, despite the removal of legal forms of discrimination and the introduction of a range of equal opportunity programs, Australia's Indigenous peoples were still far from achieving equal citizenship. In 2008 there was still a 17-year gap in the life expectancy of Indigenous and non-Indigenous Australians.[13]

By 2001 it was clear that some of Australia's democratic machinery was badly in need of repair and renewal. In an atmosphere of celebration, it was not easy to get people to talk seriously about what was defective in Australia's democracy. Critics were often dismissed as having a partisan perspective or a vested interest in diminishing the achievements of elected governments. For this reason the application of an audit framework that was already tried and tested internationally had many advantages.

1.3. Australian audit principles and methods

In 2001 a team of political scientists at the Australian National University, headed by Marian Sawer, applied for funding for the Democratic Audit of Australia from the Australian Research Council (ARC). This application was successful (it was the largest grant made to any political science project in Australia) and the audit's work has been largely funded through the three-year ARC grants awarded in 2001 and 2004. It was important that the audit should have a source of funding that was clearly independent and not associated with any of Australia's political players. While minor parties in Australia have played an important role in monitoring the way that the major parties write the rules in their own favour, they also have their own partisan interests.

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13. Despite major health issues, in recent years there have been significant increases in the Indigenous population (from 0.9 per cent of the population in 1971 to 2.3 per cent in 2006), partly as a consequence of a greater readiness to identify as Aboriginal. Indigenous status is defined in terms of being of Aboriginal or Torres Strait Islander descent, self-identification, and acceptance as Indigenous by the relevant community.

The audit is sometimes questioned about why it does not take up a more energetic advocacy role on democratic issues. The answer is that while its funding source makes it independent of existing political players, it also constrains its role to one of research and research dissemination. Nonetheless, the reports published by the Audit make detailed recommendations and the audit has also presented evidence and arguments for reform to a range of relevant parliamentary inquiries at different levels of government. It has provided advice to both parliamentary committees and ministers with responsibility for electoral matters. The discussion papers and updates on democratic developments published by the Audit have also provided important ammunition for reformers. Audit members do provide media commentary on a fairly regular basis but in general the Audit remains a research rather than an advocacy enterprise.

The Australian Audit departs from previous democratic audits in some ways. For example, it grapples more explicitly with the issue of conflicting democratic principles, some of which impose constraints on others. Democracy remains a highly contested concept and, in addition, the differing values associated with representative democracy are not always in harmony. While the basic principles or core values identified in the IDEA democratic audit or state of democracy framework are those of *popular control of government* and *political equality*, the Australian Audit team decided that these two basic principles did not sufficiently spell out other values that are implicit in the audit framework and that may require constraints on these two values.

The early debate between members of the team over the way in which the Audit values were to be framed can be found on the Audit website (http://democratic.audit.anu.edu.au). Rather than subsuming all democratic values under political equality and popular sovereignty, it was decided to spell them out as independent values necessary for the health of representative democracy. While the United Nations (UN) has recently affirmed the interdependence of democracy and respect for human rights and described the 'rights of democratic governance' as being akin to human rights and fundamental freedoms[14], we would argue that in practice these values do not always enjoy such a close relationship. Since 2001 we have been particularly con-

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14. UN Commission on Human Rights resolution 1999/57.

scious of the ways in which appeals have been made to majority opinion when encroachments on human rights and freedoms have been proposed by elected governments. By contrast, opinion based on deliberation within intermediary institutions has been derided as 'elite' opinion.

Hence the team sought to separate out from the core principles of popular control of government and political equality the rather different core values of *civil liberties and human rights* on the one hand and, on the other hand, the *deliberative democracy* value of the quality of public debate. All the authors of Democratic Audit discussion papers and reports were asked to apply these values in their assessments and the referees for these publications had to comment on how successfully they were addressed. Not all of the values were equally relevant to all topics. For example, an assessment of the operation of parliamentary question time might draw most directly on the values of popular control of government and deliberative democracy, while an analysis of incumbency benefits might draw most directly on the value of political equality. The justification for separating out the four values is explored further below. Meanwhile we shall describe some of the methodology of the Australian Audit.

The Australian Audit is essentially comparative, comparing law and practice in the nine jurisdictions that make up Australia's federal system in the light of Audit values and indicators and across the full range of democratic institutions. The nine jurisdictions are the Commonwealth together with the six States and two mainland Territories. In addition, comparisons are made with Canada, New Zealand and the UK. These international comparators have been chosen both on the 'most-similar case' principle and because they are countries that have already undergone democratic audits of their own.

Internationally, some democratic audits have arranged for their own survey research or focus groups. For example, a survey was conducted for the Democratic Audit of Latvia, in which interviewers asked respondents a series of questions about bribery–whether they or their acquaintances had paid government officials or police for a favourable outcome.[15] The South

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15. Commission of Strategic Analysis, *How Democratic is Latvia: Audit of Democracy*, Riga, University of Latvia, 2005.

Asian Democratic Audit combined a cross-country mass survey (with over 19 000 respondents) with one or two-day 'dialogues' with political activists from different groups across society. The same questions were posed, for example concerning confidence in political institutions, but received very different answers, with the 'politically aware' having much less confidence than other citizens.[16] The Australian Audit did not conduct its own survey research but was able to take advantage of its co-location at the Australian National University with the Australian Election Study (AES). Some of the AES questions, such as those on public confidence in political institutions, were directly relevant to the Audit's concerns and the Audit was also able to propose some additional questions. The findings are at odds with those of the South Asia Audit, in so far as in Australia it is those who identify as working class who have less trust in political institutions than other respondents.[17]

1.4. Specifying human rights and deliberative democracy values

We shall now expand further on the additional values specified by the Australian Audit. The civil liberties/human rights value requires the protection of unpopular individuals or minorities from the will of the majority as expressed through majoritarian government. It requires abstention from the kind of electoral popularity that may flow from conjuring up threats to the majority, and then offering protection from those threats. It requires support within civil society and the media for the rights of marginalised groups, rather than the demonising of such groups in the interest of sales and circulation. This value is already tested for in the existing audit framework in terms of the protection and promotion of rights and the independence of the judiciary, but is worthy of greater emphasis in the context of trends towards populism. Increasingly there are attacks in the English-speaking democracies on the 'unelected judges' who uphold rights, at odds with politicians seeking short-term political advantage.

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16. Centre for the Study of Developing Societies, *State of Democracy in South Asia,* New Delhi, Oxford University Press India, 2007.

17. Scott Brenton, 'Public confidence in Australian Democracy', Audit Discussion Paper, Canberra, Australian National University, May 2005.

The human rights value also encompasses equal opportunity or access to equal enjoyment of human rights, something already present in the audit framework under the rubric of 'inclusiveness' but again deserving more attention in the current context. The influence of neo-liberalism has seen a greater reliance on market mechanisms in many democracies and, stemming from this economic deregulation, greater social and economic inequalities. The ability of the public sector to redress these inequalities in order to provide equal opportunity to its citizens has been under challenge from the prioritising of 'choice' in social policy. The neo-liberal emphasis on choice has had the effect of devaluing universal systems of public education and public health as the foundation of equal citizenship. In the past it was assumed that common schooling for both rich and poor provided the basis for common citizenship and equal opportunity.

A second additional value identified by the Australian Audit team is derived from the emphasis in contemporary democratic theory on deliberative democracy. This value is the *quality of public debate and discussion.* For many democratic theorists the quality of public talk is the key to democratic legitimacy. Quality is measured by the inclusiveness of public debate, the respect offered to differing perspectives and the preparedness to change positions after hearing a full range of evidence and argument.

This deliberative aspect of politics applies to institutions such as parliament, parties, and the legal system, but also extends into the media and more informal political interactions such as those involving non-governmental organisations (NGOs). Although parliament is the defining institution of representative democracy, and takes its name from 'speaking', it does not necessarily fulfil the standard of inclusive and respectful public deliberation. Westminster traditions of adversarial parliamentary debate tend to constrain achievement of the deliberative democracy value, at least on the floor of the house. This value has often been more fully achieved by parliamentary committees, but it requires reinforcement by a strong culture of parliamentary independence of executive government. One indicator of a decline in deliberative democracy is the trend away from the achievement of consensus reports by multi-party parliamentary committees.

Political parties are another political institution where there has been a decline in the deliberative democracy value. While parties have the potential

to provide public space for citizens to deliberate on public issues and form policy opinions[18], they do not always operate in this way. In many parts of the world there has been an advent of professionalised political campaigning, whereby polling and market research displaces the role of policy deliberation within parties. These trends have generally affected the major parties rather than newer 'post-materialist' parties such as the Greens, which emphasise participatory democracy and consensus decision-making.

The example of internal democracy within political parties is important in highlighting how democratic values can come into contention and why the Australian Audit has separated out the deliberative democracy value from the more majoritarian principles. Those who uphold the economic model of democracy argue that it is more democratic for party leaders to be responsive to the electorate than to their own party members and that it is undemocratic to treat the policy preferences of party members as having greater weight than those of party voters.[19] For this reason they are opposed to a greater role for party members in debating and deciding party policy, believing this gets in the way of party leaders responding to electorate preferences as revealed by market research.

By contrast, upholders of deliberative democracy defend internal party democracy, arguing that it provides public space for citizens to deliberate on public issues and form policy opinions, the defining feature of democracy. Such opinion, like that arrived at in other forms of public space, such us community organisations, is likely to differ from the unmediated opinion expressed by voters who have not been exposed to information and debate about the issues. This does not make it undemocratic. The encouragement of inclusive and deliberative practices within parties will not only improve the quality of public debate but will socialise political recruits into a democratic culture and respect for the views of others.[20]

Another key to the inclusiveness of public debate lies in media diversity. In Australia the concentration of media ownership raises significant concerns

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18. Jan Teorell, 'A deliberative defence of intra-party democracy', *Party Politics*, 5 (3), pp. 563-82.

19. Anthony Downs, *An Economic Theory of Democracy*, New York, Harper and Brothers, 1957.

20. Jan Teorell, 'A deliberative defence of intra-party democracy', *Party Politics*, 5 (3), pp. 563-82; Anike Gauja, 'Enforcing democracy? Towards a regulatory regime for the implementation of intra-party democracy', Audit Discussion Paper 14/06, April 2006.

over media coverage of a plurality of viewpoints and perspectives. The media may reflect the corporate interests of their owners rather than a full range of perspectives on issues. For example, in 2005 commercial television stations did not report the spate of criticism of the misuse of government advertising for partisan purposes. Government advertising provides significant revenue to such stations.

So in auditing for quality of deliberation, we need to be aware of the degree to which debate and discussion can be limited in particular forums by, for example:
- an adversarial parliamentary culture that prevents respect being given to opponents and their arguments;
- unequal resources (if, for example, only one side of a policy debate is adequately funded); and
- commercial interests that restrict the range of perspectives represented in the media.

We now move on to discuss the populist challenge not only to human rights and deliberative democracy values but also, more generally, to the intermediary bodies that have been crucial to the popular control of government in modern democracies.

1.5. Democratic values and the populist challenge

For there to be popular control over government in representative democracies there needs to be a whole range of intermediary institutions that facilitate transparency and accountability and help inform citizens as to whether governments are fulfilling their electoral mandates. Citizens cannot directly check whether, for example, public money is spent in accordance with legislative appropriations or whether public administration is conducted in accordance with statutory responsibilities. There needs to be adequate processes for parliamentary scrutiny of the Executive, which may require arms-length forms of funding of parliamentary administration as well as other means of ensuring parliamentary independence and the independence of bodies such as parliamentary research services.[21]

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21. June Verrier, 'Benchmarking parliamentary administration: the United Kingdom, Canada, New Zealand and Australia', *Australasian Parliamentary Review*, 22, 2007, pp. 45–75.

There also needs to be a range of watchdog agencies, such as Auditors-General, Ombudsmen, Freedom of Information Commissioners, Human Rights Commissions, Anti-Corruption Commissions and so on. And of course there must be a range of courts and tribunals that can undertake judicial review of government decisions to ensure they are not in breach of relevant legislation. In addition, there needs to be pluralism in the media, including public broadcasters with a high degree of independence of government and commitment to a role in the chain of accountability. And there needs to be a strong NGO sector able to advocate on behalf of those most affected by government policies. The latter two elements, diversity in the mass media and strong community-based advocacy organisations are also necessary to achieve the kind of inclusive public debate that is central to the goals of deliberative democracy.

Community-based advocacy organisations serve as forums for deliberation that enable new perspectives to be included in public debate and policy development. Many western democracies have provided public funding to strengthen the voices of sections of the community such as sole parents, immigrants or those with disabilities, and ensure their organisations are able to consult with their constituencies and represent their viewpoints to government and to parliament. With public support, such organisations are able to build up expertise in consulting hard-to-reach groups and in the substantive policy issues that affect them, and are an important adjunct to deliberative democracy. Developing the NGO sector requires self-restraint on the part of governments who may find it difficult to accept criticism from bodies it is funding, although the funding of loyal oppositions is an accepted part of the operation of Westminster parliaments. Of course the internal governance of such organisations is an important democratic issue as is the extent to which they *do* reflect the considered views of their members.

Those who take a more majoritarian view of democracy distrust the role of such intermediary institutions and argue that they should not have privileged access to government or parliamentary inquiries. They see democratic values as being better served by more direct forms of consultation with citizens, including citizen-initiated referenda. Sometimes such views on the relative priority of different democratic values are flavoured by the perception that strengthening the voice of those who need public intervention for equality of life choices will result in increased public expenditure at the expense of

taxpayers. This perception is fostered by market populist discourse and ultimately public choice propositions that all public interest advocacy is at heart special interest advocacy. Particularly targeted here are NGOs involved in human rights, social justice or environmental advocacy.

The kind of populist discourse that has re-emerged in many of the English-speaking countries claims that intermediary organisations are populated by elites who do not share the values of ordinary people and who get in the way of elected governments that do represent the people.[22] Populists decry the constraints imposed on 'democratically elected governments' by non-elected bodies or by houses of parliament that are not controlled by government, because they are elected by proportional representation or for other reasons. As we have seen, in Australia upper houses are mainly elected by STV and minor parties are more likely to hold the balance of power. Although this has led to a strengthening of the review functions of parliament it has been denounced by those impatient of any brake on executive government, with minor parties and Independents being accused as representing elite values rather than ordinary voters.

This populist discourse has helped justify the dismantling of parliamentary processes of accountability, the muzzling of watchdog agencies, the silencing of NGO critics of government and the facilitation of media concentration. It conjures up the values of political equality (in the form of majority rule) and popular control of government, only to disparage the kind of intermediary institutions that make popular control of government a possibility.

The rise of populist discourses in many Western democracies and its expression by conservative governments in both Australia and Canada has meant not only a new hostility to intermediary institutions but also new threats to the independence of the judiciary. There is increased contestation over the role of bodies independent of government in constraining executive power and protecting the rights of individuals and minorities. In particular, there is a targeting of the role of international tribunals and of the judiciary in upholding internationally agreed-upon human rights norms. Courts and

22. Marian Sawer and Barry Hindess (eds), *Us and Them: Anti-Elitism in Australia*, Perth, API Network Books, 2004.

tribunals are framed as populated by liberal elites and activist judges contemptuous of the values of ordinary citizens and the governments they elect.[23]

Some of the tensions between the values of representative democracy were exposed in a more reasoned way in *The Norwegian Study of Power and Democracy*, commissioned by the Norwegian Parliament on 11 December 1997. Five years later, after a massive investigation of all levels of the polity, the final report was submitted. It was not, however, a unanimous report and one of the grounds of dissent is particularly germane to the concerns of the Democratic Audit of Australia.[24] The majority report described the new international framework of human rights law as partially responsible for a decline in the decision-making power of the national legislature. Such inroads into the scope of decision-making grounded in popular consent represented, in their view, a diminishing of democracy. In particular, the majority recommended that the incorporation of supranational law into national law be repealed, on the grounds that the democratic cost of handing over power to courts above and outside the democratic polity was too high.

The two dissenting reports were by women, one of whom, Hege Skjeie, contested the notion that improvement of the rights of minorities and of women through the application of international human rights norms could be regarded as a loss of democracy. While signing up to international human rights instruments did bind the hands of legislators and transferred some power to international tribunals, it also strengthened the rights of individual citizens and created a more inclusive democracy. Clearly there are different and competing democratic values at stake here.

To think about representative democracy simply in terms of the principles of political equality and popular control of government may play into the hands of populists who justify in these very terms their dismissive attitudes to intermediary bodies, accountability mechanisms, inclusive deliberation and human rights. One of the widespread sources of concern since 2001, for example, consists in the constraints placed on civil liberties and on transpar-

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23. David Flint, *The Twilight of the Elites*, Melbourne, Freedom Publishing, 2003; F L Morton and Rainer Knopff, *The Charter Revolution and the Court Party,* Peterborough, Broadview Press, 2000.

24. For an excellent summary and discussion of this Report see Stein Ringen, 'Where Now Democracy?', *Times Literary Supplement*, 13 February 2004.

ent government in the name of national security. While security may be construed as a majority concern, and hence a priority of democratically elected governments, the priority given to security also serves to restrict the freedoms that make individual rights, popular control of government, and well-informed debate a possibility.[25] National security justifications for reducing the transparency of government and making inroads into civil liberties compound the impatience with constraints on executive government already emanating from populist discourses. In Australia there has even been a revival of sedition law, used in the past against members of the Communist Party.

1.6. Audit outputs

The Democratic Audit of Australia utilises a number of methods to inform public debate and generate discussion on democracy issues. The capstone publication for the Audit is the *State of Democracy* book, which addresses all of the assessment framework questions as well as some additional ones relating to institutions of federalism. Over the past five years, ten Audit reports have been produced dealing with more focussed areas of concern. These booklet-style reports cover democratic issues that are particularly pertinent to Australia–immigration; electoral systems; corruption; political parties; advocacy organisations; communications technologies; political finance; women; sexuality; and government advertising.[26] The Audit also commissions shorter discussion papers and commentaries applying Audit values to topical issues. Almost 200 of these fully refereed discussion papers have been published.

All of the material published by the Audit is available at the Audit's website, which was established soon after the Audit's work began. The website provides a valuable resource for teachers and students, as well as for political reformers. In 2007 it was ranked by the International Political Science Association as one of the top 300 political science websites in the world, along with the Kennedy School of Government website at Harvard University and other famous sites.[27]

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25. See for example Justice Michael Kirby, 'Terrorism and the Democratic Response', Democratic Audit of Australia, November 2004, http://democratic.audit.anu.edu.au.

26. Focussed Audit Reports are available at http://democratic.audit.anu.edu.au/focus.htm

27. http://ipsaportal.unina.it

A regular email newsletter (Audit Update) is distributed to a large contacts database, including many politicians and journalists as well as researchers. The Audit Update provides links to new discussion papers or reports as well as commentaries on democratic developments. It also reminds readers of deadlines for submissions to relevant parliamentary inquiries. In 2008 much of the administrative responsibility for the Australian Audit passed to Swinburne University in Melbourne, which is now playing a lead role in partnership with the Australian National University.

2. Findings

The findings of the first six years of the Democratic Audit, drawing on much of its commissioned research, are being published in 2009 in the book *Australia: The State of Democracy.*[28] We present here (Table 3) the major strengths and weaknesses identified in this capstone volume.

3. Conclusion

Since its establishment in 2001, the Australian Audit has developed into a highly-respected academic research centre, is often referred to in parliamentary debates and by the media, and is regularly asked to make submissions to parliamentary inquiries. A major problem for the Audit has not been the quality of the assessment framework or the Australian team's outputs, but the discursive climate that made it difficult for issues such as democratic accountability to gain a hearing. For example, in February 2006 the Audit held a workshop on political finance that brought together electoral commissioners, former Auditors-General, party and media representatives and international experts. The Audit released an audit report on political finance and related expert papers[29] and followed up with a number of opinion articles in newspapers and radio interviews. All of this was well received and quoted in parliamentary debate but made not the

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28. Marian Sawer, Norman Abjorensen, Philip Larkin, *Australia: The State of Democracy*, Sydney, Federation Press, 2009.

29. See Sally Young and Joo-Cheong Tham, *Political Finance in Australia: A Skewed and Secret System?* Democratic Audit Report No. 7, 2006, and related papers by Keith Ewing and N.S. Ghaleigh, Andrew Geddis, Graeme Orr, Andrew Murray and Peter van Onselen.

Table 3. Australia: The State of Democracy

Section	Strengths	Weaknesses
Nationhood and citizenship	• An immigration policy oriented towards permanent residence and the granting of citizenship • Many of the social rights generally associated with citizenship available to permanent residents • Access and equity policies in all jurisdictions to address the needs of those from culturally and linguistically diverse backgrounds	• No national representative body to speak for Indigenous Australians • Dual citizens precluded from membership of the Australian Parliament • Increased stress on assimilation to 'national values'
The rule of law and access to justice	• Independence of the judiciary • Legal assistance programs to enable wider access to justice • Availability of judicial review of administrative decisions • Ombudsman legislation in all jurisdictions	• Restrictive funding guidelines for legal aid • Disproportionate rates of incarceration for Indigenous Australians • Inadequate protection for whistleblowers • Lack of access of asylum seekers to judicial review
Civil and political rights	• Generally unrestricted freedom of movement, expression, association and assembly • No officially condoned violence or use of death penalty • Existence of national human rights institution • Anti-discrimination legislation in all jurisdictions	• No Constitutional protection of rights • Curtailment of rights by anti-terror laws • High levels of domestic violence • Lack of protection of human rights of asylum-seekers
Economic and social rights	• Generally wide access to employment and social security • Adequate food, shelter and clean water available to most Australians • Widespread availability of health services • Compulsory and free school education • Generally effective corporate governance regime	• Less secure employment with growth of workforce casualisation • High Indigenous and youth unemployment • Lack of universal statutory paid maternity leave • Persistent gender pay gap • 17-year life expectancy gap between Indigenous and non-Indigenous Australians • Growing problems of homelessness and housing affordability • Laws restricting access of trade unions to workplaces

Table 3. Australia: The State of Democracy *(continued)*

Section	Strengths	Weaknesses
Free and fair elections	• Tradition of non-partisan electoral administration • Compulsory voting ensuring high turnout • Some element of proportional representation in most jurisdictions	• Elections sometimes won with a minority of votes • A 'shrinking' electoral roll • Parliamentary under-representation of women and Indigenous Australians
Democratic role of political parties	• Elections produce decisive results with clear winners and losers • Attempts to improve internal party democracy	• Public funding has supplemented rather than displaced private funding • Inadequate disclosure regime for political donations • Low party membership
Government effectiveness and accountability	• Despite globalisation, government retains control over key areas of policy • Systematic scrutiny of government expenditure • Strong bicameralism in most jurisdictions	• Executive dominance of parliament • Relatively weak FOI culture and laws • Lack of accountability of ministerial advisors • Lack of transparency in government appointments to boards
Civilian control of the military and police	• Both the police and military effectively under civilian control • All police services subject to institutionalised civilian oversight • Increased co-operation in fight against organised crime	• Lack of accountability in outsourced quasi-policing activities • Increased politicisation of security services • Inadequate resourcing of intelligence services watchdog • No scrutiny of ASIO's assessments of national security
Minimising corruption	• Corruption low on international scale • Recognition by three States of the need for generalist anti-corruption commissions • Public inquiry into bribery of Iraqi officials over wheat exports	• No generalist anti-corruption commission at the federal level, nor in Victoria, South Australia or Tasmania • Slowness to implement Bribery Convention • Widespread use of government advertising for election purposes • Lack of uniform regulation of post-separation employment of ministers • Lack of uniform regulation of lobbyists

Table 3 Australia: The State of Democracy *(continued)*

Section	Strengths	Weaknesses
The media in democratic society	• Independent, publicly-funded national broadcasters • Generally free news media • Greater uniformity in defamation laws • Increased self-scrutiny by media industry	• High concentration of media ownership • Increased political and financial pressures on public broadcasting • Tighter restrictions on reporting due to anti-terrorism laws • Prospect of prison for journalists who protect sources
Political participation	• High level of participation in voluntary associations • Representation of women in public office improving	• Weak political representation of new immigrant groups • Muting of NGO advocacy through strings attached to public funding • Lack of independent regulator for charities
Government responsiveness	• New approaches to public consultation • Accessibility of elected representatives • High level of satisfaction with government services	• Declining levels of trust in government • Unmet need for many services • Slow uptake of deliberative processes
Decentralisation	• Most Local Government Acts now require community consultation • Increased attention to integrity systems • Recognition of local government in most State Constitutions	• Lack of Constitutional recognition of local government • Continued existence of property votes in most jurisdictions • Financial weakness of local government • 'Efficiency' reforms, including amalgamations, at expense of democracy
Democracy beyond the state	• History of support for international human rights initiatives • Support for democratic capacity-building in the region • Proactive in providing market access for poorer countries • Parliamentary oversight of treaty-making	• Variable relationship with the UN over human rights • Skewing of foreign aid program to fit strategic objectives • Guidelines restricting family planning assistance • Failure to meet UN target for volume of overseas aid.

Table 3 Australia: The State of Democracy *(continued)*

Section	Strengths	Weaknesses

Federalism	• Scope for policy innovation and experimentation
	• More opportunities for political participation
	• Potential for regional responsiveness and diversity
	• Fiscal equalisation to ensure services of equal standard
		• Limited scope in intergovernmental decision-making for:
		  – parliamentary deliberation
		  – community consultation
		• Lack of transparency in intergovernmental decision-making
		• Accountability issues arising from blame shifting and confusion

slightest impact on the then federal government's changes to the electoral act, which made it easier to donate secretly to political parties, harder to get onto the electoral roll and completely disenfranchised prisoners.[30]

Nonetheless, Australia has a federal system and while things may be going backward at one level there may be forward momentum somewhere else. In 2006, at the federal level, temporary government control over the upper house had led to the loss of its capacity for executive scrutiny and legislative review. At the State level, however, Victoria elected its upper house by proportional representation for the first time, resulting in it becoming a more effective house of review, controlled neither by Government nor Opposition. Meanwhile the Australian Capital Territory had played a pioneering role in enacting Australia's first charter of rights in 2004, followed by Victoria in 2006. These charters translate the guarantees found in the International Covenant on Civil and Political Rights into domestic law for the first time. There had long been resistance to the introduction of a Bill of Rights in Australia, on the ground that the common law and the good sense of legislators provided adequate protection of human rights. In order to break down this resistance, the Australian charters focus on providing guidance for governments and legislators; while individuals can bring court actions to require public authorities to protect human rights, ultimately power is preserved in the hands of legislators. The charters capacity provided by the federal system to undertake and test policy innovation on a limited scale proved invaluable in this case. Two other States have undertaken community consultation over introducing similar Charters and the new federal government is now embarking on the same path.

One important function of the Democratic Audit is to monitor the different trajectories and uneven pattern of democratic development across our own federal system. The dissemination of reliable information concerning best practice both within Australia and within the three comparator democracies has helped promote positive change and reform at the various legislative levels. Already, with a change of government at the federal level, some of the weaknesses identified by the Audit are being addressed. One example is the regulation of political finance, where an initial set of reforms have already

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30. Marian Sawer, 'Harder to vote, easier to donate, harder to vote', *Canberra Times* and *Australian Policy Online,* 8 June 2006, http://www.apo.org.au/webboard/results.chtml?filename_num=80993

been introduced to parliament. The Audit has played a significant role in developing and disseminating research in this area and contributing to public support for change. The evidence that Australia had become a laggard rather than the advance guard of democratic reform provided a salutary reminder of the dangers of complacency in 'old' democracies.

ABSTRACT

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The growth in the number of democracies around the world has been matched by an increased interest in democratic assessment. This paper examines the origins and development of the Democratic Audit or 'state of democracy' assessment methodology, which has now been used in more than 20 democracies. The Audit approach moves away from the externally-imposed rankings and aggregate scores found in older assessment methods and instead focuses on underlying democratic principles and values to derive questions that are equally relevant in new and old democracies. Assessments of strengths and weaknesses and opportunities for reform are undertaken by resident experts and practitioners familiar with the institutional and legislative histories of the country concerned; broader public opinion is tapped through various kinds of survey research.

The authors explain how the Audit framework's original principles of *political equality* and *popular control of government* were added to by the Australian Audit team to include *civil liberties and human rights* and *deliberative democracy* as separate and sometimes competing principles. The rise of a populist majoritarian challenge to many of the intermediary institutions of representative democracy has made the separation out of the less majoritarian principles of particular importance.

The Australian Audit was initiated in 2001, at the time of the country's centenary celebrations of Federation. Since then, regular focussed reports and discussion papers have been produced to promote discussion and debate within Australian society. As a result, the Australian Audit receives regular media coverage and is often referred to in parliamentary debates as an accurate source of information on matters of democracy. The capstone book drawing together the findings of the first two waves of the Audit is being published in 2008.

The Australian Audit uses a comparative framework, both externally against similar countries that have conducted 'democratic audit' assessments–Canada, New Zealand, and the United Kingdom–and internally across nine legislative jurisdictions–the Commonwealth (national), six States, and two mainland Territories. It maps both differing institutional trajectories and the location of examples of good practice, whether within an Australian jurisdiction or within a comparator democracy.

Key words: democracy assessment; Australia; democratic audit.

RESUM

342.34(4)
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p. 285-314

El creixement del nombre de democràcies a tot el món ha coincidit amb l'increment de l'interès per les avaluacions sobre l'estat de la democràcia. En aquest escrit s'examinen els orígens i el desenvolupament de l'auditoria de la democràcia o la metodologia de l'avaluació de l'estat de la democràcia, que ja s'ha emprat en més de 20 democràcies. El punt de vista de l'auditoria fuig de les classificacions imposades externament i dels punts afegits que es poden trobar en altres mètodes d'avaluació més antics i, en canvi, se centra en els principis i els valors democràtics subjacents per dirimir qüestions que són igualment rellevants per a les democràcies noves i velles. L'avaluació de les fermeses i les febleses, així com les oportunitats de reforma, les assumeixen experts i professionals residents que estan familiaritzats amb la història institucional i legislativa del país interessat; s'obté una opinió pública més completa a través de diferents tipus d'enquesta.

Els autors expliquen la manera en què l'equip de l'auditoria australiana va afegir als principis originals del marc de l'auditoria d'igualtat política i control popular del govern els de llibertats civils i drets humans i democràcia deliberativa com a principis separats i, de vegades, enfrontats. L'ascens del repte populista majoritari en moltes de les institucions intermediàries de la democràcia representativa ha provocat que la separació d'altres principis majoritaris menors fos important.

L'auditoria australiana es va iniciar el 2001, quan el país celebrava el centenari de la federació. Des d'aleshores, regularment s'han preparat informes i documents de consulta destinats a fomentar el debat i la discussió dins de la societat australiana. El resultat ha estat que l'auditoria australiana reapareix regularment en els mitjans de comunicació i sovint se cita en els debats parlamentaris com una font fiable d'informació sobre temes de democràcia. El 2008 es publicarà un llibre fonamental que recull els resultats de les dues primeres auditories.

L'auditoria australiana empra un marc tant comparatiu extern per a països similars que ja havien realitzat avaluacions d'auditoria de la democràcia (el Canadà, Nova Zelanda i el Regne Unit) com intern, en les nou jurisdiccions legislatives: la Commonwealth (nacional), sis estats i dos territoris continentals. Dibuixa les diferents trajectòries institucionals i la localització d'exemples de bones pràctiques, ja sigui dins de la jurisdicció australiana com en una democràcia de comparació.

Paraules clau: avaluació de la democràcia; Austràlia; auditoria de la democràcia.

RESUMEN

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342.34(94)

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en The state of democracy: Auditing for democratic values in Australia
es El estado de la democracia: auditoría de los valores democraticos en Australia
p. 285-314

El crecimiento del número de democracias en todo el mundo ha coincidido con el incremento del interés por las evaluaciones sobre el estado de la democracia. En este escrito se examinan los orígenes y el desarrollo de la auditoría de la democracia o la metodología de la evaluación del *estado de la democracia*, que ya se ha utilizado en más de 20 democracias. El punto de vista de la auditoría huye de las clasificaciones impuestas externamente y de los puntos añadidos que se pueden encontrar en otros métodos de evaluación más antiguos y, en cambio, se centra en los principios y los valores democráticos subyacentes para dirimir cuestiones que son igualmente relevantes para las democracias nuevas y viejas. La evaluación de la fortalezas y las debilidades, así como las oportunidades de reforma, las asumen expertos y profesionales residentes que están familiarizados con la historia institucional y legislativa del país interesado; se obtiene una opinión pública más completa a través de diferentes tipos de encuesta.

Los autores explican la manera en qué el equipo de la auditoría australiana añadió a los principios originales del marco de la auditoría de *igualdad política y control popular del gobierno los de libertades civiles y derechos humanos y democracia deliberativa* como principios separados y, a veces, enfrentados. El ascenso del reto populista mayoritario en muchas de las instituciones intermediarias de la democracia representativa ha provocado que la separación de otros principios mayoritarios menores fuera importante.

La auditoría australiana se inició en el 2001, cuando el país celebraba el centenario de la federación. Desde entonces, regularmente se han preparado informes y documentos de consulta destinados a fomentar el debate y la discusión dentro de la sociedad australiana. El resultado ha sido que la auditoría australiana reaparece regularmente en los medios de comunicación y a menudo se cita en los debates parlamentarios como una fuente fiable de información sobre temas de democracia. En el 2008 se publicará un libro fundamental que recoge los resultados de las dos primeras auditorías.

La auditoría australiana utiliza un marco tanto comparativo externo para países similares que ya habían realizado evaluaciones de *auditoría de la democracia* (Canadá, Nueva Zelanda y el Reino Unido) como, interno, en las nueve jurisdicciones legislativas: el Commonwealth (nacional), seis estados y dos territorios continentales. Dibuja las diferentes trayectorias institucionales y la localización de ejemplos de buenas prácticas, ya sea dentro de la jurisdicción australiana, como en una democracia de comparación.

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Palabras clave: evaluación de la democracia; Australia; auditoría de la democracia.