

NOTE ON CIVICS EDUCATION AND TRUTH DECAY

The Law Society is pleased that NSW currently enjoys high enrolment and turn-out rates. However, despite this, we think it is important that the Government not become complacent when it comes to educating the community about the electoral process, voting practices, and deliberative, informed decision-making. Appropriate education will strengthen our democratic institutions and will help to maintain the rule of law.

Importantly, education about the electoral system and more generally our legal institutions is not a matter to be left to the Electoral Commission. It is critical, in the view of the Law Society, that civics and citizenship education continues to be prioritised in all NSW schools. This education would be to increase understanding of parliamentary democracy and electoral law, as well as to develop the critical thinking and digital and media literacy skills that are essential to informed voting. I will come back to this, if the Committee would permit me to do so to refer to an important paper published by the RAND Corporation in 2018 entitled Truth Decay.

The Law Society was encouraged by the announcement earlier this year in July that the new NSW primary school curriculum will incorporate 'compulsory civics and citizenship content, including lessons on democratic roles and responsibilities, including the role and history of voting in a representative democracy'. Given that voting is compulsory, the Law Society believes that Parliament should ensure that voters are given the opportunity to understand concepts fundamental to our model of democracy, as well as concepts fundamental to the specific contested matters, so as to allow and promote meaningful participation. However, as the legal, political and social concepts are not necessarily simple, education should extend well beyond primary school years. Minimum requirements of the curriculum should be set. Thought might also be given as to how to educate those who arrive in Australia at an age where their schooling has been completed.

A more informed electorate is more likely to support democratic institutions when they are performing well and to call them to account when they fall short. For this reason, learning about Australia's democratic system and its institutions, as well as awareness of contemporary challenges to the rule of law in overseas jurisdictions, should be a high priority, and continue to be developed further in the high school curriculum. Further, education on how to conduct research on political issues, including the identification of disinformation or misinformation, should be taught to students so that, in the future, they are more likely to cast a deliberative vote without indirect or subliminal interference. In my view this point is likely to become more important as time goes by and cannot be understated. There is an opportunity now to arrest a decline in faith in our institutions and to improve participation and knowledge of our electoral and political process. The window of opportunity will not be open forever.

On issues such as civics and education that are not peculiar to a particular geographical or legal jurisdiction, it would seem sensible that parliaments and governments pool their knowledge. So, I would like to draw attention to Committee members to the transcript of hearing on 3 October of the Commonwealth Parliament's Joint Standing Committee on Electoral Matters and in particular to written submission No 31 of Professor Twomey, No 78 of Professor Rosalind Dixon and Rose Vassel and No 96 of Professor Print. By calling attention to these, I do not mean to diminish the many other contributions to the Commonwealth Parliamentary Committee or the evidence given before that Committee. No doubt a number of other transcripts of earlier hearing days and other written

submission would bear close examination. Although Parliaments and Governments may ultimately come to different conclusions, or attempt to deal with common matters in different ways, it would be a pity if this Committee were not to take advantage of material and the considered thoughts of experts or others that also have currency and that have been developed in almost identical circumstances in answer to identical issues and identical questions. I am sure you are already well aware of that.

There have been 132 written submissions to the current Committee of the Federal Parliament. Great concern has been expressed about the need to educate the public about our institutions and our political system. It is a big issue. It underpins participation in our electoral system and other political institutions. It underpins in my view the ability to have meaningful engagement. To be meaningfully engaged you need to have a working knowledge of our political system including how our electoral system works.

This is not just an issue for Australia. We can learn from other countries.

Truth Decay

In this regard I would like to say something about the concept of Truth Decay and why it is directly relevant to the issues this Committee is confronting. These particular comments are more mine rather than necessarily those of the Law Society, although their sentiments are consistent with the Law Society's general position on the need for substantive education about our political processes.

The expression "Truth Decay" was coined by a US journalist Sonni Efron and used as the title of a report prepared for the RAND Corporation in 2018. The RAND Corporation is a non-profit organisation that has been around for over 75 years. It develops solutions to public policy challenges. The full title of the Report is "Truth Decay: An Initial Exploration of the Diminishing Role of Facts and Analysis in American Public Life."

The authors, Jennifer Kavanagh and Michael Rich, identified four salient features of Truth Decay. These were:

1. Increasing disagreement about facts and analytical interpretations of facts and data;
2. A blurring of the line between opinion and fact;
3. The increasing relative volume, and resulting influence, of opinion and personal experience over fact; and
4. Declining trust in formerly respected sources of factual information.

These would all be familiar to you. They are certainly familiar to me.

I want to draw your attention to one of the four reasons the authors gave for the decline. This was the competing demands on the educational system that limits its ability to keep pace with changes in the information system. By the "information system", the authors mean the rise of social media and the transformation of the traditional media including the rise of opinion media and finally the wide dissemination of disinformation and misleading or biased information. Again, you will all be familiar with this.

What I want to suggest is that these matters, and an apparent decline in trust of traditional sources of factual information including presumably a body such as the NSW Electoral Commission, is directly relevant to the issue of voter engagement and participation in our electoral system. Why is it directly relevant? Because a public that is poorly educated in how our democratic institutions work is one that is more easily manipulated and one that is more likely to fall prey to false and misleading assertions of fact and be unable to properly assess and weigh the credibility of opinions that are stridently asserted and communicated instantly and disseminated widely. This includes by foreign actors and those closer to home. Trying to arrest truth decay is not an easy task. It is not something that can occur overnight. It will involve a constant and continuing battle. It requires vigilance.

One strand in the solution to deal with truth decay, and in my view, an essential strand, is education. By that I mean proper formal and serious education about our political institutions and our democratic principles and the rule of law. It will be insufficient to treat this as a matter that can be tacked on to a busy curriculum or that can be addressed only in our primary schools. It needs to be a valued part of our compulsory curriculum through the school journey – right through to at least Year 10 and, if we are to treat this with the importance that it deserves, right through to Year 12.

The analysis in the Truth Decay report suggests that there is more than one strand to this education and I would agree.

First, it involves the imparting of knowledge of our political system and its historical development. This needs to be more than cursory.

Secondly, critical thinking is something that needs to be addressed. Our students need to be able to reflect on the knowledge being imparted and need the ability to critically think about it. As the authors of the Truth Decay Report suggest, more knowledge and more ability to think critically enables people both to assess and evaluate statements by political candidates and parties and to understand why our institutions like the NSW Electoral Commission are important and should be trusted.

The third thing that the authors suggested needed more attention in the USA in 2018 but, I would suggest, also applies in Australia and NSW in 2024 is the teaching of media literacy. When you pick up a paper, or listen to the radio, or watch the TV or go online: How do you distinguish fact from fiction, or what are now called “alternative facts”? How do you distinguish opinion from fact? How do you weigh up competing opinions?

A fourth matter mentioned by the authors is the importance of students having an understanding of statistics and probability. I would add measurement more generally. This assists in understanding and interpreting opinion polls and media coverage. By way of example, how many Australians or New South Welsh persons understand how the unemployment rate is calculated? How many understand that there is a difference between unemployment and underemployment? How many people even know that the Australian Bureau of Statistics exists let alone what it does?

Misinformation and disinformation laws might assist although they are problematic in attempting to deal with opinion, there are difficult issues around practical enforcement. Also, one would need to be careful not to interfere with the general and constitutionally entrenched right to political communication.

Education and critical thinking can act as a counterweight to misleading opinions. If people understand how they can be manipulated by the media and others, they can more easily spot attempts to do so. If they know what sources to trust, they can check allegations that are made. If they adopt a critical or sceptical approach they can less easily be fooled. If they understand statistics, they can spot the use of misleading numbers or have a deeper understanding of them. So, the education I am talking about is not limited to the electoral process nor is it limited to politics. There is less faith in all of our institutions including the courts. This is very dangerous. It is insidious. There is no easy counter to it. Our institutions must be defended – but to do so they must be understood. There is a need to do it throughout schooling and for it to be substantive. That means it should be assessed and count towards matriculation. Voting is compulsory and most people think that is a good thing in Australia. The Law Society of NSW strongly supports it. Why shouldn't education about our democratic system and institutions also not be compulsory and substantive?