

Are Australia's democratic safeguards shrinking?

In light of worrying developments, I review the trends putting pressure on our democratic institutions. Fortunately, new policies and serious protests can halt the trends and bring out the better nature of voters. However, such movements are not in sight.

Jocelyn Pixley – *Pearls and Irritations* – 13 January 2021

Franz Neumann's *Behemoth* of 1942 offers a useful list of the types of democratic safeguards that are common in many "civilised" societies. From the most democratic countries to the most marginal, many such safeguards are employed. Only some of the safeguards in Australia are robust.

In providing his template of safeguards, Neumann drew on empirical data from the Weimar Republic, but his list contains some unusual additions. For example, trade unions and an independent public service are not always seen as essential. Debates about the decline of democracy are growing (e.g., Masha Gessen, and recent P&I articles) and though I don't have expertise on all safeguards, I believe Neumann's nearly forgotten work may inspire others to comment on his list of about seven safeguards (in italics). Some are more threatened than others.

Australia's *Parliamentary public sphere* does not operate under typical norms, as many know. Sitings are rarely held for the clash of views or for the interrogation of government, legislation and ministers, who refuse normal accountability. The supremacy of parliament is in decline (like elsewhere) to Cabinet and PM rule.

Gutless Wonders: when will politicians demonstrate the accountability they foist on the rest of us?

Political justice is troubled – but nothing like that experienced under the Weimar Republic. From its inception in 1918, the Republic faced counter-revolutions, with its proponents aiming for support from the Weimar 'state machine'. To Neumann (a Weimar labour barrister), when justice becomes "political ...those whom justice favors ... develop a profound contempt for the very value of justice" – and know it can be purchased. Those involved in the 1920 Kapp Putsch (Ludendorff) and Hitler's 1923 Munich Putsch received a few lenient sentences, whereas the 1919 fall of the Bavarian Soviet Republic saw more than 2,800 harsh criminal sentences handed out. The inability of the state to control 'terror' started then. In marked contrast, Australia's *Judiciary* is stalwart, opposing cuts to funding of court proceedings just one example. The number of Royal Commissions (RCs) being conducted is growing in lieu of adequate debate and legislation, and recent reports suggest that the High Court may face politicisation through "stacking". High Court Justices played roles in the Whitlam "coup" of 1975, leaving perhaps a slight (Neumann) precedent in the "political justice" sphere.

Monetary independence of the Reserve Bank of Australia is threatened. Despite the Bank Acts legislation, Cabinet forms its central bank and can deform its independence. That consists in partial freedom to object, publicly, to Treasury decisions. The RBA is also independent from private banks in its two remits – full employment and price stability. That included the power to inspect bank balance sheets and potentially refuse to lend to reckless banks. The RBA also had complete power to supervise banks and via enforcement. These controls over banks are gone.

Then treasurer Peter Costello split off supervision and enforcement of banks from the well-off RBA to ASIC and APRA. Both are underfunded and weak "watchdogs" of the finance sector. The threat posed from "systemic dangers" (aka bubbles) effectively means a run on banks. The Government simply ignores the RBA's persistent calls for wage growth. Recent news that the RBA had given annual support to the right-wing Sydney Institute (e.g.) since 2006 and handshakes between the

Treasurer and RBA Governor are ominous signs, especially in light of Banking Royal Commissioner Hayne's blunt refusal to shake hands with the Treasurer in 2019.

Royal Commissions are now held due to Cabinet inaction. The abuse in privately run aged care "facilities"; government continues to ignore key recommendations of the banking RC, allowing further gouging of clients and the involvement in alleged money laundering. In contrast to these freedoms, the government orders banks not to disinvest from coal/gas.

Further, attacks on *organised labor* continue apace. Made possible over many years by the predominance of "disorganised labor", wages and conditions decline. When COVID started, the ACTU demanded full sick leave for workers not already eligible, but its efforts are already forgotten and typically, the PM accepted the kudos for any benefits bestowed. The LNP was *forced* to accede but its JobKeeper excluded many more vulnerable workers and allowed employers to rot in the normal way.

The *public service* has been nearly dismantled into "public choice" vehicles for the market to rule. This is via privatisation and mysterious liaisons with the corporate sector and via Cabinet intervention. In further corrupting the public service ideal, scrutiny of Cabinet rule is silenced through the defunding of relevant bodies such as the National Audit Commission and stacking of bodies such as the Administrative Appeals Tribunal. Federal Cabinet considers a properly funded federal ICAC with teeth – now a widespread demand from public scandals – an anathema.

The vital role of the *free press* is perverted by Australia's highly concentrated media ownership, by News Corps' state funding and liaisons, whereas Nine Media cannot quite afford to lose its "moderate" print readers. Furthermore, huge numbers of journalists are made redundant, journalists who dare raise uncomfortable issues for the government are raided by the AFP, which is still unaccountable, and the ABC is nearly becoming state media. The mainstream media normalises Scott Morrison's brazen assaults on our institutions and is complicit, albeit often through fear.

Further results of weak constitutional safeguards (still nothing like Weimar) are the "race powers"; the problem of secret trials (the 'national interest' is invented against Bernard Collaery, David McBride, and others) and the omission of Cabinet and political parties. No policies are pursued, except childcare, because Labor is running scared. In fact he denies the "Opposition" in his title with his fatuous comments, leaving the Liberal National Party as a *one-party rule* that does not deign to answer questions. Somehow, Parliament must convene more regularly, with Dorothy Dixers banned, with more speaking time allotted to Independents.

As well, Labor made an ICAC difficult by passing a Coalition bill allowing property developers to get around state donation laws and give *secret* donations to political parties. Whereas Paul Keating continually accused the LNP of wanting a return to the Master-Servant Act – an example of actual opposition – this ALP Leader is silent. The same applies to attacks on industry super and its media outlet *The New Daily*.

Trends are not predictions, and can be reversed – through instigating a federal ICAC with teeth, policies that promote full employment with living wages and conditions, and consistent forceful policy against the climate disaster.

It is possible to bring out the best in people, to improve our public institutions, proactively tackle obvious problems, and selectively renationalise key institutions. Society is always antagonistic over class, leading to charges of class warfare, and politically it's wrong to seek fake compromises, but divisions rise with Black Deaths in Prison, the virtual torture of asylum seekers and the appallingly high death rates due to domestic and family violence. All dismissed by the LNP as "cultural wars". The need to recapture democratic safeguards must be tested against the Weimar list – how authoritarian are our institutions?