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Submission to the Joint Standing Committee on Electoral Matters  
Inquiry on the Commonwealth Electoral Amendment (Lowering  
Voting Age and Increasing Voter Participation) Bill 2018

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## Introduction

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1. The Human Rights Law Centre (**HRLC**) welcomes the opportunity to comment on the *Commonwealth Electoral Amendment (Lowering Voting Age and Increasing Voter Participation) Bill 2018* (the **Bill**).
2. A key focus of our work is on the rights and freedoms that underpin robust democratic processes. We have previously made submissions to the Joint Standing Committee on Electoral Matters in its inquiry into the *Electoral Legislation Amendment (Electoral Funding and Disclosure Reform) Bill 2017*. The HRLC has also been involved in two landmark cases in the High Court that have strengthened the right to vote in Australian law: *Roach v Electoral Commissioner* [2007] HCA 43 in relation to prisoners' voting rights and *Rowe v Electoral Commissioner* [2010] HCA 46 in relation to enrolment periods. Further, the HRLC made submissions to the Australian Law Reform Commission in 2014 regarding voting rights of people with a disability.<sup>1</sup>
3. The right to vote is a fundamental component of democracy, and its underlying principle of political equality. The obligation to protect and promote the right of every citizen to universal and equal suffrage is recognised in Article 25 of the *International Covenant on Civil and Political Rights (ICCPR)*.<sup>2</sup> This right to vote may be subject to reasonable restrictions, which may include setting a minimum age.<sup>3</sup> International practice has evolved in respect of minimum voting ages in the 52 years since the ICCPR was agreed. International law does not set a minimum age. However, as we set out below, it does set out principles on which the choice of minimum age ought to be based. Central to this is the requirement that restrictions placed on the fundamental rights are justified, that is, based on evidence, and that the State must give due weight to the views of children commensurate with their capability, and the age and maturity of the child.
4. Human beings' intellectual and emotional maturity develop at different ages. Psychological and neurological evidence indicates that the type of decision-making engaged in deciding who to vote for in elections (referred to as 'cold cognition') is mature by age 16, even though our

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<sup>1</sup> See Australia Law Reform Commission, *Equality, Capacity and Disability in Commonwealth Laws*, Report 124, 24 November 2014.

<sup>2</sup> *International Covenant on Civil and Political Rights*, opened for signature 16 December 1966, 993 UNTS 3 (entered into force 3 January 1976). See also *Human Rights Act 2004* (ACT) s 17 and *Charter of Rights and Responsibilities Act 2006* (Vic) s 18 for corresponding right in domestic state and territory legislation.

<sup>3</sup> Human Rights Committee, General Comment No 25: General Comments under article 40, paragraph 4 of the International Covenant on Civil and Political Rights, 57th sess, UN Doc CCPR/C/21/Rev.1/Add.7 (27 August 1996) para [4] and [10].

decision-making in high pressure or emotional contexts takes longer to mature. This strongly suggests that it is not reasonable to deny 16 and 17 year olds voting rights.

5. **A minimum voting age of 16 years of age is an appropriate way to meet Australia's obligations under international law, consistent with contemporary understandings of maturity and cognitive development.**
6. Today, young people have a level of access to information and engagement in public debate that is unparalleled in human history. They are engaged in political issues in Australia and internationally through technology. The minimum voting age is 16 in various countries including Austria, Scotland, Brazil and Argentina. Australia should be amongst the vanguard to adopt a reform that both reflects the contemporary science on psychological and neurological development and represents the evolution, and the strengthening, of democratic principles.
7. The HRLC supports the core changes proposed under the Bill, namely to:
  - (a) extend voting rights to 16 and 17 year olds;
  - (b) allow for 14 year olds to enrol on the electoral roll; and
  - (c) enable eligible electors to enrol or amend their enrolment up to and including polling day.
8. Part 1 of this submission addresses the historical expansion of the franchise in Australia. Part 2 sets out the principles under international and constitutional law, as well as basis for supporting the minimum voting age of 16 years of age as a reasonable and proportionate restriction of the right to vote. Part 3 draws on wide scholarship to show the positive impacts over the three core proposals in the Bill on civic engagement.

## 1. The development of democratic inclusion

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9. Over time, our collective understanding of democracy has evolved. In particular, our answer to who comprises the people, the *demos*, of a democratic society with the right of representation expressed through the entitlement to vote has enlarged over time. In Australia, voting was once a right reserved for male landowners over the age of 21 of European descent. Through the 19<sup>th</sup> and 20<sup>th</sup> centuries, suffrage was extended to people who did not own land, women, people not of European descent and Aboriginal and Torres Strait Islander people. In 1973, the minimum age for voting in federal elections and referenda was reduced from 21 to 18, reflecting shifting societal attitudes, and to align with other legal rights and responsibilities at the time.
10. Each of these developments was an advance in Australian democracy, and the political equality of Australians. Yet each of these reforms was met with objections which had a similar nature. Assertions were made that those who were disenfranchised, such as those who did not own land, *did not have enough of a stake* or interest in government policy to be entitled to vote. It was argued that those who were excluded, such as women, non-Europeans, Aboriginal and Torres Strait Islander people and 18 to 21 year olds, *lacked the capacity* to form reasoned judgment to be able to vote. These objections were wrong, and it is inconceivable that these groups would be denied democratic equality today.
11. These same objections, based around “stake” and “capacity”, are now similarly advanced to oppose extending the vote to 16 and 17 year olds. Below we set out why these objections are not well-founded in evidence. However, it is important also to recognise the broader function of the electoral franchise as a foundation for inclusion in a democracy. In its 2007 Inquiry into the Eligible Voting Age, the Australian Capital Territory Legislative Assembly Standing Committee on Education, Training and Young People noted:

*As the criteria for membership of the political community, the franchise is a valuable symbol of inclusion within democracies. Historically, the vote has been claimed and won by a number of distinct groups (including non-propertyied people, Aboriginal people and women). Consequently, the criteria for enfranchisement have been expanded as our democratic system of government has developed and evolved. The vote, in this sense, has political value.<sup>4</sup>*

12. **Granting suffrage to 16 and 17 year olds has political value: it is an indicator that these Australians matter and that they deserve a say in their future.** Young people are most likely

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<sup>4</sup> Australian Capital Territory Legislative Assembly Standing Committee on Education, Training and Young People, *Inquiry into the Eligible Voting Age*, September 2007, <[https://www.parliament.act.gov.au/\\_\\_data/assets/pdf\\_file/0005/380039/05educVotingAge.pdf](https://www.parliament.act.gov.au/__data/assets/pdf_file/0005/380039/05educVotingAge.pdf)>, [4.4].

to benefit from or be burdened by the long-term consequences of today's political decisions.<sup>5</sup> In our time, young adults have extraordinary access to information, and are more engaged than ever before on issues that affect them and the world that they live in. Recently, issues such as climate change and same sex marriage have seen young people in Australia engage in public deliberation and express frustration in not being able to have their views recognised through a vote.<sup>6</sup> **Set against this backdrop of the evolution of suffrage, the expansion of the vote to 16 and 17 year olds can be understood as the next step in the development of democratic inclusion.**<sup>7</sup>

**Example: Scotland**

16 and 17 year olds were given the opportunity to vote in the Scotland's independence referendum in 2014. The enfranchisement received wide support from various parties. Deputy First Minister Nicola Sturgeon stated that:

***"No-one has a bigger stake in the future of our country than today's young people and it is only right that they are able to have a say in the most important vote to be held in Scotland for three centuries."***<sup>8</sup>

A survey following the referendum showed that 75% of 16 and 17 year olds voted, compared to only 54% of 18 to 24 year olds.<sup>9</sup>

In 2015, Scotland lowered the minimum voting to 16 for Scottish parliament and local government elections.<sup>10</sup>

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<sup>5</sup> Commissioner for Children and Young People (South Australia), *Reducing the voting age*, <[http://www.cryp.com.au/wp-content/uploads/2017/08/CCYP\\_Reducing-the-Voting-age.pdf](http://www.cryp.com.au/wp-content/uploads/2017/08/CCYP_Reducing-the-Voting-age.pdf)>.

<sup>6</sup> Paul Karp, "Schoolboy, 17, lodges discrimination complaint over same-sex marriage survey", *The Guardian* (online), 23 August 2017, <<https://www.theguardian.com/australia-news/2017/aug/23/schoolboy-17-lodges-discrimination-complaint-over-same-sex-marriage-survey>>; see also Commissioner for Children and Young People (South Australia), above n 5.

<sup>7</sup> See also Australian Capital Territory Legislative Assembly Standing Committee on Education, above n 4, [4.6].

<sup>8</sup> Andrew Black, "Scottish independence: Bill to lower voting age lodged", *BBC News* (online), 12 March 2013, *Sydney Morning Herald* (online), 21 February 2016, <<https://www.bbc.com/news/uk-scotland-scotland-politics-21741448>>.

<sup>9</sup> John Curtrice, "So how many 16 and 17 year olds voted?", *What Scotland Thinks*, 16 December 2014, <<http://blog.whatscotlandthinks.org/2014/12/many-16-17-year-olds-voted/>>.

<sup>10</sup> For more information about lowering the voting age in the United Kingdom, see also Neil Johnston and Noel Dempsey, "Voting Age", *House of Commons Library Briefing Paper*, 16 July 2018, Number 1747, <<http://researchbriefings.files.parliament.uk/documents/SN01747/SN01747.pdf>>.

## 2. Protecting and promoting the fundamental rights of 16 and 17 year olds

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13. Opponents of lowering the age often cite a lack of maturity, cognitive ability or ‘life experience’ as a reason for denying 16 and 17 year olds an entitlement to vote. It is important to recognise at the outset that **neither knowledge nor cognitive ability is a precondition for suffrage**. We, properly, do not screen for electors’ knowledge or interest in issues of government or politics. We do not test senior citizens for declining cognitive ability to make voting choices before allowing them to vote<sup>11</sup> and the Australian Law Reform Commission has recommended the repeal of existing federal laws excluding people of “unsound mind” from voting.<sup>12</sup>
14. As a party to the ICCPR, Australia has an obligation to protect and promote the right of every citizen to universal and equal suffrage.<sup>13</sup> This right may be subject to reasonable restrictions, which may include setting a minimum age.<sup>14</sup> Similarly, the Australian Constitution protects a right to vote.<sup>15</sup> This implied constitutional right may be limited by proportionate measures, ie measures reasonably appropriate and adapted to serve an end which is consistent or compatible with the maintenance of the constitutionally prescribed system of representative government.<sup>16</sup>
15. Therefore, the relevant question is what minimum voting age, taking into account all factors, constitutes a reasonable and proportionate restriction on an individual’s right to vote.
16. International law is not prescriptive as to the minimum age to be chosen. However, persons under 18 years of age do have the right to express their views and be properly recognised. In particular, Australia is party to the *Convention on the Rights of the Child (CROC)* which recognises in Article 12(1):

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<sup>11</sup> See Richard R. Lau and David P. Redlawsk, “Older but Wiser? Effects of Age on Political Cognition” *The Journal of Politics*, (Jan., 2008) vol. 70, no. 1, pp. 168-185 which found that ability of voters to reflect their preferences accurately through the electoral choices declines around their mid 60s.

<sup>12</sup> See Australia Law Reform Commission, *Equality, Capacity and Disability in Commonwealth Laws*, Report 124, 24 November 2014.

<sup>13</sup> Article 25 *International Covenant on Civil and Political Rights*, above n 2.

<sup>14</sup> Human Rights Committee, General Comment No 25: General Comments under article 40, paragraph 4 of the International Covenant on Civil and Political Rights, 57th sess, UN Doc CCPR/C/21/Rev.1/Add.7 (27 August 1996) para [4] and [10].

<sup>15</sup> *Roach v Electoral Commissioner* (2007) 233 CLR 162, *Attorney-General (Cth); Ex rel McKinlay v Commonwealth* (1975) 135 CLR 1; *McGinty v Western Australia* (1996) 186 CLR 140.

<sup>16</sup> *Rowe v Electoral Commissioner* [2010] HCA 46.

*States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.*

17. For the reasons below, we consider that setting the minimum voting age at 16 is a reasonable and proportionate restriction that Australia may impose on the right to vote, while allowing due weight and recognition to be given to the views of 16 and 17 year olds. **A minimum voting age of 16 years of age is an appropriate way to meet Australia’s obligations with the ICCPR and CROC, consistent with contemporary understandings of maturity and cognitive development.**

## 2.1 Cognitive capability and maturity

18. Development of cognitive capability and maturity varies from person to person: there is no one age at which all people attain a certain level of capacity. Already, the law recognises that by age 16 and 17, people have the necessary cognition and maturity for certain responsibilities, for example to drive, to work and pay income tax, to enlist in the military, to consent to sexual intercourse and to consent to most medical treatment. This reflects the understanding that as children acquire capacities, they are given greater autonomy and ability participate in society. Accordingly, they are also entitled to greater level of responsibility for the laws on matters affecting them.<sup>17</sup>
19. Under international law, the State cannot *presume* that a child is not capable of forming their own views; nor is it something for the child to prove.<sup>18</sup> Put differently, a State which seeks to place a restriction on the rights of a 16 or 17 year old must justify, based on evidence, why that restriction is appropriate. The decision cannot be based simply on popular sentiment as to when a person deserves to be able to vote.
20. In the words of Professor of Psychology Laurence Steinberg, research on the adolescent brain does not identify “an obvious age at which a sharp legal distinction between adolescents and adults should be drawn for all purposes”, rather, people reach different kinds of maturity “between the ages of roughly 15 and 22”.<sup>19</sup> In taking an evidence-based approach to deciding what age is appropriate for a *particular* legal entitlement or exposure to responsibility, **it is important to distinguish between two different types of cognition: ‘cold cognition’ and**

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<sup>17</sup> Committee on the Rights of the Child, *General Comment No 12 (2009) on the right of the child to be heard*, 51st sess, UN Doc CRC/C/GC/12 (20 July 2009) [20].

<sup>18</sup> *Ibid.*

<sup>19</sup> Laurence Steinberg, “Let science decide the voting age”, *New Scientist*, 14 October 2014, <<https://www.newscientist.com/article/mg22429900-200-let-science-decide-the-voting-age/>>.



**'hot cognition'**, which reflect changes in the brain's prefrontal cortex in the first 20 years of life.<sup>20</sup>

21. 'Cold cognition' is the type of cognitive ability used where decision-making occurs without heightened emotions, that is, in unhurried situations and when alone. It engages your intellectual capabilities such as memory and logical reasoning. By contrast 'hot cognition', relates to decision-making when rushed, excited, in conditions of agitation or danger, in a group. This ability engages self-control and emotional self-regulation.
22. It is 'cold cognition' that is relevant to matters of voting or consent to medical procedures (by contrast to, for instance, driving or criminal responsibility, where hot cognition is important). **Based on studies conducted over decades, across all major continents, our 'cold cognition' is mature by 16.**<sup>21</sup> By contrast, 'hot cognition' does not mature until around 22.<sup>22</sup>
23. Arguments made against lowering the voting age do not ordinarily engage with evidence-based understanding of adolescent cognitive development. They often reflect personal views on what constitutes appropriate life experience. Some opponents contend that most 16 and 17 year olds cannot make a properly informed vote as many are still at school, living with their parents and not participating in the workforce fulltime. This argument is misguided. For one, **employment or financial independence is not a precondition of the right to vote**. Second, and more importantly, the **life experiences of those who live across Australia vary greatly** – some people encounter challenges and take on responsibilities at a younger age, while others are supported by their families long after they turn 18. Third, in any event, **it is irresponsible to suggest that the experiences that younger Australians have are not relevant to the decisions made by our democratic representatives**, which encompass decisions concerning education, the minimum wage, family violence, mental health, and environmental protection.

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<sup>20</sup> For a comprehensive set of references to the psychological research, see David, D and Matu S, "Cold Cognition", in Ziegler-Hill, V and Shackelford, T (eds) *Encyclopaedia of Personality and Individual Differences* (Springer, 2017).

<sup>21</sup> For a succinct summary, see Laurence Steinberg, "When can you buy a gun, vote or be sentenced to death? Science suggests US should revise legal age limits", *The Conversation*, 5 March 2018, <<https://theconversation.com/when-can-you-buy-a-gun-vote-or-be-sentenced-to-death-science-suggests-us-should-revise-legal-age-limits-92328>>.

<sup>22</sup> Laurence Steinberg, Grace Icenogle, Elizabeth Shulman et al, "Around the world, adolescence is a time of heightened sensation seeking and immature self-regulation", March 2018, *Developmental Science*, vol 21, issue 2. See also, Sara B. Johnson, Robert W. Blum, and Jay N. Giedd, "Adolescent Maturity and the Brain: The Promise and Pitfalls of Neuroscience Research in Adolescent Health Policy" *Journal of Adolescent Health*, September 2009; 45(3): 216–221.

## 2.2 Due weight

24. Article 12 of CROC requires the State to seriously consider the views of children with the necessary capability to form those views. It is insufficient to simply listen to their views.<sup>23</sup>
25. Currently, 16 and 17 year olds rely on means outside the electoral process to voice their opinions. This is an insufficient alternative to enfranchisement. Voting is a special right; electors have direct recourse for their dissatisfaction in government decision-making through the ballot box. As such, it helps to safeguard other rights. Exclusion from the voting population allows politicians to deprioritise or sacrifice the interests of young people, use young people as “convenient scapegoats”<sup>24</sup> or adopt policies out of touch with the views of one particular generation without electoral accountability.
26. Inclusion in democratic decision making is a systemic mechanism to ensure the interests and views of young people are given due weight in decisions made in the name of the Australian people. **As the Australian population ages, it will be increasingly more important to provide some balance to prevent the skewing of political incentives towards the aged, and away from the young.**

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<sup>23</sup> Committee on the Rights of the Child, above n 17, [28].

<sup>24</sup> Robert Ludbrook, “Children and the Political Process”, (1996) 2(2) *Australian Journal of Human Rights*, 283-286.

### 3. Enduring and inclusive civic engagement

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#### 3.1 Engaged voters

27. Around 87% of people aged 18 to 24 are enrolled to vote. This is compared to overall enrolment rate of 96.3% of the population.<sup>25</sup>
28. The age of 18 to 24 is typically a stage of life with significant change; at around this age many people move out of home, enter full time employment or university studies and take on new levels of independence as they separate from their family and parental support structures.
29. By contrast, 16 and 17 year olds are often still at home and in school. They typically have a greater level of stability, including residential stability.<sup>26</sup> As such, lowering the voting age would allow 16 and 17 year olds to be enrolled and engaged through the structures of school and family units before their lives are disrupted.
30. Enfranchising 16 and 17 year olds can also be expected to give young people a feeling of greater empowerment and ameliorate a lack of interest in political matters.<sup>27</sup> At present, there could be up to five or six years between formal civic education for a 16 year old during school and an actual opportunity to vote.<sup>28</sup> **Possessing the right to vote provides a practical foundation for an interest in politics, and a willingness to vote.**
31. In a 2006 report, an independent inquiry in the United Kingdom noted that:

*“when young people are faced with a genuine opportunity to involve themselves in a meaningful process that offers them a real chance of influence, they do so with enthusiasm and with responsibility. **We recognise that few people take an interest in a sphere of life or an area from which they have been deliberately excluded...it is vital to include them in the political process as early as is reasonably possible in order***

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<sup>25</sup> Australian Electoral Commission, *Electoral Statistics*, 17 July 2018 <[https://www.aec.gov.au/Enrolling\\_to\\_vote/Enrolment\\_stats/index.htm](https://www.aec.gov.au/Enrolling_to_vote/Enrolment_stats/index.htm)>; Australian Electoral Commission, *National Youth Enrolment Rate*, 17 July 2018, <[https://www.aec.gov.au/Enrolling\\_to\\_vote/Enrolment\\_stats/performance/national-youth.htm](https://www.aec.gov.au/Enrolling_to_vote/Enrolment_stats/performance/national-youth.htm)>.

<sup>26</sup> Eva Zeglovits and Julian Aichholzer, “Are people more inclined to vote at 16 than 18? Evidence for the First-Time Voting Boost Among 16- to 25-year olds in Austria”, *Journal of Elections, Public Opinion and Parties*, 2014, vol. 24, no 3, 351-36; Christopher Gribbin, “Lowering the Voting Age: A discussion of the issues from the Victorian Electoral Commission’s perspective”, *Victorian Electoral Commission*, 20 August 2004, <<https://www.vec.vic.gov.au/files/RP-LoweringtheVotingAge.pdf>>.

<sup>27</sup> Australian Capital Territory Legislative Assembly Standing Committee on Education, Training and Young People, above n 4, 6.

<sup>28</sup> The Power Inquiry, *Power to the people*, March 2006, <[http://www.jrrt.org.uk/sites/jrrt.org.uk/files/documents/PowertothePeople\\_001.pdf](http://www.jrrt.org.uk/sites/jrrt.org.uk/files/documents/PowertothePeople_001.pdf)>, 200-201.

*to sow the seeds of democracy and empowerment that will create a basis for more engagement later in life*".<sup>29</sup>

32. This is consistent with an Austrian study which found that 16 and 17 year olds were more interested in politics after the voting age was lowered than when they were disenfranchised.<sup>30</sup>
33. Young people learn by doing.<sup>31</sup> Supported and structured engagement from a younger age will help establish greater long term civic engagement. Habit has been shown to be an important determinant in civic engagement later in voters' lives. In countries where voting is voluntary, research has found that people who participate the first two elections in their lives are more likely to continue voting, whereas those who do not are likely to continue abstaining.<sup>32</sup> The Austrian study referred to above also found that when the minimum voting age is lowered to 16, school plays a greater impact in fostering civic engagement, and parental civic engagement is *less* of a determinant of their child's level of engagement than it would otherwise be.<sup>33</sup> **As such, with the benefit of formal civic education through schooling, lowering the minimum voting age has profound and lasting impacts on 16 and 17 year old voters.**
34. Lowering the minimum voting age to 16 also encourages broader civic engagement beyond the young voters themselves. An empirical study from Denmark uncovered that youth voting had a positive "trickle up" effect; parents with voting age children at home were more likely to vote than parents without or whose children are ineligible to vote (this result was shown to hold even where the child misses the minimum age qualification by a matter of days).<sup>34</sup> As such,

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<sup>29</sup> Ibid 199-200, emphasis added.

<sup>30</sup> Eva Zeglovits and Martina Zandonella, "Political interest of adolescents before and after lowering the voting age: the case of Austria" (2013) *Journal of Youth Studies* 16(8). Note, Zeglovits and Zandonella consider enfranchisement as tool for promoting civic engagement. This is in contrast to Tak Wing Chan and Matthew Clayton in their article "Should the Voting Age be Lowered to Sixteen? Normative and Empirical Considerations", *Political Studies*, 2006 vol 54, 533–558 which considers engagement as a precondition to enfranchisement of 16 and 17 year old, ie lack of willingness and interest shows an absence of "maturity" thereby justifying continued disenfranchisement of 16 and 17 year olds. For further commentary, see Markus Wagner, David Johann, Sylvia Kritzinger, "Voting at 16: Turnout and the quality of vote choice", *Electoral Studies*, 2012, vol 31, 372-383.

<sup>31</sup> Robert Ludbrook, above n 24, 291.

<sup>32</sup> Michael Bruter and Sarah Harrison, "Granting 16 and 17 year olds the right to vote is not a panacea for youth engagement in politics, but it is necessary for democracy", *London School of Economics*, 4 October 2015, <<http://blogs.lse.ac.uk/politicsandpolicy/granting-16-and-17-years-olds-the-right-to-vote-is-not-a-panacea-for-youth-engagement-in-politics-but-it-is-necessary-for-democracy/>>.

<sup>33</sup> Eva Zeglovits and Martina Zandonella, above n 31.

<sup>34</sup> Jens Olav Dahlgard, "Trickle-Up Political Socialization: The Causal Effect on Turnout of Parenting a Newly Enfranchised Voter", *American Political Science Review*, 2018, Vol.112(3), pp.698-705, see also Jens Olav Dahlgard, "The surprising consequence of lowering the voting age", *The Washington Post* (online), 1 March

enfranchising 16 and 17 year olds provides reinforces the civic duty to vote in the family unit. It opens up a unique and rare opportunity for cross generational exchange on political issues of people living under the same roof. While voting is compulsory in Australia, the Danish evidence provides a basis to consider whether enfranchising 16 and 17 year olds may have a positive effect on enrolment and broader interest in elections amongst their family units.

**Example: Austria**

In June 2007, Austria became the first European nation to lower the minimum voting to 16 years. The policy was introduced as a means of combating decreasing voter turnout and youth disengagement in the electoral process.

Following introduction of the policy, studies of Austrian elections have found voter attendance was higher in 16 and 17 years olds than 18 to 21 year olds<sup>35</sup> and this cohort were more interested in politics following enfranchisement.<sup>36</sup> There was no evidence to suggest that this cohort was any less able to reflect their preferences through choices on the ballot than older voters.<sup>37</sup>

### 3.2 Compulsory voting

35. The Bill proposes that, for 16 and 17 year olds, both enrolment and voting by those enrolled are voluntary, that is, no penalty will be imposed for a failure to vote.
36. The HRLC recognises there are differing views on whether the vote should be compulsory from 16 years of age. On one hand, this voluntary inclusion of 16 and 17 year olds will serve as a good introduction to democracy to those with the desire to vote.<sup>38</sup> Further, a voluntary right to vote generally has more support from 16 and 17 year olds than compulsory voting.<sup>39</sup> It also mitigates against confusion that may arise from discrepancy with enrolment and voting age in

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2018, <[https://www.washingtonpost.com/news/monkey-cage/wp/2018/02/28/the-surprising-consequence-of-lowering-the-voting-age/?utm\\_term=.227ff64bce1c](https://www.washingtonpost.com/news/monkey-cage/wp/2018/02/28/the-surprising-consequence-of-lowering-the-voting-age/?utm_term=.227ff64bce1c)>.

<sup>35</sup> Eva Zeglovits and Julian Aichholzer, above n 24.

<sup>36</sup> Eva Zeglovits and Martina Zandonella, above n 31.

<sup>37</sup> Markus Wagner, David Johann, Sylvia Kritzinger, above n 30.

<sup>38</sup> George Williams, *Submission to the Joint Standing Committee on Electoral Matters Inquiry into the Commonwealth Electoral Amendment (Lowering Voting Age and Increasing Voter Participation) Bill 2018*, <<https://www.aph.gov.au/DocumentStore.ashx?id=d8e6de78-73a4-4219-b8b3-3e2633685a04&subId=612644>>, 28 July 2018.

<sup>39</sup> Australian Capital Territory Legislative Assembly Standing Committee on Education, Training and Young People, above n 4, 31.

state and local elections.<sup>40</sup> **The voluntary approach has precedence in Brazil where compulsory voting is enforced for voters over 18 years old.**<sup>41</sup>

37. On the other hand, certain commentators have expressed concern that a voluntary right to vote would erode the bedrock of compulsory voting in Australia.<sup>42</sup> It would not properly capture the views of the 16 and 17 year old demographic. There would be inequality in the voting status of 16 and 17 year olds and those 18 years and older.<sup>43</sup>
38. The HRLC notes these views but does not make any recommendation on compulsion. Our principal concern is that 16 year olds are entitled to vote, whether on a voluntary or compulsory basis.

### 3.3 Reforms to enrolment

39. The HRLC supports the proposal in the Bill to enable 14 year olds to enrol. This maintains the current system of allowing a person to enrol as early as two years prior to eligibility to vote.
40. The HRLC also supports the proposal to enable eligible electors to enrol or amend their enrolment on polling day. Currently, no enrolments or amendments are accepted 7 days after writs of the election are issued.<sup>44</sup> This is a short window that disproportionately impacts young voters as they may have only recently become eligible to vote and often experience changes of residential address around the minimum voting age. Technology has advanced to facilitate real-time verification, allowing for a longer period for enrolment which would enable more complete registration of eligible voters, and in turn better reflect the choice of voters in each seat as people change residential addresses.

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<sup>40</sup> Christopher Gribbin, "Lowering the Voting Age: A discussion of the issues from the Victorian Electoral Commission's perspective", *Victorian Electoral Commission*, 20 August 2004, <<https://www.vec.vic.gov.au/files/RP-LoweringtheVotingAge.pdf>>.

<sup>41</sup> Superior Electoral Court, Brazil, "Voting is compulsory for Brazilians aged 18 to 70", *Superior Electoral Court*, <<http://english.tse.jus.br/noticias-tse-en/2014/Outubro/voting-is-compulsory-for-brazilians-aged-18-to-70>>.

<sup>42</sup> Australian Capital Territory Legislative Assembly Standing Committee on Education, Training and Young People, above n 4, 36.

<sup>43</sup> Robert Ludbrook, above n 24, 291.

<sup>44</sup> *Commonwealth Electoral Act 1918*, s 155.