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INDIA AND AUSTRALIA: STRENGTHENING ELECTORAL DEMOCRACY¹

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ABSTRACT

This working paper examines the changing nature of voting in Victoria and some of main challenges faced by the Victorian Electoral Commission.

INTRODUCTION

A very great privilege to be here in New Delhi and to be participating in this workshop event made possible by the collaboration between the University of Melbourne, the Australia India Institute and the Trivedi Centre for Political Data, with support from the Australian Department of Foreign Affairs and Trade.

It is quite humbling to be speaking about the challenges I face in administering a successful election, where the number of voters that I service is not even one half of one percent to that managed by the Election Commission of India. Yet, despite this disparity in scale, I expect there are quite similar demands, societal trends and operational pressures that are common to both our administrations and impact our election operations.

I think it is first necessary to look at the Commonwealth of Australia and situate Victoria in Australia and to provide a very quick overview of the electoral systems that operate nationally and in the State of Victoria; this will assist in understanding my challenges in the State of Victoria and some potential solutions to these challenges.

OUR VOTING SYSTEMS

Victoria

So, first Victoria and its electoral system.

Victoria is Australia's second largest state in terms of population, but Australia's smallest state geographically, covering 227,600 square kilometres; roughly the size of Uttar Pradesh. Indigenous Australians have their living heritage in Victoria dating back more than 60,000 years. Victoria's identity as a colony dates to 1851 and as the State of Victoria from 1901.

Melbourne as the Victorian capital was founded in 1835. Between 1901 and 1927, Australia's Parliament sat in Melbourne while Canberra was under construction. The state's population in March 2018 was 6.43 million (compared to 200 million in Uttar Pradesh) with about 77% of this total residing in Melbourne. The state's population has increased at 2.1% per year over the past ten years and Victoria is presently the fastest growing state in Australia. Projections have greater Melbourne's population overtaking that of greater Sydney by 2023.

The Parliament of Victoria comprises two Houses – the lower house (Legislative Assembly) and the upper house (Legislative Council). Both houses operate for a fixed four-year term. Enrolling and voting is compulsory.

Members of the Legislative Assembly are elected from 88 single member electoral districts each with about 48,000 electors. The voting system is full preferential where voters must number all the squares on the ballot paper in the order of their choice. To be elected, a candidate must gain more than 50% of the first preference votes and where this is not achieved, voters' preferences are distributed until one candidate gains an absolute majority.

Members of the upper house are elected to eight electoral Regions, each with about 526,000 electors. Each region returns five elected members. Proportional representation vote counting is used where a candidate must gain a quota of the formal votes to be elected. Here, the surplus votes of elected candidates and the votes of excluded candidates are transferred to continuing candidates according to voters' preferences until all vacancies have been filled. Under this system the voter can cast their vote in either of two ways; that is, either "above the line" or "below the line" on the ballot paper. Voters can vote 1 "above the line" for their preferred party or group with preferences allocated according to that party or group's ticket(s). In voting "below the line" on the ballot paper the voter is choosing to vote for individual candidates. Using this below the line option voters must vote at least 1 to 5 for their vote to count.

The process to determine Legislative Assembly districts and Legislative Council regions is the responsibility of an independent statutory Electoral Boundaries Commission (EBC) comprising three members, the Chief Judge of the County Court, the Surveyor General and the Electoral Commissioner. Generally, a redivision will occur after two general elections (each eight years) and following extensive public consultation the EBC will determine district and region boundaries based on approximately equal enrolment.²

The Commonwealth

The electoral structure and voting arrangements for the Commonwealth Parliament (Canberra) are subtly different. As for Victoria, the Commonwealth Parliament consists of an upper house (the Senate – a house of review or a State's House) and a lower house (the House of Representatives or peoples house). All Australian citizens aged 18 years and older vote for their parliamentary representatives; and like Victoria it is compulsory to enrol and to vote.

Members of the House of Representatives are elected for three-year terms to represent an area or an electoral division. Voters in each division (about 85,000) elect one person as their representative. At the 2019 federal election Australia was divided into 151 electoral divisions. The political party or coalition of parties winning most divisions or seats forms the government. In voting, electors must number every square on the ballot paper in the order of their preference.

The Senate consists of 76 senators; 12 representing each of the six states and two each representing the Northern Territory and the Australian Capital Territory. Senators for each state are elected for six-year terms on a rotating basis with half the senators retiring every three years. The terms of senators representing the Northern Territory and the Australian Capital Territory are generally three years; aligned to the Parliamentary term.

The Senate is elected by proportional representation with the composition of the Senate more accurately reflecting the votes of the electors. As for Victoria, to be elected a candidate needs to get a quota of the formal votes, which by formula, when electing six senators in a State equates to about 15% of the vote. Under this arrangement it is easier for independent candidates and those of small parties to be elected. In completing this ballot paper an elector must number at least six boxes above the line for the parties or groups of their choice or number at least 12 boxes below the line for the individual candidates chosen.

The redrawing of Commonwealth electoral boundaries occurs generally each seven years to ensure that each State and Territory gains representation in the House of Representatives in

² The Victorian Electoral Boundaries Commission last divided the State into regions and districts in October 2013. Then the quota based on the State's total number of electors was set at 41,473. The next redivision will occur in 2021.

proportion to their population and that there are a similar number of electors in each electoral division for a given State or Territory³.

VICTORIAN CHALLENGES

Among my many challenges, three stand out. They are interconnected.

First, the behaviour of the voter and their changing demand for election services. Second the role of technology in communicating and delivering that service to the voter; and third providing an appropriately skilled and competent temporary election workforce that can deliver voting services on the ground including the more senior casual roles with statutory responsibilities.

As to this interconnection, Victorian electors, indeed Australian electors, are changing their voting conduct, in turn requiring the greater use of technology to meet this change, in turn requiring a different skill mix in our temporary election staff so that they in turn can support the elector.

Voting behaviour

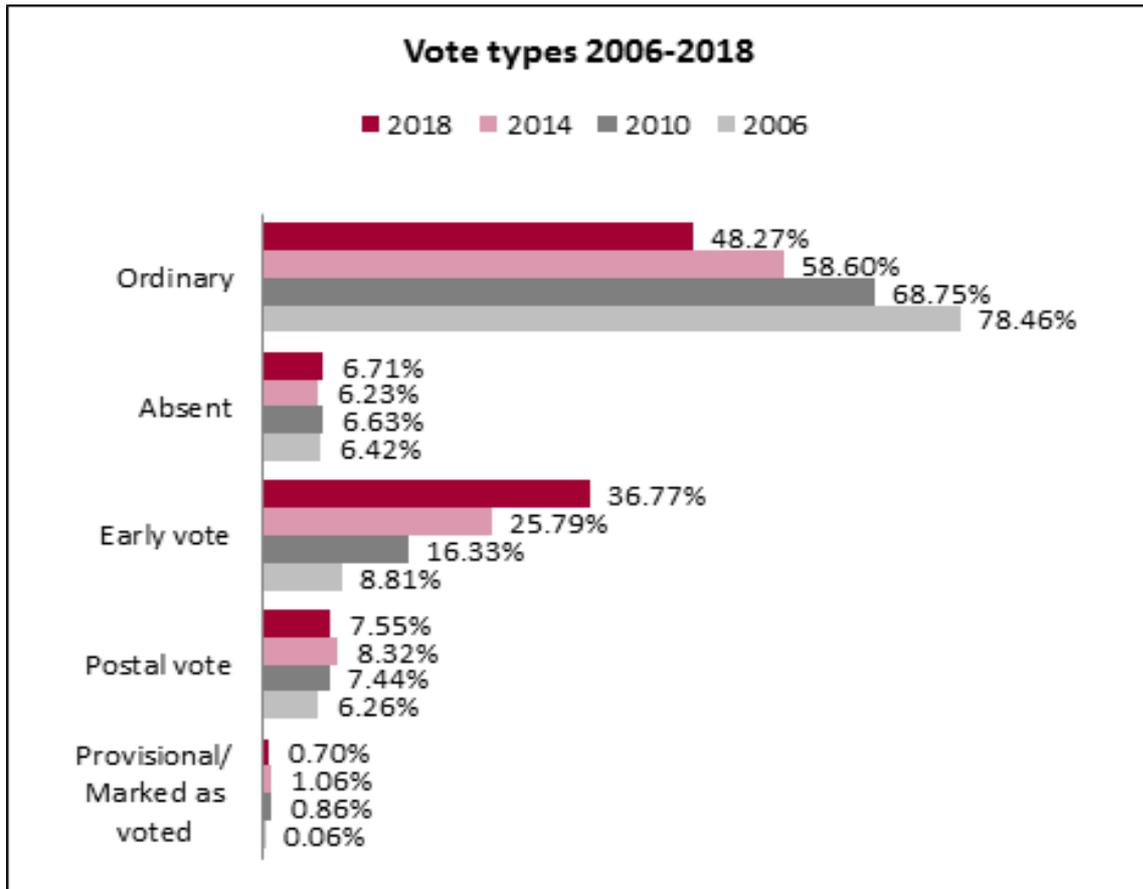
In Victoria, the biggest change in voter conduct is that of voting early. That is, to vote in the two-week period (or three weeks for the Commonwealth) before election day either in person or by post. As described by Nathaniel Reader "...early voting is Australia's fastest growing form of electoral participation"⁴ where the elector is choosing to vote at their convenience, perhaps from necessity or just to limit the disruption to their leisure time. While not necessarily by design, election day is being openly replaced by an election period.

As evidence, in the 2006 Victorian State election 15.07% of the total votes cast were a combination of early votes or postal votes. In the 12 years to the 2018 State election, this number had risen to 44% of the total votes cast. But this is not just limited to Victoria. In the Federal election this year, some 41%⁵ of the total Australian voting population cast their vote early.

³ The Commonwealth Redistribution process like that in Victoria recognizes the equality of enrolment as a fundamental principle. The Commonwealth process does however differ to that established in Victoria and can be reviewed at <https://www.aec.gov.au/Electorates/Redistributions/index.htm>

⁴ Nathaniel Reader. "Who votes early in Victoria? Assessing the demographic correlates of early voting in person at Victorian State elections, 2006, 2014". Working Paper number 31 (August 2015) Electoral Regulation Research Network/ Democratic Audit of Australia Joint Working Paper series, page 16.

⁵ Rosie Lewis, Article, "MPs to scrutinise early votes, Palmer's advertising spree". The Weekend Australian, 8-9 June 2019.



As to the impact of this continuous increase in early voting I will consider only the effect on the administration of the election and not the effect on political parties or candidates or on the idea of “electoral simultaneity”.⁶

This change in voter conduct has several consequences.

- It has required the VEC to operate more and larger early voting centres across Victoria
- It has required the VEC to adjust its processes with the vote counting focus now shifting from election day voting centres to early voting centres so that an election night result is not delayed
- It has required a change in the staffing model from a one-day election day work focus to a 2-3-week work focus and the increased centralisation of counting activities
- It requires the consequent rationalisation (reduction) of election day voting centre numbers

⁶ Electoral Simultaneity refers to the concept or notion that elections should be held at roughly the same time and that all electors should, as far as practical, also vote at roughly the same time. It is noted that in India elections take place over several weeks with different election days for different States. The Electoral Matters Committee (EMC) of the Victorian Parliament in their May 2016 Report to the 58th Parliament on the “Inquiry into the conduct of the 2014 Victorian State election” considered early voting at length. The findings in the report are relevant and several recommendations from that report were acted upon for the 2018 State election.

What are the solutions?

- As with the 2018 State election, the VEC will continue to make use of the authorised vote processing time provided for postal votes and consider extending this time for early votes to 10 hours⁷
- Consider the full roll out of electronic roll marking facilities across all ordinary and absent vote issuing points at all early and election day voting centres thereby reducing the processing required of declaration envelopes
- Consider the introduction of a technology solution, such as a voting kiosk, for electronically capturing votes cast at early voting centres and to allow for immediate results reporting

As another element in changing voter conduct, Victorian electors are increasingly mobile. In the election period October to November 2018, an estimated 240,000 Victorians were travelling overseas. This compares to about 70,000 in 2007. Of this 240,000 only 4,845 used VEC established voting centres with a further 5,500 making use of an email facility where ballot papers were sent electronically, printed locally and returned using often unreliable standard mail services. While not all these travelling persons were eligible to vote or indeed interested in voting it is reasonable to surmise that many thousands of these persons were effectively disenfranchised given a combination of their itinerary, remoteness and lack of access to a voting service. Of note in New Zealand, an upload/download service is a proven and popular method of receiving and returning voting papers in general elections.⁸

This group of electors are not dissimilar in their requirements to those of the disabled sector or even those just living remotely. Online voting seems an obvious solution for these persons. The VEC has argued for an electronic voting system like that operating in the state of New South Wales and that this system be developed as a national solution for a very limited group of qualifying electors; this remains the VEC position. Alternatively, a Telephone Assisted Voting service as used in 2018 could be expanded to include travelling electors⁹. Until the introduction of a form of remote electronic voting, most travelling and remote Victorians will likely remain disenfranchised during a State election.

A further aspect of changing voter conduct is a small but concerning trend towards reduced participation in elections. Electoral enrolment and voting are compulsory in Victoria, but not every eligible person is enrolled, and not every enrolled elector will vote in State elections. Voter turnout rates have tended to decline slightly in Australian elections this century. In Victoria, the voter turnout rate fell from 93.02% of electors in 2014 to 90.16% in 2018 – the lowest rate in a Victorian State election since 1945. What has contributed to this pattern?

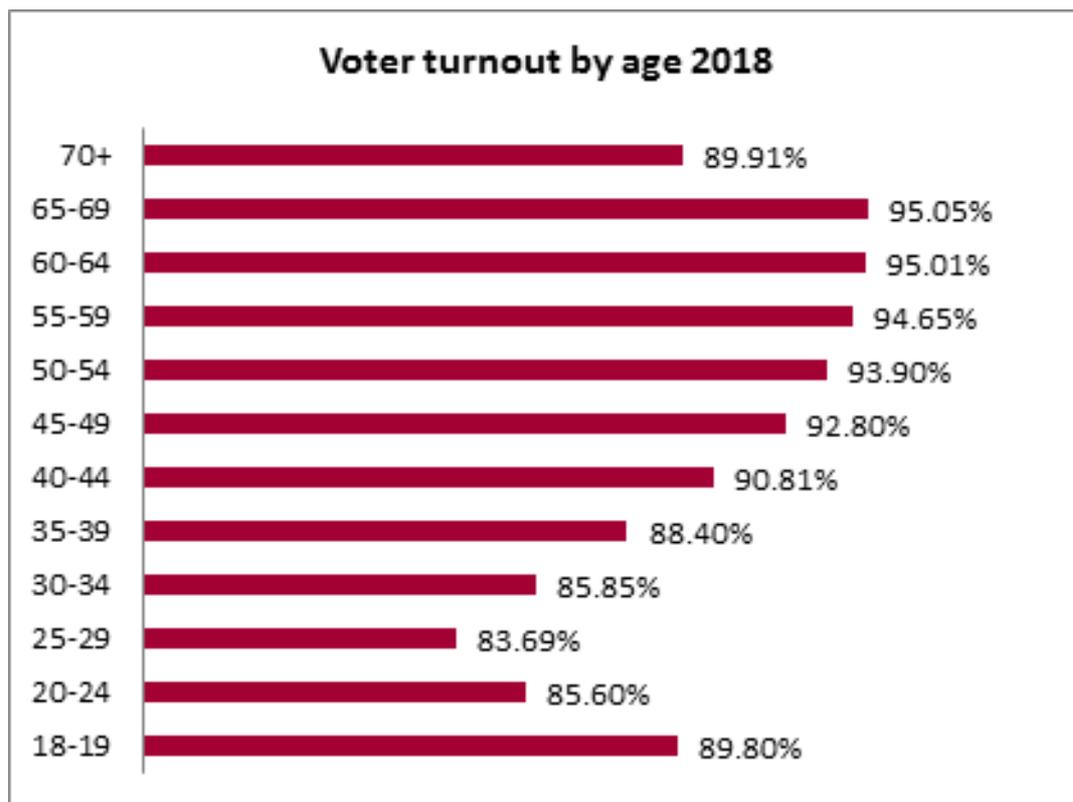
⁷ The *Electoral Act 2002* permits the early processing of postal votes and early in person votes before counting. This is 10 hours for postal votes and two hours for early in person votes. Using these provisions in 2018 at election night close the VEC had counted 79% of the lower house total vote.

⁸ New Zealand voters overseas could download their voting papers from the Electoral Commission of New Zealand website and return their voting papers by uploading them to the same website. See “Electoral Commission Report on the 2017 General Election”, dated 10 April 2018, pg. 17.

⁹ In the 2018 Victorian State election, the VEC introduced a Telephone Assisted Voting service where electors declaring a difficulty in voting due to blindness, low vision, or a motor impairment could register and cast a secret vote over the telephone. Over 1,000 electors used this service.

The VEC and other electoral commissions have programs of direct enrolment, under which the electoral commissions use reliable data from other government agencies to put eligible people on the roll, while informing them that they have been enrolled. These programs have been very effective, and at the 2018 State election enrolled electors comprised 96.6% of the estimated eligible population – a record rate. However, in a sense the VEC has been a victim of its own success, because at least some of the directly enrolled electors are unwilling conscripts. Of the 324,000 electors who were directly enrolled from the start of 2017, only 72.2% voted in the State election. If they had voted in the same proportions as electors in general, there would have been 60,000 additional voters.

Young people are another group that is less inclined to participate in elections. Less than 84% of electors aged 25-29 voted in the 2018 State election. The decline in this age group was greater than in others. Did young people not know about the election? An independent tracking survey of 18-29-year-olds conducted in the lead-up to the election revealed increasing awareness of the election and of the VEC’s communications, rising from 38% to 85%. However, this had no apparent effect on their disposition to vote. Between 52% and 55% of respondents thought that voting was important; 58-63% thought that voting makes a difference; and 75-78% intended to vote in the election.



It appears that young people pick and choose when they will participate. In Australia there was a national survey (effectively a plebiscite) on same-sex marriage in 2017, which aroused great interest among young people and a surge in enrolments. Observers wondered if this involvement would carry through to elections. The Victorian State election suggests that it

didn't. Of the electors who enrolled in August 2017, only 67.86% voted – and only 55.79% of electors in their 20s.

The VEC and other electoral commissions need to consider how to involve young people. Technology is part of the answer, but not the whole answer.

Technology

Having mentioned technology, I believe one of the greatest challenges for any election management body is the incorporation of constantly evolving information communication technology (ICT) into already established election processes. But as we incorporate this technology, we must ensure it is satisfying an identified need and that it meets certain principles in its operation: These principles would be:

- Must operate within and comply with established electoral laws
- Must enhance the trust in an election outcome
- Must contribute to transparency
- Must enhance accuracy; and
- Must enhance the voter experience.

Technology as we observe daily, brings significant benefits; efficiency, connectivity, agility, simplification, convenience, speed of transaction, access, accuracy. These are relevant to election events but in this context while technology has made electoral administration more efficient it has also introduced vulnerabilities and brings risk and demands; the risk of interference, of disruption, of data theft or manipulation and crucially where the internet is involved the potential compromise of election results.

Perhaps less spectacular are the demands that an expanded use of ICT places on staff, on training, on hardware procurement and distribution, on technical support services and on system performance monitoring and security. So, while technology can improve our efficiency it can shift the work burden to other areas of election administration. But we should not shy away from its increasingly important role.

In Victoria there have been many technology successes; electronic certified lists, on-line enrolment, on-line postal vote application, electoral boundary mapping, electronic kiosk voting, candidate helper for nominations, electronic random ballot draw, and a computer counting application.

These incremental improvements to the State's election administration have improved our response but they have not been transformational in the way technology has improved industry or transportation or entertainment or medicine and most noticeably financial services. And while remote electronic voting over the internet could in time be considered transformational in moving away from a paper ballot, in Australia it will be some time before the general election of a Government can be entrusted to this technology as the single voting channel. Certainly, in Victoria this is the case where a wait-and-see attitude has been adopted and if remote electronic voting over the internet was to be incorporated into an election, subject to legislation, it would likely be limited to a small cohort of electors and not the general voting population; and then as a nationally-developed system available to all Australian electoral commissions.

Hesitancy here is understandable. It goes to risk, consequence, trust and reputation. The introduction of a new technology into an election process requires careful consideration. Risks must be identified, minimised and mitigated. A system malfunction can result in a failed election or at least erode the confidence of the public in the reliability of the results and the

ability of their Election Management Body (EMB) to manage an election. In contrast, mistakes in the conduct of a paper ballot election are generally more easily localised and rectified.

Trust is hard earned but easily lost.¹⁰

And I expect these same considerations were paramount here in India with the introduction of the Electronic Voting Machine (EVM) some 15 years ago. I would offer that this technology was transformational; it has prevented fraud and abuse; it has eliminated invalid votes; it has improved the time in reporting results; it has helped the less confident voter to come out and vote; it has made elections more competitive and led to huge cost savings. All of this on a massive scale. I also note the introduction of the Voter Verified Paper Audit Trail (VVPAT) as a positive response to integrity questions and the subsequent random EVM and VVPAT sampling that occurs during each election as a further assurance measure.

The introduction of this EVM technology in response to the many challenges of a complex electoral landscape and the management of a significant stakeholder group are the signs of a very competent and efficient election administration.

Will internet voting be as transformational? In the Australian context I believe there is an inevitability about remote electronic voting over the internet as traditional mail services decline, voter conduct changes, the desire for fast results increases and the number of electors with special circumstances or needs increases and the ability to recruit specialist casual staff decreases.

At this point I will talk about the iVote¹¹ system in Australia's most populous State, New South Wales (NSW), which has enjoyed success in three State Parliamentary elections and 17 by-elections and is providing a remote electronic voting service to about 6.2% of the States electors¹² who remain very positive in its use. Notwithstanding its critics, this system has proven the feasibility of casting a secret vote safely and securely over the internet. But it is deliberately constrained in access.

In 2011 in NSW, a remote telephone and internet voting system (iVote) was provided alongside postal and early voting. The service was for voters who were blind or had low vision, were disabled or living more than 20 km from a voting centre on election day, including any voter not within the State on election day. At the 2011 State election, some 47,000 electors cast their vote electronically, after having registered to use the iVote service. The iVote system was provided subsequently at all by-elections in held in the period 2011 to 2018.

More than 283,000 eligible electors cast their vote electronically over the internet on the iVote system at the 2015 NSW State election. On decryption, these votes were included directly into results reporting streamlining this component of the election. The benefits in providing remote electronic voting in NSW included reaching far more of their eligible electors, while removing the need to establish interstate and overseas voting centres.

The iVote system was again available at the 2019 NSW State election. This followed a system refresh that enhanced and improved overall security including strengthening encryption, updating the security of the iVote infrastructure and improving verifiability across key

¹⁰ "The greatest intangible asset possessed by any EMB is public trust since that goes to the heart of public acknowledgement of the legitimacy of electoral processes". "Internet voting in Australian election systems" ECANZ Publication, 10 September 2013. Pg.43, para 4.26.

¹¹ Registered trade mark of the State of New South Wales (New South Wales Electoral Commission).

¹² In the March 2015 State election 283,669 votes were cast using iVote. "iVote refresh project for the 2019 NSW State election", pg8, Published February 2019.

components. Transparency, auditability and scrutiny were also improved. At this election 234,404 votes were cast using iVote of which 48% were verified¹³ by the elector. This verification rate compares to 4% in 2015.

What I see as important with respect to this system, and its inclusion as a voting channel in NSW Parliamentary elections, is the commitment shown by the NSW Electoral Commission to comply with contemporary principles, standards and guidelines that surround the ethical conduct of elections as they relate to internet voting. Here, consideration has been given to the Council of Europe standards for electronic voting, the National Institute of Standards and Technology and the US Election Assistance Commission and their Voluntary Voting System Guidelines and locally, the Electoral Council of Australia and New Zealand and their key principles for an Australian internet voting system.

This of course should be expected of a competent EMB ; it is meeting the needs of particular groups of electors and the expectations of stakeholders; it has the support of the public and political consensus, it complies with established laws and through its controls and configuration manages the demands of the electorate around integrity and transparency thus adding to the trust in election results. In this case iVote has cemented its role in the NSW voting service inventory.

Are there other technologies worthy of consideration?

A lot has been said about the potential for blockchain technology to be used in the voting process and that this technology is supposedly more secure and trustworthy than traditional polling methods. I do not profess to understand the mechanics of blockchain other than e-voting on the blockchain distributes individual voting information across thousands of computers world-wide making it impossible to alter or delete votes once they have been cast.

I note with interest that just this year the South Australian Government engaged a local company (Horizon State) to conduct an election for the Ministers Recreational Fishing Advisory Council using blockchain technology. The election used a partial preferential voting system and elected five members, with some reserved seats, from a field of 42 candidates. So reasonably complex. Notwithstanding this success, as to Parliamentary elections, it appears blockchain is not yet ready according to the Horizon State CEO, Nimo Naamani ¹⁴:

There's a global debate around electronic parliamentary voting, and using blockchain or not, Naamani says. And there are a lot of good use cases for the technology that make a lot of sense, "but not necessarily national elections", he adds. "The field and the solutions have to mature and be tested in other scenarios first, which is basically what we're doing," he explains. "I wouldn't right now go and propose that a government or state government use any of the blockchain election systems. We definitely need to do some testing and verification first." However, it's early days yet. "If all goes well and if some of the underlying sec [security] and tech [technology] issues are addressed and resolved to everybody's content, then yes, definitely it's a good use case," Naamani says.

¹³ Verifiability is an important property for electronic voting and goes to the goal of assuring integrity. Verification provides electors with confidence that their vote has been cast and counted as they intended.

¹⁴ <https://www.smartcompany.com.au/startupsmart/news/horizon-states-democratic-blockchain-fisheries-council-election/>

If e-voting on the blockchain matures to the point where this technology can be used in binding Parliamentary elections, this must only be where the fundamental ethical principles which form the basis of election administration and election conduct are equally satisfied.

So, what are the possible solutions to this technology challenge?

The Federation legacy in Australia has meant there are now nine jurisdictions managing different electoral systems under different laws and with different operational and technology solutions in place. As a first action there must be a concerted attempt to harmonise these electoral laws if for no other reason than to avoid elector confusion.

There should be a single system mindset within Australian Election Management Bodies to provide the one solution (or jurisdiction agnostic solution) available for wide use and the co-development, sharing of systems. Similarly, there should be a national device pool to share costs associated with the purchase, management and obsolescence of these items.

Election staff

The third challenge is that of accessing the right election staff at the right time and while I cannot comprehend the challenge in finding an election workforce of 11 million, in Victoria finding just 25,000 capable staff is a challenge. This challenge exists in several forms.

First, senior election officials (SEO) with managerial roles and statutory responsibilities must be found. Over 200 in this category are needed for a State election. A “pool” arrangement is utilised where after a rigorous recruitment process about 300 suitable persons are identified and then called upon to manage election events. These persons must display strong management and leadership skills, an understanding of regulatory compliance and be able to commit to 3-4 months’ work each two years. The turnover for this group is about 30% each two years.

A similar pool arrangement is used for appointing casual staff for less complex election administration roles. Over 25,000 election staff are employed from this pool following a simple registration process. Roles can be for just one day or a succession of days depending on the task. The turnover of staff in this category is very high with about 30% of this workforce new to each State election.

Second, the training and preparation of staff varies subject to the level of responsibility and is delivered “just in time” in a variety of formats and specific to the role. Election managers from the SEO pool undertake home study, receive five days face to face training with a further three days on site training. For the simpler casual roles training is delivered on line¹⁵, supported where needed by role specific manuals and at polling locations immediately prior to the opening of voting.

Noting that all election officials are paid for their work, the employment cost to conduct a State election accounts for about 51% of the election budget¹⁶.

So, with this workforce there is constant churn and a consequent recruitment and training overhead. This is complicated by a strong and competitive labour market, by the roles being local in their nature, by the roles requiring long hours of work and a short time in which to

¹⁵ Online training was completed by approximately 98.5% of election staff at the 2018 State election compared to 93% in the 2014 State election.

¹⁶ At the Victorian 2018 State election, salaries and on costs were \$30m in a total election cost of \$58.5m.

recruit and place workers. Recruiting in rural areas is one other factor. So how does the VEC respond?

There is a continual examination of the roles needed to deliver a State election and how efficiencies in process can be achieved with minimal staff impact. Training delivery looks at contemporary best practice and utilizes technology to provide this training in a convenient and consumable format. Election roles are matched against Public Sector grades and salaries are adjusted in line with whole of sector salary movements. Fatigue management is considered and addressed through increased staff numbers and various shift arrangements. Recruitment strategies include focusing on multicultural and indigenous communities and persons with disabilities.

As one identified success from the 2018 State election the VEC specifically sought to increase the number of persons under 25 years of age to register for election work. The registration target was set at 20%. This was achieved and then translated to 22% of the total appointed State election workforce being under the age of 25; by far the largest employed age group category.

CONCLUSION

So, these are the main challenges faced in Victoria. The changing behaviour of the elector and their shift to a voting period away from a single election day. How to benefit from the efficiency of technology in our election processes while mitigating risk and how to provide an appropriately skilled and competent temporary election workforce that can deliver voting services on the ground including the more senior casual roles with statutory responsibilities.

I don't think these challenges are unique to Victoria or any other EMB and they are able to be addressed through considered thinking, collaboration, consultation, smart process change coupled with the sensible use of technology. Yet as EMBs manage these challenges I will reiterate my earlier point that this must be done within the constraints of those fundamental ethical principles which form the basis of election administration and election conduct.

There are however many other challenges which I have not considered such as those associated with cyber security, social media, elector participation, informal voting, community inclusion and education. Perhaps these are topics for a future workshop!