

Liberty Audit:

The Lasting Impact of COVID-19
Policy on Civil Liberties

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Scheme

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1. Introduction

1.a Context

On the 30th of January 2020 the World Health Organisation (WHO) declared the outbreak of COVID-19 to be a 'Public Health Emergency of International Concern' (PHEIC).¹ COVID-19 was declared a pandemic by the Australian Government on the 27th of February 2020,² and on the 11th of March the WHO also elevated the outbreak's status to that of 'pandemic.'³ In response to the emerging situation, the state governments of Victoria and NSW began cancelling major public events.⁴ On the 18th of March, under Section 475 of the Biosecurity Act 2015, a 'Human Biosecurity Emergency' was declared in Australia by the Federal Government, presented as 'The Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) Declaration 2020.'⁵ For the next two years numerous policies and measures were initiated as part of the pandemic response, many being without precedent in the history of Australia's federation.⁶

¹ Statement on the second meeting of the International Health Regulations (2005) emergency committee regarding the outbreak of novel coronavirus (2019-ncov) (2020) World Health Organization. World Health Organization.

² Doherty, B. and Murphy, K. (2020) "Australia declares coronavirus will become a pandemic as it extends China travel ban," The Guardian, 27 February.

³ Who director-general's opening remarks at the media briefing on COVID-19 - 11 March 2020 (2020) World Health Organization.

⁴ Storen, R. and Corrigan, N. (2020) Covid-19: A chronology of state and territory government announcements (up until 30 June 2020), Research Papers – Parliament of Australia.

⁵ Covid-19 biosecurity emergency declaration (2020) FlagPost — Parliament of Australia.

⁶ Moulds, S. (2020) "Scrutinising Covid-19 Laws: An early glimpse into the scrutiny work of Federal Parliamentary Committees," *Alternative Law Journal*, 45(3), pg 180

On the 25th of March 2022, the Minister for Health and Aged Care, the Hon Greg Hunt MP announced that “the Biosecurity Emergency Determination relating to COVID-19 for Australia will not be renewed when it lapses on April 17.”⁷ Thus, a two-year period of extraordinary disruption to the lives of Australian citizens had supposedly ended. Yet certain pre-COVID norms have yet to be fully returned to, whilst other measures brought in under the auspices of COVID-19 response have been maintained and integrated into pre-existing policy structures.

1.b Purpose

The purpose of this report is to account for the residual impact of the Australian COVID-19 response; the concern being that certain measures taken during the pandemic could, if left in place in the long term, potentially alter the character of Australian democracy for the worse. This concern has been raised previously, including during the pandemic itself: "Failure to engage in a robust debate on the balance between civil liberties and public health will be detrimental to Australian democracy. The risk in the wake of this crisis is that extraordinary measures become normalised and human rights standards are permanently eroded."⁸ It is hoped that by conducting a ‘liberty audit,’ we may identify and avoid any ‘permanent erosion’ of civil liberties in Australia.

It is of great importance that an investigation of this kind takes place, as accountability is a key ingredient for the successful functioning of responsible

⁷ Australian Government Department of Health and Aged Care (2022) *Australia's biosecurity emergency pandemic measures to end*, Australian Government Department of Health and Aged Care.

⁸ Khalil, L. and Lemahieu, H. (2021) “Civil Liberties: COVID Response Has Weakened Rights,” in *Beyond Fortress Australia*. Sydney, NSW: Lowy Institute, pg 23.

government. Historically speaking, some of the greatest reductions in civil liberties across the globe have occurred in the wake of an emergency or crisis. Whilst there is no doubt that extraordinary times often necessitate extraordinary measures, it is also true that such measures can be excessive or kept in place longer than is justifiable. In a liberal democracy like Australia's, the responsibility falls on citizens and their elected representatives to ensure such excesses are addressed. The present report intends to serve such a purpose.

1.c Scope

There are many elements to Australia's federal and state government COVID-19 response worthy of critique. Each of these elements deserve their own dedicated investigations by individuals or groups equipped for the task.

This report will focus only on the residual impact COVID-19 policy has had on the civil liberties of Australians; specifically in the time since April 17th, 2022, when the 'Biosecurity Emergency' period officially ended. It is hoped that by investigating this angle, a clear conclusion can be reached as to whether Australian citizens are *in any way less free* than they were prior to the COVID-19 pandemic.

It is acknowledged that this investigation will not be exhaustive, and that larger reports will be required for such an assessment. Nonetheless, this report will serve to outline where the most significant problems lie, providing direction for future investigation.

2. Definitions

2.a Abbreviations and Acronyms

SARS-CoV-2	Severe Acute Respiratory Syndrome Coronavirus 2
COVID-19	Coronavirus Disease 2019
FOI	Freedom Of Information
WHO	World Health Organisation
PHEIC	Public Health Emergency of International Concern
NGO	Non-Governmental Organisation
AHPRA	Australian Health Practitioner Regulation Agency
AAT	Administrative Appeals Tribunal
HCW	Health Care Worker/s
CBA	Cost-Benefit Analysis
ICCPR	International Covenant on Civil and Political Rights
EPPO	European Public Prosecutors Office

2.b Defining ‘Civil Liberties’

‘Civil Liberty’ is defined by Encyclopedia Britannica as “Freedom from arbitrary interference in one’s pursuits by individuals or by government.”⁹ Civil liberty is often spoken of in the plural form of ‘civil liberties,’ since there are multiple conditions and factors that contribute simultaneously to the total liberty of an individual. As such, a single change in circumstances may have the effect of

⁹ Nolen, J.L. (2009) “Civil Liberty,” Encyclopedia Britannica.

enhancing some of an individual's civil liberties, whilst simultaneously suppressing others.

A government can impact the civil liberties of its population through the laws and policies it creates. Governments can have a positive impact on civil liberties by enacting laws and policies that enhance an individual's ability to freely go about their pursuits. Similarly, a government can negatively impact the civil liberties of its population by enacting laws and policies that cause arbitrary interference in their lives.

Though there are many ways in which a government may negatively impact the civil liberties of its population, the most egregious instances are perhaps those cases where a commonly respected right or freedom is explicitly infringed by way of legislation or regulation. Though the government response to COVID-19 in Australia has certainly seen instances of this type, it has by no means been the only lasting impact on civil liberties we have seen. "Arbitrary interference in one's pursuits by government" has also occurred in the form of broad policy strategies which, whilst not explicitly impacting civil liberties by design, still have the effect of causing such interference.

The lasting impact of COVID-19 policy on Australian civil liberties is not one that can be explained by reference to individual legislation alone. One reason for this is that when a policy is ended, it is not always the case that its impact immediately ends as well. Some policies initiated during the pandemic are still having an impact on Australians, despite having been ended months or years ago.

Another reason is that individual policies may, in isolation, have one impact, but when taken together with the impacts of other policies, produce a different outcome altogether. The phrase 'constellation effect' will be used to describe the situation where the respective impacts of various policies combine together to produce an unforeseen outcome.

Given the many ways in which government policy can come to leave a lasting impact on civil liberties, a broad approach has been taken when considering what factors to address. It is only through such an approach that a comprehensive analysis of policy impact may be achieved. When people were asked, for the purpose of this report, whether they felt less free now than before the pandemic, many of the answers given included reference to factors beyond those traditionally associated with civil liberties. For many people, the feeling of being 'less free' is related to burdens which they presently face and did not face before the pandemic. Examples given include financial pressures, health concerns, as well as pessimism and uncertainty for the future. As such, this report includes analyses of such impacts.

To best navigate the various ways in which COVID-19 policy has had a lasting impact on civil liberties in Australia, this report divides these impacts into two kinds. Where lasting impacts can be attributed to the explicit intentions of specific policies, such impacts are referred to as 'direct impacts.' Where continuing impacts on civil liberties are not traceable to a specific policy but have resulted unintentionally from a broad policy strategy or constellation effect, such impacts will be referred to as 'indirect'.

3. Direct Impacts

3.a Vaccine Mandates

It is known that when coercion, discrimination or force are employed to promote a given medical procedure, socially undesirable outcomes result.¹⁰ The healthcare worker performing the procedure risks violating the basic principles of medical ethics, whilst the unwilling subject suffers violation of their bodily autonomy.¹¹

Some Australians chose against receiving the vaccine for religious reasons, or due to limited data as to the side effects of the vaccine for pregnant women or those who are immunocompromised.¹² In a society that respects civil liberties, however, individual decisions about one's own bodily autonomy are supposed to be respected regardless of the reasons for that decision. No Australian should be coerced into receiving a COVID-19 vaccine. To recognise this is not only a matter of common decency, it is a matter of respecting human rights.

According to schedule II of the Australian Human Rights Commission Act 1986, the Australian Government is beholden to the International Covenant on Civil and Political Rights.¹³ According to Article 7 of this covenant, people have a right not to be subjected to medical or scientific experimentation without their 'free consent.'¹⁴ To be threatened with job loss for not receiving the vaccine is to be in a condition of duress, and so in such a condition, one cannot be said to

¹⁰ Varelius J, (2006) "The value of autonomy in medical ethics" 9(3) *Medicine Health Care Philosophy*, pp. 377-388

¹¹ *Ibid.*

¹² Bell, J. (2021) *Will Workplace Bullying Rise as a Result of COVID-19 Vaccines?*, HRD Australia. Human Resources Director Australia

¹³ Australian Human Rights Commission Act 1986 (Cth).

¹⁴ *Ibid.*

have given free consent.¹⁵ As a matter of civil liberties, no Australian should have to choose between maintaining this right and keeping their job. Recently, both Australian territories have recognised the inappropriateness of vaccine mandates, but with the exception of Tasmania, each state government still has in place vaccine mandates of some kind (see figure 1).

Vaccination Mandates as of 25th October			
According to State and Territory Government Websites			
State	Government Vaccine Mandates	No Government Vaccine Mandates	Relevant Job
Australian Capital Territory		X	NA
Northern Territory		X	N/A
New South Wales	X		Disability worker, aged care worker, NSW Health employees
Queensland	X		Disability worker, aged care worker, Queensland Health employees
South Australia	X		Disability worker, aged care worker, paramedics and hospital staff (public and private)
Tasmania		X	N/A
Victoria	X		Aged care worker, paramedics and hospital staff (public and private)
Western Australia	X		Disability worker, aged care worker, paramedics and hospital staff (public and private)

NOTE: 'State government health staff' can include: health care providers, assistant nurses, enrolled nurses, registered nurses, doctors, allied health practitioners, administration and support staff.

Figure 1, Assembled by Jack Mencil.

Aside from the lasting impact mandates have had for the free choice of Australians with respect to bodily autonomy, many Australians have experienced additional impacts as a result of bullying.

Except for a limited effect on early, now-extinct variants, COVID-19 vaccinations do not stop transmission of COVID-19, nor was this capability tested for in their production.¹⁶ It also became apparent early on that naturally acquired immunity offers greater protection than that resulting from vaccination, particularly from the delta variant onwards.¹⁷ These facts did not stop the Australian government from framing one's decision about vaccination as primarily about caring for others in the community (see figure 2). This campaign approach led to ostracization and bullying of individuals who have

¹⁵ Fam, P. (2022) *Reclaiming Medicine*. Australian Medical Professionals' Society

¹⁶ Reuters Fact Check (2022) Fact Check - Preventing Transmission Never Required for Covid Vaccines' Initial Approval; Pfizer Vax Did Reduce Transmission of Early Variants, Reuters. Thomson Reuters.

¹⁷ Steenhuisen, J. and Mishra, M. (2022) Prior COVID Infection More Protective Than Vaccination During Delta Surge -U.S. study, Reuters. Thomson Reuters.

chosen not to be vaccinated, particularly in industries where mandates were introduced.¹⁸ Beyond the many media reports covering this issue, its prevalence was reinforced by discussions undertaken for this report. Regrettably, anxiety caused by job loss resulting from the vaccine mandates has been recognised as extending even to children in affected families.¹⁹



Figure 2. Australian Government Department of Health and Aged Care (2022) COVID-19 Vaccines Campaign Print Ads and Posters, Australian Government Department of Health and Aged Care.

3.a Regulation of Speech

Another direct and lasting impact on civil liberties caused by COVID-19 policy is the regulation of speech, particularly within the medical community.

Decades of respect for civil liberty in Australia has empowered civil society to produce its own set of checks on government in the form of various organisations and institutions. These non-governmental organisations (NGOs) serve to influence political debate within Australia, without being directly

¹⁸ Chung, F. (2022) 'Disgusted': WA Police Speak out Against Vaccine Mandates in Controversial Survey, News.com.au. Nationwide News Pty Ltd

¹⁹ Australian Human Rights Commission (2022) 'Mental health shapes my life': COVID-19 & kids' wellbeing. Sydney, NSW, pg 9.

involved as a government body or political party. Often when there is a political debate pertaining to a specific policy area, NGOs and individuals specialising in that policy area rise to become leading contributors to the public policy debate.

Whilst non-governmental health organisations certainly contributed to the public debate regarding the COVID-19 pandemic response, their usual role as a check on government bodies and political parties was significantly nullified as a result of the joint statement²⁰ given on March 9 2021 by the Australian Health Practitioner Regulation Agency (AHPRA) and National Boards. Crucially, this statement declared that "Any promotion of anti-vaccination statements or health advice which contradicts the best available scientific evidence or seeks to actively undermine the national immunisation campaign (including via social media) is not supported by National Boards and may be in breach of the codes of conduct and subject to investigation and possible regulatory action."²¹ In effect, this statement served to prevent Australian medical NGOs and individual HCWs from presenting any view on this issue that dissented from the Australian Government position.

This regulation threatens the integrity of the scientific method, as it does not allow for free expression should a situation arise where 'the best available evidence' contradicts the 'national immunisation campaign'. As acknowledged by the Medical Indemnity Protection Society for Health Practitioners, "Views

²⁰ AHPRA and National Boards (2021) Registered Health Practitioners and Students: What You Need to Know About the COVID-19 Vaccine Rollout, Australian Health Practitioner Regulation Agency & National Boards. Australian Government.

²¹ Ibid.

expressed which may be consistent with evidence-based material may not necessarily be consistent with public health messaging.”²²

The restrictions outlined in the AHPRA position statement call into question the appropriate role of such a body. It seems intuitively clear that in granting accreditation to a HCW, bodies like the AHPRA are providing the recipient with formal acknowledgement of their expertise and professional capability to provide trustworthy medical treatment and advice. Medical professionals are entrusted with this authority, and thus allowed to make judgements and recommendations on matters of health daily. It is uncertain why this authority should be retracted when dealing with COVID-19, as though medical professionals are suddenly not to be trusted to lend their expertise to the matter.

By silencing the Australian medical community, the AHPRA silenced the segment of society most qualified to contribute to the public debate over COVID-19 policy. This decision therefore seems to have been an irresponsible approach to dealing with the COVID-19 pandemic. If an Australian HCW issues a public statement raising concerns over the safety of an approved vaccine, it may be seen as 'undermining the national immunisation campaign,' risking 'regulatory action' and the ruining of their career. This exact situation has played out numerous times since the regulation's introduction.²³ Thus, the APHRA, a statutory body, has curbed the free expression of key players within civil society, disrupting the balance between government and civil society, as well as the civil liberties of individual medical professionals. It is concerning

²² Spencer, D. and McGrath, P. (2022) Medical Indemnity Protection Society, 12 Commandments to avoid AHPRA notifications.

²³ Weisser, R. (2022) Vanishing Vaccine Mandates, The Spectator Australia.

that, at the time of writing, this regulation has remained in place, and even been enshrined into Queensland Law through the Health Practitioner Regulation National Law and Other Legislation Amendment Act 2022.²⁴

4. Indirect Impacts

4.a Government Transparency

When governments lack transparency, citizens are left with less information about the policies effecting their lives. As such, a lack of government transparency deprives citizens of the ability to fully participate in the democratic process, impacting their civil liberties.

The COVID-19 pandemic in Australia saw the dawn of a new governmental entity, referred to as ‘National Cabinet’. Introduced in March 2020 for the purpose of coordinating the emergency response across state and federal governments, the ‘National Cabinet’ replaced the ‘Council of Australian Governments.’²⁵ Many important COVID-19 policy decisions were made by this body, decisions that affected every Australian, and yet attempts to shed light on the discussions being had in this decision-making process were refused “on the ground they were records of a committee of the federal cabinet and therefore exempt from disclosure.”²⁶ Then-Senator Rex Patrick successfully challenged this refusal in review proceedings before the Administrative Appeals Tribunal,²⁷ yet despite being granted his FOI request, National Cabinet

²⁴ Health Practitioner Regulation National Law and Other Legislation Amendment Act 2022, (Qld)

²⁵ Twomey Professor of Constitutional Law, A. (2021) Nowhere to Hide: The Significance of National Cabinet Not Being a Cabinet, *The Conversation*.

²⁶ *Ibid*.

²⁷ Murphy, K. (2021) Rex Patrick Wins FOI Case to Release National Cabinet Records, *The Guardian*. *Guardian News and Media*.

resumed its practice of secrecy-by-default, in contravention of the AAT's ruling that 'national cabinet' was not a legitimate 'cabinet'.²⁸

Secrecy of the kind seen with National Cabinet "reduces transparency and accountability", and "may implicate the right to freedom of expression by unnecessarily restricting the open communication of information to, and by, the public."²⁹ Removal of this secrecy may help shed light on the reasoning behind the decision to spend over \$17 billion AUD in taxpayer money on COVID-19 vaccines,³⁰ over 75% of which still haven't been used³¹ despite more than 95% of Australian's having been fully vaccinated.³²

It could also shed light on the decision-making process behind the use of lockdowns. As of the time of writing, it has not been revealed whether any Australian government, be it state or federal, performed a cost-benefit analysis (CBA) of lockdowns prior to its implementation as a policy strategy. Whilst we do not know if Australian governments performed such a CBA, we do know that they chose to disregard pre-existing health advice around the harms and unsustainability of lockdowns.³³ Notably, for peer governments overseas that did conduct CBAs, keeping the results secret from the public enabled them to either accept the disproportionate harms expected³⁴ or ignore them outright.³⁵

²⁸ Drum, P. (2021) *The Debate over National Cabinet*, *Law Society Journal*. LSJ Media

²⁹ Croucher, R. (2021) "Australian Human Rights Commission Submission to Inquiry into the COAG Legislation Amendment Bill 2021."

³⁰ Australian Government Department of Health and Aged Care (2022) *Australia's Vaccine Agreements*.

³¹ Lowrey, T. (2022) *What Will Australia do with its Millions of Unused COVID Vaccines?*, ABC News

³² Australian Government Department of Health and Aged Care (2022) *Vaccination Numbers and Statistics*

³³ Foster, G. and Frijters, P. (2022) *Hiding the Elephant: The Tragedy of COVID Policy and Its Economist Apologists*. rep. Bonn, Germany: IZA Institute of Labour Economics, pg 9.

³⁴ Knapton, S. (2020), 'Lockdown May Cost 200,000 Lives, Government Report Shows', *The Telegraph*, 9 July.

³⁵ Dutch Ministry of Economic Affairs, 10 documents related to internal CBA released after a freedom-of-information request in February 2021.

This continuing lack of transparency makes it difficult for Australians to know the trade-offs that were being considered between health and economic outcomes.³⁶ It also allows leaders to mask political calculations,³⁷ impacting the ability of Australians to make informed voting decisions at election time. As of the time of writing, National Cabinet continues operating in this fashion, despite the election promises of a new federal government to remove the secrecy.³⁸ The new government has simply cited grounds different to those rejected by the AAT, claiming the same degree of secrecy over its deliberations.³⁹ Thus, the impact on the civil liberties of Australians remains the same.

4.b Financial Impact

When a person faces significant financial burdens, their ability to exercise civil liberties is impacted too. People are less free if they are impoverished, as they lack the freedom to live the lives they see fit and realize the goals that they value.⁴⁰

The COVID-19 pandemic caused significant economic turmoil around the world, and in turn, a significant financial burden for many people. This economic turmoil was the result of numerous factors, far too many to account for in totality. Illness caused by the coronavirus forced employees to take time off of work, and many were left with residual health issues that further

³⁶ Shergold, P. et al. (2022) Fault Lines: An independent review into Australia's response to COVID-19. rep. John and Myriam Wylie Foundation, Minderoo Foundation and the Paul Ramsay Foundation, pg 28.

³⁷ Ibid.

³⁸ Karp, P. (2022) Anthony Albanese Backflips on National Cabinet Secrecy and Refuses to Say Why, The Guardian. Guardian News and Media

³⁹ Crowe, D. (2022) New Disclosure Test for Anthony Albanese on National Cabinet, The Sydney Morning Herald.

⁴⁰ Graf, G. and Schweiger, G. (2014) "Poverty and Freedom," Human Affairs, 24(2), pg 258.

impacted their ability to work in the long term. This has impacted businesses across all industries, as employers were left to tackle reduced efficiency and fluctuating staff levels. Global supply chain disruptions have seen the price of food and resources spike, whilst shortages of key components have bottlenecked production for entire industries.

These impacts and those associated, such as rising inflation, represent global trends which Australia has not escaped. A substantial part of this economic turmoil is directly attributable to policy decisions made by governments around the world in response to the COVID-19 threat, with lockdowns being the most damaging of all.⁴¹ As small businesses closed, mega-corporations capable of operating through lockdown conditions grew to fill the gap in supply, resulting in one of the largest wealth transfers in history.⁴² Only two years into the pandemic, the combined wealth of the world's ten richest people had already more than doubled, from \$700 billion to \$1.5 trillion USD, whilst 99% of the world's population saw their income decrease in the same period.⁴³

Little can be done about the many ways where Australia's economy was negatively impacted by the policy decisions of foreign governments. It is therefore not accurate to place blame for the resulting conditions squarely on Australian government policies. However, it is also inaccurate to suggest that Australian government policies bare no culpability for the current economic situation in Australia.

⁴¹ Mandel, A. and Veetil, V. (2020) "The economic cost of Covid Lockdowns: An out-of-equilibrium analysis," *Economics of Disasters and Climate Change*, 4(3), pp. 431–451.

⁴² John, M. (2021) *Pandemic Boosts Super-Rich Share of Global Wealth*, Reuters. Thomson Reuters.

⁴³ Thériault, A. and Leclercq, B.T. (2022) *Ten Richest Men Double Their Fortunes in Pandemic While Incomes of 99 Percent of Humanity Fall*, Oxfam International

In reality, much of the damage done to Australia's economy during the pandemic period can be directly attributed to decisions made by state and federal governments within Australia. In Australia, "the consensus is that restrictions and economic decline are causally linked."⁴⁴

Lockdowns interfered with young people's education, leaving a lasting impact on their future and the future of the Australian economy generally. It has been estimated that, at a lower bound figure, school closures during lockdowns will cause those children a future wage loss of between \$50 and \$100 million AUD.⁴⁵ It should be noted that this estimate only accounted for the closures mandated through to mid-June of 2020. As such, the actual impact of this policy is certainly much greater.

During the lockdown period, insolvencies in Australia were estimated to be the highest in the world.⁴⁶ Many of these businesses did not reopen after the lockdowns.⁴⁷ When job keeper payments ended in May 2021, a total of \$291 billion had been spent in emergency support.⁴⁸ The need for such payments came largely from the economic devastation the government lockdown measures caused.⁴⁹

⁴⁴ Foster, G. (2020) Cost-Benefit Analysis COVID-19. Tabled Document from Round Two Hearings 12/8/20, Inquiry Into the Victorian Government's Response to the COVID-19 Pandemic, pg 3.

⁴⁵ Foster, G. and Frijters, P. (2022) Hiding the Elephant: The Tragedy of COVID Policy and Its Economist Apologists. rep. Bonn, Germany: IZA Institute of Labour Economics, pp. 7-8

⁴⁶ Smid, T. and Ciobica, I. (2021) 2021: A Turn of the Tide in Insolvencies, Atradius

⁴⁷ Foster, G. and Frijters, P. (2022), pg 4.

⁴⁸ Australian Government Treasury (2021) Economic Response to COVID-19.

⁴⁹ Shergold, P. et al. (2022) Fault Lines: An independent review into Australia's response to COVID-19. rep. John and Myriam Wylie Foundation, Minderoo Foundation and the Paul Ramsay Foundation, pg 28.

Government policies impacted the potential for financial recovery between lockdowns also. Even at times when a state had zero or minimal cases, stringent public health regulations around social distancing meant that the economic advantage of low case-numbers could not be capitalised on.

The lasting impact of such policies can be seen in the financial burden Australians now face. Inflation has reached a historic 7.3%,⁵⁰ seeing food costs increase by almost 6 per cent between June 2021 and June 2022, and transport costs increase by more than 13 per cent.⁵¹ Anxiety around "having enough money for basic things, like food and paying bills" has become an everyday concern for many Australians, permeating even to children in affected families.⁵²

Like many economic factors, the exact extent to which rising inflation can be attributed to government policy is difficult to determine with certainty. According to Economist Gigi Foster, though, there is enough evidence to say that lockdown policies have had an impact, and that this impact "has been severe enough to imply a direct curtailment of normal freedoms."⁵³

With a simple look at fiscal and monetary policy in Australia during this period, it is difficult to reach an alternative conclusion. The Deputy Governor of the Reserve Bank of Australia (RBA), Michelle Bullock, reported that between November 2020 and February 2022, the RBA purchased \$281 billion AUD of

⁵⁰ Mudditt, J. (2022) Why is Australia's Inflation Rate So high?, Forbes. Forbes Magazine.

⁵¹ Australian Bureau of Statistics. (2022). Consumer price index, Australia.

⁵² Australian Human Rights Commission (2022) 'Mental health shapes my life': COVID-19 & kids' wellbeing. Sydney, NSW, pg 9.

⁵³ Foster, G. (2022) Conversation on the Lasting Impact of COVID19 Policy on Civil Liberties.

federal and state bonds through its quantitative easing programme.⁵⁴ Given broad money supply as of September 2022 was \$2779 billion,⁵⁵ it would appear that roughly 10% of Australian dollars currently in circulation were injected into the economy during the two-year period of pandemic-induced economic crisis. What's more, Australian Government gross debt over this same period increased from \$534.4 billion in March 2019 to \$885.5 billion in April 2022.⁵⁶ That is a 60% increase in national debt over less than three years. Australians will be paying this debt off for decades to come, and less free as a result.

4.c Health Impact

Put simply, people are unable to fully utilise their civil liberties if they are ill or deceased. COVID-19 posed a threat to the health of Australians and continues to do so. However, as of September 30th, 2022, people with pre-existing chronic conditions have accounted for 79.9% of Australian COVID deaths.⁵⁷

Clearly the threat posed by COVID-19 is not one that extends equally across the entire population. Though this was recognised early,⁵⁸ government COVID-19 policies such as lockdowns were implemented across the entire population, against expert advice.⁵⁹ Evidence is mounting as to the catastrophic long-term health impact this approach has had.

⁵⁴ Dillon, T. (2022) RBA Justifies its QE to QT, but did it Drive Inflation?, Firstlinks. Morningstar

⁵⁵ Australia Money Supply, Billion Currency Units, September, 2022 (2022) TheGlobalEconomy.com.

⁵⁶ O'Brien, G. (2022) Australian Government Debt in Historical and International Perspective. Australian Parliamentary Library.

⁵⁷ Australian Bureau of Statistics (2022) Covid-19 Mortality in Australia: Deaths Registered Until 30 September 2022, Australian Bureau of Statistics

⁵⁸ Australian Bureau of Statistics (2020) Covid-19 Mortality in Australia, Deaths Registered to 31 August 2020, Australian Bureau of Statistics. Australian Government.

⁵⁹ Shergold, P. et al. (2022) pg 25.

Cancers remained undiagnosed with more than 150,000 fewer diagnostic procedures than expected.⁶⁰ When looking at current rates of alcoholism, we find that across Australia, alcohol-induced deaths are at their highest rate in 10 years.⁶¹ This rise occurred in the last 2 years, likely due to the government policy decisions that closed beaches, gyms and churches whilst declaring bottle shops an 'essential service'. According to one doctor commenting on the impact this sudden rise in alcoholism has had at his hospital: "the occupancy of ICU resources attributable to direct alcohol related critical illness is, at times, using up 25% of available resources. This is about 10 times the critical care burden attributable to COVID-19, on average, over the last three years at the hospital."⁶² In general, it is thought that it could take "a decade for Australia to reverse the impacts of deferred primary care and preventative treatment."⁶³

Mental health was severely impacted too. "52 per cent of Australians aged 18–24 have reported that their mental health declined during the pandemic,"⁶⁴ and this impact was particularly severe for young people.⁶⁵ In a recent survey, about 1 in 4 children said they "felt more down, scared or worried than they did before the pandemic," and notably, 'missing out on things I look forward to' and 'less time with friends and family in person' were ranked as greater worries than 'catching and spreading COVID-19.'⁶⁶

⁶⁰ Shergold, P. et al. (2022) pg 45

⁶¹ Davey, M. (2022) 'Alcogenic Society': Australian Hospitals See Steep Rise in Severe Alcohol-Related Disease, The Guardian

⁶² Ibid.

⁶³ Shergold, P. et al. (2022) pg 45

⁶⁴ Sweeney, L., & Salmin, D. (2021). Young people are struggling the most with their mental health. Here's what they've learned from asking for help. ABC News.

⁶⁵ Shergold, P. et al. (2022) pg 23

⁶⁶ Australian Human Rights Commission (2022) 'Mental health shapes my life': COVID-19 & kids' wellbeing. Sydney, NSW, pg 4.

New research out of America shows that due to masks mandates, lockdowns and other factors, pandemic-born babies score two standard deviations lower on developmental and cognitive tests than those born pre-pandemic.⁶⁷ The situation in Australia is likely the same or worse, due to our more stringent measures. Even for children born pre-pandemic, school closures have impacted learning abilities,⁶⁸ and the eating, physical exercise and sleeping patterns of many children changed for the worst during the pandemic.⁶⁹

In total, the COVID-19 policy constellation has had a disastrous impact on the long-term health of Australians. Excess mortality sits between 16% and 17% higher than the historical average (see figure 3) and similar trends in excess deaths have been observed overseas in countries with lockdown policies and high vaccination rates (see figure 4).

⁶⁷ Deoni, S., Beauchemin, J., Volpe, A., & D'Sa, V. (2020). The COVID-19 Pandemic and Early Child Cognitive Development: A Comparison of Development in Children Born During the Pandemic and Historical References. RESONANCE Consortium.

⁶⁸ Shergold, P. et al. (2022) pg 30.

⁶⁹ Australian Human Rights Commission (2022) pg 6.

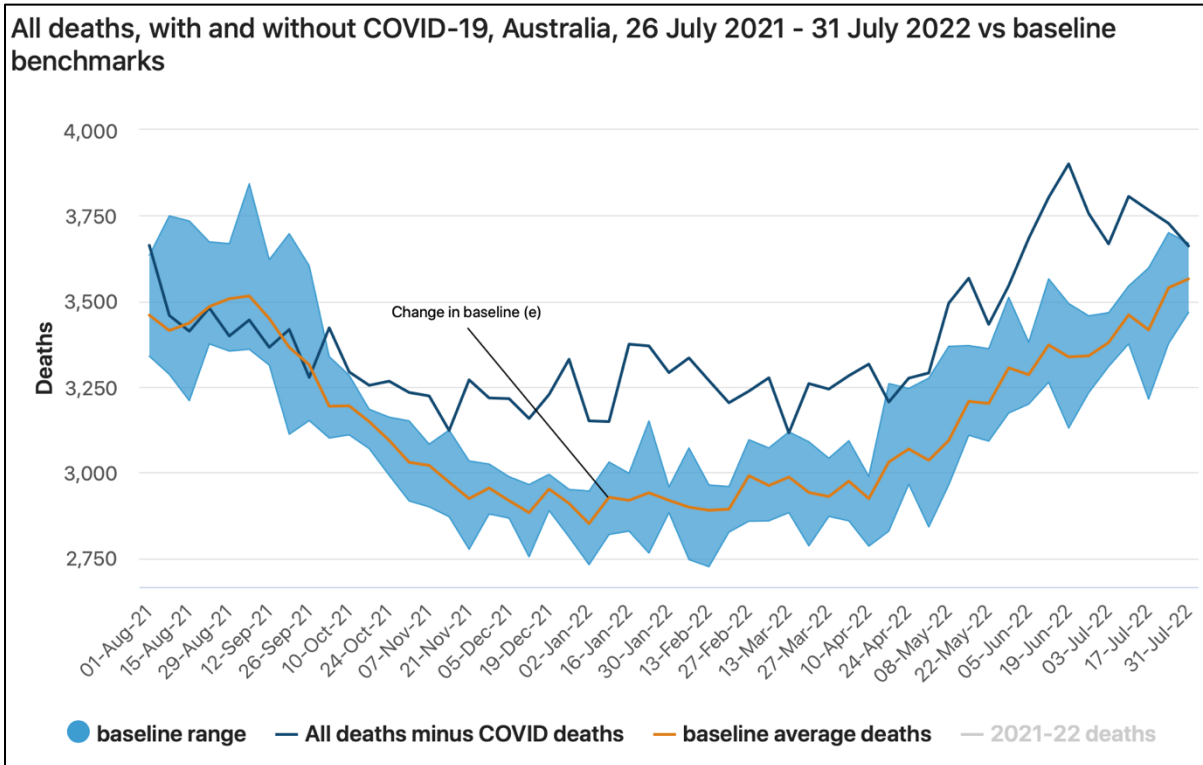


Figure 3: Australian Bureau of Statistics (2022) Provisional Mortality Statistics, Jan - Jul 2022, Australian Bureau of Statistics. Australian Government.

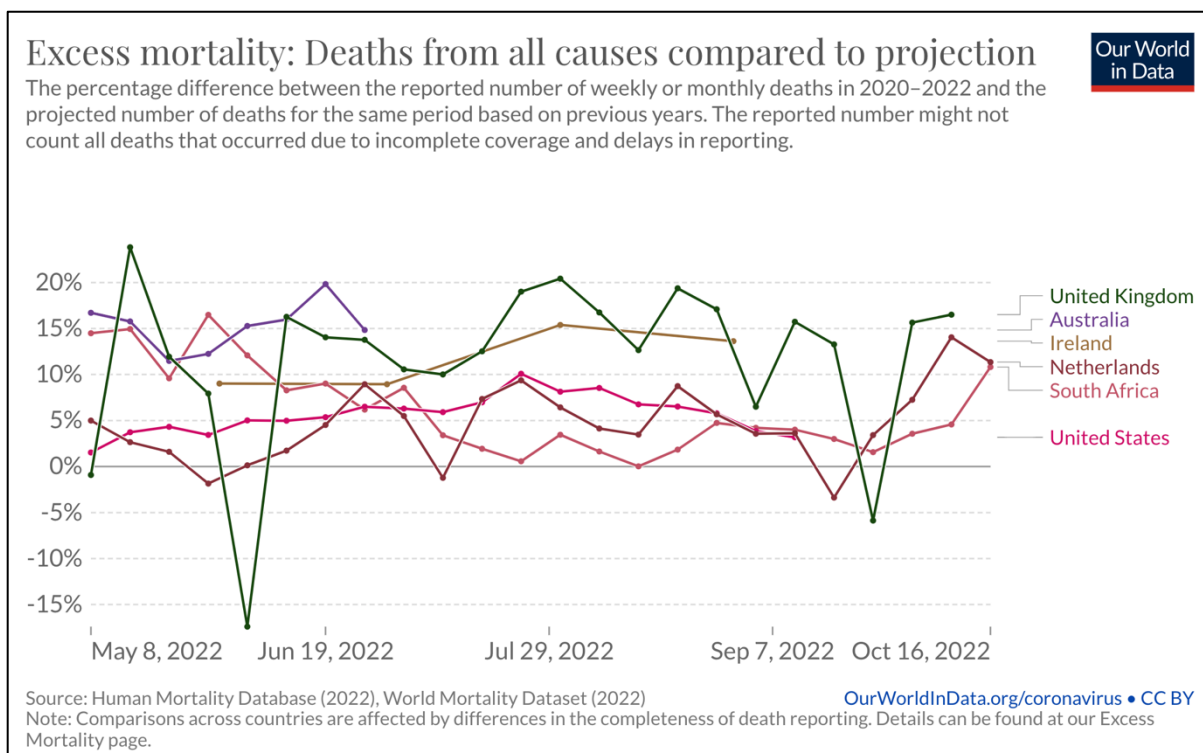


Figure 4: Excess Mortality: Deaths From All Causes Compared to Projection (2022) Our World in Data.

5. Recommendations

5.a Remove COVID-19 Vaccine Mandates

This recommendation is straightforward. There are simply too many human rights concerns surrounding the policy of mandating COVID-19 vaccines, which at the time of writing, New South Wales, Queensland, South Australia, Victoria and Western Australia still have in place. It is recommended that these mandates be removed immediately, and only revisited after a full inquiry by the AHRC.

In late October, 2022, Danielle Smith, the Premier of Alberta, Canada, apologised to the people in her province that had been victimised by vaccine discrimination. She said: "I am deeply sorry for anyone who was inappropriately subjected to discrimination as a result of their vaccine status. I am deeply sorry for any government employee that was fired from their job because of their vaccine status, and I welcome them back if they want to come back."⁷⁰ Australia's leaders would do well to offer such an apology also.

5.b Remove Speech Regulation

This recommendation is also straightforward. The liberal-democratic tradition, of which Australia is a part, has long recognised the importance of free-speech. Freedom of thought and expression allows for a 'marketplace of ideas' which in turn produces the best solutions to society's problems.

⁷⁰ Colton, E. (2022) Canadian Leader Considers Dropping COVID Lockdown Charges, Apologizes to Unvaccinated, Fox News.

This is no different in the medical and scientific community, where, as heir to this same liberal tradition, free thought and debate is recognised as critical for the achievement of optimal outcomes. The regulation of speech by AHPRA and the National Boards represents a dangerous departure from this tradition.

The liberal-democratic tradition has also long recognised the importance of separating key power centres away from the broader state apparatus.

Adherence to this tradition is exemplified in the separation of church and state, and the independence of the reserve bank, amongst many other examples. It is unclear why this time-proven approach is now being so hastily discarded in the case of government relations with the medical community. It is particularly baffling given the rapidly-mounting evidence that government-directed health mandates of the last three years have caused great harm. To prevent the corruption of science, there ought to be a separation between the state and the crucial part of civil society that is the medical community.

Regulation of speech by AHPRA, a statutory body, severely damages this separation of power, setting a concerning precedent.

It is for these reasons that the AHPRA regulations set by the March 9th 2021 statement must be reversed. It is also for these reasons that the 'Health Practitioner Regulation National Law and Other Legislation Amendment Act 2022' is highly concerning. Members of the Parliament of Queensland are encouraged to revisit and reconsider this legislation.

5.c Launch Investigations into Australia's COVID-19 response

Australia's policy response to COVID-19 represents a monumental event in our political history. It is difficult to find another time in which government

measures so heavily restricted the lives of so many Australians for so long. Despite this, many in power appear far too eager to move on as though it never happened. If the civil liberties of Australians are going to be protected in the long term, there must be accountability when infringements occur.

It is recommended that a Royal Commission be launched to investigate the state and federal government handling of COVID-19. It is also recommended that the AHRC fulfill their statutory responsibility and launch a full inquiry into the impact of COVID-19 policy on human rights and civil liberties in Australia.

Another matter worthy of investigation is the decision-making process and contractual agreements behind the spending of over \$17 billion AUD in taxpayer money on COVID-19 vaccines.⁷¹ This decision appears to have been made on minimal evidence, given that the orders were placed at a time when the product had not yet been produced, and received at a time when "the submitted safety data [was] only short term"⁷² and "the duration of protection [was] not yet known."⁷³

In the European Union, where vaccines were purchased under similar conditions, the European Public Prosecutors Office has confirmed they are conducting an "ongoing investigation into the acquisition of COVID-19 vaccines in the EU."⁷⁴ The investigation is motivated by the seemingly reckless use of taxpayer money by top leaders of the European Commission, who chose to

⁷¹ Australian Government Department of Health and Aged Care (2022) Australia's Vaccine Agreements.

⁷² Therapeutic Goods Administration, Australian Government Department of Health (2021) Australian Public Assessment Report for BNT162b2 (mRNA), pg 33

⁷³ Ibid. pg 34

⁷⁴ Ongoing EPPD Investigation Into the Acquisition of COVID-19 Vaccines in the EU (2022) European Public Prosecutor's Office. European Union.

purchase ten vaccine doses per citizen.⁷⁵ Like in Australia, the exact details of the agreements have been kept secret from the public. It is thus recommended that a similar investigation be undertaken here by an equivalent body, such as the Attorney-General's Department.

Aside from questions regarding the use of taxpayer money in the acquisition of vaccines, there are questions surrounding the processes that approved these vaccines for widespread use by the Australian population. As of the time of writing, all COVID-19 vaccines being used in Australia are only being done so under provisional approval.⁷⁶

The Therapeutic Goods Administration's 'provisional approval pathway' is used for therapeutic goods with "the potential for a substantial benefit to Australian patients... [where] the benefit of early availability of the medicine outweighs the risk inherent in the fact that additional data are still required."⁷⁷ The use of this system has obvious benefits, particularly for new therapeutic goods designed to help people who are facing terminal illness or suffering from severe chronic ailments. However, when a therapeutic good is made accessible through provisional approval, the proportion of the general population who uses that good is typically very small. As a consequence, the impact of any adverse events that may result from the therapeutic good will also be restricted to a very small proportion of the general population.

⁷⁵ European Union: More Empty Promises About Global COVID-19 Vaccine Equity? (2021) Médecins Sans Frontières (MSF) International.

⁷⁶ Therapeutic Goods Administration, Australian Government Department of Health (2022) COVID-19 Vaccine: Provisional Registrations

⁷⁷ Therapeutic Goods Administration, Australian Government Department of Health (2018) Provisional Registration Process.

This is very different to the situation seen with COVID-19 vaccines, which despite having only existed for less than two years, saw use by over 95% of the Australian population through the TGA's 'provisional approval pathway'. For instance, at the time of approval, it was recognised that while it is “unlikely for vaccine-related adverse events to occur more than 2 months after vaccination... [the] limited information on the use of mRNA vaccine in humans underpins the need for post market vaccine safety surveillance.”⁷⁸ Were this ‘safety surveillance’ to discover a side-effect which only reaches expression 2 years after administration, it would be too late for the 95% of Australians who had already received it. Vaccine injuries reduce one’s capacity to live a healthy and fulfilling life. As such, an investigation must be conducted as to whether the TGA's 'provisional approval pathway' was used appropriately and responsibly during the COVID-19 pandemic.

5.d Creation of Legally Enforced Australian Bill of Rights (Australian Human Rights Charter)

This lasting impact of COVID-19 policy on civil liberties has reinforced the very clear need for an Australian Human Rights Charter.

According to the United Nations, "basic rights and fundamental freedoms are inherent to all human beings, inalienable and equally applicable to everyone."⁷⁹ As such, a person can be said to have these rights and freedoms, irrespective of whether they have been recognised or legally enshrined by the authorities of the country they live in.

⁷⁸ Therapeutic Goods Administration, Australian Government Department of Health (2021) pg 37.

⁷⁹ United Nations (2015) The foundation of International Human Rights Law, The Foundation of International Human Rights Law . United Nations.

Thankfully, Australia does recognise internationally enshrined rights and liberties. This recognition is attested by our signatory agreement to be bound by the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and many other international covenants.⁸⁰

Australia does not, however, have at the federal level, a bill of rights, and we are currently the only democracy to not have such a document⁸¹ this must change so that civil liberties can be simply and clearly understood by citizen and authority alike, and protected accordingly. This protection will help Australians, not only during future pandemics, but in general.

It should be noted that this same recommendation has been made by the Law Council of Australia, as “a Charter could provide an important tool by setting out a framework under which human rights must be protected, respected and fulfilled in a crisis. It would ensure that these obligations are embedded into legislative processes from the outset. It would also provide an established framework for resolving tensions when different rights conflict and difficult policy decisions must be taken.”⁸²

⁸⁰ Australian Human Rights Commission (2022) Human Rights Explained: Fact Sheet 7: Australia and Human Rights Treaties, The Australian Human Rights Commission. Australian Government

⁸¹ Williams, G. (2006) "The Victorian Charter of Human Rights and Responsibilities: Origins and Scope" *MelbULawRw* 27; (2006) 30(3) *Melbourne University Law Review* 880.

⁸² Law Council of Australia (2020) *Inquiry into the Australian Government's response to the COVID-19 pandemic*. Canberra, ACT: Law Council of Australia, pg, 43.

6. Conclusion

6.a Still the Land of the 'Fair Go?': The Impact On Australian Identity

Australia's reputation on the world stage has traditionally been one of an easy-going nation that respects human rights, the rule of law, and the dignity of the individual. It is possible that, as a consequence of the government response to COVID-19 in Australia, this reputation has been tarnished. With some of the harshest measures in the world, Australia's extreme COVID-19 response made international news on multiple occasions during the pandemic.⁸³ One need only consult the 'comment' sections of such articles and videos to see the negative shift in perceptions about Australian society.

For many people living within Australia, the government's worst excesses will be remembered as isolated examples, placed within the context of a time that has since passed. For people living outside of Australia, and particularly those who have not visited here before, the negative impression given by these reports could be far longer lasting. Reports with the potential to leave such an impression would include the international news story⁸⁴ that Melbournians, having at that stage endured over 200 days of lockdowns since the pandemic began,⁸⁵ had their public protests met with the first ever crowd-control use of rubber bullets by Australian police.⁸⁶

⁸³ DW News (2021) Australia's Lockdowns Among Harshest in the World | COVID-19 Special. Deutsche Welle.

⁸⁴ OpIndia Staff (2021) Australia: Police Resort to Tear Gas and Rubber Bullets as Thousands of People Across the Country Hit the Streets Against the Strict lockdown, OpIndia. Aadhyaasi Media And Content Services Private Limited.

⁸⁵ Cole, C. (2021) Melbourne Lockdown Dates 2020, 2021 and 2022, Platinum Accounting & Taxation.

⁸⁶ Silvester, J. (2021) Pepper Balls and Stinger Grenades: The Weapons Police are Using Against Demonstrators, The Age. The Age.

The resemblance such practices bore to those seen in authoritarian countries was recognised as having a particular impact on the "many [disadvantaged Australians who have] moved to Australia from violent and/or war-torn countries. When police and troops came on the streets to enforce lockdown, it sometimes looked to them more like martial law than humanitarian relief."⁸⁷ If Australia is to continue to attract immigrants, we must leave such people confident that, in coming here, they will not be subjected to unnecessary government interference in their lives.

The same can be said for attracting international students. In a survey of more than 1,000 agents in more than 70 countries, Australia's reputation as a study destination was shown to have plummeted as the pandemic progressed.⁸⁸ By November 2021, only 50% of survey participants agreed that Australia is a "safe and stable place for international students," and only 20% agreed that Australia is an "open and welcoming place for international students."⁸⁹ Despite this, a survey of 2222⁹⁰ Australians in March of that year found that almost all (96%) believed Australia's response to COVID-19 will have a 'very positive' or 'positive' influence on Australia's reputation in the world.⁹¹

The impact of COVID-19 policy on Australia's international reputation, whatever its extent, is clearly distinct from its impact on civil liberties. Nonetheless, it is an impact that Australia's leaders must contend with, not only due to its impact on immigration, but also because of its impact on our

⁸⁷ Shergold, P. et al. (2022), pg 23

⁸⁸ Chew, J. (2021) Australia's Reputation Reaches Lowest Point – No Clear Plan for the Recovery of International Students, Navitas Insights.

⁸⁹ Ibid.

⁹⁰ Lowy Institute (2021) Methodology – 2021, Lowy Institute Poll

⁹¹ Kassam, N. (2021) Australia's Reputation Overseas, Lowy Institute Poll 2021. Lowy Institute.

ability to influence events overseas. As recently as 2020, Australia led the world in condemning brutal police crackdowns and human rights violations taking place overseas.⁹² Given events since then, it's unlikely that future condemnations will carry the same level of authority.

This potential reputational impact is also something Australian citizens must contend with. As time passes, Australians will have an opportunity to consider the new precedents set by this chapter in our history. This may have the effect of altering the way Australian citizens self-conceptualise their Australian identity and perceive of themselves in relation to government authority.

6.b Final Remarks

The findings of this report suggest the uncomfortable conclusion that Australians *are less free* now than they were before the pandemic. The answer to the question 'how much less free?' is complex and differs greatly from one Australian to the next.

One significant factor in this difference is that person's field of employment. As made very apparent by this report's findings, Australian's working in the field of healthcare are subject to a disproportionate share of the lasting impact to civil liberties. Whilst the economic fallout of COVID-19 policies have impacted the civil liberties of all Australians to some extent, this is similarly an area where one portion of Australian society, those of limited financial means, have had their civil liberties particularly affected.

⁹² Bagshaw, E. (2020) Payne Condemns Hong Kong Arrests of Democracy Advocates Amid Coronavirus, The Sydney Morning Herald.

It was reassuring to find through the course of this investigation that for the most part, when the emergency period was ended in April 2022, most of the government's infringements on civil liberties were ended also. Significant infringements to freedom of movement and assembly, along with QR codes and other invasions of privacy became, thankfully, a thing of the past. On the one hand, this seems to reflect a successfully functioning liberal-democracy; one which restored freedoms as quickly as they were taken away. On the other hand, this demonstrates a system which allowed for emergency powers to be extended 24 times,⁹³ and lockdowns to be maintained long after their inordinate cost became apparent.⁹⁴ Clearly there is room for improvement. Australia remains one of the freest countries in the world, but we should be alarmed that Australia's global freedom ranking has been in constant decline since 2019.⁹⁵ The government's COVID-19 related restrictions, described by Freedom House as "disproportionate and arbitrary," contributed to this decline.⁹⁶

This pandemic has also shown the way that minor policy changes at the macro-level can have huge and lasting impacts on the day-to-day lives of the individual. When setting broad restrictions, the precise details may seem somewhat trivial. However, when this translates to such personal tragedies as exclusion from a close friend's funeral, or the inability to say goodbye to a dying loved one, the magnitude of such details becomes clear. The same can be said about decisions to extend the emergency period for each additional 3-

⁹³ Gibson, C. (2022) "Protecting Human Rights in a Pandemic," Enterprise Magazine, 7 July.

⁹⁴ Shergold, P. et al. (2022), pg 28

⁹⁵ Freedom House (2022) *Australia: Freedom in the World 2022 Country Report*

⁹⁶ Ibid.

month span. “Better to be safe than sorry” adds up over time, in this case to a period of nearly three years. For an adult middle-aged or older, three years passes quickly. For a 12-year-old child, this is a quarter of their life.

Though such testimony did not have a suitable place in this report, the conversations undertaken over the course of its writing demonstrated the profoundly detrimental impact certain COVID-19 policies have had for some individuals. The personal anguish conveyed by numerous people was moving to say the least. It is not an overstatement to say that lives and livelihoods have been destroyed as a consequence of policy decisions that were not properly considered.

The lasting impact of COVID-19 policy on civil liberties has reinforced the important need for Australian policy makers to, as American Economist Thomas Sowell puts it, “think beyond stage-one.”⁹⁷ Policies brought in to contain a crisis are understandably constrained by the need for urgency, but this does not dismiss the responsibility to also account for potential long-term impacts. After all, such long-term impacts can themselves become the source of future crises.

7. Acknowledgements

I thank Senator Alex Antic and his staff for taking me on as an intern. Their assistance and warm hospitality throughout the writing of this report was greatly appreciated.

⁹⁷ Sowell, T. (2009) *Applied Economics: Thinking Beyond Stage One*. New York: Basic Books. pp. 4-7.

I also thank the various academics, researchers and advocates who generously took time from their busy schedules to discuss this important topic. The insights offered from their respective fields greatly assisted me in comprehending this issue.

I would like to also thank Professor Andrew Parkin, Dr Priya Chacko and Dr Cenz Lancione for their work providing the South Australian Parliamentary Internship Program.

Lastly, I would like to thank the staff at South Australian Parliament House who enabled us to use part of the building for our program's weekly seminars.

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