

Australian courts reject undemocratic electoral amendments

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Two recent decisions by the Australian judiciary have opened the way for an estimated 100,000 additional voters to participate in this weekend's federal election and for voters to register online with the Australian Electoral Commission (AEC) in future elections. The rulings by the High Court and Federal Court respectively were in response to legal action by the online lobby group GetUp! against amendments to electoral laws made in 2006 by the former Howard Liberal-National government.

Prior to 2006, potential voters had seven days to register after the declaration of election writs. The Howard government changes, cynically called the Electoral Integrity amendments, slashed the time allowed for registration to one business day. Already registered voters were only given three days to notify the AEC of any change of address.

The amendments meant that an estimated 1.4 million potential voters—almost half of these between the ages of 18 and 24—would not have had time to register in the brief period between Labor Prime Minister Julia Gillard's July 17 announcement of the election date and the electoral register closing one business day later.

Australian parliamentary terms are approximately three years but the prime minister, who determines the date when the election is held, can delay issuing election writs for days or even weeks. Gillard, in response to increasingly vocal demands by big business and the corporate media, however, called the election and then issued the writs as quickly as she could, effectively preventing thousands of potential new voters from registering. (See: "Young people disenfranchised in Australia's snap election")

GetUp! lawyers headed by solicitor Ron Merkel argued in the High Court on August 4 that the electoral amendments made it virtually impossible for their plaintiffs to register in time for the August 21 election and were therefore undemocratic. Merkel told the court: "Hundreds of thousands of people are able to be disenfranchised because of this executive power... What possible rationale could be put for reducing it (the previous seven-day registration period) other than by whim? It is as arbitrary and capricious as one could imagine."

AEC lawyers attempted to counter Merkel's argument, insisting that parliament should regulate the electoral machinery and that unregistered voters had "plenty of time" during the three-year parliamentary period to register.

On August 6, High Court Chief Justice Robert French said that a majority decision by the court found that the electoral amendments were unconstitutional and "invalid". This meant that all those who submitted AEC electoral forms between July 19 and July 26 would be entitled to vote on August 21. The High Court has not released its reasons for the decision—one of the fastest-ever rulings for a full High Court hearing—but is expected to do so next month.

Michael Ronaldson, the Liberal-National's shadow minister of state, told the Australian Broadcasting Corporation that the Coalition would not challenge the High Court directive but claimed that it could "leave the door open" to "false enrolments and false transfers of enrolments." Ronaldson presented no evidence to substantiate these allegations.

The second case—*Get Up Ltd versus the Electoral Commissioner*—was heard in the Federal Court and disputed an AEC ruling preventing Sophie Trevitt from the Grayndler electorate in Sydney from enrolling online. Although potential voters had only one business day to lodge enrolment forms with the AEC, the commission refused to accept emailed or faxed enrolment forms with digital signatures. Trevitt had downloaded an enrolment form from GetUp!’s *OzEnrol* web site, signed it with a digital pen, had it witnessed by a bank manager and then emailed it to the AEC.

Federal Court Justice Perram rejected AEC claims that Trevitt’s form was “invalid” and directed that she be enrolled. While the ruling only involves one person in this election, it opens the way for online registration for millions of Australians in the future.

GetUp! immediately hailed the court decisions as “historic for democracy”. While the court decision was certainly a setback for both major parties, these claims are vastly exaggerated. They are aimed at politically disarming workers and youth about the profoundly anti-democratic nature of the entire parliamentary electoral process.

The High Court ruling does not include potential voters who failed to register because they were discouraged by the one-day registration time. Nor will voters who submitted enrolment forms after the High Court directive on August 6 be able to vote this Saturday. In other words, tens of thousands of potential voters, or registered voters attempting to change their address with the electoral commission, remain disenfranchised.

GetUp!’s claims also cover-up the ongoing attacks on basic rights by consecutive Labor and Liberal governments over the past three decades.

Australian citizens have no guaranteed constitutional right to vote—the franchise can be legally removed by any government—while political parties attempting to challenge the dominant two-party system confront a barrage of intrusive conditions.

Under electoral registration laws, which were first introduced by the Hawke-Keating Labor government in the 1980s, minor parties and third parties face growing restrictions on their ability to contest elections. Parties without parliamentary representation have to comply with a range of politically intrusive demands by the electoral commission just to secure the basic right to have their party name alongside their candidates on election ballot papers. These and other onerous laws have been introduced in line with declining support for the major parties—Labor and Liberal-National—in an attempt to buttress the two-party system.

Whoever wins government on August 21 will introduce a battery of socially regressive measures that will be ruthlessly imposed in direct violation of the concerns of ordinary working people. The federal election has nothing to do with the “democratic” rule of the majority, but will see the coming to power of a regime that will implement the austerity agenda demanded by the corporate and financial elite.

Genuine democratic control cannot be achieved by pressuring parliament or the judiciary but only through the independent political mobilisation of the working class against the capitalist profit system. This is the perspective of the Socialist Equality Party, which is standing 14 candidates in this election to advance the perspective of the international unity of the working class, and a workers’ government based on socialist policies. Real democracy can only be achieved when the working class takes control of the key economic levers of society and reorganises production to provide for human need, not private profit—not only in Australia, but throughout the world.



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