



# Australian Community Futures Planning

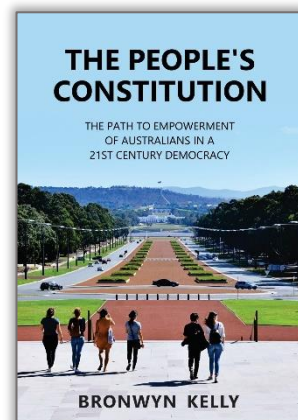
## The People's Constitution – Appendix 4

### Civil and political rights protected or at risk in Australia

The following table comprises Appendix 4 of the Kindle version of

*The People's Constitution: the path to empowerment of Australians in a 21<sup>st</sup> century democracy.*

Visit <https://www.austcfp.com.au/publications> for the full publication of *The People's Constitution*.



### Contents

Appendix 4 – Civil and political rights protected or at risk in Australia.....	2
--	---

**If you would like to become involved in building a plan for a better Australia, visit the Australian Community Futures Planning website at [www.austcfp.com.au](http://www.austcfp.com.au)  
Everyone is welcome to participate.**

**Further questions may be forwarded to ACFP at [info@austcfp.com.au](mailto:info@austcfp.com.au)**

# The People's Constitution

## Appendix 4 – Civil and political rights protected or at risk in Australia

The following table is provided to assist in assessment of the number of civil and political rights in the International Covenant on Civil and Political Rights that are:

- available to natural persons in Australia with some reliability because they have some legislative basis and/or are underpinned by the Constitution;
- not reliably available to natural persons in Australia because they are not fully provided for in the Australian Constitution; and/or
- at risk in their availability to natural persons based on evidence of abuse of these rights by Australian authorities, reservations held in regard to those rights by the Australian government, or legislative action by the parliament which has had the effect of reducing these rights.

The table is for indicative purposes only, inasmuch as an exhaustive legislative review has not been undertaken by the author. Some rights marked as “not reliably available” may be available in state legislation; but because state legislation can be overridden by the Commonwealth it is assumed here that these rights are not reliably secured.

Summary of rights – International Covenant on Civil and Political Rights (ICCPR) <sup>1</sup>				
Article	Rights and responsibilities	Available for all with some reliability	Not reliably available	At risk – under clear threat
<b>Article 1</b>	<ul style="list-style-type: none"> <li>• Right of self-determination.</li> <li>• Right of all humans to freely determine their political status and freely pursue their economic, social and cultural development.</li> </ul>		<b>1</b>	
<b>Article 2</b>	<ul style="list-style-type: none"> <li>• All rights to be applied without discrimination.</li> </ul>		<b>1</b>	
<b>Article 3</b>	<ul style="list-style-type: none"> <li>• Rights are equal for all.</li> <li>• Rights are for the equal enjoyment of all.</li> </ul>		<b>1</b>	<b>1</b>
<b>Article 4</b>	<ul style="list-style-type: none"> <li>• Right to protection from loss of rights in certain circumstances.</li> <li>• Responsibility to accept government's ability to curtail rights in emergencies which threaten the life of the nation.</li> </ul>		<b>1</b>	<b>1</b>
<b>Article 5</b>	<ul style="list-style-type: none"> <li>• Right of any state, group or person not to have a right or freedom (that is recognised in the Covenant) destroyed by any state, group or person or limited to a greater extent than is provided for in the Covenant.</li> </ul>		<b>1</b>	<b>1</b>
<b>Article 6</b>	<ul style="list-style-type: none"> <li>• Right to life.</li> </ul>		<b>1</b>	

<sup>1</sup> [International Covenant on Civil and Political Rights- external site](#)

<b>Summary of rights – International Covenant on Civil and Political Rights (ICCPR)<sup>1</sup></b>				
<b>Article</b>	<b>Rights and responsibilities</b>	<b>Available for all with some reliability</b>	<b>Not reliably available</b>	<b>At risk – under clear threat</b>
<b>Article 7</b>	<ul style="list-style-type: none"> <li>Right not to be subjected to torture or cruel, inhuman or degrading treatment or medical or scientific experimentation.</li> </ul>		<b>1</b>	<b>1</b>
<b>Article 8</b>	<ul style="list-style-type: none"> <li>Right not to be held in slavery, servitude or forced/compulsory labour.</li> </ul>		<b>1</b>	
<b>Article 9</b>	<ul style="list-style-type: none"> <li>Right to liberty and security of person.</li> </ul>		<b>1</b>	
	<ul style="list-style-type: none"> <li>Right not to be subjected to arbitrary detention.</li> </ul>		<b>1</b>	
	<ul style="list-style-type: none"> <li>Right not to be deprived of liberty except on grounds established by law.</li> </ul>		<b>1</b>	
	<ul style="list-style-type: none"> <li>Right in criminal cases to a trial within a reasonable time or to release.</li> </ul>		<b>1</b>	
	<ul style="list-style-type: none"> <li>Right to take proceedings in order that a court, without delay may decide the lawfulness of detention.</li> </ul>		<b>1</b>	
	<ul style="list-style-type: none"> <li>Right to compensation for unlawful arrest or detention.</li> </ul>		<b>1</b>	
<b>Article 10</b>	<ul style="list-style-type: none"> <li>Right of accused persons to be segregated from convicted persons.</li> </ul>		<b>1</b>	<b>1</b>
	<ul style="list-style-type: none"> <li>Right of accused and convicted juvenile persons to be separated from adults in the detention system.</li> </ul>		<b>1</b>	<b>1</b>
	<ul style="list-style-type: none"> <li>Right to speedy justice for juveniles.</li> </ul>		<b>1</b>	<b>1</b>
<b>Article 11</b>	<ul style="list-style-type: none"> <li>Right not to be imprisoned for failure to fulfil a contractual obligation.</li> </ul>		<b>1</b>	
<b>Article 12</b>	<ul style="list-style-type: none"> <li>Right and freedom to choose a place of residence.</li> </ul>	<b>1</b>		
	<ul style="list-style-type: none"> <li>Right to freedom of movement.</li> </ul>	<b>1</b>		<b>1</b>
	<ul style="list-style-type: none"> <li>Right to leave a country.</li> </ul>		<b>1</b>	<b>1</b>
	<ul style="list-style-type: none"> <li>Right of citizens to enter their own country.</li> </ul>		<b>1</b>	<b>1</b>
<b>Article 13</b>	<ul style="list-style-type: none"> <li>Right of lawful aliens not to be expelled unlawfully.</li> </ul>			
<b>Article 14</b>	<ul style="list-style-type: none"> <li>Right to equality before the law.</li> </ul>		<b>1</b>	<b>1</b>
	<ul style="list-style-type: none"> <li>Right to a fair and public hearing by a competent, independent and impartial tribunal established by law.</li> </ul>		<b>1</b>	
	<ul style="list-style-type: none"> <li>Right of presumption of innocence until proved guilty.</li> </ul>		<b>1</b>	<b>1</b>
	<ul style="list-style-type: none"> <li>Right to be informed fully and promptly of the detail of charges.</li> </ul>		<b>1</b>	<b>1</b>
	<ul style="list-style-type: none"> <li>Right to adequate time to prepare a defence and communicate with counsel of choice.</li> </ul>		<b>1</b>	<b>1</b>

Summary of rights – International Covenant on Civil and Political Rights (ICCPR) <sup>1</sup>				
Article	Rights and responsibilities	Available for all with some reliability	Not reliably available	At risk – under clear threat
	• Right to be tried without undue delay.		1	1
	• Right of defendants to be present at their trial and to defend themselves or through their chosen counsel.		1	1
	• Right to legal aid and interpreter services.		1	1
	• Right to examine witnesses.		1	1
	• Right of defendants not to testify against themselves or to confess guilt.		1	
	• Right to have criminal convictions reviewed.		1	
	• Right to compensation for wrongful conviction.		1	1
	• Right not to be tried more than once for an offence.		1	
<b>Article 15</b>	• Right not to be held guilty for an offence which was not a crime when the offence was committed.		1	
	• Right not to have a penalty imposed beyond that applicable at the time of the offence.		1	
<b>Article 16</b>	• Right to recognition everywhere as a person before the law.		1	1
<b>Article 17</b>	• Right to privacy.		1	1
	• Right to reputation and to protection from attacks on privacy and reputation.		1	1
<b>Article 18</b>	• Right to freedom of thought, conscience and religion.	1		
	• Right to manifest one's religion and beliefs.	1		
<b>Article 19</b>	• Right to hold opinions without interference.		1	1
	• Right to freedom of expression.		1	1
	• Right to seek, receive and impart information and ideas of all kinds.		1	1
<b>Article 20</b>	• Implied right to peace		1	1
	• Right to protection from and prevention of racial hatred, hostility and violence.	1		1
<b>Article 21</b>	• Right to peaceful assembly.		1	1
<b>Article 22</b>	• Right to freedom of association with others.		1	1
	• Right to form trade unions.	1		
<b>Article 23</b>	• Right to marriage by men and women of marriageable age.	1		
	• Right to no forced marriage.	1		

Summary of rights – International Covenant on Civil and Political Rights (ICCPR) <sup>1</sup>				
Article	Rights and responsibilities	Available for all with some reliability	Not reliably available	At risk – under clear threat
Article 24	• Right of every child to protection of the state.		1	1
	• Right of every child to be registered and to have a name.		1	
	• Right of every child to acquire a nationality.		1	
Article 25	• Right of every citizen to take part in the conduct of public affairs directly or through freely chosen representatives.		1	1
	• Right of every citizen to vote and be elected in elections of universal and equal suffrage and with secret ballot.		1	1
	• Right of every citizen to access, on general terms of equality, to public service.		1	1
Article 26	• Right to be equal before the law.		1	1
	• Right to equal protection of the law.		1	1
Article 27	• Right of everyone to enjoy their own culture and religion.	1		
	• Right of minorities to use their own language.		1	1
<b>Total</b>		<b>9</b>	<b>53</b>	<b>36</b>

Further questions may be forwarded to ACFP at [info@austcfp.com.au](mailto:info@austcfp.com.au)