



# Australian Community Futures Planning


## The *Australia Together* Podcast

Transcript of Episodes 40, 41, 42 & 43.

### Saving Australian democracy and sovereignty by building a new Constitution

An essay in four parts by Bronwyn Kelly  
November 2023



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# The Australia Together Podcast

## Saving Australian democracy and sovereignty by building a new Constitution

An essay in four parts by Bronwyn Kelly

November 2023

### Episode 40: Why does Australia need a new Constitution? Short answer: to save our democracy and sovereignty. – Transcript of Part 1

Hi, my name's Bronwyn Kelly. I'm the Founder of Australian Community Futures Planning or ACFP and this is the Australia Together Podcast. Today we're providing the first of four podcast episodes in our series on **Saving Australian Democracy and Sovereignty by Building a New Constitution**. The series contains a reading of a four-part essay in which I discuss how Australians are being dragged into a full ceding of their sovereignty over our country and how, if we do nothing to reverse this, we will end up losing our democracy itself. I offer evidence in the essay that we are on the brink of losing both our sovereignty and democracy. We are closer to that than we think.

To help prevent this loss, I suggest that Australia needs a new type of Constitution and I tackle some questions that, if we answer them well, should offer any and all Australians a way to build this Constitution together. The new type of Constitution I propose is one which gives a reasonable share of power to a party in our democracy which currently has none – the people. To substantiate this need, I pose four questions:

1. Why does Australia need a new Constitution?
2. What's wrong with our democracy?
3. How can Australians take back their democracy and sovereignty?
4. How can Australians achieve a peaceful coexistence of sovereignties and self-determining political equals?

I pose answers to all four of these questions but at the outset it is worth noting that the answer to the last two is the same: the answer to how we can take back our democracy and sovereignty and achieve a peaceful coexistence of sovereignties and self-determining equals is for the people of Australia to establish terms of trust with the parliaments they elect. This will need to be done by mounting what I've called a [National Collaborative Process for the Development of a New Australian Constitution](#). This is a process that should be run by the people of Australia, independent of politics.

Listeners will note that the essay starts from a premise that Australians may well have already lost control over the one power they had under the Constitution – the power to say who shall govern them. It is likely that this premise will be disputed, particularly by Australia's two major political parties, although I cite substantial evidence for it. But disputes about it do not detract from the need to stem the loss, and on this basis I have suggested in the essay that the most urgent questions of our times are:

**How do we wrest back control over the choice of who governs us and how do we establish some control over what they may rightly do with power?**

Here's Part 1 of the essay:

## Why does Australia need a new Constitution? Short answer: to save our democracy and sovereignty.

Australians are being dragged into a full ceding of their sovereignty over our country by a political system in which its two major parties of government have come to feel that they must capitulate to American demands for participation in military aggression against countries that have not attacked us.

Since the days of the dismissal of the Whitlam government – an effective coup which is widely reputed to have been, at least in part, aided and abetted by the CIA<sup>1</sup> – the Australian Labor Party and the Liberal/National Coalition have both been driven to decisions on defence and foreign policy more out of fear of being deposed through American interference than fear of being attacked by another country. America has displayed a far more brutal record of political interference and regime change in other countries than any other nation state on the planet. As Brian Toohey has reported, US foreign intervention is a matter of congressional record:

The New York Times Magazine reported on 13 September 1976 that congressional investigations had shown that the CIA in ‘some 900 foreign interventions over the past two decades, has run secret wars around the globe and has clandestinely dominated foreign governments so thoroughly as to make them virtual client states’.<sup>2</sup>

There are also numerous articles about the United States’ record of foreign intervention since 1976 that are now freely available all over the internet. For instance, the Washington Post reported in 2016 that the US tried to change other countries’ governments 72 times during the Cold War.<sup>3</sup> And it is no secret that the collapse of the Soviet Union ushered in a fresh period of American global hegemony in world affairs. In the post-Cold War period, both Democrat and Republican governments in the US openly and covertly intervened, fought insurgencies, and changed regimes in other countries.<sup>4</sup>

Australian politicians in the two major parties have not failed to internalise the warnings inherent in this display of the power of the United States in military aggression and regime change. Statesmen from both sides of our politics have called out the dangers of our alliance with the US<sup>5</sup> but, as the performance of Anthony Albanese at the 2023 ALP conference has shown, both parties have now fully concluded it is more dangerous not to be fully aligned with America in military planning and aggression than it is to not develop a plan or capacity for the independent defence of Australia. To

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<sup>1</sup> Brian Toohey, *Secret: The making of Australia’s security state*, Melbourne University Press, 2019, especially Part 4 – The Whitlam Era. Also, Alex Mitchel, “[Gough Whitlam’s dismissal and the CIA](#)”, Pearls and Irritations, 24 July 2020, and James Curran, “[CIA didn’t dismiss Whitlam, but Nixon mulled spying](#)”, United States Studies Centre, 2 May 2015. For another useful summary see Jon Stanford, “[Stress testing the US alliance: Whitlam and the secrets of Pine Gap](#)”, Pearls and Irritations, 9 November 2023, and “[Spooky fiddling: The CIA playbook and the overthrow of Whitlam](#)”, 11 November 2023.

<sup>2</sup> Brian Toohey, *Secret: The making of Australia’s security state*, Melbourne University Press, 2019, page 236.

<sup>3</sup> Lindsey A. O’Rourke, The Washington Post, 23 December 2016, <https://www.washingtonpost.com/news/monkey-cage/wp/2016/12/23/the-cia-says-russia-hacked-the-u-s-election-here-are-6-things-to-learn-from-cold-war-attempts-to-change-regimes/>

<sup>4</sup> Thomas H. Henriksen, *America’s Wars: Interventions, Regime Change and Insurgencies After the Cold War*, Cambridge Military Histories, January 2022. <https://www.hoover.org/research/americas-wars-interventions-regime-change-and-insurgencies-after-cold-war>

<sup>5</sup> For example, Malcolm Fraser with Cain Roberts, *Dangerous Allies*, Melbourne University Publishing, 1 May 2014. And Bill Hayden: see James Curran, “[Bill Hayden’s foreign policy was his finest hour](#)”, The Financial Review, 25 October 2023.

put that another way, they've both concluded it is more dangerous to stand up for Australia's independent sovereignty than it is to give away our sovereignty and inextricably shackle Australia to an imperialist and war-hungry America.

At the ALP conference, the prime minister, in seamlessly linking keynote themes of the need for a second and third term in office with the need for suppression of debate about AUKUS (as though the former is now contingent on the latter), signalled that the days of control by Australian electors over their choice of governments may well be over. The degree of influence now exercisable by the United States in Australian elections (mostly with the aid of the Murdoch/Nine news media duopoly) is now so serious that neither major party wants to allow even a chink of light to be seen between their policy platforms on defence and foreign affairs, especially if the chink reveals some spark of independence in sovereignty.

Since the dismissal of the Whitlam government the ALP has always been spooked by the potential of the US to depose it from office. And it no longer matters whether there is any truth in such an intention by the US. It doesn't really matter anymore whether theories about CIA involvement in the Whitlam dismissal and theories that the US will resort to regime change in Australia are true or not. The problem is that the major parties *believe* the Americans are the only real (and certainly the most immediate) threat to their continuance in office. They believe America is *the* clear and present danger. And it is clear that they also believe China is nothing of the sort.

Despite attempts by hawkish columnists such as Peter Hartcher in the Sydney Morning Herald to panic people (and governments if they can) into thinking China has intentions to attack Australia in the 2020s or even as early as 2025, it is clear that neither party of government in Australia actually buys this theory. If they did, they would be completely unable to propagate and defend the efficacy of a program of submarine replacement that is not expected to result in delivery of submarines within fifteen to forty years, if ever.<sup>6</sup> As it is, they can feel reasonably safe (or at least safer) in using outward professions of commitment to the AUKUS program to stave off their fear of regime change by the US without at the same time engendering too much panic within the populace about some sort of imminent threat from China. They can imply the China threat and deny it at the same time. To the extent that this exposes Australia to having no independent defence capability it's a very dangerous species of tightrope walking. So far, the ALP is managing to keep its precarious balance on this rope. But it is doubtful it will keep it for long.

This is because there is a huge and obvious price that we must pay for the continuance of a system of government which has hitherto functioned simply to oscillate power exclusively between the same two parties, both of whom have now become nothing more than subalterns to the US defence establishment and its backers in the corporate military industrial and news media complex. That expected price is:

1. sacrifice of our independent defence capability,
2. sacrifice of our sovereignty over land and in decisions on war, and ultimately
3. sacrifice of our democracy itself.

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<sup>6</sup> Recent suggestions by Defence personnel in the US that suggest a US nuclear powered submarine might be available to Australia by 2032 are not believable. Nor does the supply of nuclear submarines to Australia increase the size of the submarine force deployable against China in its region. It simply makes Australia pay for some of that force. Andrew Greene, "First newly built nuclear-powered submarine under AUKUS likely to be sold in 2038, US admiral reveals", ABC News, 9 November 2023.

It remains to be seen how quickly the majority of Australians might discern that we have been exposed to this level of risk – an existential level as far as nationhood and democracy go. At present it might be thought that the majority of Australians are still seeking comfort in denial of the possibility of imminent failure or loss of control of our state and are still disposed, as it were, to sleepwalk to yet more wars, perhaps assuming that they will be fought in distant seas and will not disrupt our domestic economy or supplies of essentials. But eventually they will wake up – and sooner rather than later if our ally in the US continues to ineptly or perhaps actively stoke explosive wars, such as those in the Middle East and Ukraine and maybe some in our own Asia-Pacific region. Sooner or later Australians will have to acknowledge that wars being fought or stoked ostensibly to save their sovereignty and democracy are actually the biggest threat to those essentials of nationhood.

This is not to say that Australia's current political system offers all that much in the way of democracy beyond a system of representative government. Most Australians complacently assume that because they can freely elect representatives they live in a democracy and their votes give them a voice. But elections do not a democracy make and a vote is not a voice that can be or even need be heard. Much more is required in terms of human rights and a reasonable share of power for the people to make Australia into a democracy worth the name. Our Constitution establishes none of that. On the contrary, it establishes the colony of Australia as nothing more than a possession of a distant foreign monarch.<sup>7</sup> Democracy is mentioned nowhere in it. As such, if we are facing the prospect of losing what little we have in our form of democracy we are merely facing the prospect of losing control of elections. We are not losing any fuller form of democracy (one where we have at least some reasonable level of influence over decisions that affect us), because we never had that anyway. We are simply losing control of the stunted form of governance we loosely call "democracy" but which is actually nothing more than a system of elections in which the electors must give all power away to those they elect without conditions or limits. In elections under our current Constitution, Australians therefore create autocratic rather than democratic governments. And this is only what we should expect because in law and in all reality Australia is a constitutional monarchy,<sup>8</sup> not a constitutional democracy.

If democracy is a system where people have at least a reasonable share of power in decisions that affect them, then a system in which all power is handed over in elections to governments without terms of trust as to what power may be used for and what it may not, is not a democracy. It is not government of the people by the people for the people. It is simply government of the people. Nevertheless, loss of our stunted form of democracy is still likely to be devastating. And to the extent that the loss arises now from a posture of complete obeisance by both major parties to the US on foreign policy and defence, it amounts to a full loss of the one power Australians have had in their democracy – the right to have the first and last word on who shall govern them. That right has

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<sup>7</sup> It may be suggested that High Court rulings in the case of [Mabo and others vs Queensland](#) that possession of Australia by the British monarch is now nullified. However, the Constitution has not been updated to acknowledge that, and the implications for sovereignty of the state remain untested. This is in contrast to the process by which sovereignty and possession of New Zealand was established by the [Treaty of Waitangi](#) in 1840.

<sup>8</sup> [AUSTRALIA'S CONSTITUTION, With Overview and Notes by the Australian Government Solicitor](#), updated November 2022, page iv: *As well as being a federation, Australia is a constitutional monarchy. Under this system of government, as the term suggests, the head of State of a country is a monarch whose functions are regulated by a constitution. The concept of 'the Crown' pervades the Constitution. For example, the Queen is part of the Parliament (section 1), and is empowered to appoint the Governor-General as her representative (section 2). The executive power of the Commonwealth is vested in the Queen and is exercisable by the Governor-General as her representative (section 61).*

effectively been ceded to the US, not by the electors but by those who seek autocratic power in Australia – namely, the two major parties of government and their corporate backers.

Due to the undemocratic arrangement of power in our Constitution – an arrangement which accords no power to the people; they may as well not exist after they have voted – what Australians don't have and have never had and what they sorely need in addition to the right to say *who* shall govern them is the right to have the first and last word on the *purpose* of government or, more accurately, the purpose of their nation. They have no right at present to set down the terms of trust on which power may be safely handed over in each election, no opportunity to design the national project – the purpose for which we agreed in 1901 at Federation to form one “indissoluble Commonwealth”.<sup>9</sup> Australians have never stated that purpose and until they have the *right* to state it, and re-state it as and when they think necessary, they will be unable to establish a relationship with those they elect that has the potential to rescue any and all parties of government from hostage to the preferences of any external power that may seek to override the rightful choices of Australian citizens as to who shall govern them.

Australia's Constitution leaves electors and the elected alike with no understanding of the preferred character, values and destination of the nation – what I have called here “the national project” or “the purpose of the nation”. As such, it leaves political parties with no legitimate means of describing to Australians how a term in office by one or another of them will serve the *real* interests of the public and the nation now and for the longer term. By default, the Constitution forces political parties to develop policy platforms in a vacuum. In the 21<sup>st</sup> century, its silence on our national values and preferences for the direction of the nation has resulted in policies from the major parties that really do nothing more than hollow out our aspirations and replace them with the short-term and re-election interests of those parties, and worse than that, with projects that replace the national interest with the interests of external powers, particularly in our case the UK, the US and the corporate behemoths that drive them. And in the vacuum created by this constitutional silence on our preferences for the national project, an effective pact has been made between the two “parties of government” to do all they can to keep out all newcomers, including minor parties, independent candidates and the people themselves from the arena of power. AUKUS is nothing more than yet another means by which the already near-zero power of Australians in their so-called democracy is being eliminated entirely, and this time with potentially dire consequences for the safety of the nation.

This means that the most urgent questions of our times are how do Australians rescue their sovereignty and reinstate their right to have the first and last word on who shall govern them? And contingent on that, how do we rescue the potential that should be available in a democracy for some reasonable degree of influence – both as individuals and as a diverse collective – over decisions which affect us? In short,

**How do we wrest back control over the choice of who governs us and how do we establish some control over what they may rightly do with power?**

The answer to these questions starts with the need to acknowledge that Australia's Constitution is useless for these purposes. Designedly, it has no capacity to help us transition to a form of state which is inclusive enough to give Australians the necessary influence in all these matters.

If Australia is to transition away from the colonial form of government in which it is subject to the agendas of external imperial powers and move instead towards a system of governance fit for a 21<sup>st</sup>

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<sup>9</sup> Preamble to the Australian Constitution, [foi-2021-017.pdf \(pmc.gov.au\)](#)

century independent nation of free and equal people, we need as a minimum a new Constitution – one that maximises the possibility of fully inclusive political equality and which defines the rightful use of power by *all* the willing parties to that democracy: namely the parliaments, the executive governments, the courts, the states and territories, and the people. Only when those rightful shares of power are established will we be able to rescue political parties from servitude to external powers and by that strengthened democracy take back our sovereignty over this beautiful country.

In the next parts of this essay I will enlarge on how that can be done, first by looking at where we are now in terms of the immaturity of our democratic arrangements and the societal and political dysfunction this immaturity has caused. From there I'll be suggesting that the remedy for the dysfunction will require Australians to go back and solve some fundamental flaws in the way their democracy is organised, principally by making a new type of Constitution – one which expresses their values and enshrines their rights but which also enables them as diverse equals to efficiently articulate the national project as guidance for those they elect.

Thanks for listening. The next part of this essay will be released on the Australia Together Podcast next week. But if readers want to read all four parts now, the full transcript is already available on the ACFP website at [www.austcfp.com.au/major-essays](http://www.austcfp.com.au/major-essays). Links are in the description below. Links to all the sources and evidence for the claims made in this essay are also available in the transcript.

My name's Bronwyn Kelly and this has been the Australia Together Podcast brought to you by Australian Community Futures Planning. To become involved in planning and building a better future for Australia, subscribe to ACFP at [www.austcfp.com.au](http://www.austcfp.com.au). Everyone is welcome to participate.

## Episode 41: What's wrong with our democracy? Short answer: it's exclusive and it prohibits self-determination. – Transcript of Part 2

Hi, my name's Bronwyn Kelly. I'm the Founder of Australian Community Futures Planning or ACFP and this is the Australia Together Podcast. Today we're providing the second of four podcast episodes in our series on **Saving Australian Democracy and Sovereignty by Building a New Constitution**. The series contains a reading of a four-part essay in which I discuss how Australians are being dragged into a full ceding of their sovereignty over our country and how, if we do nothing to reverse this, we will end up losing our democracy itself.

To help prevent this loss, I suggest that Australia needs a new type of Constitution in which the people of Australia will have a reasonable and rightful share of power and I tackle some questions that, if we answer them well, should offer us a way to build this Constitution together. In Episode 40 I began setting out why Australians need to build this new type of Constitution and today I will expand on this by discussing what needs to be fixed in our democracy if we are to be able to establish it as a form of state and governance that fosters political equality for the electors.

I examine the immaturity of our democratic arrangements and the societal and political dysfunction this immaturity has caused. From there I suggest that the challenge is to build a new arrangement of democracy, one suitable for a 21<sup>st</sup> century multicultural nation of political equals capable of independently and peacefully governing itself. That new arrangement will require us to build a political system where we are enabled as a collective to function cohesively but without the need to wash away our diversity. I then introduce the concept of the need for Australians to develop what I call "non-exclusive terms of trust" with those they elect to federal parliament and I begin discussion of how these terms can be built by collaboration.

Here's Part 2 of the essay:

## What's wrong with our democracy? Short answer: it's exclusive and it prohibits self-determination.

Australia's democracy, like that of most other countries, is caught in an immature phase of development – one that reduces it almost entirely to the process of elections and voting. But for as long as we continue to think of elections and voting as the equivalent of democracy, we will remain stuck in the inadequate form of governance that fully disempowers voters and makes those seeking election fully hostage to anyone who can buy them off or threaten them with loss of office. This system creates an entrenched, excessively powerful elite, which is extremely dangerous when the electors do not stipulate what the power they are handing over can be used for. And our problem in Australia is that as electors we never stipulate that. Why then we should expect that things will turn out as we wish is a complete mystery; but still we carry on in the same system of blind faith that those we elect will act in the public interest, even though we have not bothered to spell that out, much less encode it into terms of trust we might issue to those we elect.

Political philosophers and historians know something needs to be done about the inadequacy of a simple reliance on elections as a democratic process. The best that can be said about elections is that they save a bit of time for busy modern citizens who don't have the leisure to indulge in full-time or even part-time politics. But when offering suggestions on how to solve the disbenefits of merely representative government, the thinkers who do have a bit more time for politics usually confine themselves to suggestions that simply tinker with the mechanical parts of voting systems. In this they tend to concentrate on electoral reform – for instance, by considering preferential versus proportional systems of voting. Or they focus on;

- reduction of the possibility of corruption in elections;
- transparency and real-time reporting of political donations;
- prohibition of political donations;
- tighter regulation of false political advertising;
- the establishment of fixed terms for parliaments;
- abolition of the Senate or expansion of it to provide dedicated seats, say, for Indigenous representation;
- lowering the voting age; or
- reorganising the basis of representation itself (to base it, say, on sortition or on age groups rather than geographical boundaries).

Some others focus on expanding access to representation in parliament by independents and minor parties and for that purpose some promote the use of more participatory forms of policy development and candidate selection – such as the “kitchen cabinets” we saw in the selection of Teal candidates for the 2022 federal election. All this – particularly the kitchen cabinet grass roots approach to candidate selection – is valuable, but it is also based on the idea that a simple tweaking of the way the numbers-game part of democracy can be run will deliver a clear sense of both the public interest and who is best placed to serve it in government.

However, these mechanical adjustments have little if any potential to add wisdom to either the election system itself or the governments formed by it. They offer nothing that would turn the system of merely representative government into a system of truly responsible government – one where the executive government is fully responsible to the parliament and through that to the people and the public interest. They offer nothing in terms of clarity about the sort of nation we



want to build and what we want our governments to be responsible *for*. In this arrangement, no well-intentioned candidate or established politician is any the wiser and poorly intentioned politicians retain complete freedom to be unaccountable for any irresponsible behaviour or actions that are contrary to Australian values and the national interest.

For as long as we stumble on in this reduced, dumbed-down system of democracy, electors and the elected alike will be stuck in a machine we can't control at all – as if our lives should be confined to zero sum games where there will always be winners and losers, as if our lives are worth no more than the luck of the draw each time around in an election. This is not a democratic system capable of fostering the public interest. It is simply a system of majority rule – or more accurately, majority selection of unaccountable rulers – which is not the same as democracy at all.

Such a diminished form of democracy might be fine were it to take account of agreed national values, goals and human rights and obligations. But majority rule in the absence of a pre-agreed national project that acknowledges our rights and fits with our values and goals is at best simply haphazard and at worst totally senseless, if only because it makes no place for the aspirations and rights of diverse groups and individuals, all with an equally legitimate interest in being equal members of the state. Instead it admits into our governance systems the premise that electors are not all equal members of the state and that the human rights of some are less legitimate than those of others, at least to the extent that they can be put to one side for three or four years if a government wishes, or permanently if a government can manage it. So, until it can be demonstrated that Australia's election system is conducive to political equality, our governance system cannot be considered a democracy capable of serving or protecting the multiplicity of legitimate interests of its members.

If we are to re-think the options for achieving a fuller form of democracy that actually respects all its members – and through that affords us greater control over our destiny as a nation of political equals – it will not suffice to simply tweak the way the mechanical numbers game is played in elections. For that reason it is important to dig more deeply into the causes of systemic democratic failure. Wonderful thinkers in this space like [Bruce Schneier](#) and [David Runciman](#) have sensed the need for a first principles analysis of the problem, although they too tend to be drawn back to asserting that to find a way past the limits of the mechanistic numbers game and the tyranny of the transitory majorities it produces, we must somehow find a way to either:

- a) align our disparate interests so that there is no longer a need to cater to their diversity (no matter how legitimate all those interests might be) or, by contrast,
- b) reconcile what Professor Runciman calls the “paradox of modernity”.

What he means by this is that if we want to overcome the weaknesses of merely mechanistic forms of democracy, we must find a way to live with being two contradictory things at once – two things he seems to assume are inherently and inescapably incompatible. He asks:

How can we live with the fact that we are required all the time to be ... individuals, to be personalities, to be persons with rights and also to be subsumed to the collective, to belong to groups, to be shaped by our social conditioning?<sup>10</sup>

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<sup>10</sup> David Runciman, History of Ideas Podcast on Simone Weil's 1943 essay on “Human Personality”.  
<https://open.spotify.com/episode/1SmEiaag5bgdqr0JqrDETO?si=dc8df365abf34142>

This is indeed a central question of modernity, one which Margaret Thatcher tried to put aside simply by decreeing that there is no society, there are only individuals.<sup>11</sup> Her answer was to simply get rid of one of the supposed antagonists. Needless to say, neither society nor individuals obliged by disappearing in response to her assertion, leaving the question of how to establish a political system that allows us to be two supposedly contradictory things at once dangling unanswered in our midst. To this day the question of how to achieve a productive coexistence of individuals and societies, or of people and the state, remains unresolved.

The question, however, is not one that can be solved by simply tweaking the way elections are conducted – because elections are not about either a reconciliation or peaceful coexistence of disparate interests; they are about dispensing entirely (at least for a period) with inconvenient individual and minority group interests. They are about dispensing, if at all possible, with the most fundamental of all human rights – self-determination. But if tweaking the election system is not the solution, what is? Is there another way to resolve the paradox of modernity and thereby find a way to be these two apparently contradictory things at once? It may be that there is a way to resolve it if we slightly re-orient the assumptions behind it.

The paradox, so described, assumes that diverse individuals and collective societies have interests that are inherently and inescapably incompatible, which is to say that differences between individuals and the collective are mutually exclusive and cannot coexist. It is to say, resignedly, that we will always be at war with ourselves – or more specifically, that the interests of some cannot be met unless the interests of others are set aside or extinguished. It assumes that diverse interests cannot be productively integrated and must cancel each other out. In this it assumes that the interests of minorities must be declared illegitimate and by means of something as inhumanly mechanical as an election result. We have to get past that crucially incorrect assumption because it is killing us both as individuals and as cohesive societies.

The solution many will pose to this is to look for common ground on issues where there is conflict; but all too often that leads to exclusion of the interests of minorities, no matter how legitimate they may be. It can also lead to the exclusion of the interests of the majority, as can be seen in the case of Australia's climate wars. In that case the interests of the vast majority of the population were discarded for well more than a decade in Australia in favour the interests of the mining lobby. They are still being discarded. These exclusions occur at various scales because the issues on which common ground may be found will always be quite a small proportion of the full array of issues being faced by both individuals and the collective. And the greater the diversity of a society, the fewer the issues on which common ground may be reached.

Sometimes groups organise themselves quite well to find that common ground – one issue at a time – by establishing citizens' juries or assemblies or other forms of open engagement like the Uluru Dialogue. These participatory forms of democracy often produce wonderful agreements and wisdom. But once an issue is funnelled back into the arena of politics (especially national politics), the consensus of these dialogues is often discarded. The common ground that can be reached on a small scale is often not sustainable on a national scale. And if the wisdom generated by the participants requires a settlement in law or policy in the clearing houses of the national parliament or executive government, the voice and wisdom of the community is lucky to survive at all. In politics in the national arena, we don't agree on many things, particularly when it comes to the economy and the natural environment. As such, the option of aligning our common interests and then confining ourselves to acting only on the issues where we have settled on common ground does not

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<sup>11</sup> Margaret Thatcher, A Life in Quotes, The Guardian, 8 April 2013, <https://www.theguardian.com/politics/2013/apr/08/margaret-thatcher-quotes>

offer us a reliable or efficient way of building a cohesive and inclusive democracy. On the contrary, if we opted to confine ourselves to that approach, we would probably have to accept that we will never find a way to live together as a nation of equals – one in which Anthony Albanese would say leaves no-one behind<sup>12</sup>. We would have to accept that we will leave the vast majority of difficult issues unattended to, even though we know the answers. We would have to accept the Thatcherite solution of asserting that there is no society – meaning that there is no dealing with our problems as a society. In that, we would have to accept the loss of any benefits that come from collective effort. That really is not a useful option. It makes more problems than it solves.

But if we accept that the search for common ground is not a particularly useful means of achieving social cohesion especially at a national level, how feasible will it be to make a success of the other option left to us by the thinkers – the option of living with the paradox of modernity, of being two contradictory things at once – i.e., diverse, distinct individuals as well as uniform collectives where diversity is washed away. The thinkers have not yet come up with an answer to that but perhaps it is the question that is the problem. If they have not come up with an answer to the paradox of modernity after the passage of decades since Thatcher’s assertion that we just need to dispense with society, is it time to ask whether there is another option, one somewhat less paradoxical and where the antagonists of the individual and society can lose the incentive to cancel each other out? Can we slightly shift the question so that we ask whether we can build a political system where a collective can function cohesively without the need to wash away diversity? That question might also be put in the converse: how can we build a political system where the infinitely diverse and legitimate interests of individuals are not deemed incompatible with or do not negate the interests of the collective?

This slightly modified question might be seen by some as an idealistic pitch towards utopia, with all the overtones of impracticability that implies. But at least it admits that exclusion is not and never will be a solution to social conflict, especially if the exclusions are enlarged to encompass the majority. Once we admit that exclusion can’t work, it implies the need to search for a political system which enables a coexistence of self-determining individuals and groups within the wider collective of the nation. More than that, in a nation that might need to resolve issues of colonial dispossession (like Australia), it implies the need to search for a political system which enables a just and peaceful coexistence of sovereignties.

The feasibility of establishing such a system is likely to depend at least in part on finding a way to add wisdom into the machinery of democracy. It will depend on our willingness to work together to express the national project and the purpose of the nation in terms that politicians cannot misunderstand or mischievously misrepresent as easily as they might now. If we can devise a vehicle for such expression, we can establish one very important part of the essential terms of trust that should be issued to those we elect. These are terms that we might characterise as “non-exclusive” and without them there can be no basis of trust and no capacity to embed the function of elections into a broader process of true democracy so that we can resist the temptation to use elections as a means of exclusion. Instead the democratic process can be expanded to enable self-determination and this time without de-stabilising the collective or the state.

Practical experiments with this that are currently being conducted by Australian Community Futures Planning have the potential to help Australians and those they elect to rise above politics and evade the uncertainties of the majoritarian democratic exclusion we currently reinforce by confining ourselves to casting votes in elections without specifying terms of trust for those who attain parliamentary and governmental power. If Australians can establish a process for development of

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<sup>12</sup> Anthony Albanese, “[No one left behind in Labor blueprint for better future](#)”, 18 January 2022.

non-exclusive terms of trust with those they elect, then there is also potential to release the elected from their servitude to corporate or external powers – a servitude which I can guarantee makes the best politicians miserable. Everyone will be better off, particularly the well-intentioned politicians.

In the next parts of this essay I will set out how Australians can build a wider and truer democratic system that will enable diverse interests and sovereignties to coexist peacefully and productively. In the Uluru Dialogue First Nations people have given us part of the model as to how that may occur – they have given us the concept of the need for a constitutional right to a voice in our own democracy.

Thanks for listening. The next part of this essay will be released on the Australia Together Podcast next week. But if readers want to read all four parts now, the full transcript is already available on the ACFP website at [www.austcfp.com.au/major-essays](http://www.austcfp.com.au/major-essays). Links are in the description below. Links to all the sources and evidence for the claims made in this essay are also available in the transcript.

My name's Bronwyn Kelly and this has been the Australia Together Podcast brought to you by Australian Community Futures Planning. To become involved in planning and building a better future for Australia, subscribe to ACFP at [www.austcfp.com.au](http://www.austcfp.com.au). Everyone is welcome to participate.

## Episode 42: How can Australians take back their democracy and sovereignty? Short answer: by establishing terms of trust with the parliaments they elect. – Transcript of Part 3

Hi, my name's Bronwyn Kelly. I'm the Founder of Australian Community Futures Planning or ACFP and this is the Australia Together Podcast. Today we're providing the third of four podcast episodes in our series on **Saving Australian Democracy and Sovereignty by Building a New Constitution**. The series contains a reading of a four-part essay in which I discuss how Australians are being dragged into a full ceding of their sovereignty over our country and how, if we do nothing to reverse this, we will end up losing our democracy itself.

To help prevent this loss, I suggest that Australia needs a new type of Constitution in which the people of Australia will have a reasonable and rightful share of power and I tackle some questions that, if we answer them well, should offer us a way to build this Constitution together.

In Episodes 40 and 41 I began setting out why Australians need to build this new type of Constitution and I discussed what needs to be fixed in our democracy if we are to be able to establish it as a form of state and governance that fosters political equality for the electors. I said that this will require us to build a political system where we are enabled as a collective to function cohesively but without the need to wash away our diversity. I then introduced the concept of the need for Australians to develop what I call "non-exclusive terms of trust" for issue to those they elect to federal parliament.

In this Episode I'll begin the discussion of how we can build these new arrangements for our democracy, starting by learning how to design the necessary terms of trust. Unless we learn how to do this – and do it by collaboration – we will not be able to take back control over the choice of who governs us.

Here's Part 3 of the essay:

## How can Australians take back their democracy and sovereignty? Short answer: by establishing terms of trust with the parliaments they elect.

### Part 3a: The need to release Australia's major political parties from captivity to external interests

In the first two parts of this essay I set out some questions that have arisen because the two major parties of government in Australia – Labor and the Liberal/National Coalition – have both become captive to the interests of external powers. I asserted that they have landed there because they believe their ability to win and retain office is heavily dependent on their submission to the will and agendas of two of these powers – the United States of America and to a lesser extent the United Kingdom.

Regardless of whether listeners will accept my assertion about the fearful beliefs of the two major parties, there is no doubt that the lengths to which both will go these days in order to retain office and dominate parliaments are extraordinary, even to the point of handing over crucial sovereign decision-making powers, such as how our country and its people shall be used in and for the wars of other countries – or to put that another way, how we and our children and all our aspirations shall be sacrificed for the sake of their continuing power to form exclusive governments. AUKUS and the [Force Posture Agreement](#) signed between Australia and the US in 2014 – an agreement which cedes full control of several parts of Australia to the US for military bases – indicates that capitulation by the two major parties to the US and its corporate, military industrial backers is now complete, along with all the ceding of sovereignty that this entails.

As a result of all that, Australians have now lost control of the one power they had in their polity – the power to say who shall govern them. Having argued that case in the first part of this essay, I then posed several questions, the first two of which were:

#### **How do we wrest back control over the choice of who governs us and how do we establish some control over what they may rightly do with power?**

I am going to propose here that the answer to the first of these questions depends on how well we answer the second. By this I mean that if Australians want to wrest back control over the choice of who governs us – and in the process hopefully stop the two main parties of government from relying on the habit they now have, in lock step, of trading our sovereignty away in order to retain office – we will need to transition to a form of democracy which requires the Australian people to specify the national project, the purpose for which we wish to form (and stay together as) a nation. Until we figure out how to do that, we will not be able to take back control over the choice of who governs us and we will also not be able to release our governments from their fearful servitude to these foreign powers. We will not be able to rescue our independence and sovereignty.

There is a somewhat circuitous route between learning how to specify the purpose of the nation and being able to take back control over the choice of who governs us and I will speak more about this – and why the necessary parts of the task must be completed in a certain order – in Part 4 of this essay. But in general terms, it means that Australia's democratic processes need to be widened and regeared to enable political candidates and governments to release themselves from their subjection to the US and the UK and revert to relying instead on Australian enfranchised citizens alone to elect good parliaments – parliaments that have more capacity to work together for the real interests of Australians and to do so without the need to sacrifice the interests of those living in some disadvantaged electorates or sections of the population.

This idea that major party candidates for federal parliament might at some time in the future feel safe enough to rely on Australians for their election to office (rather than on deals with the corporate backers of external powers) is likely to test the credulity of any politicians who might prefer to think of Australians as unreliable in knowing what's in their own best interests or as, shall we say, too stupid to select the party best placed to serve their interests. Political parties attempt from time to time to speak as if they respect the intelligence and reliability of the community and occasionally they indulge, at least for marketing purposes, in a discourse that feigns humility and suggests they believe there is wisdom in the electorate. Adages such as "the system says the people always get it right" are trotted out after elections and sometimes after a referendum<sup>13</sup> in order to promote that veneer of respect for Australians. But in reality they honour the electorate with neither wisdom nor reliability. When not in public, political parties are utterly cynical of the capacity of the electorate to think sensibly and speak coherently as a wise collective. Indeed their project is to supplant the voices of Australians with their own much narrower slogans and sectional agendas. They have a vested interest in preventing the formation of a more thoughtful collective. Their success in attaining office deliberately relies instead on tactics (such as culture wars) which divide the electorate so that it *cannot* think and decide as a united community.

In light of that it might appear naïve or overly optimistic to suggest that the success of the national project, including a project to regain our sovereign independence, might depend on the preparedness of parliamentarians and governments to rely on – that is, to *trust* – the capacity of the electors for good judgement. Major parties in particular will be reluctant to accept that building a relationship of trust with electors might offer a feasible path to political office. But the lack of trust – or more accurately, the mutual distrust between the electors and the elected – is still a huge problem of relationship breakdown that we must get past before we can expect to claw back control over the choice of who may govern us and what they may rightly do with power.

The parliaments and governments of Australia are failing Australians. They are doing the wrong thing by all of us, particularly in relation to climate change and exposure to wars. And they will continue to fail us for as long as this mutual distrust – with all the disrespect it implies on both sides – is allowed to persist. So it will be interesting to see which side might back away from the distrust first if systemic change or unimaginably dreadful crises perhaps call on them to do so in the coming decades. In all feasibility we probably shouldn't expect that the two major political parties will desist from their distrust of Australian electors any time soon. They have too much at stake, not least their own survival as political parties. They are painfully aware of the drop in their primary vote over the last couple of decades and therefore just as painfully aware that they might be on the brink of extinction. This will not incline them to trust Australians and it is part of the reason why they have switched their allegiance away from Australians and to foreign powers. They will need strong incentives from Australians to switch their allegiance back and trust the electors. And these incentives will need to make them feel safe, which is to say that part of the pragmatic purpose of the incentives must be to offer them a lifeline – a pathway to their ongoing survival and participation in parliament with integrity. The incentives won't work if they threaten the major parties with extinction. I will speak more about this in Part 4 of this essay.

At present, however, this mutual distrust remains a root cause of parliamentary failure that must be fixed before anything else about our democracy can be fixed. The distrust is a circular problem that we the electors and they the elected have all locked ourselves into and we must find a way to short-circuit that. We're stuck in what William Butler Yeats might have called a widening gyre – meaning

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<sup>13</sup> Samantha Maiden, "[Richard Marles says 'Australian people always get it right' as he reveals Voice disappointment](#)", News.com.au, 15 October 2023.

simply that the more the people distrust the parliament, the more the parliament distrusts the people – and so it goes on, breaking the nation apart. This has led to more commentators of late starting to quote and re-quote Yeats’ poem *The Second Coming*,<sup>14</sup> probably because, more succinctly than any other evocation of the modern dilemmas borne of colonialism and imperial power structures, that poem evokes our sense of our world falling apart and it intimates the cause of the breakdown. In 1919 after the horror of empires collapsing in the war that was supposed to end all wars, Yeats wrote:

Turning and turning in the widening gyre  
The falcon cannot hear the falconer;  
Things fall apart; the centre cannot hold;  
Mere anarchy is loosed upon the world,  
The blood-dimmed tide is loosed, and everywhere  
The ceremony of innocence is drowned;  
The best lack all conviction, while the worst  
Are full of passionate intensity.

Yeats’ poem did not have a happy ending. He did not imagine in the second part of the poem that the second coming would arrive in the form of an enlightened revelation after the horrors of World War I. But how does this relate to the questions I’ve posed? At the risk of extending metaphors from poetry any further, I would suggest the poem rightly pinpoints the cause of the crisis, and that is that the falcon cannot hear the falconer. Governments cannot hear us. And this is because we are not issuing a clear idea of the direction in which we wish them to fly.

The consequences of our failure to do that are equally dire for the people of Australia and political parties. Both face existential threat. But the situation is not at all hopeless, because contrary to any casual political disrespect we are not too stupid to know what’s in our interest. We are simply too disorganised to articulate it. However, there is a way around this.

There is a way to establish a safe path to achievement of a peaceful democratic order in a post-colonial, post-imperial world. This is not a form of peaceful order that has crystallised in the imagination of many Australians yet, although it has to be said that First Nations people have longed for it for over 200 years. But in down to earth terms it consists in reshaping the way Australian parliaments and people respectfully relate to and speak to each other. It consists in Australians building the capacity to express their diverse voices in an integrated way – the “non-exclusive” way I spoke of in Part 2 of this essay. This is *not* beyond the capability of Australians.

By “non-exclusive” I mean that the voice of the Australian people needs to be expressed in terms that should enable *every* Australian to feel that they can find a place in this country and that this does not require them to negate what they consider to be essential to their continuing existence, their quality of life and their sense of themselves as distinct, self-determining individuals whose rights arise from the fact that they are inescapably diverse humans, *not* identical in culture or in origin or needs or genetic makeup. It will require an understanding that as disabled people or as women or men or children or older persons or people of non-binary gender or Indigenous people or as people of different cultural and ethnic origins, they will not and cannot be the same. Even within the groups they might identify with, there can be no homogeneity because they each differ along several other lines. Life is complex and as such we need political systems which can support heterogeneity in our society, by which I mean we need to design a form of sovereignty and arrangements of state capable of maintaining peace and security in a diverse multicultural nation,

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<sup>14</sup> W. B. Yeats, [\*The Second Coming\*](#), 1919.

without extinguishing the legitimate interests of any of its members. Or to recall what I said in Part 2 of this essay, the search for this form of peaceful statehood will require us to resolve what Professor David Runciman has called the paradox of modernity – that is, the paradox of needing to be two contradictory things at once (individuals with rights but also individuals that are subsumed to the collective). But it will require us to resolve that paradox by setting our democracy up in such a way that the terms of trust we offer our parliaments and governments will enable the collective to function cohesively without the need to wash away diversity. It should allow us to productively and fairly *integrate* our interests rather than subsume them to the collective in such a way that they are extinguished or unfairly downplayed. What I’m saying here is that only if we include in our democracy a system of building non-exclusive terms of trust with those we elect, can we make it possible to achieve a peaceful coexistence of self-determining individuals and, for that matter, of sovereignties. So I’ll now go on to discuss how we may build these non-exclusive terms of trust together.

### Part 3b: Building non-exclusive terms of trust that specify our values, human rights and particularly our right to a voice in our own governance

In Part 4 of this essay I will talk about the essential things Australians will need to install in our Constitution if we are to be able to develop non-exclusive terms of trust to issue to parliaments. Broadly, we will need to begin by articulating our values as a nation. Beyond that these non-exclusive terms of trust will need to be expressed, at least in part, in the form of human rights. And in a multicultural nation that means we need to find a way to accept the necessary coexistence of the necessarily different rights of distinct individuals and groups, understanding that human rights cannot be mutually exclusive – the rights of some cannot cancel out the essential rights of others. If we don’t each have all the rights that we need and which are due to us *because* of our essential difference as individual human beings, then we do not have rights as equals. Our political equality inherently depends on each of us freely acknowledging both our common and differing rights.

This project of gathering all the rights we each need – as the essentially different humans that we all are – will entail an acceptance of a principle that distinct groupings of humans are entitled to distinct rights precisely because of their essential and inescapable differences. So while there is a core of human rights that every human is equally and identically entitled to (this pertains particularly to civil, political and economic rights), there are also specific rights that certain groups are entitled to which people in other groups are not because:

- (a) they do not and cannot belong to these groups and therefore they simply do not need the same rights to survive and prosper; and
- (b) specific rights that are the unique preserve of people in groups other than their own do not detract from their rights (for instance, a woman’s rights do not detract from a man’s).

On the contrary, it is only in the acknowledgement of every other person’s and group’s distinct rights that people and communities will be able to find a way to live in peace together as equals, without exclusion of diversity or more pointedly, without what in effect are slow genocidal attempts towards monoculture.

Australians have probably not yet reached a point in their thoughts about human rights where they might be willing to accept that some people should have rights that are distinct from their own. Many of them are certainly not yet ready to accept that everyone else should have a right to a voice in laws made about them – as we have seen from the defeat of the 2023 referendum on the Indigenous Voice. Nor does it appear that the majority of Australians consider there is even a need



for diverse voices in our polity. The Voice referendum seems to have divided the nation so as to distract the majority from that need and to deny that First Australians have such a need as a distinct culture and group. In that regard the majority of electors have, perhaps unintentionally, sought in effect to deny the actuality of indigeneity itself, at least as a valid basis for organising political influence. The referendum result has given impetus instead to the rise of a discourse which is now offering permission to Australians to deny the cultural distinctness of Aboriginal and Torres Strait Islander peoples and from there to negate multiculturalism itself.

This rising discourse is an attempt to stamp out diversity. It will not succeed. Indeed the attempt has as much chance of succeeding as Margaret Thatcher had of getting rid of society. But it is necessary to understand the attempt for what it is – an attempt to encourage Australians to begin insisting on the cultural sameness and assimilation that would be necessary to re-create Australia as the monoculture that was sought when the Constitution was first made law in 1901, complete with clauses that enabled laws to be made on the basis of race, including laws which adversely discriminate against any cultures that can be racially characterised. The failure of the Indigenous Voice referendum therefore places Australians in the curiously contradictory position of having denied both the validity and actuality of indigeneity, difference and the nation’s multicultural composition but re-affirming at the same time a Constitution which enables racism in law. The referendum debates and results would suggest that, ostensibly, we don’t want laws and privileges to be decided on the basis of race and yet we want to maintain the full power of the Constitution in sections 25 and 51(xxvi) to do exactly that.

This attempted reinstatement of a monoculture is most obvious in the charge being led by commentators such as former prime minister John Howard, who declared in November 2023 that he had “always had trouble” with the concept of multiculturalism because immigrants, he said, should be expected to “adopt the values and practices” of the country they move to.<sup>15</sup> Mr Howard did not offer a rendition of the values of Australia, but clearly he was trying to re-establish the colonial project of assimilation (and a breeding out of difference) characteristic of the times of the White Australia Policy and was specific in suggesting that Australia should not try to “create some federation of tribes and cultures”. He stated, “we tried too hard to institutionalise difference rather than celebrate what we have in common,” by which he presumably meant we should only celebrate what we have in common with him. Clearly Mr Howard is not looking to solve the paradox of modernity in a non-exclusive way.

To the extent that he has argued that Australia needs to reject its now hugely multicultural composition – almost half of Australians were born overseas or had a parent born overseas<sup>16</sup> – it might be said that Mr Howard is running against the tide and against the prevailing opinion of Australians about the benefits of our multicultural society (noting that between 2013 and 2021 an average of 83% of Australians in statistically valid surveys agreed or strongly agreed with the statement that “multiculturalism has been good for Australia”<sup>17</sup>).

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<sup>15</sup> Paul Karp, “[John Howard says he ‘always had trouble’ with the concept of multiculturalism](#)”, The Guardian, 2 November 2023.

<sup>16</sup> In census results (in 2021) 27.6% of Australians report being born overseas and 48.2% report having a parent born overseas. Australian Bureau of Statistics, “[2021 Census: Nearly half of Australians have a parent born overseas](#)”, media release, 28 June 2022. [2021 Census: Nearly half of Australians have a parent born overseas | Australian Bureau of Statistics \(abs.gov.au\)](#)

<sup>17</sup> Andrew Markus, The Scanlon Foundation, “[Mapping Social Cohesion 2021](#)” and “[Mapping Social Cohesion 2020](#)”. [SC2020 Report Final.pdf \(scanloninstitute.org.au\)](#). Data on this question in these reports is in line with data in the Australian Bureau of Statistics’ “[General Social Survey 2020](#)” which reported that 85.4% of Australians “agree that it is a good thing for society to be comprised of different cultures”. [General Social Survey: Summary Results, Australia, 2020 | Australian Bureau of Statistics \(abs.gov.au\)](#)

Mr Howard was attempting to say that cultural sameness, uniformity – that is to say, elimination of difference – and an exclusive focus on what we all have “in common” will bring us cultural and racial harmony. As I showed in Part 2 of this essay, focussing on what we have in common rarely brings a multicultural nation together and certainly not in a non-exclusive way because by definition an approach that eliminates difference is inherently discriminatory and leaves the issues of minorities unattended to. Sometimes, as in the case of climate change, it leaves the interests of the majority unattended to. What diverse societies have in common in most political debate, especially at a national level, is almost zero and climate change is a graphic example of how – if we persist with a habit of addressing only those problems on which we have found common ground – we will wait a long time to solve most problems. This will pertain for as long as we let politics continue to function as an exclusive arena for resolution of problems without offering some guidance as to the national project we really want.

Fortunately, there is *one* area where Australians at least have consistently shown in surveys, research projects and community engagement a high degree of commonality, and we can use this to provide guidance to politicians in coherent terms about the national project we really want. That singular area of commonality relates to what we want for the future. The research shows that we all want the same things for our kids and grandkids and anyone we love who will live on after us.<sup>18</sup> In this regard, when our focus is on what we think we need in the short term we exhibit quite stubborn disagreement, but when our focus is on what we think would be best for all of us in the longer term we readily find a staggering level of agreement. The community-based research collective Australia reMADE observed this when in 2017 they conducted major community engagement through a project group called A24<sup>19</sup> which asked Australians to imagine “the Australia of their dreams”. They reported that:

Listening to hundreds of people, from many walks of life, we came away understanding that the hopes and dreams we share for our future are staggeringly similar.<sup>20</sup>

Mr Howard may or may not have been thinking about what Australians value for their future. Based on what he asked Australians to value in a new preamble he drafted to the Constitution for our consideration in the 1999 referendum on a republic,<sup>21</sup> it would appear his idea of what we should value is largely about our past rather than our future. It made no space for Australians to come together on all that much more than what he personally valued about by-gone days, although oddly it did assert that we value “independence as dearly as the national spirit” (something that subsequent governments have now dismissed by rendering Australia into the client state of foreign corporate and military powers).

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<sup>18</sup> See Bronwyn Kelly, [The People’s Constitution: the path to empowerment of Australians in a 21<sup>st</sup> century democracy](#), ACFP Publishing, 26 January 2023, Chapters 5 and 7.

<sup>19</sup> See Australia reMADE website, accessible at <https://www.australiaremade.org/who-we-are>: “In June 2017, the A24 Engagement Project began. The project sought to hear from ordinary Australians about the future they want for Australia. ... People were asked to dream out loud about the Australia they want and to think with us about how such a transformation could happen. Their ideas and dreams have come to give life to a vision for Australia, [Australia reMADE](#), adding depth, breadth, spirit and hope to previous draft vision statements developed in 2016 by many others who attended a series of A24 Gatherings and considered the same questions.”

<sup>20</sup> Australia reMADE, [“Creating the Best Version of Us”](#), 2019.

<sup>21</sup> Wikipedia, [1999 Australian Republic referendum webpage](#), includes the wording of the preamble as put to the Australian republic. Last accessed 22 August 2022.

The Howard preamble was rejected by 60.66% of Australian electors and it is remarkable that almost exactly the same proportion (60.06%) rejected the Indigenous Voice. Along with the obvious fact that no referendum has succeeded in Australia since 1977, the results in the republic and Indigenous Voice referendums indicate at the very least that governments need to put more work into understanding what Australians value if they expect them to answer in the affirmative to referendums. Obviously, their knowledge of what might bring us together – what we might rally around in all our diversity – is shallow.

This is something that only the people of Australia can fix and they need to do it by organising themselves to express their preferred national project – the purpose for which they wish to come together and stay together as a nation. Fortunately, this staggering level of agreement that Australians exhibit about what we want for our future – this unique space where we quite easily find commonality – offers us a sound basis that we can build on to design our preferred national project. As I mentioned in Part 2 of this essay, Australian Community Futures Planning has been trialling integrated planning and community engagement processes built on this starting point of common agreement about what we want for our future. The purpose of these trials and related research by ACFP is to help Australians construct non-exclusive terms of trust that they can offer to the parliaments they elect to represent them – terms which encapsulate their preferred future for the nation as well as the human rights they wish to claim and obligations they wish governments to observe in relation to those rights.

Some might call this a social contract, but it is more accurately described as terms of trust because that component of the terms that gives Australians the right and means to articulate the national project for the future is not intended to be a mechanism that will bind or disempower either governments or the people. It is intended instead to result in the design of some terms that can guide parliamentary deliberations and lawmaking as well as government policymaking so that they both arc towards realisation of a cohesive society – one that can maintain a peaceful coexistence of diverse, self-determining political equals. That said, the component that enshrines the human rights of all members of the democracy in law should leave the parliaments and governments of Australia in no doubt of their obligations to those who have given them power in an election. Some parts of these terms of trust are binding, just like any other law. And it is necessary that they be enshrined in the law that governs how all other laws may be legitimately made – the Constitution – and that they be enshrined there by the only ones who can make that law – the people. Otherwise, the people will be unable to hold those they elect accountable for abuse of their rights and more, they will be unable to fully specify what parliaments and governments may rightly do with power. Finally, they will be unable to shift from ineffective colonial systems of monarchical government to a democratic system that will enhance their chances of designing and achieving the national project they really want. In that regard I'll now turn to issues we should consider if we are to build terms of trust for a post-colonial, democratic form of state.

### Part 3c: Building terms of trust as political equals in a post-colonial age

The task of establishing terms of trust that parliaments and governments will be able to understand and respect is a big one – it's a *big national* project, the like of which has never been mounted before. And it is made bigger as a challenge because of the moment in history in which we might dare to attempt it. Like several other countries whose political systems were established under colonialism, Australia is at a fulcrum point in its history where there is a need for a decision on whether we wish to shuffle off colonialism and the forms of state which rely on constitutional monarchy rather than constitutional democracy. These old forms of state are hangovers of empires – at least the one that did not fully disappear in the war to end all wars. Unlike the Austro-Hungarian, Ottoman, and Tsarist Russian empires, which did disappear, the British empire was left

tattered by World War I but still standing, and it took another world war and the odd revolution to cut it down to size. In Australia though, the colonial form of state remained virtually untouched even as the imperial standing of its “mother country” went into atrophy. And the recent Voice referendum result does not suggest that if there *is* a will to transition our Constitution from colonialism to a mature democracy, we have yet found a suitably safe way to do that.

Nevertheless, many Australians will be more attentive these days to the effect of colonialism on the capacity of states to settle into political arrangements that facilitate the peaceful coexistence of cultures, self-determining political equals, and state sovereignties. Because of the Voice referendum many Australians will be more aware than they have been in the past of the failure of colonialism, at least insofar as colonised states may continue to insist on forms of state where a single monarch claims exclusive sovereignty. They will be more aware of this because of calls in the Uluru Statement from the Heart for recognition of a coexistence of sovereignties based on justice and self-determination. And particularly because of the recent violence in Israel and Gaza they will be quite able to draw parallels between those calls from Uluru and the calls of Jewish, Muslim, Christian and non-religious people all over the world for a two-state solution in Palestine. It will be evident to Australians that the horrific violence in Palestine is a tragic example of what happens when nation states refuse to accept that sovereignties must find a way to coexist in peace and with mutual respect.

However, political leaders attempting to resolve these sorts of failures of state (abroad and at home) will assume that statecraft and forced deals between powerful elites are the only way to achieve a suitable rapprochement – or what, in relation to Palestine, Australia’s Foreign Minister Penny Wong has called “a durable peace”. I would venture to suggest that statecraft and elitist, forced deals do not have a great track record of achieving peace – especially a durable one. They are one of the ham-fisted, exclusive *tools* of colonialism, not the answer to it. If anything the evidence suggests that they make everything worse. This is not to say that they are entirely useless, especially if investment is organised to rebuild a territory devastated by colonialism and exclusive forms of state. But if we are to learn anything from history it is that human relationships between people and between people and their governments (rather than inter-governmental relationships themselves) are the place to start. Governments must be able to hear those they represent before they can hope to champion durable forms of peace – either at home or abroad.

In her appeals to stop the blood-dimmed tide in Palestine, Penny Wong asserted in November 2023 that

a just and enduring peace requires a two-state solution.

She recognised that people may doubt that can be achieved, but nevertheless then asked “with all sincerity, what is the alternative?”<sup>22</sup> I would respond that there is none but that to achieve a durable peace (both for post-colonial times at home and post-war times abroad) we might start by use of processes which will help the people of a nation to build much better, more trusting relationships with those that seek to represent them in negotiations (in either domestic or international arenas) for these longed-for rapprochements – that is, in negotiations for what the people of Palestine might call a two-state solution or what the First Peoples of Australia would call a treaty or a Makarrata.

There is a relatively simple path to this in Australia. It consists in convincing governments to formalise their respect for the values and *all* the human rights of *all* citizens – those rights listed in all

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<sup>22</sup> Penny Wong, “[A two-state solution is the only way that the Israel-Palestine conflict can be solved](#)”, The Guardian, 4 November 2023.

the international covenants on civil, political, economic, social and cultural rights and in the United Nations Declaration on the Rights of Indigenous Peoples. In particular, it consists in encouraging our governments to at last abandon the hypocrisy of assenting to international law on human rights while denying Australians those rights in domestic law. It consists in recognising the fundamental right of all Australian citizens to self-determination. And finally it consists in conceiving of the possibility of establishing one extra crucial human right – a type of right that isn't yet articulated in the international human rights treaties but which is essential if we are to find a way to establish a peaceful coexistence of cultures, sovereignties and diverse self-determining political equals. That right is the right of the people of the nation to a voice in their democracy. Until we do all that – until we set up that mixture of legal instruments for human rights and statements of the national values and project that should comprise the terms of trust I am speaking of – Penny Wong cannot expect that Australia as part of its statecraft can offer a demonstration case as to how a durable peace between coexistent sovereignties – that is, a durable two-state solution – may one day be established in Palestine.

In the next and final Part 4 of this essay I will sketch out a program by which Australians may at least be confident that Australian governments will at last agree to respect their human rights and how we may all become conversant in properly exercising a right to a voice in our democracy.

If we master this, it may mean that Australia ends up with a polity of multipartisan government rather than the adversarial, divisive bipartisan form of government to which we are currently confined. It may mean more fluidity in the composition of parliaments – so that they can foster more inclusion rather than the exclusion currently preferred by the two main parties of government. This might be unacceptable to the major parties, but if their primary vote keeps dropping it might also be attractive to them in that it offers opportunities to achieve democratic reform without ejecting them from the parliamentary arena entirely. It can release the major parties, for instance, from the waste and ignominy of repeated failure in referendums. It can also offer them a lifeline as parties of decency and integrity, a possibility of their participation in parliament without having to sacrifice both the futures of Australians and the value we all place on independence in sovereignty, especially when it comes to decisions on war. Finally, it will offer everyone the advantage of being able to peacefully transition away from the problems that colonialism continues to wreak on the nation and towards the benefits that only a full democracy can offer. In particular, after the failure of the Voice referendum, it offers a feasible means of achieving something that more and more are Australians are now calling for – a just and fair treaty with First Nations.

A treaty that everyone thinks is fair and just is an essential part of any transition from colonialism and constitutional monarchy to democracy and a peaceful coexistence of sovereignties in Australia. Such a treaty – one that all may be able to *agree* is fair and just – can only come about if it is preceded by another type of treaty that we must all sign if we want to build a peaceful state – an agreement in which we freely confer on ourselves and each other all the human rights we need as the inescapably diverse individuals that we are. In earlier writing I've called this a [National Agreement on Human Rights and Obligations](#). This is an agreement that Australians should be able to vest in their Constitution for their own protection from abuse by unaccountable executive governments. For more information on this, visit the ACFP website at <https://www.austcfp.com.au/publications>. A link is in the description below.

In the next part of this essay I will set out how we can begin to walk down a path to the type of democracy that can support a peaceful coexistence of cultures, self-determining political equals, and sovereignties.

Thanks for listening. The next and final part of this essay will be released on the Australia Together Podcast next week. But if listeners want to read all four parts now, the full transcript is already available on the ACFP website at [www.austcfp.com.au/major-essays](http://www.austcfp.com.au/major-essays). Links are in the description below. Links to all the sources and evidence for the claims made in this essay are also available in the transcript.

My name's Bronwyn Kelly and this has been the Australia Together Podcast brought to you by Australian Community Futures Planning. To become involved in planning and building a better future for Australia, subscribe to ACFP at [www.austcfp.com.au](http://www.austcfp.com.au). Everyone is welcome to participate.

## Episode 43: How can Australians achieve a peaceful coexistence of sovereignties and self-determining political equals? Short answer: by establishing terms of trust with the parliaments they elect. Transcript of Part 4.

Hi, my name's Bronwyn Kelly. I'm the Founder of Australian Community Futures Planning or ACFP and this is the Australia Together Podcast. Today we're providing the last of four podcast episodes in our series on **Saving Australian Democracy and Sovereignty by Building a New Constitution**. The series contains a reading of a four-part essay in which I discuss how Australians are being dragged into a full ceding of their sovereignty over our country and how, if we do nothing to reverse this, we will end up losing our democracy itself.

To help prevent this loss, I suggest that Australia needs a new type of Constitution in which the people of Australia will have a reasonable and rightful share of power and I tackle some questions that, if we answer them well, should offer us a way to build this new Constitution together.

In Episodes 40 and 41, in which I read Parts 1 and 2 of this essay, I set out why Australians need to build this new type of Constitution and I discussed what needs to be fixed in our democracy if we are to be able to establish it as a form of state and governance that fosters political equality for the electors. I said that this will require us to build a political system where we are enabled as a collective to function cohesively but without the need to wash away our diversity. I then introduced the concept of the need for Australians to develop what I call "non-exclusive terms of trust" that they can issue to those they elect to federal parliament. I went on in Episode 42 to read Part 3 of the essay, which discusses how we can begin to build these terms of trust by collaboration.

In this final Part 4 of the essay I'll expand on that – providing insights into how these terms of trust may be properly structured so that they are indeed non-exclusive and will therefore enable us to act efficiently as a collective to design and further the national project that we really want – again, without washing away our diversity. I'll also set out how development of these terms can lay the foundation for a transition away from our current colonial form of state and towards a full democracy capable of supporting a peaceful coexistence of cultures, sovereignties, and self-determining political equals.

Finally I'll tie this back to the original question of the essay which was, "How can Australians take back control over the choice of who governs us?" And I'll show how if we learn to develop these terms of trust by collaboration, we can enable Australians to regain control as political equals in our own democracy and at the same time release our political system and leaders from hostage to external powers.

Here's Part 4 of the essay:

## How can Australians achieve a peaceful coexistence of sovereignties and self-determining political equals? Short answer: by establishing terms of trust with the parliaments they elect.

### Part 4a: Reprising the urgent questions for Australia's democracy and sovereignty

Throughout this essay I have asserted that Australians have lost control of the one power they had in their polity – the power to say who shall govern them – and that as a result the most urgent questions of our times, at least as far as our democracy and sovereignty are concerned, are:

#### **How do we wrest back control over the choice of who governs us and how do we establish some control over what they may rightly do with power?**

I am sure there will be many politicians, particularly from the two major parties, who will reject my assertion that the people of Australia have lost control over the choice of who governs us. And if there are any who do accept that this is true, they might seek to argue that the loss has arisen from electoral distortion (such as poor regulation of political donations or of political advertising) rather than from any interference by external state and corporate powers which may have been enabled by the fears of the major parties that they will be deposed from office if they do not subordinate the national interest (particularly on defence and foreign affairs) to the interests of the US or corporations. Suffice to say, our loss of control over the choice of who governs us in elections is caused by all these things but most notably now by the *belief* of the major parties – a belief which was clearly on display by Labor at the 2023 ALP conference – that unless they demonstrate a solid uniformity on defence and foreign policy that is acceptable to the US they will be unable to confine our choice of who governs us to the bipartisan form of governance that has comfortably accommodated them as the dominant parties in our politics since the second world war. In short, they believe that unless they uniformly subordinate Australia's national interests to the interests of certain foreign political and corporate powers, they will not be able to keep out newcomers to the parliament.

Leaving that argument aside, though, I am also sure there will be many Australians (and politicians, for that matter) who will take issue with my sense of the urgency of the two questions I've posed, relative to concerns that may be more immediate for them, such as rises in the cost of living and climate change. But to the extent that solutions to these problems will depend on how well we organise our polity and our democracy, the urgency of the questions I've asked should be evident. It is clear that the way we organise our current political systems is not working to help us resolve these vital issues. The reduced form of democracy we have been stumbling on with – one which relies simply on elections and voting every three or four years – is not helping with either our immediate or longer term concerns about survival, especially insofar as we have lost much of the possibility of fairness in the elections themselves.

Our problem in our democratic arrangements is not only that elections today prohibit us from independently exercising our votes as political equals (without interference from external state and corporate powers), it is also that our singular dependence on elections as though they equate to democracy is confining us to a depleted system of democracy – one which bases government solely on a now highly flawed and unfair system of selecting representatives without offering us a foundation for responsible government. In our elections, no-one understands what we want governments to be responsible for. Governments might claim that elections give them “mandates”

and require them to be accountable for those. But the truth is that in elections there is no specification by the electors of any mandate. Governments just fabricate them if they feel a need, although in recent times they don't even bother with that – lest they make a rod for their own backs.

This is why in Part 3 of this essay I suggested that the answer to the first question I posed will depend on how well we answer the second. The answer to wresting back control over the choice of who governs us lies in first establishing terms of trust as to what we expect the parliaments and governments we elect to do – and not do – with the power we give them. Candidates need to understand us on this before they can demonstrate their credentials for occupation of a seat in parliament.

In that sense, these terms of trust are rather like the selection criteria that any candidate for a job – in this case in political office – should be able to comprehensively and transparently address when they are applying for the job. They should be able to say how their political platforms will qualify them for that particular job because, demonstrably, their policies will enable them:

- firstly, to fully comply with their obligations to Australians, especially to uphold all their civil, political, economic, social and cultural rights; and
- secondly, their platforms should enable them to show how their policies will contribute to delivery of our preferred national project – a project that should be expressed by Australians in the form of a statement of our values and our preferred purpose and destination as a nation. In other words, before we go to elections, we should spell out a Vision of the nation we want to become.

A statement of their credentials and policy commitments in relation to these two things can offer us a transparent means by which political candidates can demonstrate their commitment to the public interest, and electors can efficiently judge any candidate's or party's competency in relation to the job on offer. As such, it is only logical that we need to issue candidates for the national parliament with a job description. And the selection criteria for that job or – as I call them, terms of trust – must be developed *before* we hold elections. Otherwise we will have no yardstick by which to measure the willingness and capacity of each party or candidate to accept responsibility for the things we consider essential, and they will have no way of demonstrating their commitment to us and our values, let alone to our preferred project for the nation's future. No-one will have any understanding of either the purpose of the nation or the terms of trust on offer to those who might attain power. Creation of these terms of trust should enable us to send a fundamental message to those seeking power in our democracy, and that is that the whole point of electing people is to further that purpose, not their own. If they can't prove their commitment to our national purpose, then quite simply they cannot qualify to represent us.

Many Australians will be sceptical that we might be able to agree on the national purpose, especially since we are such a diverse nation. But as I suggested in Part 3 of this essay, there is one area of common agreement that we can build on to do this, and that is about what we want for the future. Within that singular area of common ground we can begin to build a plan that describes our preferred purpose and destination as a nation and we can also build an integrated map of the safest paths towards it. Then alongside that, if we also properly scope terms of trust for those we elect, candidates will at last have the guidance they need about both the purpose of the collective and the true nature of the public interest.

This is why a new Constitution must be designed to include a statement of both our values as a nation and the rights and obligations of all parties to the democracy (including the right to a voice in our own governance). Inclusion of all human rights is necessary in order that governments can



observe their obligations to the multiplicity of interests of the members of the public. In fact, the human rights and obligations listed in the international human rights treaties to which Australia is a party – and which we should therefore have no difficulty in putting into Australian law – come closer than any other statement in law to describing what the *public* interest actually is. This is because they are fundamental to the interests of any and all individuals who might seek to be members of a democratic state – since a state is not a democracy if its citizens have no rights. Trying to run a democratic government without enshrining human rights in law is the surest way to ensure that the public interest will never be protected. And if all the human rights in the international treaties and the United Nations Declaration on the Rights of Indigenous Peoples are put into our Constitution by our agreement as a free and equal people, they will provide something extra that is invaluable to our democracy – the valid basis on which other treaties may be justly made. Until all the human rights under these instruments are enshrined in the Constitution by the free agreement of Australians, it will not be possible to demonstrate that any other treaty, such as a treaty with First Nations, is being justly made and will not be contrary to or unfair to the interests of both Indigenous and non-Indigenous Australians.

That said, while human rights in large part define the public interest, they do not suffice to define the whole of the national interest. That must be defined in much broader terms and these can be supplied by including a statement of our values as a nation in the Constitution as well as the extra right I have spoken of to give voice to the national purpose – our project for safe travel towards the preferred destination of the nation in the future.

As I said in Part 3, there is a somewhat circuitous route between learning how to specify the purpose of the nation and being able to take back control over the choice of who governs us. But in my most recent book, [\*The People's Constitution: the path to empowerment of Australians in a 21<sup>st</sup> century democracy\*](#), I suggested that an orderly path for development of these necessary terms of trust would best be followed by establishing a process for fully inclusive community engagement on a national scale. This should be designed to allow Australians to lead themselves, without political interference, in a nation-wide collaboration for development of a new Constitution – a People's Constitution.

This would be a Constitution which for the first time would grant the people of Australia a rightful share of power in their own democracy, principally by enabling them to express the terms on which they are willing to give their consent to be governed. In the book I said that this share of power for the people should be a rightful but not overweening share. In other words, the intent was not to replace our current system of monarchical power (where overweening shares are held by executive governments) with another system of power where an overweening share is held by the people. That would simply replace one type of tyranny with another. Instead the intent is to distribute different types of power among all the players who should rightly hold each type.

In this new arrangement of democracy I proposed that the current powers of the parliament to make laws and those of governments to develop and administer policy under the Constitution would be largely unaffected. But crucially I suggested adding one new power into the mix. I suggested that Australians would be accorded a power that is not actually being exercised at the moment by anyone who is empowered under the current Constitution. It's not being exercised by the parliament or the executive or the courts or the states or the territories. Nor does the Constitution make space for any person or entity to exercise this power, which is to say that no-one, not even the King, is legitimately authorised to exercise it at present. That power is the right to express the sovereign people's will.

In suggesting that there is a need for this power to be specifically authorised and accorded fully to the people of Australia in their Constitution, it should be evident that this will formally establish the people of Australia as sovereign. This has obvious implications for the model of sovereignty on which

our current form of state is based – monarchical sovereignty – and I will continue to deal with this in other writing. But it is necessary to mention here that the question of who is sovereign – the King or the people? – needs a formal resolution, hopefully in favour of the people and, most assuredly, not in a framework that would de-stabilise our ability to peacefully and productively govern ourselves.

In *The People's Constitution* I have suggested that we can begin by conceptualising a Constitution in which the people are formally accorded status as the *source* of the sovereign will. At present our Constitution accords this status to no-one and this is highly deleterious to our capacity to govern ourselves as a cohesive and prosperous nation and establish a form of state which rightly distributes the different types of powers necessary for a stable and productive democracy. The Constitution is in fact designed quite effectively to prevent us from expressing our will and in this it is preventing us from becoming the nation we want to be and the one we want to leave to future generations. It is also preventing us from establishing stable, peaceful governance – one where the rightful powers of the various parties to the democracy are properly separated and balanced so that no one party can abuse the privileges and rights of the others. This is something we need to establish as soon as we can because the potential under our current democratic arrangements for imbalances in power is now quite marked. As I have shown in other writing, Australia's political arrangements have given rise to a problem of executive overreach<sup>23</sup> in the last twenty years, which has in turn led to a serious increase in abuse of human rights by Australian governments.

Inasmuch as the current Australian Constitution obviates the need for expression of the sovereign will (the people's or otherwise), it creates the vacuum I spoke of in Part 1 of this essay – a vacuum in which political parties are being forced to develop their policies. Some politicians probably prefer it that way but if we want to make them more accountable to us and for what is truly in our interest, we must face up to the need – and indeed the obligation – to say what they are to be accountable for. The current Constitution gives us neither the right nor the means to express this. In a space where we should be stating the purpose for which we wish to form and stay together as a commonwealth, there is a lacuna, a silence. Australians have to fill that gap with their voices (that is, with a specification of their will as free and equal people of a self-governing nation) if they expect to be able to issue coherent terms of trust to those they elect and thereby assume a modern polyphonic form of sovereignty – the form that is the minimum necessary in an irreversibly multicultural society for a peaceful, non-exclusive coexistence of cultures and self-determining individuals as well as a peaceful coexistence of Indigenous and state sovereignties.

This is what has led me to suggest that it is a necessity for everyday Australians to be able to assemble themselves so that they can develop terms of trust for issue to those they elect – terms that should amount to a coherent statement about the sovereign will of the people. And so I will now turn to the form this might take so that it is of practical use to everyone.

#### Part 4b: The structure and content of terms of trust

The terms of trust that Australians might issue to those they elect – so that they can guide the elected as to the sovereign people's will – require constitutional amendments which, when taken together, will form a cohesive statement with four main components. The statement will need to:

1. affirm our most sincerely held values as an indissoluble commonwealth (the values that hold us together and define what we stand for as a nation);
2. the statement will need to enshrine all our human rights as equals;

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<sup>23</sup> Bronwyn Kelly, "[Insights into Human Rights and Democracy in Australia](#)", Episodes 38 and 39 of the Australia Together Podcast, October 2023.

3. it should transparently set out the government's obligations to the people in observance of those rights; and
4. it should provide a guarantee that any and all of us shall be able to have a voice in how the nation should chart a course to a better future.

The fourth of these contemplates the need to build a Constitution which gives all Australians a right and the means to participate in an efficient process for expression of what in *The People's Constitution* I called the "National People's Voice" and that this will need to exist alongside an Indigenous Voice (the reasons for which I will explain below).

Putting the four things together will amount to the creation of a new preamble and extra chapter in the Constitution – a space for assigning a specific type of power to those who currently have none – the people. This will comprise a coherent statement that must be and can only be made by the people. It cannot be made by the parliament or a monarch or a governor general or any of the other parties currently empowered by the Constitution, such as the courts. And as an expression of the sovereign will of the people, we can conceive of this statement as containing two types of affirmations – that is, we should learn, through a collaborative process, to structure it so that it contains:

1. commitments to some constants – that is, vital principles and values that are central or, shall we say, essential to our will and that are likely to be fairly constant through time (and which, by the way, because they are vital will need to be acknowledged as justiciable); and
2. the statement will also need to be structured so that it contains an acknowledgment that our aspirations – things which are likely to change through time – are also central to the will of the people and should therefore be expressed and taken seriously enough to form the basis of the agendas of the parliaments we elect, at least as guidance, if not as binding, justiciable requirements.

In relation to the constants, the new Constitution should contain commitments that the Australian people and those they elect are *both* willing to affirm as central to the sovereign will of the people because they are fundamental to our humanity. Our human rights and obligations to each other fall into that category if we accept that they are the natural birthright of all. And since we know that it is the Australian government's official policy that human rights are indeed the natural birthright of all – they are acknowledged in current policy to be universal, indivisible, inherent, enjoyed by all simply by reason of their humanity rather than granted or bestowed, and they are inalienable in the sense that they cannot be given up or taken away<sup>24</sup> – then we should be able to expect that no elected member of parliament will have difficulty in joining with the Australian people in affirmation of those rights and obligations. In fact, unless they do so they will be denying our very humanity, and therefore the Constitution should enshrine our right to demand that affirmation as the bottom line of our consenting to be governed. It should clearly signal to candidates that if they are not prepared to swear to respect and uphold all our human rights, then they cannot pre-qualify for a seat in parliament.

Our values as members of the Australian nation also fall into this category of things that are likely to be fairly constant through time. For instance, based on research I've documented in *The People's Constitution* we may assume that peace is an enduring value for Australians, as is democracy. However, regardless of which values Australians finally settle on in this nation-wide engagement process, they too should be affirmed by both electors and the elected and oaths of office should be developed for the elected which reflect sincere commitment to those values and a sworn willingness to be accountable for failing to uphold them.

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<sup>24</sup> Department of Foreign Affairs and Trade, "[Australian and Human Rights: An Overview, 4th edition](#)", December 2017, pages 10 and 15.

In relation to our aspirations – things which are likely to change through time – the important thing is to ensure that the Constitution enables us to express them and express them in a manner that enables parliaments and governments to scope policies and legislation that will maximise our chances of realising those aspirations. And to ensure that parliamentarians cannot fail to understand extent of these aspirations, the Constitution should enable Australians to express them in a particular form – the form of an integrated, non-exclusive, long term national strategic plan which will propel Australians towards realisation of their preferred vision for the future of their nation but via routes they consider to be safe. In short, the Constitution should enshrine what I have called a process for expression of a national people’s voice and a right for everyone to engage in that process – the process of building the national project, one which foreshadows to governments the directions in which we want them to fly.

As I have already indicated, this national people’s voice as both an *institution* independent of politics – as well as a *process* for building the plans for our preferred future – should be enshrined in the Constitution in addition to an Indigenous Voice. Both these voices must be enshrined simultaneously so that no-one is either privileged or disadvantaged by their creation. This is necessary if we are to resolve any remaining argument between the 6.3 million Australians who voted for the Indigenous Voice and the 9.5 million who voted against it. The two voices must also be established as independent, self-run institutions if parliaments are to have the best chance of comprehending the full character of the new post-colonial, reconciled nation that would emerge under a people’s constitution and the full significance of the people’s expressed sovereign will. Both these voices should also be enshrined in a non-exclusive way – by which I mean they cannot cancel each other out or, shall I say, shut each other up. In other words, there can’t be a hierarchy of one over the other if Australia is to establish a peaceful coexistence of sovereignties that fosters both the public interest – that is, the legitimate interests of the individual members of the democracy – and national interest. Nor is there even a need for a hierarchy since neither institution will be able to bind parliaments or the executive. Parliaments and governments will still be able to determine in their respective clearing houses which voice will prevail on an issue by issue basis (if there is a conflict between the voices). They will still make the final decisions in law and/or policy. But in a People’s Constitution they will be required to demonstrate that their decisions meet the terms of trust they have accepted in swearing their oaths of office. They will be required to demonstrate how their decisions were consistent with their obligations to uphold the rights of the members and the values of the nation. We may only imagine that this will make for a form of state that is more efficient and fairer than we have now. More detail on the necessary structure of the terms of trust which can propel Australians to this new, fairer form of state is supplied in *The People’s Constitution*.

All that said, it is one thing to imagine how terms of trust may be structured so that the people may safely establish this new form of state; but it is another thing to design a collaborative process by which they may confirm the contents. Australians need to be given a proper space to do this, free of political interference. They also need to develop a program for it because the order in which this collaborative process is run is extremely important. To explain that I can cite the last two referendums in Australia as examples of how not to do constitutional reform. In those two cases the parliament opted for piecemeal amendments, out of the context of the wider debate that should have been had about what we were actually trying to achieve for the nation and its future and what we need in rights. A more collaborative, first-principles approach that sincerely respects the will of Australians as sovereign in their own land is necessary and I have made suggestions about how this may be organised in Chapter 9 of *The People’s Constitution*. I have summarised that in an ACFP Fact Sheet called “[Making a new Australian Constitution – by collaboration.](#)” This outlines a seven-step and probably five-year long program of nation-wide community engagement and collaboration to

build a Constitution fit for a 21st century democracy of political equals. The fact sheet is accessible on the ACFP website at <https://www.austcfp.com.au/supporting-activities>.

#### Part 4c: Restoring control over the choice of who governs us

Throughout this essay I have suggested that the priority questions for our democracy and sovereignty are:

**How do we wrest back control over the choice of who governs us and how do we establish some control over what they may rightly do with power?**

I've also said that the answer to the first of these will depend on how well we answer the second. I've then gone on to suggest that the answer to the second question is that if we wish to establish control over what the parliaments and governments we elect may rightly do with power, we will need to develop terms of trust which set out the bottom line of our consenting to be governed. I've also suggested that these terms of trust are essential to our chances of achieving a peaceful coexistence of cultures, self-determining political equals, and Indigenous and state sovereignties.

In effect, development of these terms of trust is the first step in being able to switch from an exclusive, unitary, monarchical system of sovereignty to one where the people are sovereign because they have moved past colonialism and into a constitutional democracy. Instead of parliamentarians having to swear their allegiance, as they must do now, to a dead foreign monarch and her heirs and successors, the advent of terms of trust that have been collaboratively developed by the people will usher in a new form of relationship between people and parliaments – one where the elected will be required to swear allegiance to the specified sovereign will of the Australian people.

Along the way, the people themselves will need to become accustomed to the fact that a stable and accountable government cannot be formed unless they too have discharged their obligation to specify their will as sovereign. The people will need to shift to a position where they accept that it is unreasonable and, in fact, quite unfair to those they elect to expect them to be accountable for unspecified responsibilities. They will need to shift to a new mindset where everyone takes it for granted that elections should not be conducted until they have first specified the national purpose and project so that it can function as a good job description for the parliament, and that conducting elections in the absence of that specification is not only inefficient for everyone, it is also a recipe for more disasters, including ones that we cannot afford, like climate change.

For those well used to assuming that politics, conducted as we do it now, is the only way to build a nation and secure its future, the notion that the sovereign will of the people of a multicultural nation can be specified in a coherent statement will be anathema. It will take a long time for politicians to get used to it. But it need not take a long time for Australians to get used to it, especially insofar as the development of terms of trust is likely to significantly increase their confidence that we can more easily select governments that can pick up speed in resolving issues like climate change or fractious international relations. It will not be difficult for Australians to figure out that the sooner we tell governments what we want, the sooner they can move on from disputes about what is best for us (and them) and construct an *integrated* set of policies best able to secure what is actually vital to all of us, like a liveable planet, a decent and affordable standard of living, a good and affordable education, life-long health, secure housing, and freedom from the ravages of war and social conflict. Once the concept of building terms of trust is more widely understood, many Australians will wonder why we didn't do it sooner.

But what is the connection between doing this and taking back control of elections? If the answer to a question about securing greater control over what those we elect may rightly do with their powers is to develop the sort of terms of trust that I have described, how does that help us take back control of elections? Well, as I have said a few times in this essay, there is a somewhat circuitous route between learning how to specify the purpose of the nation and being able to take back control over the choice of who governs us. Learning how to specify the purpose of the nation in the form of these terms of trust will take time, of course. But as the collaborative process for building that specification is progressively mastered it will provide the electors with something they currently don't have that will enable them to transfer their attention away from mainstream media and social media. They will have built their own alternative and credible source for the information they need to make their decisions as to who is best qualified to govern them. Moreover, this source will have a level of credibility that certainly cannot be claimed at present by either mainstream news media or social media. That level of credibility will arise from two points:

1. The fact that the terms of trust have been developed by the people themselves; and
2. That fact that the performance of existing parliaments in relation to those terms of trust will be directly assessable by us.

By this I mean that a parliament's performance in relation to:

- a) their adherence to our values,
- b) their record of meeting their obligations to protect our rights, and
- c) their progress towards or away from our preferred vision for our future,

will henceforth be assessable by us based on factual evidence that itself can now be readily and transparently assembled in one easily accessible place – a place open to everyone for participation and viewing. Once we have the terms of trust, it is not a difficult matter at all to assemble the factual evidence about how well a parliament did in complying with those terms. Australian Community Futures Planning is currently pilot testing this system by running trials using a draft of a vision for a better Australia. This has been assembled by ACFP as a working draft based on research about the opinions that have actually been expressed by Australians on their preferred future in surveys, studies, and other research and community engagement over the last twenty years. For purposes of these trials ACFP has called this draft the [Vision for Australia Together](#).

To date the trials have proven that it is quite easy to independently collate the evidence Australians need so that they can assess the performance of a parliament in relation both to what matters most to them personally and what matters most to us as a nation for our future. It is possible to efficiently assemble evidence-based reports that can be released before every federal election to all Australians so that they can make their own judgement about who is best qualified for a seat in parliament without the distraction of information from mainstream and social media that is not based on factual evidence, is bogus, or is irrelevant to their real needs. It is also quite easy to produce a report which analyses the policy platforms on offer from the major parties and whether those policies will be capable of driving us towards or away from our preferred future. ACFP was able to independently mount a pilot version of all this for the 2022 federal election, producing two comprehensive reports for the purpose:

- The first report was [The State of Australia 2022](#), which provided an evidence-based “End of Term” report on the performance to the 46<sup>th</sup> parliament in relation to the draft Vision for *Australia Together*, (view video summaries [here](#)); and the second was
- [The Election 2022 Australian Better Futures Commitment Index](#), which reported on the potential of the policy platforms of the three major parties – Labor, the Liberal/National

Coalition and the Greens – to propel us toward or away from the draft Vision for *Australia Together*, (view the video summary [here](#)).

ACFP will run this program again for the 2025 federal election, resources permitting.

Assessing the performance of an outgoing parliament in this way will give Australians a quick, one-stop reference point before an election helping them to decide how well that outgoing parliament worked together during its term to deliver on our vision for a better future and whether they did so with integrity and fairness. This in itself will save time for electors. No longer will it be necessary to wade through or recall all the strengths and blunders of parliaments and governments reported by news media during a period of office. Few people have the time and energy to do that anyway. Indeed it's impossible when information is spread over so many disparate and often unverified platforms. But once the information about what is truly relevant to their future wellbeing and security is assembled in one place, their ability to review that and determine how they'll vote will be made decidedly easier by these forms of evidence-based reporting about progress towards a Vision that they themselves have assembled. They will be able to exercise their own judgement about a parliament based on consolidated evidence of the performance of that parliament over the full term of its office, and this time in relation to what really matters to them – their stated values, rights and vision for their future.

This will itself gradually reduce the dependence of electors on the media – or maybe not so gradually, given that trust in the media is already at an all-time low in Australia and people are actively looking for more reliable sources of information. They are drifting away from mainstream and social media to non-mainstream sources such as Substack and podcast platforms being hosted by independent experts in various fields. These too can of course fall into disbursing propaganda and misinformation; but to the extent that writers in these new spaces have now freed themselves from dependence on corporately controlled news media, they can build new audiences without having to subordinate their writing to the will of gatekeeper publishers such as Rupert Murdoch or Nine News who have no professed loyalty to the interests of Australians. They can no longer be silenced by these gatekeepers and the commercial advertisers that fund them. Now they can concentrate on facts and evidence.

The new platforms are releasing journalists and experts from their dependence on commercial news media and this competition offers a chance to begin re-installing truth in our polity. It may take a while but if we master a process of setting out what is truly vital for us, then we will have a frame of reference which filters what is really relevant to us and what is not and therefore what is worth attending to in our busy lives. In short, because terms of trust can crystallise what really matters for us, they can make our individual deliberations about how we might vote so much more efficient and sensible. And they can make our conversations with whoever we elect so much more informative for them in terms of policy development. Not unreasonably, we might expect that this will mean the major parties will gradually shift their policy platforms so that they demonstrate a truer allegiance to our preferred national agenda, rather than the agenda of a foreign power. Logic suggests that if all they have to do to pre-qualify for a seat in parliament is develop policies which respect our values, rights and will about where we want to go as a nation, this should release them from their fears that they will be deposed if they don't support the interests of an external power.

We might wait a while for the major parties to develop the courage to stand up to foreign interference. But if their choice is between:

- a) being ejected from parliament by Australians, because they refuse to commit to the terms of trust we can organise ourselves to specify; and
- b) being ejected from parliament by external imperial and corporate powers, because they refuse to submit to foreign agendas,

then we might expect they will develop the courage to stand up to that external interference some time before one or the other of them (most likely Labor) is made extinct by further dips in their primary vote. This is logic that is only based on abstraction of course. But it is well worth consideration by any political party facing extinction.

As I said in Part 3 of this essay, Australia's two major political parties are witnessing steep declines in their primary vote. They're mindful of the possibility that they are on the brink of extinction. I also said that this has led the major parties to switch their allegiance away from Australians and to foreign powers and they will need strong incentives to switch their allegiance back again. These incentives will need to give them a safe corridor to survival. In that regard, non-exclusive terms of trust which have been collaboratively and thoughtfully developed by Australians, consistent with their stated values as a nation, offer the best chance to swing the two major parties back to us, because they take away the risk that a policy choice a party might make to stand up for the expressed interests of Australians over the interests of external powers will result in their being deposed by external powers.

The trick here will be to offer incentives that make these parties feel safe enough to do the right thing once again by Australians, and very unsafe to do the wrong thing. They will need to feel that it is safe enough to stand up to pressure from:

- the mining lobby (which acts against the national interest on climate change);
- the Murdoch/Nine news media (which acts against the national interest on multiple issues, notably reconciliation with First Nations and war); and
- the US hegemony which places its national interest above all others, no matter the denial of the sovereign rights of other countries.

In summary, instead of languishing in an electoral system which works by allowing the political parties to divide *us*, the collaborative development of terms of trust will give us a truly democratic system which helps us better exercise good judgement to divide *them* into those who will best support our agenda and those who will not, and we can do this efficiently. We can rank the candidates using a yardstick that is meaningful for us as a nation. We can assess the level of commitment of each candidate and party to our preferred plans and we can gain the added advantage of being able to assess their commitment and credentials to uphold our values and human rights.

Thanks for listening. If listeners want to read all four parts of this essay the full transcript is available on the ACFP website at [www.austcfp.com.au/major-essays](http://www.austcfp.com.au/major-essays). Links are in the description below. Links to all the sources and evidence for the claims made in this essay are also available in the transcript.

My name's Bronwyn Kelly and this has been the Australia Together Podcast brought to you by Australian Community Futures Planning. To become involved in planning and building a better future for Australia, subscribe to ACFP at [www.austcfp.com.au](http://www.austcfp.com.au). Everyone is welcome to participate.

Listen to more about *The People's Constitution* and human rights and democracy in Australia in [The Australia Together Podcast](#).

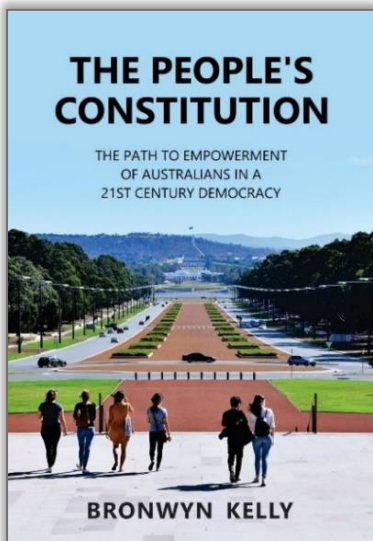
Further questions may be forwarded to ACFP at [info@austcfp.com.au](mailto:info@austcfp.com.au).







For more information on ACFP’s trials of assembling evidence for use by Australians in selecting the candidates and parties best placed to secure the future we want, see [“Australians can now see whether parliaments are working for them”](#) by Bronwyn Kelly, John Menadue’s Pearls and Irritations, 20 May 2023.



Read [The People’s Constitution: the path to empowerment of Australians in a 21<sup>st</sup> century democracy](#), by Bronwyn Kelly at <https://www.austcfp.com.au/publications>

## About the author



Dr Bronwyn Kelly is an Australian researcher and writer on public policy, specialising in long term integrated planning for Australia’s society, environment, economy and democracy and in systems of governance for nation states. She is the Founder of Australian Community Futures Planning (ACFP), a research entity providing assistance to Australians in planning a better future for themselves and for future generations.

View Dr Kelly’s writing at [www.austcfp.com.au](http://www.austcfp.com.au) and on Substack at [bronwynkelly.substack.com](http://bronwynkelly.substack.com) where she writes [The State of Australia Newsletter](#).

