

# DOES AUSTRALIA NEED A HUMAN RIGHTS ACT?

**YES**



## **Offers express and clear protection of rights**

A clear and unified human rights framework generated from Australian values may improve clarity, empowering individuals to advocate for their rights. This could remedy the shortfalls of the current system and enhance the culture of respect for rights in the community and the arms of government.

## **Increased public knowledge about rights will increase accessibility**

The clarity provided by a written, legislative framework enables public education and engagement, as opposed to common law protections that can be lesser known by everyday people. Individuals may therefore be able to better understand and access their rights.

## **Creates enforceable guidelines for the protection of rights**

Public policies and legislation will be required to align with human rights standards, with the aim of increasing the accountability of the Australian Government to its citizens. Embedding procedural measures could provide legally enforceable remedies for breaches. It will also serve to align Australia's laws and policies with the international human rights commitments it has signed and ratified.

## **Rights become positive in a legal sense**

Most rights are framed in negative language that prohibits actions. Legislative recognition of rights enables rights to be granted to individuals by the government, making them positive in nature. This may enhance understanding of rights.

**NO**



## **Changes our system of democracy**

Australia's current system has strong protections for many rights that other countries with Bills of Rights do not. A Bill of Rights may alter that system and the checks and balances that have successfully provided freedom and prosperity in Australia. In addition, it has been questioned if those States and Territories that have a Charter of Rights have seen better human rights protections.

## **An embedded legislative framework will change who decides when rights conflict**

Legislation requires interpretation by judges, and where individual and collective rights conflict, unelected judges will effectively become responsible for the final decision in creating social policy when resolving complex disputes about conflicting rights. This creates a risk of the judiciary becoming political in nature, like in the USA.

## **Legislation evolves at a slower rate than human rights**

Because rights are a reflection of societal values, there can be diverse opinions about what rights reflect the values and needs of a community. Legislative instruments can be slow to change, with reform relying heavily on the support of the government of the day.

## **Legislative recognition can serve to limit our rights to only those specified**

Under our democracy and the rule of law, Australians are free to do anything unless expressly prohibited by law. Writing down rights and freedoms, risks fostering a culture that inverts this principle, i.e., you have no rights except those explicitly granted by law.

*For more information and a summary video of both arguments from the Australian Human Rights Commissioner, go to <https://www.ruleoflaw.org.au/education/human-rights/>*