

# Magna Carta and the Rule of Law in Australia

The Magna Carta is a historical agreement between a notoriously tyrannical king and his rebellious barons, sealed in medieval England back in 1215.

The barons challenged King John in his use of arbitrary power over the people and expected him to abide by the clauses outlined in the charter. By agreeing to follow the rules, the king found himself required to abide by the laws of the land and more importantly, to recognise and accept that no one - not even the king, was above these laws. Magna Carta was the first step in forcing a monarch to recognise and protect the rights and freedoms of citizens.

Over the years Magna Carta was reissued, finally reaching consensus of the people around 1225 under the reign of King Edward I. But it was not easy as monarchs continually fought to exercise their power over the people. Checks and balances were used to continually hold them to account. The barons prevailed in wanting to live under the rules of law and not allow one individual to control their lives and be unaccountable for the suffering they caused. The rule of law embodies principles that no one is above the law of the land, not even the monarch.

The Magna Carta established the rule of law in Australia and forms the foundations of governance based on the Westminster system. In recognition of Magna Carta's influence in the development of Australian law, one of only four remaining 1225 editions of Magna Carta was acquired and is placed on display in the halls of Parliament House for every visitor to the capital to see.

Today, many of the principles and values gained from the Magna Carta have been incorporated into the foundations of governance for the most successful democratic countries around the world. Examples of this include the *United States Declaration of Independence and Constitution*, the bicameral legislatures of the *Westminster System* (including associated commonwealth parliaments and constitutions), and the *Universal Declaration of Human Rights* - recognising freedoms and rights for all people.



[VIDEO Magna Carta:](#)  
[The foundation of the rule of law](#)

## Magna Carta and Australian Law

In Australia, the rule of law encompasses concepts that all citizens know the laws of the land and are willing to obey them. Here are some ways Magna Carta influences how the law operates in Australian society:

The law applies to everyone,  
regardless of their position  
or status in society

No person shall be arbitrarily  
arrested, imprisoned, or  
deprived of their property

An independent court system  
that resolves disputes in a fair  
and public manner

A person is presumed innocent  
until proven otherwise by a court

The law is clear, known,  
and enforced

Punishment must be  
determined by a court and be  
proportionate to the offence



# Magna Carta's influence in Australian society today

## The Magna Carta



The terms for freedom of rights and liberties were agreed to in a peace treaty between a tyrant king and his people in medieval England 1215.

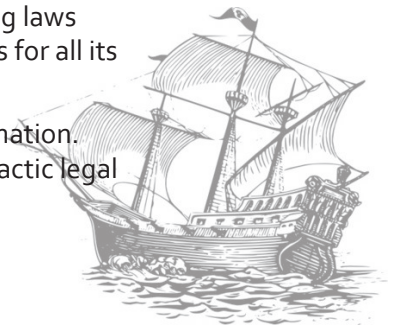
The Magna Carta recognised individual freedoms and human rights. Its principles established the doctrine that everyone was expected to live according to the law of the land. No one was above the law, including the king.



## A Time of Discovery and Relocation

In 1788, the British Government planned to establish a penal colony in Australia. It was decided that the ideals and principles from the Magna Carta, then embedded in British Law, would apply in its administration. This provided the foundation for creating laws that upheld fundamental liberties, protection of property, and freedom of rights for all its citizens, including convicts.

Today, Australian society has evolved to meet the needs of a rapidly developing nation. Fundamental principles of the rule of law are key features of Australia's democratic legal system, enshrined in Australian constitutional law.



## The Australian Constitution and Governance

Australia develops into a federated nation by 1901 and forms its own blueprint for governance. The Australian Constitution becomes the foundations for the Westminster system to operate under, providing the supreme law in determining how the nation will be governed. The Constitution includes important principles and concepts that recognise the rule of law.

Responsible governance has mechanisms in place to maintain accountability and that supreme power does not ultimately lie with the government. The **separation of powers** ensures that power to govern is shared between the parliament, executive council, and an independent judiciary. Each group works within defined areas of responsibility to keep check on the actions of the others and avoid one group having power over another.

The parliament and the executive are held to account by the courts. The parliament can not judge the limits of its own law-making power, as this role belongs to the High Court of Australia.



## Australian Society

The rule of law protects citizens against arbitrary power and supports human rights by upholding the values and ideals that promote the rule of law. Australia is a representative democracy, where citizens elect their choice of representatives to make decisions on their behalf. Australian citizens maintain trust in their governing authority to implement, maintain and preserve a safe, secure and progressive society. Citizens have the freedom to make personal choices, have access to opportunities, and enjoy a high quality of life in one of the most successful democracies in the world today.