



# Source of Rights in Australia

## Australia's Patchwork Quilt of Human Rights Protection

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People often claim that Australia has one of the best legal systems in the world, along with a strong record on human rights. Unlike countries that rely on a single, comprehensive document like a Bill of Rights, Australian rights are protected by our common law tradition through a range of legal and non-legal sources. This creates a distinctive patchwork system, where each piece plays a role in balancing the rights and responsibilities of individuals, governments, and organisations. Together, these elements form a resilient and adaptable framework that not only safeguards the inherent rights of all Australians but also holds those in power accountable.

### Human Rights Protections in Australia:

#### The Australian Constitution

The Australian Constitution is the chief legal document that establishes the nation's system of governance. It safeguards human rights by placing limits and responsibilities on governing bodies:

- **The Separation of Powers** – The Constitution separates power among the Legislature, Executive, and Judiciary to ensure a system of checks and balances and that no single body holds all the power.
- **The Federal System & Division of Powers** – Power is shared between the Commonwealth, state, and local governments to further prevent the concentration of authority.
- **Explicit and Implied Rights** – The Constitution protects certain rights, such as the right to a trial by jury for federal indictable offences (s80), and implies others, like the freedom of political communication. The government is responsible for upholding these rights and is prohibited from passing laws that infringe upon them.

#### The Common Law

Common law, or judge-made law, protects traditional inherent rights, such as freedom of speech, fair hearings and the presumption of innocence. Rulings are made by courts that are based on precedent and legal reasoning by independent and impartial judges.

#### Statute

Legislation, or statute law draws limits on our freedoms, particularly when rights clash. Some laws also provide enforcement measures and remedies when rights are violated. For example, the *Disability Discrimination Act 1992 (Cth)* and the Human Rights Acts in Victoria, Queensland and the Australian Capital Territory.

#### International Law

Australia's ratification of international agreements reflects a commitment to global human rights standards, which can be incorporated into domestic law – transforming the standards into legally enforceable rights and responsibilities.

#### The Principle of Legality

The principle of legality is a legal doctrine which guides the Judiciary (the courts) to interpret legislation with the presumption that Parliament does not intend to interfere with or limit fundamental common law rights and freedoms unless explicitly stated in the legislation.

#### Statutory Agencies

Public bodies, such as the police and the Australian Human Rights Commission enforce laws, and investigate breaches, ensuring people understand, uphold, and respect their rights and responsibilities.

#### The Media

A free press checks government power, highlights rights and responsibility issues, and creates social pressure for law and policy reform.

#### NGOs

Nongovernmental Organisations conduct research, raise awareness, advocate for human rights protection, and offer humanitarian assistance.

#### Culture of Lawfulness

A culture of trust and legal compliance by citizens, including those in power, fosters social cohesion, motivating people to fulfill their responsibilities, which in turn helps people protect human right