



The Fabric of Australia

The ties that bind us



FACTSHEETS

Factsheets



One-page factsheets on 14 topic areas

This pack contains factsheets to help students explore the civic ties that connect Australians. These resources are curriculum-linked and created to inspire deeper understanding of our shared values, responsibilities, and democratic heritage.

Each topic is presented as a concise, one-page fact sheet. These have been developed by experienced educators from across Australia to ensure curriculum and syllabus relevance, clarity, and classroom practicality.

Each fact sheet includes:

- A clear explanation of the topic
- Three core ideas to anchor understanding
- Chunked content to support cognitive load and accessibility

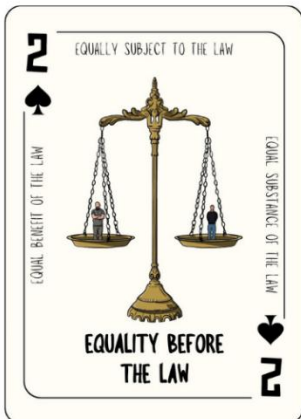
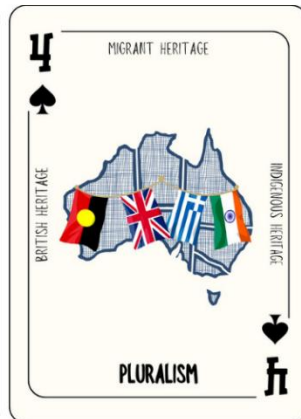
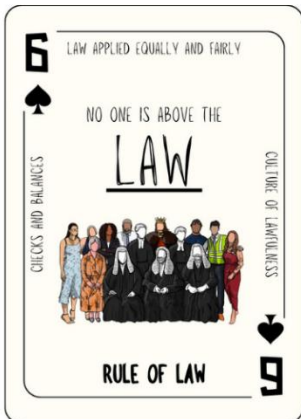
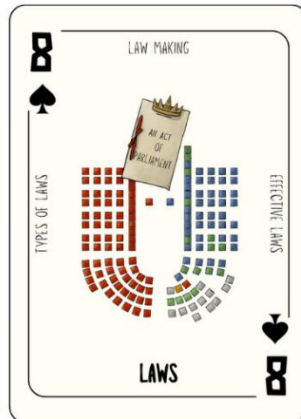
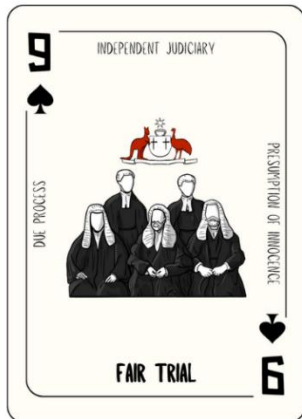
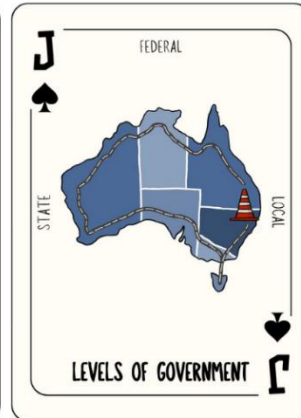
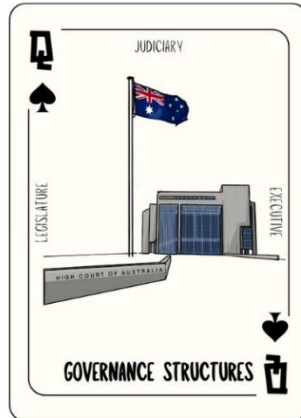
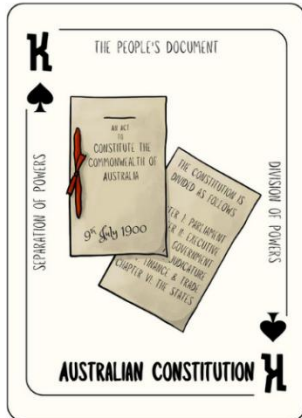
This structure supports explicit teaching, introducing new concepts in manageable steps that build student confidence and retention. These fact sheets are designed to activate prior knowledge, spark peer-to-peer conversations, encourage critical inquiry, and connect civic concepts to current events.

Teachers can use them flexibly to guide discussions, integrate with ongoing lessons, or respond to emerging issues in the classroom. Each topic area is divided into 3 subtopics for further inquiry. Many of these sub-topics, like a piece of fabric, are interconnected and overlap to provide the strong protections of rights that we enjoy from our system of government.

These resources are:

1. **Curriculum aligned but usable across different subject areas:**
While these resources are grounded in the Civics and Citizenship National curriculum, civic learning is not confined to one subject. Informal civics education also occurs in English, History, Geography, Art, and more. *The Fabric of Australia: Informed Competition* and its accompanying playing cards are designed to be flexible and interdisciplinary, making them ideal for integration into subjects like History and Art.
The 14 topic areas serve as curriculum-aligned prompts that support both specialists and non-specialists, offering accessible entry points into key civic concepts that can be embedded across a range of learning experiences.
2. **Supporting Activities:**
Each fact sheet is accompanied by engaging, printable activities that reinforce key concepts and encourage active participation. These activities are designed to foster a classroom culture of respectful dialogue, critical thinking, and civic engagement. They can be found on the informed website.
3. **Informed Competition.**
The Fabric of Australia: Informed Competition is designed to be inclusive and adaptable, ensuring all students can participate regardless of background or access to technology.
The competition is free and open to students in Years 7–10 across Australia
It can be completed using paper-based or digital formats and can be delivered in a single lesson or at different times.
After learning about a topic area, students will create a new design for their own set of playing cards. The winning class will receive their own deck of professionally printed cards, with their own designs on each card!

If you have any questions or would like to discuss our resources further, please email our team at education@ruleoflaw.org and check out our competition website: <https://informed.ruleoflaw.org.au>.



A deck of cards to teach democracy and the rule of law, and the ties that bind us together. Get your teacher to enter the competition to win a pack of cards featuring your class designs. For fact sheets and classroom activities on each topic, go to informed.ruleoflaw.org.au

 RULE OF LAW EDUCATION CENTRE

The Constitution: Its Purpose

What is the purpose of the Australian Constitution?

The Constitution is a legal document setting out the basic laws for the government of Australia. It is structured so that the Australian people hold the ultimate power.

The Constitution came into effect on 1 January 1901, when the people of the separate and self-governing colonies (now called the States) agreed to unite and become a new nation, the Commonwealth of Australia.

The fundamental purpose of the Constitution is to define how power is shared within Australia. It outlines where the power lies, who can use it and how it can be used. The Constitution is structured into chapters to create a legal and political system that divides power through the Separation of Powers and Division of Powers.

The Constitution is the people's document and can only be amended by the Australian people through a referendum.



Purpose 1:

Federation and the creation of the Commonwealth of Australia

The Constitution established the Commonwealth of Australia, bringing the independent colonies together through Federation.

There was concern that the separate colonies would lose their independence and authority. To address this, the Australian Constitution established the framework of a central government with clearly divided powers between the Commonwealth and the States.

This allocation is known as the **Division of Powers**.

Section 51 of the Constitution lists the areas in which the Federal Government can make laws, for example, defence and immigration. Areas that are not listed under section 51 are the States responsibility. For instance, public transport, education and public healthcare.

Sometimes, both the Federal and State Governments make laws about the same issue. When this occurs, if there is any conflict between the two laws, Federal law will overrule the State law.

Purpose 2:

Sharing power between the Legislature, Executive and Judiciary

The Constitution is structured to split and share the power between the three branches of the government – the Judiciary, the Legislature and the Executive. This is known as the **Separation of Powers**.

The **power to make laws** is given to the Legislature. Australia's bicameral (or two part) parliament allows for laws to be carefully reviewed and debated twice before being passed. Representatives (members of parliament) are elected by the people through democratic processes in free and fair elections.

The **power to enforce laws** is given to the Executive. The Executive includes the Prime Minister, government departments, other members of parliament, the Australian Defence Force and the Police. The Judiciary has the **power to interpret and apply the law**. The Judiciary is led by the High Court and ensures that laws and government actions are constitutionally valid. The High Court is the final arbiter of disputes and has the authority to resolve any conflict between Federal and State laws.

Purpose 3:

Protects the Australian People

The Constitution **protects the Australian people from arbitrary power and uncontrolled authority**.

By putting limits on power, it ensures each body works within their area of responsibility. This acts as a **check and balance** on the governing authorities to ensure that power is not held by a single person but is instead shared between three different bodies.

Although the Constitution lacks a Bill of Rights, it guarantees that **laws are applied fairly** to everyone. This means all people, including those in Government must follow the law, whether they are making laws or administering powers. It provides justice with an independent judiciary that can resolve disputes, even if the dispute is against the government.

The Constitution is vital for safeguarding freedoms and balancing power, ensuring that our democracy functions effectively.

Governance Structures in Australia



What institutions form our government?

Governance refers to the way a state is managed by the authority or authorities placed in charge.

The Australian Constitution is divided into Chapters that reflect the way Australia is to be governed. The structure consists of three key branches: the Legislature, the Executive and the Judiciary, each with specific roles and institutions. Powers between these bodies are distributed by the Constitution in a way that ensures that no one branch has complete power or control over the decisions made for the country and its people. This system is called the Separation of Powers. Australia's system of government reflects its British heritage and the coming together of the colonies.



1. Legislature (Parliament)

The Legislature has the power to make and change laws. Members are elected to Parliament through a vote by the people. There is a bi-cameral system with two Houses of Parliament: the House of Representatives and the Senate. The Governor-General gives final Assent to Bills passed. This structure and Parliamentary rules and procedures provide an important check on legislative power. They ensure laws are not made in secret or without adequate scrutiny and debate.

Chapter I of the Australian Constitution explicitly outlines (enumerates) the areas Federal Government can make laws for, meaning State Governments have residual (what's not listed) and concurrent powers (ones that overlap). This is called the 'Division of Powers'.

Parliamentary sovereignty means the Legislature has the power to make (or unmake) any law within its legal powers. If there is an inconsistency, Federal laws override State Laws. An independent judiciary also provides a check on the Legislature to ensure all legislation is lawful and made within the powers of the Legislature.

Parliamentary Sovereignty is also held in check through regular elections where the people have the power to elect/re-elect Members of Parliament who make laws on behalf of the people. This accountability is supported by freedom of speech, freedom of the media and an implied freedom of political communication.

2. Executive (Government)

The Executive has the power to enforce the laws and put them into action. It consists of government departments that are headed up by Ministers of the government of the day, who are members of the Cabinet. Each Minister is given different portfolios - areas that they are responsible for managing.

Chapter II of the Australian Constitution sets out the executive powers of the Australian Government. Powers of the executive are also outlined in legislation as well as in common law. All actions of the executive must be in accordance with the law.

Under the Constitution, the Governor-General has ultimate power over the Commonwealth of Australia. However, this power is usually exercised on the advice of the Executive Council and its Ministers. Parliament can also delegate authority to the Executive to make laws.

The Executive is the largest and most powerful branch of Government as it has the power and strength to enforce the law. An independent judiciary is an important check on the power of the Executive to ensure their actions are lawful.

The Legislature also checks the power of the Executive and holds them accountable for their decisions through parliamentary scrutiny and question time.

3. Judiciary (Courts)

The Judiciary has the power to interpret laws and resolve disputes about the law that arise between the state, organisations and individuals.

Chapter III of the Australian Constitution establishes the High Court of Australia as the highest court i.e. final court of appeal. The judiciary make decisions which create law in the form of case law (common law). The decisions of lower courts are reviewable on appeal to higher courts. The High Court also makes decisions about how the Constitution should be interpreted.

The Judiciary must be independent and impartial. They are independent so they can be an effective check on the power of the Legislature and Executive. This allows them to make decisions based on the law and not government policy. They have the power to strike down any laws made by the Legislature that are outside their power, or to declare actions of the Executive unlawful. The Constitution protects judges pay (remuneration) and length of service from government interference.

They must also be impartial as they administer justice fairly and equally to all, irrespective of their own personal opinions and bias.

Parliamentary Sovereignty means the Legislature can override a Courts interpretation of an ordinary law by passing or amending a law.

Levels of Government



Federalism and the Division of Powers in Australia

Federalism is a system of government where power is divided between a central (national) government and smaller constituent governments- in Australia's case, the six states and two territories.

In 1901, the Australian Constitution established the Commonwealth of Australia, uniting the self-governing colonial federal system. Part of the Constitution clearly defines the law making-powers of the Federal Parliament, their responsibilities to the states. This system is known as the 'Division of Powers.'

During the Convention debates, Sir Samuel Griffith said "we must not lose sight of the essential condition that there are to be six States and not a single government of Australia.. The separate States are to continue as autonomous bodies, each with its own powers as is necessary to the establishment of a general government to do for them collectively what they themselves, and which they cannot do as a collective body for themselves.



Commonwealth (Federal)

Section 51 of the Constitution defines specific areas of law-making power where the Federal Government can legislate. These are called the Heads of Power, and cover matters requiring national coordination such as defence, immigration, and foreign affairs.

These are either exclusive powers (i.e., only the federal government can make laws) or concurrent powers (shared with the states).

Since Federation, the areas that the Federal Government can influence has grown because:

- The High Court decisions about the interpretation of section 51 of the Constitution have given more power to the Commonwealth to legislate in areas not originally considered by the drafters of the constitution.
- Financial Grants: The Commonwealth Government collects taxation revenue and distributes it to the states in the form of grants, often with attached conditions—such as funding for schools and hospitals. These conditions enable the Commonwealth to influence policy areas that are traditionally managed by the states.
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State/Territory

In the Constitution, the remaining areas of lawmaking not explicitly listed in section 51 of the Constitution were left to the States, allowing them to govern on most issues affecting the social and economic well-being of their communities. This enables the differing and unique needs of each state or territory's communities to be met by laws designed specifically for that geographical area.

Each state retains its own constitution and governs areas such as:

- Public transport
- Education and healthcare
- Law enforcement

Local Government

Local governments (e.g. city councils) are created by state legislation. Their law-making power comes from state based Local Government Acts, and they have the power to make by-laws which apply only to their area and manage issues related to living in local areas. They do not have constitutional recognition and rely on funding and powers delegated by the State.

They manage community services like:

- Waste collection
- Local roads, parks and recreation
- Building approvals

The Role of the High Court

The High Court of Australia plays a central role in maintaining federalism.

- It interprets the Constitution and resolves disputes when there is a clash between federal and state laws. Note that under s109, federal law succeeds over state law in the case of a conflict.
- As the highest and final court of appeal in Australia, it upholds a unified common law system across Australia. It resolves inconsistencies in decisions made by lower courts across different states, ensuring fairness, consistency and equal treatment across all jurisdictions within Australia.

Why does the Division of Power Matter?

Dividing power between the Federal and State governments helps protect people's rights and freedoms by making sure no single group has too much control. It also allows state (and local) governments, which better understand their communities, to make laws and decisions in those areas that directly affect people's lives.

Principles of Justice

The inter-related principles of access, equality and fairness

The Australian legal system has its origins in British law and is shaped by Judeo-Christian heritage and values. It is built on foundational principles aimed at ensuring justice for all. This commitment to justice is echoed in the Magna Carta, which famously declared: "To no one will we sell, to no one will we deny or delay, right or justice."

The principles of Justice - equality, fairness, and access - are interrelated. Together, they ensure that everyone is treated with respect under the law, that legal decisions are made openly and transparently by an independent arbiter, and that all people, regardless of background or circumstances, can understand and have the benefit of the legal system to protect their rights. These principles also promote social cohesion and uphold the rule of law. By following these principles, the justice system protects individual rights, holds everyone (including the government) accountable to the law, and creates a more predictable, safe and fair society for all Australians.

LAW



Access

"Freedom or ability to obtain or make use of something." Merriam-Webster Dictionary

Access to the law means that citizens understand their legal rights and have the ability to exercise them. This includes being informed of any charges made against you, having the opportunity to take action in court, receiving a prompt trial, obtaining legal advice and being represented in court by a qualified lawyer. It also involves support services such as interpreters for people who do not speak English fluently.

Barriers such as cost, language, distance, or disability can prevent people from getting the help they need. Services like **Legal Aid and pro bono work completed by lawyers, court interpreters**, and the use of **video links** for remote appearances are all ways the justice system tries to make itself more accessible to everyone. The availability of Alternative Dispute Resolution, which reduces the formality and complexity of processes, can also assist individuals resolve disputes in ways that avoid costly court proceedings. Community education programs can enable citizens to avoid breaking the law or resolve conflict before it escalates to court.

Access also requires that the law is clear and predictable so people know what is expected of them and can understand the consequences of their actions.

Making sure everyone, regardless of background or personal situation, can understand and use the legal system is key to achieving a fair society.

Equality

"Being equal in rights, status, advantages, etc." Oxford Learner's Dictionary

Equality means that all people are treated the same under the law and have an equal opportunity to present their case in court. In Australia, this principle protects citizens by ensuring they are not treated unfairly or discriminated against (for no good reason) based on their race, gender, age, disability, religion, or background. Whether someone is a student, a politician, a police officer or experiencing homelessness, the legal system is expected to treat them equally and **without bias**.

For example, if two people in the same state commit the same crime, they should both be subject to the same investigation process, have the same charges laid, be given access to legal representation, and receive a fair trial. Unless there are valid reasons for a different outcome, they should also receive similar punishments.

These rights apply equally to all people, regardless of their background, personal circumstances or the nature of the offence. Consistent application of the law ensures that all people can receive protection from the law, even in cases against those in power. It helps prevent arbitrary or discriminatory decisions and allows people to live with confidence, knowing how the law works and how it will be applied.

Fairness

"Lack of favouritism toward one side or another." Merriam-Webster Dictionary

Fairness means that everyone in the legal system should be treated equally and without bias. In Australia, fairness is protected by clear and consistent legal rules and processes that apply to all people. This is reflected in the principle of **due process** (following proper legal steps to protect a person's rights) and **procedural fairness** (making sure decisions are made in a fair and transparent way). These principles ensure that both sides in a case can present their argument, and that decisions are made based on the law, evidence, and facts, not on personal experiences or opinions.

Fairness is also protected through an independent judiciary, which ensures that legal decisions are made free from government influence or conflict of interest, and through sentencing that is proportionate to the severity of the crime.

However, fairness also recognises that not everyone is the same, and so people may be treated differently when it is appropriate to treat them differently. This includes the judge's ability to use **discretion to consider people's individual circumstances** when deciding on a sentence. Judges must consider **mitigating factors** (like remorse or mental illness) and **aggravating factors** (like the level of harm caused to a victim or repeat offending) in deciding a fair sentence.

Fair Trial: Its Purpose

Avoiding injustices and abuses of power

A trial is where evidence from both sides to a legal dispute is heard by a judge or jury in a court of law to understand the facts of a case and issues of law. This information is then used to create legal solutions (outcomes) to disputes before the law. **A fair trial** is structured to protect innocent people from being convicted of crime and unfairly losing other important rights like freedom, property, and reputation. Being wrongly found guilty is a serious injustice. A fair trial also help people trust the legal system by showing that it works openly and fairly, avoiding injustice and abuses of power. This fairness then in turn creates and maintains social cohesion.

Elements of a fair trial are long established fundamental human rights, many stemming from the Magna Carta in 1215 and protected through common and statute Law. In the Australian High Court case *Dietrich v The Queen*, a fair trial before the court was described as being 'fundamental to our system of criminal justice'. They are also recognised in international law under article 14 of the International Covenant on Civil and Political Rights (ICCPR) which lists the elements of a fair trial.



Independent judiciary

An independent judiciary is essential to ensuring fair trials in Australia. Judicial independence is a cornerstone of English law, with its roots in the Magna Carta. One of its lasting legacies was the promise that “to no one will we sell, to no one deny or delay right or justice.” This principle has since been embedded in common law, incorporated into Australia’s Constitution, and reinforced by international human rights obligations.

Under the principle of the separation of powers in the Constitution, judges are independent of the government. They base their decisions on the law and the evidence before them, free from external pressures, such as political pressure, media or public opinion.

This independence also upholds the **rule of law** by creating a set of principles that judges follow when resolving disputes, so their decisions are impartial, based solely on the facts of the case and applicable laws- and not on the whim or personal opinions of the judge. These laws include those that principles that govern the trial process and evidence. An independent judiciary upholds public confidence in the justice system, which depends on the belief that courts are impartial and free from external influence. This ensures that justice is not only done but is “seen to be done.”

Principles

A fair trial is a fundamental aspect of the rule of law, ensuring everyone is treated equally before the law and courts. Lord Bingham, a senior English judge, defined the principles of a fair trial as being:

- people accused of crimes or involved in a civil dispute should properly understand the claims made against them
- that accused persons should be innocent until proven guilty by the evidence presented in a court (presumption of innocence)
- a decision should not be made in a case unless the defendant has had a satisfactory opportunity for their case to be heard
- the person making accusations must disclose (share) the evidence with the defendant that they have to support their claim so that they have full knowledge of the case being made against them. Accused persons also have the right to examine witnesses
- where an accused cannot afford legal representation, the state should provide legal representation to ensure that their case and rights are properly represented in the court
- that an accused person should have adequate time to prepare their defence case so that they can address the claims made against them

Presumption of innocence

The principle of the presumption of innocence is a key aspect in maintaining fairness in the trial process. It is based on the idea that it is better for one guilty person to go free than an innocent person be wrongly convicted. This principle is especially important when a person’s freedom or livelihood is at stake, as it prioritises the protection of the rights of all accused persons.

It underpins the burden of proof in criminal trials, requiring the **prosecution to prove the accused’s guilt beyond a reasonable doubt** (which is the standard or level of proof) required to make a finding of guilt). Therefore, anyone accused of a crime in Australia is considered innocent until proven guilty and is not obliged to assist the prosecution establish a case against themselves.

The presumption of innocence ensures that individuals are not punished solely based on an accusation, before a decision has even been made by the Courts. It also acts to protect the accused from being pressured or tortured to obtain self-incriminating testimony.

Furthermore, it guarantees equal legal rights and access to justice, even when the accuser has more financial resources or influence.

Laws

Laws reflect society, protect our rights and keep us safe.

The purpose of laws is to keep the community safe, protect rights, establish responsibilities, create peace, equality and fairness in our society and to make penalties for people who break them. Laws are usually made by parliaments and organise the way in which members of a society behave and protect them from harm. Laws are most often made by representatives of the people in Federal and State parliaments and Local governments.

Laws apply to all people in a particular place or area, known as a jurisdiction. This means that all people in Australia, or all people in a State, Territory or local government area will need to follow the law while they are living in or visiting the area. The penalties for breaking laws are given by police, government organisations and/ or courts. Penalties can range from minor penalties, such as a small fine for parking in a space for too long, to severe, such as long prison sentences for seriously harming another person. In a democracy under the rule of law, all people (both the government and citizens) know the law and should be willing to obey it.

Law Making and Effective Laws

In Australia, Parliaments at Federal (Commonwealth) and State level, Legislative Assemblies at Territory level, and Local Governments at community level, have the responsibility to create laws on behalf of the people, to regulate behaviour to keep our community safe and functioning smoothly. They are the supreme law-making bodies in Australia and the laws are known as **statute laws or legislation**.

When a proposed law, a 'bill', is introduced, it is debated by representatives elected by the people. It may be amended to ensure that it is appropriate and suitable for the community, reflects societal values and upholds the rule of law principles and human rights. It may not be passed if not enough members deem it suitable for any of these reasons.

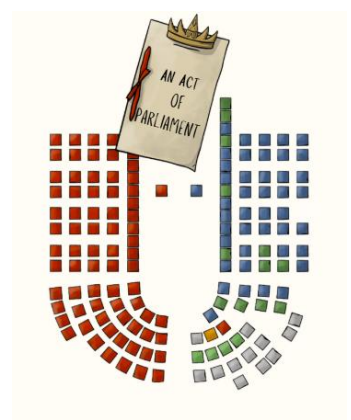
Most Australian parliaments have a bicameral (meaning two houses) system consisting of an upper and lower house. The exceptions are Queensland, the ACT and the NT, who have unicameral parliaments. The Upper House is called the 'House of Review' and is an important way for proposed laws to be checked (*scrutinised*) by all representatives of the people to confirm that they meet the criteria of effective laws, reflect community needs and standards and that laws are openly and transparently made.

Many of our laws are called **common law**, otherwise known as judge-made law. These laws develop when a judge makes a decision in a case regarding a particular dispute. Each different decision forms a building block and judges use these decisions on the same general topic to create a legal framework, or legal precedent.

To ensure consistency and fairness, lower courts must follow the decisions (**precedents**) set by higher courts in similar cases with similar issues. For example, the Supreme Court of Victoria must follow decisions made by the High Court of Australia, and the District Court of NSW must follow the decisions of the Supreme Court of NSW.

Some influential common law cases still relevant in Australia today are *Donoghue v Stevenson* (1932) (UK), *Mabo v Queensland (No. 2)* (1992) and *Dietrich v the Queen* (1992).

Parliament cannot overturn a decision of the Court. However, as Parliament is the supreme lawmaker (except in regard to the Constitution), it can pass a new law that overrides the precedent established in the common law. This ensures that the ultimate power to make laws is with the people (via their elected representatives) and not with judges, who are not elected nor accountable to the people.



Types of Law

Laws do not just prohibit acts (**crimes**) such as theft or murder that are harmful to individuals or society. There are also **civil** laws which deal with the rights and responsibilities between individuals and organisations such as breaches of contracts, property damage, or personal injury.

In criminal cases, the person bringing the case must prove their case **beyond reasonable doubt** (rather than the balance of probabilities in a civil case). This different level of certainty (**standard of proof**) required is higher in criminal law because the punishments are often greater than civil cases and may include imprisonment rather than a financial penalty such as a fine or damages.

There are also **administrative laws** that provide accountability and transparency by reviewing the conduct and decision-making of the government.

Finally, **constitutional law** deals with the interpretation of the Australian Constitution, a legal document setting out the basic laws for the government of Australia. These cases are heard and decided exclusively by the High Court of Australia. The High Court is the highest court in Australia and any decisions made are final. Any changes made to the Australian Constitution can only be amended by the Australian people through a referendum.

Democracy: *demos* the people *kratos* rule

Democracy is more than voting

A democracy is a system of government in which the people have the power to shape decisions and hold those in authority accountable.

It is not just about voting every few years – it is about ongoing civic participation and oversight. In a democracy, elected representatives should govern according to the law, respecting human rights. The rule of law is essential in a democracy: it ensures that those in power do not act arbitrarily but are accountable for their actions and bound by legal and ethical standards.

To function properly, a democracy relies on checks and balances, transparency, and public accountability. It also depends on an informed and engaged population, and a shared commitment to the rule of law, where there is a culture that citizens and leaders alike respect and follow the law.



The people rule by voting

In a democracy, citizens vote for representatives to make laws and decisions on their behalf. This is called **Representative Government**.

People are treated **equally**. Each person has one vote, and they have the freedom to choose who they vote for to represent them parliament. This requires **regular elections**, which must remain free, honest, and fair. **Secret voting**, which was established in the Victorian Colony shortly after the Eureka Rebellion in 1856, is important in allowing citizens the freedom to choose their elected representative without undue pressure.

If the people are unhappy with the decisions that their elected representative are making on their behalf, they can let their elected member know through letters and petitions. Regular elections are the ultimate way those in power are accountable. Those who are unhappy with their elected representatives do not need to vote them in at the next election.

In a democracy, all citizens must also have the opportunity to be nominated and become an elected representative themselves.

Checks and Balance to control the Government

A strong democracy has systems in place to make sure no one has too much power.

Checks and balances are the guarantees of justice and help protect rights and freedoms by enabling effective scrutiny and accountability. They include a constitution, laws and legal processes, open and transparent decision making, freedom of the press, scrutiny of decisions, bicameral system of government and an independent judiciary.

Those voted into government are generally part of a political party and the party with the majority of votes in the House of Representatives (Lower House) forms the government of the day. They are accountable (**responsible**) to the Parliament. A **bicameral parliament** is particularly effective as it provides two levels of scrutiny between multiple political parties, ensuring government decisions pass through one of the required checks and balances before being passed as law.

Parliamentary supremacy ensures that the final say about laws is given to parliament. This limit on powers means the Parliament who are elected by the people of Australia to govern and not the Courts or government officials, have the ultimate power to make laws on the people's behalf.

Well informed citizens

Active and informed citizens are at the heart of a strong and well-functioning democracy.

It provides the people with the power to participate in decision-making through their elected representatives and to have a say about the law to which they must follow.

To be well informed, there needs to be freedoms that allow active participation such as **freedom of speech, freedom of the press and freedom of association**. Governments need to be open and transparent about their work and to share information to the people quickly and clearly so they can understand what is happening and hold the government to account for their decisions.

This also requires a supportive **culture** where citizens, including those in power, are active and follow the laws made on their behalf.

Citizens follow the law not merely because they are forced by the government or fear the penalties for breaking the law, but because they respect the law and believe it is for the good of all of society if everyone follows it.

What is the Rule of Law?

And how does it protect our rights?

The rule of law is the cornerstone of our democracy. It protects human rights, upholds public safety, and promotes stability. It means that both the government and citizens know and are bound by the law - ensuring that no one is above the law.

When everyone, including those in positions of power, adhere to the legal standards set by the people, it helps create a fair and orderly society. Those in authority cannot act on personal whims or make arbitrary decisions; they must exercise their power lawfully and consistently. The rule of law is more than just following rules; it reflects a broader principle that laws must be applied equally and fairly. Effective checks and balances, along with accountability mechanisms, ensure that power is not abused. In cases of disputes, independent and impartial judges apply the law equally to provide justice for all. However, the rule of law is an ideal that can be threatened or eroded at times, so it relies on a strong culture of lawfulness, one that values and actively defends these democratic principles and mechanisms.

Principle 1: The Core

People are ruled by the law, and no one is above the law.

The government can only exercise its power within the boundaries set by the law. People have the freedom to do anything, as long as their actions do not break the law.

Principle 2: The Middle Ring

The law is applied equally and fairly.

For laws to be effective, they must be clear, certain, and predictable. This enables people to understand and follow them willingly. All people must follow the law and any dispute about the law must be resolved by the independent judiciary, who is free from political pressure and personal biases.

Principle 3: The Wheel Spokes

Checks and balances, such as legal principles, procedures and governing institutions ensure the law is applied equally and fairly, so that no one is above the law.

These structures provide mechanisms to ensure Australians are governed by laws which their elected representatives make, and which reflect the rule of law. They also ensure that the law is administered justly and fairly.

Principle 4: The Support

Supported by a culture of lawfulness.

People, including those in power, follow the law because they believe it is fair, just and of benefit to the common good. Informed citizens play a crucial role by participating in decision making and holding leaders accountable.

THE RULE OF LAW

All people should be ruled by just laws subject to the following principles:



The rule of law must be supported by informed and active citizens

Human Rights and Freedoms

Protection of our inherent rights

Human rights are part of our everyday lives. They are the basic things everyone needs to live well, to feel safe, to grow, and to be treated with fairness and respect.

According to Freedom House, Australia scored 95 out of 100 for global freedom. That means we have strong protections for important rights like voting, speaking your mind, practicing your religion, a fair trial and owning property. These freedoms are what make our democracy work.



Human rights are inherent

It is easy to think that human rights come from laws, treaties, or big organisations like the United Nations. If our rights only exist because a government or treaty says so, what happens if that recognition is taken away? If rights are something given by authority, then they can be taken back and that's a pretty shaky foundation.

Human rights do not come from laws or governments. They are **inherent**, meaning we are born with them, and **inalienable**, which means no one can take them away. **We have them simply because we are human.**

The Universal Declaration of Human Rights is based on the “recognition of the **inherent** dignity and of the equal and **inalienable** rights of all members of the human family” as “the foundation of freedom, justice and peace in the world.”

Patchwork protection of human rights

Australia is a free society. People have the freedom to do whatever they choose—unless a specific law states otherwise. In other words, we are free to act as we wish unless there is a rule that clearly prohibits it.

This is different from an authoritarian society, where people only have the rights the government decides to allow. In Australia, our rights are not ‘given’ by the government; we already have them.

Australia does not have a Bill of Rights. Instead, our rights are protected in lots of different ways. These include:

- The Constitution
- Common law (Judge-made law based on legal traditions going back to England, like the Magna Carta)
- Statute law (laws made by parliament)
- Government bodies (like the police)
- International treaties we have signed

This patchwork system might seem a bit messy, but it provides checks and balances and works because the Australian culture is one that values and supports human rights and freedoms. Sometimes, laws need to limit certain rights to protect the rights of others or to keep people safe.

But when that happens, the limits need to be fair, clearly explained, and only go as far as absolutely necessary. It is all about finding the right balance.

Freedom of Speech

Basic freedoms, like freedom of speech, religion, movement and being a part of a community are protected by this patchwork system and are only limited when absolutely needed to protect others or maintain public order.

No country gets it right all the time. Human rights need to be watched over, talked about and defended, by governments and engaged citizens. Importantly, freedom of speech is vital in any democracy. It allows people to express opinions, criticise government, and take part in shaping the rules that affect their lives without fear of punishment for having an opinion. But just like other rights, sometimes freedom of speech needs to be limited to protect the rights of others in our community.

For example:

- Common Law Freedoms – Include speaking openly, publishing views, and freedom of belief and conscience.
- Constitutional Protections – The High Court recognises an implied right to political communication.
- Legal Limits – Some speech is restricted, such as hate speech, defamation, or speech inciting violence (e.g. s18C Racial Discrimination Act (Cth)).
- State-Based Protections – e.g. s16 of the ACT Human Rights Act(NSW) 2004 protects free expression.

Rights and Responsibilities

In a free society like Australia, it is not about just knowing your own rights. There is also a responsibility to respect the rights of others and to find a balance when one person's rights conflict with those of another person.

Freedom doesn't mean doing whatever we want – it means making choices that support fairness, dignity, equality and the common good. Our rights are only as strong as our willingness to stand up for them and ensure they are respected by governments, communities, and individuals alike.

Enjoying rights also means accepting the responsibility to protect them, not just for ourselves, but for everyone.

Plurality in Australia

Australia's Diversity: A Nation of Many Voices

Australia is home to a wide range of cultural, religious, and moral beliefs and has prided itself as the land of a 'fair go' where all people have the opportunity to make a fresh start, work hard to make money, have a family and secure a better life.

People speak different languages, practise different faiths, and hold varied views about family, education, identity, and social values. In a functioning pluralist democracy, people will inevitably disagree about what is right, how to live, and which values matter most but will find a way to respectfully and peacefully live together.

Australia's national identity is best understood through the lens of 'civic nationalism', a model that unites citizens not through shared ancestry or culture, but through a commitment to common democratic principles. As Peter Kurti explains in *The Ties That Bind*, "this model does not require moral consensus, but depends on shared political commitments: to the rule of law, democratic accountability, and the peaceful resolution of disagreement."

People are not required to share the same morals or cultural beliefs. It recognises that Australians will disagree, sometimes strongly, on important issues. What matters is how those disagreements are handled. All citizens are expected to work through differences within a common legal and democratic framework. In Australia, diversity and unity can go hand in hand, but only when there is a shared commitment to the civic values that protect freedom and rights, uphold justice, and allow people from all backgrounds to live together under the same rules.



British Heritage

In 1788, Captain Arthur Phillip, on behalf of the English Government, asserted British sovereignty over New South Wales, leading to the introduction of British law and the British system of property ownership. This was in stark contrast to the prevailing Indigenous customary law that did not have one overarching governing body and viewed the relationship with land as one of caretaking rather than ownership.

Australia's contemporary legal and political institutions have their roots in British law and Judeo-Christian traditions. Principles such as the rule of law, parliamentary democracy, equality before the law, and the separation of powers form the backbone of our national system.

This foundation established the civic framework that allows the diverse Australian population to live together peacefully. In a society where not everyone shares the same culture or values, it is a commitment to these democratic principles, not shared ancestry, that holds us together.

The strength of Australia's democracy lies in the fact that our unity comes from a shared commitment to laws and political principles, not cultural sameness.

Indigenous Heritage

Aboriginal and Torres Strait Islander peoples have a long and continuous presence on this land, with cultures that predate modern Australian institutions. While their customs are distinct from Western systems, Indigenous Australians have long participated in national life: through service in the armed forces, community leadership, and public debate.

Their contributions also shape our civic institutions. Programs such as circle sentencing reflect the integration of Indigenous perspectives into the legal system, offering culturally informed approaches to justice that still operate within the rule of law.

Indigenous Australians show that cultural distinctiveness can exist within a shared civic framework. Their participation demonstrates that national identity does not depend on one cultural story, but on a common commitment to democratic values and equal citizenship.

Migrant Heritage

People from around the world have made Australia home, bringing with them a wide range of languages, customs, and beliefs. Migrants have contributed to every part of Australian life: building businesses, enriching culture and national character, and strengthening communities.

Australia's success is built on a clear civic understanding: people are free to maintain their cultural identity but are expected to respect the shared laws and democratic institutions that make our society fair and stable. This balance of freedom and responsibility is what allows diversity to flourish.

Pluralism works not because everyone is the same, but because everyone agrees to engage in the same democratic process, including equality before the law, democratic participation, and mutual respect.

It is this shared foundation, not cultural similarity, that holds the country together and allows our diverse society to thrive.

Plurality is a defining feature of modern Australia. While Australians come from different cultural, religious, and historical backgrounds, what unites us is not sameness, but a shared commitment to the civic principles that uphold our democracy. British, Indigenous, and migrant heritages each contribute to our national story in different ways, but all find common ground in the values of the **rule of law, equality, fairness and democratic participation**. In a diverse society, these shared foundations are what allow us to live together with respect, fairness, and freedom.

Active and Engaged Citizens

Formal and informal ways to support democracy

Australia is a democracy founded on the rule of law. Democracy is a form of government which enables and empowers its citizens to participate and have a voice in the running of the government.

To ensure that Australia remains a stable democratic society, its citizens must be involved and informed in civic processes to protect the foundations of freedom, justice, and authority. It's only when citizens cease their engagement that democracy is undermined and usurped by authoritarianism, totalitarianism or anarchy.

Many of the key roles of citizens are informal and necessary for civil society to survive such as being kind, respectful of others and inclusive. There are also other roles which are deemed so vital that they are required by law such as compulsory voting, jury duty, and compliance with the law.



Voting

Having a voice in who represents you in the levels of government

The Australian Constitution does not expressly refer to elections but makes it clear that members of parliament are to be chosen directly by the people.

Having all sectors of the community able to vote has taken time as voting laws have slowly changed to reflect evolving societal values. The Eureka Rebellion in 1854 was a key moment in Australia's democratic history pushing forward important voting rights stemming from the Chartist movement. These included the right of every citizen to have a voice in making laws, no taxation without representation, universal suffrage and secret voting.

In 1894 the South Australia Parliament gave women the right to vote, making it the second Parliament in the world to recognise this right. Aboriginal people have had varied voting rights across the different states of Australia. From 1902, because they were denied the right to vote in Commonwealth elections (but allowed after 1962), they were often illegally denied the vote in state elections. In 1973 the voting age was reduced from 21 to 18 years.

Voting helps to ensure that the opinions and needs of all citizens are considered and represented, the laws have the consent of the people and their vote acts as a check of the power of the government.

Juries

Community participation in the justice system

Jury trials date back to the Magna Carta in England and have been a part of Australia's legal system since 1833.

A jury trial is not an *absolute* (unlimited) right. The Australian Constitution provides for jury trials for only the most serious offences covered by Commonwealth legislation, whilst State laws also provide for jury trials in their respective Supreme or District Courts.

One of the most important things about juries is that they let people be judged by their peers; fellow citizens who are reflective of the broader community and its current standards. Jurors act as the decision-makers for the facts of the case. They listen carefully to all the evidence and **decide if the person on trial is guilty or not**. This not only reinforces fairness and impartiality in legal proceedings but also **actively engages ordinary Australians in the justice system** and is seen as a balance against the power of the government.

Jury duty is an important part of how our courts work. It gives everyday Australians the chance to take part in the justice system. It also helps make the law more understandable and ensures that decisions are not just made by judges, but by the community as well.

Rights and Responsibilities

Protecting and respecting the rights of everyone in our community

Engaged citizens recognise the integral connection between rights and responsibilities. Active citizens live in accordance with their responsibilities in order to protect the rights of others. Where we have entitlements, we also have obligations.

Because rights are not absolute in all situations, responsibilities enable conflicting rights to be **balanced in the community**.

For example, you have a right to freedom of movement, and so you can obtain a driver's license and have the right to travel between the states and territories of Australia freely. Whilst on the road you have many duties, or responsibilities, including: a duty to drive safely, and a duty not to damage others property.

Many responsibilities are laid out in the law, the most fundamental of them being a **duty by all Australians, even those in power, to follow the law**. Unlike other nations that are ruled by laws, Australia operates under the rule of law where people are willing and able to follow the laws made on their behalf, not just because of possible government penalties but because they believe it is an essential part to sustain and protect our community and safety.

Equality before the law

What does it mean for all people to be equal before the law?

In Australia, equality is a core value of our democracy. It is often described as giving everyone a “fair go.” This means Australians have the same rights to vote, take part in society, and be treated equally under the law.

Equality before the law means that every person is treated the same by the legal system, regardless of their wealth, age, gender, race, religion, occupation or social status. It ensures that no one is above the law, including government officials, and that all similar cases are treated alike to create consistency in the treatment of parties to a matter before the courts.

To help protect this key aspect of our justice system, when Australian judges take their *oath* (the promises judges make to the people of the community when they agree to be a judge of the court), they make an undertaking to “do right to all manner of people according to law without fear or favour, affection or ill will”. This promise means that they will try to treat all people equally and make decisions based only on the law, not on their personal beliefs or feelings, or pressure from external groups or the government. This important principle is symbolised by Lady Justice wearing a blindfold to represent the fairness, impartiality and lack of bias given to all people before the law in our community.



Elements of equality before the law

1. Equal benefit of the law

Everyone has the right to access justice and receive the same legal protections.

This includes the right to bring action to court, give evidence, have a fair trial, legal representation, the ability to challenge laws or decisions in court and the right to appeal decisions of the court to higher courts.

2. Equally subject to the law

All individuals, including those in power, must follow the law. All are equally accountable for their actions and are subject to penalties when laws are broken, just as all are equally protected by the law.

3. Equal substance of the law

The content of the law itself must be fair and general, not targeting or discriminating against individuals or groups. Laws should be written and applied in a way that ensures predictability and fairness for everyone.

These elements of equality support the achievement of the Principles of Justice – equality, access and fairness. They provide the conditions for outcomes in the justice system to be created in a way that recognises and balances individual and collective rights and the needs of the community.

Differences and equality before the law

Sometimes, it’s **fair for the law to treat people differently if their situations or circumstances are truly different.**

When the law treats people differently, it should be for a clear and specific reason, and only for as long as that reason applies. The differentiation must respect and consider the human rights of all those impacted by the law.

An example of different treatment by the law in Australia would be child offenders. Lord Bingham, a judge of England, wrote in his book on the Rule of Law: “We would also accept that some categories of people should be treated differently because their position is in some important respects different. Children are the most obvious example. Children are, by definition, less mature than a normal adult, and should not be treated as a normal adult would expect to be treated. Thus, they are not liable to be prosecuted for a crime below a certain age.”

In most states of Australia, the age of criminal responsibility is 10, meaning that children cannot be held criminally responsible for their actions due to their limited understanding of right and wrong (*doli incapax*) compared to that of an adult.

Equality before the law and human rights

The Universal Declaration of Human Rights affirms that “**all human beings are born free and equal in dignity and rights.**” **These rights are not granted by laws or authorities; they are inherent to all people simply because we are human.** They are inherent, inalienable birthrights. While it may seem like human rights originate from laws, treaties, or organisations like the UN, these legal instruments often merely express and protect rights we already possess. Australia’s Constitution does not explicitly guarantee equality before the law, nor is there a national law that directly does so. Instead, equality is embedded within the broader principle of the rule of law, the foundation of our legal system, where no one is above the law.

Australia is party to international human rights treaties, such as the International Covenant on Civil and Political Rights. However, only some treaty provisions have been implemented domestically, for example through the Racial Discrimination Act 1975 (Cth). Victoria, the ACT, and Queensland have introduced their own human rights laws that explicitly outline rights like equality before the law.

The strongest protection of equality before the law lies in a culture that values and defends the rights of all people.

Australian Values

Supporting our diverse community with freedom and respect

Australian values are the foundation of our free and democratic society. These shared principles, such as a fair go, equality, freedom, and mutual respect, shape our national identity and are the reason many people want to come to Australia to live. They are central to who we are and how we live together as citizens.

They are not only aspirational ideals but provide the tools to protect the way of life we are privileged to enjoy. They empower people to speak out against injustice, uphold the rights of others, and contribute to a society where every person is treated with dignity and respect. These values enable different opinions and respect the right of all Australians to make decisions about how they choose to live as free, law-abiding citizens.

Our representative democracy, built on the rule of law, embodies these values, protecting the stable, inclusive, and peaceful society that Australians are proud to call home.

Fair go

A 'fair go' means that everyone deserves an equal opportunity to succeed, no matter their background, gender or social standing. It reflects the belief that all people have dignity and value and should be treated fairly and being given the same chances in life, without discrimination, nor undue interference from the government.

Although not all Australian's have had a fair go in our history, our laws have constantly evolved to reflect community standards. For example, in 1902 an Act was passed to allow women the right to vote and stand for federal office and in 1962 an Act was passed to give all First Nations people the option to enrol at Federal elections. When introducing the Native Title Act in 1993, Prime Minister Paul Keating said: "We owe it to Aboriginal Australians, to all Australians – indeed, we owe it to our fair and democratic traditions and to future generations – to recognise native title.... How could we say that we stand for a fair go if we were to wipe away a title to land which has lasted through thousands of years of occupation of the continent and 200 years of European settlement?"

Another important part of a 'fair go' is economic freedom and the protection of property rights. All Australians should have the opportunity to work hard and use their talents to achieve success. This includes the equal opportunity to be considered for a job on an equal basis to everyone else who applies, no matter our age, race, religion, gender or political affiliations. Economic freedoms should not be hampered by excessive taxation, overregulation or arbitrary government decisions. All Australians should also have the opportunity to lawfully protect their property and take action in court with a fair trial when their rights are eroded.

Respect for Freedoms

In contrast to a rules-based, authoritarian country, Australian values include a respect for the freedom and worth of individuals to make decisions about their lives. These include:

- **Freedom of religion** allows people to follow (or not follow) any religion they choose - as long as their actions do not break an Australian law. Religious laws possess no legal status in Australia. This is reflected section 116 of the Australian Constitution which states that the



Commonwealth government shall not make any laws to establish any religions, impose on religious observation, or prohibit the free exercise of any religion.

- **Freedom of speech** flows from freedom of thought and freedom of conscience, and allows different opinions to be expressed and debated, including criticism of the government. While this right is protected, it is not unlimited and may be restricted by laws concerning defamation, hate speech, or inciting violence.
- **Freedom of association** means that individuals can join or form groups, such as political parties, trade unions, or religious organisations, without interference or compulsion. Freedom of assembly gives people the right to gather in public or private spaces for peaceful protests, demonstrations, or meetings. This freedom is protected, provided the gatherings are lawful and not violent, or threaten public safety.
- **Freedom of movement** allows Australians to travel freely within the country and to enter and leave Australia by lawful means.
- **Freedom from slavery and forced labour** is the freedom from the practice of one person owning another person and removing their rights. Australia formally outlawed slavery in 1833 alongside the British Empire. However, exploitation has sadly still occurred with the use of forced labour in the early colony of First Nations peoples and Pacific Islanders, and modern slavery cases such as forced marriages, human trafficking, and child labour.

Respect for Others

At the time of federation, the name 'Commonwealth of Australia' was deliberately chosen to reflect a commitment to the common good and social justice, grounded in the Judeo-Christian heritage of 'loving your neighbour' and respect for others. This civic culture is based on a social contract that respects individual rights and obligations.

Australia is a pluralistic society that reflects its First Nations, British, and migrant heritage, that thrives on tolerance, mutual respect, and the ability to live together despite differences.

Respect for others also encompasses those values that provide compassion and care for those in need and is seen through the welfare system and the provision of LegalAid.

Magna Carta

The legacy behind the rule of law, democracy and human rights

In 1952, the Australian government purchased an original Magna Carta issued by King Edward I in 1297. Today, it is permanently on display at the Parliament of Australia.

Although the purchase was considered costly at the time, it received the support of both major sides of politics (*bipartisan support*) due to its lasting significance to the Australian people. As Senator Anderson, Leader of the Government of the Senate, stated in 1968: "*Parliament is the voice of the people. Parliament is the most precious thing in our way of life, and it stems initially from the Magna Carta.*" Prime Minister Robert Menzies viewed the Magna Carta as a powerful symbol of civil liberties, the rule of law and democratic principles for the Australian people. The Opposition Leader, Dr Herbert Evatt, also recognised its value, describing the Magna Carta as a beacon of freedom and the embodiment of the rule of law in an era overshadowed by totalitarianism. The Magna Carta is a foundational thread in Australia's democratic fabric, weaving through the values we hold today such as the rule of law, equality, justice, freedom and a fair go.



The Story of King John and the Magna Carta

The Magna Carta, Latin for *The Great Charter*, was a list of demands and expectations forced upon King John of England in 1215 by a group of Barons. King John had a terrible reputation as an authoritarian tyrant - he imprisoned people without reason, imposed harsh taxes, starved his own nephew, and seized castles and wives. His reign was so infamous that no English king has ever taken the name "John" since.

The two most famous sections of the Magna Carta are:

Clause 39: *No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any other way except by the lawful judgement of his equals or by the law of the land.*

Clause 40: *We will not sell, or deny, or delay right or justice to anyone.*

After King John reluctantly agreed to the Magna Carta, copies were made and distributed across towns and churches, often read aloud and nailed to church doors. This helped develop a culture where laws were made known and rulers accepted that their powers were limited and could be scrutinised by the people.

The Magna Carta was reissued many times by different English Kings. Australia's own copy of the Magna Carta is a 1297 reissue by King Edward I.

Though its original clauses are not directly quoted in Australian laws, its influence is deeply embedded in common law, Australia's Constitution, human rights frameworks, and democratic principles. It lays the foundation of Australian society that values justice, freedom, and the rule of law.

The Rule of Law

By issuing the Magna Carta, the King declared that he would rule according to the law. This marked a key historical moment in the development of the rule of law- the idea that *no one is above the law*. It offered a solution to the problem of tyrannical rule by creating checks and balances that restrained the power of the King, introduced accountability and limited arbitrary decision-making.

Today, this principle underpins our democracy. Under the rule of law, everyone, including the Prime Minister, government, judges,

and police officers, must follow the law and be fairly and equally treated under it.

Freedoms and Human Rights

The Magna Carta's legacy is reflected in the freedoms Australians enjoy today. Many international human rights documents and national constitutions trace their roots to its principles.

An important rule of law concept found in Clause 39 is that punishment can only be imposed for breaking the law, and nothing else. This principle supports the freedom to live as one chooses, as long as the law is respected. It also limits the power of Kings (or government) to act only within legal boundaries.

Separation of Powers and independent judiciary

The Magna Carta also includes the concept of a qualified, independent judiciary. Judges provide accountability and can deliver authoritative, final, and enforceable decisions, even when the dispute was with the King!

These clauses also ensure fair and prompt trials, the presumption of innocence and equality before the law.

In Australia, this legacy is reflected in the Australian Constitution, and the Separation of Powers where the Legislature makes the laws, the Executive enforces them, and the Judiciary interprets and applies the law. This separation prevents power from being held by one person or group. It ensures judges remain independent from those who make the laws and provides checks and balances to protect Australian's rights and freedoms.

Democracy

The Magna Carta was the result of a rebellion against unfair taxation. Forty of the sixty- three chapters of the Magna Carta dealt with taxes and payments to the King. At the time, there was no parliament or democratic system, but the Magna Carta planted the seeds of '*no taxation without representation.*' This idea evolved into our modern system of democracy and Parliament, where laws are made by representatives of the people to protect rights and ensure the safety and wellbeing of the community.

