

## Chapter 13

# Human Rights Past, Present and Future

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### Introduction

This chapter examines the current Australian rights protections and mechanisms, their history and British origins, the march of human rights as a concept and the Commonwealth Government's new proposals for parliamentary human rights protection as a part of those proposals. I analyse the content of the seven human rights treaties against which all legislation will be measured. Despite the assertion that the rights contained in these treaties are fundamental and universal, very few Australians are familiar with the content of the treaties and many would be surprised to find out which rights the seven treaties protect and which rights the seven treaties leave out.

### Rights protections in Australia

The sources of rights protection in this country are many. The Australian Constitution is a source of rights protection. It contains both express rights (freedom of religion,<sup>1</sup> trial by jury on indictment,<sup>2</sup> non-discrimination against the resident of another State,<sup>3</sup> acquisition of property on just terms<sup>4</sup>) and implied rights (for instance the freedom of political communication<sup>5</sup>). Australia's constitutional framework promotes freedom by dividing power. It does this through the separation of powers and federalism, and by taking into account minority viewpoints through two elected Houses of Parliament, a system of compulsory voting and a proportionately elected Upper House.

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\* I would like to thank Ben Davies and Carmel Sharpe for their comments on an earlier draft.

1 Constitution, s 116.

2 Ibid s 80.

3 Ibid s 117.

4 Ibid s 51(xxxi).

5 *Lange v Australian Broadcasting Corporation* (1997) 189 CLR 520.

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