



**Australian  
Privacy  
Foundation**

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## **MEDIA RELEASE**

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# **NOT WORTH THE PAPER IT'S PRINTED ON? TIME TO TALK ABOUT PROTECTING HUMAN RIGHTS**

Your privacy is being eroded by Big Brother and Big Sister day by day.

The Australian Privacy Foundation – the nation's civil society privacy body – commends moves in Queensland and Tasmania to introduce human rights legislation.

The Foundation says, however, that the legislation in those states and the Commonwealth needs to have teeth if it is to meaningfully protect the privacy and other rights of all Australians.

We need a constitutionally-enshrined and justiciable Bill of Rights at the national level – a coherent framework for rights and responsibilities that resembles law in Canada, the European Union and South Africa.

Governments change. Leaders change. Policy development resembles a revolving door. Watchdogs lack the will and ability to do their job. That means we need to enshrine rights in Australia's constitutions.

Enshrinement protects those rights from poll-driven politicians whose horizon is the next election or the next leadership spill.

Just as importantly, it gives all Australians the ability to take legal action if their rights are abused.

Enshrinement has worked well overseas. It has not resulted in a flood of vexatious or frivolous litigation. It has not chilled free speech or crippled business. It allows ordinary people to stand up to bad government, bad business and bad neighbours. It means people do not need to rely on weak remedies offered by weak regulators.

The Foundation encourages community discussion about proposals for human rights enactments like that going on in Queensland, Tasmania and elsewhere. Those enactments need to empower all Australians. Politicians often choose to ignore good advice. Governments will ignore a Human Rights Act that lacks teeth – if it is merely aspirational and does no more than require brief consideration of rights.

If you want protection from Big Brother and Big Sister – if you want protection for your privacy and for justice rather than what is administratively convenient for officials – you should urge your Government to adopt a Bill of Rights. A Bill with teeth. A Bill that is worth more than the paper on which it printed.

The APF's Human Rights Position Paper is at <https://www.privacy.org.au/Papers/PS-HumanRts.html>

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## **Australian Privacy Foundation**

### **Background Information on Human Rights**

#### **What's wrong?**

Privacy is a human right in key international human rights agreements to which Australia is a signatory. It is fundamental for Australia as a liberal democratic state and for the flourishing of all Australians.

However, it is only weakly and inconsistently protected by Australia. There is significant variation across the national, state and territory governments. Official watchdogs often lack the ability to act on behalf of people whose privacy has been disregarded. One example is the Office of the Australian Information Commissioner, which was on life support for than a year after the Attorney-General decided that it was not needed. Judges, lawyers, business people, mums and dads thought he was wrong. Over the past 40 years has demonstrated that Governments are prepared to delay the introduction of privacy protection, use exceptions (such as those with Centrelink) win legislation, starve their watchdogs and disregard criticism by the courts.

Experience over the past 40 years has demonstrated that Governments are prepared to delay the introduction of privacy protection, use exceptions (such as those with Centrelink) win legislation, starve their watchdogs and disregard criticism by the courts.

#### **That means we need coherent rights protection**

One way to protect all human rights, not just privacy, is through a constitutionally-enshrined justiciable Bill of Rights.

That sort of protection is found in Canada, the European Union and even South Africa. It does not inhibit free speech, law enforcement or business.

A constitutionally-enshrined Bill means that rights protection is found in the constitution. It is there because Australians take rights seriously and recognise that politicians – who often focus just on the next election – will sometimes be prepared to weaken protections by simply a passing an Act.

At the moment your rights are dependent on what a particular politician thinks will win at the next election or next leadership spill. It is a very fragile guarantee that you will be protected from abuses by Big Brother and Big Sister.

A justiciable Bill gives ordinary people the ability to go to court to enforce their rights. It means that do not have to hope a government watchdog is interested and able to act on their behalf. (For 40 years we have seen watchdogs shrug or apologise but not come to the rescue.) It also means that politicians cannot turn a blind eye.

Overseas experience demonstrates that a justiciable Bill does not flood the courts with frivolous litigation, destroy business or cripple the media.

#### **What is happening?**

Civil society advocates and politicians in several states are trying to get a Bill of Rights onto the local and national agenda.

As an independent organisation the Australian Privacy Foundation supports public discussion about privacy, democracy, responsibility and rights.

#### **What can you do?**

We encourage you to talk to your political representative – remember, they work for you – about human rights.

We also encourage you to visit the Australian Privacy Foundation site at [www.privacy.org.au](http://www.privacy.org.au)

That site is a detailed source of authoritative and independent information about privacy law and developments such as drones, customer profiling, numberplate recognition and health records.

#### **The APF's Position Paper on Human Rights**

The Foundation's position paper on human rights is at <https://www.privacy.org.au/Papers/PS-HumanRts.html>