



# Whistleblower | Psionic Community

”Cultivating Justice in Australia”

WHISTLEBLOWING

Programs

## COMMON LAW

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### Chapter 6 Common Law Precedents

#### Preface

Australia is a country that maintains strict legislation and regulations regarding the workplace. It therefore has enacted a number of Acts and uses Common Law. And whilst the Statutory requirements and rules regulate employment, the relationship is still fundamentally a common law contract relationship. A Whistleblower within this context is a person who provides information and exposes people, events, and actions, that are deemed illegal, immoral, illicit, unsafe corrupt or fraudulent conduct within a private or public sector organization in the hope of prevention and cessation. And in this section we will briefly discuss the Legislation and Common Law precedents that govern how our workplaces should function for the good of all.

#### Main Topic:

- **Introduction**
- **Historical Background**
- **Characteristics of Common Law**
- **Common Law vs. Statutory Law**
- **The Role of Courts in Common Law**
- **Conclusion**

#### Introduction to Common Law in Australia

Common law serves as a cornerstone of the Australian legal system, influencing a wide range of areas, from criminal justice to contract law. Characterized by its reliance on judicial precedents and evolving legal interpretations, common law is an integral part of the legal framework in Australia, shaping both the rights of individuals and the obligations of public and private institutions.

#### Historical Background

Common law originated in England during the medieval period and was developed through the decisions of judges in the royal courts. The principle of stare decisis (to stand by things decided) played a crucial role in the evolution of common law, whereby courts are bound to follow the precedents set by higher courts in similar cases. This system of law was brought to Australia when the British colonized the continent in the late 18th century.

As a result, post-colonial Australia inherited the common law system, which was supplemented by statutes and regulations created by the Australian Parliament and state legislatures. Over time, Australian common law has evolved, reflecting local conditions, cultures, and legal principles.

### Key Characteristics of Common Law

1. **Judicial Precedent:** One of the defining features of common law is its reliance on judicial decisions made in previous cases. This means that courts interpret the law based on earlier judgments, ensuring consistency and predictability in legal outcomes.
2. **Case Law:** Common law is often referred to as “case law” because it is developed through the resolution of specific legal disputes. As cases are argued and decided, new legal principles may emerge, or existing ones may be refined or overturned.
3. **Flexibility:** While common law provides stability through the adherence to precedents, it also allows for evolution and adaptation. Australian courts can re-evaluate past decisions as societal values, norms, and circumstances change, enabling the legal system to respond to contemporary issues.
4. **Complementary to Statutory Law:** In Australia, common law operates alongside statutory law, which is enacted by legislatures. When statutes conflict with common law principles, the statutory law generally prevails. However, common law can fill gaps not addressed by legislation, providing essential legal guidance in those areas.

### Common Law vs. Statutory Law

While common law is built upon the principles established through court decisions, statutory law is created through the legislative process. Statutes may reaffirm, modify, or invalidate existing common law principles. As such, the relationship between common law and statutory law is dynamic. In many cases, legislatures will codify common law rules to establish clarity or reform outdated practices.

For example, in areas like tort law and contract law, common law has laid the groundwork for legal principles that have been subsequently codified in legislation. By understanding the interplay between these two sources of law, individuals and legal practitioners can better navigate the complexities of the Australian legal system.

### The Role of Courts in Common Law

In Australia, the judiciary plays a critical role in shaping the common law landscape. Courts at various levels, from magistrates’ courts to the High Court of Australia, contribute to the development of common law through their rulings. High Court decisions are particularly influential as they set binding precedents for all lower courts.

For instance, landmark decisions by the High Court have addressed significant issues such as Indigenous land rights, constitutional interpretation, and civil liberties, shaping not only common law but also broader society.

### **Conclusion:**

Common law in Australia represents a rich legal tradition that continues to evolve and respond to societal changes. Its system of judicial precedents not only provides stability but also flexibility, allowing the law to adapt to new challenges. By standing as a counterpart to statutory law, common law plays a vital role in shaping rights, responsibilities, and social justice in Australia.

### **CRITICAL EVALUATION:**

**Strengths:** In-depth theoretical analysis, relevant practical examples, clear structure.

**Weaknesses:** Limited attention to specific examples of modern technology implementation.

**Biases or Assumptions:** Emphasis on classical approaches, possibly underrepresenting alternative methods.

**Contribution to the Field:** Significant contribution to understanding the limitations and possibilities for improving the efficiency of heat engines. **Comparison with Other Works on the Topic:** Consistent with existing research, but offers a deeper analysis of efficiency improvement methods.

### **PERSONAL RESPONSE:**

The article was informative and useful for understanding the limitations and possibilities of heat engines.

**How the Article Changed or Reinforced Your Thinking:** Reinforced the importance of the second law of thermodynamics and provided new perspectives on efficiency improvement.

**Questions Raised or Left Unanswered:** Which specific modern technologies can most effectively increase the efficiency of heat engines?

**Application of the Article's Insights in Real Life or Further Research:** Plan to use the presented methods and models in further research and energy-saving projects.

## **Useful Links**

[Common Law Foundations](#)

[How Law is Made](#)

## **Questions to Ponder**

1. What are the presumptions of the common law?
2. What is the principle of August Corpus?

Answers:

1a. The presumptions of common law include the rights to private property, personal liberty, freedom of expression, freedom of movement, natural justice and access to the courts.

2A. It is an Australian Law principle that states that in Australia there is only one body of Common Law.