

Busting the Club: creating a new face for Australian arbitration

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Overview - two pertinent questions

- Two questions of central importance:
 - What is the existing face of arbitration in Australia?
 - What must be done to ensure that Australia attracts international arbitration in the region?

International arbitration in Australia



Arbitral Institutions

- ACICA a successful "umbrella" for IA nationally.



Legal Framework

- Modern rules and law governing arbitration.
- Specialist and supportive courts.



Local Attributes

- Access to work.
- Arbitrators and counsel welcome.
- Strong IA local expertise.

Domestic Arbitration in Australia

Most states adopted *Arbitration Act 1889 (UK)*.

Queensland instead followed the *Interdict Act 1867 (UK)*.

The Superseded Uniform Acts were implemented between 1984 and 1990.

19th
Century

Early 20th
Century

Late 20th
Century

21st
Century

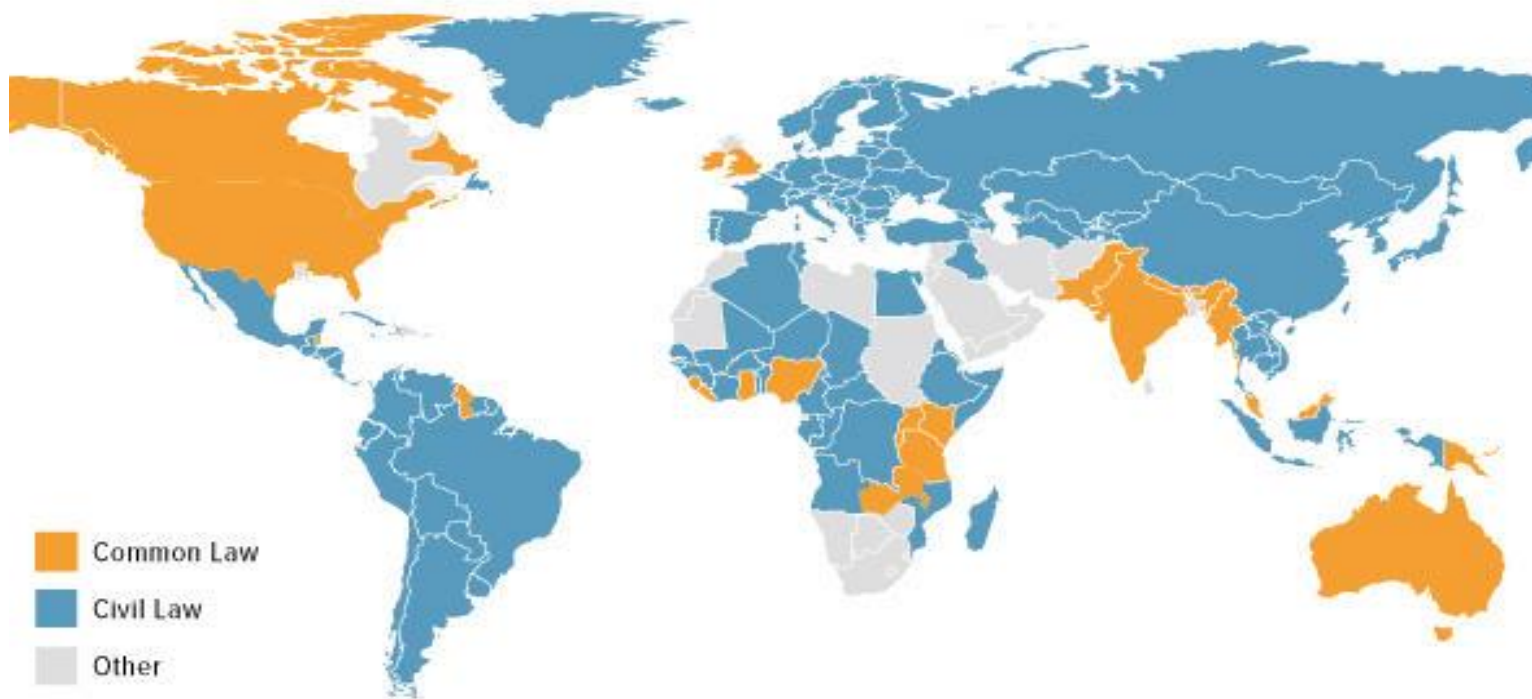
Queensland was the first to adopt the *Arbitration Act 1950 (UK)*.

Uniform Acts across Australia between 2011 and 2017 based on the Model Law.

Australian approach case management

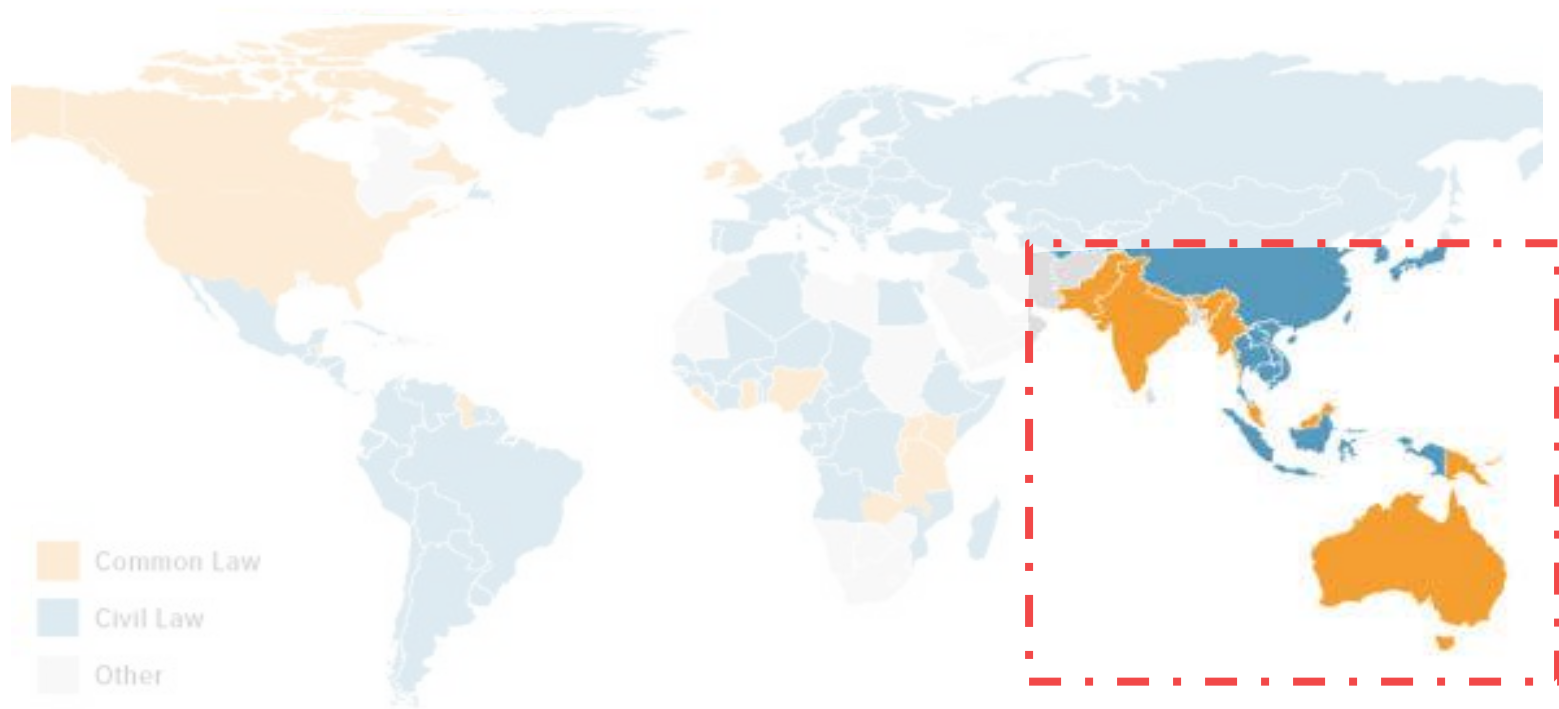
- Domestic court procedure remains an important influencing factor on the approach taken by Australian practitioners in arbitration.
- The Uniform Civil Procedure Acts have improved case management techniques in the courts which feeds into the practice of arbitrators and counsel:
 - moved away from a strictly adversarial approach;
 - highlighted the importance of resolving disputes efficiently; and
 - granted courts greater powers to adjust procedure accordingly.

Ongoing procedural debate



- IBA Rules.
- Prague Rules.

Australia's place in Asia



Australia's place in Asia



Points of innovation for Arbitration

- Areas which can benefit greatly from the convergence of the common law and civil law traditions include:
 - Expert evidence;
 - CMCs; and
 - Document disclosure.
- Australia is a place of innovation:
 - Hot-tubbing in the Federal Court.



The Challenge for Young Practitioners

Positive growth trajectory for Australian arbitration

Practitioners must evolve new practices to transcend legal background

Unique opportunities for young practitioners



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