

JACARANDA
**CIVICS AND
CITIZENSHIP ALIVE** **8**
VICTORIAN CURRICULUM | SECOND EDITION

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**CIVICS AND
CITIZENSHIP ALIVE** 8
VICTORIAN CURRICULUM | SECOND EDITION

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HOW TO USE

the *Jacaranda Civics and Citizenship Alive* resource suite

The ever-popular *Jacaranda Civics and Citizenship Alive for the Victorian Curriculum* is available as a stand-alone Civics and Citizenship series or as part of the *Jacaranda Humanities Alive* series, which incorporates Civics and Citizenship, History, Geography, and Economics and Business in a 4-in-1 title. The series is available across a number of digital formats: learnON, eBookPLUS, eGuidePLUS, PDF and iPad app.

Skills development is integrated throughout, with key skills targeted through SkillBuilders.

This suite of resources is designed to allow for differentiation, flexible teaching and multiple entry and exit points so teachers can *teach their class their way*.

Features

All topics start with an Overview which includes a pre-test to gauge students' readiness to begin.

Topics open with an inquiry question to spark students' curiosity about the topic.

An online workbook is available for customisation and printing.

OnResources feature boxes provide guidance about additional resources online.

SkillBuilders, Thinking Big research projects and Reviews are available online for every topic.

Corrective feedback and Sample responses are available online for every question.

Skills keys identify each question according to the skill targeted, providing insights into skills development. Progress and results can be tracked and filtered by skill online.

A range of activities is provided to promote deeper inquiry, encourage collaboration and help students to develop their research skills.

Exercise sets at the end of each subtopic allow students to check and apply their understanding.

21 Rights, freedoms, democracy and the law

21.1 Overview

How should Australians behave? Who made those rules and why should we follow them?

21.1.1 Introduction

In Australia we are said to be governed by the 'rule of law'. This means that no person is above the law, no matter how rich or important they are. Our rights and freedoms are protected by some provisions in our Constitution, as well as by laws that govern our behaviour. We expect our elected representatives in Parliament to reflect our values and to represent us honestly and we have the right to present our views to those representatives, through activities such as lobbying, protest rallies and marches. We also expect that the law is designed to protect us. Our laws include the criminal law, through which the state prosecutes those who might try to harm us, and the civil law, which provides a means of resolving disputes between members of society.

OnResources

- eWorkbook Customisable worksheets for this topic
- Video Lesson Rights and freedoms (also 2200)

LEARNING SEQUENCE

- 21.1 Overview
- 21.2 Protecting our rights and freedoms
- 21.3 Freedom of speech and other democratic freedoms
- 21.4 Dissent in a democracy and taking direct action
- 21.5 SkillBuilder: Questioning and research **Online**
- 21.6 Taking part in the democratic process
- 21.7 The role of members of parliament
- 21.8 Lobby and pressure groups
- 21.9 SkillBuilder: Communication and reflection **Online**
- 21.10 How parliaments make laws
- 21.11 How courts make laws
- 21.12 Criminal law and civil law
- 21.13 SkillBuilder: Group consensus **Online**
- 21.14 Customary law in Indigenous communities
- 21.15 Thinking Big research project: A bill of rights for Australia? **Online**
- 21.16 Review **Online**

To access a pre-test and starter questions and receive immediate, corrective feedback and sample responses to every question, select your learnON format at www.jacplus.com.au.

In recent years, there have been calls from both Indigenous and non-Indigenous Australians to change the date of Australia Day. It is not that these people are against celebrating an Australian national day. Instead, they want to celebrate Australian culture and identity on a date that has a more positive meaning for all Australians.

DISCUSS

As a class, discuss the issue of celebrating Australia Day on a different day of the year. How might different people around the country react? What would be any positives and negatives of making this change? **[Intercultural Capability]**

OnResources

- Weblinks Indigenous rights movement timeline
- National apology

22.3 ACTIVITIES

- Use the **Indigenous rights movement timeline** weblink in the Resources tab or your own internet research to create a timeline of the major events that occurred in the process of reconciliation. **Reasoning, creating, proposing**
- Use the **National apology** weblink in the Resources tab to watch the video of Prime Minister Kevin Rudd's apology to the Stolen Generations. Imagine you are the relative of a member of the Stolen Generations and write a brief response to this speech. **Communicating, reflecting**

22.3 EXERCISES

Civics and Citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

22.3 Exercise 1: Check your understanding

- CS1** Why did the relationship between British settlers and Indigenous Australians turn sour?
- CS1** Who were the Stolen Generations?
- CS1** How did declaring terra nullius allow the British to claim the land of Australia?
- CS1** What is reconciliation?
- CS1** Explain the origins of Australia Day.

22.3 Exercise 2: Apply your understanding

- CS2** Explain why Indigenous Australians oppose Australia Day being celebrated on the 26th of January.
- CS4** Which of the following do you believe was most important to Indigenous Australians?
 - Becoming citizens in 1948
 - Being given federal voting rights in 1962
 - Being included in the population count in 1967
- CS5** Suggest an alternative date for Australia Day. Explain why you chose that date and what significance it has in Australian history.
- CS3** Compare the intentions of the government's child removal policy with the impacts that it caused.
- CS3** Why was the High Court's rejection of terra nullius such a significant event for Indigenous Australians?

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

Content is presented using age-appropriate language, and a wide range of engaging sources, diagrams and images support concept learning.

Skillbuilders model and develop key skills in context.

4. **CS1** What is the difference between the ACTU and the ACCI?
 5. **CS1** What are penalty rates?
 - 21.8 Exercise 2: Apply your understanding
 1. **CS1** Why do lobby groups often employ former members of parliament?
 2. **CS2** Identify and explain two examples where pressure groups have been successful.
 3. **CS3** Identify two arguments in favour of people being paid penalty rates and two arguments against. Which arguments do you think are the stronger? Are you opposed to or in favour of penalty rates? Compare your views with the rest of the class.
 4. **CS4** Many powerful businesses and other organisations have plenty of money to employ lobbyists to influence government decisions, while ordinary citizens do not have this power. Outline two risks that this situation could bring to the principles of democracy.
 5. **CS5** Which is likely to produce the best result for the majority in society — a law changed because of lobbying or a law changed as a result of the efforts of pressure groups? Explain reasons for your opinion.
- Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

21.9 SkillBuilder: Communication and reflection

What is communication and reflection?

Most advertising we see is aimed at encouraging us to buy particular products, but advertising can also be used to encourage people to take action on a political issue.

Select your learnON format to access:

- an explanation of the skill (Tell me)
- a step-by-step process to develop the skill, with an example (Show me)
- an activity to allow you to practise the skill (Let me do it)



21.10 How parliaments make laws

21.10.1 The law-making process

A parliament consists of the law makers at the state and federal levels of government. Most laws in Australia are made by our federal and state parliaments. These laws are called **statute laws**. Most parliaments in Australia have a lower house and an upper house. Parliaments make laws by passing a **Bill** through both houses.

A law made by parliament is called **legislation**, a statute or an Act. Before any proposed laws can become Acts of Parliament, they have to be debated and passed by both houses of parliament and then approved by the **Crown**. During the debate in parliament, the government explains why the law is needed and why it will be good for Australia. The **Opposition** may try to argue why this is not the case. Let us see, step by step, how all of this might happen in federal parliament.

3. **CS1** Why is Sunday trading only a recent addition to Australian life?
 4. **CS2** Australia is a secular country. Explain what is meant by this statement.
 5. **CS1** What was the intention of Christian missionaries who were active in nineteenth-century Australia?
 - 22.7 Exercise 2: Apply your understanding
 1. **CS5** What if our Constitution did not protect our right to freedom of religion? Do you think this would have a good or bad effect? Explain your answer in detail.
 2. **CS5** Do you think that the government should be secular? Provide a justification for your point of view.
 3. **CS3** Identify and explain two positive impacts that religion has had on Australian society.
 4. **CS5** There are several restrictions placed on business on religious holidays such as Easter. Since not everyone in Australia observes these holidays, do you think these restrictions are fair? Why or why not?
 5. **CS2** How are religious freedoms protected by the law?
- Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

22.8 SkillBuilder: Deconstruct/reconstruct method

What is the deconstruct/reconstruct method?

The deconstruct/reconstruct method allows you to read information and then use it appropriately in your own work without plagiarising.

Select your learnON format to access:

- an explanation of the skill (Tell me)
- a step-by-step process to develop the skill, with an example (Show me)
- an activity to allow you to practise the skill (Let me do it).



22.9 Thinking Big research project: My family's identity

SCENARIO

Your task is to research your family's migration history. By developing interview questions and then conducting an interview with an older family member, you will gain a better understanding of your family's heritage and what their identity means to them and to your family.

Select your learnON format to access:

- the full project scenario
- details of the project task
- resources to guide your project work
- an assessment rubric.



In each topic, a Thinking Big research project provides opportunities for students to delve deeper, think creatively and work collaboratively.

21.3.2 Limits on our freedom of speech

Our right to freedom of speech in Australia is said to be limited by the 'bounds of law'. The word 'bounds' is an old-fashioned form of the word 'boundaries'. We understand boundaries to be limits on what we may do in any set of circumstances. The limits or boundaries on our freedom of speech are imposed by laws that prohibit (among other things) hate speech, bullying, defamation and obscenity.

Hate speech

Australia's laws against racial discrimination place a limit on our right of free speech. It is illegal in Australia to publicly use language that is likely to offend, insult, humiliate or intimidate anyone because of that person's race, colour or national or ethnic origin. Very few people have actually been brought to court under this law, but it sends a strong message to the community about using racially abusive language. In February 2019, AFL footballer Eddie Betts was subjected to anonymous racial abuse on social media. His club, the Adelaide Crows, vowed to track down the person who posted the abuse and to 'name and shame' them. Unfortunately, social media has become a favourite arena for many people to attempt to abuse others anonymously.

FIGURE 3 AFL footballer Eddie Betts was subjected to racist abuse on social media in early 2019.



DISCUSS

After watching the *Je suis Charlie* video eLesson in the Resources tab, discuss as a class the meaning of the term 'Je suis Charlie'; the phrase used by people showing support for free speech after the terrorist attack on the satirical magazine *Charlie Hebdo* in Paris in early 2015. Discuss whether you think there should be limits on free speech. What are the pros and cons of placing limits on free speech? **[Ethical Capability]**

on Resources

E Video eLesson: Je suis Charlie (ides 2430)

Bullying and harassment

In recent years, state governments have acted to protect people from bullying, particularly in the workplace. In February 2010, four men and the company they worked for were fined a total of \$335 000 for bullying a young waitress who later killed herself. The waitress, Brodie Panlock, committed suicide after months of bullying at the café where she worked. Much of the bullying involved name-calling and using offensive language towards Ms Panlock, who was 19 years old. Following this case, the Victorian state government brought in a new law against workplace bullying, allowing for prison sentences of up to 10 years for anyone found guilty of this offence. In recent years, sexual harassment in the workplace has become a

Discuss features explicitly address Curriculum Capabilities.

on Resources

P projectsPLUS Thinking Big research project: My family's identity (pro-0177)

22.10 Review

19.12.1 Key knowledge summary

Use this dot point summary to review the content covered in this topic.

19.12.2 Reflection

Reflect on your learning using the activities and resources provided.

on Resources

- W** Workbook: Reflection (lsoo-31362) Crossword (lsoo-31363)
- I** Interactivity: Influences on Australian society and national identity crossword (in-7004)

KEY TERMS

affiliations close connections with a group or organisation
belonging the feeling of being part of a group or community with shared values
constitution a set of rules that determines the structure of government and its law-making powers
compassion feeling empathy towards someone in a less fortunate position
doctrine a collective teaching
denomination a separate branch of a religion. For example, Catholicism is a denomination of Christianity.
eurocentric a point of view that has a strong European focus
federation the process through which the six separate Australian colonies formed to join one united nation
foreign policy decisions made by governments concerning their relationships with other nations
holocaust the destruction or loss of life on a large scale, usually referring to the death of 6 million Jews in Europe during World War II
land rights the rights of people (in this case Indigenous groups) to own the land their ancestors have lived on for generations
migrants people who leave one country to reside in another
practitioner in a religious sense, someone who actively participates in a religion
reconciliation the process of restoring and encouraging respect for indigenous culture and identity
referendum a process of allowing the people to vote on an important issue, such as a proposed change to the Constitution
terra nullius 'land belonging to no-one'
transportation the process of sending convicts to a penal colony
White Australia an immigration policy discriminating against non-white people which existed for much of the twentieth century

A range of questions and a post-test are available online to test students' understanding of the topic.

Key terms are available in every topic review.

learnON

Jacaranda Civics and Citizenship Alive learnON is an immersive digital learning platform that enables student and teacher connections, and tracks, monitors and reports progress for immediate insights into student learning and understanding.

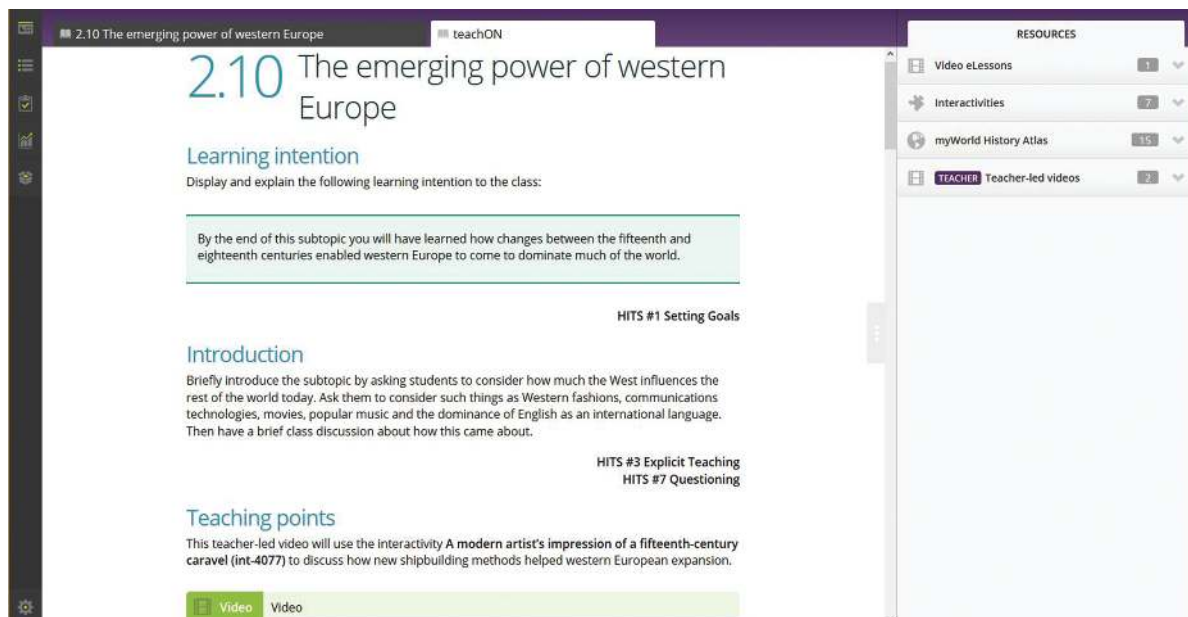
It includes:

- a wide variety of embedded videos and interactivities
- questions that can be answered online, with sample responses and immediate, corrective feedback
- additional resources such as activities, an eWorkbook, worksheets, and more
- Thinking Big research projects
- SkillBuilders
- teachON, providing teachers with practical teaching advice, teacher-led videos and lesson plans.



teachON

Conveniently situated within the learnON format, teachON includes practical teaching advice, teacher-led videos and lesson plans, designed to support, save time and provide inspiration for teachers.



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1 Rights, freedoms, democracy and the law

1.1 Overview

How should Australians behave? Who made those rules and why should we follow them?

1.1.1 Introduction

In Australia we are said to be governed by the ‘rule of law’. This means that no person is above the law, no matter how rich or important they are. Our rights and freedoms are protected by some provisions in our Constitution, as well as by laws that govern our behaviour. We expect our elected representatives in Parliament to reflect our values and to represent us honestly and we have the right to present our views to those representatives, through activities such as lobbying, protest rallies and marches. We also expect that the law is designed to protect us. Our laws include the criminal law, through which the state prosecutes those who might try to harm us, and the civil law, which provides a means of resolving disputes between members of society.

Resources

 **eWorkbook** Customisable worksheets for this topic

 **Video eLesson** Rights and freedoms (eles-2260)

LEARNING SEQUENCE

- 1.1 Overview
- 1.2 Protecting our rights and freedoms
- 1.3 Freedom of speech and other democratic freedoms
- 1.4 Dissent in a democracy and taking direct action
- 1.5 **SkillBuilder:** Questioning and research 
- 1.6 Taking part in the democratic process
- 1.7 The role of members of parliament
- 1.8 Lobby and pressure groups
- 1.9 **SkillBuilder:** Communication and reflection 
- 1.10 How parliaments make laws
- 1.11 How courts make laws
- 1.12 Criminal law and civil law
- 1.13 **SkillBuilder:** Group consensus 
- 1.14 Customary law in Indigenous communities
- 1.15 **Thinking Big research project:** A bill of rights for Australia? 
- 1.16 **Review** 

To access a pre-test and starter questions and receive immediate, **corrective feedback** and **sample responses** to every question, select your learnON format at www.jacplus.com.au.

1.2 Protecting our rights and freedoms

1.2.1 What laws protect us?

Under the rule of law, the protection of our **rights** and freedoms comes from a number of sources. The Australian **Constitution** includes provisions that protect some of our basic rights. In addition, state and federal governments have passed **laws** aimed at protecting many of our rights as citizens.

1.2.2 Rights contained in the Constitution

The Australian Constitution contains a number of sections that ensure that Australia must be ruled as a **democracy**. It also includes five specific rights. Because these five rights are written in the Constitution, they cannot be changed or taken away without a **referendum**.

Protecting democracy

The Constitution ensures that Australia must be governed as a democracy in the following ways:

- Representatives to both houses of parliament are elected by a direct vote of the people.
- Each person has only one vote for each house of parliament, so all voters are equal.
- Parliament is limited to a three-year term, so all the members have to face the voters on a regular basis to be judged on their performance.
- All laws passed by the parliament have to be agreed to by a majority of members, so they represent the wishes of the majority of voters.
- There is a division of powers between the federal and state governments, so power is spread between these two levels of government.
- The courts are independent of government, so they can enforce the law fairly and equally to all.

FIGURE 1 Our rights and freedoms unite us as Australians.

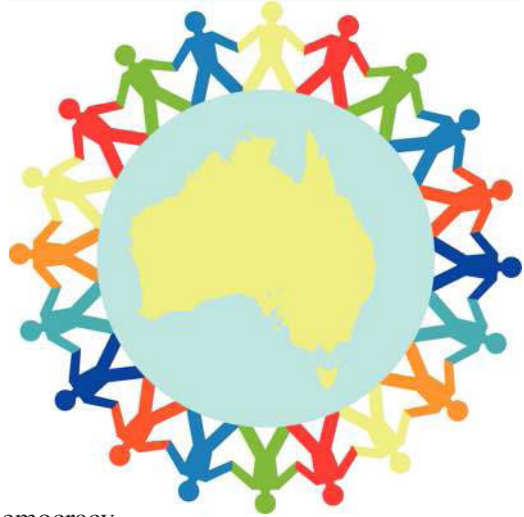
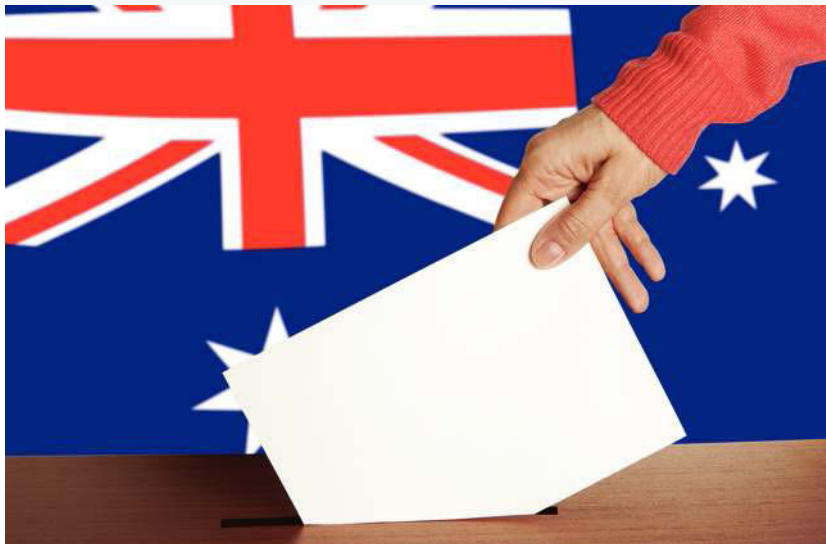


FIGURE 2 A direct vote of the people is required to elect members of parliament.



Five express rights

Our Constitution contains a small number of rights. Because they are clearly expressed in the wording of the Constitution, they are known as ‘express rights’. The five express rights are as follows:

1. *Freedom of religion.* Under section 116 of the Constitution, the government cannot force anyone to follow any one religion, nor can it prevent anyone from freely practising his or her own religion.

FIGURE 3 Freedom of religion is guaranteed by our Constitution. Out of 22 major world religions, 18 are practised in Australia.



2. *Trial by jury.* Under section 80 of the Constitution, anyone accused of a serious crime under Commonwealth law must be tried in court by a **jury**. This right only applies to Commonwealth law, so it is a very limited right. Most criminal law is decided by state governments, and criminal trials take place in state courts. Trial by jury in these state courts is not protected by the Constitution, but is covered by state laws.

FIGURE 4 Trial by jury is guaranteed by our Constitution for anyone charged with a serious offence under Commonwealth law.



3. *Compensation for acquired property.* Sometimes the Commonwealth Government may need to take over property from individuals or organisations. They may do this, for example, when they are building new freeways or railways. Under section 51(xxxi) of the Constitution, if the government does this, it must be on 'just terms'. This means that the person who owns the property must get a fair price for that property.

FIGURE 5 If the government needs to take over property, the owner is entitled to a fair price under our Constitution.



4. *Residential non-discrimination.* Under section 117 of the Constitution, no state government can treat someone differently, or discriminate against a person, just because he or she is a resident of a different state.
5. *Interstate trade and commerce.* Under section 92 of the Constitution, all trade between the states must be completely free. This means that no government, or any other person or business, can do anything that interferes with the free operation of commerce across state borders.

FIGURE 6 Under our Constitution, all trade across state borders must be free from interference.



1.2.3 Rights protected by legislation


Federal, state and territory parliaments have all passed **legislation** designed to protect the rights and freedoms of all members of the community. For example, they have all passed laws designed to make it illegal to discriminate against any person based on certain personal characteristics. This means that you cannot treat someone differently or unfairly because they happen to be different from yourself or from the majority of society. Under these laws, it is illegal to discriminate against anyone on the basis of:

- gender or gender identity
- sexual orientation
- pregnancy
- breastfeeding
- marital status
- status as a carer
- age
- race
- skin colour
- nationality
- ethnicity
- parental status (including childlessness)
- physical features (Victoria only)
- religious belief or activity
- physical impairment
- mental illness or disability
- a personal association with anyone having any of the above characteristics.

This means that an employer cannot refuse to employ someone because of any of the above characteristics. It also means that a business owner cannot use any of the above as a reason to refuse to do business with a person. For example, the owner of a restaurant cannot refuse entry to a person based on any of the above characteristics. These laws are designed to ensure that all members of Australian society are treated fairly and equally.

FIGURE 7 Employers interviewing job applicants must treat them all equally.



 **Video eLesson** What is Parliament? (eles-2077)

 **Weblink** Australian Human Rights Commission

1.2 ACTIVITY

Use internet resources to identify three laws, passed by either a state parliament or the Commonwealth Parliament, designed to make it illegal to discriminate against any person based on his or her personal characteristics.

Examining, analysing, interpreting

1.2 EXERCISES

Civics and Citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

1.2 Exercise 1: Check your understanding

1. **CS1** What is the meaning of the term 'democracy'?
2. **CS1** In what way is freedom of religion protected in Australia?
3. **CS1** In what circumstances does the Constitution guarantee a jury trial to an accused person?
4. **CS2** Choose two democratic rights and explain what they are.
5. **CS2** Identify and explain five ways in which the Australian Constitution protects our rights.
6. **CS1** What does the Constitution say about trade between the states?

1.2 Exercise 2: Apply your understanding

1. **CS1** What safeguards does the Constitution provide for anyone who has his or her property taken by the Commonwealth Government?
2. **CS5** Some members of the community have called for a ban on the burqa, the full body covering worn by some Muslim women. Why would such a ban probably be unlawful in Australia?
3. **CS5** A woman qualified as a doctor in Melbourne and moved to Queensland to live. The Queensland medical authorities attempted to prevent her from practising as a doctor, because she did not gain her qualifications there. Explain why such action would be unlawful.
4. **CS3** When we refer to free trade between the states, what does this mean in terms of the powers of the federal and state parliaments?
5. **CS3** Examine each of the following cases and determine whether or not there has been a case of discrimination, and explain your reasons:
 - (a) A woman was unsuccessful in gaining a job because she was pregnant.
 - (b) A real estate agent refused to rent an apartment to an Indigenous family.
 - (c) A man failed to get a job as a bus driver because he had no driver's license.
 - (d) A taxi driver with a sign on his cab saying 'No dogs' refused to pick up a blind person with a guide dog.
 - (e) A carpenter advertises for an apprentice to work with him, and specifies that only males should apply.
 - (f) A menswear store advertises for a model for its advertising catalogue, and specifies that only males should apply.

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

1.3 Freedom of speech and other democratic freedoms

1.3.1 The importance of freedom of speech

One of the key freedoms enjoyed by Australians is freedom of speech. In most cases, we have the freedom to express our opinions publicly. However, there are some legal limits on freedom of speech. This is because our right of free speech must be balanced against the rights of other people who may be harmed by what we say.

For us to be able to exercise our **democratic** rights in a free society, we must have the right to express our opinions without risk of punishment. In many countries around the world, and throughout history, this right has not always existed. In some medieval societies, anyone who publicly criticised the king or the church could be executed. Even today, there are many countries where freedom of speech is very limited or non-existent, and people are punished for publicly expressing their opinions:

- The Middle-Eastern country of Iran is ruled under Islamic religious law. This means that all citizens are expected to observe religious practices as prescribed by the government. Failure to do so can be punished by the authorities, with the possibility of imprisonment, and even execution, for failing to adhere to strict religious laws.
- In North Korea, it is illegal to say or do anything that criticises the government or is seen to insult the country's leader, Kim Jong-un. It was recently reported that a man was thrown into prison for wiping up a spilt drink with a sheet of newspaper. Someone noticed that the newspaper featured a photo of Kim Jong-un and reported the man, who was imprisoned for insulting the leader.

FIGURE 1 Australians highly value the right of free speech.



FIGURE 2 Kim Jong-Un is revered as the leader of North Korea, and any criticism of him or his government within that country is punishable by a long prison sentence or even death.



1.3.2 Limits on our freedom of speech

Our right to freedom of speech in Australia is said to be limited by the ‘bounds of law’. The word ‘bounds’ is an old-fashioned form of the word ‘boundaries’. We understand boundaries to be limits on what we may do in any set of circumstances. The limits or boundaries on our freedom of speech are imposed by laws that prohibit (among other things) hate speech, bullying, defamation and obscenity.

Hate speech

Australia’s laws against racial discrimination place a limit on our right of free speech. It is illegal in Australia to publicly use language that is likely to offend, insult, humiliate or intimidate anyone because of that person’s race, colour or national or ethnic origin. Very few people have actually been brought to court under this law, but it sends a strong message to the community about using racially abusive language. In February 2019, AFL footballer Eddie Betts was subjected to anonymous racial abuse on social media. His club, the Adelaide Crows, vowed to track down the person who posted the abuse and to ‘name and shame’ them. Unfortunately, social media has become a favourite avenue for many people to attempt to abuse others anonymously.

FIGURE 3 AFL footballer Eddie Betts was subjected to racist abuse on social media in early 2019.




DISCUSS

After watching the **Je suis Charlie** video eLesson in the Resources tab, discuss as a class the meaning of the term ‘Je suis Charlie’: the phrase used by people showing support for free speech after the terrorist attack on the satirical magazine *Charlie Hebdo* in Paris in early 2015. Discuss whether you think there should be limits on free speech. What are the pros and cons of placing limits on free speech?

[Ethical Capability]

on Resources

 **Video eLesson** Je suis Charlie (eles-2430)

Bullying and harassment

In recent years, state governments have acted to protect people from bullying, particularly in the workplace. In February 2010, four men and the company they worked for were fined a total of \$335 000 for bullying a young waitress who later killed herself. The waitress, Brodie Panlock, committed suicide after months of bullying at the café where she worked. Much of the bullying involved name-calling and using offensive language towards Ms Panlock, who was 19 years old. Following this case, the Victorian state government brought in a new law against workplace bullying, allowing for prison sentences of up to 10 years for anyone found guilty of this offence. In recent years, sexual harassment in the workplace has become a

significant issue, with a 2018 survey by the Australian Human Rights Commission reporting that in the previous 12 months, 23 per cent of women and 16 per cent of men had experienced sexual harassment at work.

Defamation

Defamation occurs when one person writes or says something likely to damage the reputation of another person. Any communicated material that harms the reputation of another person is said to be ‘defamatory’. If you believe someone has defamed you, you can take legal action (that is, you can sue that person). For your legal action to be successful, you have to prove the following:

- The defamatory material was published or communicated to someone other than yourself. It is not defamatory if the person communicates it only to you, and no-one else sees or hears it. It would be defamatory, though, if someone published it on his or her Facebook page, or anywhere likely to be read by other people.
- It has to be clear that it is you as an individual the person is referring to. If someone said that members of your sports team were cheats, you could not sue them unless they clearly identified you in person.
- There has to be some clear damage to your reputation. If the material is likely to prevent you getting a particular job, or in some other way can be seen to disadvantage you, you may have a good legal case.
- The material must be untrue. If someone communicates material about you that can be proven to be true, then that person has a strong defence if you try to take legal action for defamation. In this case, a court may rule that no defamation has occurred.

The law relating to defamation puts a limit on free speech but it also protects innocent people from having their reputations ruined publicly. It demonstrates that any right to freedom of speech imposes an obligation on all of us to use that right responsibly.

FIGURE 4 The suicide of 19-year-old Brodie Panlock led to a change in the law in Victoria regarding workplace bullying.



FIGURE 5 Spreading rumours likely to damage another person’s reputation could be defamatory.

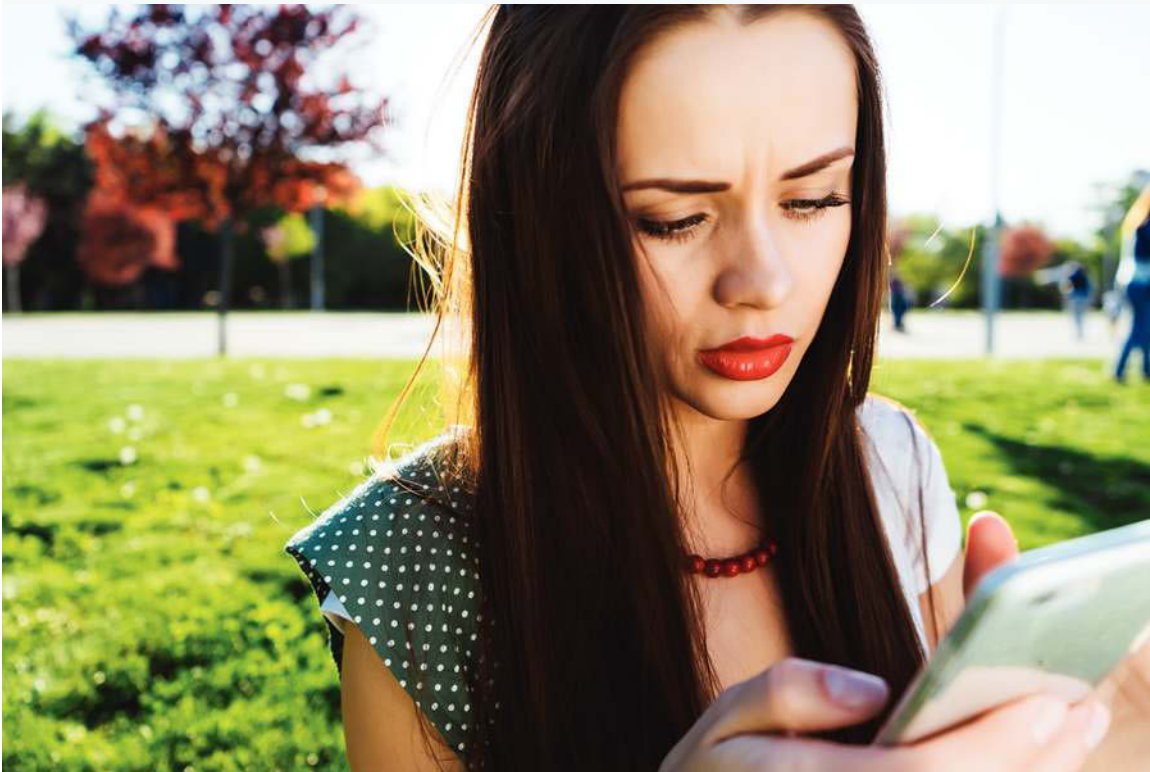


Obscenity

Freedom of speech is also limited by the need for all written and spoken material to conform to reasonable community standards. Laws against obscenity are designed to protect these standards. Obscenity laws vary by state and territory, but generally cover cases such as the following:

- *Offensive language.* If you are caught swearing loudly in public, you can be charged with using offensive language in a public place.
- *Sexually explicit or violent material.* A number of laws govern the publication or display of such material. In some cases, film and television classification authorities may place restrictions on violent or sexually explicit material by giving it an 'R 18+' classification. Some other material (such as child pornography) is banned completely, and people can be prosecuted and imprisoned for possessing it. Recently there has been a lot of publicity relating to the practice of 'sexting' by teenagers. This is seen as child pornography and has serious consequences for anyone caught participating in the practice.

FIGURE 6 Sending obscene images on a mobile phone is illegal and can lead to the person responsible being charged with an offence.



Despite these limits, freedom of speech plays a significant role in Australia's democracy. Our right of free speech allows the open exchange of political ideas and policies. This means that when we vote to elect representatives to parliament, we should be fully informed about the promises and policies of all candidates. No-one can restrict the rights of political parties and their candidates from getting their message out to voters.

1.3.3 The benefits of living in a democracy

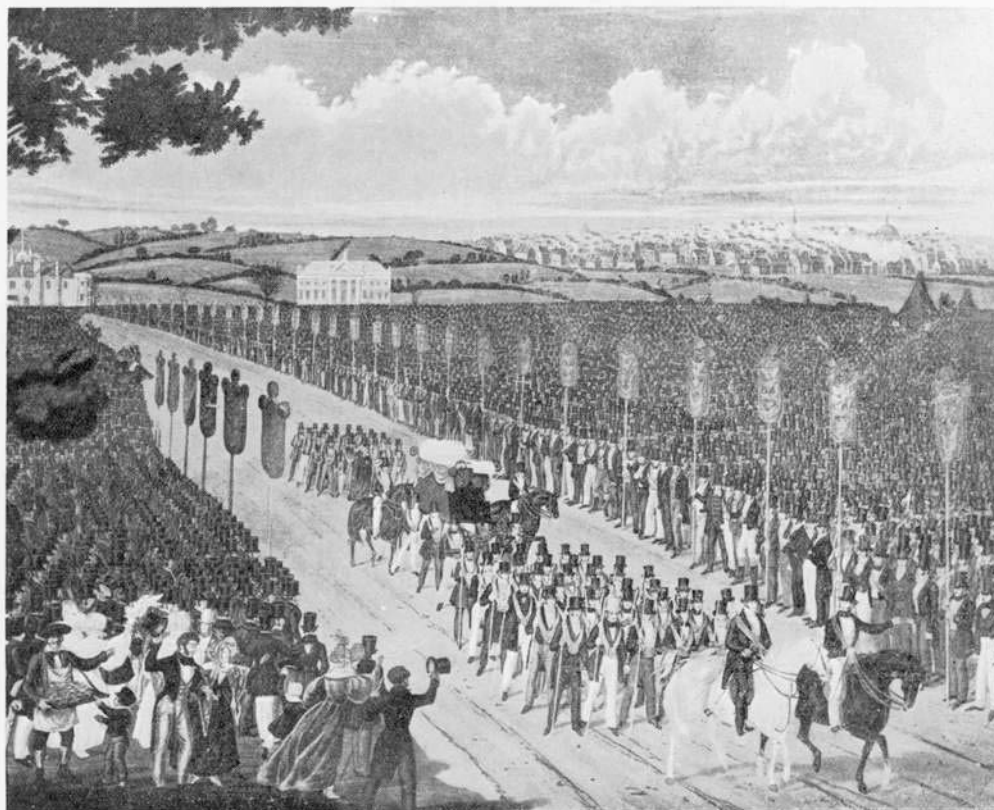
In addition to freedom of speech, there are a number of other freedoms we associate with living in a democracy. These include freedom of association, freedom of assembly, freedom of movement and freedom of conscience. All of these freedoms have been included in international **treaties** that have been agreed to by Australian governments. Any attempt to limit these would be seen as an infringement (a violation or restriction) of our democratic rights.

Freedom of association

It is generally accepted in Australia that we have the right to have anyone we wish as a friend. It is also accepted that we can socialise with any individual or group of people we choose. This is freedom of association at its simplest level, but our right to freedom of association goes further than this. Fundamental to freedom of association is the right to join any group, club or organisation we wish. This means that we have the right to join any political party, religious group, sporting club or **trade union**. While we take this right for granted, it has not always been protected. At different times, in different countries, it has in fact been severely limited.

- Much of our legal and constitutional system comes from Britain. Trade unions were banned in Britain in 1799 under laws known as the Combination Acts. Although these laws were repealed in 1825, there were still strict limitations on what unions were allowed to do. In 1834, a group of six men from the village of Tolpuddle in southern England formed an association to campaign for better wages for farm workers. They were prosecuted, found guilty and sentenced to seven years' **transportation** to the colony of New South Wales. They became known as the Tolpuddle Martyrs, and were regarded by many as heroes for standing up for the right to freedom of association. Following public protests, they were released in 1836 and allowed to return to England.
- In 1951, the Menzies government in Australia tried to ban the Communist Party by holding a referendum to change the Australian Constitution. Because the Communist Party believed in the overthrow of existing society, many people viewed it as a dangerous organisation. The Communist Party had only a relatively small number of supporters and members, and most Australians were strongly opposed to communism. Nevertheless, the referendum failed and the Communist Party remained a legal organisation. It appears that most Australians were not prepared to sacrifice the right to freedom of association — not even to ban an organisation they did not support.

FIGURE 7 Between 50 000 and 60 000 people gathered outside London to protest at the transportation of the Tolpuddle Martyrs in 1834.



DEMONSTRATION AT COPENHAGEN FIELDS, LONDON

Freedom of association is an important part of our democracy. Having the right to elect representatives to make laws on our behalf works most fairly when we have a number of alternative candidates from which to choose. Freedom of association allows anyone to form a political party (or any other organisation) to campaign for new laws or changes to existing laws. Anyone can join such groups and, if they gain enough support, their ideas and proposals can eventually become law. Australian democracy is stronger because we have many different groups and ideas to choose from when we vote.

Freedom of assembly

Related to freedom of association is freedom of assembly. This gives individuals and groups the right to assemble (or come together) for a meeting, or the right to assemble in public to protest against actions by a government or other organisation. Freedom of assembly can be limited, depending on the type of assembly and its location. In Australia, there is no specific law that protects freedom of assembly. It is included in international treaties that have been agreed to by Australian governments, and is therefore regarded as one of our natural democratic rights. State governments are usually responsible for dealing with public order, and so will make laws that deal with public protests. In this way, freedom of assembly is subject to the bounds of law.

While there are generally no restrictions on any group holding a meeting in a hall or similar space, assembling in a public space may limit the access of others to that space. For example, a protest march along a busy main road may cause severe traffic problems. It is for these reasons that some state governments have placed restrictions on freedom of assembly. Most people would accept that, for any assembly or protest to be legal, it should be peaceful and not threaten bystanders. In most cases, the organisers of public protests in Australia make sure their activities are well publicised in advance, so they can attract the largest number of supporters to their actions. This means that the authorities can plan to ensure minimum disruption to people going about their normal business.

FIGURE 8 Freedom of assembly includes the right to public protest.



Freedom of assembly, including the right to public protest, provides many groups with a means of having their views heard by the broader public. If these views then gain support among large numbers of people, they can influence a government to change laws or make new laws to deal with the issue under protest. (See subtopic 1.4 for further discussion of this issue.)

Freedom of movement

As with other rights, freedom of movement is limited by the bounds of law. We have the freedom to move freely within most public spaces in the community, but obviously we do not have the right to trespass on someone else's private property. The right to freedom of movement allows us to move freely between different towns and cities, and to move between the states of Australia without restriction — a right reinforced by the constitutional right of free trade and commerce between the states. Freedom of movement also gives us the right to leave Australia for work or a holiday, and to return at any time.

Freedom of movement is sometimes restricted as a means of protecting the public. Before trial, a person accused of a crime may be prevented from leaving the state or country. After floods or bushfires, people may be lawfully prevented from entering an area declared a natural disaster area. When parents are in dispute over the custody of children during a divorce, courts may restrict the movement of those children to ensure they have regular access to both parents.

Any general attempt to restrict people's right of movement could limit their rights to participate in Australian democracy. If we wish to attend a meeting or public lecture to find out more about a political issue, we should be free to do so. Similarly, we must be able to get to a polling place to vote in an election. Freedom of movement therefore enables us to exercise our democratic rights.

Freedom of conscience

Freedom of conscience means that we have the right to hold opinions and to express those opinions freely. It applies to religious views, political views, scientific ideas or any other beliefs or ideas we may have. It means we can hold our own beliefs and not be forced to accept the beliefs of others.

FIGURE 9 Freedom of movement includes the right of Australians to leave the country and return at any time.



FIGURE 10 Freedom of conscience gives us the right to think and believe differently from those around us.



As we know from the discussion in subtopic 1.2, freedom of religion is protected by the Australian Constitution, but the broader concept of freedom of conscience is included in international treaties agreed to by Australian governments. Freedom of conscience has not always been guaranteed, and is still not guaranteed in some countries:

- In some Muslim countries (including Saudi Arabia and Iran), anyone who converts from Islam to another religion (such as Christianity) is guilty of a crime. The person will usually be imprisoned and may be subject to the death penalty.
- In Indonesia in August 2018, a Buddhist woman complained about the volume of the Islamic call to prayer, broadcast over loudspeakers near her home. She was charged and convicted of blasphemy, with the court finding that her complaint was ‘an insult to Islam’ and sentencing her to 18 months in prison. This is in spite of Indonesia being a country in which six different religions, including Buddhism, are officially recognised as being equal before the law.

FIGURE 11 Galileo Galilei was imprisoned by the Catholic Church because he published scientific findings that were different from accepted beliefs.



on Resources

 **Video eLesson** Dangerous ideas (eles-2427)

In Australia, expressing one’s own conscientious beliefs is subject to the same bounds of law that apply to freedom of speech generally. Freedom of conscience is important in a democracy because we need to have choices when we vote. The free exchange of political ideas can help us to decide who we want to represent us in parliament and make laws on our behalf. We will usually vote for people whose beliefs and values are as close as possible to our own because they are more likely to make laws we agree with.

DISCUSS

‘There are a number of freedoms we associate with living in a democracy such as Australia.’ What does the concept of freedom mean to you? Discuss how our freedoms are protected in Australia and if there are any limitations on these freedoms.

[Ethical Capability]

1.3 ACTIVITY

A number of states are considering changing the laws dealing with sexting. Using internet resources, find out the following:

- a. Which states have changed or are considering changes?
- b. What changes are being considered?

Examining, analysing, interpreting

1.3 EXERCISES

Civics and Citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

1.3 Exercise 1: Check your understanding

1. **CS1** What is meant by the term 'bounds of law'?
2. **CS1** Outline the purpose of laws against obscenity.
3. **CS1** In what ways do laws against racial discrimination put limits on our right of free speech?
4. **CS1** What are the four elements you would have to prove to be able to successfully take legal action against someone for defamation?
5. **CS2** Explain why freedom of speech is important in supporting democracy in Australia.
6. **CS1** Who were the Tolpuddle Martyrs?
7. **CS1** Why did the Menzies government try to ban the Communist Party in 1951?
8. **CS1** List two examples of freedom of conscience.

1.3 Exercise 2: Apply your understanding

1. **CS3** What are the likely consequences of each of the following actions?
 - (a) A group of employees in a factory engages in name-calling and using insulting language towards a workmate, who becomes afraid to go to work as a result.
 - (b) A young man lies about his ex-girlfriend on his Facebook page, saying that she lost her job because she stole money from her employer. When the girlfriend applies for another job, she is unsuccessful because the prospective employer believes she is a thief.
 - (c) A passenger on a bus begins harassing a family of African migrants, using racist language and telling them to 'go back where they came from'.
 - (d) A 14-year-old girl sends a topless photograph of herself to her boyfriend's phone. The boy keeps the photograph on his phone and, when they break up, he resends it to all his friends with nasty comments about the girl.
2. **CS5** Why is each of the following important in maintaining Australia as a democratic society?
 - (a) Freedom of association
 - (b) Freedom of assembly
 - (c) Freedom of movement
 - (d) Freedom of conscience
3. **CS5** In October 2013, the Queensland government brought in new laws directed at members of motorcycle clubs, particularly those labelled as members of 'criminal motorcycle gangs'. The laws prohibit any gathering of those members in groups of three or more. They also ban such members from going to certain declared locations, promoting their organisation or recruiting new members.
 - (a) Identify two rights or freedoms that may have been breached by these laws.
 - (b) The Queensland government has claimed that the laws are designed to protect innocent people from violent bikie gangs. Explain whether or not you agree with this argument, and give reasons for your response.
 - (c) The government that brought in these laws was democratically elected by a huge majority of the voters. Do you believe this gives the government the right to make any laws it wishes, or should there be some limits on the power of governments to restrict basic rights and freedoms? Give reasons for your answer.
4. **CS2** Outline one way in which freedom of assembly might be restricted by the bounds of law.
5. **CS2** Describe two circumstances when it might be reasonable to restrict a person's freedom of movement.

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

1.4 Dissent in a democracy and taking direct action

1.4.1 The right to disagree

Not everyone will agree with actions taken by our governments. In a democracy — where we all have freedom of conscience, freedom of speech, freedom of association and freedom of assembly — we have the right to express that disagreement. When a person (or group of people) expresses that disagreement publicly, it is known as dissent. In a democratic country like Australia, the right to dissent is one of our basic rights.

1.4.2 Expressing dissent

Expressing dissent is one of the ways in which we can participate in a democratic society. While we are required to obey the law, we are not required to blindly follow whatever a government tells us. Every individual is free to undertake a range of activities in an attempt to have a particular law changed — for example, to organise and participate in a demonstration or public rally, or to sign a petition supporting a change in the law. (Details of such activities are discussed later in this subtopic.) Participation in a rally or protest march allows many people who disagree with particular government policies to express their point of view. Such protests are also aimed at changing those policies, and convincing other undecided citizens to support their cause.

1.4.3 CASE STUDY: Protests against offshore detention

On October 27, 2018, demonstrators in Sydney and Melbourne rallied to protest against the federal government policy of keeping asylum seekers on Manus Island and Nauru. Since 2013, asylum seekers who attempt to come to Australia by boat have been placed in detention on these two islands. The aim of the policy has been to discourage people from risking their lives by paying people-smugglers to transport them to Australia in unsafe boats. Prior to 2013, a number of asylum seekers had died at sea when boats they were travelling in sank.

Those attending the demonstrations believed that it was cruel to keep the asylum seekers in detention for such a long time. They pointed to the deteriorating mental health of some of the refugees who had been detained for over five years. Demonstrators in Melbourne heard a phone call from one of the refugees on Manus Island who described his situation as one of suffering and hopelessness. The rally in Sydney was also addressed by singer Jimmy Barnes, who described the government policy of offshore detention as ‘criminal’ and ‘disgusting’.

FIGURE 1 Sydney protesters rally to support refugees being detained by the Australian government.



1.4.4 Taking direct action

Most of the time, people are prepared to participate in Australia’s democracy by exercising their right to vote at state, federal and local government elections. Circumstances arise at other times when many feel that an issue requires immediate action, or they believe that the government is making the wrong decisions. In these circumstances, people will often take direct action to influence government actions. Direct action usually consists of some form of public demonstration, and can sometimes involve citizens deliberately breaking the law to bring their views to public attention.

Demonstrations

A demonstration is a public protest in which people take to the streets to protest against the actions of government, or to raise awareness of an issue of concern. The success of a demonstration depends on how many people participate. It also depends on how well they can capture public support. Most demonstrations involve marching through the city streets or protesting outside a significant public location.

FIGURE 2 A demonstration is a way different groups can make their views known to government and the general public.



Over the years, many causes have resulted in different types of demonstration. Not all involved street marches.

- In the late 1960s, demonstrations against Australia's involvement in the Vietnam War were relatively small, often with only a few hundred protesters. They were largely dismissed by government as the views of a small minority. As more people became aware of the issues, the size of the demonstrations grew, culminating in protest marches in all major cities and towns across Australia in May 1970. More than 200 000 demonstrators marched in total, with 100 000 of these in Melbourne. Within 18 months,

FIGURE 3 In May 1970, marchers outside the Melbourne Town Hall protested against Australia's involvement in the Vietnam War.



Australian troops had been withdrawn from Vietnam. Go to the **Melbourne moratorium march** weblink in the Resources tab for more information on the protests against the Vietnam War.

- On October 23, 2018, over 150 000 unionists and their supporters rallied in Melbourne in support of the ACTU ‘Change the Rules’ campaign. The campaign is aimed at improving pay and conditions for workers, specifically:
 - a fair minimum wage
 - the protection of penalty rates
 - pay rises that reflect the cost of living
 - equal pay for equal work
 - better job security.

Several streets in the centre of the city were closed to traffic, and trams were diverted from Swanston St as protesters marched from the Trades Hall in Lygon St, Carlton to Flinders St Station. The ACTU vowed to continue to organise rallies and to make workers’ pay and conditions an issue in the 2019 federal election.

FIGURE 4 Unionists and supporters rallied to demand a change in the rules for determining wages and conditions for workers.



on Resources

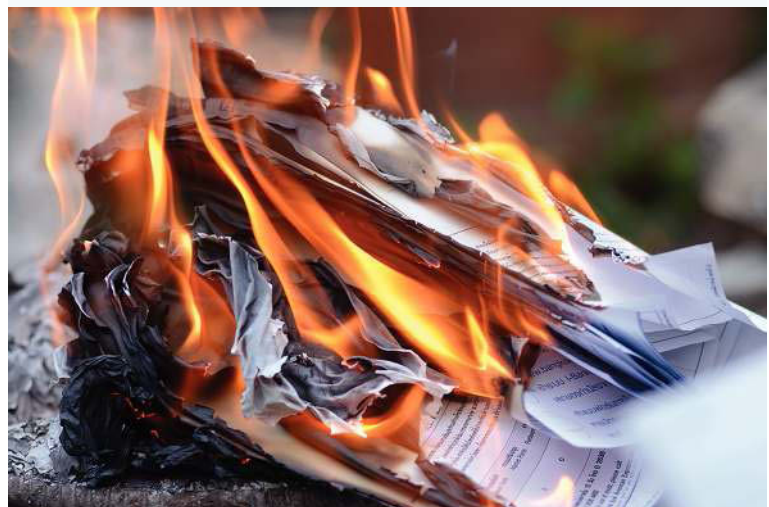
 **Weblink** Melbourne moratorium march

Defiance of the law

Another very public way of campaigning on an issue is to deliberately break the law. This is sometimes done when a group of people believe that a particular law is bad or unfair. They argue that if enough people deliberately break the law, it will convince the government to change or **repeal** that law. On other occasions, protesters deliberately break the law because they realise that their arrest and trial will help publicise an issue.

- In the late 1960s, one of the main grievances arising from Australia’s participation in the Vietnam War was the use of **conscription** to increase the number of soldiers that could be sent to fight in that war. Many of those conscripted chose to defy the law by burning their conscription documents and refusing to join the army. The court cases and imprisonment of many of these young men helped to turn public opinion against the war.

FIGURE 5 Many of those conscripted to fight in the Vietnam War burned their conscription documents and refused to report to the army.



- In 1982, as protests grew against the proposed Franklin Dam, the Tasmanian government passed laws making much of the area around the construction site private property. It also began to prosecute anyone caught trespassing there. Protesters attempted to set up a blockade to prevent earth-moving equipment from being used on the dam site. Over 1400 people were arrested for trespassing, and more than 500 were imprisoned. In 1983, the newly elected federal government passed laws prohibiting construction of the dam. Go to the **Franklin River blockade** weblinks in the Resources tab to find out more information on this issue.

FIGURE 6 Protesters set up a blockade in 1982 to prevent earth-moving equipment being brought onto the Franklin River dam site in Tasmania.



on Resources

- [Weblinks](#) Franklin River blockade 1
- Franklin River blockade 2

1.4.5 The effectiveness of direct action

Demonstrations can be effective if they attract media attention. This highlights the issue and can influence members of parliament, particularly if the cause gains public support. When Victorian nurses staged a protest in Melbourne in 2012, many patients and members of the public joined the protest to support the nurses in their bid for better working conditions. If demonstrations become violent, however, they may be less effective because they are less likely to win community support.

Disobeying the law can be effective if it raises media awareness of the issue. It can be particularly useful if it can show that the law is out of date or unfair, and needs to be changed. Breaking the law to highlight a cause, however, can lead to prosecution and may result only in turning public opinion against that cause.

1.4 ACTIVITIES

- Using internet resources, identify who has been involved in expressing dissent towards the following government actions and the methods they have used to present their views.
 - The development of the Adani mine in Queensland
 - The detention of asylum seekers on Nauru and Manus Island
 - Laws preventing same-sex marriage
- Why were so many people in Australia opposed to this country's involvement in the Vietnam War in the 1960s and early 1970s? Use internet resources to research the main reasons for this opposition.

Examining, analysing, interpreting

Examining, analysing, interpreting

1.4 EXERCISES

Civics and Citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

1.4 Exercise 1: Check your understanding

- CS1** Why is it reasonable for groups and individuals to express dissent towards government policies and actions?
- CS2** Give two examples of limits or bounds of law, and explain how they could reasonably be placed on dissent in Australian society.
- CS1** What do we mean by 'direct action' as a form of political activity?
- CS1** Why did some young men opposed to conscription break the law? How did they do this?
- CS1** How did the Franklin River protesters defy the law during that campaign?

1.4 Exercise 2: Apply your understanding

- CS6** Is dissent directed towards government policies or actions a positive or negative influence on Australian democracy? Give reasons for your answer.
- CS5** In both the anti-conscription campaign during the Vietnam War and the Franklin blockade, people broke the law to achieve their aims. Their campaigns were ultimately successful. Is it appropriate for people to break the law to achieve the changes they want? Give reasons for your answer.
- CS5** Can you think of occasions when it would definitely not be appropriate to break the law?
- CS4** When a group of vegans protesting against cruelty to animals blocked the Flinders St – Swanston St intersection in 2019, they were criticised for interfering with other people's freedom of movement. The protesters claim that without causing disruption such as this, their protest would not have been as effective. Do you think protest has to be disruptive to be effective? Give reasons for your opinion.
- CS6** School students in many parts of the world have taken time off school to protest against government inaction on climate change. Should such action take place in school hours or at weekends or after school? Justify your answer.

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

1.5 SkillBuilder: Questioning and research

online
only

What is questioning and research?

Using questioning and research involves identifying and understanding the task you are undertaking and developing a series of specific questions to help guide your research.

Select your learnON format to access:

- an explanation of the skill (Tell me)
- a step-by-step process to develop the skill, with an example (Show me)
- an activity to allow you to practise the skill (Let me do it).



1.6 Taking part in the democratic process

1.6.1 How to have your say

What makes Australia a democracy? Most people would probably say that the right to vote for our government is the answer to that question. While voting in elections is important, it is certainly not the only way of participating in the democratic process. There are many other ways in which we can have our voices heard and influence the future of our country.

One of our key rights as Australian citizens is the right to actively take part in the democratic processes. We can do this in a number of ways. First, there is our right to vote — a right that can be exercised by all Australian citizens over the age of 18. Then there is our right to freedom of speech, which allows us to express our opinions through a variety of methods. We can write letters to the newspapers, we can phone in to talkback radio, and we can publicise our views on social media using Facebook or Twitter, or even create our own website or blog. In addition, there are opinion polling companies that conduct surveys of ordinary people on all sorts of issues. They then publish the results of these surveys.

1.6.2 The electoral system

Our system of government is a democracy. This means it is based on the idea that we elect representatives to make laws for us. Because we vote for them, these representatives would be expected to make laws that we agree with. If they do not do that, then we can vote for different representatives at the next election.

Those with the right to vote have the opportunity to elect representatives to:

- the Commonwealth Parliament in Canberra
- the state or territory parliament sitting in each capital city
- local councils in the city, town or shire in which the electors live.

Voting is compulsory in Australia, and all Australian citizens aged 18 years or over are legally required to enrol to vote. You can actually enrol any time after your sixteenth birthday, and you can do so online or by filling in a paper form. Go to the **Voting enrolment form** weblink in the Resources tab to view the paperwork you need to complete in order to register to vote.



Resources



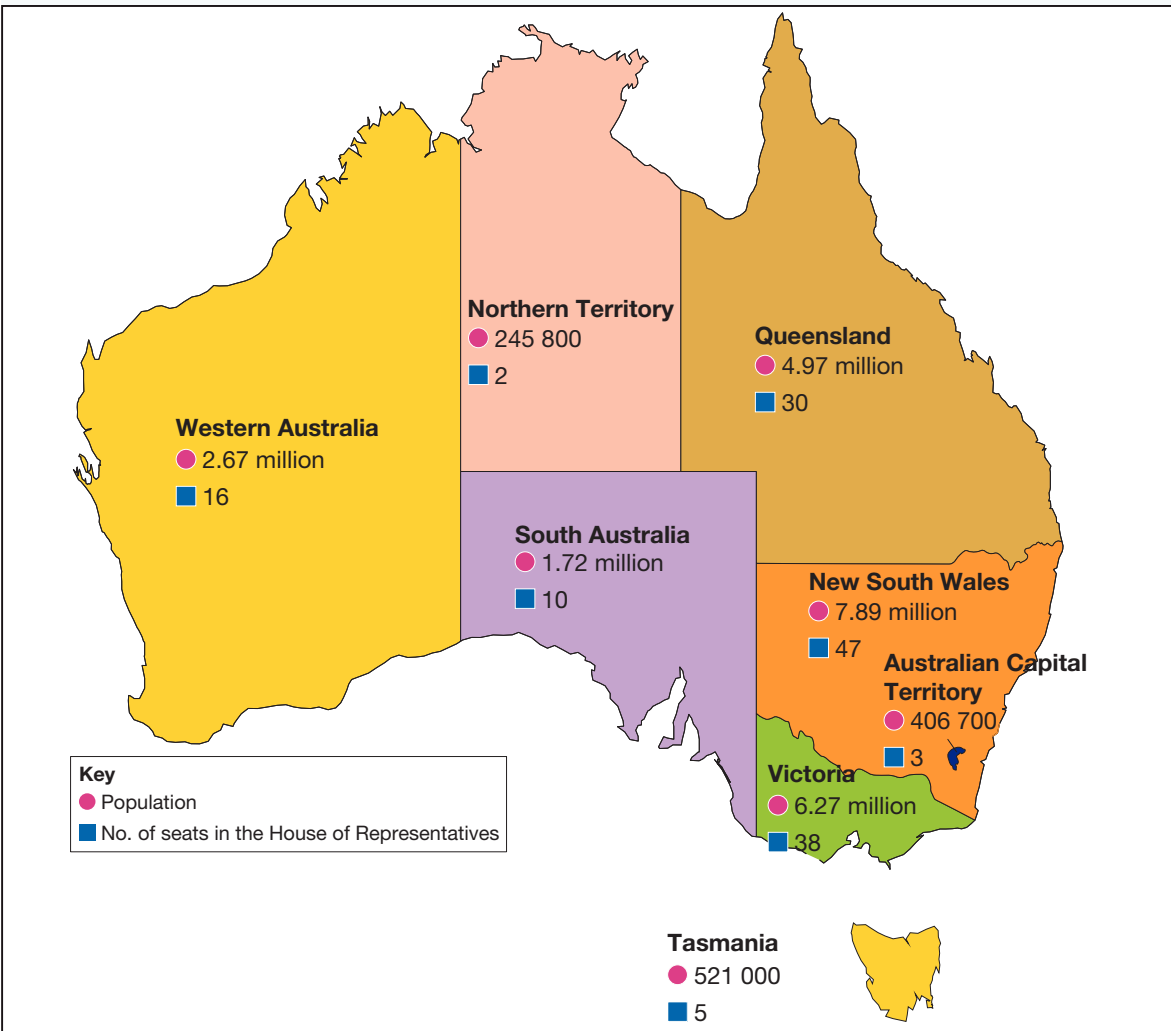
Weblink Voting enrolment form

Electing a Commonwealth Parliament

The Australian parliament is bicameral, which means it consists of two ‘houses’ — the House of Representatives (the lower house) and the Senate (the upper house). Elections for both houses are usually held at the same time, but members of the two houses are elected in a different way:

- The House of Representatives has 151 members, each elected for three years. Each member represents an **electorate** or ‘seat’ that covers a particular geographic area. All electorates have roughly the same number of electors, about 90 000 each. States with larger populations, such as New South Wales and Victoria, elect the largest number of members. States with smaller populations, such as Tasmania and South Australia, elect much smaller numbers.
- The Senate has 76 members. Each of the six states elects twelve senators regardless of size or population, and the Northern Territory and ACT each elect two senators. In contrast, the members of the lower house are elected on the basis of population. Because there are so many representatives from New South Wales and Victoria, they could out-vote all the other members combined. The Senate was therefore created with equal numbers from each state to act as a safeguard against this happening in the upper house.

FIGURE 1 Population and the House of Representatives



Electing a state or territory parliament

Five of the six states also have bicameral parliaments, while the Queensland and two territory parliaments each have only one house. Each parliament has its own electoral system, but the basic principle remains similar to that of the Commonwealth Parliament: representatives are elected to reflect the wishes of the voters. If the voters do not believe that their representatives are doing a good job, they can vote them out at the next election.

Because Australia has a democratic form of government, the most basic way in which we participate is by exercising our right to vote. Recent figures have suggested that as many as 25 per cent of young people aged 18 to 24 have not enrolled to vote. This means they are missing out on an opportunity to participate, and are allowing other people to make decisions for them.

FIGURE 2 Many young people have not registered to vote, so they are allowing others to make decisions for them.



1.6.3 Social media

In today's world, it seems that millions of people are almost constantly connected. Your ability to access websites, emails and social media from almost anywhere through your smartphone means that you can express an opinion on any issue, to almost anyone, anytime, anywhere. In the same way, you can access the opinions of others or seek information almost continuously if you wish. Social media has allowed individuals and groups to participate in the democratic processes in a variety of ways. Here are some examples:

- The activist group GetUp! has conducted online campaigns on political issues including the indefinite detention of refugees on Nauru and Manus Island, climate change, and the Adani coal mine in Queensland. GetUp! uses its website as a means by which its members and followers can express their opinions and call for changes in the law.
- The online organisation Change.org allows people to create petitions and get others to sign them on its website.
- On 30 November 2018, over 15 000 school students went on strike from school in cities and towns all over Australia. They were protesting against what they saw as insufficient government action to address the issue of climate change. The impetus for the action came originally from a 15-year-old student in Sweden who protested outside her country's parliament building on the same issue. News of her action spread through social media, and was picked up by two students from Castlemaine in Victoria. These two students travelled to Bendigo, to protest outside the office of a federal member of parliament. News of these protests soon spread, and a group called 'School Strike 4 Climate Australia' was soon set up to plan a nationwide student strike. Students made use of a website (www.schoolstrike4climate.com), Facebook, Twitter and Instagram to publicise the strike. A second, larger strike took place on 15 March 2019, to continue to pressure politicians into taking stronger action on climate change.

FIGURE 3 In March 2019, thousands of school children from all over Australia went on strike from school to demand more action on climate change.




- Almost every member of parliament in Australia today has a Twitter account. Every Prime Minister since Kevin Rudd in 2007 has had a Twitter account, and they have all made extensive use of it to promote their political messages on a daily basis.

Members of parliament, supporters of particular political parties, opponents of the same political parties, as well as people campaigning for new laws can all use social media to get their message across. While the use of social media can be positive in the spread of news and information, recent events have suggested that the effects are not all positive. In the American presidential and congressional elections in 2016, there is evidence to suggest that social media, such as Facebook, was used to spread false information, deliberately aimed at influencing the way people voted. Without thorough fact-checking by the administrators of social media platforms, there is always a risk that this could happen in other countries and future elections. Such activity would seriously undermine democracy and democratic institutions.

FIGURE 4 Everyone can use social media to get his or her message across.



on Resources

 **Weblinks** GetUp!
Change.org

1.6.4 Opinion polls

Opinion polls are surveys of people from all over Australia and all walks of life. They are conducted by a number of different polling companies. Most of these companies conduct their surveys by phoning people and asking them a series of questions. While conducting their surveys, the polling companies often also ask the people being surveyed their age and level of income in order to make sure the survey includes a broad range of people.

Polling companies conduct many different surveys in their attempts to measure people's opinions. They can be hired by businesses to survey what potential customers think about new products. They can also conduct surveys to find out whether a particular advertising campaign has been effective by asking people about their awareness of certain advertisements shown on television.

A small but important part of their business is to conduct surveys on people's attitudes to government policies and actions. To achieve this, they will survey people to find out whether they support or oppose a proposed law or other government action. When an election is close, they will also conduct surveys to find out who people intend voting for. Such opinion polls play an important role in our democratic processes.

FIGURE 5 Opinion polling companies conduct surveys by phoning large numbers of people.



The major polling companies often have an arrangement with the daily newspapers in Australia's capital cities to provide information about the popularity of political parties and their leaders. Polling company Ipsos has such an arrangement with the *Age* in Melbourne and the *Sydney Morning Herald*. These newspapers publish poll results conducted by Ipsos. Melbourne's *Herald-Sun*, Sydney's *Daily Telegraph*, Brisbane's *Courier-Mail*, Adelaide's *Advertiser* and Hobart's *Mercury* all publish political polling carried out by Galaxy Research. The slightly different method used by each company means they sometimes get different results, but they can still be a valuable way for people to participate in the democratic process.

FIGURE 6 Daily newspapers regularly publish the results of opinion polls.



Effectiveness of opinion polls

Opinion poll results can tell members of parliament whether or not the decisions they have made, and the laws they have introduced, are acceptable to voters. Polling companies regularly survey people to find out who they would vote for if an election were to be held immediately. In the months leading up to an election, they carry out surveys every week. These will often tell both the politicians and the public whether the government is likely to be re-elected or whether a change of government is likely. They are also a good way of finding out what the average citizen would like a government to do in the future.

1.6 ACTIVITIES

- Use the **GetUp!** weblink in the Resources tab to answer these questions.
 - Describe one issue the organisation has been campaigning on recently.
 - Identify an issue that the organisation claims to have campaigned successfully on in the past. **Examining, analysing, interpreting**
- Use internet resources to find a newspaper report of an opinion poll.
 - Which newspaper published the report?
 - Which polling company conducted the poll?
 - When was the poll conducted, and how many people were surveyed?
 - What were the results of the poll? **Examining, analysing, interpreting**

1.6 EXERCISES

Civics and Citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

1.6 Exercise 1: Check your understanding

- CS1** What is an electorate?
- CS1** What is the estimated percentage of people aged between 18 and 24 who have not registered to vote?
- CS1** How do opinion polling companies carry out surveys of people's opinions?
- CS1** Why do polling companies ask about age and level of income?
- CS1** Why do the major newspapers have close relationships with particular polling companies? ▶

1.6 Exercise 2: Apply your understanding

1. **CS1** What particular right do Australians have that makes this country a democracy?
2. **CS1** Why is the Senate elected in a different way from the House of Representatives?
3. **CS2** Explain one way in which social media has been used to influence political debate in Australia.
4. **CS6** Opinion polls on people's voting intentions are sometimes believed to influence the way people vote. One influence is called the 'bandwagon effect'. It suggests that if undecided voters see an opinion poll showing that a particular person or party is more popular, they will 'jump on the bandwagon' and decide to vote for that person or party. Another influence is called the 'underdog effect'. This suggests that if some people see a poll showing that a particular person or party is likely to lose an election, they will feel sorry for this 'underdog' and will therefore vote for that person or party.
Which of these effects do you think is likely to be the most powerful? Give reasons for your answer. Compare your answers with others in your class.
5. **CS6** At election time political parties engage in extensive marketing and advertising campaigns, often using the same methods used to advertise products to consumers. Identify and explain two possible risks in this approach that may undermine the main principles of democracy.

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

1.7 The role of members of parliament

1.7.1 Members of parliament in the local community

Members of parliament sit in the parliamentary chamber, debating legislation and voting to pass or reject it. However, this is only a small part of their work. As representatives of a particular electorate, they have an important role in the local community that is represented by that electorate. In this community role, they can often be approached by ordinary citizens requesting them to take some action and work to make improvements in that community.

Federal parliament sits for only about 18 to 20 weeks per year, so many members of parliament can often spend as much as 30 weeks of each year in their local electorates. It is during this time that a member will be engaged in a variety of electorate activities.

FIGURE 1 Members of parliament often perform official opening ceremonies in their electorates.



Helping the community

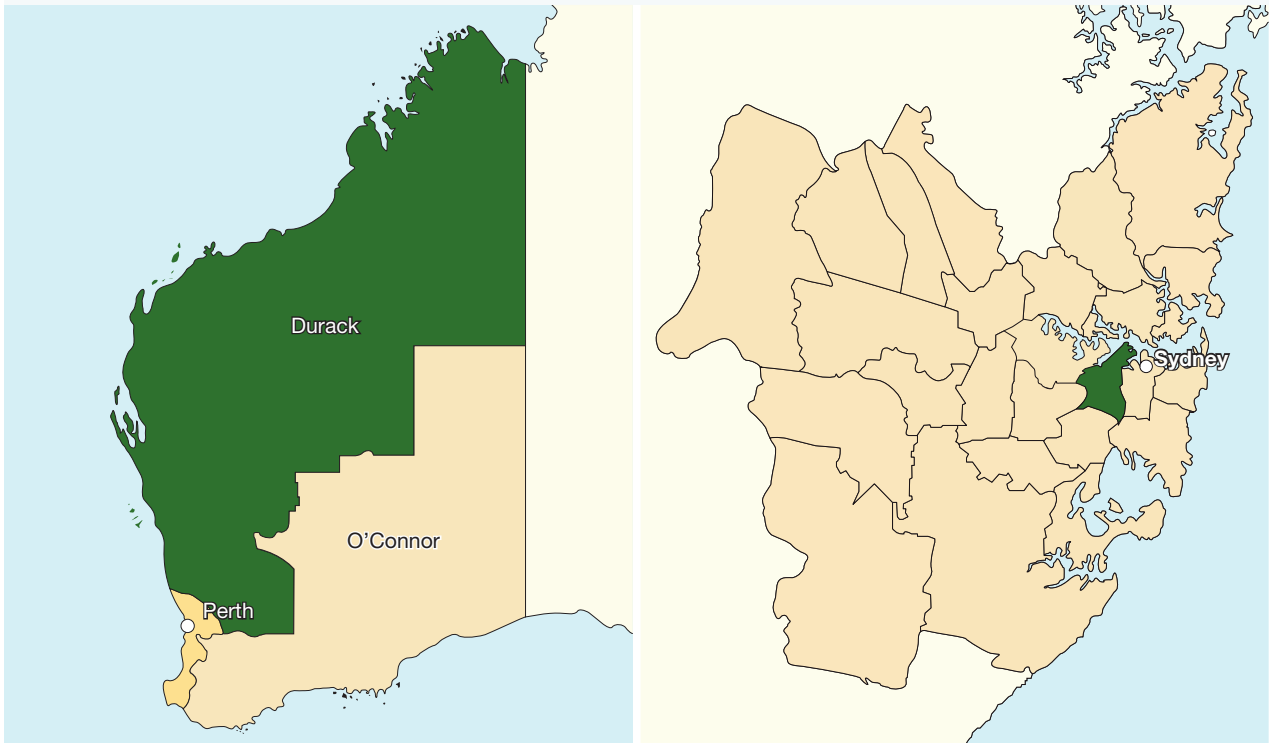
Because each electorate has a similar number of voters, the electorates can vary in geographical size depending on how densely populated they are. This means that an inner-city electorate will be smaller in area than a rural electorate because the population in the country is more thinly spread. For example, the smallest Australian electorate in terms of geographical size is Grayndler, which is in the south-eastern suburbs of Sydney. It has a total area of 32 square kilometres. The largest in area is Durack, which takes up most of country Western Australia. It covers more than 1.6 million square kilometres. This is approximately 60 per cent of the total area of Western Australia, equivalent to more than 20 per cent of the total landmass of Australia. Its voters are spread out on cattle stations, mining towns and remote Indigenous communities. As you can imagine, it is much harder for the member for Durack to maintain contact with the voters than it is for the member for Grayndler. Nevertheless, both members will attempt to perform similar duties in relation to their respective communities.

Every member of parliament maintains an office in his or her electorate. Members representing very large electorates such as Durack will probably have electorate offices in more than one town. Those in large electorates also spend a great deal of time travelling around the electorate. Members are regularly called on

to visit schools, sporting clubs and various other community groups. They often have the task of making presentations to individuals and groups, and performing opening ceremonies for new community facilities.

Members also take up issues on behalf of their electorates as a whole. An example would be a local project, such as the construction of a major road or the provision of some other community facility. The local member will often take up the case with the relevant government minister. Local members also campaign to improve community facilities such as hospitals, community health centres, aged care services and childcare within their electorates. They also often provide support to local sporting clubs and other community recreational organisations. Most voters would wish to see their local member active in supporting their community.

FIGURE 2 The divisions of (a) Durack in Western Australia and (b) Grayndler in New South Wales



Ultimately, it is the voters in each electorate who judge the performance of their local members of parliament at every election. Members need to maintain strong links with their local communities and to publicly support the interests of their electorates if they want to be re-elected.

Helping individual voters

When they are in their electorates, members of parliament spend much of their time helping individual voters. They have a small staff in their electorate offices to help them do this. Voters may have problems dealing with Centrelink or some other government department. Or they may be seeking assistance with immigration or taxation issues, or dealing with problems concerning health or education matters.

FIGURE 3 A member of parliament can often help individual voters.



The member can intervene personally in the issue and may write to the relevant minister or telephone a contact within the government department concerned. Members of parliament are influential people and usually have lots of contacts, including those in community groups as well as in government departments. If a member personally intervenes on behalf of someone in his or her electorate, this will usually get high priority attention from the government department.

Providing a direct link to parliament

Voters can sometimes raise issues that have significance beyond the electorate. When several members are approached on a similar issue, this may become a matter for the government to investigate further. In many country areas, farmers have expressed concern about the possible impact of coal seam gas mining on their farms. They are concerned that the extraction of coal seam gas may pollute water supplies and have other serious effects on agricultural land. As a result of citizens raising this issue with their local members, inquiries have been initiated by the Commonwealth Parliament as well as state parliaments in New South Wales, Victoria and Queensland. Some of these parliaments have introduced new laws to regulate the coal seam gas industry.

Members of parliament often make themselves available to meet people from their electorate who are visiting Parliament House in Canberra. This often happens when groups of people contact the member's office before travelling to Canberra. Members also regularly meet school groups from their electorates and will take the time to show them around the parliament. There is an education centre in Parliament House where visiting school groups can meet their federal members and learn all about the operation of parliament.

Helping with petitions to the House of Representatives

An important way in which voters can bring an issue to the attention of the parliament is to organise a petition. Members of parliament can provide advice on the preparation of petitions to be presented to the House of Representatives. Members will also make sure the petition goes through the formal processes that are necessary for the petition to be dealt with. The House of Representatives has a Petitions Committee to deal with all petitions to be presented to the lower house. The local member will ensure that the petition is passed on to the Petitions Committee.

How effective are petitions?

Parliament receives hundreds of petitions each year and not all will result in action from the government. Petitions alone are usually not enough to force a government to take action, but they can be successful in drawing parliament's attention to an issue. Petitions can gain support because they are a peaceful means of effecting change. Any citizen can organise a petition, but petitions that gain more signatures are more likely to bring about change. Two of the most famous petitions presented to parliament were prepared in 1963 by the Yolngu people of Yirrkala, in the Northern Territory, raising issues relating to their dispossession from their traditional lands. These petitions were made on pieces of bark, with traditional designs painted around the outside and typed petitions glued in the centre. These are now on display at Parliament House in Canberra (see **FIGURE 4**).

FIGURE 4 The famous Yirrkala petitions were presented on bark, with traditional paintings around the outside.





1.7 ACTIVITIES

1. Use the **Change.org** weblink in the Resources tab to identify a petition on the **Change.org** website that you believe is worth supporting. Prepare a one-minute speech to convince the rest of your class to support that petition.
Reasoning, creating, proposing
2. Use internet sources to learn the name of the member for Durack, how many electorate offices that member has and where those offices are located.
Examining, analysing, interpreting
3. Who is your local member of federal parliament? Where is his or her office located?
Examining, analysing, interpreting
4. Who is your local member of state parliament? Where is his or her office located?
Examining, analysing, interpreting

1.7 EXERCISES

Civics and Citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

1.7 Exercise 1: Check your understanding

1. **CS1** Roughly how many weeks per year are members of parliament likely to spend in their electorates?
2. **CS1** What is the smallest federal electorate in Australia in terms of area?
3. **CS2** Describe three ways in which members of parliament can assist people in their local community.
4. **CS1** What is a petition?
5. **CS1** Why do electorates vary so much in geographical size?

1.7 Exercise 2: Apply your understanding

1. **CS1** How are petitions dealt with once they reach parliament?
2. **CS5** Suggest some ways that a local member of parliament might be able to help you and your family.
3. **CS5** Imagine you wanted to present a petition to parliament. Identify and explain three things that you might need to do if you wanted to increase the chances of that petition being successful.
4. **CS4** Members of the Commonwealth Parliament are paid over \$200 000 per year. Some people argue that, as they spend less than half the year in Canberra, and only four days a week in Parliament when they are there, they are overpaid. Is this a fair assessment of a member's work? Give two reasons for your opinion.
5. **CS5** Technological developments mean that the opinions of ordinary people can be expressed through online methods such as social media. Does this make the parliamentary system of one member representing everyone in an electorate obsolete in today's world? Could it be replaced with a system where everyone can go online to vote in favour or against proposed legislation? Identify two possible strengths and two possible weaknesses of such a system, when compared to our present system.

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

1.8 Lobby and pressure groups

1.8.1 What do lobby and pressure groups do?

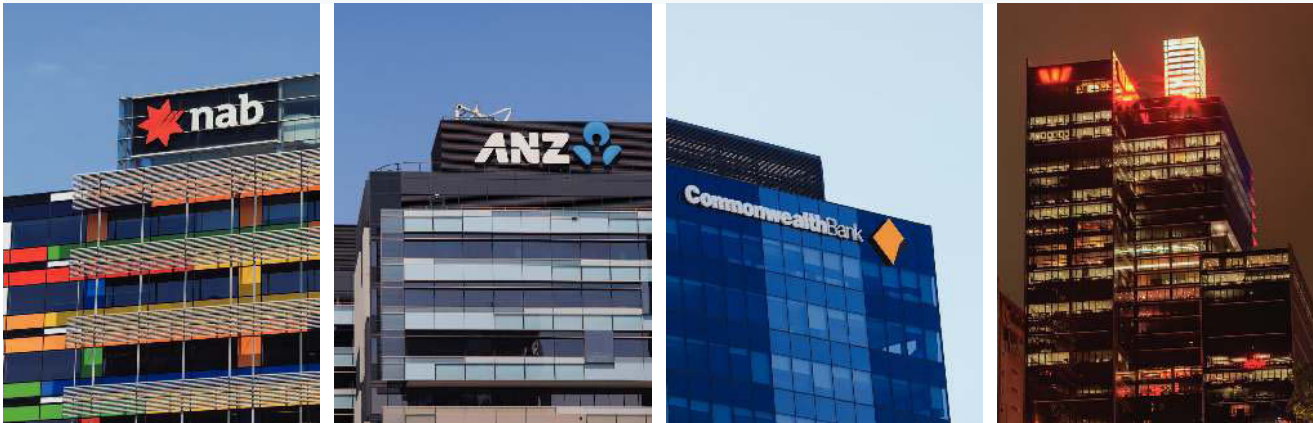
While individuals and community groups may approach their local member of parliament to promote a particular issue, there are organisations set up to carry out this activity in a more professional manner. Known as lobby groups and pressure groups, they operate with the aim of influencing the decisions that governments make.

1.8.2 Lobby groups

Lobbying is a process of approaching members of parliament to argue a case for change in the law. Many organisations seek meetings with their local member or the relevant government minister to put forward a case for change. In recent years, lobbying has become a professional activity. Businesses have been set up to carry out lobbying on behalf of various clients, who pay the lobbying business a fee.

The Commonwealth Government has established a special **code of conduct** for lobbyists, as well as a register of lobbying businesses and their clients. Approximately 250 lobbying businesses are registered, employing more than 550 lobbyists. Over 1800 organisations are registered as clients of these lobbyists, including businesses such as the major banks, and major manufacturing and mining companies; sporting bodies such as the Australian Football League and National Rugby League; educational organisations such as universities; and community organisations as diverse as the Salvation Army and the Wilderness Society. All are prepared to pay a fee to have a lobbyist present their views to members of parliament.

FIGURE 1 The big four Australian banks are all clients of lobbying businesses.



Employing the services of an expert to lobby for your cause can be effective because many lobbyists are former members of parliament or former government officials. These people know the workings of government and have personal contact with many serving members of parliament. The downside of using an organisation to lobby for your cause is that you must pay a fee for this service.

1.8.3 Pressure groups

A pressure group is any group that attempts to influence public opinion on particular issues. Like lobby groups, pressure groups also try to convince governments to make or change laws to help achieve their aims. Examples of pressure groups include environmental groups, as well as groups formed to campaign for improvements in particular community facilities. Organisations representing the interests of employers and employees also operate as pressure groups.

Environmental groups

Organisations campaigning to protect the natural environment have been active in Australia since the 1960s. Generally, they aim to prevent the actions of business or government from damaging areas of environmental importance. Organisations such as the Australian Conservation Foundation (ACF) and the Wilderness Society engage in fundraising to help them pay for these campaigns. The ACF began by campaigning for the protection of the Great Barrier Reef in the 1960s, and has run many other successful campaigns since then. The Wilderness Society came to national attention in 1982, when it led the campaign to save the Franklin River in southwest Tasmania from being flooded by a new dam. Since then it has campaigned to protect native forests in Tasmania and Victoria, and areas of natural beauty as widespread as the Ningaloo Reef in Western Australia and the Arkaroola Wilderness Sanctuary in South Australia.

FIGURE 2 Protecting Australia's natural environment

Great Barrier Reef, Queensland



At the G20 summit in Brisbane in 2014, Barack Obama called for Australians to protect this world heritage listed site, which is under threat.

Great Barrier Reef, Queensland



There are government proposals to dump dredge spoils into the Great Barrier Reef marine park, leading to further erosion of the fragile reef, which has already lost 50 per cent of its coral cover over the last several decades. The World Heritage Committee is considering whether to put the reef's heritage listing on the 'in danger' list.

Franklin River, Tasmania



Environmentalists successfully campaigned to save this beautiful river from being destroyed. In late 1982, protests were growing against the construction of a dam in southwest Tasmania that would have flooded the Franklin River. At that time, a federal by-election was held for the federal electorate of Flinders in Victoria. Voters were encouraged to write the words 'No dams' on their ballot papers, and around 42 per cent of voters did so.

Franklin River, Tasmania



This action taken by voters is credited with encouraging both major parties to promise to intervene in the Franklin Dam issue during the federal election that was held in March 1983.

Ningaloo Reef, Western Australia



In 2011, Ningaloo Reef in Western Australia was added to the World Heritage list.

Ningaloo Reef, Western Australia



Ningaloo Reef was saved from a marina development plan, which would have brought pollution, erosion and destruction to this pristine area.

Employee and employer groups

Traditionally, employee groups such as **trade unions** have been set up to protect the interests of workers in a particular industry or workplace. Examples include organisations such as the Australian Workers' Union; the Shop, Distributive and Allied Employees' Association; and the Australian Services Union. Unions often conduct campaigns on issues that affect their members.

FIGURE 3 Unions often conduct campaigns on issues that affect their members.



In the same way, employers in many industries have set up organisations to help them when they are negotiating wage and conditions agreements with their employees. Examples include Master Builders Australia and the Australian Retailers Association.

Both employer organisations and unions have also set up national organisations to protect their larger interests and to campaign on broad issues. The Australian Council of Trade Unions (ACTU) operates as a pressure group, campaigning on issues that affect all employees. The Australian Chamber of Commerce and Industry (ACCI) performs a similar function for employers.

An example of the way in which these organisations operate can be seen in the issue of penalty rates. Penalty rates are higher wages paid to employees who work on weekends or public holidays, or at other times outside traditional weekday hours. They were originally established to compensate employees for having to work at these more difficult times. Many people argue that, since so many businesses now operate seven days a week, having special rates of pay for weekends is out of date.

FIGURE 4 Unions and employer organisations represent the interests of their members.



FIGURE 5 National union and employer bodies operate as pressure groups to further the interests of their members.



In early 2014, the federal government set up an inquiry to examine the operation of the laws that govern wages and working conditions. One of the areas to be looked at was the issue of penalty rates. The ACCI argued that penalty rates should be abolished because they impose an unfair cost on employers in restaurants, cafés and shops that operate seven days a week. The ACTU argued that penalty rates should be retained because they compensate people for having to work on weekends when they could be spending time with their families.

FIGURE 6 Workers in the hospitality industry are often paid penalty rates for working on weekends.



In campaigns like this, both sides try to influence the government in relation to any possible changes to the law. They also run advertising and publicity campaigns to try and influence the general public, knowing that governments will take notice of what the voters want. If opinion polls show that most voters believe that penalty rates are a good thing, the government would be reluctant to remove them. If opinion polls

show that the majority of voters are opposed to penalty rates, the government would be more likely to change the law to abolish penalty rates. Pressure groups like the ACTU and the ACCI can have a strong influence on the final result.

In 2017, the Fair Work Commission, Australia's national workplace relations tribunal, reduced penalty rates on public holidays and Sundays in the retail, fast food, hospitality and pharmacy industries. The ACCI said that the decision delivered important reductions in excessive penalty rates. It claimed that this would help retail and hospitality businesses create more jobs and offer more hours, particularly for young people. By contrast, the ACTU said that the decision to cut Sunday and public holiday pay would give almost one million Australian workers a huge pay cut.

DISCUSS


'Lobby groups should not be able to charge fees to present the views of others to members of parliament.' What would be the different perspectives that the following groups of people would have on this issue?

- A member of an environmental group campaigning to protect the Great Barrier Reef
- A member of an employer group campaigning to reduce penalty rates
- An undecided voter. Discuss how their values and beliefs might be different or similar.

[Critical and Creative Thinking Capability]

on Resources

 **Interactivity** The road (int-5432)

 **Weblinks** Environment organisation 1
Environment organisation 2
Commerce
Trade unions

1.8 ACTIVITIES

1. Use either of the **Environment organisation** weblinks in the Resources tab to identify two campaigns that your chosen organisation is focusing on.
Examining, analysing, interpreting
2. Use the **Commerce** weblink in the Resources tab to identify one campaign that the organisation is currently engaged in.
Examining, analysing, interpreting
3. Use the **Trade unions** weblink in the Resources tab to identify one campaign that the organisation is currently engaged in.
Examining, analysing, interpreting
4. Use internet resources to investigate the activities of Greenpeace and the Sea Shepherd organisation. What are these groups trying to achieve? What activities do they undertake to achieve these aims?
Examining, analysing, interpreting

1.8 EXERCISES

Civics and Citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

1.8 Exercise 1: Check your understanding

1. **CS1** What is a lobby group?
2. **CS1** List two different organisations that use lobby groups to present their views to members of parliament.
3. **CS1** What is a pressure group?

4. **CS1** What is the difference between the ACTU and the ACCI?
5. **CS1** What are penalty rates?

1.8 Exercise 2: Apply your understanding

1. **CS1** Why do lobby groups often employ former members of parliament?
2. **CS2** Identify and explain two examples where pressure groups have been successful.
3. **CS3** Identify two arguments in favour of people being paid penalty rates and two arguments against. Which arguments do you think are the stronger? Are you opposed to or in favour of penalty rates? Compare your views with the rest of the class.
4. **CS4** Many powerful businesses and other organisations have plenty of money to employ lobbyists to influence government decisions, while ordinary citizens do not have this power. Outline two risks that this situation could bring to the principles of democracy.
5. **CS5** Which is likely to produce the best result for the majority in society — a law changed because of lobbying or a law changed as a result of the efforts of pressure groups? Explain reasons for your opinion.

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

1.9 SkillBuilder: Communication and reflection

online only

What is communication and reflection?

Most advertising we see is aimed at encouraging us to buy particular products, but advertising can also be used to encourage people to take action on a political issue.

Select your learnON format to access:

- an explanation of the skill (Tell me)
- a step-by-step process to develop the skill, with an example (Show me)
- an activity to allow you to practise the skill (Let me do it).



1.10 How parliaments make laws

1.10.1 The law-making process

A parliament consists of the law makers at the state and federal levels of government. Most laws in Australia are made by our federal and state parliaments. These laws are called **statute laws**. Most parliaments in Australia have a lower house and an upper house. Parliaments make laws by passing a **Bill** through both houses.

A law made by parliament is called **legislation**, a statute or an **Act**. Before any proposed laws can become Acts of Parliament, they have to be debated and passed by both houses of parliament and then approved by the **Crown**. During the debate in parliament, the government explains why the law is needed and why it will be good for Australia. The **Opposition** may try to argue why this is not the case. Let us see, step by step, how all of this might happen in federal parliament.

FIGURE 1 How laws are made in Parliament



STEP 1

A proposed new law, or changed law, is discussed in Cabinet. Often, people in Australia put pressure on the government to change something. A decision is then made on what to do.



STEP 2

If the government decides to proceed, government lawyers are asked to draft a Bill. A Bill is basically a 'first draft' of an Act of Parliament.



STEP 3

Copies of the Bill are given to all members of the lower house (House of Representatives). The members read the material in their own time. This is known as the 'First Reading'.



STEP 4

The Bill goes through a 'Second Reading'. During this stage, the responsible minister (for example the Minister for Immigration if the Bill is to do with migrants) describes the main purpose and likely benefits of the Bill. Speakers from the government and opposition say what they think about it. Debates may take weeks. Then there is a vote. If the majority vote in favour, the Bill moves to the next stage in the process.



STEP 5

The Bill is debated again, this time bit by bit. This stage is known as Consideration in Detail as each part of the bill is discussed in detail. Changes to the Bill may be made.



STEP 6

The Bill, including any changes made during step 5, goes through a 'Third Reading' in the house. A vote is taken. If the majority vote for it, the Bill is passed through to the Senate.



STEP 7

The upper house (the Senate) goes through similar processes to those outlined in steps 3 to 6. If the Senate decides to change something, the Bill is referred back to the House of Representatives for another debate and vote. Sometimes the Senate may refuse to approve a Bill. If the Senate votes to approve the Bill, it is sent to the Governor-General for royal assent.



STEP 8

If the Governor-General approves and signs the Bill, it becomes an Act of Parliament. It is proclaimed and legally binding for all Australians.

1.10.2 Executive law

When Parliament passes legislation, many of the clauses in the new law can be very general, and details of how the law is to be applied are not always included. The legislation will delegate power to the relevant government minister to make detailed rules and regulations, particularly to deal with new situations as they might arise. These rules and regulations make up what is known as executive law, or delegated law, because the power is delegated to the minister, who is a member of the executive, the Cabinet, to develop these regulations. Executive law also applies to the power the minister has to make appointments to particular positions in the government, such as ambassadors to overseas countries. Because such regulations and orders have to be made with the approval of the Governor-General at the federal level, or the state Governor, they are known as Governor-General in Council Regulations, or Governor in Council Regulations. These regulations also have to be tabled in Parliament, and can be removed or overruled by a majority vote in the Parliament.



Resources



Weblink Commonwealth Parliament

1.10 ACTIVITIES

1. Working in pairs, use the **Commonwealth Parliament** weblink in the Resources tab to find out about a new law that is going through parliament at the moment.
 - (a) Briefly describe the law you have found and explain what stage it has reached.
 - (b) In your opinion, will this proposed law be changed much on its way through parliament? Give reasons for your answer.
 - (c) Share your findings with another pair of students.

Questioning and evaluating

2. Use internet resources to help you discover which new or proposed laws your local member of parliament (MP) is involved with. Use this information to email your MP your ideas about this new or proposed law.

Communicating, reflecting

3. Propose a new school rule and debate it in class as follows:
 - (a) Brainstorm as a class five rules you think would be good for your school. Using a show of hands, vote to decide on a rule to debate. Call this your Bill.
 - (b) Divide the class in two, with government members on the right and the Opposition on the left. As part of the first reading of your Bill, debate the issues associated with introducing this proposed new law. Those on the government side should argue for the Bill and those on the Opposition side should argue against it. Appoint a Speaker to ensure that the debate is orderly. When debating, stand to speak, and obey any instructions given to you by the Speaker.
 - (c) At the end of the discussion, take a class vote on whether or not you think this proposed new law should be introduced. If you disagree with the decision of your side, you can 'cross the floor', moving from where you are to the right (yes) or the left (no) side of the classroom to register your vote. Did your proposed Bill pass its first reading?

Reasoning, creating, proposing

1.10 EXERCISES

Civics and Citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

1.10 Exercise 1: Check your understanding

1. **CS1** What is statute law?
2. **CS1** What is the difference between a Bill and an Act of Parliament?
3. **CS1** What is meant by the term 'royal assent'?
4. **CS2** Explain what is meant by the term 'executive law'.
5. **CS1** Who is normally responsible for the development of executive laws?

1.10 Exercise 2: Apply your understanding

- CS5** Use a flowchart to explain how a law is made in parliament. Draw your flowchart using eight boxes joined by arrows. Number each box from step 1 to 8. In each box describe what happens to the proposed law in that step, using no more than ten words. For example: Step 1 — government (in Cabinet) discusses the idea of a new law.
- CS4** How can a piece of executive law be overruled? What does this tell us about the power of parliament compared with the powers of the executive?
- CS6** In your view, is the process of law making in Australia fair? Does law making by parliament give ordinary people enough opportunity to have their say when new laws are being made? Explain your answer.
- CS4** Since 1981, no party has had a majority in the Senate except for three years from 2005 to 2008. This means that a government may have to negotiate with non-government senators to have legislation passed. Identify one advantage and one disadvantage of this situation.
- CS4** Queensland, the Northern Territory and the Australian Capital Territory only have one house of parliament, rather than a lower and upper house. This means there is no upper house review of legislation. Is this a good thing or a bad thing? Give reasons for your answer.

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

1.11 How courts make laws

1.11.1 Common law

The main role of courts is to settle disputes, but courts also make laws. They do this as they interpret laws and make decisions to resolve the case they are hearing. This type of law is known as case law, judge-made law or **common law**.

Common law originated in England as judges travelled from village to village making decisions based on tradition, custom and **precedent**. The judges began to apply a law that was common to all people across the country, rather than using the customary law of each region. Common law is applied today when cases come to court where there is no legislation regulating that case. The judge needs to make a decision about the law on this type of matter. This process is illustrated in the following case study, 'Finders keepers'.

1.11.2 CASE STUDY: Finders keepers

The law relating to who has the right to own things that are found has changed over the years as judges have made new decisions. The judges in the following cases made decisions which became part of the common law because there was no existing law about possession that specifically applied to the cases.

Money found buried on private property

In 1964, a woman sold her New South Wales house to a couple. The couple hired a building company to work on the house. While digging, one of the owners of the building business found a tin with £8500 inside.

- The original owner claimed that she had buried the tin and therefore the money belonged to her.
- The couple who had bought the house claimed that the money was theirs as it was found on their land.
- The owner of the building business claimed the money belonged to him as he had found it.

No laws covered this dispute, so the judge hearing the case was required to make a decision that would create a new law. The judge decided that the couple who now owned the house were allowed to keep the money as they owned the land.

FIGURE 1 Does a gold ingot found on someone's property belong to the property owner or to the person finding it?



Gold found by the side of the road

In 1965, a Queensland police officer was walking to the place where he was going to direct traffic leaving a drive-in theatre. On the side of the road, on land belonging to the theatre, he found a gold ingot. The owner of the gold could not be found.

- The owner of the land claimed ownership.
- The police officer claimed ownership because he had found the ingot.
- The police officer's employer (the state) claimed ownership because the policeman worked for the state.

The judge hearing the case decided that the land was regularly accessed by the public and that the police officer could keep the gold ingot because his job was to direct traffic, not to find lost things. Any other member of the public might have found the ingot, and the fact that the officer was on duty was just a coincidence.

Bracelet found at the airport

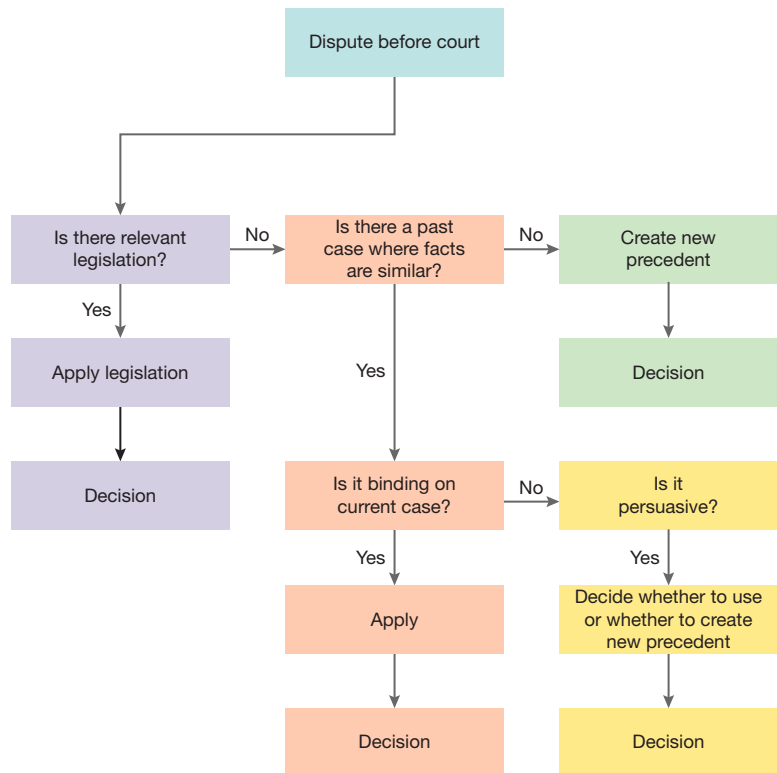
In 1982 a traveller waiting in an airline lounge found a valuable gold bracelet. He handed it in to the manager of the lounge, and was told that the airline would attempt to locate the owner. If this attempt was unsuccessful, it would be handed over to the finder of the bracelet, who could then keep it. The finder left his contact details with the airline. After a period of time, when the bracelet had not been claimed, the airline sold it for a considerable sum of money, which it kept. The finder of the bracelet sued the airline, and the judge ruled that the proceeds of the sale of the bracelet should be handed over to the original finder, with an additional amount paid as interest on the money. The judge found the plaintiff in the case had 'finder's rights' that could not be removed by the fact that the bracelet was found on the airline's premises.

1.11.3 Precedent

Common law is developed through the legal principle of precedent. If your sister was given a car for her eighteenth birthday, you might expect your parents to do the same for you because your parents have set a precedent. Courts use the same idea. When a judge makes a decision in a court case, this decision will be recorded in a law report. Other judges hearing cases with similar facts will refer to these decisions. Just as you would expect your parents to follow their precedent, the people involved in legal cases expect the judge to follow the precedent of similar cases and therefore come to the same decision.

Precedent works because of our court hierarchy.

FIGURE 2 The decision-making process for settling disputes in court



1.11.4 Australia's court hierarchy

Australia's court system is made up of many different courts, which are arranged in levels in order of importance (a hierarchy). The higher courts, which hear the most serious matters, are at the top of the hierarchy. The lower courts, which hear less serious matters, are at the bottom of the hierarchy.

At the bottom of the court hierarchy are the magistrates courts (called the Local Court in New South Wales, the Magistrates' Court in Victoria and the Magistrates Court elsewhere). These courts hear more than 90 per cent of the cases that go to court, and they have a large number of courthouses. There is probably one in your local area. The District Court (called the County Court in Victoria) exists in most states and sits only in the main cities. There is only one Supreme Court in the capital city of each state, and only one High Court in Australia (in Canberra).

When superior courts (such as the High Court and each state's Supreme Court) settle disputes, they can create new legal principles that must be followed by the lower courts in their own hierarchy. Judges in each state have to follow only those decisions made in the higher courts in their state, and those made in the High Court. For example, a decision made by a judge in the Victorian Supreme Court does not have to be followed by judges in the District Court of New South Wales. However, the New South Wales judges could use the decision as a guide.

FIGURE 3 The Australian court system

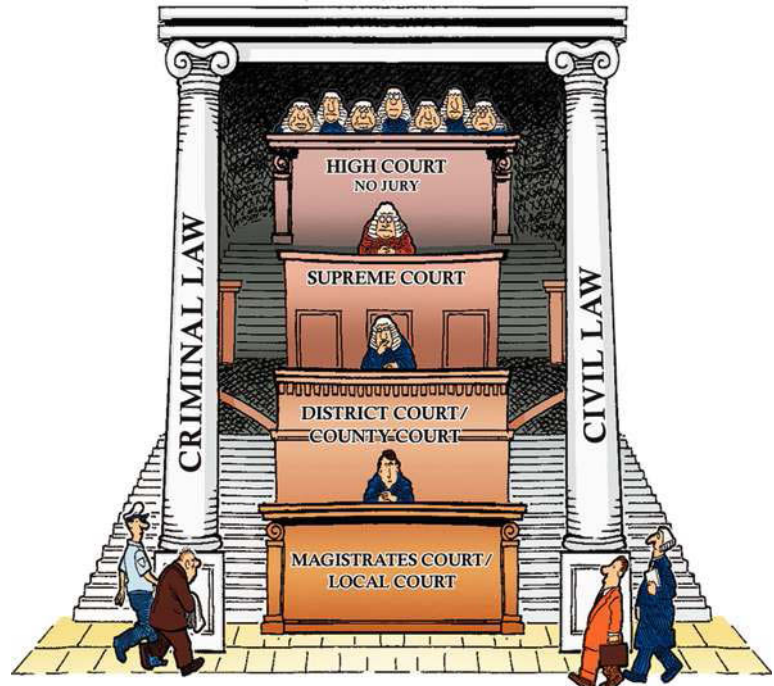


FIGURE 4 If there is no existing relevant law, judges can create a new rule to settle a dispute.



on Resources

Interactivity The courtroom (int-1206)

DISCUSS

'Judges use common law processes to bring greater fairness and consistency to the law by adapting decisions to suit the new facts before them.' Discuss arguments supporting this case and then counterarguments to represent an opposing point of view. Which point of view do you support?

[Critical and Creative Thinking Capability]

1.11 ACTIVITY

Using the internet or newspapers, find an article that reports on a new principle of law being made through a landmark court case. Investigate how this case proceeded through the courts.

Examining, analysing, interpreting

1.11 EXERCISES

Civics and Citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

1.11 Exercise 1: Check your understanding

1. **CS1** What is common law?
2. **CS1** What is precedent?
3. **CS1** List the courts in your state's court hierarchy, from highest to lowest.
4. **CS1** From where did common law originate?
5. **CS2** Outline the similarities and differences between the cases in the case study, 'Finders keepers'.

1.11 Exercise 2: Apply your understanding

1. **CS2** Explain how the judges in the case study 'Finders keepers' made changes to the law.
2. **CS2** What would happen if a judge decided to ignore a precedent and make a completely new decision?
3. **CS3** Consider the following cases:
 - Case 1 — a former barmaid sues the hotel where she used to work. She contracted throat cancer caused by breathing environmental tobacco smoke during the course of her employment. The court awards her compensation of more than \$400 000.
 - Case 2 — a former pie-seller sues the sports stadium where he used to work. He contracted throat cancer caused by breathing environmental tobacco smoke during the course of his employment. The court uses case 1 as a precedent.
 - Case 3 — a waitress sues the restaurant where she works. She contracted throat cancer caused by smoking cigarettes for 30 years.
 - Case 4 — a former miner sues the mining company he used to work for. He was injured in a fall.
 - (a) In case 2, should the former pie-seller receive compensation? Explain your answer.
 - (b) In case 3, should the court use the first two cases as precedents and provide compensation? Explain your answer.
 - (c) In case 4, are any of the first three cases a precedent for this situation? Should the court provide compensation? Explain your answer.
4. **CS5** Many people argue that judges should not make law because they are not democratically elected as members of parliament are. Identify and explain one positive and one negative effect of judges making law through precedent.
5. **CS2** The doctrine of precedent states that judges must apply a precedent established in a higher court in the same court hierarchy, but occasionally judges apply a precedent from a court in a different state or different country. Explain when and why this might occur.

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

1.12 Criminal law and civil law

1.12.1 Criminal vs. civil

There are two main types of law in Australia:

- criminal law, which protects us and punishes offenders
- civil law, which protects our rights and property.

We have no choice over the use of criminal law because the state controls it, but individual citizens and groups decide how they will use civil law. The ‘state’ means society or the whole community, which is represented here by parliament, the judiciary and the police.

1.12.2 Criminal law

Criminal law protects innocent individuals from wrongdoers. It outlines the way people should act — what they can and cannot do. Some of the most common crimes are robbery, **homicide** (**manslaughter** and murder), rape, assault, theft and drug offences.

If a person commits a crime, this is treated very differently from other legal issues. For example, if you rob a bank, it does not remain a dispute between the bank and yourself. The bank does not have to try to catch you. Instead, your action is regarded as an offence against the state. It is the state that organises its police to catch offenders. In criminal law, the bank does not take you to court — the police or representatives of the government do. They will also be the ones who **prosecute** you. It is up to the prosecution to take legal action against an accused person in order to establish the guilt of the accused because the prosecution has the **burden of proof**. This means that the prosecution must prove that the accused is guilty of the crime. It is not up to the accused person to prove his or her innocence.

During the court case, you as the accused will have the opportunity to tell your side of the story. If you are found guilty, you will be punished with a fine, imprisonment, some form of community service order or a combination of these punishments.

FIGURE 1 A criminal act is treated as an offence against the state, which deploys the police and courts to apprehend, prosecute and imprison the wrongdoer.

In criminal cases

...the police prosecute

...and the courts impose a penalty on a guilty party.



Indictable offences

Serious crimes (such as homicide, child abuse and rape) are called indictable offences. These offences are usually heard in a higher court such as the District or County Court, or the Supreme Court. For these offences, the guilt of the **accused** is determined by a jury.

In a criminal case, the jury must be satisfied of the guilt of the accused ‘beyond reasonable doubt’. This means that the jury cannot have any reasonable doubt that the person accused of the crime is guilty. The level of certainty that must be established before a legal case can be won is known as the **standard of proof**. It is up to the prosecution in criminal cases to prove that the accused is guilty beyond reasonable doubt. If a magistrate or jury is not convinced beyond reasonable doubt of the accused’s guilt, the accused should be given the benefit of the doubt and found not guilty.

Summary offences

Less serious crimes (such as minor assaults, petty theft and traffic infringements) are called summary offences. These are dealt with relatively quickly and cheaply by a **magistrate** in a magistrates court.

1.12.3 Civil law

Civil law deals with non-criminal matters. It allows a person to bring actions against other people for a civil wrong done to him or her. Civil law involves such matters as disputes between friends, business partners, consumers and retailers, neighbours or an individual and a government department. Examples of civil wrongs include **negligence**, **trespass**, **defamation**, **nuisance** and **breach of contract**. Where a civil wrong is successfully proven in court, the wronged party will usually seek damages (money) as compensation. In such a case, the **defendant** will be found to have been **liable**.

For example, imagine you discover half a decomposed snail at the bottom of a soft-drink bottle from which you have just drunk. You are then violently sick and suffer serious stomach illness. You decide to sue the manufacturer for negligence — meaning that the manufacturer did not take enough care to prevent an injury. You, the **plaintiff**, go to court to prove your case. You ask a judge to order the soft-drink manufacturer, the defendant, to pay you compensation. The plaintiff does not always win such cases. Sometimes the judge decides that the plaintiff’s rights were not breached and can order him or her to pay the defendant’s legal costs. As the case study ‘Civil v. criminal law’ later in this section illustrates, sometimes civil law is required to deal with a wide range of unusual circumstances.

FIGURE 2 A civil wrongdoing is treated as a private matter between the disputing parties, and the losing side is ordered by the judge to pay compensation or rectify the wrong done.

In civil cases



...the injured person sues



...and can receive compensation.



There is a lower standard of proof in civil cases. The plaintiff has to show that the defendant was ‘more likely than not’ to have committed the breach. This is known as the ‘balance of probabilities’.

1.12.4 CASE STUDY: Civil v. criminal law

Case 1


A grape grower was awarded \$7 million in damages by the Supreme Court of Victoria in August 2017, after his neighbour's spraying of chemicals destroyed his vineyard. The grape grower had spent four years fighting for compensation after he had noticed damage to the leaves of his vines in 2013. At first he thought the vines had been affected by frost, but later discovered that his neighbour had been attempting to rid his own property of pests by spraying the chemicals 2,4-D, glyphosate and metsulfuron-methyl. The Supreme Court heard that these chemicals are all deadly to grapevines and should never be used anywhere near vineyards. The court found the neighbour negligent in his use of the chemicals and awarded damages of over \$7 million. This included the cost of rehabilitating the land, the grower's loss of grape sales, costs involved in re-establishing the vineyard, and future loss of sales during the time the vines take to re-grow.

Case 2

In November 2018, a man was found guilty of manslaughter after killing a heart surgeon in a one-punch attack at Box Hill Hospital in Melbourne's eastern suburbs. Joseph Esmaili had punched the surgeon, Patrick Pritzwald-Stegmann, in the head after the doctor had asked him and his friends to stop smoking in non-smoking area outside the hospital doors. The surgeon fell backwards and hit his head on the floor, knocking him unconscious. He spent the next month in a coma, and died after his family agreed to have his life-support system switched off.

During the trial, Esmaili's defence barrister argued that Esmaili had believed that the surgeon was about to hit him, and so he acted in self-defence when he punched the surgeon. The defence also argued that Mr Pritzwald-Stegmann's death was actually caused by the family's decision to turn off the life support system, not by the punch. The jury did not appear to accept either of these lines of defence, and found Esmaili guilty of manslaughter.

Resources

 **Interactivity** Time out — civil and criminal law (int-1402)

1.12 ACTIVITY

Select a partner and cut out three newspaper articles describing civil law cases and three describing criminal law cases. Paste these on a large sheet, then discuss and list the laws being broken in each case.

Examining, analysing, interpreting

1.12 EXERCISES

Civics and Citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

1.12 Exercise 1: Check your understanding

- CS1** Define civil law and criminal law.
- CS1** List four common crimes.
- CS1** List four civil wrongs.
- CS2** What is the difference between:
 - plaintiff and defendant (or accused)
 - indictable offences and summary offences
 - burden of proof and standard of proof
 - beyond reasonable doubt and balance of probabilities?
- CS2** Outline the differences between civil law and criminal law.

1.12 Exercise 2: Apply your understanding

1. **CS3** Use the case study 'Civil v. criminal law' earlier in this section to outline the differences between criminal law and civil law.
2. **CS4** Do the following cases involve criminal law, civil law, or both?
 - (a) You are held up at knifepoint and your purse or wallet is stolen.
 - (b) A woman slips on a wet supermarket floor and breaks an ankle.
 - (c) A man is convicted of driving with a blood alcohol content of 0.08.
 - (d) You find maggots in a tuna sandwich you just bought from a café.
 - (e) A neighbour's loud music at 3 am is disturbing you.
3. **CS4** Think of a case that might involve both criminal law and civil law. What part of the case is criminal law? What part of the case is civil law?
4. **CS5** In a civil case the victim can sue for compensation, but in criminal cases the wrongdoer is punished and the victim is frequently not compensated for the harm done to them. Limited victim compensation is available in some cases but not in every case. Should the law be changed to provide for compensation in every criminal case? Identify one advantage and one disadvantage of such a change.
5. **CS5** Criminal cases are dealt with by the courts because the state prosecutes the wrongdoer. Only around 20 per cent of civil cases come before the courts because they are resolved out of court by negotiation between the parties, or because one party does not have the money to fight the case. This can mean that the wealthiest or most powerful party wins. Suggest a reform to the law that could help resolve this situation.

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

1.13 SkillBuilder: Group consensus



What is group consensus?

A group consensus is when a collection of people work together to make a decision that is agreeable to everyone in the group. Consensus is reached by using a democratic process.

Select your learnON format to access:

- an explanation of the skill (Tell me)
- a step-by-step process to develop the skill, with an example (Show me)
- an activity to allow you to practise the skill (Let me do it).



1.14 Customary law in Indigenous communities

1.14.1 What is customary law?

Customary law refers to the guidelines for behaviour that have been developed by Aboriginal and Torres Strait Islander peoples. These laws are passed on by word of mouth and have not been written down. In what way is customary law significant to Indigenous Australian peoples? We will explore the answer to this question throughout the rest of this section.

The Dreaming

Indigenous Australian peoples believe that their customary laws originated in the Dreaming. The Dreaming explains how the ancestors of Indigenous Australian peoples created the landscape and its features, as well

as the laws necessary to survive in the harsh Australian environment. Aboriginal and Torres Strait Islander peoples have a very strong relationship with the Australian land. They believe that they do not own the land — the land owns them, so it is their responsibility to take care of it. The stories, songs and dances told about the Dreaming reveal the many ways in which Indigenous Australian peoples are connected to the land.

FIGURE 1 Indigenous Australian people believe that the Australian landscape and all its features were created by their Dreaming ancestors.



Dreaming stories

Elders passed on customary laws by telling Dreaming stories to other members of their community or language group. The stories provide guidance or instructions about how to behave and the right way to live. Indigenous people expect that the younger ones will listen to the old people, be obedient, and not be greedy or steal. Other customary laws concern what foods can be eaten, what rules apply to families, requirements for marriage, and spiritual responsibilities. Songs and dances were also used to pass down customary law.

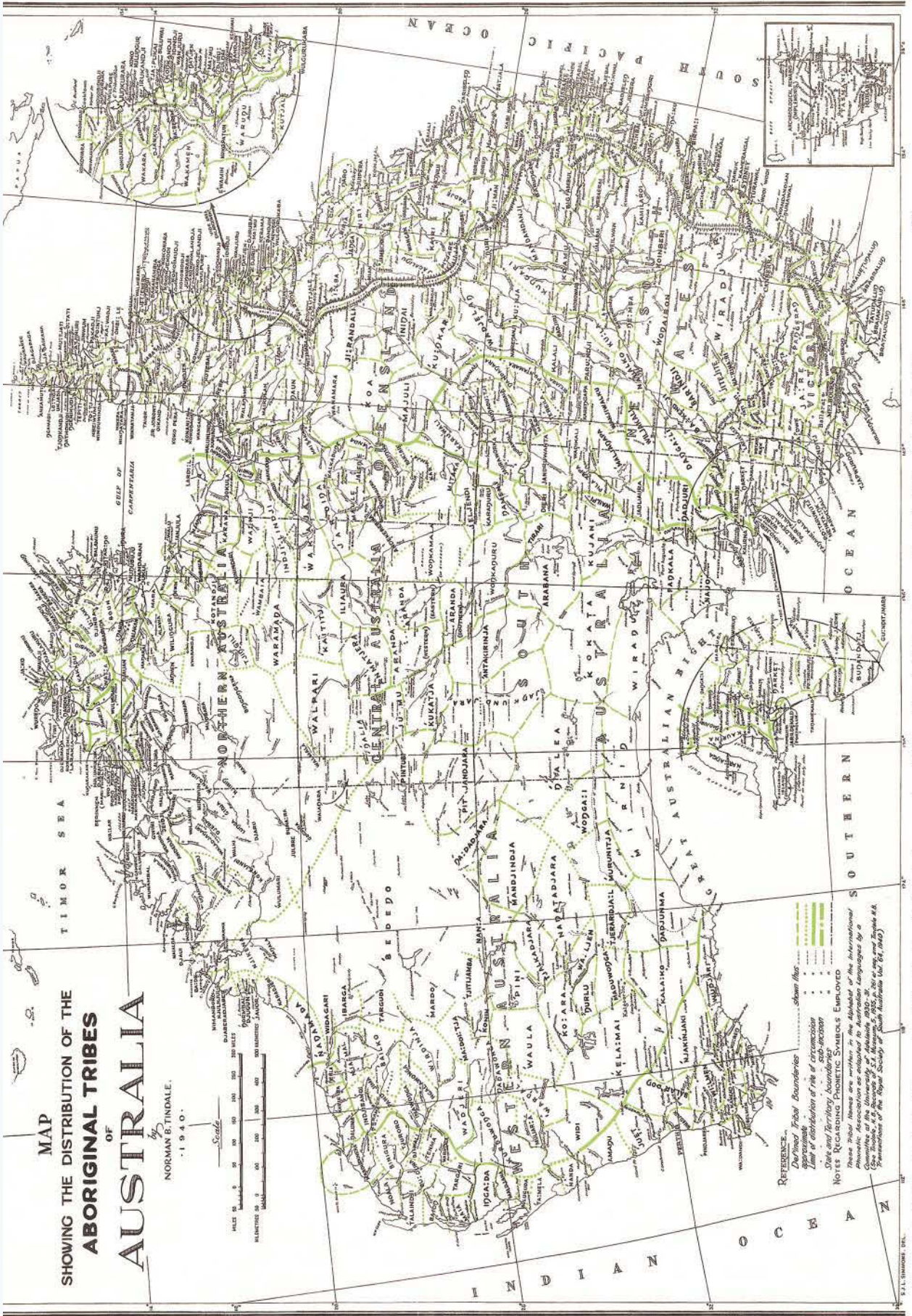
Dispute resolution

Aboriginal and Torres Strait Island societies did not have governments, police or courts. Disputes were resolved by the elders, who would meet to discuss the incident or dispute and then agree on an appropriate solution or consequence. Punishments might include shaming or public ridicule for less serious offences, or exile or spearing for more serious cases. Spearing involved stabbing a spear into the thigh of a person who had committed an offence. The scar left behind would always remind the offender of the wrong act they had carried out.

1.14.2 Recording customary law

Customary law has not been **codified**. It is not easy to record. This is because it is not always the same throughout Australia. Different language groups and communities have their own customary laws, languages, beliefs and traditions. The laws that apply to one group do not necessarily apply to another group. The different groups can be seen in the map in **FIGURE 2**. How many language groups can you see?

FIGURE 2 Map Showing the Distribution of the Aboriginal Tribes of Australia, Norman B. Tindale, 1940. Users of this map should be aware that certain words, terms or descriptions may be culturally sensitive and may be considered inappropriate today, but may have reflected the creator's attitude or the period in which they were written. Borders and terminology used may be contested in contemporary contexts.



1.14.3 Customary laws and Australian law

Some state and territory laws have been amended to specifically refer to customary law — the Northern Territory’s Sentencing Act recognises customary law. Many courts have also taken customary law into account when considering sentences. Refer to the case study ‘Court imposes customary punishment’ in this section for an example.

1.14.4 CASE STUDY: Court imposes customary punishment

The 1993 case of Wilson Jagamara Walker was the first in Australia to include a customary punishment as part of a sentence. Walker was a 23-year-old Aboriginal man from central Australia who pleaded guilty to manslaughter. He had been walking home when he heard a cry for help from a person being attacked by a group. Walker went to assist, and ended up killing one of the attackers by stabbing him near the neck. The judge, Chief Justice Martin, initially sentenced Walker to three years’ imprisonment. The sentence was then suspended and Walker was released on a two-year good behaviour bond with conditions, including that he be speared in the thigh by relatives of the victim.

In describing the customary punishment, Chief Justice Martin said that:

When you return to Yuendumu, you will be called upon to face tribal punishment . . . by getting speared in each of your legs a couple of times in such a way that you will be pained for at least a couple of weeks . . . A hunting spear would be used. The punishment would be administered by the brother of the dead man.

Martin ordered police officers to witness the spearing so that they could verify that the sentence had been carried out. Walker was told to return to the court to have the sentence reviewed if this did not occur.

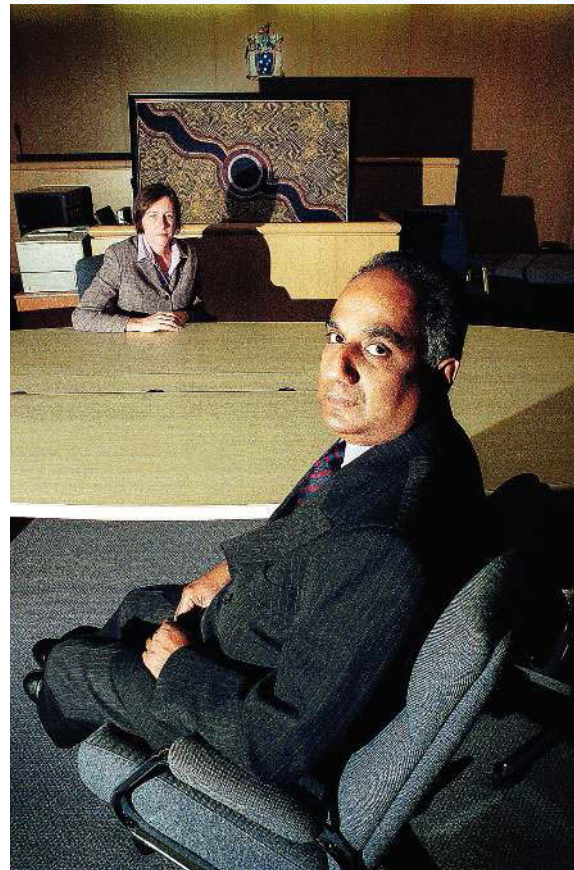
1.14.5 Alternative sentencing for Indigenous offenders

If found guilty of an offence, Aboriginal and Torres Strait Islander defendants have alternatives to having a sentence imposed by the court. One initiative is circle sentencing, a scheme operating in New South Wales that tries to avoid imprisonment for Aboriginal offenders. This is where a circle of people — including Aboriginal elders, the victim, the offender, the offender’s lawyer, the prosecutor or police and a magistrate — will sit together to attempt to decide an appropriate sentence. The Indigenous offender must have pleaded guilty or have been found guilty of the offence.

FIGURE 3 Wilson Jagamara Walker’s case was the first in Australia to include a customary punishment as part of a sentence.



FIGURE 4 The Broadmeadows Koori Court in Victoria provides a more informal environment for Aboriginal offenders, who must plead guilty if they wish to be sentenced here.



The offence is considered first, and then the offender and his or her background is discussed as well as the effect of the wrongdoing on the victim and the community. The elders decide the sentence, which must be approved by the magistrate. The circle will often hand down a good behaviour bond with conditions attached, such as counselling or community service.

Other states have different names for similar programs. Victoria has Koori Courts, South Australia has Nunga Courts and Western Australia has Aboriginal Community Courts. The territories also have circle or community courts. All of these courts involve Aboriginal and Torres Strait Islander community members in the sentencing process, and the proceedings are less formal than in a traditional courtroom.

1.14 ACTIVITIES

1. Use the internet or a newspaper to find a recent case where a court has recognised customary law when sentencing an Indigenous Australian. **Examining, analysing, interpreting**
2. Work in groups to investigate one of the circle sentencing courts.
 - (a) How does the court work and what sort of cases does it sentence?
 - (b) Identify one case that has been resolved by a circle sentencing court. Prepare a summary of the facts of the case and the judgement made by the court. **Examining, analysing, interpreting**

1.14 EXERCISES

Civics and Citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

1.14 Exercise 1: Check your understanding

1. **CS1** What is meant by the term 'customary law'?
2. **CS1** What is the Dreaming?
3. **CS1** In the absence of police and courts in traditional Indigenous communities, how were punishments imposed on wrongdoers and disputes resolved?
4. **CS2** Explain how Aboriginal elders have been involved in the administration of justice in cases involving young Indigenous offenders in Victoria.
5. **CS1** Give an example of legislation that recognises customary law in Australia.

1.14 Exercise 2: Apply your understanding

1. **CS3** Read the case study 'Court imposes customary punishment'. Outline the way in which the judge incorporated customary law into the sentence imposed on Mr Walker.
2. **CS4** Create a list of pros and cons for recognising customary law as part of Australia's legal system. Do you think that customary law should be recognised?
3. **CS6** Consider whether new courts should be established to reflect the traditional laws of other ethnic or religious groups in Australia. For example, should an Islamic court be established so that Muslim offenders could be sentenced according to Sharia law?
4. **CS2** List as many reasons as you can to explain why Aboriginal and Torres Strait Islanders find customary laws significant. Compare your reasons with other class members. Write down any new ideas.
5. **CS5** If there is a conflict between traditional Indigenous law and laws legislated by parliament, which should apply? Give reasons for your response.

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

1.15 Thinking Big research project: A bill of rights for Australia?

online only

SCENARIO

The government is considering creating a bill of rights for Australia but many citizens don't know what that means. Your task is to find out what a bill or charter of rights is, and how it protects people's rights and freedoms. You should then present your findings in an informative way to help people understand what a bill of rights will mean for Australia.



Select your learnON format to access:

- the full project scenario
- details of the project task
- resources to guide your project work
- an assessment rubric.

on Resources



projectsPLUS Thinking Big research project: A bill of rights for Australia? (pro-0176)

1.16 Review

online only

1.16.1 Key knowledge summary

Use this dot point summary to review the content covered in this topic.

1.16.2 Reflection

Reflect on your learning using the activities and resources provided.

on Resources



eWorkbook Reflection (doc-31360)
Crossword (doc-31361)



Interactivity Rights, freedoms, democracy and the law crossword (int-7603)

KEY TERMS

accused the party in a criminal trial against whom an action has been brought

Act a law passed by Parliament

Bill a proposed law that has not yet been agreed to by parliament or received royal assent

breach of contract a situation where a legally binding agreement is not honoured by one or more of the parties to the contract

burden of proof the legal principle describing who has to prove a case in court. In a criminal trial, this burden is on the prosecution.

code of conduct a set of standards of behaviour that all participants are expected to follow

codified refers to laws that have been collected and organised, usually in written form

common law law developed by judges through the decisions of courts

conscription a process by which people are required to join the armed forces, even if they do not wish to do so

constitution a set of rules that determines the structure of government and its law-making powers

Crown the Queen's authority in the Australian parliament, represented by the Governor-General at the federal level and a Governor at the state level

customary law guidelines for behaviour developed by and for Aboriginal and Torres Strait Islander peoples

defamation unlawful damage to a person's good reputation through written or verbal statements

defendant the party in a civil trial against whom an action has been brought

democracy a form of government in which the people determine how they will be governed

democratic supporting democracy, or the system of government where supreme power is vested in the people and exercised directly by them or by their elected representatives under a free electoral system

electorate an area of Australia that elects one member to parliament

homicide the killing of one person by another person

jury in a criminal trial, a randomly selected group of people who decide the guilt or innocence of an accused person

laws the system of rules that Australia recognises as regulating the actions of its citizens, which it may enforce by the imposition of penalties and sanctions

legislation a law made by Parliament

liable legally responsible for a civil wrong

lobbying a process of approaching members of parliament to argue a case for change in the law

magistrate a court official who hears cases in the lowest court in the legal system

manslaughter the accidental or unintentional killing of one person by another person

negligence a situation where a person breaches a duty to exercise reasonable care to avoid a foreseeable risk, resulting in another person being injured or suffering a risk of injury

nuisance interference with someone's enjoyment of public or private property

Opposition the main political party in the lower house of parliament not in power

plaintiff the person who commences a legal action in civil law

precedent a legal principle developed by a court in the process of resolving a dispute

prosecute to take legal action against another person for a criminal offence

referendum a process of allowing the people to vote on an important issue, such as a proposed change to the Constitution

repeal to remove a law so that it no longer applies

right an entitlement to be treated in a particular way. A legal right is a right that can be enforced by law.

standard of proof the level of proof required to establish a case. In criminal law, the prosecution must prove that the accused is guilty beyond reasonable doubt.

statute laws laws made by parliament

trade union an organisation of employees formed for mutual support, and to seek improvements in pay and working conditions for its members

transportation the process of sending convicts to a penal colony

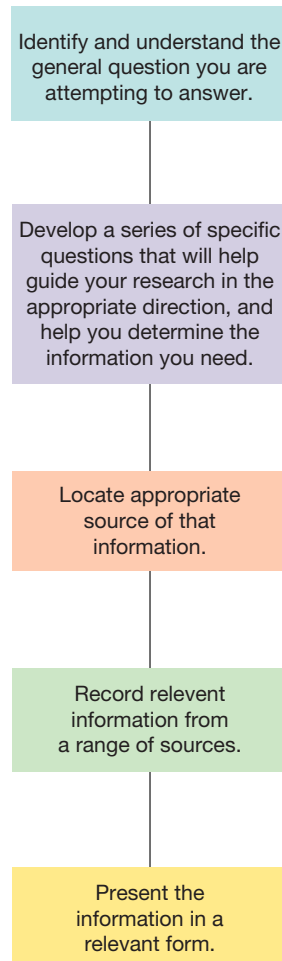
trespass a tort (civil wrong) involving direct and intentional interference with a person, or a person's land or goods

1.5 SkillBuilder: Questioning and research

1.5.1 Tell me

When carrying out your own research, the steps in **FIGURE 1** can provide a useful guide.

FIGURE 1 How to carry out your own research



1.5.2 Show me

Many countries throughout the world have a ‘bill of rights’ or ‘charter of rights’ to protect the rights and freedoms of their citizens. Imagine you have been asked to find out what a bill or charter of rights is, and how it protects people’s rights and freedoms.

Your first step is to clearly identify the essential key questions. These could be expressed as follows: ‘What is a bill or charter of rights? What is a good example of a bill or charter of rights? What rights does it actually protect? How does it protect these rights?’

It is now necessary to break this down into a series of more specific questions. These could include:

1. What is a bill of rights?
2. What is a charter of rights?
3. Is there any difference between a bill of rights and a charter of rights?
4. What is one major country that has a bill or charter of rights?
5. How did that country get a bill or charter of rights?

6. What rights or freedoms does that bill or charter protect (for example, freedom of speech; freedom of association)?
7. Can those rights be easily taken away by a government repealing them? Or are they like the rights protected by the Australian Constitution, and need a referendum to be changed?
8. What can people do if they think their rights under that bill or charter have been affected by the actions of the government or someone else?
9. How well does the bill or charter work? Are there any examples of occasions when someone has successfully taken legal action to protect his or her rights?

The next step is to locate appropriate sources. By entering the search term ‘bill of rights’ or ‘charter of rights’ in your favourite search engine, you will be presented with a number of sources. A Wikipedia entry is often found at or near the top of the list of sources found, and many students will be familiar with this resource. There is no problem in using Wikipedia as one of your sources — so long as you remember that it is not always reliable, and any information gathered from Wikipedia should always be checked against another source to make sure it is accurate. To help ensure that your information is correct, it is a good idea to use at least two sources to answer each question.

Keep your questions beside you as you read each source, and note the location of material that provides answers. You can select and print some text, and then highlight those sentences or paragraphs that provide answers to your questions. Sometimes a complete answer to a question may be found in several places in a piece of text. Be sure to highlight all relevant text, and indicate with a number which question the information answers.

When you are satisfied that you have found the answers to all the questions, you need to write the answers in order, making sure to use your own words as much as possible. You can then use the answers to present your information in the required form. This may be a report to the rest of the class, an essay to be marked by your teacher, a PowerPoint or Keynote presentation, or any other format that is appropriate.

1.5.3 Let me do it

Complete the following activities to practise this skill.

1.5 ACTIVITIES

1. Using the process modelled in **FIGURE 1**, devise a series of questions and carry out the research to produce a report on the following two key questions: ‘In Australia, the state of Victoria has brought in a Charter of Human Rights and Responsibilities, and the Australian Capital Territory has a bill of rights known as the Human Rights Act. Select one of these and prepare a report explaining (1) what rights are protected by the bill or charter you have selected; and (2) what actions can be taken by a person to protect his or her rights under that bill or charter.’
2. Did you follow the steps in the research process? Discuss how segmenting the problem assisted you in solving the problem.

1.9 SkillBuilder: Communication and reflection

1.9.1 Tell me

An advertisement is designed to convince individuals or groups of people to take particular action. Most advertising we see is aimed at encouraging us to buy particular products, but advertising can also be used to encourage people to take action on a political issue.

A good advertisement:

- is designed to attract attention
- uses bold colours and simple images
- provides key information in bold print
- uses recognisable symbols and logos
- provides reasons for action
- makes use of simple, easy-to-read language.

An advertisement that aims to encourage participation in a democratic activity should include all these features.

1.9.2 Show me

On 23 October 2018, over 150 000 unionists and their supporters rallied in Melbourne in support of the ACTU 'Change the Rules' campaign. The campaign is aimed at improving pay and conditions for workers, specifically:

- a fair minimum wage
- the protection of penalty rates
- pay rises that reflect the cost of living
- equal pay for equal work
- better job security.

Several streets in the centre of the city were closed to traffic, and trams were diverted from Swanston St as protesters marched from the Trades Hall in Lygon St, Carlton to Flinders St Station. The ACTU vowed to continue to organise rallies and to make workers' pay and conditions an issue in the 2019 federal election.

FIGURE 1 Unionists and supporters rallied to demand a change in the rules for determining wages and conditions for workers.



The below poster was used to encourage workers and others to join the ACTU's 'Change the rules' campaign.

FIGURE 2 An advertisement to encourage people to support the ACTU 'Change the Rules' campaign



The advertisement has these features:

- The mood is very sombre, with dark colours in the background and an atmosphere of unhappiness. The mood of any advertisement can be serious and sombre, or very positive, depending on the nature of the message.
- The mother is attempting to comfort her child. Both are clearly very unhappy, and appear as victims. The mood of people in a poster or advertisement is significant. Happiness or sadness can be used, depending on the desired message.
- The clear message is that this is part of a family suffering because of poverty, resulting from low wages. It is important to use the image to relate to the campaign message.
- The white text in the middle stands out and conveys a simple message.
- The slogan 'Change the rules' reinforces the ACTU campaign message. Simple slogans can be very powerful campaign tools.
- The organisation behind the campaign, the trade union movement, is clearly identified at the bottom.

1.9.3 Let me do it

Complete the following activity to practise this skill.

1.9 ACTIVITY

Using the above model, design an advertisement to encourage more young people to enrol to vote before they turn 18. Your advertisement should contain the features discussed above.

1.13 SkillBuilder: Group consensus

1.13.1 Tell me

What is a group consensus?

A group consensus is when a collection of people work together to make a decision that is agreeable to everyone in the group. Consensus is reached by using a **democratic** process where every group member's perspective is listened to and understood. A decision is made after evaluating all options and respecting everyone's different perspectives.

Why is a group consensus useful in civics and citizenship?

Decisions made by a group of people are usually better than decisions made by someone working alone. Reaching a group consensus helps us to problem solve and appreciate different points of view. Consensus is used in many areas of civics and citizenship. In parliament, consensus is reached when a Bill is passed through both houses. In a legal trial, jurors will need to reach consensus when they decide on the facts of a case.

1.13.2 Show me

How to reach a group consensus

You will need:

- a sheet of lined paper
- a pen
- three to four people
- a problem or an issue to solve.

Procedure

Step 1

Form a team of three or four people. Decide how your group will finalise a decision. Will you require unanimous support for a decision or will you vote? If you vote, is a simple majority all that is required?

Step 2

Outline what needs to be decided. Clearly state the issue so that everyone in the group understands it.

Step 3

Discuss the problem with the group. Allow everyone to express his or her opinion and make suggestions.

Step 4

Make a list of solutions that include everyone's suggestions.

Step 5

Discuss the advantages and disadvantages of each solution.

Step 6

Select the best solution, based on the discussion. This could be a unanimous decision or a vote. Consensus does not necessarily mean that everyone agrees with the final decision, but that everyone feels they can support the group's decision.

Step 7

Implement the group's decision. This might mean writing it down and presenting it to the rest of the class.

Model

CASE STUDY: Find the crime

Yohan was caught by the police after he allegedly broke into an antique store. The owners of the store, who live next door, were woken up by loud banging to discover a man trying to open their safe. They chased him away and called the police. A police dog tracked the man down in a nearby park after police surrounded the area. Yohan was arrested and taken away for questioning. He has been charged and summoned to appear in court.

FIGURE 1 What crime has been committed?



Decide if a crime was committed

A group might look at this case study and decide that it involves a criminal action. Discussion might focus on what crime was actually committed. Was it breaking and entering, trespass or robbery? Someone in the group might point out that nothing was actually stolen. Yohan was trespassing, however, and he did break into the shop. The group might agree that Yohan could be charged with trespass and breaking and entering, or they might vote on each charge.

Decide if the defendant is guilty or not guilty

The group will now need to come to an agreement about whether or not they think the defendant is guilty or not guilty. A discussion would be held looking at the facts of the case. Someone in the group might claim that the fact that Yohan was found in the park after the police dog tracked his scent there is proof that he is guilty. Someone else might argue that this could easily be a case of mistaken identity. After discussing all possible solutions, the group will make a decision either by unanimous agreement (where everyone is in agreement) or by taking a vote. The group might decide that Yohan is guilty of both trespass and of breaking and entering. One person in the group might disagree with the final decision, believing that Yohan should be charged with robbery and not with breaking and entering, but everyone else believes that they can live with the decision.

Elements of a good group consensus

A good group consensus:

- clearly identifies what needs to be decided
- allows everyone to express his or her opinion and make suggestions
- discusses the advantages and disadvantages of possible solutions
- chooses a solution that everyone can support.

1.13.3 Let me do it

Complete the following activities to practise this skill.

1.13 ACTIVITY

Consider the following case studies:

- Case 1 — Fred is talking to Bob over the back fence about his tomatoes and calls him a silly old fool. No-one else hears the comment.
- Case 2 — Phil is found asleep in the driver's seat of his parked car by a police patrol. He has been drinking heavily.
- Case 3 — Masako holds a black belt in karate. When stopped by a would-be mugger intent on robbery, she kicks the robber and breaks his arm.

- Case 4 — Petros likes to take a shortcut to work by cutting through Karen’s vacant corner block of land. He has been doing this for over five years.
 - Case 5 — Wayne is a spectator at a football match. On seeing a bad error of judgement by umpire Thompson, he verbally abuses Thompson in a loud and clear voice.
 - Case 6 — Daniel gets involved in an argument with Martin. He becomes so angry that he threatens to punch Martin on the nose. Martin believes that he means it.
 - Case 7 — While digging a garden in her backyard, Rachel breaks a water pipe and floods Mrs Paize’s henhouse next door, drowning her prize rooster.
 - Case 8 — Nerida’s house has been burgled several times. She sets a trap and shoots Tom as he enters with the intent to burgle again.
- (a) Working in groups of three or four, choose one of the case studies. Decide whether the case involves a criminal action, a civil action (or perhaps both), or even no action at all. State the crime or the civil wrong that you think is involved. (Use the crimes and civil wrongs listed in subtopic 1.12 as a guide.)
 - (b) As a group, come to an agreement about whether or not you think the defendant is guilty or not guilty, or liable or not liable.
 - (c) Explain your decisions to the rest of the class, outlining how you reached a consensus on those decisions.
 - (d) How did you make decisions in your group? Did everyone contribute equally?
 - (e) How democratic were your group decisions? Did someone take charge while others stayed silent? Did everyone start by contributing ideas before someone with a more dominant personality won out?
 - (f) In your opinion, what does reaching a consensus mean?
 - (g) How easy was it to come to consensus in your group? Discuss what your group did well and what could have been done to improve decision making in your group. Examine the values and beliefs of members of your group; were they different or similar to those of your own?

1.15 Thinking Big research project: A bill of rights for Australia?

Scenario

Many countries throughout the world have a bill of rights or charter of rights to protect the human rights and freedoms of their citizens. In fact, Australia is one of the few western democracies that does not have such a bill or charter. Britain, the United States, Canada and New Zealand are countries we would say have similar democratic systems to us, and all have this type of protection. A bill of rights can be part of a country's constitution, in which case it can be quite difficult to change; or it can be legislation passed by a parliament, which can be changed by that parliament at any time, provided the changes are supported by a majority of members of that parliament.



The United States Bill of Rights became part of that country's constitution in 1791. Most people say that a constitutional bill of rights would better protect the rights of citizens because it cannot be changed by politicians. The Australian states of Victoria and Queensland, as well as the Australian Capital Territory have all introduced legislated charters of rights.

Task

The government is considering creating a bill of rights for Australia, but many citizens don't know what that means. Your task is to find out what a bill or charter of rights is, and how it protects people's rights and freedoms. This will involve investigating bills or charters of rights in one or more overseas countries, as well as examining Australian state versions. You should then present your findings in an informative way to help people understand what a bill of rights will mean for Australia.

Follow the steps detailed in the **Process** section to complete this task.





Process

- Open the ProjectsPLUS application for this topic. Click the **Start new project** button to enter the project due date and set up your project group. Working in pairs or small groups will enable you to share responsibility for the project. Save your settings and the project will be launched.
- Navigate to the **Research forum**, where you will find starter topics loaded to guide your research. You can add further topics to the Research forum if you wish. When you have completed your research, you can print out the **Research report** in the Research forum to easily view all the information you have gathered.
- In the **Media centre** you will find an assessment rubric to guide your work.
- You should research the bill or charter of rights from one of the below countries:
 - Britain
 - The United states
 - Canada
 - New Zealand.
- Gather information to answer the following questions:
 1. What is a bill of rights?
 2. What is a charter of rights?
 3. What are the main differences between a bill of rights and a charter of rights?
 4. What is one major country that has a bill or charter of rights?
 5. How did that country get a bill or charter of rights?
 6. What rights or freedoms does that bill or charter protect (for example, freedom of speech; freedom of association)?
 7. Can those rights be easily taken away by a government repealing them? Or are they rights protected by a constitution, and need a more difficult process to be changed?

8. What can people do if they think their rights under that bill or charter have been affected by the actions of the government or someone else?
 9. How well does the bill or charter work? Are there any examples of occasions when someone has successfully taken legal action to protect his or her rights?
 10. In Australia, the state of Victoria has brought in a Charter of Human Rights and Responsibilities. Explain what rights are protected by that charter.
 11. What actions can be taken by a person to protect his or her rights under that charter?
- You can easily find information about bills and charters of rights in different countries through the usual search engines. Make use of more than one source for each area of research and list all sources at the end of your report.
 - Present your report using a layout and language that will be easily understood by Australians of all ages and backgrounds. Images can help to add interest and context to your report.
 - Submit your report to your teacher for assessment and feedback.



Resources



ProjectsPLUS A bill of rights for Australia? (pro-0176)

1.16 Review

1.16.1 Key knowledge summary

1.2 Protecting our rights and freedoms

- The Constitution guarantees certain democratic rights, such as the right to directly elect members of parliament, and a requirement that elections must be held every three years.
- The Constitution also contains five express rights, including freedom of religion and a right of free trade between the states.
- Federal and state parliaments have also passed laws to promote equal opportunity and to make it illegal to discriminate against individuals.

1.3 Freedom of speech and other democratic freedoms

- The right of free speech is an important right but it is limited by the bounds of law.
- Freedom of association, freedom of assembly, freedom of movement and freedom of conscience are all important freedoms enjoyed in Australia. These are also limited by the bounds of law.

1.4 Dissent in a democracy and taking direct action

- In a democracy such as Australia, we all have the right to dissent against laws passed by parliament. We can express our dissent publicly and vote for political parties that promise to change those laws.
- Some groups and individuals attempt to influence parliament by taking direct action. This can include demonstrations and protest marches, as well as defiance of the law.

1.6 Taking part in the democratic process

- All citizens over the age of 18 have the right to vote in Australian elections, although they need to register to take full advantage of this right.
- Social media can be used to spread ideas and opinions, and to gain support for changes in the law.
- Participating in opinion polls allows us to have our views communicated to our members of parliament, and may influence some of their decisions.

1.7 The role of members of parliament

- Local members of parliament can assist individuals in their electorates, and can ensure that petitions from the voters are tabled in parliament.

1.8 Lobby and pressure groups

- Lobby groups attempt to influence members of parliament on behalf of businesses and other groups. They aim to have laws passed that favour the group they represent, or have laws changed if they disadvantage that group.
- Pressure groups are groups of people who try to influence public opinion on particular issues. They include groups such as environmental campaigners and trade unions.

1.10 How parliaments make laws

- Statute law (or an Act or legislation) must be passed through both houses of parliament in the form of a Bill, which must then be approved by the Crown.

1.11 How courts make laws

- Courts make laws because they interpret laws and make decisions to resolve the cases they are hearing, and in doing so create precedents that will be followed by other courts.

1.12 Criminal law and civil law

- Criminal law protects the community as a whole. It incorporates crimes including robbery, manslaughter and murder. The police or a representative of the government (the prosecution) takes the accused (the defendant) to court. There, a consequence, such as a fine or imprisonment, may be imposed.

- Civil law protects the private rights of individuals. It incorporates civil wrongs including negligence, defamation and breach of contract. A person who feels that a civil wrong has been done to him or herself (the plaintiff) will sue the other party (the defendant) in court to repair the harm caused, often seeking damages.

1.14 Customary law in Indigenous communities

- Aboriginal and Torres Strait Islander customary law originated in the Dreaming and provides guidance for how to behave and live. Disputes or incidents are resolved by the elders, who agree on an appropriate solution or consequence.

1.16.2 Reflection

Complete the following to reflect on your learning.

1.16 ACTIVITIES

Revisit the inquiry question posed in the Overview:

How should Australians behave? Who made those rules and why should we follow them?

1. Now that you have completed this topic, what is your view on the question? Discuss with a partner. Has your learning in this topic changed your view? If so, how?
2. Write a paragraph in response to the inquiry question, outlining your views.



Resources



eWorkbook Reflection (doc-31360)

Crossword (doc-31361)



Interactivity Rights, freedoms, democracy and the law crossword (int-7603)

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manslaughter the accidental or unintentional killing of one person by another person

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plaintiff the person who commences a legal action in civil law

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transportation the process of sending convicts to a penal colony

trespass a tort (civil wrong) involving direct and intentional interference with a person, or a person's land or goods

2 Influences on Australian society and national identity

2.1 Overview

What does Australian society look like to the rest of the world? What events, people and beliefs shape our identity?


2.1.1 A diverse culture

Casual day is always an interesting event at a school. Given a day of freedom from their uniforms, students take the opportunity to demonstrate their identity through fashion. While many students simply choose their clothes for comfort or style, for others fashion is a deliberate statement. For these students, fashion indicates they are members of a particular social group. These groups provide students with a sense of belonging — a feeling that they are part of a larger community with shared values. A group's identity is how the members of that group present themselves to the rest of the world. In our casual day example, this representation occurs through fashion. If we extend this example of a group identity to an entire country, we will see many different representations of national identity.

In Australia, our national identity has always been complex. Our country is a diverse collection of nationalities and cultures. Because of this, isolating individual aspects of an Australian national identity is a challenging task. In this topic, we investigate Australia's national identity, how it was formed, how it continues to evolve and how it creates a sense of belonging for the people who call this country home. The diversity of religion, culture, values and traditions that people have brought to Australia has created a fascinating and intricate tapestry of identity.

Resources

 **eWorkbook** Customisable worksheets for this topic

 **Video eLesson** What is national identity? (eles-2291)

LEARNING SEQUENCE

- 2.1 Overview
- 2.2 Traditional and changing views of Australian identity
- 2.3 Indigenous influences on Australian national identity
- 2.4 Belonging to a new country — migrant experiences
- 2.5 **SkillBuilder:** Delivering an oral presentation 
- 2.6 Religion in Australia
- 2.7 The influence of religion on Australian society
- 2.8 **SkillBuilder:** Deconstruct/reconstruct method 
- 2.9 **Thinking Big research project:** My family's identity 
- 2.10 **Review** 

To access a pre-test and starter questions and receive immediate, **corrective feedback** and **sample responses** to every question, select your learnON title at www.jacplus.com.au.

2.2 Traditional and changing views of Australian identity

2.2.1 What has influenced our national identity?

A singular Australian identity is hard to define. Since European settlement began, different countries have contributed aspects of their culture to form the multicultural identity we see in Australia today. Changes in Australian identity have been, and continue to be, reflected in our relationship with other countries. In colonial times, Australian identity closely mirrored that of Britain. When Australia moved away from British influence and towards the United States of America (directly after World War II), aspects of our national identity changed as well. Our identity now faces an interesting stage in its development as our focus turns toward our Asian neighbours. Australia's national identity continues to evolve as people from a vast array of nations make their contributions to our diverse multicultural nation.

2.2.2 'We don't like cricket, we love it'

Love it or hate it, cricket is big part of Australian culture. Every weekend in summer, thousands of men, women and children around Australia hone their skills with the bat and ball. Yet how did this strange game find its way into our country?

Like many other aspects of Australian identity, our country's love of cricket is a legacy of our British roots. This connection was forged by early British settlers who introduced elements of their existing identity and traditions to their new Australian home. The British failed to understand or recognise the long-standing cultures of Aboriginal and Torres Strait Islander peoples. They simply ignored Indigenous identity and replaced it with their own. The British did so because they felt no connection to Indigenous culture. Introducing their own culture made them feel more comfortable in the new surroundings and increased their sense of belonging.

FIGURE 1 Children playing cricket in 1925 (left) and 2019 (right)



2.2.3 The mother country

The close relationship between Britain and Australia continued well into the twentieth century, despite **federation** in 1901. Evidence of the British influence on Australian identity can be seen in the culture, fashion and even foods that were popular at the time. Perhaps the clearest piece of evidence, however, was Australia's willingness to follow the 'mother country' into World War I. When that war began in 1914, British Australia was still a relatively young country. Without an official **foreign policy** of its own, Australia adopted the policies of Great Britain and also declared war on Germany.

Australia's involvement in World War I had an enormous influence on our national identity. This conflict saw the birth of the Anzac legend with its values of determination, sacrifice and mateship. These values

have now become cornerstones of Australian national identity. The British influences on Australia can also be seen in our adoption of the British Westminster system of parliament, or in the simple fact that the Queen is still Australia's official head of state.

2.2.4 Diversity in Australia

After World War II, Australia's relationship with foreign countries changed as we lessened our political connections with Britain. Though formal ties with the mother country were maintained, Australia sought to strengthen its alliance with the United States of America. This new direction was shown in Australia's willingness to support America in a number of global conflicts including the Korean and Vietnam wars. American popular culture also began replacing that of the British, with new genres of music, fashion and cinema introduced into Australian society.

Changes in Australian identity are reflected in changes to our government's foreign policy. Australia's foreign policy has recently changed again, this time with a focus on closer relationships with China, Japan and other Asian countries. An example of this policy change was the removal of the White Australia policy, formally known as The Immigration Restriction Act of 1901. This policy blocked all non-European immigration to Australia. It was gradually phased out in the second half of the twentieth century. The gradual removal of Australia's White Australia policy has enabled these new relationships to develop. These changes can be seen in schools such as your own.

FIGURE 2 A World War I enlistment poster



FIGURE 3 Australian soldiers fighting in the Vietnam War in 1967



The option to study Asian languages in school is much more common now than it was in your parents' era. In their time, the study of languages still had a significant **Eurocentric** focus. You may study a language to allow you to communicate with people if you ever visit that country. However, knowing a language will also help you to communicate with people within your own country. In this way, the languages taught in schools say a lot about a country's identity and where it is heading. You may be learning Chinese at school, like many thousands of Australian students do today. Refer to **FIGURE 4** to learn some new Chinese words, or review some you have already learned.

FIGURE 4 Chinese characters

| | | | | |
|---|---|---|---|---|
| 一 | 二 | 三 | 春 | 夏 |
| 秋 | 冬 | 龍 | 虎 | 馬 |
| 獅 | 木 | 水 | 火 | 土 |
| 雨 | 吃 | 喝 | 父 | 母 |

2.2 EXERCISES

Civics and Citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

2.2 Exercise 1: Check your understanding

- CS1** Why did the British feel the need to introduce their national identity to Australia?
- CS1** Why is it so difficult to define Australian national identity?
- CS2** During both the Korean and Vietnam wars, the people of Australia were under no direct threat or danger. Explain how Australia became involved in these conflicts.
- CS1** List some aspects of Australian national identity that have British origins.
- CS1** What was the White Australia Policy?

2.2 Exercise 2: Apply your understanding

- CS3** Look at **FIGURE 2**. Who do the lions in this poster represent?
- CS5** How do you think Australian national identity will change in the next 50 years? For example, where do you think the next wave of immigration will come from?
- CS6** Describe what being Australian means to you.
- CS5** Do you think it is important for Australians to have one version of national identity?
- CS2** Describe the ways that you demonstrate your own identity.

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

2.3 Indigenous influences on Australian national identity

2.3.1 Making amends

The original inhabitants of Australia suffered greatly from the British colonisation of their country. Years of conflict, oppression, and injustice have caused ongoing pain and suffering for Indigenous peoples. In recent years, efforts have been made to mend the damage caused by previous governments. The **reconciliation** movement can be seen as an attempt to restore the importance of Indigenous culture in Australian society. Before we discuss how reconciliation contributes to Australian identity, we need to learn what reconciliation is and why it is necessary.

2.3.2 What went wrong?

Following the arrival of the British in 1788, the first interactions between Indigenous Australian peoples and the British were positive. However, relationships quickly deteriorated and conflict erupted. Using their vast resources and superior weaponry, the British expanded their settlements and violently pushed further into Aboriginal lands. The Indigenous owners of these lands saw these acts of aggression and defended themselves against the invasion of their lands and the killing of their people. A lack of understanding and respect for each other's culture fueled the Frontier Wars. However, this conflict was only the first event in a series of hardships inflicted on Indigenous Australian peoples by the British.

FIGURE 1 A first interaction between Indigenous Australian peoples and the British



The Stolen Generations

Can you imagine being forcibly taken from your parents as a young child, put into strange clothing, given strange food and told to never speak your language again? From as early as the 1860s, Indigenous and Torres Strait Islander children were forcibly removed from their homes and families by various Australian governments. Some historians argue that this program of removal had good intentions, and that the governments involved were motivated by the welfare of Aboriginal children. On the other side of the debate, historians claim child removal was a deliberate policy intended to weaken Aboriginal and Torres Strait Islander communities. Removed from their families, these children were also removed from their culture and identity. Children removed during this period of time have become known as the Stolen Generations.

Despite the reluctance of previous leaders, an official apology for this policy was eventually provided in 2008 by the then-prime minister, Kevin Rudd. It symbolised a major step in the journey towards reconciliation.

Whose land is it?

One of the most important aspects of Indigenous culture and identity is their connection to the land. Representing the past, present and future of Indigenous Australian peoples, this relationship is deeply spiritual. Upon arriving in Australia, the British failed to officially recognise Indigenous land ownership. They claimed the land as their own using the concept of **terra nullius**. The subsequent battle for Indigenous **land rights** lasted more than 200 years. During this time, several legal actions were launched by Indigenous Australians with the goal of securing ownership of their traditional lands. This goal was finally reached in 1992 when the High Court of Australia officially rejected the concept of *terra nullius*, paving the way for Indigenous peoples to legally reclaim their land.

2.3.3 The path to reconciliation

As recently as the early twentieth century, Aboriginal people were not considered citizens of Australia. They could not vote in elections, and were not even counted in the population of the country when the census was taken. Over the next few decades, the rights of Indigenous people became increasingly important to all Australians. Their cause was assisted by other civil rights movements from around the world, which were also gaining popularity.

In 1948, Indigenous Australian people officially became British subjects and Australian citizens, although they were only granted voting rights in 1962. Perhaps their most famous civil rights victory was the 1967 **referendum**, after which Indigenous Australian people were finally recognised as part of the population. The referendum was a

FIGURE 2 Homes were sought for these Aboriginal children after they were forcibly removed from their families.



FIGURE 3 Indigenous land rights campaigner Eddie Mabo. In 1982, Mabo and four other Torres Strait Islander people took legal action claiming customary ownership of their lands on Murray Island.



formal statement announcing that Indigenous culture and Australian culture were one and the same. This event had a significant impact on Australian identity.

Reconciliation began as an official movement in 1991 with the formation of the Council for Aboriginal Reconciliation. The term ‘reconciliation’ refers to repairing the damage of past events through better understanding of, and respect for, Indigenous culture. Including ‘Welcome to country’ speeches and smoking ceremonies in public events are small-scale examples of what reconciliation looks like. Larger-scale examples include placing a higher priority on Indigenous health and education programs, and a focus on the welfare of Indigenous children. Symbolic acts such as the 2000 Sorry Day march, and the official apology to the Stolen Generations offered by former Prime Minister Kevin Rudd, are other significant steps along the path to reconciliation.

Serious offences were knowingly committed against Indigenous Australian peoples by a number of Australian governments. Our identity as Australians should not be shaped by our guilt for these actions. Instead, we should help mend the damage of the past by celebrating Indigenous culture and identity as our own. In doing so, we can also increase the sense of belonging felt by the Indigenous community.

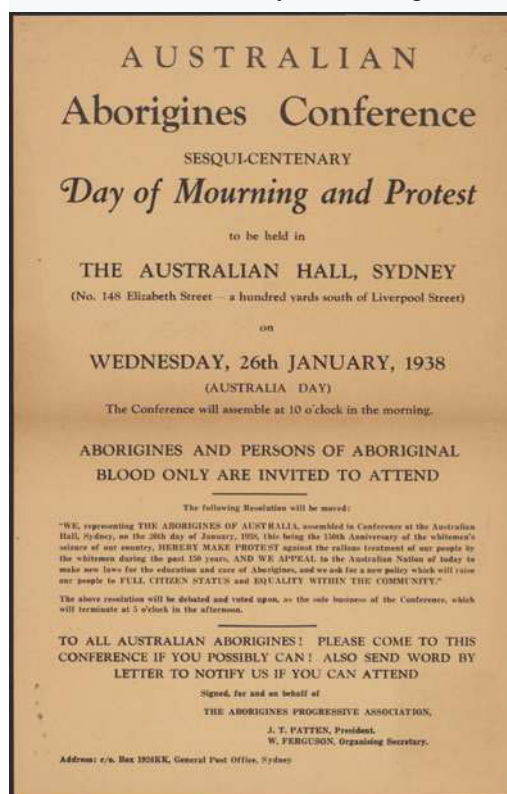
2.3.4 Australia Day

The debate that surrounds the celebration of Australia Day provides another example of the complex nature of Australian national identity. Australia Day (currently celebrated on 26th January) is the official national day of Australia. This date commemorates the arrival of the ships of the First Fleet at Port Jackson, New South Wales in 1788. The first evidence of Australia Day celebrations comes from colonial New South Wales. Referred to as ‘Foundation Day’, Governor Lachlan Macquarie issued the first official observance of the date in 1818 – the thirtieth anniversary of the founding of the colony. Prior to 1888, the individual colonies celebrated their respective commemorative events on separate days. It was not until 1935 that all Australian states and territories officially adopted the term ‘Australia Day’ and it was only in 1994 that the date was marked by a national public holiday. As you can see, the celebration of this day is far from straightforward – even before we start to discuss the Indigenous perspective on Australia Day.

In modern Australia, our national day is celebrated in many different ways. Barbeques, concerts, community events and citizenship ceremonies are held on Australia day across the country. Some people argue that Australia Day is an opportunity to reflect on what makes our country unique and what it means to be Australian. Yet to many Australians, there is nothing about the 26th January that warrants celebration. To many Australians, this date marks the beginning of a brutal invasion.

As we have just learned, the impacts of European settlement on the first peoples of this country were severe and long-lasting. For this reason, to Indigenous Australians the mere concept of celebrating Australia’s official national day on the anniversary of European settlement is flawed. The first official Indigenous response to Australia Day celebrations occurred in 1938 with the National Day of Mourning. Organised by Indigenous rights groups, this event was heavily publicised and is seen by many historians as the beginnings of the Indigenous civil rights movement. Day of Mourning protests have been held ever since, with more recent events using the names Invasion Day or Survival Day.

FIGURE 4 On the sesquicentenary (150th anniversary) of British colonisation in 1938, the Australian Aboriginal Conference declared a ‘national day of mourning’.




In recent years, there have been calls from both Indigenous and non-Indigenous Australians to change the date of Australia Day. It is not that these people are against celebrating an Australian national day. Instead, they want to celebrate Australian culture and identity on a date that has a more positive meaning for all Australians.

DISCUSS

As a class, discuss the issue of celebrating Australia Day on a different day of the year. How might different people around the country react? What would be any positives and negatives of making this change?

[Intercultural Capability]

on Resources

-  **Weblinks** Indigenous rights movement timeline
National apology

2.3 ACTIVITIES

1. Use the **Indigenous rights movement timeline** weblink in the Resources tab or your own internet research to create a timeline of the major events that occurred in the process of reconciliation.
Reasoning, creating, proposing
2. Use the **National apology** weblink in the Resources tab to watch the video of Prime Minister Kevin Rudd's apology to the Stolen Generations. Imagine you are the relative of a member of the Stolen Generations and write a brief response to this speech.
Communicating, reflecting

2.3 EXERCISES

Civics and Citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

2.3 Exercise 1: Check your understanding

1. **CS1** Why did the relationship between British settlers and Indigenous Australians turn sour?
2. **CS1** Who were the Stolen Generations?
3. **CS1** How did declaring terra *nullius* allow the British to claim the land of Australia?
4. **CS1** What is reconciliation?
5. **CS1** Explain the origins of Australia Day.

2.3 Exercise 2: Apply your understanding

1. **CS2** Explain why Indigenous Australians oppose Australia Day being celebrated on the 26th of January.
2. **CS4** Which of the following do you believe was most important to Indigenous Australians?
 - A. Becoming citizens in 1948
 - B. Being given federal voting rights in 1962
 - C. Being included in the population count in 1967
3. **CS5** Suggest an alternative date for Australia Day. Explain why you chose that date and what significance it has in Australian history.
4. **CS3** Compare the intentions of the government's child removal policy with the impacts that it caused.
5. **CS3** Why was the High Court's rejection of terra *nullius* such a significant event for Indigenous Australians?

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

2.4 Belonging to a new country — migrant experiences

2.4.1 Seeking a better life

Consider what you would do for the sake of your family. Now, consider what you *wouldn't* do for the sake of your family. It is a sad truth that, every day around the world, families encounter terrible problems. Some are faced with hunger, poverty and disease; others must deal with violence, brutality and fear; and some are confronted with all of these challenges. Many families in these situations choose to leave their countries or traditional homelands in favour of the peace and freedom offered in Australia. Throughout Australian history, people from nearly every nation in the world have relocated to this diverse country in search of new opportunities. The experiences of these **migrants** is discussed in this section.

FIGURE 1 A Vietnamese brother and sister arriving in Australia, 1974



2.4.2 Migrant identity

Migrants are forced to adapt to the national identity of their new homes quickly. This is something they need to do without losing their connection to their own identity. In this way, their sense of **belonging** is split in two. Migrant groups cannot live separately from the new laws, customs and language of their adopted country, but neither can they forget the elements of their original culture and identity. Australia's well-established tradition of acceptance and diversity makes balancing these identities easier for new migrants. As they celebrate their existing identity, migrant groups also reinforce Australia's multicultural identity. This helps new migrants to feel a sense of belonging to both their old and new communities.

As well as feeling emotionally connected to their old and new countries, migrants can officially be part of both countries through dual citizenship, which is offered in Australia among many other countries. Holders of dual citizenship have legal and moral responsibilities in both countries. These responsibilities include voting in elections. For example, a person who lives in Australia can be both a citizen of Australia and Greece. This person is required to vote in both Australian and Greek elections.

The federal government does not have statistics regarding the number of dual citizens, although it estimates the figure to be around 4 million Australians. Dual citizenship is another way in which people can maintain a sense of belonging to two separate nations and cultures.

FIGURE 2 Migrants must balance two cultures: their own and that of their adopted country.



2.4 ACTIVITY

The best way to learn about the challenges faced by Australian migrants is to read and listen to their experiences. Many fascinating stories from a diverse range of migrants can be found online. Read articles and watch video clips to get a more complete understanding of the challenges migrants have faced. Have a pen and paper handy while looking at this material to note down any information you find interesting or any areas you want to investigate further.

[Intercultural Capability]

2.4 EXERCISES

Civics and Citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

2.4 Exercise 1: Check your understanding

1. **CS1** What is a migrant?
2. **CS1** What is dual citizenship?
3. **CS2** How can dual citizenship influence a person's sense of national identity?
4. **CS2** Why is it important for people to feel a sense of belonging to their country?
5. **CS1** What general responsibilities do citizens of a country have?

2.4 Exercise 2: Apply your understanding

1. **CS5** 'New migrants should abandon their existing national identity and adopt that of their new country.' Do you agree or disagree with this statement? Why?
2. **CS6** Do you believe all people, regardless of the reason, should be allowed to migrate to Australia? Justify your answer.
3. **CS5** Imagine you had migrated to Australia from another country and had dual citizenship. If you were forced to renounce your citizenship of one country, which one might you choose? List some of the factors you would have to consider for both sides.
4. **CS2** What are the main reasons why people migrate to Australia?
5. **CS6** What advice would you give to new Australian migrants?

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

2.5 SkillBuilder: Delivering an oral presentation

online only

What is an oral presentation?

An oral presentation involves giving a speech and using visual aids to deliver material on a particular subject to an audience.

Select your learnON format to access:

- an explanation of the skill (Tell me)
- a step-by-step process to develop the skill, with an example (Show me)
- an activity to allow you to practise the skill (Let me do it).



2.6 Religion in Australia

2.6.1 Religious influences in Australia

The place of religion in Australian society is complex. Our country is secular and by law, there is a distinction between religion and government. No government is allowed to actively promote a particular religion over another. Yet, the influence of religion in Australian society is significant. Religion has had, and continues to have, an influence on our culture, traditions and values.

FIGURE 1 Aboriginal rock paintings for the *Lightning Brothers*, who are gods sacred to the Wardaman people near Katherine, Northern Territory



Since European settlement of Australia, Christianity has been the dominant religion of our country. Before this time, Indigenous Australian peoples worshipped various deities and had a deep spiritual connection to the natural world through their teachings from the Dreaming. As the European influence over Australia spread, so too did that of religion. In this subtopic, we will take a closer look at religion in Australia and how religious observance influences Australian various aspects of our society and culture.

2.6.2 Origins of Christianity in Australia

Unfortunately for historians, convict records did not document their religion. The information we do have about the religious **affiliations** of convicts and colonial Australians comes mainly from secondary sources. Despite this limitation, we can still use the information we have to discuss the origins of Judeo-Christian religion in Australia.

The vast majority of convicts and official members of the First Fleet identified themselves as Christian. Specifically, they were Anglican and therefore aligned with the Church of England. So strong was their connection to the Church that all public servants swore an oath to follow its **doctrines**. There was also a small number of Irish-Catholic convicts on the First Fleet and this **denomination** provided the main alternative to the Church of England. The popularity of Catholicism increased as **transportation** to the colonies continued. The First Fleet also contained **practitioners** of other religions such as Judaism.

FIGURE 2 St James' Church, Sydney (1856), was an Anglican Church built with convict labour.

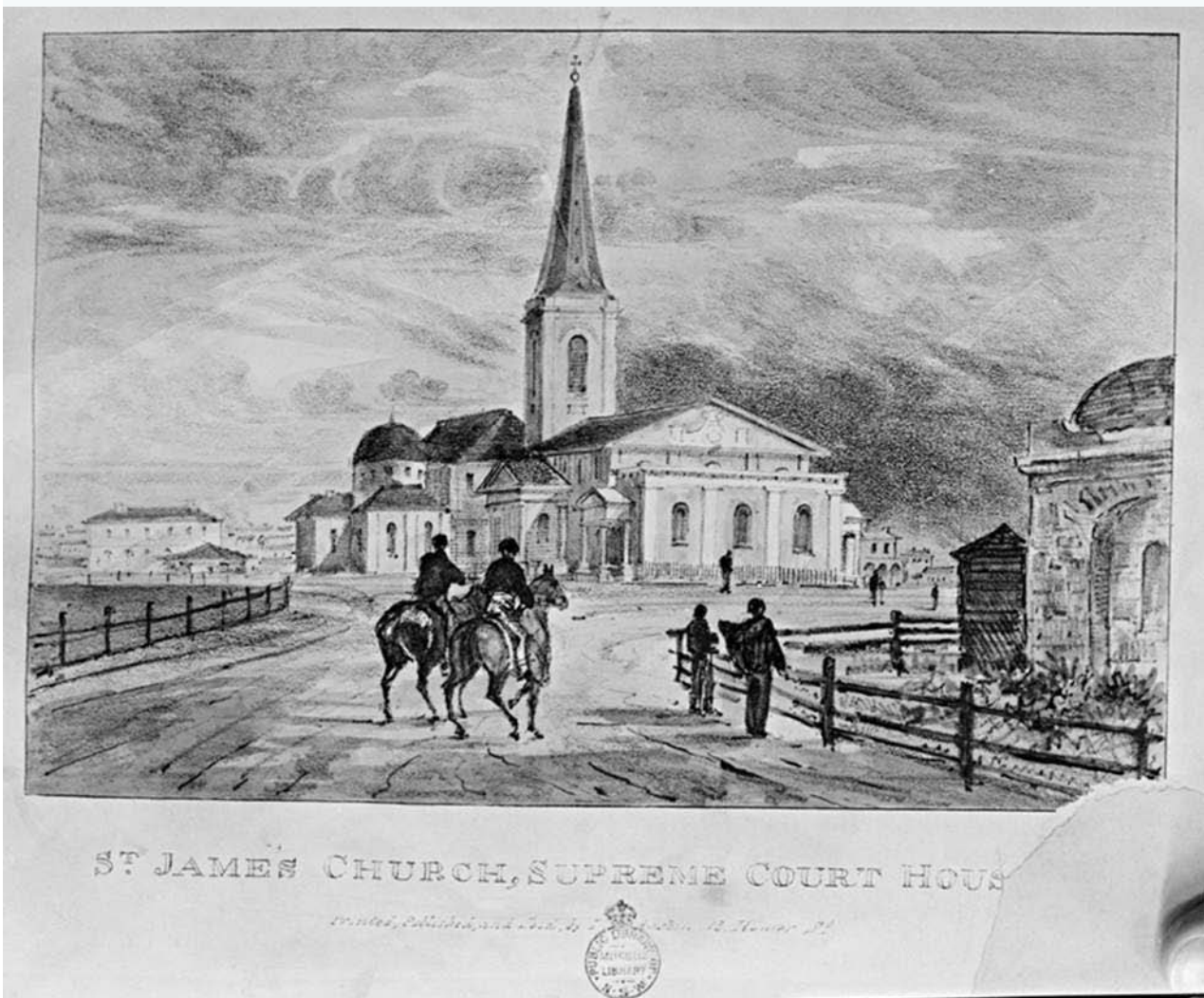
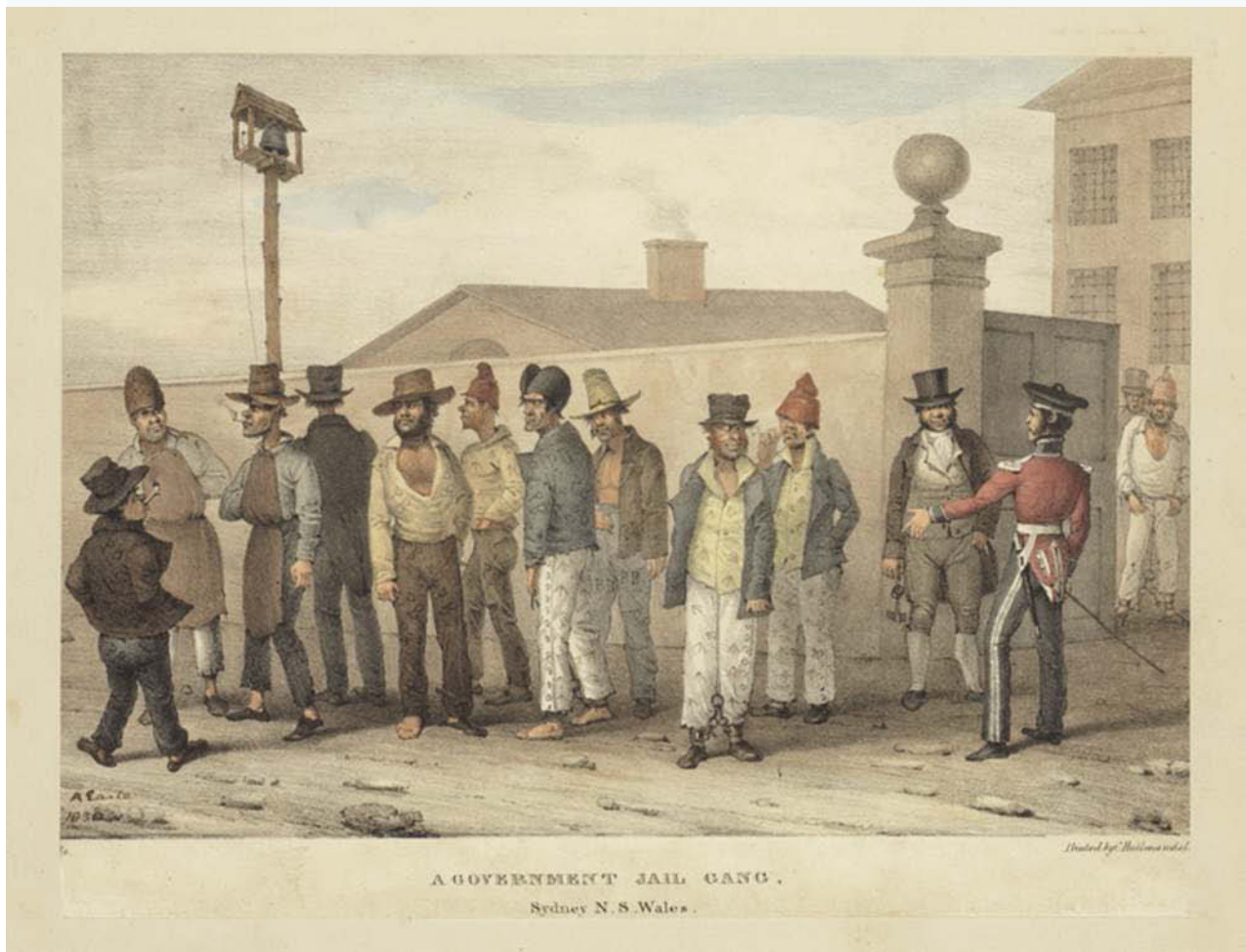


FIGURE 3 *A government jail gang* (1830), by Augustus Earle. The vast majority of convicts were Christian.



2.6.3 Immigration and religion

Many changes in Australian society and culture can be linked to immigration patterns. These may be superficial changes such as the rise in popularity of a particular cuisine, or they can be more meaningful such as the rise in popularity of a religion. Throughout Australia's immigration history, new migrants have brought with them the culture and religion of their homelands.

The intertwined relationship between immigration and religion can be seen throughout Australia's history. Since the first European occupation in 1788, new migrant groups have influenced religious observance in Australia. As we have already learned, Christianity and its many denominations were first introduced to Australia by convicts and colonial settlers. Today, 52.1 per cent of Australians identify as being Christian.

FIGURE 4 The *Hougoumont* was the last convict ship to land in Australia.



The introduction of other religions to Australia has followed various immigration trends, which we will now examine.

Judaism

Together with Christianity, Judaism was one of the first religions practised in colonial Australia. Approximately 8 to 16 convicts on the First Fleet were Jewish, and the first Jewish free settlers arrived in the early nineteenth century. The number of Jewish immigrants continued to increase, with the majority initially coming from Britain and later from Germany. In 1844, the first Australian synagogue was built in Sydney (see **FIGURE 5**), with places of worship in Hobart, Melbourne and Adelaide soon to follow. As with many migrant groups, the Jewish population in Australia increased during the gold rush. However, the biggest period of Jewish immigration occurred during and directly after World War II. Australia was one of the main destinations for Jews fleeing the atrocities of Nazi Germany. In fact, outside of Israel, Melbourne has the largest per capita population of **Holocaust** survivors in the world. Today, Australian Jewish communities are small yet vibrant; 0.4 per cent of all Australians identify themselves as Jewish.

FIGURE 5 The first synagogue in Australia, York Street, New South Wales (1844). It is shown in the far left of the painting.



Buddhism

The first Buddhists in Australia were Chinese immigrants who arrived during the gold rush. Although many of these people returned home after the mines were exhausted, some remained in Australia and continued to actively practise Buddhism. A second wave of early Buddhist immigration occurred in the 1870s with Sri Lankan nationals arriving to work in the sugar plantations of northern Queensland. Permanent Buddhist communities were established during this time, but it was not until nearly a hundred years later that the popularity of Buddhism began to explode. From the 1970s, Australia witnessed huge increases in Asian immigration and many of these new immigrants followed Buddhism. In contemporary Australia, Buddhism is our country's fastest-growing religion with 2.4 per cent of Australians practising this religion.

FIGURE 6 The Nan Tien Temple in Wollongong, New South Wales



Islam

It is likely that Australia has been known to the Islamic world for hundreds of years. There is evidence to suggest that Islamic scholars knew about Australia as early as 820 CE! We know for certain that Indigenous Australian peoples traded with the Macassans (from what is now Indonesia) who had converted to Islam in the seventeenth century. While there are records of a small number of Islamic convicts, the main period of Islamic immigration occurred with the arrival of the Afghan cameleers in the 1860s. With their expert knowledge of desert conditions, the cameleers were heavily involved in major construction projects across rural Australia. Despite its

early success, Muslim immigration was severely restricted by the **White Australia** policy of the twentieth century. Since the official removal of this policy in 1973, Muslim immigration and the practice of Islam have steadily increased in Australia. Today, approximately 2.6 per cent of Australia's population is Muslim.

FIGURE 7 A camel being lifted off a boat in Port Augusta, South Australia, in 1920



Hinduism

Hinduism is the oldest major religion in the world and has been practised for more than 5000 years. Hinduism in Australia, however, only began in the mid-nineteenth century. Although there is evidence of Hindu crews trading with the First Fleet, the first major period of Hindu immigration occurred well after the Australian colony was established. Hindu immigrants undertook several roles in early Australian society — as labourers, camel drivers, domestic staff and merchants. By 1911, there were over 1000 people in Australia who were affiliated with the Hindu faith. However, as with Islam, the growth of Hinduism in Australia was stalled by the White Australia policy. Today, Hinduism is a popular religion especially among Indian, Sri Lanka, Fijian and South African immigrants. According to the 2016 Australian census, Hindu practitioners accounted for 1.9 per cent of the population.

Atheism

Religion is not a significant part of life for all Australians. An atheist is someone who does not believe in the existence of god and, therefore, believes there is no need for religion. Approximately 30.1 per cent of Australians describe themselves as being atheists or as having no religion. It is interesting to note that this figure has nearly doubled since the last Australian census in 2011. This suggests that for many Australians, the importance of religion in everyday life is changing.

2.6 EXERCISES

Civics and Citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

2.6 Exercise 1: Check your understanding

1. **CS1** Before European settlement, what religion did Indigenous Australians follow?
2. **CS1** We know a lot about each individual convict from records that were kept. What piece of relevant information was not recorded?
3. **CS1** When did the largest period of Jewish immigration take place?

4. **CS1** There were two early waves of Buddhist immigration. During the first, Chinese migrants came to seek their fortune in the goldfields. Where did Sri Lankan Buddhists work upon their arrival?
5. **CS2** How has the percentage of people who identify as atheist changed over time?

2.6 Exercise 2: Apply your understanding

1. **CS2** Explain how the White Australia policy influenced the expansion of Islam and Hinduism in Australia.
2. **CS5** In this subtopic you will find the percentage of Australians who follow the religion being discussed. (For example, 2.6 per cent of Australians identify as being Muslim.) Use these percentages to create a graph of your choice showing the main religions followed by Australians today.
3. **CS5** The number of Australians who call themselves atheists is increasing. Why do you think this is occurring?
4. **CS5** Should there be any restrictions placed on the practice of religions in Australia? Explain your answer.
5. **CS5** Using the information in this subtopic, predict which religions will have the largest followings in 50 years' time. Justify your prediction.

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

2.7 The influence of religion on Australian society

2.7.1 Religious values

According to our **Constitution**, Australia is a secular country. This means that our governments are not allowed to officially promote religious observance or affiliations. Despite this, religion has had (and continues to have) a major influence on Australian people and culture. Unfortunately, this influence has not always been positive. In this section, we will investigate the influence of Christian traditions, and religions in general, on our society.

Values and religion can play a similar role in society. Both provide a set of moral and ethical guidelines for people to follow. It is therefore not surprising that strong links exist between Australia's Christian traditions and our shared values. The value of **compassion** is just one example of this relationship. Judaism and Christianity both contain strong references to compassion. For Jews, the 'thirteen attributes of compassion' are the ways in which God controls the world. According to Christianity, Jesus Christ was 'the father of compassion' and lived his life by demonstrating this value. Understanding the religious origins of compassion allows us to see how Judeo-Christian traditions have influenced modern Australian society.

2.7.2 Religion and the law

Religion and Australian law have always been closely linked according to former High Court Judge Michael Kirby. He argues that 'our law . . . was influenced by notions which were shared by Christian churches and belief' (interview on ABC Radio, 16 May 2012). Although there are no direct references to Christianity or its religious customs in Australian law, our legal system has been shaped by Christian values. For example, our criminal law forbids murder and theft, crimes that are condemned in the Ten Commandments. Australia's legal system attempts to provide all its citizens with fair and equal access to human rights. Caring for people in this way is also an element of the Christian tradition. More recently and controversially, these traditions have influenced the debate surrounding same-sex marriage. Although there is no official reference to Christianity in the documentation of the Australian Liberal Party, the party remained opposed to same-sex marriage until it was finally legalised in 2018. This is further evidence of the power that Australia's religious traditions can have over our laws.

2.7.3 Religion in daily life

Australia's Christian traditions are represented in many elements of daily life. One of the best examples of these influences can be seen in the opening hours of shops and businesses. It was not too long ago that Sunday trading was completely banned in Australia. As Sunday was the traditional day of rest for Christians, most businesses were not officially allowed to open. Only relatively recently has the ban on Sunday trading been lifted in most Australian states and territories. Tight restrictions, however, remain in place for religious public holidays such as Good Friday, Easter Monday and Christmas Day. The way in which these holidays are celebrated also shows the influence of religion on Australian society. Christmas decorations begin appearing in supermarkets and shopping centres as early as October. As soon as Christmas is over, these are replaced by Easter eggs and hot cross buns. These cultural items are further evidence of how religious traditions influence Australian life.

2.7.4 In the name of religion

It is an unfortunate truth that Australia's Christian traditions are also responsible for some darker moments in our history. In 1837, the British Parliament launched an inquiry into the treatment of Indigenous Australian peoples in the colonies. The result of this inquiry was the establishment of 'protectors' whose role it was to manage the welfare of Aboriginal people and communities. These protectors were usually Christian missionaries who attempted to 'civilise' Indigenous culture. This was done directly by introducing religious education or indirectly by imposing European ways of life. Though the intentions of these missionaries may have been good, their actions proved otherwise. Christian missionaries were responsible for separating many Indigenous people from their land, culture and families. This example illustrates how the impacts of Australia's Christian traditions have not always been positive.

FIGURE 1 Some shops and businesses still close on Sundays, a tradition that originates from the Jewish observance of the Sabbath on the seventh day of the week. Christian religions adopted this concept, but Sunday rather than Saturday became their day of rest and worship.



DISCUSS

The influence of Australia's Judeo-Christian tradition is still present in many aspects of our society today. For example, it can be seen in our legal system, trading hours and religious public holidays such as Christmas Day. Discuss how these traditions or cultural practices influence your life. Has the influence of any of these traditions changed over time?

[Intercultural Capability]

2.7 EXERCISES

Civics and Citizenship skills key: CS1 Remembering and understanding CS2 Describing and explaining CS3 Examining, analysing, interpreting CS4 Questioning and evaluating CS5 Reasoning, creating, proposing CS6 Communicating, reflecting

2.7 Exercise 1: Check your understanding

1. CS1 How are religion and values similar?
2. CS2 Describe how Judeo-Christian traditions have influenced the Australian legal system.

3. **CS1** Why is Sunday trading only a recent addition to Australian life?
4. **CS2** 'Australia is a secular country.' Explain what is meant by this statement.
5. **CS1** What was the intention of Christian missionaries who were active in nineteenth-century Australia?

2.7 Exercise 2: Apply your understanding

1. **CS5** What if our Constitution did not protect our right to freedom of religion? Do you think this would have a good or bad effect? Explain your answer in detail.
2. **CS5** Do you think that the government should be secular? Provide a justification for your point of view.
3. **CS5** Identify and explain two positive impacts that religion has had on Australian society.
4. **CS5** There are several restrictions placed on business on religious holidays such as Easter. Since not everyone in Australia observes these holidays, do you think these restrictions are fair? Why or why not?
5. **CS2** How are religious freedoms protected by the law?

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

2.8 SkillBuilder: Deconstruct/reconstruct method

online only

What is the deconstruct/reconstruct method?

The deconstruct/reconstruct method allows you to read information and then use it appropriately in your own work without plagiarising.

Select your learnON format to access:

- an explanation of the skill (Tell me)
- a step-by-step process to develop the skill, with an example (Show me)
- an activity to allow you to practise the skill (Let me do it).



2.9 Thinking Big research project: My family's identity

online only

SCENARIO

Your task is to research your family's migration history. By developing interview questions and then conducting an interview with an older family member, you will gain a better understanding of your family's heritage and what their identity means to them and to your family.

Select your learnON format to access:

- the full project scenario
- details of the project task
- resources to guide your project work
- an assessment rubric.





2.10 Review

online only

2.10.1 Key knowledge summary

Use this dot point summary to review the content covered in this topic.

2.10.2 Reflection

Reflect on your learning using the activities and resources provided.



eWorkbook Reflection (doc-31362)
Crossword (doc-31363)



Interactivity Influences on Australian society and national identity crossword (int-7604)

KEY TERMS

- affiliations** close connections with a group or organisation
- belonging** the feeling of being part of a group or community with shared values
- constitution** a set of rules that determines the structure of government and its law-making powers
- compassion** feeling empathy towards someone in a less fortunate position
- doctrine** a collective teaching
- denomination** a separate branch of a religion. For example, Catholicism is a denomination of Christianity.
- eurocentric** a point of view that has a strong European focus
- federation** the process through which the six separate Australian colonies formed to join one united nation
- foreign policy** decisions made by governments concerning their relationships with other nations
- Holocaust** the destruction or loss of life on a large scale, usually referring to the death of 6 million Jews in Europe during World War II
- land rights** the rights of people (in this case Indigenous groups) to own the land their ancestors have lived on for generations
- migrants** people who leave one country to reside in another
- practitioner** in a religious sense, someone who actively participates in a religion
- reconciliation** the process of restoring and encouraging respect for Indigenous culture and identity
- referendum** a process of allowing the people to vote on an important issue, such as a proposed change to the Constitution
- terra nullius** 'land belonging to no-one'
- transportation** the process of sending convicts to a penal colony
- White Australia** an immigration policy discriminating against non-white people which existed for much of the twentieth century

2.5 SkillBuilder: Delivering an oral presentation

2.5.1 Tell me

A successful oral presentation starts before a single word has been spoken:

- *Preparation.* You must research and plan your speech properly. Being organised and prepared will give you confidence in yourself and in your subject material.
- *Proper use of visual aids.* Are you going to use PowerPoint, Keynote or any other visual aids? If so, you need to consider how to use these tools properly. Avoid overloading your audience with a cluttered combination of visual and audio information.
- *Delivery.* The final key to a successful presentation is the delivery. Sustained eye contact and a confident, well-projected voice will help you deliver your intended message.

FIGURE 1 Preparation and delivery are key elements of a successful presentation.



2.5.2 Show me

How to give an oral presentation

Preparation

The following table will help you plan the elements of your presentation:

| | |
|-------------------------|---|
| Purpose of presentation | To explain how to deliver successful oral presentations |
| Key message | That through proper practice and planning, students can overcome their potential fear of public speaking |
| Secondary message | Explain the elements of successful oral presentations: <ul style="list-style-type: none">• preparation — research and planning• proper use of visual aids• delivery — sustained eye contact and confident delivery of the speech. |

Proper use of visual aids

Visual information can add to your presentation. However, if used incorrectly, it can decrease the effectiveness and clarity of your message. Make sure that any visual aids serve a clear purpose. Do not commit any of the mistakes shown in the **How not to use PowerPoint** weblink in the Resources tab.

Delivery

The effectiveness of your speech often relates to the connection you make to your audience. Eye contact and a confident delivery of your speech are two ways to boost this connection. Sustained eye contact requires more than simply looking up from your notes every now and then. You need to make and hold eye contact with members of your audience. This will only be possible if you have practised your speech often and know the content extremely well. Sustained eye contact will also improve your delivery of the speech itself. Remember not to rush your speech, and be sure to explain your points clearly and carefully.

FIGURE 2 Speaking in public can be daunting, but try to connect with your audience even if you are feeling nervous.



on Resources

 **Weblink** How not to use PowerPoint

2.5.3 Let me do it

Complete the following activity to practise this skill.

2.5 ACTIVITY

You have just learned about the skills required to successfully deliver an oral presentation. Now it is time to put these skills into action by investigating the national identity of a nearby Asian country. Working either individually or in pairs, you will need to deliver a five-minute oral presentation in which you discuss your chosen country and how its national identity is displayed.

Draw up a table (similar to **TABLE 1**) to help you prepare and plan your speech. Then use the procedure discussed in this SkillBuilder to ensure that your presentation is successful.

2.8 SkillBuilder: Deconstruct/reconstruct method

2.8.1 Tell me

Go on, admit it. At some stage in your school life, you've copied someone else's work. (Or if you haven't, you probably know someone who has.) Maybe it was just the answer to one question in a Science class, or perhaps it was part of a History assignment. Copying another person's work without acknowledging the author is plagiarism, whether it is copied from the student sitting next to you in class or from the article you found on the internet. For many students, the act of plagiarism occurs simply because they do not know how to read information and then use it appropriately in their own work. The deconstruct/reconstruct method teaches you how to do this.

2.8.2 Show me

The deconstruct/reconstruct method is a way to use existing information to create original work. This academic technique helps you better understand information and allows you to organise your thoughts more clearly. By implementing this strategy, you will create unique pieces of writing that still have the same meaning as the articles and books you have read in your research.

There are three steps to the deconstruct/reconstruct method.

Step 1: Read

Make sure you read the entire source from start to end. There is no need to highlight or take notes during this stage. You want to simply read and take in the meaning of the author's work.

Step 2: Re-read

The more times you watch a movie, the better you can see the elements that the director wants you to see. Similarly, the more times you read a source, the better you can see the elements that the author wants you to see. When re-reading a source, you should use a table like the one shown below to help you collect information and organise your own thoughts. In the 'Quotes/facts' column, write only factual or statistical information. The 'Notes' section is for any ideas and questions that you might have after reading the quote. You can write this section in dot points or full sentences — whatever makes sense to you. You do not necessarily need to comment on each quote or fact you record; similarly, you may write notes that do not relate to a specific quote. Completing this section is crucial as these notes will form the basis of your writing.

| Quotes/facts | Notes |
|---|---|
| <ul style="list-style-type: none">• Factual information• Direct quotes from authors or other people• Statistics | <ul style="list-style-type: none">• Ideas and questions you might think of while reading the source• Dot points and/or whole sentences |

Let us use one of the paragraphs from this topic to practise the deconstruct/reconstruct method:

Hinduism is the oldest major religion in the world and has been practised for more than 5000 years. Hinduism in Australia, however, only began in the mid-nineteenth century. Although there is evidence of Hindu crews trading with the First Fleet, the first major period of Hindu immigration occurred well after the establishment of the Australian colonies. Hindu immigrants undertook several roles in early Australian

FIGURE 1 Copying someone else's work without acknowledging the author is plagiarism.



society — as labourers, camel drivers, domestic staff and merchants. By 1911, there were over 1000 people in Australia who were affiliated with the Hindu faith. However, as with Islam, the growth of Hinduism in Australia was negatively affected by the White Australia policy. Today, Hinduism is a popular religion especially among Indian, Sri Lanka, Fijian and South African immigrants. According to the 2016 Australian census, Hindu practitioners accounted for 1.9 per cent of the population.

This is what your table could look like:

| Quotes | Notes |
|---|--|
| <ul style="list-style-type: none"> Hinduism is 5000 years old. It began in Australia in the middle of the nineteenth century. | <ul style="list-style-type: none"> Hinduism was the world's first religion. Where did Hinduism begin? How old are the other religions mentioned in this section? |
| <ul style="list-style-type: none"> By 1911, there were over 1000 Hindus in Australia. | <ul style="list-style-type: none"> Australia had only a small Hindu population at the start of the twentieth century. Which state had the biggest population? Did they feel isolated in this small community? |
| <ul style="list-style-type: none"> Hindu immigrants undertook several roles in early Australian society. | <ul style="list-style-type: none"> Hindu immigrants had a number of different jobs in colonial Australia, many based on the environmental conditions of their home countries. |
| <ul style="list-style-type: none"> In 2016, 1.9 per cent of all Australians practised Hinduism. | <ul style="list-style-type: none"> How many people is this in total numbers? What factors have helped Hinduism grow so much in recent years? How does this growth rate compare to other religions? |

Step 3: Write

Put away the book, close the website page and rewrite what you have just read. The best way to do this is by using only the table that you created in step 2. The notes column should contain your own interpretation of what the author has said, and the quotes/facts column will provide the evidence you need to support your arguments and assumptions.

Once you have completed the table, you can use the information to create your original piece of writing. The paragraph below has been written using the information summarised in the practice table. Extra research has also been completed to answer some of the questions written in the notes column.

Some of the world's religions have been around for 5000 years. One of these long-standing religions is Hinduism. Although Hinduism is such an old religion, it began in Australia only during the mid-nineteenth century. Historically, Hindu communities have been small in size, with only about 1000 Australians identifying themselves as Hindu in 1911. Hindu immigrants had a number of different jobs in colonial Australia, many based on the environmental conditions of their home countries. At the most recent Australian census (2016), the total of Hindu practitioners was 440 300. This figure shows how much the religion has developed in Australia.

As you can see, the meaning of the paragraph created by the deconstruct/reconstruct method and the one upon which it is based is exactly the same. Both paragraphs discuss the early history of Hinduism in Australia, and both paragraphs use similar statistical information to support this discussion. However, because the deconstruct/reconstruct method has been used, the written text itself is completely different. The author has synthesised information and created an original piece of writing.

2.8.3 Let me do it

Complete the following activity to practise this skill.

2.8 ACTIVITY

Now that you have seen how the deconstruct/reconstruct method works, the time has come for you to practise this new skill. Choose any paragraph from this resource and apply the three steps of the process. Remember to set up the 'quotes and notes' table to help you record your own thoughts as well as any important information.

2.9 Thinking Big research project: My family's identity

Scenario

Modern Australia is characterised by multicultural composition of our population. According to the Australian Bureau of Statistics, our nation is now home to people from over 190 countries and 300 different ancestries. Migrants from other countries enrich Australian society by sharing their customs, traditions and beliefs. Australian identity is a complex combination of existing cultural practices and these new ways of life. In this way, migration is arguably the single most significant factor in the formation of the Australian nation and identity.



Task

Your task is to research your family's migration history. Unless your family has Aboriginal or Torres Strait Islander heritage, all Australians have been migrants to this country at some stage of their history (*Note: if you do have Aboriginal or Torres Strait Islander heritage, you will still be able to complete this project*). By developing interview questions and then conducting an interview with an older family member, you will gain a better understanding of your family's heritage and what their identity means to them and to your family.

Follow the steps detailed in the **Process** section to complete this task.



Process


- Open the ProjectsPLUS application for this topic. Click the **Start new project** button to enter the project due date and set up your project. Save your settings and the project will be launched.
- Navigate to the **Research forum**, where you will find starter topics loaded to guide your research. You can add further topics to the Research forum if you wish. When you have completed your research, you can print out the **Research report** in the Research forum to easily view all the information you have gathered.
- Your first step is to develop your interview questions. The best way to write an interview question is to think carefully about what it is that you want to discover. A basic list of questions could include:
 - Where does our family come from
 - Who were the first people in our family to migrate to Australia (and why did they come)?
 - When did our family arrive in Australia and how did they get here?
 - What was life like when you (they) first arrived in Australia?
 - How did you (they) demonstrate their identity then and how do you (they) demonstrate your identity now?You can also add your own questions to this list.

Note: If your family does have Aboriginal and Torres Strait Islander heritage, then your interview could focus more on your own added questions.
- Once you have written your questions, organise a time to conduct your interview (this will have to be after school one day or on a weekend).
- Conduct your interview. Make sure you either record your interview or write comprehensive notes during the interview.

- Once you have completed your interview, you will need to present your findings to the class. The format you choose for this presentation is up to you. You can create a poster, Google Slide/PowerPoint or another form of multimedia presentation. Your presentation should provide a summary of your interview and should focus on the topic of Australian identity.
- As well as presenting the findings of your interview to the class, you will also need to submit your interview questions and notes to your teacher for feedback and assessment.



on Resources

 **ProjectsPLUS** My family's identity (pro-0177)

2.10 Review

2.10.1 Key knowledge summary

2.2 Traditional and changing views of Australian identity

- The diversity of Australian identity can be used to unify communities and create a sense of belonging.
- Religious traditions have influenced the society in which we live.

2.3 Indigenous influences on Australian national identity

- Proper understanding and respect for the culture and traditions of Indigenous Australians are important parts of modern Australian society.
- There is ongoing debate about the appropriateness of celebrating Australia's official national day on January 26, the anniversary of European settlement.

2.4 Belonging to a new country – migrant experiences

- Immigration has profoundly influenced the religious beliefs practised in Australia. Judaism, Buddhism, Islam, Hinduism and atheism are all practised in modern Australia.

2.6 Religion in Australia

- Australian society has been shaped by Christian traditions.

2.7 The influence of religion on Australian society

- Although section 116 of our Constitution prohibits the government from promoting or prohibiting religious activity, religious beliefs have shaped our laws and continue to do so.
- Religion in Australia continues to evolve and reflects demographic changes in Australian society.

2.10.2 Reflection

Complete the following to reflect on your learning.

2.10 ACTIVITIES

Revisit the inquiry question posed in the Overview:

What does Australian society look like to the rest of the world? What events, people and beliefs shape our identity?

1. Now that you have completed this topic, what is your view on the question? Discuss with a partner. Has your learning in this topic changed your view? If so, how?
2. Write a paragraph in response to the inquiry question, outlining your views.



Resources



eWorkbook Reflection (doc-31362)
Crossword (doc-31363)



Interactivity Influences on Australian society and national identity crossword (int-7604)

KEY TERMS

affiliations close connections with a group or organisation

belonging the feeling of being part of a group or community with shared values

constitution a set of rules that determines the structure of government and its law-making powers

compassion feeling empathy towards someone in a less fortunate position

doctrine a set of beliefs held and taught, usually by a religious group or political party

denomination a separate branch of a religion. For example, Catholicism is a denomination of Christianity. ▶

eurocentric a point of view that has a strong European focus

federation the process through which the six separate Australian colonies formed to join one united nation

foreign policy decisions made by governments concerning their relationships with other nations

Holocaust the destruction or loss of life on a large scale, usually referring to the death of 6 million Jews in Europe during World War II

land rights the rights of people (in this case Indigenous groups) to own the land their ancestors have lived on for generations

migrants people who leave one country to reside in another

practitioner in a religious sense, someone who actively participates in a religion

reconciliation the process of restoring and encouraging respect for Indigenous culture and identity

referendum a process of allowing the people to vote on an important issue, such as a proposed change to the Constitution

terra nullius 'land belonging to no-one'

transportation the process of sending convicts to a penal colony

White Australia an immigration policy discriminating against non-white people which existed for much of the twentieth century

GLOSSARY

accused the party in a criminal trial against whom an action has been brought

Act a law passed by Parliament

affiliations close connections with a group or organisation

belonging the feeling of being part of a group or community with shared values

Bill a proposed law that has not yet been agreed to by parliament or received royal assent

breach of contract a situation where a legally binding agreement is not honoured by one or more of the parties to the contract

burden of proof the legal principle describing who has to prove a case in court. In a criminal trial, this burden is on the prosecution.

code of conduct a set of standards of behaviour that all participants are expected to follow

codified refers to laws that have been collected and organised, usually in written form

common law law developed by judges through the decisions of courts

compassion feeling empathy towards someone in a less fortunate position

conscription a process by which people are required to join the armed forces, even if they do not wish to do so

constitution a set of rules that determines the structure of government and its law-making powers

Crown the Queen's authority in the Australian parliament, represented by the Governor-General at the federal level and a Governor at the state level

customary law guidelines for behaviour developed by and for Aboriginal and Torres Strait Islander peoples

defamation unlawful damage to a person's good reputation through written or verbal statements

defendant the party in a civil trial against whom an action has been brought

democracy a form of government in which the people determine how they will be governed

democratic supporting democracy, or the system of government where supreme power is vested in the people and exercised directly by them or by their elected representatives under a free electoral system

denomination a separate branch of a religion. For example, Catholicism is a denomination of Christianity.

doctrine a collective teaching

doctrine a set of beliefs held and taught, usually by a religious group or political party

electorate an area of Australia that elects one member to parliament

eurocentric a point of view that has a strong European focus

federation the process through which the six separate Australian colonies formed to join one united nation

foreign policy decisions made by governments concerning their relationships with other nations

Holocaust the destruction or loss of life on a large scale, usually referring to the death of 6 million Jews in Europe during World War II

homicide the killing of one person by another person

jury in a criminal trial, a randomly selected group of people who decide the guilt or innocence of an accused person

land rights the rights of people (in this case Indigenous groups) to own the land their ancestors have lived on for generations

laws the system of rules that Australia recognises as regulating the actions of its citizens, which it may enforce by the imposition of penalties and sanctions

legislation a law made by Parliament

liable legally responsible for a civil wrong

lobbying a process of approaching members of parliament to argue a case for change in the law

magistrate a court official who hears cases in the lowest court in the legal system

manslaughter the accidental or unintentional killing of one person by another person

migrants people who leave one country to reside in another

negligence a situation where a person breaches a duty to exercise reasonable care to avoid a foreseeable risk, resulting in another person being injured or suffering a risk of injury

nuisance interference with someone's enjoyment of public or private property

Opposition the main political party in the lower house of parliament not in power

plaintiff the person who commences a legal action in civil law

practitioner in a religious sense, someone who actively participates in a religion

precedent a legal principle developed by a court in the process of resolving a dispute

prosecute to take legal action against another person for a criminal offence

reconciliation the process of restoring and encouraging respect for Indigenous culture and identity

referendum a process of allowing the people to vote on an important issue, such as a proposed change to the Constitution

repeal to remove a law so that it no longer applies

right an entitlement to be treated in a particular way. A legal right is a right that can be enforced by law.

standard of proof the level of proof required to establish a case. In criminal law, the prosecution must prove that the accused is guilty beyond reasonable doubt.

statute laws laws made by parliament

terra nullius 'land belonging to no-one'

trade union an organisation of employees formed for mutual support, and to seek improvements in pay and working conditions for its members

transportation the process of sending convicts to a penal colony

trespass a tort (civil wrong) involving direct and intentional interference with a person, or a person's land or goods

White Australia an immigration policy discriminating against non-white people which existed for much of the twentieth century

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Note: Figures and tables are indicated by italic *f* and *t*, respectively, following the page reference.

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