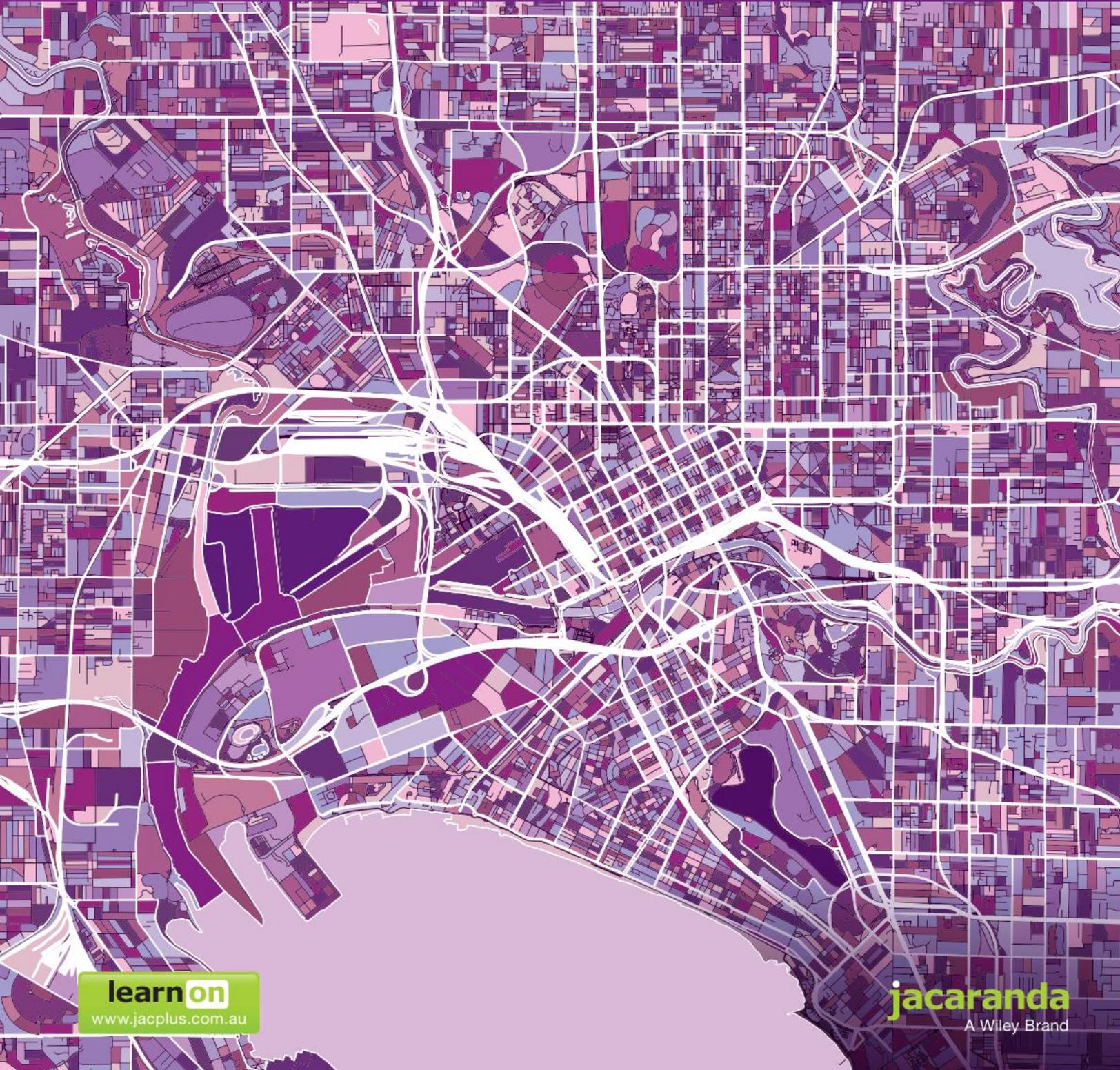


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**CIVICS AND  
CITIZENSHIP ALIVE** **10**  
VICTORIAN CURRICULUM | SECOND EDITION



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VICTORIAN CURRICULUM | SECOND EDITION

SIMON PHELAN

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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.**

### 1 Regional government and global citizenship

#### 1.1 Overview

How does Australia's government compare to its neighbours? Do we have to help them if needed?

**1.1.1 Australia and democracy**

Australia is an important member of the Asia region. Our system of government is similar to those of other Asian democracies such as Japan, India and Indonesia, but there are also some differences. One of the key features of the system of government in Australia is democracy, which means that sovereignty lies with the people. It is the Australian people who determine how they will be governed. Australian democracy has certain values. These include freedom of election and being elected, freedom of assembly and political participation, freedom of speech, freedom of expression, support for parliamentary democracy, freedom of religious belief, support for the rule of law and support for other basic human rights. Governments have a responsibility to keep their constituents safe, to provide them with essential services and to protect their human rights.

In this topic we compare the values associated with the systems of government in Australia with the values associated with other countries in the Asia region. We also investigate the role Australia plays in our region and in the world.

**OnResources**

**eWorkbook** Customisable worksheets for this topic

**Video eLesson** Values of governments in our region (size:2374)

**LEARNING SEQUENCE**

1.1 Overview  
 1.2 Key features of Australia's system of government  
 1.3 Key features of Japan's system of government  
 1.4 Key features of India's system of government  
 1.5 Key features of Indonesia's system of government  
 1.6 Foreign aid from governments and NGOs  
 1.7 Australia and the UN  
 1.8 Keeping the peace  
 1.9 SkillBuilder Conducting an interview  
 1.10 Thinking Big research project Humanitarian aid proposal  
 1.11 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](http://www.jacplus.com.au).

#### The House of Councillors

Again, voters cast two ballots for the House of Councillors: one for an individual candidate in a constituency using single non-transferable votes, and one for a political party or candidate using proportional representation. Of the 242 members of the House of Councillors, 146 members are in 47 prefectural constituencies. The prefectural constituencies differ in size and return between 2 and 10 members. These members are elected by a single non-transferable vote. This means that Japanese citizens cast a ballot for an individual candidate, and the candidate with the largest number of votes in each constituency (up to the number of seats that need to be filled) are elected to office. The remaining 96 members of the House of Councillors are elected on a nationwide basis through proportional representation.

**1.3 ACTIVITIES**

1. Using internet resources, find the names of the people who currently occupy the following positions in Japan.  
 (a) Emperor  
 (b) Prime minister  
**Examining, analysing, interpreting**

2. Using internet resources, answer the following questions.  
 (a) What political party does the Japanese prime minister belong to?  
 (b) Analyse the ways in which voting seats in the lower house and the upper house benefit the Japanese prime minister's party.  
**Examining, analysing, interpreting**

**1.3 EXERCISES**

**Civics and Citizenship skills key:** C81 Remembering and understanding C82 Describing and explaining C83 Examining, analysing, interpreting C84 Questioning and evaluating C85 Reasoning, creating, proposing C86 Communicating, reflecting

**1.3 Exercise 1: Check your understanding**

- C81 When was the Constitution of Japan enacted?
- C81 What is the role of the emperor in Japan?
- C81 Outline the role of the three arms of government in Japan, providing an example of each.
- C81 Who is eligible to vote in Japanese elections?
- C82 Explain how the first past the post system of voting works in Japan.

**1.3 Exercise 2: Apply your understanding**

- C83 Compare and contrast the key features of Japan's system of government with those of Australia by copying and completing the following table.

	Similarities between Japan and Australia	Differences between Japan and Australia
System of government		
Separation of powers		
Elections		

2. C84 Japan is a constitutional monarchy with democratic elections and separation of powers. What changes to Japan's system of government would you recommend? Justify your answer.

3. C85 In what ways are the values of freedom of election and support for parliamentary democracy associated with the system of government in Japan?

4. C86 In your opinion, what might happen if Japan did not have separation of powers?

5. C86 Suggest reasons why Japan's Constitution is based on three principles (sovereignty of the people, respect for fundamental human rights and renunciation of war).

Try these questions in learnON for instant, corrective feedback. Go to [www.jacplus.com.au](http://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. **CSB** Present two arguments for and two arguments against the statement that Australia needs an official bill of rights.
  5. **CSB** Assume Australia was to create a bill of rights. List and justify the five most important rights you believe should be included in such a bill.
- Try these questions in **searchON** for instant, corrective feedback. Go to [www.jacaranda.com.au](http://www.jacaranda.com.au)

## 2.5 SkillBuilder: Using and referencing quotes

**Why is it important to reference quotes?**  
When writing an essay, assignment or report, you need to include evidence to support your arguments. If this evidence takes the form of a quote or includes the use of statistics, then you must show the reader where this information came from. This can be done through the use of a referencing system.

Select your **learnON** format to access:

- an explanation of the skill (let 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 Resolving conflict

### 2.6.1 Mechanisms of dispute resolution

If a dispute is serious enough and breaks federal or state legislation, the opposing parties may eventually end up settling their differences in the court system. This is costly and time consuming for both parties. For these and other reasons, it is often easier to settle disputes outside of court. In Australia, conflict resolution is achieved through four main processes:

- negotiation
- conciliation
- mediation
- arbitration

In this subtopic, we discover more about the mechanisms of conflict resolution in Australian society and how these processes foster social cohesion.

There are many similarities between the strategies used to resolve disputes or conflicts in Australian society. However, there are also distinct differences because each strategy is used for a unique purpose and situation. Each strategy also has its own advantages and disadvantages.

**FIGURE 1** It is usually cheaper and quicker to settle disputes without going to court.



Peacekeepers are instructed to operate using non-violent methods wherever possible. According to the UN Charter, peacekeepers are allowed to use military force only in self-defence or if the essential goal of the mission is under threat (see **FIGURE 2**). Often known as Blue Berets, due to their distinctive blue hats and helmets, UN peacekeepers can include soldiers of national armies as well as police officers and political staff. Australia has sent 65 000 personnel to various UN peacekeeping missions. Australian doctors, engineers, diplomats, and military servicemen and women have all played their part in the establishment and maintenance of peace in countries around the world.

**FIGURE 2** Principles of UN peacekeeping: non-use of force except in self-defence and defence of the mandate

A UN peacekeeping operation should only use force as a measure of last resort. It should always be calibrated in a precise, proportional and appropriate manner, within the principle of the minimum force necessary to achieve the desired effect, while sustaining consent for the mission and its mandate. The use of force by a UN peacekeeping operation always has political implications and can often give rise to unforeseen circumstances. Judgments concerning its use need to be made at the appropriate level within a mission, based on a combination of factors including mission capability; public perceptions; humanitarian impact; force protection; safety and security of personnel; and, most importantly, the effect that such action will have on national and local consent for the mission.

Source: United Nations.

### DISCUSS

Australia and other affluent countries have a responsibility to assist countries that are much less well off. What do you think are the most important global issues facing the world today: child slavery, war, child marriage, violence against women, poverty, lack of education and employment opportunities, or other? Choose the one issue that you think is the most important to address, explain why and give some suggestions as to how Australia can help. Are there any global problems that Australia should not get involved in? Why?

(Intercultural Capability, Ethical Capability)

### 1.8.2 Australian peacekeeping missions

Australians have been involved in UN military observations since 1947, a year before the first official peacekeeping mission. Although civilian personnel have contributed to peacekeeping missions, military and police officers have traditionally played a more significant role. Australian peacekeepers have served in several key conflicts around the world including:

- the Indonesian War of Independence (1947)
- the prelude to the Korean War (1953)
- various conflicts in Israel and the Middle East (since 1956)
- the Iran-Iraq War (1988–91)
- the Rwandan Civil War (1993–96)
- the East Timorese independence crisis (1999–2001)
- the Sudanese Civil War (since 2005).

One of the best-known examples of Australian peacekeeping efforts was our involvement in the East Timorese independence crisis. A small country located to Australia's north-west, East Timor has endured a volatile history. Unlike much of the area, which was settled by the Dutch, East Timor was colonised by the Portuguese. In 1975, East Timor became an independent state, although it was soon invaded by neighbouring Indonesia in the same year. The Indonesian rule over East Timor was brutal

**FIGURE 3** An Australian peacekeeper greets an East Timorese child in Dili.



Discuss features explicitly address Curriculum Capabilities.

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

## 1.9 SkillBuilder: Conducting an interview

**What is an interview?**

An interview is a conversation with some sort of purpose between two or more people. Questions will be asked by the interviewer(s) to obtain information, facts or statements from the person(s) being interviewed. Interviews can be conducted face-to-face between two people or in small groups, or by some form of communications technology such as the telephone or internet.

Select your **learnON** format to access:

- an explanation of the skill (let 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 Thinking Big research project: Humanitarian aid proposal

### SCENARIO

Australia is directly involved in humanitarian projects across the world. Your challenge is to decide which project will be most. You will identify a problem or issue, agree on a course of action and plan the project.

Select your **learnON** format to access:

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



### Resources

- **ProjectPLUS** Thinking Big research project: Humanitarian aid proposal (pp. 021)

## 1.11 Review

### 1.11.1 Key knowledge summary

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

### 1.11.2 Reflection

Reflect on your learning using the activities and resources provided.

### Resources

- **WorkBook** Selection (pp. 217–8)
- **WorkBook** Crossword (pp. 217–8)
- **Interactively** Regional government and global citizenship crossword (pp. 019)

### KEY TERMS

- absolute majority** half the number of votes received in an election plus one
- absolute monarchy** a form of government where the monarch (a king, queen or emperor) wields unrestricted political power over his or her sovereign state and its people
- authoritarian** a form of government characterised by absolute obedience to the state, an authority figure or group
- bicameral** a parliament consisting of two legislative houses, or chambers
- ceasefire** a temporary or permanent suspension of fighting
- charter** an official document describing the goals and principles of an organisation
- conflict** describes a country or region whose government has been replaced by one from another country
- constitutional monarchy** a type of government based on a constitution with a queen or king as its head of state
- 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
- election** another name for the government
- federation** the joining of the six Australian colonies to establish the federal and state parliaments
- first-past-the-post** a voting system where a candidate wins by receiving more votes than any other candidate
- formal vote** a ballot paper that has been filled out correctly
- humanitarian** concerned with the welfare of a social group
- infrastructure** the basic physical and organisational structures and facilities (e.g. buildings, roads, power supplies) needed for the operation of a society
- international sanctions** actions or penalties – usually economic but also diplomatic or military – imposed on a country by a group of other countries
- judiciary** the collective name given to the judges who preside over law courts
- multilateral** describes a policy or program that involves three or more countries or parties
- multinational** describes an organisation operating in several countries
- preferential system** a system in which voters are required to number all candidates on the ballot paper in order of preference. If no candidate wins more than 50 per cent of the vote, the preferences are distributed until one candidate has a majority of votes.
- proportional representation** a system where candidates are elected according to the proportion (or quota) of the vote achieved by their party
- republic** a form of government where supreme power is held by the people and their elected representatives rather than by a monarch
- separation of powers** the division of government into the legislature (parliament), executive (ministers and the public service) and judiciary with the aim of providing a system of checks and balances that prevents the excessive concentration of power in one group
- sovereignty** of the people the principle that a government's authority resides with its people through their elected representatives
- uniparliament** a parliament consisting of one legislative house, or chamber
- Westminster system** the democratic parliamentary system based on the British system of parliament

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.



# ACKNOWLEDGEMENTS

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# 1 Regional government and global citizenship

## 1.1 Overview

How does Australia's government compare to its neighbours? Do we have to help them if needed?

### 1.1.1 Australia and democracy

Australia is an important member of the Asia region. Our system of government is similar to those of other Asian democracies such as Japan, India and Indonesia, but there are also some differences. One of the key features of the system of government in Australia is democracy, which means that sovereignty lies with the people. It is the Australian people who determine how they will be governed. Australian democracy has certain values. These include freedom of election and being elected, freedom of assembly and political participation, freedom of speech, freedom of expression, support for parliamentary democracy, freedom of religious belief, support for the rule of law and support for other basic human rights.

Governments have a responsibility to keep their constituents safe, to provide them with essential services and to protect their human rights.

In this topic we compare the values associated with the system of government in Australia with the values associated with other countries in the Asia region. We also investigate the role Australia plays in our region and in the world.

#### Resources

-  **eWorkbook** Customisable worksheets for this topic
-  **Video eLesson** Values of governments in our region (eles-2374)

#### LEARNING SEQUENCE

- 1.1 Overview
- 1.2 Key features of Australia's system of government
- 1.3 Key features of Japan's system of government
- 1.4 Key features of India's system of government
- 1.5 Key features of Indonesia's system of government
- 1.6 Foreign aid from governments and NGOs
- 1.7 Australia and the UN
- 1.8 Keeping the peace
- 1.9 **SkillBuilder:** Conducting an interview
- 1.10 **Thinking Big research project:** Humanitarian aid proposal
- 1.11 **Review**



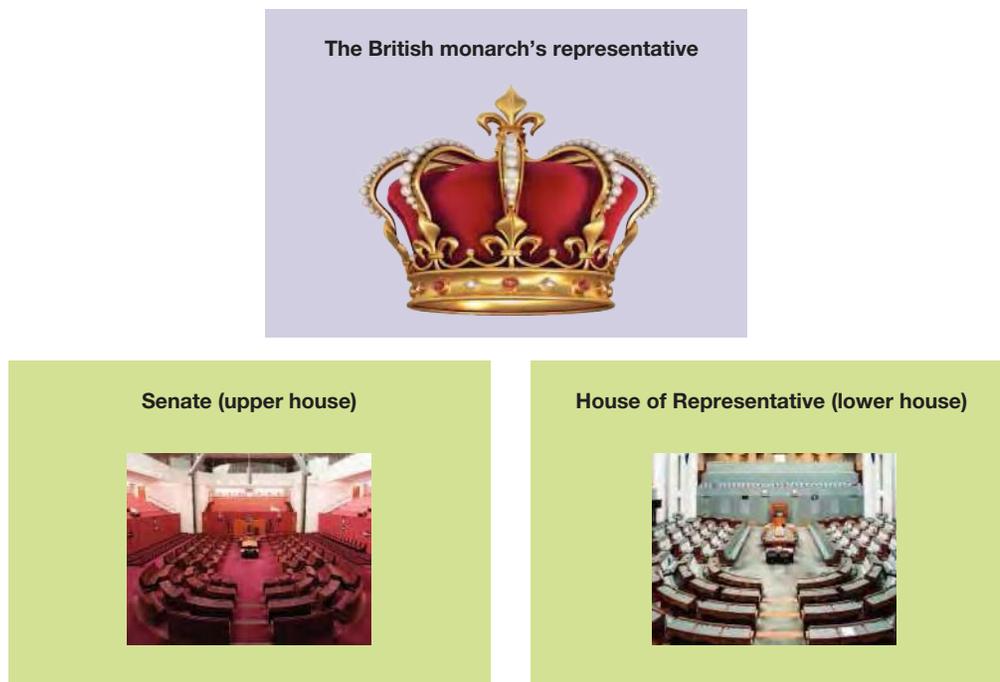
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# 1.2 Key features of Australia's system of government

## 1.2.1 Australia's system of government

Before **federation**, Australia consisted of six colonies: New South Wales, Queensland, South Australia, Tasmania, Victoria and Western Australia. Each colony had its own government and the power to make laws under the control of the British monarch. During the late 1880s and 1890s, there was increasing support for the idea of the six self-governing colonies joining together to become one united nation. The Commonwealth of Australia was formed on 1 January 1901. The colonies — now called states — agreed to keep some of their law-making powers and hand over others to the new Commonwealth Parliament.

**FIGURE 1** Australia's federal parliament consists of the Crown (the reigning British monarch or the monarch's representative, the governor-general), the upper house (the Senate), and the lower house (the House of Representatives).



Australia's system of government is based on the idea of democracy. Australia is an independent country governed by a **constitutional monarchy**, with three levels of government — federal, state and local. The Australian **Constitution**, which came into force on 1 January 1901, defines the powers and authority of the federal and state governments. The *Commonwealth of Australia Constitution Act 1900* is an Act of British Parliament that sets out the framework for the government of Australia. The law-making powers of the Commonwealth Parliament are listed in the Australian Constitution, and there is a division of powers between the Commonwealth and the states. Some law-making powers are passed to local governments.

The political system in Australia is based on Britain's **Westminster system**. This means that the Commonwealth Parliament and all state parliaments except Queensland are **bicameral**: they each have two houses. These bicameral parliaments consist of the **Crown**, a lower house and an upper house. The parliaments of Queensland and the territories are **unicameral**: they each have one house. The reigning British monarch, or Crown, is the head of each parliament. (This is currently Queen Elizabeth II.) The Crown is represented by the governor-general in the Commonwealth Parliament and by a governor in each state parliament. All of Australia's self-governed territories, except the Australian Capital Territory, have administrators.

The people of Australia choose the members of the lower house and the upper house. The members of the winning party or coalition in a federal election choose the Australian prime minister.

**FIGURE 2** Parliament House in Canberra, the home of the Commonwealth Parliament



## 1.2.2 Separation of powers

The governments of democracies like Australia have three arms or branches: legislative, executive and judicial. In Australia, the framework for the operation of government is the Constitution. It provides for the idea of the **separation of powers**. This allows each arm of government to check and balance the powers of the others and thereby maintain a fair and just society.

### The legislative arm

The legislative arm (or legislature) refers to parliament's function to make new laws or to change or remove existing ones. Under the Constitution, parliament is the supreme law-maker. Commonwealth Parliament consists of the House of Representatives (the lower house) and the Senate (the upper house), as well as the Crown (the governor-general as the representative of the British monarch). Any draft law is known as a Bill. To become a law, the Bill must be read, debated and voted on by both houses of parliament and then approved by the governor-general. A law that has been passed by parliament is called legislation, a statute or an Act.

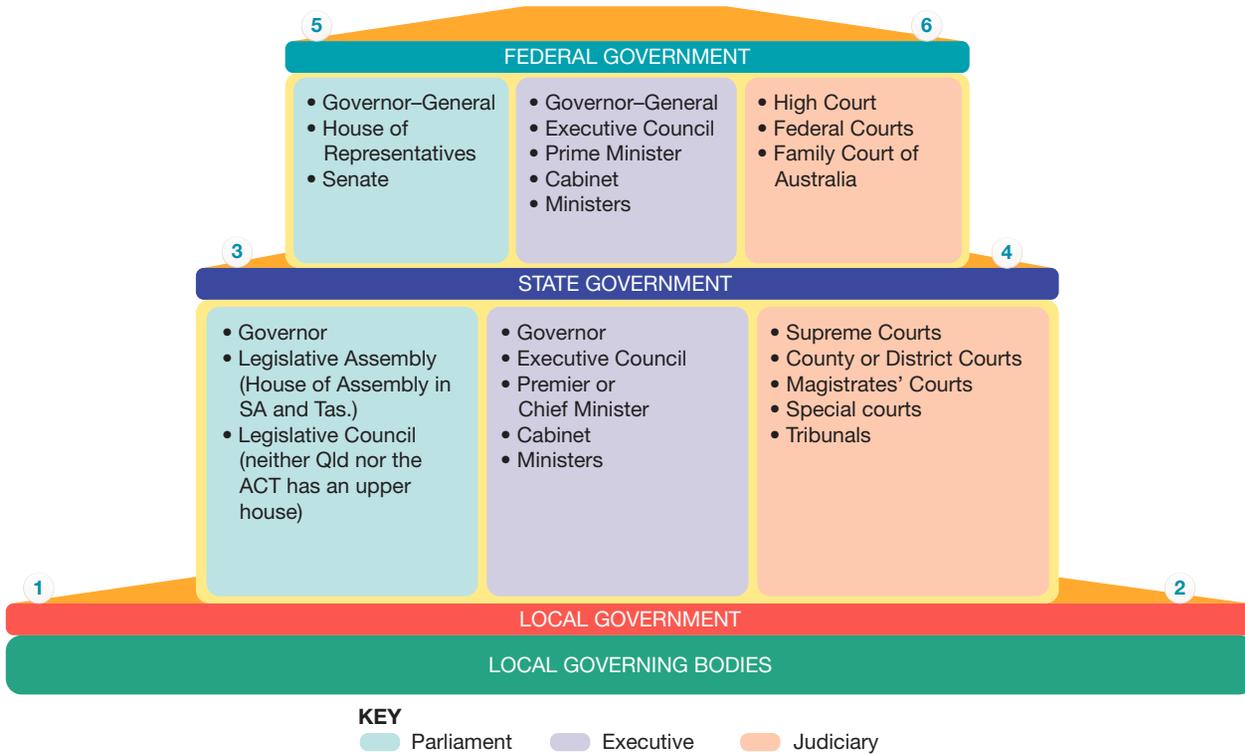
### The executive arm

The **executive** arm administers the legislation passed by parliament. Executive power officially lies with the governor-general or the governor, representing the Crown, but government ministers and the public service actually exercise this power. For example, the Department of Health is an Australian public service department that administers the running of Australia's health system. The head of this department reports to the Minister for Health.

### The judicial arm

The judicial arm (consisting of the **judiciary** and the courts) makes judgements about the law. It is responsible for settling disputes and enforcing the law. The High Court of Australia is responsible for interpreting and applying the Constitution. It ensures that the other arms of government do not act in a way that is outside the powers granted by the Constitution. The judiciary can for example declare that laws passed by Parliament are unconstitutional, or require particular actions if they believe that a branch of government is not performing a constitutional duty.

**FIGURE 3** The division and separation of powers in Australia



**1 Local government**

There are around 900 local government bodies in Australia (usually called councils). Council members are called aldermen or councillors. The head of the council is called a mayor or a shire president. Councils operate under state laws. They make rules, called by-laws, on local issues.

**Local governing bodies**

Local governing bodies service the needs of cities, towns and communities in municipalities and shires.

**2 Local government responsibilities include:**

town planning, streets and bridges, sewerage, water supply, swimming pools, public libraries, education (kindergartens) and rubbish collection.

**3 State government**

Each of Australia's six states and two territories has its own parliament. All parliaments have lower houses. All but Queensland and the two territories have upper houses (legislative councils). The process of government is similar to that of the federal government. However, the head of government is the premier (or chief minister in the territories) and the head of state (who represents the British monarch) is the governor.

**4 State government responsibilities include:**

health (hospitals), police services, tourism, housing, state roads, education (primary and secondary schools) and environmental protection.

**5 Federal government**

There are two houses of federal parliament — an upper house and a lower house.

The prime minister is the head of government. Ministers are appointed to look after particular government portfolios or departments.

The Cabinet, which includes the prime minister and a group of senior ministers, makes the key government decisions.

The Executive Council is chaired by the governor-general, who represents the British monarch as head of state.

**6 Federal government responsibilities include:**

employment, trade, defence, airports, immigration, pensions, taxation, shipping, foreign affairs, health (Medicare) and education (universities, colleges, grants to schools).

## 1.2.3 Elections in Australia

One of the key features of Australia's democratic system of government is that every few years Australians are given the opportunity to choose who they want to represent them in elections. This occurs at all three levels of government:

- The people of Australia vote to elect members into both houses of federal parliament.
- The people of a state or territory vote to elect members into their state or territory parliament.
- The residents or property owners in a local council area are eligible to vote for local council representatives.

Voting in Australian elections is compulsory for all citizens over 18 years of age.

### The House of Representatives

When you vote for the House of Representatives in a federal election, you are given a green ballot paper like the one shown in **FIGURE 4**. You must place a number in the box beside each candidate. You write the number 1 beside the name of the candidate you most prefer. This is your first-preference vote. You write the number 8 (if there are eight candidates) beside the name of the person you least prefer. For your vote to be formal you must place a number, in your preference order, in every box. The voting system for the House of Representatives in Australia is called a **preferential system**.

To win a seat in the House of Representatives, a candidate must get an **absolute majority** — half the number of **formal votes** plus one. Some candidates are lucky; they get an absolute majority with first-preference votes. When no candidate has an absolute majority of first-preference votes, voter preferences are counted.

This system is different from the **first-past-the-post** voting method used in many other countries. Also known as the simple plurality or simple majority system, the first-past-the-post method requires voters to simply mark their preferred candidate. In countries that use this voting system — including Canada, Japan, India, the United Kingdom and the United States — the candidate receiving the largest number of votes (plurality) is elected to office. There is no requirement that the winner of an election should gain an absolute majority of votes. He or she must only gain a plurality.

### The Senate

When you vote for the Senate in a federal election, you are given a white ballot paper like the one shown in **FIGURE 5**. You can vote in one of two ways:

1. Above the line. If you elect to vote above the line, you need to number at least six boxes, from 1 to 6. In the top section of the form, above the line, you need to place a number 1 in the box above the party or group that is your first preference, a number 2 in the box above the party or group that is your second choice, and so on. If you wish, you can continue to number as many boxes above the line as you like, but must fill in at least 1 to 6.
2. Below the line. If you elect to vote below the line, you need to number at least 12 boxes, from 1 to 12. In the section below the line, you need to place a number 1 in the box beside the candidate that is your first preference, the number 2 in the box beside your second choice, and so on. You may continue to place numbers in the order of your choice, but must fill in at least 12 boxes.

**FIGURE 4** Ballot paper for a House of Representatives seat

**BALLOT PAPER**  
**HOUSE OF REPRESENTATIVES**  
**VICTORIA**  
ELECTORAL DIVISION OF  
**MELBOURNE**

**Number the boxes from 1 to 8 in the order of your choice.**

<input type="checkbox"/>	TANNER, Lindsay James AUSTRALIAN LABOR PARTY
<input type="checkbox"/>	KENNY, Zoe SOCIALIST ALLIANCE
<input type="checkbox"/>	DIMITROULIS, Jerry LIBERAL
<input type="checkbox"/>	WILLIAMS, Angela DEMOCRATS
<input type="checkbox"/>	PINNELL, Gemma AUSTRALIAN GREENS
<input type="checkbox"/>	ANGER, Steven INDEPENDENT
<input type="checkbox"/>	WILLIS, Chris FAMILY FIRST
<input type="checkbox"/>	McGUCKIN, Rhys CITIZENS ELECTORAL COUNCIL

**Remember...number every box to make your vote count**  
Australian Electoral Commission **AEC**

To win a seat, senators have to win a set proportion (or quota) of the votes. This is why the Senate voting system in Australia is called a **proportional representation** system.

**FIGURE 5** Part of a Senate ballot paper for Victoria

**You may vote in one of two ways**

**Either**

**Above the line**  
By numbering at least 6 of these boxes in the order of your choice (with number 1 as your first choice).

**Or**

**Below the line**  
By numbering at least 12 of these boxes in the order of your choice (with number 1 as your first choice).

**UNGROUPED**

**SAMPLE**

## 1.2 ACTIVITY

Research the names of the people who currently occupy the following positions in Australia.

- Governor-general
- Prime minister
- Victoria's governor
- Victoria's premier

**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

- CS1** When did federation occur?
- CS1** List the three levels of government in Australia.
- CS2** Outline the role of the three arms of government in Australia, providing an example of each.
- CS1** Who is eligible to vote in Australian elections?
- CS2** What is the difference between the 'division of powers' and the 'separation of powers'?
- CS2** Outline the difference between the preferential system and the proportional representation system of voting.
- CS2** Explain how the first-past-the-post system of voting works.

## 1.2 Exercise 2: Apply your understanding

1. **CS3** Analyse how a person is elected to Commonwealth Parliament's House of Representatives and how a person is elected to the Senate.
2. **CS4** Out of the two voting systems — the preferential system and the proportional representation system — which is more effective? Justify your response.
3. **CS4** Australia is a constitutional monarchy with democratic elections and separation of powers. What changes to Australia's system of government would you recommend? Justify your answer.
4. **CS5** In what ways are the values of freedom of election and support for parliamentary democracy associated with the system of government in Australia? Provide reasons for your answer.
5. **CS5** In your opinion, what might happen if Australia did not have separation of powers?

Try these questions in learnON for instant, corrective feedback. Go to [www.jacplus.com.au](http://www.jacplus.com.au).

# 1.3 Key features of Japan's system of government

## 1.3.1 Japan's system of government

The Empire of Japan was based on a military and **absolute monarchy**. This changed during the Allied occupation of the country at the end of World War II, when the Constitution of Japan was drawn up and the post-war country ceased to be an empire and became modern Japan. Enacted on 3 May 1947, Japan's Constitution is based on three principles: **sovereignty of the people**, respect for fundamental human rights and renunciation of war.

**FIGURE 1** The National Diet Building in Tokyo, the home of Japan's national parliament



Japan's system of government is based on the idea of democracy. Japan is an independent country governed by a constitutional monarchy, with a parliamentary system of government. Japan's Constitution has remained unchanged since it came into force in 1947. The emperor is the head of state but only has a symbolic role.

The political system in Japan is based on Britain's Westminster system. This system was introduced into Japan by the new Constitution, which established a bicameral parliament called the National Diet. It consists of a lower house and an upper house. The people of Japan choose the members of the Diet, and the members of the Diet elect the Japanese prime minister from among themselves.

### 1.3.2 Separation of powers

The Constitution of Japan specifies the independence of the three branches of government: legislative (the Diet), executive (the Cabinet) and judicial (the courts). These arms of government operate in a system of checks and balances.

#### The legislative arm

Under Japan's Constitution, legislative power lies with the National Diet. This is Japan's national parliament. The Diet comprises the House of Representatives (the lower house) and the House of Councillors (the upper house). Any draft law is known as a Bill, and it is submitted to the Diet by the Cabinet or a law-maker. It is then considered separately in the two houses. A Bill becomes a law after both houses approve it. In any case of disagreement in vital matters, the lower house's decisions are upheld. For some legislation, the House of Representatives can overrule a House of Councillors' rejection by passing a Bill a second time.

#### The executive arm

Executive power lies with the Cabinet formed and led by the Japanese prime minister. The members of Cabinet are collectively responsible to the Diet in exercising this power. The prime minister and a majority of Cabinet members must be members of the Diet. They have the right as well as the obligation to attend Diet sessions. The Cabinet has the power to dissolve the House of Representatives and call for a general election. The Cabinet members are called ministers, and the departments they head are mostly called ministries (for example, the Ministry of Finance).

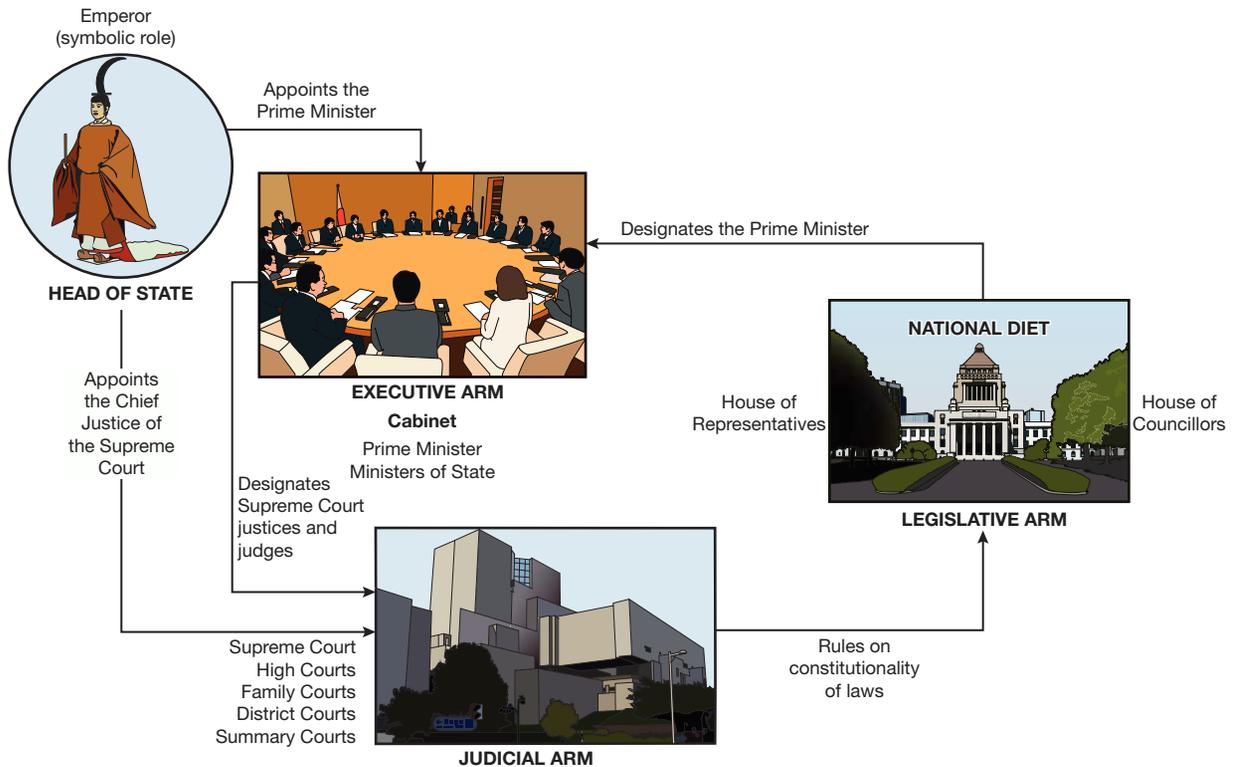
#### The judicial arm

Judicial power lies with Japan's Supreme Court and the lower courts established by law, including high courts, family courts, district courts and summary courts. The Supreme Court consists of a chief justice and 14 other justices, all of whom are chosen by the Cabinet. It is responsible for interpreting and applying the Constitution of Japan. The Supreme Court can declare that laws passed by the National Diet are unconstitutional.

**FIGURE 2** The National Diet of Japan consists of the House of Representatives (the lower house; top) and the House of Councillors (the upper house; bottom).



**FIGURE 3** The separation of powers in Japan



### 1.3.3 Elections in Japan

All Japanese citizens can vote in elections once they reach the age of 18. The National Diet consists of the House of Representatives with 465 members, and the House of Councillors with 242 members. The people directly elect the members of both houses of the National Diet. Elections for the House of Representatives are held every four years, and half the members of the House of Councillors are elected every three years. Local elections are also held every four years for elected positions in Japan's prefectures (regions), cities and villages.

#### The House of Representatives

Of the 465 members of the House of Representatives, 289 members are in single-member constituencies (electoral districts). These members are elected using the first-past-the-post method. This means that the candidate receiving the largest number of votes in each constituency is elected to office. The other 176 members of the House of Representatives are in 11 multimember districts, referred to as electoral blocs. These blocs differ in size and contribute between 6 and 30 members. Using a proportional representation system, the bloc seats are awarded to party candidates according to a highest average method. To win a seat, parties have to win a set proportion (or quota) of the votes.

Ultimately each Japanese voter casts two ballots for the House of Representatives: one for a candidate in a local single-seat constituency, and one for a political party. The political parties all field candidates for each electoral bloc.

**FIGURE 4** Election posters covering a building in Chiba City, Japan



## The House of Councillors

Again, voters cast two ballots for the House of Councillors: one for an individual candidate in a constituency using single non-transferable votes, and one for a political party or candidate using proportional representation. Of the 242 members of the House of Councillors, 146 members are in 47 prefectural constituencies. The prefectural constituencies differ in size and return between 2 and 10 members. These members are elected by a single non-transferable vote. This means that Japanese citizens cast a ballot for an individual candidate, and the candidates with the largest number of votes in each constituency (up to the number of seats that need to be filled) are elected to office. The remaining 96 members of the House of Councillors are elected on a nationwide basis through proportional representation.

### 1.3 ACTIVITIES

- Using internet resources, find the names of the people who currently occupy the following positions in Japan.
  - Emperor
  - Prime minister

**Examining, analysing, interpreting**
- Using internet resources, answer the following questions.
  - What political party does the Japanese prime minister belong to?
  - Analyse the ways in which winning seats in the lower house and the upper house benefits the Japanese prime minister's party.

**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

- CS1** When was the Constitution of Japan enacted?
- CS1** What is the role of the emperor in Japan?
- CS1** Outline the role of the three arms of government in Japan, providing an example of each.
- CS1** Who is eligible to vote in Japanese elections?
- CS2** Explain how the first-past-the-post system of voting works in Japan.

#### 1.3 Exercise 2: Apply your understanding

- CS3** Compare and contrast the key features of Japan's system of government with those of Australia by copying and completing the following table.

	Similarities between Japan and Australia	Differences between Japan and Australia
System of government		
Separation of powers		
Elections		

- CS4** Japan is a constitutional monarchy with democratic elections and separation of powers. What changes to Japan's system of government would you recommend? Justify your answer.
- CS5** In what ways are the values of freedom of election and support for parliamentary democracy associated with the system of government in Japan?
- CS5** In your opinion, what might happen if Japan did not have separation of powers?
- CS5** Suggest reasons why Japan's Constitution is based on three principles (sovereignty of the people, respect for fundamental human rights and renunciation of war).

Try these questions in learnON for instant, corrective feedback. Go to [www.jacplus.com.au](http://www.jacplus.com.au).

# 1.4 Key features of India's system of government

## 1.4.1 India's system of government

With a population of more than one billion people, India is the world's largest democracy. India's political system dates back to the country's independence from Britain. From 1857 to 1947, the British ruled the Indian subcontinent (a region comprising India and land that now belongs to other countries, among them Pakistan and Bangladesh). During the early twentieth century, the local populace increased their demands for India to be self-governed. On 15 August 1947, India ceased to be a dominion of the British Empire and became a sovereign democratic **republic**. The Republic of India, as it is officially known, is a federal union of 29 states and 7 union territories. India's Sansad Bhavan (Parliament House) is shown in **FIGURE 1**.

India's system of government is based on the idea of democracy. The Republic of India is an independent country with a parliamentary system of government. The Constitution of India is the longest written constitution of any of the world's sovereign countries, containing 448 articles and 12 schedules. It is also one of the most heavily amended national documents in the world — more than 100 changes have been made to the Constitution since it was first enacted in 1950. The president is the head of state, elected for a five-year term by the members of the federal and state parliaments. The president appoints the prime minister as well as the state governors.

The political system in India is based on Britain's Westminster system. The federal parliament is bicameral: it is composed of a lower house and an upper house. The states have either unicameral or bicameral parliaments. The people of India elect the members of parliament, and the members of the lower house of the Parliament of India elect the prime minister (who is usually the leader of the majority party or coalition).

## 1.4.2 Separation of powers

The Constitution of India specifies the independence of the three branches of government: legislative (the parliament), executive (the Cabinet) and judicial (the courts). These arms of government operate in a system of checks and balances.

### The legislative arm

Under the Constitution of India, parliament is the supreme lawmaker. The Parliament of India consists of the lower house or Lok Sabha (House of the People) and the upper house or Rajya Sabha (Council of States), as well as the president of India. The two houses of parliament share legislative powers. Any draft law is known as a Bill. To become a law, the Bill must be read, debated and voted on by both houses of parliament and then approved by the president. A law that has been passed by parliament is called legislation, a statute or an Act.

**FIGURE 1** Sansad Bhavan, in New Delhi, is the home of India's national parliament.



**FIGURE 2** Indian Prime Minister Narendra Modi (right) speaking in the Lok Sabha



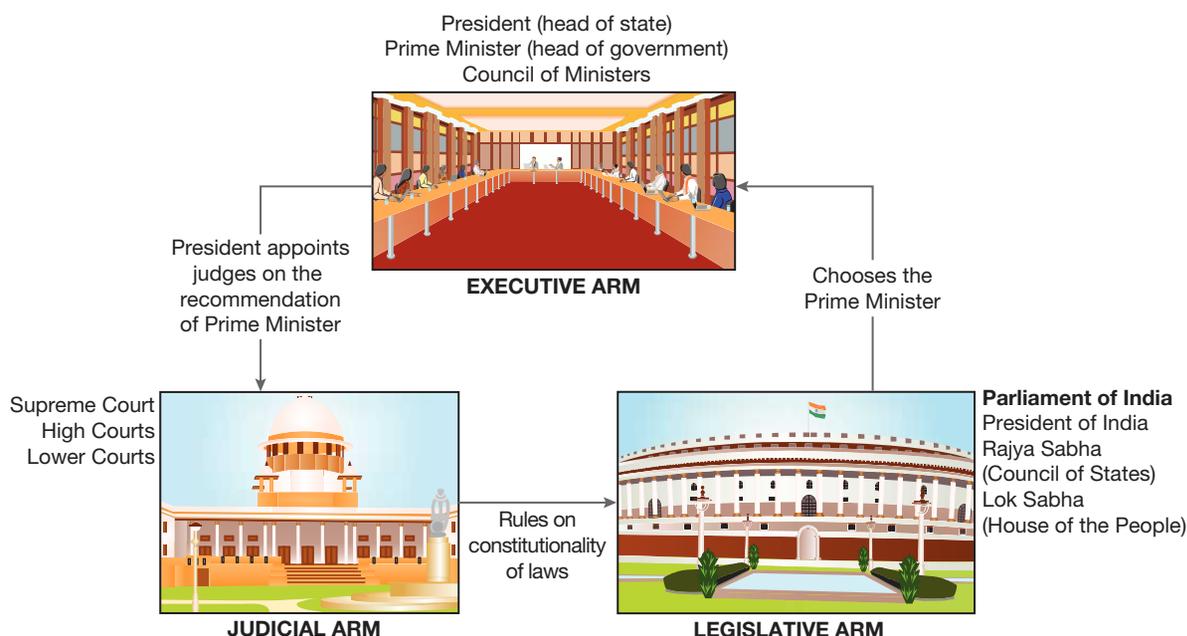
## The executive arm

Executive power officially lies with the president but is actually exercised through the Council of Ministers of the Republic of India, consisting of a group of ministers headed by the prime minister. The prime minister is officially appointed by the president after being nominated by the majority party in the lower house. On the recommendation of the prime minister, the president then appoints ministers. These ministers collectively comprise the Council of Ministers.

## The judicial arm

Judicial power lies with India's Supreme Court, the High Courts in the states and the lower courts at the district level. The Supreme Court is responsible for interpreting and applying the Constitution of India. It ensures that the other arms of government do not act in a way that is outside the powers granted by the Constitution. The Supreme Court consists of up to 31 judges, including the Chief Justice of India. They are appointed by the president on the recommendation of the prime minister. The Supreme Court can declare that laws passed by the Parliament of India are unconstitutional.

**FIGURE 3** The separation of powers in India



## 1.4.3 Elections in India

Officials are elected at the national, state and local levels. Because of India's large population, the organisation of any election is a massive and complicated task. More than 800 million people in India are eligible to vote, and in national elections over 900 000 polling booths must be set up for voters. National elections do not take place on a single day but run over the course of several weeks.

### The House of the People (Lok Sabha)

According to the Constitution, the maximum size of the Lok Sabha is 552 members. Of the 545 current members of the Lok Sabha, 543 are elected for five-year terms. The other two members are nominated by the president to represent the Anglo-Indian community if, in the president's opinion, that community does not have adequate representation in the house. The 545 members are elected using the first-past-the-post method.

## The Council of States (Rajya Sabha)

According to the Constitution, the maximum size of the Rajya Sabha is 250 members. Of the 245 current members of the Rajya Sabha, 233 are representatives of the states and union territories. They are elected for a six-year term using the proportional representation system, and one-third of them retire every two years. The other 12 members are nominated members. These people are chosen by the president for their special knowledge or practical experience in fields such as art, literature, science and social service.

**FIGURE 4** Indian women stand in a queue with their voter ID cards during an election.



### 1.4 ACTIVITIES

- Using internet resources, find the names of the people who currently occupy the following positions in India.
  - President
  - Prime minister

**Examining, analysing, interpreting**

- Using internet resources, answer the following questions for India's most recent election.
  - How many Indian voters participated in the election?
  - How many people are employed by the Election Commission?
  - How is government formed in India?

**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** When was the Constitution of India enacted?
- CS1** What is the role of the president of India?
- CS2** Outline the role of the three arms of government in India, providing an example of each.
- CS1** Who is eligible to vote in Indian elections?
- CS2** Explain how the first-past-the-post system of voting works in India.



## 1.4 Exercise 2: Apply your understanding

1. **CS3** Identify the benefits of India's use of the first-past-the-post system of voting for the Lok Sabha (House of the People), as well as its limitations.
2. **CS3** Compare and contrast the key features of India's system of government with those of Australia by copying and completing the following table.

	Similarities between India and Australia	Differences between India and Australia
System of government		
Separation of powers		
Elections		

3. **CS4** India is a democratic republic with democratic elections and separation of powers. What changes to India's system of government would you recommend? Justify your answer.
4. **CS5** In what ways are the values of freedom of election and support for parliamentary democracy associated with the system of government in India?
5. **CS5** In your opinion, what might happen if India did not have separation of powers?

Try these questions in learnON for instant, corrective feedback. Go to [www.jacplus.com.au](http://www.jacplus.com.au).

# 1.5 Key features of Indonesia's system of government

## 1.5.1 Indonesia's system of government

The Republic of Indonesia was declared in 1945 following its independence from a long period of Dutch colonial rule and Japanese wartime occupation. The Constitution was written while Indonesia emerged from Japanese control at the end of World War II. A centralised form of government was established to unify the many ethnic, religious and cultural groups of a nation spread across nearly one thousand permanently settled islands. Since then, Indonesia's political transition to a democracy has been turbulent. The original Constitution of 1945 was replaced by the Federal Constitution of 1949 and then the Provisional Constitution of 1950. Indonesia's first election after independence was not held until 1955.

President Sukarno, Indonesia's first president, dissolved the elected parliament in 1959 and introduced a form of government called guided democracy. The 1945 Constitution of Indonesia was reintroduced. Sukarno's successor, President Suharto, was **authoritarian** and Indonesia entered a new political era, officially called the New Order. During this period, which lasted for more than 30 years, the parliament served as a mere formality for approving decisions made by the executive arm of government. The end of Suharto's presidency came about due to pressure for a less-centralised system of government. An era of reform and amendments to the Constitution followed. New

**FIGURE 1** Part of the DPR/MPR complex in Jakarta, the home of Indonesia's national parliament



election laws were introduced and, in 1999, elections were held for the first time since 1955. Significant amendments were made to the 1945 Constitution of Indonesia in the early twenty-first century, resulting in changes to all arms of government.

Indonesia's system of government is based on the idea of democracy. Indonesia is a republic with sovereignty vested in the hands of its people and exercised through law. The amended 1945 Constitution of Indonesia regulates the responsibilities of state officials and the rights and responsibilities of citizens. It also governs relations between state institutions — legislative, executive and judicial. Since 2004 Indonesia's parliament (the People's Consultative Assembly or MPR) has been bicameral, with a lower house and an upper house. The president is both the head of state and the head of government, and is chosen through direct popular election. The people of Indonesia also choose the members of the MPR.

Indonesia is divided into provinces, which are in turn divided into regencies and cities. Each province, regency and city has its own local government and legislative body. A governor heads each government at the provincial level, and a regent or mayor heads each government at the regency and city levels.

## 1.5.2 Separation of powers

The amended 1945 Constitution of Indonesia provides for the idea of the separation of powers. This allows each arm of government (legislative, executive and judicial) to check and balance the powers of the others and thereby maintain a fair and just society.

### The legislative arm

Under the amended 1945 Constitution of Indonesia, legislative power lies with parliament — the People's Consultative Assembly (Majelis Permusyawaratan Rakyat or MPR). It consists of the People's Representative Council (Dewan Perwakilan Rakyat or DPR; the lower house) and the Regional Representatives Council (Dewan Perwakilan Daerah or DPD; the upper house). The DPD was created through an amendment to the 1945 Constitution of Indonesia in 2001 but does not have the revising powers of an upper house such as Australia's Senate. It was established with the intention of increasing the role of the regions in making laws.

The DPR drafts Bills and passes laws. The DPD can draft Bills related to regional issues that will be considered by the DPR, but it does not have independent legislative authority. A Bill can only be passed if there is joint agreement on the Bill by both the DPR and the president.

### The executive arm

The 1945 Constitution invested most of Indonesia's power in the executive arm of government. This has been reduced through the amendments to the Constitution. Until 2002, the members of the MPR elected the president and vice-president every five years. From 2004, both leaders have been directly elected. Legislation also limits the president to two five-year terms. The president carries out his or her tasks assisted by the vice-president and Cabinet. Cabinet ministers are appointed by the president to manage areas of government responsibility such as economic affairs, foreign affairs, defence and education. Cabinet ministers do not have to be elected members of the MPR.

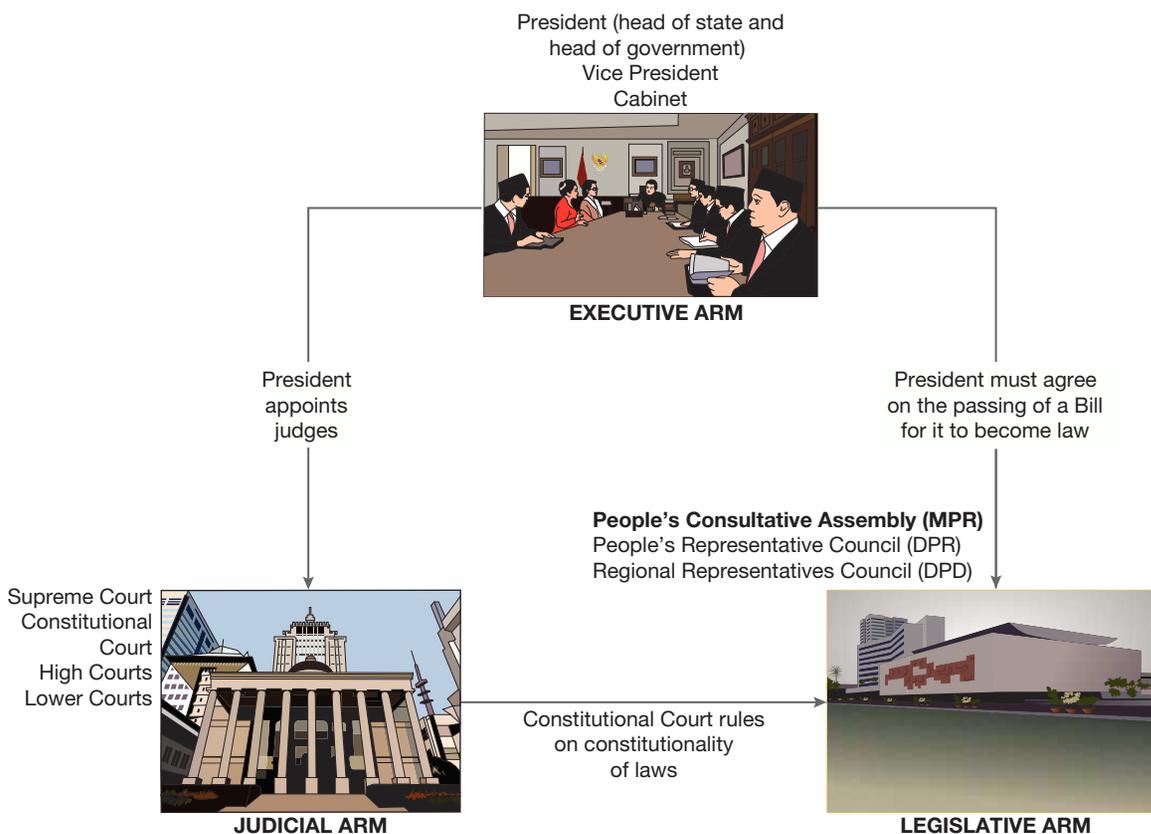
**FIGURE 2** Indonesia's parliament (the People's Consultative Assembly or MPR)



## The judicial arm

In Indonesia, the Supreme Court (Mahkamah Agung) is the highest judicial institution. It forms the judicial arm of government together with the lower legal bodies. These include High Courts, located in the provinces, and District Courts. There are approximately 50 justices (including a chief justice) sitting in the Supreme Court, with more than 7000 judges employed in other courts across Indonesia. According to the original 1945 Constitution, the Supreme Court does not have the power to interpret and apply the Constitution. However, the Constitutional Court (Mahkamah Konstitusi) was established by a group of justices in 2003 with the power to review the Constitution and resolve constitutional disputes between state institutions. It can also resolve disputes over electoral results, dissolve political parties, and review and rule on cases involving charges against the president.

**FIGURE 3** The separation of powers in Indonesia



### 1.5.3 Elections in Indonesia

All Indonesian citizens who have reached the minimum age of 17 or who are married may vote in general elections. More than 190 million people in Indonesia are eligible to vote. Presidential elections occur every five years. The Indonesian parliament (MPR) consists of two houses:

- the People's Representative Council (DPR), made up of representatives of political parties. It currently has 560 members with representatives from ten political parties. Every member comes from one of the 77 multimember electoral districts. Each electoral district is represented by three to ten seats, depending on the population of the district.
- the Regional Representatives Council (DPD), made up of representatives from each province in Indonesia. Four members are elected from each of the 34 provinces on a non-partisan basis. This means that members are not officially affiliated with any political party.

Elections for the DPR and the DPD are held simultaneously every five years.

## The president

Indonesian citizens vote for a ticket including a president and a vice-president. Whichever pair receives the most votes (more than 50 per cent nationally, with 20 per cent from more than half the provinces) will rule over the next term. If no clear winner emerges, the two tickets that received the highest percentage of the national vote compete in a run-off election.

## The People's Representative Council (DPR)

Members of the DPR are elected through an open-list proportional system. When voting, an Indonesian citizen receives a ballot listing the candidates from each party who are running for a seat in the voter's electoral district. The voter selects his or her preferred candidate. The process allows the voter to cast a ballot for an individual candidate or a particular party, or for both. The Election Commission then calculates a quota for each electoral district by dividing the total number of valid votes obtained by political parties that must be received to secure parliamentary representation (currently 3.5 per cent of the national vote) by the total number of seats in that electoral district. The political parties then receive a seat for each quota they meet, and are required to allocate these seats to the candidates who received the most votes.

Any party that fails to obtain a 3.5 per cent share of the national vote is eliminated from the election.

Some parties will have votes left over. These remaining votes are used to distribute unallocated seats. Unallocated seats are awarded to the parties with the largest numbers of remaining votes one by one until all seats are allocated.

## The Regional Representatives Council (DPD)

The members of the DPD are elected using a much simpler system. Voters in each province select one candidate on their ballot forms. The four candidates who win the most votes in each province represent that province at the DPD.

**FIGURE 4** A woman casts her vote during elections in Indonesia.



### DISCUSS

In a small group of 3–4 students choose one of the following countries: Japan, India or Indonesia. In what ways are the values of freedom of election and support for parliamentary democracy associated with the system of government in this country? Discuss with your group and write a response.

**[Intercultural Capability]**

### 1.5 ACTIVITIES

1. Research the names of the people who currently occupy the following positions in Indonesia.

- (a) President
- (b) Vice-president

**Examining, analysing, interpreting**

2. Using internet resources, answer the following questions for Indonesia's most recent presidential election.

- (a) How many voters cast ballots in the presidential election?
- (b) What are some of the reasons the people of Indonesia elected the president?
- (c) Outline the background of the president. How is their background different to that of past presidents of Indonesia?

**Examining, analysing, interpreting**

## 1.5 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

### 1.5 Exercise 1: Check your understanding

1. **CS1** When was the Constitution of Indonesia originally enacted?
2. **CS1** What is the role of the president of Indonesia?
3. **CS1** Outline the role of the three arms of government in Indonesia, providing an example of each.
4. **CS1** Who is eligible to vote in Indonesian elections?
5. **CS2** Outline how voting works in Indonesia for:
  - (a) the People's Representative Council
  - (b) the president.

### 1.5 Exercise 2: Apply your understanding

1. **CS3** Analyse the changes to the Constitution of Indonesia following its original enactment.
2. **CS3** Compare and contrast the key features of Indonesia's system of government with those of Australia by copying and completing the following table.

	Similarities between Indonesia and Australia	Differences between Indonesia and Australia
System of government		
Separation of powers		
Elections		

3. **CS4** Indonesia is a democratic republic with democratic elections and separation of powers. What changes to Indonesia's system of government would you recommend? Justify your answer.
4. **CS5** In what ways are the values of freedom of election and support for parliamentary democracy associated with the system of government in Indonesia?
5. **CS5** In your opinion, what might happen if Indonesia did not have separation of powers?

Try these questions in learnON for instant, corrective feedback. Go to [www.jacplus.com.au](http://www.jacplus.com.au).

# 1.6 Foreign aid from governments and NGOs

## 1.6.1 Helping those in need

Picture this scenario: it is lunchtime at school when you suddenly realise that you have not brought any lunch and do not have any money to buy some. Your best friend says that they'll buy you lunch from the canteen so that you don't go hungry. They tell you that they're happy to do you a favour and there is no need for repayment. The provision of foreign aid is similar to this situation. Instead of one friend buying another lunch, richer countries assist poorer countries. They may do this for **humanitarian** reasons following a natural disaster or other crisis, or for development reasons (to encourage the long-term development of the recipient country). Australia provides foreign aid through both government and non-government bodies. In this subtopic, we discuss Australia's past, present and future contributions to foreign aid programs.

### Resources

 **Video eLesson** What is global citizenship? (eles-2375)

## 1.6.2 How does foreign aid work?

A significant and unfortunate gap exists between the world's richer and poorer countries. Some countries have been blessed with an abundance of natural resources, while others are relatively barren. Some countries have been sheltered from the devastation of war, while others have been torn apart by bloodshed. As a result of these and other factors, global wealth is divided unequally. Richer countries have continued to develop steadily while poorer countries lag behind in terms of **infrastructure**, education and medical services. Foreign aid is provided with the aim of improving the living standards of people in less developed countries.

**FIGURE 1** A Nepali girl carries a bag of food given by aid workers in Baluwa Village in the Gorkha district, Nepal, following the deadly earthquakes that destroyed villages and killed thousands in 2015.



## 1.6.3 Australian governments and foreign aid

Foreign aid may be provided by governments or by independent bodies, such as non-government organisations (NGOs). Both Australian government and non-government aid has been crucial to the development of many countries around the world, particularly those in the Asia region.

Aid can be divided into two categories:

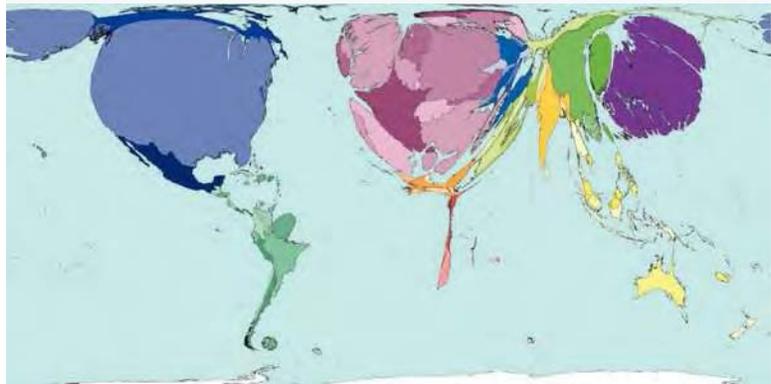
- development aid — for long-term programs to support the general development of a country
- emergency aid — for natural disasters and other crises.

### Development aid

Development aid is focused on alleviating poverty in the long term. As members of the global community and one of the most developed countries in our region, Australia has a responsibility to provide assistance to our less fortunate neighbours. Australian governments have been involved in foreign aid programs since 1950, when development grants of \$100 000 were issued to Papua New Guinea.

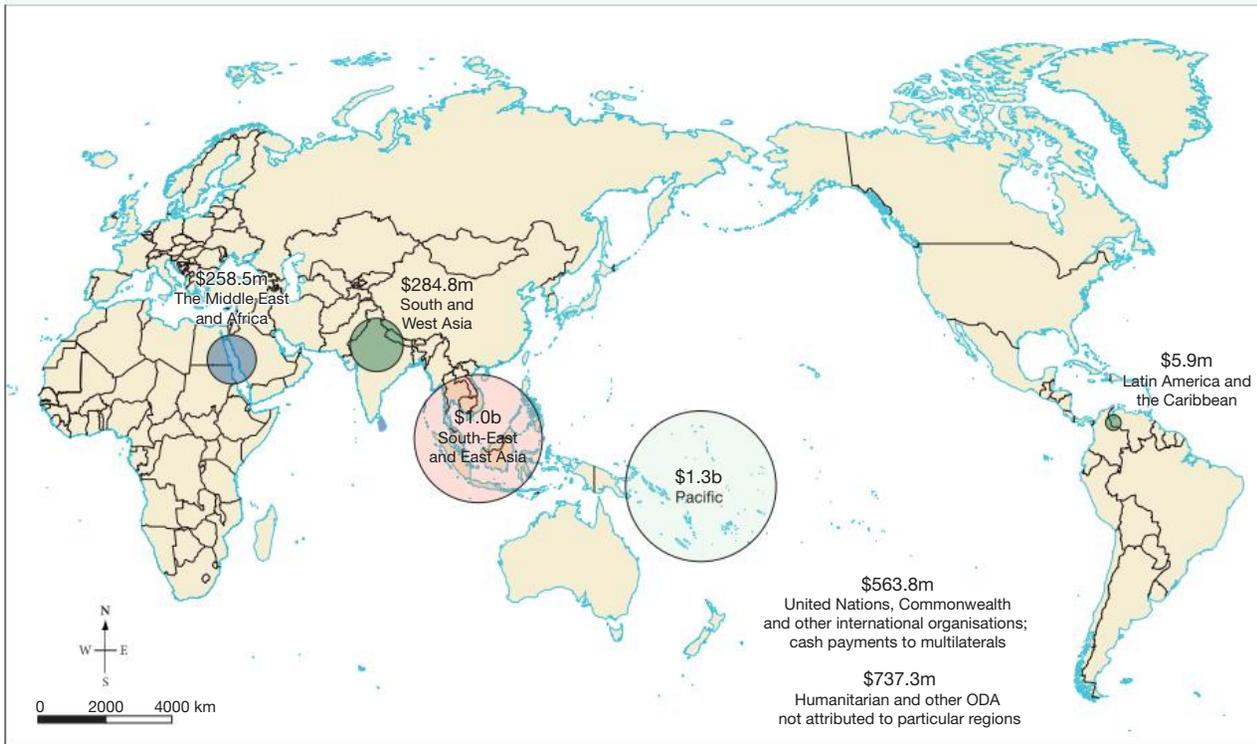
Australian foreign aid programs are administered by the Department of Foreign Affairs and Trade (DFAT). As can be seen in **FIGURE 3**, although Australian Aid contributes to programs in Africa, the Middle East, Latin America and the Caribbean, activities centre on South-East and East Asia and the Pacific. Many of these programs focus on the provision of medical care, such as vaccinations. Vaccinations against common diseases can be hard to find in some countries or expensive to buy. By organising mass immunisations, the Australian government has sought to improve the health and wellbeing of disadvantaged nations. Australian Aid has also been involved in development programs in locations such as Indonesia, contributing funds to education and infrastructure projects.

**FIGURE 2** Gross domestic product (GDP) per country. Countries with a high GDP appear swollen, while countries with a low GDP are shrunken in size.



Source: Worldmapper.

**FIGURE 3** Australian aid spending around the world, 2018–19



**Source:** Data from © Commonwealth of Australia, DFAT, Australian Aid Budget Summary 2018–19. Map drawn by Spatial Vision.

A number of organisations, including Oxfam, Save the Children and World Vision, have criticised the Australian government over cuts to Australian foreign aid programs. They claim that reducing aid limits the provision of immunisation, education, healthcare, infrastructure and clean water programs — all of which help people in poorer countries to build a better future.

### Emergency aid

Emergency aid is provided for humanitarian purposes in response to unexpected events such as natural disasters and other crises. Many of our neighbouring countries are located within geographically volatile areas. Countries such as Indonesia, Papua New Guinea and many Pacific Island nations often find themselves faced with the deadly consequences of natural disasters such as floods and earthquakes. Australian governments and their aid departments are well known for having swift and effective emergency aid responses. They send their staff to manage aid responses in these situations, both during the initial devastation and in the aftermath of the disaster.

In 2018, a series of natural disasters resulted in widespread loss of life and damage in three different regions in Indonesia. In August, an earthquake struck Lombok Island, followed by a number of aftershocks. In September, an earthquake and tsunami hit Central Sulawesi Province. In December, a tsunami following the eruption of the Anak Krakatau volcano struck coastal communities along the Sunda Strait between West Java and Sumatra.

**FIGURE 4** When natural disasters strike, governments and aid agencies spring into action to provide emergency aid.



The Australian Defence Force supported the Indonesian government response through the provision of supplies and equipment. The Australian government also committed millions of dollars of aid to support the Indonesian government and humanitarian partners in responding to the needs of those communities impacted by the earthquakes and tsunamis.

### 1.6.4 Australian NGOs and foreign aid

A non-government organisation (NGO) is one that runs independently of any government control. Although NGOs may be partially funded by governments, they remain free to develop and implement their own policies and programs. Australia has a vast range of aid NGOs. Some of these, such as Care Australia and Oxfam Australia, are local divisions of large, **multinational** organisations. Other Australian NGOs, such as The Fred Hollows Foundation, were created locally.

Free from government and politics, NGOs often have the opportunity to reach and assist a broader range of people. For example, a government's aid priorities may be influenced by foreign policy, whereas an NGO is free to act in whatever community it sees as needing its assistance. NGOs often rely heavily on public donations to fund their operation and are staffed largely by volunteers. They also provide vital support to government aid programs and can often implement more effective programs.

**FIGURE 5** The late Dr Fred Hollows working with children in Vietnam



#### 1.6 ACTIVITY

Examine **FIGURE 2** to answer the following questions.

- List the countries in this map that appear 'swollen' and those that appear 'shrunken'.
- Research and explain what high GDP means and how this affects a country's economy.
- How does low GDP affect a country's economy?
- Choose one country in each category and explain the political and economic reasons why you think this country has either a high or low GDP.

**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 are the two categories of foreign aid?
- CS1** Who administers foreign aid programs in Australia?
- CS1** Where has the majority of Australia's foreign aid activities been focused?
- CS1** What is emergency aid?
- CS2** Explain how an NGO differs from aid provided by governments. Use examples in your answer.
- CS2** Explain how some countries are more economically developed than others.

## 1.6 Exercise 2: Apply your understanding

1. **CS3** In your opinion, why does Australia have a larger responsibility to provide foreign aid than other countries in our region?
2. **CS3** Using **FIGURE 3**, answer the following questions.
  - (a) Describe the geographic pattern of Australia's foreign aid programs.
  - (b) Why do you think the majority of aid programs follow this pattern?
3. **CS4** Do you think that Australia should increase its provision of foreign aid? Give reasons for your answer.
4. **CS5** Suggest what might happen if the Australian government refused to provide emergency aid to a neighbouring country in need.
5. **CS6** Consider what you have studied so far in this topic. Using examples, explain the responsibility that the Australian government has at a global level.

Try these questions in learnON for instant, corrective feedback. Go to [www.jacplus.com.au](http://www.jacplus.com.au).

# 1.7 Australia and the UN

## 1.7.1 Australia's role in founding the UN

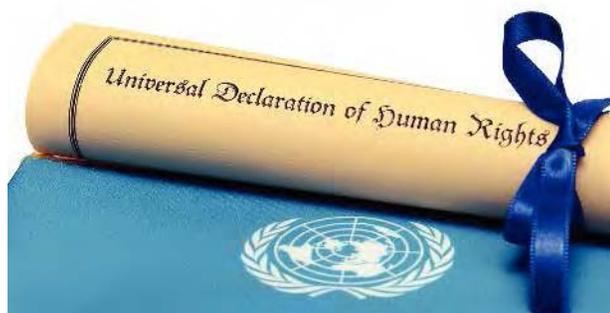
The United Nations (UN) was born out of the pain and suffering of World War II. After witnessing the horrors of war for the second time within 30 years, the nations of the world were desperate to prevent another world war. For this reason, 51 countries united in 1945 with the goals of maintaining global peace and protecting the safety and rights of global citizens. At the time the UN was formed, Australia was still relatively inexperienced in global politics. Despite this, our country was one of the founding members of the UN and heavily involved in the organisation's establishment. Australia continues to play a significant role in this important **multilateral** organisation.

Given Australia's relative inexperience in foreign policy, the significance of our involvement in the early years of the UN may appear surprising. Australia's delegation was led by Dr H.V. ('Doc') Evatt, who had previously held several high-profile legal and political positions in Australia. As the operational guidelines of the UN were being documented in its **Charter**, Evatt recognised a problem. The larger and more diplomatically experienced countries (such as the United States, the United Kingdom, France, the Soviet Union and China) had started to dominate discussions. Evatt worried that the interests of smaller countries with less experience in foreign policy would be overlooked.

**FIGURE 1** The United Nations was officially founded in 1945 with Australia as one of the original 51 member states.



**FIGURE 2** The Universal Declaration of Human Rights was adopted by the UN in 1948.



To overcome this problem, Evatt enlisted the support of the other smaller nations and successfully lobbied for the power of the UN General Assembly (consisting of all members of the UN) to be increased. This would act as a balance to the power wielded by the larger countries that ran the Security Council (consisting of only five members of the UN).

Evatt was also a key figure in the development of the Universal Declaration of Human Rights. His leadership on this task led to Evatt being elected president of the General Assembly in 1948. To this day, no other Australian has ever held this position.

### 1.7.2 Australia's increasing role in the UN

Since the founding of the United Nations, Australia has been a small but significant contributor to the organisation and its various programs. Involvement in peacekeeping missions, participation in policy development and donations to the UN budget are all examples of Australian contributions. As Australia's standing and influence have increased, so too has our role in the UN.

One of the most powerful and influential arms of the UN is the Security Council. It is responsible for the organisation of peacekeeping missions, the imposition of **international sanctions** and the authorisation of military action. The Security Council consists of five permanent members — the United States, the United Kingdom, France, Russia and China — and ten non-permanent members who serve two-year terms. Including our most recent term (2013–14), Australia has served as a non-permanent member of the Security Council five times in the history of the UN. Australia's membership of the UN Security Council can be seen as evidence of our increasing role in the global community.

**FIGURE 3** A vote taking place in relation to a draft resolution at a UN Security Council meeting



### 1.7.3 Australia's contribution to global citizenship

Australian representatives to the United Nations have used our country's increased standing to call for change regarding a number of global issues. One specific Australian focus has been gender equality and the rights of women. Australia was heavily involved in UN forums addressing these topics and continues to promote true gender equality. Whaling is another issue on which Australia has taken a stance, leading a case that successfully convinced one of the UN's highest courts, the International Court of Justice, to ban Japan from conducting its annual whale hunt.

Despite these positive actions, there are still many ways in which our country can further contribute to the global community. Recent years have seen issues such as climate change slip down our nation's list of priorities. Despite ratifying the Paris Agreement (an agreement within the United Nations Framework Convention on Climate Change) in 2016, Australia's efforts to reduce the impact of climate change have stalled. Our treatment of refugees and asylum seekers has also received widespread criticism from the global community. Such criticisms need to be viewed constructively and used to make positive changes for Australian and global citizens alike.

**FIGURE 4** Australian students at a protest rally demanding urgent action on climate change



## 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** The United Nations was formed after which global event?
2. **CS1** What issue worried 'Doc' Evatt during the development of the UN Charter?
3. **CS2** Describe Australia's involvement in the early years of the United Nations.
4. **CS2** Explain the responsibilities of the UN Security Council.
5. **CS2** Explain how Australia has contributed to global citizenship through its involvement with the UN.

### 1.7 Exercise 2: Apply your understanding

1. **CS3** Outline the significance of Australia's five terms as a non-permanent member of the UN Security Council.
2. **CS4** For what reasons do you believe Australia needs to be a member of the UN? Justify your response.
3. **CS4** Is there a better solution to maintaining global peace and protecting the safety and rights of global citizens than the UN? Justify your response.
4. **CS5** What would have happened if 'Doc' Evatt had not lobbied for the power of the UN General Assembly to be increased?
5. **CS5** What do you think would happen if Australia had no involvement with the UN?

Try these questions in learnON for instant, corrective feedback. Go to [www.jacplus.com.au](http://www.jacplus.com.au).

# 1.8 Keeping the peace

## 1.8.1 Role of UN peacekeepers

In many ways, the League of Nations can be seen as the first version of the UN. Formed after World War I, the League of Nations was charged with the responsibility of maintaining global peace. Its major shortcoming, however, was that it lacked mechanisms through which it could fulfil this role. After watching the failure of the League of Nations — ultimately it could not stop the outbreak of World War II — the founding members of the UN sought to avoid similar criticism. The UN discharges its responsibility of maintaining global peace through the use of peacekeepers and military observers.

Australia has been involved in UN peacekeeping missions from the first envoy sent in 1948. In this subtopic, we examine the role of UN peacekeepers and the contribution Australians have made to these missions.

The role of United Nations peacekeepers is exactly that — to develop and maintain peaceful interactions between social, ethnic or political groups. Since 1948, the UN has deployed peacekeeping missions across the globe. The specific activities of the mission depend on the nature of the conflict. Missions may involve enforcing a **ceasefire** between previously warring parties, or helping a country to conduct a democratic election that would otherwise be problematic.

**FIGURE 1** A squad of Indonesian peacekeepers conducting duty near El Fasher Airport in Sudan, guarding civilians as they are heading back to their houses in early 2018



Peacekeepers are instructed to operate using non-violent methods wherever possible. According to the UN Charter, peacekeepers are allowed to use military force only in self-defence or if the essential goal of the mission is under threat (see **FIGURE 2**). Often known as Blue Berets, due to their distinctive blue hats and helmets, UN peacekeepers can include soldiers of national armies as well as police officers and political staff. Australia has sent 65 000 personnel to various UN peacekeeping missions. Australian doctors, engineers, diplomats, and military servicemen and women have all played their part in the establishment and maintenance of peace in countries around the world.

**FIGURE 2** Principles of UN peacekeeping: non-use of force except in self-defence and defence of the mandate

A UN peacekeeping operation should only use force as a measure of last resort. It should always be calibrated in a precise, proportional and appropriate manner, within the principle of the minimum force necessary to achieve the desired effect, while sustaining consent for the mission and its mandate. The use of force by a UN peacekeeping operation always has political implications and can often give rise to unforeseen circumstances.

Judgments concerning its use need to be made at the appropriate level within a mission, based on a combination of factors including mission capability; public perceptions; humanitarian impact; force protection; safety and security of personnel; and, most importantly, the effect that such action will have on national and local consent for the mission.

**Source:** United Nations.

### DISCUSS

Australia and other affluent countries have a responsibility to assist countries that are much less well off. What do you think are the most important global issues facing the world today: child slavery, war, child marriage, violence against women, poverty, lack of education and employment opportunities, or other? Choose the one issue that you think is the most important to address, explain why and give some suggestions as to how Australia can help. Are there any global problems that Australia should not get involved in? Why?

**[Intercultural Capability; Ethical Capability]**

## 1.8.2 Australian peacekeeping missions

Australians have been involved in UN military observations since 1947, a year before the first official peacekeeping mission. Although civilian personnel have contributed to peacekeeping missions, military and police officers have traditionally played a more significant role. Australian peacekeepers have served in several key conflicts around the world including:

- the Indonesian War of Independence (1947)
- the prelude to the Korean War (1953)
- various conflicts in Israel and the Middle East (since 1956)
- the Iran–Iraq War (1988–91)
- the Rwandan Civil War (1993–96)
- the East Timorese independence crisis (1999–2013)
- the Sudanese Civil War (since 2005).

One of the best-known examples of

Australian peacekeeping efforts was our

involvement in the East Timorese independence crisis. A small country located to Australia's north-west, East Timor has endured a volatile history. Unlike much of the area, which was settled by the Dutch, East Timor was **colonised** by the Portuguese. In 1975, East Timor became an independent state, although it was soon invaded by neighbouring Indonesia in the same year. The Indonesian rule over East Timor was brutal

**FIGURE 3** An Australian peacekeeper greets an East Timorese child in Dili.



and unjust, but Australian governments during this time were reluctant to criticise Indonesia. They feared such a move would damage political relations between the two countries.

After decades of civil unrest, two UN programs were launched to deal with the East Timor crisis. Australia had considerable involvement with both the UN mission in East Timor (UNAMET) and the International Force for East Timor (INTERFET). The former mission successfully organised and conducted a referendum which resulted in East Timorese independence. Organised and led by Australian forces under Major General Peter Cosgrove, INTERFET then helped develop more effective military and law enforcement strategies in East Timor. The Australian contribution to East Timorese independence is an excellent example of the positive contributions Australia has made to our region.

## Resources

 **Weblink** Peace is a full-time job

### 1.8 ACTIVITIES

1. Construct a flowchart explaining East Timor's journey towards independence.

**Reasoning, creating, proposing**

2. Choose one of the seven conflicts listed in bullet points in section 1.8.2. Research the conflict and provide a summary paragraph which includes these points:

- a brief summary of the conflict
- the role played by Australia
- the number of Australian peacekeepers involved
- the outcome of the event.

**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

- CS1** What was the major criticism of the League of Nations?
- CS1** What is the key role of UN peacekeepers?
- CS1** When was Australia first involved in UN military observations and peacekeeping missions?
- CS2** Explain who may be included as UN peacekeepers.
- CS2** Describe East Timor's journey towards independence.

#### 1.8 Exercise 2: Apply your understanding

- CS3** List three challenges you might face as a UN peacekeeper.
- CS5** Which of the challenges faced by a UN peacekeeper do you believe would be the most difficult to overcome and why?
- CS4** Do you think peacekeeping is a good or a bad thing? Explain your response.
- CS6** What does Australia's participation in peacekeeping suggest about the Australian government's role and responsibilities at a global level?
- CS4** Examine the principles of UN peacekeeping in **FIGURE 2**. Explain why you think there is a need for the principle of non-use of force.

Try these questions in learnON for instant, corrective feedback. Go to [www.jacplus.com.au](http://www.jacplus.com.au).

# 1.9 SkillBuilder: Conducting an interview

online only

## What is an interview?

An interview is a conversation with some sort of purpose between two or more people. Questions will be asked by the interviewer(s) to obtain information, facts or statements from the person(s) being interviewed. Interviews can be conducted face-to-face between two people or in small groups, or by some form of communications technology such as the telephone or internet.



## 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 Thinking Big research project: Humanitarian aid proposal

online only

## SCENARIO

Australia is directly involved in humanitarian projects across the world. Your challenge is to decide which project will be next. You will identify a problem or issue, agree on a course of action and plan the project.

## 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: Humanitarian aid proposal (pro-0221)

# 1.11 Review

online only

## 1.11.1 Key knowledge summary

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

## 1.11.2 Reflection

Reflect on your learning using the activities and resources provided.

### Resources



**eWorkbook** Reflection (doc-31783)  
Crossword (doc-31784)



**Interactivity** Regional government and global citizenship crossword (int-7679)

### KEY TERMS

**absolute majority** half the number of votes received in an election plus one

**absolute monarchy** a form of government where the monarch (a king, queen or emperor) wields unrestricted political power over his or her sovereign state and its people

**authoritarian** a form of government characterised by absolute obedience to the state, an authority figure or group

**bicameral** a parliament consisting of two legislative houses, or chambers

**ceasefire** a temporary or permanent suspension of fighting

**charter** an official document describing the goals and principles of an organisation

**colonised** describes a country or region whose government has been replaced by one from another country

**constitution** a set of fundamental principles according to which a nation or state is governed

**constitutional monarchy** a type of government based on a constitution with a queen or king as its head of state

**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

**executive** another name for the government

**federation** the joining of the six Australian colonies to establish the federal and state parliaments

**first-past-the-post** a voting system where a candidate wins by receiving more votes than any other candidate

**formal vote** a ballot paper that has been filled out correctly

**humanitarian** concerned with the welfare of a social group

**infrastructure** the basic physical and organisational structures and facilities (e.g. buildings, roads, power supplies) needed for the operation of a society

**international sanctions** actions or penalties — usually economic but also diplomatic or military — imposed on a country by a group of other countries

**judiciary** the collective name given to the judges who preside over law courts

**multilateral** describes a policy or program that involves three or more countries or parties

**multinational** describes an organisation operating in several countries

**preferential system** a system in which voters are required to number all candidates on the ballot paper in order of preference. If no candidate wins more than 50 per cent of the vote, the preferences are distributed until one candidate has a majority of votes.

**proportional representation** a system where candidates are elected according to the proportion (or quota) of the vote achieved by their party

**republic** a form of government where supreme power is held by the people and their elected representatives rather than by a monarch

**separation of powers** the division of government into the legislature (parliament), executive (ministers and the public service) and judiciary with the aim of providing a system of checks and balances that prevents the excessive concentration of power in one group

**sovereignty of the people** the principle that a government's authority resides with its people through their elected representatives

**unicameral** a parliament consisting of one legislative house, or chamber

**Westminster system** the democratic parliamentary system based on the British system of parliament

# 2 Maintaining justice for a cohesive society

## 2.1 Overview

Do we really need laws, high courts and treaties? Can't everyone just get along without them?

### 2.1.1 Creating a cohesive society

Democracy is an essential ingredient for a unified community. It allows all voices to be heard and all opinions to be considered, and both promotes and protects individual expression. As a result, democratic societies are often ones that experience a high degree of social cohesion or unity. As citizens we are all subject to the rules and laws set by society — by the organisations and groups we associate with and by the governments we elect. In this topic, we dissect the social cohesion of Australian society. We see what social cohesion looks like, what threatens our communities and the laws and courts that protect them.

#### Resources



**eWorkbook** Customisable worksheets for this topic



**Video eLesson** Living in a cohesive society (eles-2378)

#### LEARNING SEQUENCE

- 2.1 Overview
- 2.2 Living in a cohesive society
- 2.3 Threats to social cohesion
- 2.4 Protecting social cohesiveness
- 2.5 **SkillBuilder:** Using and referencing quotes 
- 2.6 Resolving conflict
- 2.7 Resolving disputes between state and federal governments
- 2.8 Interpreting the Constitution
- 2.9 International law
- 2.10 Applying international treaties
- 2.11 **SkillBuilder:** A treaty in the classroom 
- 2.12 International law and Indigenous Australians
- 2.13 **SkillBuilder:** You be the judge 
- 2.14 **Thinking Big research project:** Create a bill of rights 
- 2.15 **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](http://www.jacplus.com.au).

## 2.2 Living in a cohesive society

### 2.2.1 The ‘lucky country’

Australia is often described as ‘the lucky country’. In modern Australian culture, this phrase has come to refer to our abundance of natural resources and our good weather, relatively peaceful history and tolerant society. It is interesting, then, that the man who coined this phrase meant it as an ironic criticism of Australian society. Author and social commentator Donald Horne believed that the positive aspects of Australian life had been gifted to us, rather than earned. Whether you agree with Horne’s criticism or not, Australian society can be perceived as lucky. In many ways, our society should not function as well as it does.

With so many different cultural and ethnic backgrounds, it is reasonable to assume that civil conflict would regularly occur. However, although Australian society has not been without social problems, the level of cohesion within Australia is relatively high. In this subtopic, we examine what social cohesion is and how it exists in Australia.

### 2.2.2 What is a cohesive society?

Modern societies are both dynamic and delicate. They can expand and contract, stand together or fall apart. With nearly all Australian communities containing a complex mix of ethnic and cultural backgrounds, there exists significant potential for civil unrest. What stops this violence from occurring is a concept referred to as social cohesion. Often described as the glue which holds society together, social cohesion is defined by an OECD report as ‘a force which fights exclusion and **marginalisation**, creates a sense of belonging and promotes trust within communities.’ Social cohesion is not an official government policy, nor does it take one specific form. Instead, there are several ways in which it can be demonstrated in Australian communities.

**FIGURE 1** Australia is in many respects a lucky country.



**FIGURE 2** Most Australian communities contain many cultures.



## 2.2.3 Social cohesion in Australia

The Australia you have grown up in is a mostly tolerant and **inclusive** society. It is a society that encourages the demonstration of cultural and religious identity. As we see later in this topic, it is a society that uses legal mechanisms to protect individual freedoms and fight against all forms of discrimination. Modern Australian communities are culturally **integrated**. Although some new migrants do prefer to establish themselves in small groups, the majority of Australian communities are composed of a wide variety of ethnicities. The way in which these communities have developed and continued to exist peacefully is itself an example of social cohesion within Australia.

Numerous examples of social cohesion can be seen in everyday Australian life. On a walk around your neighbourhood you might see churches, mosques, synagogues or other religious buildings. There are designated areas in the supermarket for Italian, Asian and Indian food. A crowded city-bound train carries people from countless cultural backgrounds. These examples exist because our communities have developed to be inclusive and tolerant. The sense of belonging that is felt and encouraged in Australian society exists because of the mechanisms that have been put in place to protect individual freedoms.

**FIGURE 3** The diversity of Australian communities is on display in our public spaces.



### 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

1. **CS1** In your own words, define social cohesion.
2. **CS2** Explain one negative outcome of a lack of social cohesion in society.
3. **CS2** Make a list of the examples of social cohesion you have seen today.
4. **CS2** Describe two personal experiences: one when you have experienced social cohesion in your community, and one when you have experienced a lack of social cohesion.
5. **CS2** Who do you think should be responsible for maintaining social cohesion?

#### 2.2 Exercise 2: Apply your understanding

1. **CS6** What role do you think you should play in maintaining social cohesion?
2. **CS3** How do you think governments should act to maintain social cohesion?
3. **CS3** Despite the irony surrounding the phrase's origin, Australia is often referred to sincerely as 'the lucky country'. Do you believe this is a suitable nickname for Australia? Explain your answer.
4. **CS5** As immigration rates continue to increase, Australian society is at an interesting time in its development. How do you think increased immigration rates will affect social cohesion in Australia?
5. **CS2** Our current immigration issues have affected social cohesion. Explain these current issues.

Try these questions in learnON for instant, corrective feedback. Go to [www.jacplus.com.au](http://www.jacplus.com.au).

## 2.3 Threats to social cohesion

### 2.3.1 Law-breakers cause harm to members of our community

The threats that a society faces may vary in terms of significance. Some communities around the world are threatened by war and violence, others by poverty and famine. For the majority of Australians, these threats are thankfully not ones we deal with in our daily lives. The threats that Australians face are directed at our democratic freedoms and the harmony of our communities. In this subtopic, we examine the threats to social cohesion and the dangers they pose, in particular:

- organised crime
- vested interests
- corruption
- lawlessness.

### 2.3.2 Organised crime

When discussing organised crime, we must ignore stereotypes created and perpetuated by media and popular culture. Although it is true that some criminal organisations have significant family connections, not all organised crime occurs in this way. According to the Australian Crime Commission, the major types of organised criminal activity can be classified into three main groups:

- criminal syndicates
- outlaw motorcycle gangs
- professional facilitators.

Although these groups operate in different ways, they can all pose threats to the social cohesion of Australian society.

#### Criminal syndicates

Criminal syndicates are responsible for the majority of organised criminal activity in Australia. Varying in size and influence, criminal syndicates are highly structured criminal enterprises. They can operate with structures and characteristics similar to those of regular businesses. Criminal syndicates usually involve large-scale criminal activity including the sale of illicit drugs and firearms, financial crimes, match fixing in sport and money laundering.

#### Outlaw motorcycle gangs

In recent years, there has been a crackdown on criminal activity among the various motorcycle gangs that operate in Australia. Motorcycle gangs have existed in Australia since the 1960s. Gangs such as the Bandidos and Comancheros do include legitimate motorcycle enthusiasts. However, their membership also includes known criminals and members of criminal syndicates. Some of these gangs are not only involved in criminal activity, but also frequently engage in violent behaviour while undertaking these crimes. The potential impact of outlaw motorcycle gangs on Australian communities was deemed so significant that all states have passed legislation severely restricting gang activity.

**FIGURE 1** Recent crackdowns have severely restricted the activities of the outlaw motorcycle gangs.



## Professional facilitators

A professional facilitator is an industry professional or person with specific expertise. Such a person is employed by criminal organisations to undertake specialist criminal activity. Professional facilitators are usually involved in crimes related to finance and technology. Criminal organisations may use a facilitator because they lack the required knowledge and skills, or because they want to distance themselves from the crime being committed. Professional facilitators may engage with criminals for personal gain or they may be forced into such activity through blackmail. The use of professional facilitators is becoming increasingly prevalent in Australian organised crime.

**FIGURE 2** Professional facilitators such as IT experts are increasingly being employed by crime syndicates.



### 2.3.3 Vested interests

Vested or conflicted interests can occur in a range of professions. Teachers who are employed as tutors can have conflicted interests (but only if they are paid to tutor students they teach at school), as can a sports commentator who supports a particular team. The conflict of interest that can have the most significant impact on Australian society occurs in our political system. Before beginning their terms of office, politicians must disclose any potential conflict of interest that may interfere with their position and responsibilities. Existing investments, business relationships and personal assets are examples of potential conflicts.

Consider the example of controversial businessman and politician Clive Palmer. Elected as the member for Fairfax in the 2013 federal election, Palmer has amassed a large personal fortune due to his involvement in the mining industry. Although he has disclosed his assets to parliament, his critics claim that Palmer's opinion and eventual vote on government legislation was influenced by his business interests. They argue that there is no clearer example of this conflicted interest than the repeal of the 2011 mining tax (known as the Minerals Resource Rent Tax). Vested interests such as Palmer's can be viewed as a threat to Australian democratic processes. Instead of representing the interests of his electorate, Palmer could be accused of merely representing his own interests.

### 2.3.4 Corruption

Unlike many governments around the world, Australian politics is relatively free from corruption. Forms of political corruption may include bribery, **embezzlement** and the repression of political opponents. Although these acts are not commonplace in Australian governments, they have been known to occur.

From the Rum Rebellion (1808) to the Loans Affair (1975), political corruption has at times had an impact on the proper functioning of Australian governments. The Rum Rebellion led to the only successful armed revolution against an Australian government in the history of this country, and the Loans Affair contributed to the sacking of former Prime Minister Gough Whitlam. More recently, political corruption has been rife in the New South Wales parliament. Since 2009, this suspect activity has resulted (directly or indirectly) in the resignation of two New South Wales premiers. Corruption in the New South Wales parliament has also caused Australia to slip in the corruption ratings calculated by independent assessor Transparency International. Political corruption compromises effective government and is therefore a serious threat to democracy and social cohesion in Australia.

## 2.3.5 Lawlessness

Australian society has never been truly lawless. Indeed, martial law has only been invoked once in our nation's history — immediately after the Eureka Stockade. Contemporary Australian society largely follows the rule of law, resulting in the majority of our communities remaining safe and peaceful. There have been times, however, when Australian citizens have pushed the boundaries of civil society; times when hostile groups and individuals have threatened the safety of others.

Freedom of assembly is widely enjoyed by our democratic society. Groups of people are free to congregate in support of a cause, or an ideology or event. The vast majority of protests in this country are peaceful in nature, although there have been several episodes of mob violence. The most infamous of recent episodes is the 2005 Cronulla riots. A beachside suburb of Sydney, Cronulla is (like many suburbs in Australia) characterised by its ethnic diversity. The riots were the result of simmering tension between young Lebanese and Anglo-Saxon men. The violence escalated on 11 December after an earlier altercation between the two groups at a Cronulla beach. The riot and retaliations that followed were some of the most graphic examples of violent racism seen in modern Australia. Many people were injured in the bloody violence and over 100 arrests were made during the riots and the aftermath.

Violence on our streets is always a concern, and frequent incidents gain media attention and can force governments to act. From 'coward punch' attacks and alcohol-fuelled assaults to high profile murders such as those of Jill Meagher and Eurydice Dixon and the two major incidents in Bourke Street in Melbourne, these types of crimes create a sense of lawlessness. Although statistics show that the frequency of such assaults is decreasing, their indiscriminate and callous nature has shocked Australian communities. State governments continue to work to reduce the incidence of public violence, both through the enforcement of harsh new penalties and through education and awareness programs aimed at young people.

**FIGURE 3** A young man clashes with police during the Cronulla Riots in 2005.



### DISCUSS

In 2014, NSW and Victoria introduced mandatory minimum prison terms for so-called 'one punch deaths', or 'coward's punch manslaughter'. This was in response to a large number of incidents in those states in which someone died as a result of being 'king hit' (a punch delivered without warning) by an intoxicated person. The change to minimum terms has increased sentences for offenders, but not everyone is convinced that longer sentences for this type of crime are effective. Find out what the mandatory minimum penalties are for this crime in Victoria and NSW. Discuss the advantages and disadvantages of longer sentences for 'coward's punch manslaughter'.

[Ethical Capability]

### on Resources

 **Weblinks** Australian Criminal Intelligence Commission  
2005 Cronulla riots

## 2.3 ACTIVITY

Develop an antiviolence pamphlet or poster aimed at people your age. Your poster or pamphlet could include a scenario where young people are faced with a violent situation.

**Reasoning, creating, proposing**

## 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** Identify three threats to social cohesion.
2. **CS1** Of the threats identified in question 1, which is the most recent?
3. **CS1** How can a conflict of interest stop a politician from fulfilling his or her duties?
4. **CS2** Consider one act of violence you have heard about recently through the media. How did it make you feel? Describe the act of violence reported.
5. **CS2** Explain what is meant by *organised crime*.

### 2.3 Exercise 2: Apply your understanding

1. **CS3** Of the three categories of organised crime, explain the category you believe poses the biggest threat to social cohesion.
2. **CS2** Consider a recent act of violence you have heard reported. Describe the government's response to that act (if any).
3. **CS2** In 2019 there were internal disputes over political issues in countries such as Indonesia, Algeria and the Sudan. Explain how internal conflict can negatively impact social cohesion.
4. **CS4** Riots by young people in Algeria led to the resignation of a President. Some people argue that demonstrations are an act of lawlessness. Comment on these points.
5. **CS5** In 2019, students from schools across Victoria went on strike and protested against climate change inaction. This was a sign that young people are becoming increasingly active in political issues. Comment on whether you believe young people (school students) should be active in political issues and give reasons for your answer.

Try these questions in learnON for instant, corrective feedback. Go to [www.jacplus.com.au](http://www.jacplus.com.au).

## 2.4 Protecting social cohesiveness

### 2.4.1 Democratic freedom and rights

As we have already discussed, contemporary Australia experiences a high degree of social cohesion. Our cultural differences are celebrated and used to foster unity and tolerance. In order for Australian society to remain unified, we need to protect the very elements that contribute to this sense of social cohesion. Among the most important of these elements are the democratic freedoms and rights of Australian citizens. Australia has no **bill of rights** to officially protect democracy and social cohesion within its borders. Instead, Australian citizens rely on other safeguards and mechanisms to protect their freedoms and rights. The adherence to a system of shared values can also help unify Australian society. In this subtopic, we explore the ways in which social cohesion and democratic rights are protected in contemporary Australia.

**FIGURE 1** Australians have the right to gather together to peacefully protest key issues.



## 2.4.2 Wrong to have no rights?

A bill of rights is a document that lists and describes the individual rights of citizens. It is a key feature of democratic society, so it may surprise you to learn that Australia is the only Western democracy that functions without an official bill of rights. There has been significant social and political debate regarding this issue. The enforcement of an Australian bill of rights would fall to our judicial system. Opponents to such a document claim that it would reduce the rights of citizens because judges are appointed and not democratically elected. Supporters of a bill of rights argue that such a **legally binding** document would officially protect social freedoms and also enhance social cohesion by enshrining the rights of the nation for all to see.

All three attempts to pass a bill of rights through the federal parliament have failed. Instead, the rights of Australian citizens are protected through three other methods: our Constitution, legislation (laws made by government) and common law (laws made by the judicial system). Whether a bill of rights eventually becomes part of Australian society remains to be seen.

## 2.4.3 The right to protest

There have been hundreds of public protests in Australia's history. The causes behind these protests have varied in terms of their significance. The 1907 Sydney protest against bathing costume regulations pales in comparison to the so-called 'Day of Mourning' protest launched on Australia Day in 1938, the anti-war demonstrations of the early 1970s or the Sorry Day marches of 2000. Given the strong history of public protest in Australia, it is interesting to note that Australian citizens are afforded the right to protest by an international convention and not by Commonwealth legislation. There is no current federal law that protects the right of freedom of assembly for Australian citizens, nor is it mentioned in our Constitution. Instead, this right is contained within the International Covenant on Civil and Political Rights (ICCPR), a United Nations treaty which Australia has signed and ratified. Although the ICCPR is not enforceable by law in Australia, it does serve to protect the rights of Australian citizens. Regardless of the nature of the protest itself, people are free to join together to condone or condemn an issue, event or ideology. In this way, a key democratic freedom of Australian citizens is protected.



**FIGURE 2** Anti-Vietnam War protesters in Australia block a parade during the visit of former US President Lyndon Johnson in 1966.

### DISCUSS

As a human being you have certain rights. What are five basic rights you believe you are entitled to? Compare and discuss the choices of the entire class.

**[Ethical Capability]**

## 2.4.4 Anti-discrimination laws

In a culturally diverse society such as Australia, the existence of meaningful anti-discrimination laws is essential. All Australians — regardless of race, religion, gender, age or sexual persuasion — should feel safe in their own communities. Since 1975, various state and federal governments have introduced laws against the **discrimination** of people on the basis of their physical, religious or cultural characteristics.

They include the following:

- *Racial Discrimination Act 1975*
- *Sex Discrimination Act 1984*
- *Australian Human Rights Commission Act 1986*
- *Disability Discrimination Act 1992*
- *Age Discrimination Act 2004.*

In conjunction with other state and territory laws, these are examples of how individual freedoms and rights are protected in Australian society. Individuals who feel they have been harassed or bullied on these grounds have the opportunity to lodge official complaints. These complaints are then investigated, and if deemed appropriate the parties may be called to attend conciliation sessions. The Australian Human Rights Commission (AHRC) is responsible for handling all such complaints and any actions arising from them. It is funded by the federal government but is run independently of any political influence. Its leadership is made up of a wide range of academic and legal professionals. The role played by the AHRC is crucial in maintaining individual rights and social cohesion in our society.

## 2.4.5 Unity through values

Social cohesion can also be protected by communities following a set of shared values. Serving as ethical guidelines and principles, values can instruct people how to act in our communities. They tell us what is right and wrong, what is acceptable and what is **taboo**. All new Australian visa applicants are required to sign the Australian Values Statement. By signing this document, visa applicants commit to adhering to and demonstrating shared values of the Australian community. These values include:

- respect for individual freedom (including religious freedom)
- commitment to the rule of law, democracy, the equality of men and women, and pursuit of the public good
- tolerance, fair play and compassion for those in need.

By unifying the Australian population behind a set of shared values, individual and collective freedoms and rights are protected. The Sorry Day marches of 2000 provide a clear example of the power of shared values. Sorry Day (held annually on 26 May) was established in 1998. The day commemorates the injustices committed against **Indigenous** Australians throughout our nation's history. To coincide with the ten-year anniversary of the official beginning of the reconciliation process, nationwide marches were organised for the May 2000 march. More than 250 000 people participated in Sydney alone, with hundreds of thousands more joining in around Australia. The majority of these people were not Indigenous, nor had they been personally affected by the crimes committed against our first people. Instead, they simply wished to show their support for a cause in which they believed and for values which they held dear. Together with the legal mechanisms of protection discussed earlier, shared values can significantly add to the social cohesion of Australian society. The Sorry Day marches show this cohesion in action.

### 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 bill of rights?
2. **CS1** If Australia has no official bill of rights, how are individual rights and freedoms protected here?
3. **CS1** List the positives and negatives of not having an official bill of rights.
4. **CS1** Explain what a demonstration is and why people use this form of protest.
5. **CS1** How is the right to protest protected in Australian society?

#### 2.4 Exercise 2: Apply your understanding

1. **CS2** Explain the role of the AHRC.
2. **CS2** If the AHRC is funded by the federal government, how does it remain free from political bias?
3. **CS2** Explain how adherence to a shared set of values can affect social cohesion.

4. **CS5** Present two arguments for and two arguments against the statement that Australia needs an official bill of rights.
5. **CS5** Assume Australia was to create a bill of rights. List and justify the five most important rights you believe should be included in such a bill.

Try these questions in learnON for instant, corrective feedback. Go to [www.jacplus.com.au](http://www.jacplus.com.au).

## 2.5 SkillBuilder: Using and referencing quotes

online only

### Why is it important to reference quotes?

When writing an essay, assignment or report, you need to include evidence to support your arguments. If this evidence takes the form of a quote or includes the use of statistics, then you must show the reader where this information came from. This can be done through the use of a referencing system.



### 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 Resolving conflict

### 2.6.1 Mechanisms of dispute resolution

If a dispute is serious enough and breaks federal or state legislation, the opposing parties may eventually end up settling their differences in the court system. This is costly and time consuming for both parties. For these and other reasons, it is often easier to settle disputes outside of court. In Australia, conflict resolution is achieved through four main processes:

- negotiation
- conciliation
- mediation
- arbitration.

In this subtopic, we discover more about the mechanisms of conflict resolution in Australian society and how these processes foster social cohesion.

There are many similarities between the strategies used to resolve disputes or conflicts in Australian society. However, there are also distinct differences because each strategy is used for a unique purpose and situation. Each strategy also has its own advantages and disadvantages.

**FIGURE 1** It is usually cheaper and quicker to settle disputes without going to court.



## Negotiation

One of the purest forms of **dispute resolution**, negotiation involves the opposing parties dealing directly with each other. By resolving the conflict without the help of a third party, the process is simplified and costs are minimised. Negotiations can be completed by correspondence or through direct meetings.

The first step of this process involves the opposing parties listing their preferred outcomes. Then the actual negotiation takes place and a mutually beneficial outcome is sought. Opposing parties are allowed to employ legal representatives, although this is not an official requirement. Most forms of legal dispute can be resolved through negotiation.

**FIGURE 2** Negotiation is an effective way to resolve most forms of legal dispute.



## Conciliation

Not to be confused with reconciliation, this dispute-resolution strategy involves the use of an independent third-party **conciliator**. This person is usually appointed by a formal tribunal such as the Australian Human Rights Commission and the Fair Work Commission. If the dispute involves matters requiring specific, technical knowledge of particular area, the opposing parties may request that a suitably qualified conciliator be appointed.

During a conciliation meeting, the opposing parties are allowed to express their views and discuss their perspectives on the dispute. It is the conciliator's role to facilitate this discussion, consider the opposing arguments and rule on the outcome. Similar to negotiations, legal representation is not required during conciliation although participants can request that lawyers are present at any time. Conciliations are frequently used to resolve disputes. More rigorous than a mediation and less intensive than an arbitration, conciliations provide a fair and affordable way to resolve disputes.

## Mediation

The words mediation and conciliation are often used interchangeably, but the dispute-resolution processes are not identical. According to the Australian Mediation Association, mediation is about promoting understanding between opposing parties and using creative problem solving to seek a preferred outcome.

Both processes involve a third party acting to resolve the dispute. In conciliation, however, that third party is usually an expert brought in to rule on a technical dispute. Although they have the necessary legal qualifications, a mediator may lack specific technical expertise on a matter. Unlike an expert conciliator, a mediator focuses on the communication between the opposing parties rather than on the technical nature of the dispute itself.

The lack of this expert knowledge does not detract from a mediator's importance. The difference between the two roles is similar to the difference between a GP and a specialist doctor. Your GP is a qualified doctor who has treated a range of diseases and ailments. A specialist, however, has had more specific training in one particular area.

Any outcome achieved through mediation is not imposed upon the parties. Disputes may even remain unresolved if the opposing parties do not agree on the outcome of the mediation.

**FIGURE 3** A mediator focuses on the communication between the opposing parties rather than on the technical aspects of the dispute.



## Arbitration

Arbitration is used when the opposing parties require a resolution that imposes a legally binding decision. It is the most intense and therefore most expensive method of conflict resolution outside of a courtroom trial. As with mediation and conciliation, arbitration involves the use of an independent third party: the arbitrator. Either an individual arbitrator or a panel of suitably qualified individuals can be used in this process. As this process often requires technical legal knowledge and skills, opposing parties engaged in arbitration usually employ legal representation.

Arbitration is a more lengthy process than other methods of conflict resolution because the adjudicator requires time to consider the legal implications of the opposing arguments, and may also need to review evidence of a technical nature. Due to the lengthy nature of the process and the frequent use of legal representation, arbitration has significantly higher costs than other methods of conflict resolution. Participants in this process also need to be willing to accept the consequences of any legally binding outcome delivered by the arbitrator or panel. For these reasons, the other methods of conflict resolution described are more frequently undertaken.

### 2.6 ACTIVITY

Use internet resources to discover how a person can become a qualified mediator. Explain the process that they would need to go through and the prior qualification they would need.

**Describing and explaining**

### 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** What are the advantages of settling a dispute out of court?
2. **CS1** Why is negotiation known as the most simple and direct form of conflict resolution?
3. **CS1** Explain what is meant by *mediation*.
4. **CS1** How does the outcome of arbitration differ from that of the other forms of conflict resolution discussed?
5. **CS1** Why are courts sometimes needed to resolve disputes?

## 2.6 Exercise 2: Apply your understanding

1. **CS2** Construct a table that explains the similarities and differences of the methods of conflict resolution discussed in this section.
2. **CS3** Indicate which dispute-resolution method you would use for each of the following examples. Include a brief justification for your choice.
  - (a) You are the manager of a mining company involved in a dispute with an engineering subcontractor.
  - (b) You work at your local supermarket and you have lodged an official complaint with the AHRC about racist remarks made by your manager.
  - (c) You are renovating your house and your neighbour has lodged a complaint about the renovation's impact on your street.
3. **CS2** Conciliation is often good for resolving a dispute where an ongoing relationship exists. Using an example, explain what this means.
4. **CS2** The alternative dispute resolution methods outlined in the subtopic are used by courts and other venues. Describe one other venue that can be used to resolve disputes.
5. **CS5** 'People who resolve a dispute through conciliation are often better off than if they had used arbitration.' Discuss this statement.

Try these questions in learnON for instant, corrective feedback. Go to [www.jacplus.com.au](http://www.jacplus.com.au).

# 2.7 Resolving disputes between state and federal governments

## 2.7.1 Specific, residual and concurrent powers

A system of courts is needed to help maintain social cohesion. In Australia we have courts at a state level but we also have a federal court system. At the top of this federal court system is the High Court of Australia. Located in Canberra, the court is presided over by seven High Court Justices, who are appointed by the governor-general on the advice of the federal government. Justices are appointed for a period that expires when they turn 70; they cannot be removed from office except on the grounds of proven misbehaviour or incapacity.

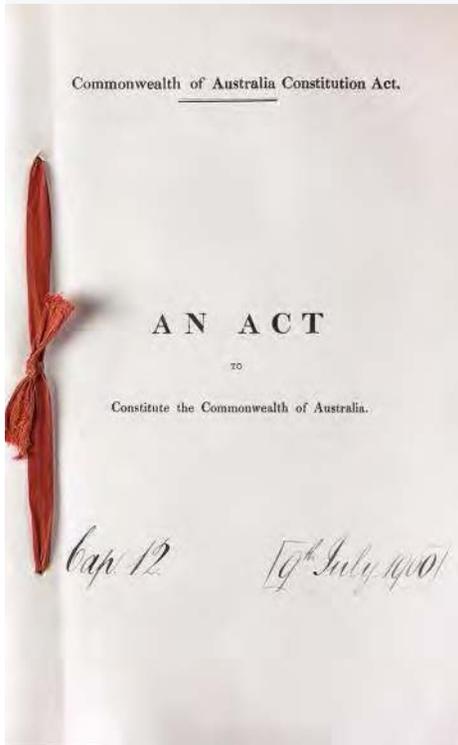
When the Constitution established the Commonwealth of Australia (effective 1 January 1901), it granted the Commonwealth parliament the power to make laws in certain areas. These are known as specific powers. They are called 'specific' because they are specified in sections of the Constitution. It also allowed the colonial parliaments (known as state parliaments after federation) to retain their individual constitutions and some of their law-making powers, known as residual powers. It further provided some areas of law making where both the states and the federal parliaments could make laws, referred to as concurrent powers. Having concurrent powers made it likely that some conflict would develop between laws made by the Commonwealth and laws made by the states. In these circumstances it is the role of the High Court to settle such disputes.

## 2.7.2 Concurrent powers

Section 51 of our Constitution identifies 40 areas where the Commonwealth (or federal) Parliament 'shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Commonwealth'. As noted earlier, these powers are referred to as specific powers. They are also referred to as 'concurrent', which means both the state and the federal parliaments are free to make laws in these areas. These 40 powers include the power to make laws in the areas of taxation, marriage, naturalisation and aliens, external affairs and acquiring property on just terms.

The framers of the Constitution were aware that, by creating these concurrent powers, there was potential for conflict to arise between a law made by a state parliament and a law made by the federal parliament. To that end, the framers put in place a mechanism for resolving such a conflict — section 109.

**FIGURE 1** *The Commonwealth of Australia Constitution Act 1900* establishes the law-making powers of the federal and state parliaments.



**FIGURE 2** The popular Australian film *The Castle* involved a family fighting a large company who wanted the government to compulsorily acquire their house. Section 51 of the Constitution was mentioned in the film.



Section 109 of the Constitution states that ‘When a law of a State is inconsistent with a law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid.’ A problem arises when the state doesn’t believe that an inconsistency exists or believes that the Commonwealth didn’t have the power to create a law in this area. It is at this point that the High Court is often called upon to resolve the dispute.

The original version of the Constitution included only 39 specific powers and they were referred to as the ‘39 heads of power’. An additional power was added after the 1946 referendum.

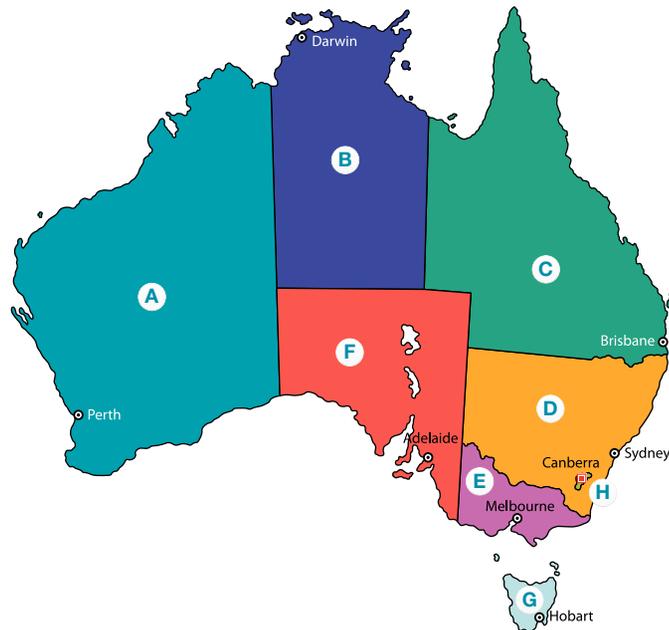
### 2.7.3 Resolving conflicts between state and federal laws

The framers of the Constitution recognised that the members of the state governments would be more familiar with their own citizens and circumstances, and so the state governments were left with the power to make laws in certain areas. The framers also recognised that there were certain areas where it would be in the national interest for citizens to recognise only one law.

Discrepancies exist between states and territories in certain areas of law. For example, each state and territory has its own laws about learner drivers’ permits and probationary licenses. Study **FIGURE 3** to discover the different laws that exist in each state and territory in relation to obtaining a learner’s permit or probationary license. In which state or territory does it take the least amount of time to obtain a probationary license?

One area where laws have conflicted in recent years is marriage. In 1961 the Commonwealth Parliament passed the *Marriage Act 1961* (Cwlth). This act of parliament codified the law to explicitly state that ‘“marriage” means the union of a man and a woman to the exclusion of all others, voluntarily entered into for life’. In 2004 the Commonwealth Parliament passed the *Marriage Amendment Act 2004* (Cwlth) that further extended the existing law to define marriage as ‘a union of a man and a woman; and clarify that same-sex marriages entered into under the law of another country will not be recognised in Australia’.

**FIGURE 3** Learner permit and probationary licence laws around Australia



**A Western Australia**

A learner's permit can be obtained at the age of 16 after passing a theory test and an eyesight test. The learner must have at least 50 hours of driving practice and hold their learner's permit for at least 6 months before applying for their probationary licence.

**B Northern Territory**

A learner's permit can be obtained at the age of 16 after passing a road rules test and an eyesight test. Learner drivers are allowed to drive at a maximum speed of 80 kilometres per hour, and can apply for their probationary licence after holding a learner's permit for at least 6 months.

**C Queensland**

A learner's permit can be obtained at the age of 16 after passing a written road rules test. A driver must complete at least 100 hours of driving, including 10 hours of night driving, and have held their learner's permit for at least 12 months before applying for their probationary licence.

**D New South Wales**

A learner's permit can be obtained at the age of 16 after completing a computerised road rules test and eyesight test. Learner drivers need to do 120 hours of driving, including 20 hours of night driving, and can drive at a maximum speed of 90 kilometres per hour. Learner drivers can apply for their probationary licence after holding a learner's permit for 12 months and completing their required driving hours.

**E Victoria**

A learner's permit can be obtained at age 16 after passing a computerised knowledge test and an eyesight test. Learner drivers can drive at the normal speed limit and must complete at least 120 hours of driving practice. A learner driver must have had a learner's permit for 2 years before applying for their probationary licence.

**F South Australia**

A learner's permit can be obtained at age 16 after completing a theory test. Learner drivers can drive at the normal speed limit and must complete at least 75 hours of driving practice. A learner driver must hold a learner's permit for 12 months before applying for their probationary licence.

**G Tasmania**

A learner's permit can be obtained at age 16 after passing a driver knowledge test. Learner drivers are required to drive at a lower speed than is posted when speed limits are over 90 kilometres per hour. After 3 months of holding an L1 permit, a learner driver sits a driving assessment to get an L2 licence. After a further 9 months and at least 50 hours of driving experience, the learner can apply for their probationary licence.

**H Australian Capital Territory**

A learner's permit can be obtained at the age of 15 years and 9 months after completing a road safety program called 'Road Ready' and passing a computerised road rules test. In order to apply for a probationary licence, a driver must be at least 17 and have held a learner's permit for at least 6 months.

In 2013 the government of the Australian Capital Territory passed a new law, the *Marriage Equality (Same Sex) Act 2013* (ACT), which allowed for same-sex marriage in the ACT. After it was proclaimed, a challenge was raised in the High Court in December 2013 in the case of *Commonwealth v. Australian Capital Territory* 2013 HCA 55.

The High Court was asked to decide whether section 51(xxi) and section 51(xxii) of the Constitution, which relate to marriage and divorce, allowed the ACT government to pass a law that was contrary to the federal law identifying marriage as a union between a man and a woman. On 12 December 2013 the High Court ruled that the ACT law legalising same-sex marriage was inconsistent with the federal law passed under section 51(xxi) of the Constitution. Hence, the ACT law was deemed to be invalid, and it was subsequently repealed. The High Court was able to resolve a conflict between two laws on the same topic and has therefore provided for a consistent law in this area.

After this High Court decision, debate continued in Australia. The growing level of support for same-sex marriage resulted in a plebiscite, which is a vote by the people to gauge the level of support for a change in the law. The vote, which took place between September and November 2017, was conducted entirely through a postal survey rather than through ballot boxes at polling booths. Over 79 per cent of eligible voters returned the postal vote form (voting was not compulsory as it normally is in Australian elections). Nearly 62 per cent of voters supported a change in the law, so the federal government then passed a law legalising same-sex marriage, which came into effect in December 2017.

**FIGURE 4** Australians took to the streets in large numbers to show their support for legalising same-sex marriage.



## 2.7.4 Influencing state governments

The High Court not only resolves disputes over Commonwealth and state laws; it is also asked to review decisions made in state courts. As part of its jurisdiction the High Court has the ability to hear appeals from the Supreme Courts of each state and territory, and to comment on legislation passed by the states. In making its judgements the court, and the justices sitting on a particular case, will offer comments on the validity and suitability of the laws in question. The state parliaments often act on these comments.

The case of *Trigwell v. State Government Insurance Commission* (1979) is an example of such a case. A woman was driving along a road at night when she swerved to avoid a sheep that had strayed onto the road. In doing so, she crossed onto the other side of the road and hit an oncoming car. The woman was killed and the people in the other vehicle were injured. The injured parties sued the farmer for negligence, stating that the farmer was at fault for not maintaining the fence through which the sheep escaped. The High Court was unable to find the farmer liable as the court was bound by a decision made in the House of Lords in England that still applied to Australian courts. In making their decision, the justices noted that the parliaments of the various states had known of this **precedent** for some time but had not acted. Following this decision, many state governments (including Victoria) passed legislation to amend the Wrongs Act so this decision could not occur again. Farmers would henceforth be liable for their animals.

**FIGURE 5** Animals straying onto a road can cause a hazard for other road users — sometimes leading to accidents, as occurred in the Trigwell case.



## 2.7 ACTIVITY

The same-sex marriage debate is considered over as the law has now been changed. Society has evolved sufficiently to accept same-sex marriage. The challenge for society is to remedy the next 'big' social issue.

In small groups, discuss and identify what you consider to be the next big social issue. Research what the issue is about and what the pros and cons are of changing the law in this area. Prepare a speech, poster or PowerPoint to present your group's findings and views to the class.

Some possibilities might be:

- legalising some or all drugs
- voluntary euthanasia.

[Ethical 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** Where is the High Court located?
2. **CS1** Which sections of the Constitution establish the High Court of Australia and its jurisdiction?
3. **CS1** How many justices sit on the High Court at any one time?
4. **CS1** At what age do High Court justices retire?
5. **CS1** Explain the difference between specific, residual and concurrent powers.

### 2.7 Exercise 2: Apply your understanding

1. **CS2** Why could concurrent powers lead to conflict?
2. **CS3** Analyse why it is better in some instances for Australia to have one law for the whole country on an issue.
3. **CS3** Analyse why the High Court is the appropriate venue to resolve disputes between two or more states.
4. **CS3** The High Court hears appeals from other courts. Analyse why the High Court should be able to do this.
5. **CS5** Some areas are not mentioned in the Constitution, such as the environment or euthanasia. Describe the role the High Court could play in disputes in these areas.

Try these questions in learnON for instant, corrective feedback. Go to [www.jacplus.com.au](http://www.jacplus.com.au).

## 2.8 Interpreting the Constitution

### 2.8.1 The power to interpret the Constitution

The Commonwealth of Australia Constitution was passed by the British Parliament in 1900 after ten years of negotiations and drafting by the premiers of the six colonies and a number of constitutional conventions. This process served to develop a constitution that served the interests of all the states and the citizens of Australia at that time. It also aimed to provide a framework for governing that would serve Australia into the future by including in the Constitution provisions to take future changes in society into account. Of course, the framers could not envisage all possible future changes. By establishing the High Court, they provided a means for interpreting the Constitution that allows the document to take into account future circumstances, thereby bringing the law-making powers into the twenty-first century and beyond.

The High Court obtains its jurisdiction from sections 75 and 76 of the Constitution (see **FIGURE 2**). Effectively it has the power to hear and determine ‘all matters’ that are listed below, such as matters arising under any treaty and matters in which the Commonwealth is a party. Since its first case in 1903, the High Court has played a significant role in interpreting the words and phrases of the Constitution to determine whether a law or a decision is valid.

**FIGURE 1** When the Constitution was drafted in the late 1890s, its creators could not anticipate the changes brought about by technology.



**FIGURE 2** Sections 75 and 76 of the Constitution give the High Court its jurisdiction to hear cases and interpret the Constitution.

#### **Section 75 of the Constitution gives the High Court jurisdiction to hear cases**

In all matters:

- i. arising under any treaty
- ii. affecting consuls or other representatives of other countries
- iii. in which the Commonwealth, or a person suing or being sued on behalf of the Commonwealth, is a party
- iv. between states, or between residents of different states, or between a state and a resident of another state
- v. in which a writ of mandamus or prohibition or an injunction is sought against an officer of the Commonwealth the High Court shall have original jurisdiction.

#### **Section 76 of the Constitution further elaborates on the High Court's powers**

The parliament may make laws conferring original jurisdiction on the High Court in any matter:

- i. arising under this Constitution, or involving its interpretation
- ii. arising under any laws made by the parliament
- iii. of admiralty and maritime jurisdiction
- iv. relating to the same subject matter claimed under the laws of different states.

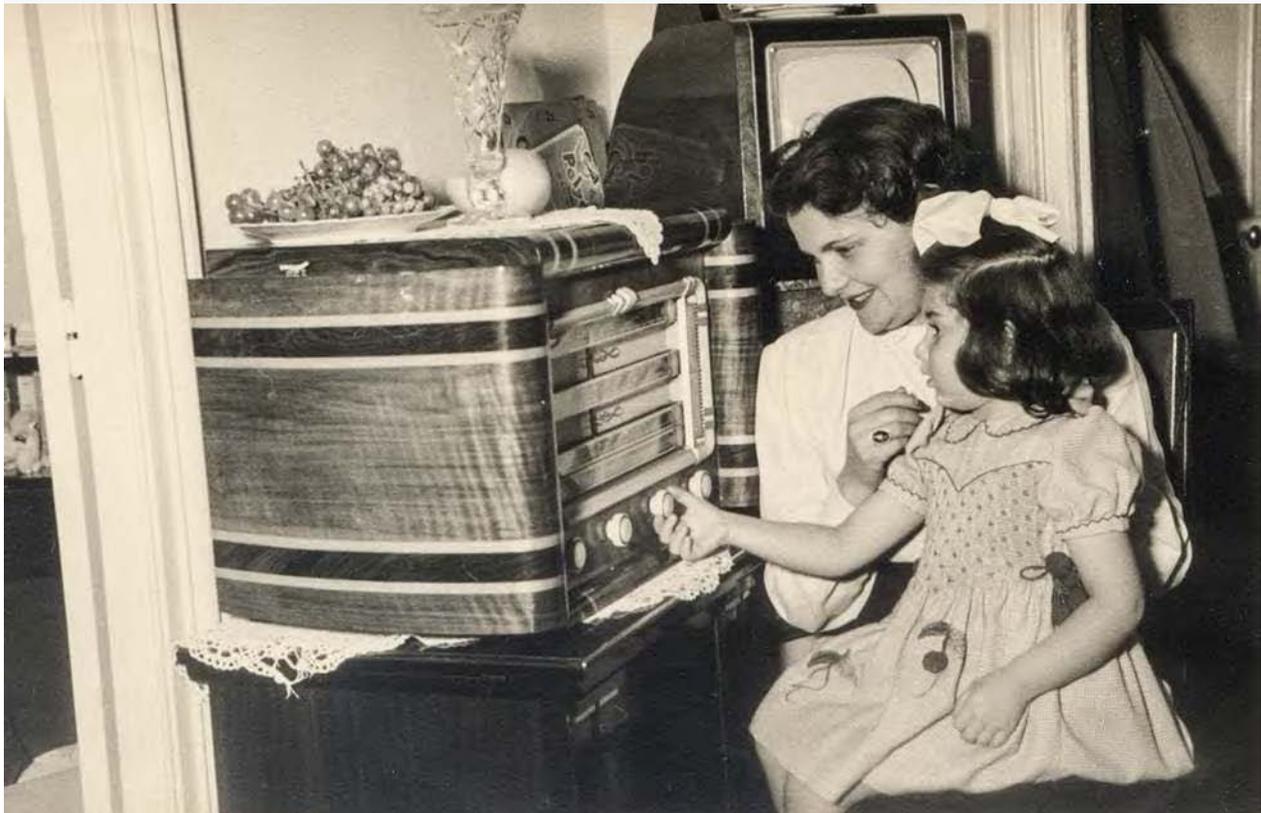
The Constitution contains clear rules about the law-making powers of both the state and Commonwealth parliaments. However, as noted above, there are still occasions when conflicts over law-making power arise between the Commonwealth and the state parliaments. It is also possible for individuals to challenge whether or not a particular law made by the Commonwealth is constitutional.

When called upon to interpret the Constitution, the High Court is actually making a law, as the decision made will be followed by other courts and parliaments in all future cases and legislation. This is an important function of the High Court because it provides for consistency and certainty in laws across Australia.

## 2.8.2 CASE STUDY: Interpreting the Constitution

Section 51(v) of the Constitution gives the Commonwealth the power to make laws with respect to ‘postal, telegraphic, telephonic, and other like services’. At the time the Constitution was written, this section related to controlling telegraph services, telephones (still in their infancy) and the issuing of stamps for letters and packages. The 1880s saw the development of the telegraph and the telephone, and so it was foreseen that technology would continue to evolve and other means of communication might develop. It is possible that this thought encouraged the framers of the Constitution to include the phrase ‘other like services’ in this section, indicating that they knew some form of technology would develop but were not sure what that might be. The meaning of this phrase has been tested a number of times, with the most commonly sourced case being *R v. Brislan* (1935).

**FIGURE 3** When wireless sets (radios) were introduced, it was necessary for people to have a licence to own and use one.



### *R v. Brislan*

In 1905 the Commonwealth Parliament passed the *Wireless Telegraphy Act* (1905). This Act allowed the government, through the Postmaster-General, to issue licences to those who transmitted or listened to wireless broadcasts. It also allowed the government to collect fees from those who were issued with licences (see **FIGURE 4**).

In 1934 Dulcie Williams purchased and had installed an electric wireless receiving set. A week after installation she was visited by officers of the Postmaster-General’s department and was charged, convicted and fined £1 in the Court of Petty Sessions for failure to have a licence. Williams challenged the law on the

basis that the Commonwealth did not have the power under the Constitution to impose the requirement of the licence. *Brislan*, the inspector who initially charged Williams, was also a party to the case as his actions were being questioned. It was argued that the term ‘other like services’ did not cover wireless sets and licences to use such sets. The High Court decided that section 51(v) included the power to regulate radio broadcasting and so the 1905 legislation was valid law. In a majority decision, the justices found radio to be an item covered by section 51(v) and that the phrase ‘other like services’ should encompass developments in technology not anticipated at federation and therefore not explicitly listed in the Constitution.

Television, fax machines and the internet all developed after the *Brislan* case was heard, and at times the High Court has had to expand upon the judgement in *R v. Brislan* to determine whether these items are covered by the Constitution. The result of the judgement in the *Brislan* case is that these words in the Constitution have been interpreted and a meaning has been given to them.

**FIGURE 4** Section 5 of the Wireless Telegraphy Act allowed the Postmaster-General to collect licence fees from those who listened to a wireless.

BE it enacted by the King’s Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

1. This Act may be cited as the *Wireless Telegraphy Act 1905*.
2. In this Act,—  
“Australia” includes the territorial waters of the Commonwealth and any territory of the Commonwealth;  
“Wireless telegraphy” includes all systems of transmitting and receiving telegraphic messages by means of electricity without a continuous metallic connexion between the transmitter and the receiver.
3. This Act shall not apply to ships belonging to the King’s Navy.
4. The Postmaster-General shall have the exclusive privilege of establishing, erecting, maintaining, and using stations and appliances for the purpose of—
  - a. transmitting messages by wireless telegraphy within Australia, and receiving messages so transmitted, and
  - b. transmitting messages by wireless telegraphy from Australia to any place or ship outside Australia, and
  - c. receiving in Australia messages transmitted by wireless telegraphy from any place or ship outside Australia.
5. Licences to establish, erect, maintain, or use stations and appliances for the purpose of transmitting or receiving messages by means of wireless telegraphy may be granted by the Postmaster-General for such terms and on such conditions and on payment of such fees as are prescribed.

### 2.8.3 A question of rights

The Constitution not only provides for our system of government and the division of law-making powers between the states and the Commonwealth; it also provides citizens of Australia with certain **rights**. These rights are referred to as express rights because they can be clearly identified in the words of the Constitution. Through its ability to interpret the Constitution, the High Court, as the guardian of the Constitution, therefore protects our rights as well. If a person or a group feels that an act of a government infringes upon their rights, they may ask the High Court to declare the action unconstitutional or the law *ultra vires*.

The High Court may also determine that other rights exist within the words of the Constitution even though those words do not expressly provide that right. The High Court can still **infer** that a right exists and that the words imply that right. There are a number of cases that involve the determination of implied rights by the High Court. All but one of these cases revolve around the implied right to freedom of political communication.

#### *Theophanous v. Herald and Weekly Times (1994)*

Dr Andrew Theophanous was a member of the Australian Labor Party (ALP) who had been elected to the House of Representatives in 1980. In 1992, while he was still a member of parliament, the *Sunday Herald Sun* published a letter written by Bruce Ruxton, the president of the Victorian branch of the Returned and Services League (RSL). This letter raised some concerns about the qualities of Dr Theophanous as a politician. Theophanous sued Ruxton and the Herald and Weekly Times (publishers of the *Sunday Herald Sun*) for **defamation**.

In resolving this dispute the High Court was required to look at the words of the Constitution, in particular sections 7 and 24, to determine if they allowed for freedom of political speech. The sections themselves state that members of the Senate (section 7) and the House of Representatives (section 24) are to be chosen by the people. The High Court was asked to examine if the requirement of being elected by the people gave the people the right to comment on political matters. The High Court ruled that the Constitution did protect freedom of political speech. Therefore, the fact that Ruxton was expressing a view about a political matter provided him with a defence so that he could not be sued for defamation.

### 2.8 ACTIVITY

When the Constitution was written, the law makers at the time could not predict the potential future changes to society that would necessitate the passing of new laws. One of the roles of the High Court is to interpret the Constitution and apply it to contemporary society.

- a. Do some research to find a recent decision made by the High Court that required a new interpretation of an old law. Briefly outline the issue and the change made to the law.
- b. Can you predict any future changes to our society that might require a different application of the law?

**[Critical and Creative Thinking Capability]**

### 2.8 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

#### 2.8 Exercise 1: Check your understanding

1. **CS1** Why was an Australian Constitution needed?
2. **CS1** Why was the High Court needed?
3. **CS1** What sections of the Constitution give the High Court the power to interpret the Constitution?
4. **CS1** Why do you think the Australian Constitution needs to be interpreted on occasions?
5. **CS3** Looking at the Brislan case, what changes have occurred in telecommunications to which the decision in Brislan can be applied today?

#### 2.8 Exercise 2: Apply your understanding

1. **CS4** What impact does an interpretation of the Constitution have?
2. **CS2** What is meant by an *implied right*?
3. **CS5** Most laws are made by Parliament, whose members are elected by us. Discuss whether you think judges in the High Court should be allowed to make laws through their decisions.
4. **CS5** Examine the Theophanous case. Do you agree that we should have this right? Justify your answer.
5. **CS6** Do you believe that a document as important as the Constitution should include vague terms such as 'other like services'? Justify your answer.

Try these questions in learnON for instant, corrective feedback. Go to [www.jacplus.com.au](http://www.jacplus.com.au).

## 2.9 International law

### 2.9.1 Standards of acceptable behaviour

As citizens, we are members of a number of communities. We are members of our local community (the suburb we live in), the state we live in and the country we live in. As members of these communities, we are expected to abide by the laws that apply to those communities, such as the parking laws at our local shopping centres, the speed limits when driving on the roads, and the laws governing taxation when completing our tax return for the Australian government. We are also a part of the global community. Therefore, shouldn't we abide by the laws created for all of us to live in a peaceful world, devoid of international conflict? International law is concerned with setting standards of acceptable behaviour for nations and their citizens when dealing with issues that cross borders or issues of concern to society in general.

## 2.9.2 What is international law?

International law consists of the rules and principles governing the relations and dealings of nations with each other, relations between states and individuals, and relations between international organisations.

There are generally considered to be two types of international law:

- *public international law*, which concerns itself only with questions of rights between several nations, or between nations and the citizens or subjects of other nations
- *private international law*, which deals with controversies between private persons arising out of situations involving more than one nation.

**FIGURE 1** The United Nations is the body responsible for determining international law.



International law has developed from a number of sources, but it is primarily derived from treaties and conventions between countries. A treaty is a form of contract between two parties (two countries or two international organisations from different countries). Perhaps the most famous treaty is the Treaty of Versailles, signed at the end of World War I. It details Germany's culpability for starting the war and its responsibility for making **reparations** to the countries it waged war upon. The Treaty of Versailles required Germany to pay the equivalent of US\$33 billion to the Allied countries (worth about US\$400 billion today).

Other sources of international law include the Charter of the United Nations, international customs, and the general principles of law that apply in the majority of countries.

The Charter of the United Nations provides a number of chapters that allow international laws to be established:

- Chapter I sets forth the purposes of the United Nations, including the important provisions for the maintenance of international peace and security.
- Chapters III–XV, the bulk of the document, describe the organs and institutions of the UN and their respective powers.
- Chapters XVI–XVII describe arrangements for integrating the UN Charter with established international law.

The following chapters deal with the enforcement powers of UN bodies:

- Chapter VI describes the Security Council's power to investigate and mediate disputes.
- Chapter VII describes the Security Council's power to authorise economic, diplomatic, and military sanctions — as well as the use of military force — to resolve disputes.
- Chapter VIII makes it possible for regional arrangements to maintain peace and security within their own region.
- Chapters XIV and XV establish the powers of the International Court of Justice and the United Nations Secretariat respectively.

One key section of the Charter allows the creation of the International Court of Justice to hear and rule on international disputes.

The United Nations is responsible for drafting and ratifying international conventions and declarations that seek to establish guidelines for behaviour and the establishment of rights for citizens of the world. These conventions and declarations are drafted by the General Assembly of the United Nations or one of the six main committees of the UN. These committees draft resolutions, conventions and declarations, which are then ratified by a vote of the General Assembly's 193 members.

### 2.9.3 Enforcing international law

It is the role of the United Nations to both establish international laws and enforce them. The United Nations makes use of the International Court of Justice and the UN Security Council, responsible for deploying UN peacekeepers, to assist it in enforcing international law.

#### The International Court of Justice

The International Court of Justice is the primary judicial branch of the United Nations. It is based in the Peace Palace in The Hague, Netherlands. Its main functions are to settle legal disputes submitted to it by states (member countries of the United Nations) and to provide advisory opinions on legal questions submitted to it by duly authorised international branches, agencies and the UN General Assembly.

More than 176 cases have been brought before the International Court of Justice since its inception on 22 May 1947. The cases involving Australia are:

- Nuclear Tests Case (*Australia v. France*) 1974
- Certain Phosphate Lands in Nauru (*Nauru v. Australia*) 1992
- East Timor (*Portugal v. Australia*) 1995
- Whaling in the Antarctic (*New Zealand & Australia v. Japan*) 2014
- Seizure of Certain Documents and Data (*Timor-Leste v. Australia*), 2015.

Perhaps the most well-known case involved Australia and New Zealand, who brought a case to the court accusing Japan of exceeding its limits on whaling for research purposes in the Antarctic. This case was resolved in 2015 with the court ruling that Japan's whaling program was not in accordance with international law.

FIGURE 2 The International Court of Justice, The Hague



- Weblinks** Whaling  
 UN peacekeeping missions  
 UN peacekeeping mission video

## 2.9 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

### 2.9 Exercise 1: Check your understanding

- CS1** Individual countries have laws. Why do you think we need international laws?
- CS1** How many countries are currently in the United Nations?
- CS1** Why was the United Nations established?
- CS1** Where is the International Court of Justice?
- CS1** What is meant by *international law*?

### 2.9 Exercise 2: Apply your understanding

- CS5** In your opinion, do we still need the United Nations?
- CS2** Distinguish between public and private international law.
- CS2** Explain the role of the International Court of Justice.
- CS2** Describe how the United Nations helps achieve social cohesion in the world.
- CS5** 'The members of the United Nations do not have to abide by decisions of the International Court of Justice.' Describe how this statement may reflect a weakness of the way the United Nations operates.

Try these questions in learnON for instant, corrective feedback. Go to [www.jacplus.com.au](http://www.jacplus.com.au).

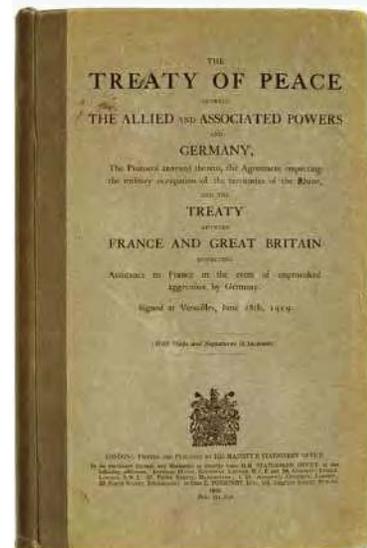
# 2.10 Applying international treaties

## 2.10.1 Reasons for treaties

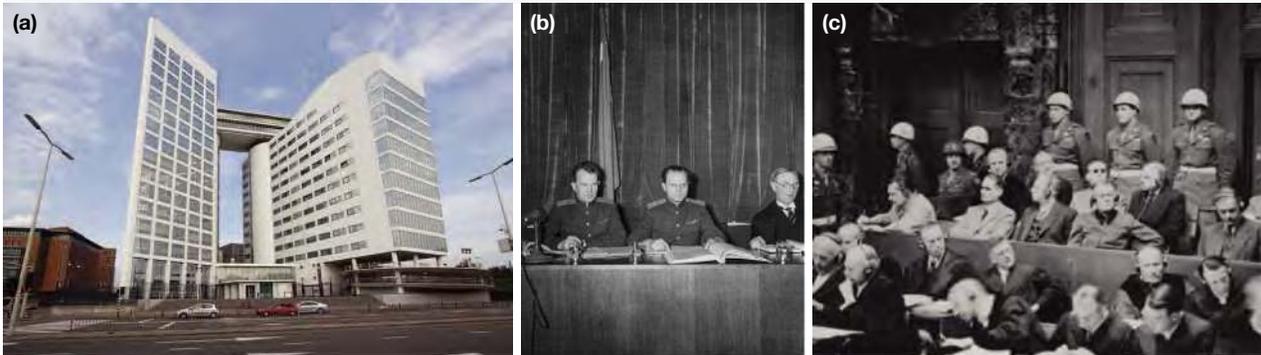
As noted in subtopic 2.8, the High Court of Australia is empowered to make decisions in relation to any disputes relating to an international **treaty**. Australia is a signatory to many international treaties, and the Australian parliament may be required to pass laws that support or confirm the application of a treaty within Australia. Treaties are signed for a number of reasons:

- A peace treaty is signed to formally end a conflict or war. In 1919, six months after the end of World War I, the Treaty of Versailles was signed setting out the provisions for peace.
- Trade agreements are signed between two or more countries that agree to trade certain goods on certain conditions. It is common for these trade agreements to be 'free trade agreements'; that is, to have no taxes or conditions imposed on them.
- International conventions are agreements drafted by the United Nations or other world bodies and signed (or ratified) by a majority of the countries of the world. The Universal Declaration of Human Rights (discussed in topic 1) is an example.

**FIGURE 1** The Treaty of Versailles. Treaties are signed between countries to formalise agreements.



**FIGURE 2** (a) The International Criminal Court at The Hague, in the Netherlands (b) Russian (left, centre) and British (right) judges on the International Military Tribunal at the Nuremberg war crime trials in Germany following World War II (c) Defendants listen to translations via headphones as the prosecution begins introducing documents at the international Military Tribunal on war crimes in Nuremberg



The signing of international treaties can lead to international disputes that require international courts to resolve them. International treaties can also lead to internal or domestic disputes, and the High Court will be asked to resolve these disputes.

### DISCUSS

Australia has received criticism for its treatment of asylum seekers, particularly for the practice of processing asylum seekers off shore and detaining them for lengthy periods of time. What do you believe Australia's obligations towards asylum seekers are? Do you believe that the Australian Government treats asylum seekers appropriately? Give examples to support your response.

[Intercultural Capability]

## 2.10.2 The Universal Declaration of Human Rights

Following the end of World War II and the creation of the United Nations (UN) in 1945, the UN General Assembly adopted the Universal Declaration of Human Rights in 1948. Australia was one of the 48 countries to **ratify** the Declaration out of the 58 countries that made up the United Nations. Since then, nearly every country in the world has signed this document. The Declaration lists 30 rights that are afforded to all citizens of the world. These rights attempt to provide a structure and protection for the citizens of the world no matter where they live, where they travel, or what race, sex or religion they are. Despite the adoption of these rights by most countries, disputes still arise from perceived breaches of the Declaration or as a result of attempts to enforce the terms of the Declaration within a domestic environment.

In this regard Australia is no different. The High Court has been asked to rule on the application of the Declaration to events in this country that are believed to have infringed on the rights of a citizen or a group of citizens.

### *Koowarta v. Bjelke-Petersen & Ors (1982)*

In 1974 John Koowarta, an Indigenous Australian who lived in Queensland, collaborated with a group of Indigenous persons with a view to purchasing an extensive tract of land being used as a cattle station. The owner of the station agreed to the sale and had contracts drawn up. As Koowarta was using funds from the Aboriginal Land Fund Commission, the intended purchase was brought to the attention of the Queensland government. Before the sale could be completed, it was blocked by the state government.

Joh Bjelke-Petersen was the premier of Queensland. His government had an official policy that Aboriginal people should not be able to buy large areas of land, so he directed the Queensland minister of lands not to approve the sale. Koowarta made a complaint to the Human Rights and Equal Opportunity

Commission on the basis that blocking the sale was discriminatory. (The Human Rights and Equal Opportunity Commission was established under the Commonwealth *Racial Discrimination Act 1975* as a result of Australia ratifying the Universal Declaration of Human Rights in 1948 and then signing the UN Convention on the Elimination of All Forms of Racial Discrimination (CERD) on 13 October 1966.) The commission upheld Koowarta's complaint, but the Queensland government appealed to the Supreme Court of Queensland, and the case subsequently reached the High Court.

The argument put forward by Bjelke-Petersen, and the issue before the High Court, was that the Racial Discrimination Act was invalid because the Commonwealth did not have the power to pass such a law as it was not a concurrent or specific power — the Commonwealth had interfered in a state matter. He also argued that the constitutional provisions regarding external affairs did not apply because the Racial Discrimination Act only applied to Australians and so was not 'external' in nature. The Commonwealth Government and Koowarta argued that the external affairs provisions of section 51(xxix) meant the Commonwealth could pass laws that would give effect to Australia's international obligations as a signatory to the CERD.

The High Court agreed with Koowarta, and the decision to block the land sale was deemed discriminatory. In 1988 the Queensland Supreme Court was allowed to rule on the original case, and it allowed the sale to go ahead. The High Court had upheld an international treaty and its domestic application.

**FIGURE 3** Indigenous Australians have had to protest to gain land rights.



## on Resources

 **Video eLesson** Aboriginal demonstration (eles-2428)

### 2.10.3 Australia's commitment to global citizenship

Treaties are designed to formalise agreements between countries. The Department of Foreign Affairs and Trade identifies 21 areas in which treaties can be categorised. These areas include:

- atmosphere and outer space
- criminal matters
- defence and security
- human rights
- international trade
- labour.

As a good global citizen, Australia adopts these treaties in good faith, intending to abide by them and to assist in bringing countries that breach these treaties to account. This can lead to Australia passing its own laws to bring these international treaties into effect in Australia. However, adoption of these treaties can cause conflict in Australia, as governments attempt to pass laws that enforce the treaties and hence dictate the direction of government policy. An example of such a scenario was Australia's signing of the World Heritage Convention in 1972. The signing of this Convention led to a High Court case, a change in government policy and an election.

### 2.10.4 *The Commonwealth v. The State of Tasmania*

In 1972 the United Nations ratified the World Heritage Convention, a document drafted by UNESCO (United Nations Educational, Scientific and Cultural Organization). This document aimed to establish a process for countries to identify significant natural or cultural sites with a view to protecting them from damage, destruction or any other form of harm. Using the terms of the Convention, which is an international treaty, the Commonwealth nominated for World Heritage listing specific areas in Tasmania that the Tasmanian government had planned to dam for the purposes of generating hydroelectricity.

The areas concerned, the Franklin and Gordon rivers, contained unique flora and fauna as well as significant Indigenous artefacts that would be destroyed by the dam. To ensure their protection, the Commonwealth Parliament passed the *World Heritage Properties Conservation Act 1983*. This ensured the protection of much of the south-west wilderness regions of Tasmania.

The Tasmanian government challenged the Commonwealth law on the basis that the Commonwealth didn't have the power to make laws in this area because it was an area of law-making belonging to the states. The Commonwealth argued that a section of the Constitution gave it the power to make laws under the heading 'external affairs'. It successfully claimed that 'external affairs' allowed it to sign treaties and so by default pass domestic laws that supported those international treaties. The Commonwealth case was started by the Labor government, led by Bob Hawke. He had been elected prime minister only recently, having campaigned to 'stop the dam'.

**FIGURE 4** Protests at the Franklin River gained widespread media coverage and provoked such a public response that the Hawke government subsequently nominated the area for World Heritage listing under the terms of an international treaty.



## Further developments

Australia signed the International Covenant on Civil and Political Rights in 1972 and ratified it in 1980. This Covenant is a multilateral treaty that commits its parties to respect the civil and political rights of individuals. These include the right to life, freedom of religion, freedom of speech and freedom of assembly, as well as electoral rights and rights to due process and fair trials. Article 17 of the Covenant has been implemented by the federal *Privacy Act 1988*, and the Covenant's equality and anti-discrimination provisions are supported by the federal *Disability Discrimination Act 1992*.

One outcome of the Tasmanian Dam Case was that some laws made by the states could be declared invalid if they contradicted laws made by the Commonwealth as a result of Australia signing a treaty. The Commonwealth passed the *Human Rights (Sexual Conduct) Act 1994* with the express purpose of overturning two sections of the Tasmanian Criminal Code that outlawed certain consensual adult behaviour conducted in private.

## on Resources

 **Video eLesson** Tassie's Franklin River — 20 years on (eles-0636)

## 2.10.5 International trade

All countries trade goods and services because trading brings many benefits. These include:

- access to a wider variety of goods and services
- increased incomes as goods sold overseas bring income into the country
- higher living standards as people gain access to better quality goods and services
- falling prices from access to cheaper goods and services and increased competition between sellers
- higher employment as more goods need to be produced for export.

Consequently, many treaties signed by Australia and other countries are **trade** agreements. Such agreements establish rules and guidelines for the trade of goods and services between countries. Some trade agreements are merely contracts between countries to supply certain goods and services at certain prices. Other trade agreements are significant international agreements that affect how governments operate in the area of international trade. Most trade agreements are regulated by the World Trade Organization (WTO) framework, which replaced the General Agreement on Tariffs and Trade (GATT) on 1 January 1995. The WTO framework involves an agreement between most of the countries of the world to continue improving trade relations and reducing trade barriers.

However, not all countries trade freely. They erect trade barriers to make it difficult for foreign products to enter the country and compete with local goods. GATT and the WTO have sought to rectify this issue by encouraging countries to move towards free trade. They have done this by advocating the signing of free trade agreements between countries or regions, and the removal of trade barriers such as **tariffs**.

As a result of the free trade efforts of GATT and the WTO, Australia has reduced tariffs in a number of areas, including the manufacture of motor vehicles.

**FIGURE 5** International trade involves treaties and agreements between countries.



Tariffs on imported cars have been steadily reduced since the 1980s, with the last reduction occurring in 2010 when the tax on imported cars fell from 10 per cent to 5 per cent. This reduction was part of government policy established in the 1980s to reduce protection for Australian car manufacturers. The tariff reductions have resulted in lower prices for imported cars and reduced sales for Australian-made cars. The overall outcome was the closure of the Ford, Holden and Toyota car manufacturing plants in Australia in 2017 with the loss of thousands of jobs. While this may seem to be a negative outcome, we must remember that other countries have also reduced their tariffs, allowing our goods to better compete in those countries and creating jobs in Australia.

**FIGURE 6** Tariff reductions have resulted in cheaper imported cars but also job losses and car plant closures in Australia.



## 2.10.6 ANZUS

Some of the most important treaties have arisen from armed conflict. (One of these was the Treaty of Versailles, discussed in section 2.8.3.) During World War I Australia fought with British, New Zealand and US troops on various battlefields across Europe. When World War II commenced in the Pacific, Australia was threatened — the Japanese had bombed Darwin and sent their mini-submarines into Sydney Harbour. Our strong ties with the United States led the Americans to provide aid and support during this time, and to fight with us to push back the Japanese forces.

This conflict strengthened our ties with both the United States and New Zealand, culminating in the signing in 1951 of the ANZUS (Australia, New Zealand, United States Security) agreement. This treaty bound the three nations to cooperate on defence matters in the Pacific Ocean region. Although the treaty was modified in 1984 due to New Zealand's objections to nuclear warships entering its ports, the agreement is still in effect and annual meetings are held to confirm the relationship. The treaty also allows for joint defence installations to be operated on Australian soil.

**FIGURE 7** Security treaties such as ANZUS provide Australia with military support if needed.



## 2.10.7 The International Labour Organization

Australia is a member of the International Labour Organization (ILO), an agency of the United Nations that deals with labour issues among member states. The eighty-sixth International Labour Conference in 1998 adopted the Declaration on Fundamental Principles and Rights at Work. This declaration contains four fundamental policies:

1. the right of workers to associate freely and bargain collectively
2. the end of forced and compulsory labour
3. the end of child labour
4. the end of unfair discrimination among workers.

The ILO asserts that its members have an obligation to work towards fully respecting these principles, which are embodied in relevant ILO conventions. As a signatory, Australia has adopted these policies and many of them are reflected in our labour laws.

### Resources

 **Weblink** Rights of the child

### 2.10 ACTIVITY

As a human being you have certain rights.

- a. Provide a list of the basic rights you believe you are entitled to.
- b. Use the **Rights of the child** weblink in the Resources tab to research the Convention on the Rights of the Child. Provide a summary of the rights outlined in this Convention.
- c. Prepare a table comparing the rights you identified in part (a) with the rights provided in the Convention.

**Examining, analysing, interpreting**

### 2.10 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

#### 2.10 Exercise 1: Check your understanding

1. **CS1** What is meant by a *treaty*?
2. **CS1** Give two reasons why a treaty could be signed.
3. **CS1** Why do you think the High Court should be allowed to resolve disputes involving international treaties?
4. **CS1** Why do you think not all countries in the world would sign the Universal Declaration of Human Rights?
5. **CS1** Identify three different types of treaties.

#### 2.10 Exercise 2: Apply your understanding

1. **CS2** Outline three benefits of free trade.
2. **CS3** What other areas do you think might be covered by the external affairs provisions of section 51(xxix) of the Constitution?
3. **CS2** Explain how signing a treaty can affect the laws of Australia.
4. **CS2** Choose one of the treaties mentioned in this subtopic and explain how it benefits Australian citizens.
5. **CS5** 'Social cohesion can be advanced by having a bill of rights. Australia does not have its own bill of rights, instead relying on laws and the courts to provide cohesion.' Use this statement as a springboard to discuss whether or not Australia should have a bill of rights.

Try these questions in learnON for instant, corrective feedback. Go to [www.jacplus.com.au](http://www.jacplus.com.au).

## 2.11 SkillBuilder: A treaty in the classroom

online only

### What is a treaty?

A treaty is a document that provides rules for behaviour among nations. Some treaties are small in nature (being between only two countries); others are broader in scope and application. Consider how these broader treaties are developed and agreed upon.

#### 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).



## 2.12 International law and Indigenous Australians

### 2.12.1 Racial discrimination

As discussed in previous topics, Australia is a signatory to the Universal Declaration of Human Rights. The Declaration establishes certain rights that all citizens in all countries are entitled to. By signing the document, a country agrees to abide by the provisions of the Declaration and not engage in any conduct that infringes upon those rights.

A further declaration passed by the United Nations and ratified by Australia is the International Convention on the Elimination of All Forms of Racial Discrimination. This Convention was ratified in 1965 and came into effect in 1969. It contains 25 articles (or sections) that define racial discrimination and the various types of racial discrimination that exist in the world. Article 5 includes the following:

In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights ...

One impact this Convention (and this article in particular) has had on government policy can be seen in the passing of the Commonwealth *Racial Discrimination Act 1975*. The preamble and long title of the Act clearly outline the reasons for passing this legislation:

#### **Long title**

An Act relating to the Elimination of Racial and other Discrimination

#### **Preamble**

... it is desirable, in pursuance of all relevant powers of the Parliament, including, but not limited to, its power to make laws with respect to external affairs, with respect to the people of any race for whom it is deemed necessary to make special laws and with respect to immigration, to make the provisions contained in this Act for the prohibition of racial discrimination and certain other forms of discrimination and, in particular, to make provision for giving effect to the Convention ...

Despite these laudable aims, there have been instances where the treatment of Indigenous Australians has fallen short of our obligations under the Declaration and the Convention.

One particular area of conflict is land rights. Having occupied the country for between 40 000 and 60 000 years before the arrival of Europeans, Indigenous peoples have a valid claim to land in many different parts of Australia. Weighed against this is the English-based legal system of land and property ownership imposed here since 1788, under which both urban and rural Australians believe they have legal title to land they occupy. Finding a legal balance between these conflicting claims while ensuring fairness and justice is clearly a challenge for our legal system. It was this issue that was at the heart of a long-running legal dispute over rights and Australia's obligations: the Mabo Case.

**FIGURE 1** When the British arrived in Australia, they considered the land to belong to no-one.



### 2.12.2 The Mabo Case

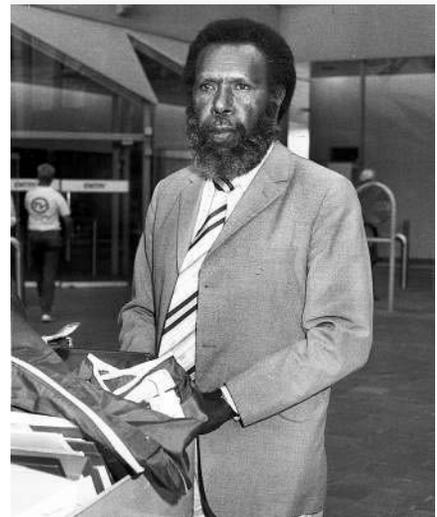
In August 1770, Captain James Cook claimed all of the east coast of what is now Australia as British territory. Under the internationally recognised law of the time, Cook could claim land on any one of the three following legal grounds:

- If the land was uninhabited, any country could claim ownership and settle the land under the principle of *terra nullius*.
- If the land was inhabited, another country could ask the leaders of the indigenous inhabitants for permission to make use of some of the land. This could involve making a land purchase or coming to some other arrangement such as a treaty, but the arrangement had to be agreeable to the indigenous population.
- A country already inhabited could be conquered through invasion and war, defeating the indigenous population in battle. International law at the time created an expectation that the conquered inhabitants still had rights that had to be respected

Although the land was inhabited, Cook claimed it under the principle of *terra nullius*. The British did not recognise the Aboriginal peoples as having any legal title over the land because they had no written laws of **land tenure** as existed in European countries.

In 1982 Eddie Mabo, an inhabitant of Murray Island in the Torres Strait, began legal action against the State of Queensland, claiming that he and his people were the legal owners of Murray Island. Mabo was an active campaigner for Indigenous rights. He discovered that, contrary to what he had believed all his life, his people did not legally own the land they always believed was theirs. Mabo was joined in this action by a number of other Indigenous inhabitants of Murray Island. The action was brought largely as a test case. The Murray Islanders believed they owned the land because their people had occupied it for centuries, long before

**FIGURE 2** Eddie Mabo challenged the state of Queensland in the High Court, resulting in changes to the law concerning Indigenous land rights.



European settlement of Australia, but Queensland law appeared to designate the Torres Strait Islands as being under the ownership and control of the Queensland government.

### The Mabo decision

The Full Bench of the High Court decided in favour of the Islander plaintiffs and declared that ‘The Murray Islanders of the Torres Strait are entitled, as against the whole world, to possession, occupation and enjoyment of the lands of the Murray Islands.’

The basis for this decision rested on the following:

- The principle of *terra nullius* had been incorrectly applied. Australia had never been an empty land, and so the British were wrong to use it as the legal basis for their occupation of the land.
- In the absence of *terra nullius*, it was appropriate to apply principles relating to native title to land occupied and used by its traditional Indigenous owners.
- Native title can be recognised and included in the Australian system of property law and common law.

The Meriam people of Murray Island could claim native title because they were able to demonstrate continuing occupation and use of their land. Their system of family ownership and land usage was significant because it could be clearly demonstrated that these had operated continuously since before white settlement. In other parts of Australia, where Aboriginal people have been dispossessed, the issue was not so clear. In his judgement, Chief Justice Brennan indicated that: ‘there may be other areas of Australia where an Aboriginal people, maintaining their identity and their customs, are entitled to enjoy their native title’. Future claims by other Indigenous groups would need to demonstrate clearly that a high level of traditional occupation and land usage would be necessary to support such a claim. Individual claims would have to be decided on a case-by-case basis.

### Native title legislation

Western Australia was the first state to respond to the Mabo Case with legislation. The state parliament passed the *Land (Titles and Traditional Usages) Act 1993*. Its aim was to extinguish the common law right of native title throughout the state and replace it with a statutory right of ‘traditional usage’, which could itself be extinguished by the government at any time. This Act was a deliberate attempt to favour mining and pastoral companies in any dispute with Indigenous occupants over rights to the land.

Commonwealth governments had previously avoided coming into conflict with state governments over Indigenous land rights, but the Keating Labor government wished to find a way to support those rights. The risk that some other state governments might try to legislate to extinguish Indigenous land rights as Western Australia had done led the Commonwealth to propose its own legislation. The *Native Title Act 1993* (Cwlth) was passed in late December 1993 and came into force on 1 January 1994. This Act included the following principles:

- legislative recognition and protection for the previous common-law concept of native title
- the extinguishment of native title rights over freehold land
- no extinguishment of native title rights by any processes other than those contained in the Act
- the rights of Indigenous people to claim native title over Crown land if they could prove a traditional and continuing attachment to that land
- procedures for claiming native title through the establishment of a Native Title Tribunal.

### Western Australia v. Commonwealth

In the case *Western Australia v. Commonwealth* 1995 HCA 47, the Western Australian government challenged the validity of the Native Title Act in the High Court. At the same time Indigenous groups from outback Western Australia, such as the Worora and Martu peoples, challenged the validity of that state’s legislation.

The High Court heard all three cases together, and declared the Western Australian legislation invalid under section 109 of the Constitution because it was inconsistent with both the Native Title Act and the Racial Discrimination Act. This case reinforced the jurisdiction of the Commonwealth Parliament over native title matters.

By 1995, the legal principle of native title was clearly established in Australia. *Terra nullius* no longer had application in Australian law, and a process for determining Indigenous land rights claims was in operation. If a native title claim is contested by any other party, the Federal Court and the High Court have ultimate jurisdiction to determine the matter. The Native Title Tribunal was established to help determine the validity of native title claims and to provide mediation services to help resolve disputes over native title. No state could introduce laws relating to Aboriginal or Torres Strait Island land rights that were inconsistent with the Commonwealth Native Title Act.

## 2.12 ACTIVITIES

1. There are other issues relating to Australia's treatment of Indigenous peoples. Using internet resources, explain what is meant by the term *stolen generations* and describe how Australia has responded to this issue to date. **Describing and explaining**
2. The Mabo Case was followed eight years later by the Wik Case. Using internet resources, research the Wik Case and provide a brief summary of the case and its link to the Mabo Case. **Examining, analysing, interpreting**
3. One country that has approached its relationship with the Indigenous population differently is New Zealand. Research and provide a summary of the Treaty of Waitangi. **Examining, analysing, interpreting**
4. Research the UN and racial discrimination to help you complete the following:
  - (a) How does the United Nations define racial discrimination?
  - (b) Select two rights found in article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination, and explain what they mean.
  - (c) Read article 7 of the Convention and explain whether you believe Australia has complied with this article. Give reasons for your answer.
  - (d) If your answer to part (c) was 'No', outline what Australia could do to comply with the conditions set out in article 7. **Examining, analysing, interpreting**

## 2.12 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

### 2.12 Exercise 1: Check your understanding

1. **CS1** What is meant by *terra nullius*?
2. **CS1** On what grounds did Captain Cook claim Australia as a British colony?
3. **CS1** Explain what is meant by *native title*.
4. **CS1** What were the principles behind the decision of the High Court in the Mabo case?
5. **CS2** Explain in your own words why you think it took so long for a case like the Mabo case to come to the High Court.

### 2.12 Exercise 2: Apply your understanding

1. **CS2** What influence do you believe the Universal Declaration of Human Rights had on the decision to grant native title? Explain your answer.
2. **CS2** Explain what is meant by the term *racial discrimination*.
3. **CS4** The decision in the Mabo case has been challenged in the courts. Why do you think this decision may have been challenged?
4. **CS4** Decisions by the High Court in cases like Mabo often lead to the parliament making laws. Explain why you think this may occur.
5. **CS5** In 2019, the movement for a constitutional change to formally recognise Indigenous Australians gained momentum. Suggest how a constitutional change in this area might assist social cohesion.

Try these questions in learnON for instant, corrective feedback. Go to [www.jacplus.com.au](http://www.jacplus.com.au).

## 2.13 SkillBuilder: You be the judge

online only

### What is the High Court of Australia?

The High Court of Australia is the most senior court in our legal system, and it deals with the most serious domestic and international cases. Those appointed to sit on the High Court bench are therefore our most senior and experienced barristers and solicitors.

#### 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).



## 2.14 Thinking Big research project: Create a bill of rights of rights

online only

### SCENARIO

There have been renewed calls for a bill of rights for Australia. Your task is to research and prepare a report on another country's bill of rights and then draft one 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: Create a bill of rights (pro-0222)

# 2.15 Review

online only

## 2.15.1 Key knowledge summary

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

## 2.15.2 Reflection

Reflect on your learning using the activities and resources provided.

### Resources



**eWorkbook** Reflection (doc-31785)  
Crossword (doc-31786)



**Interactivity** Maintaining justice for a cohesive society crossword (int-7680)

### KEY TERMS

**bill of rights** a formal declaration of the rights of members of a country or area

**conciliator** a person who acts as an independent third party between two disputing parties

**defamation** a civil wrong involving a written or verbal communication that lowers a person's reputation in the community

**discrimination** the unfair, biased or prejudicial treatment of a person based on a personal characteristic such as race, gender, religion, ability or age

**dispute resolution** a process involving a group of strategies to settle legal issues outside of court

**embezzlement** the theft or misuse of funds belonging to your employer or organization

**inclusive** behaviours or policies that include all members of a society

**indigenous** refers to people who are the original native inhabitants of a region or country

**infer** to form a conclusion based on evidence

**integrated** describes communities that consist of different cultural groups living in unity

**land tenure** a system by which particular individuals or groups are given a legally recognised right to occupy a defined area of land

**legally binding** an agreement that is enforceable by law

**marginalisation** a social process by which groups or individuals are pushed to the fringes of society

**precedent** an action or decision on which later actions or decisions might be based; a law made by a superior court that must be applied by lower courts in future cases with the same or similar facts

**ratify** to formally consent to and agree to be bound by a treaty, contract or agreement

**reparations** payment of money or materials by a nation defeated in war, as compensation for damage caused

**rights** those things that a person is entitled to by virtue of being a member of society

**taboo** a topic or issue that is not usually spoken about in a society

**tariffs** taxes imposed on imported goods to make them more expensive

**terra nullius** ('land belonging to no-one') in Australia, the legal idea that since no-one was 'using' the land when the first Europeans arrived, it could be claimed by the British Crown

**trade** transfer of ownership of goods from one person or entity to another in exchange for money or a product/service

**treaty** an agreement between two or more sovereign states (countries) to undertake a particular course of action. It usually involves matters such as human rights, the environment or trade.

**ultra vires** acting beyond the power of the law maker. It usually refers to situations where parliaments pass a law that is outside their area of authority.

# GLOSSARY

---

**absolute majority** half the number of votes received in an election plus one

**absolute monarchy** a form of government where the monarch (a king, queen or emperor) wields unrestricted political power over his or her sovereign state and its people

**authoritarian** a form of government characterised by absolute obedience to the state, an authority figure or group

**bicameral** a parliament consisting of two legislative houses, or chambers

**bill of rights** a formal declaration of the rights of members of a country or area

**ceasefire** a temporary or permanent suspension of fighting

**charter** an official document describing the goals and principles of an organisation

**colonised** describes a country or region whose government has been replaced by one from another country

**conciliator** a person who acts as an independent third party between two disputing parties

**constitution** a set of fundamental principles according to which a nation or state is governed

**constitutional monarchy** a type of government based on a constitution with a queen or king as its head of state

**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

**defamation** a civil wrong involving a written or verbal communication that lowers a person's reputation in the community

**discrimination** the unfair, biased or prejudicial treatment of a person based on a personal characteristic such as race, gender, religion, ability or age

**dispute resolution** a process involving a group of strategies to settle legal issues outside of court

**embezzlement** the theft or misuse of funds belonging to your employer or organization

**executive** another name for the government

**federation** the joining of the six Australian colonies to establish the federal and state parliaments

**first-past-the-post** a voting system where a candidate wins by receiving more votes than any other candidate

**formal vote** a ballot paper that has been filled out correctly

**humanitarian** concerned with the welfare of a social group

**inclusive** behaviours or policies that include all members of a society

**indigenous** refers to people who are the original native inhabitants of a region or country

**infer** to form a conclusion based on evidence

**infrastructure** the basic physical and organisational structures and facilities (e.g. buildings, roads, power supplies) needed for the operation of a society

**integrated** describes communities that consist of different cultural groups living in unity

**international sanctions** actions or penalties — usually economic but also diplomatic or military — imposed on a country by a group of other countries

**judiciary** the collective name given to the judges who preside over law courts

**land tenure** a system by which particular individuals or groups are given a legally recognised right to occupy a defined area of land

**legally binding** an agreement that is enforceable by law

**marginalisation** a social process by which groups or individuals are pushed to the fringes of society

**multilateral** describes a policy or program that involves three or more countries or parties

**multinational** describes an organisation operating in several countries

**precedent** an action or decision on which later actions or decisions might be based; a law made by a superior court that must be applied by lower courts in future cases with the same or similar facts

**preferential system** a system in which voters are required to number all candidates on the ballot paper in order of preference. If no candidate wins more than 50 per cent of the vote, the preferences are distributed until one candidate has a majority of votes.

**proportional representation** a system where candidates are elected according to the proportion (or quota) of the vote achieved by their party

**ratify** to formally consent to and agree to be bound by a treaty, contract or agreement

**reparations** payment of money or materials by a nation defeated in war, as compensation for damage caused

**republic** a form of government where supreme power is held by the people and their elected representatives rather than by a monarch

**rights** those things that a person is entitled to by virtue of being a member of society

**separation of powers** the division of government into the legislature (parliament), executive (ministers and the public service) and judiciary with the aim of providing a system of checks and balances that prevents the excessive concentration of power in one group

**sovereignty of the people** the principle that a government's authority resides with its people through their elected representatives

**taboo** a topic or issue that is not usually spoken about in a society

**tariffs** taxes imposed on imported goods to make them more expensive

**terra nullius** ('land belonging to no-one') in Australia, the legal idea that since no-one was 'using' the land when the first Europeans arrived, it could be claimed by the British Crown

**trade** transfer of ownership of goods from one person or entity to another in exchange for money or a product/service

**treaty** an agreement between two or more sovereign states (countries) to undertake a particular course of action. It usually involves matters such as human rights, the environment or trade.

**ultra vires** acting beyond the power of the law maker. It usually refers to situations where parliaments pass a law that is outside their area of authority.

**unicameral** a parliament consisting of one legislative house, or chamber

**Westminster system** the democratic parliamentary system based on the British system of parliament

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