

JACARANDA
CIVICS AND
CITIZENSHIP ALIVE 8
AUSTRALIAN CURRICULUM | THIRD EDITION

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CITIZENSHIP ALIVE 8
AUSTRALIAN CURRICULUM | THIRD EDITION

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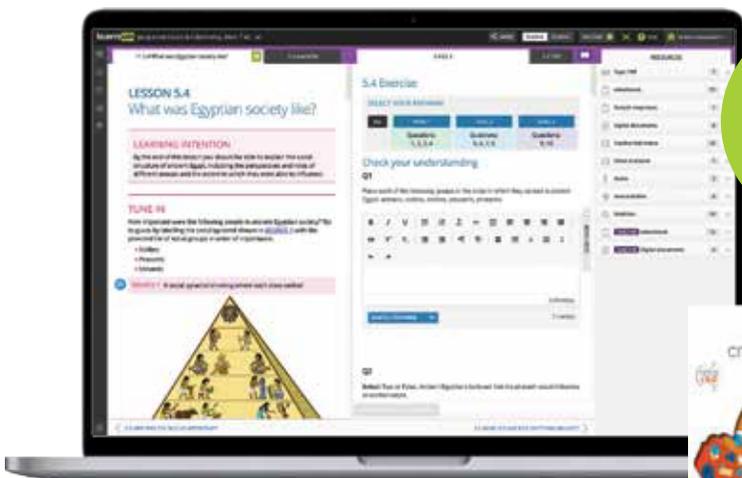
All activities in this resource have been written with the safety of both teacher and student in mind. Some, however, involve physical activity or the use of equipment or tools. **All due care should be taken when performing such activities.** To the maximum extent permitted by law, the author and publisher disclaim all responsibility and liability for any injury or loss that may be sustained when completing activities described in this resource.

The Publisher acknowledges ongoing discussions related to gender-based population data. At the time of publishing, there was insufficient data available to allow for the meaningful analysis of trends and patterns to broaden our discussion of demographics beyond male and female gender identification.

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About this resource



NEW FOR

AUSTRALIAN CURRICULUM V9.0

JACARANDA

CIVICS AND CITIZENSHIP ALIVE 8



AUSTRALIAN CURRICULUM
THIRD EDITION

Developed by teachers for students

Tried, tested and trusted. Every lesson in the new *Jacaranda Civics and Citizenship Alive* series has been carefully designed to support teachers and help students evoke curiosity through inquiry-based learning while developing key skills.

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Reading content and rich media including embedded videos, interactivities and audio files.

The screenshot displays the learnON interface for a lesson titled '5.4 What was Egyptian society like?'. The page includes a navigation bar with the 'learnON' logo and the course title 'Jacaranda Civics & Citizenship Alive 7 AC 3e'. The lesson title is prominently displayed at the top. Below the title, there is a 'LEARNING INTENTION' section with a pink background, stating that by the end of the lesson, students should be able to explain the social structure of ancient Egypt. This is followed by a 'TUNE IN' section with a pink background, which asks students to guess the importance of various social groups in ancient Egypt based on a social pyramid. The pyramid is a diagram with five levels, each containing an illustration of a different social group: the top level shows a pharaoh, the second level shows scribes, the third level shows peasants, the fourth level shows servants, and the bottom level shows a family. A 'SOURCE 1' section below the pyramid indicates that it shows where each class ranked. On the right side of the screen, there are sections for '5.4 Exercises', 'Check your Q1', and 'Q2'. The 'Q1' section asks students to place each of the social groups in order of importance. The 'Q2' section asks students to select True or False for a statement. The bottom of the screen shows a navigation bar with a back arrow and the text '5.3 WHY WAS THE NILE SO IMPORTANT?'. A decorative pattern of purple dots is visible in the bottom left corner of the screenshot.

powerful learning tool, learnON

The screenshot shows the learnON interface with several callout boxes pointing to specific features:

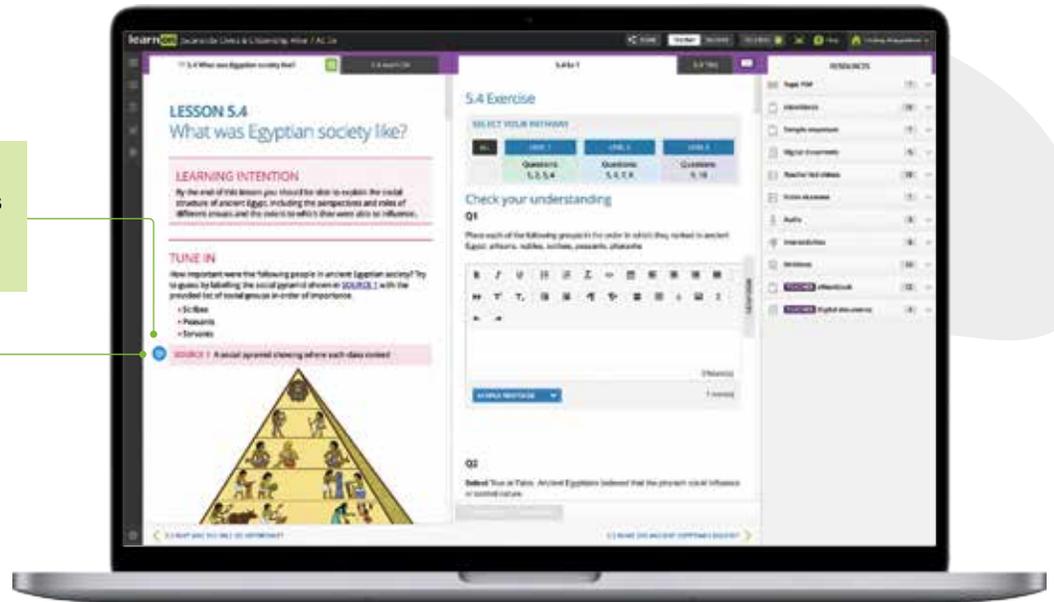
- Differentiated question sets**: Points to the 'LEVEL 1', 'LEVEL 2', and 'LEVEL 3' tabs.
- Teacher and student views**: Points to the 'Teacher' and 'Student' buttons in the top navigation bar.
- Textbook questions**: Points to the '5.4 TBQ' tab.
- eWorkbook**: Points to the 'eWorkbook' resource in the 'RESOURCES' list.
- Answers and sample responses**: Points to the 'Sample responses' resource in the 'RESOURCES' list.
- Digital documents**: Points to the 'Digital documents' resource in the 'RESOURCES' list.
- Video eLessons**: Points to the 'Video eLessons' resource in the 'RESOURCES' list.
- Interactivities**: Points to the 'Interactivities' resource in the 'RESOURCES' list.
- Extra teaching-support resources**: Points to the 'TEACHER eWorkbook' and 'TEACHER Digital documents' resources in the 'RESOURCES' list.
- Interactive questions with immediate feedback**: Points to the question area showing '0 Word(s)' and '1 mark(s)'.

Get the most from your online resources

Online, these new editions are the complete package

Trusted Jacaranda theory, plus tools to support teaching and make learning more engaging, personalised and visible.

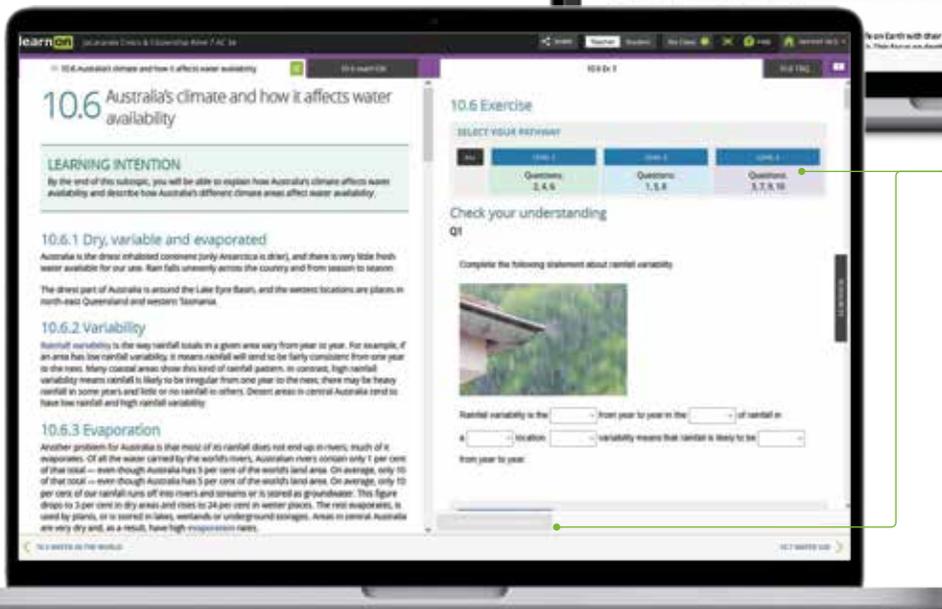
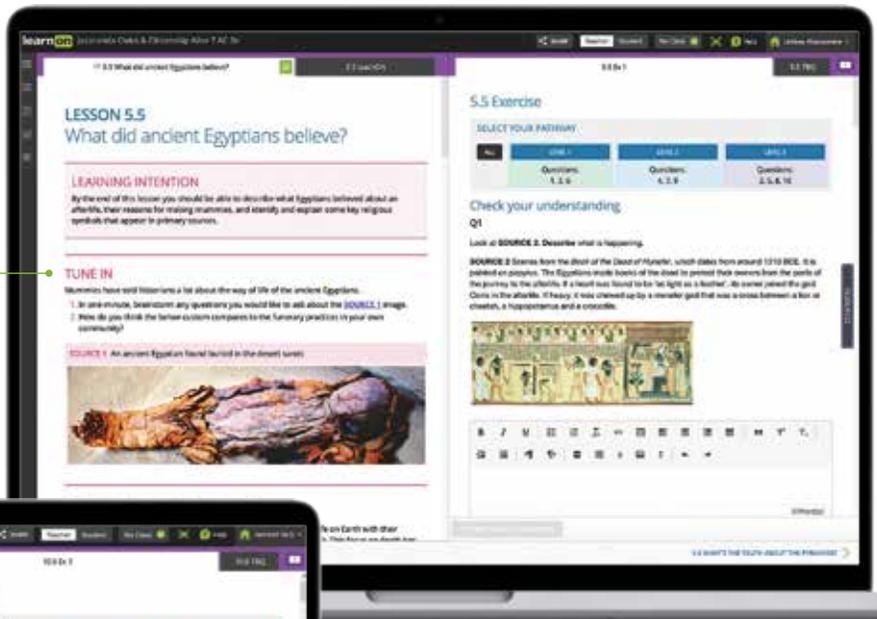
Embedded interactivities and videos enable students to explore concepts and learn deeply by 'doing'.



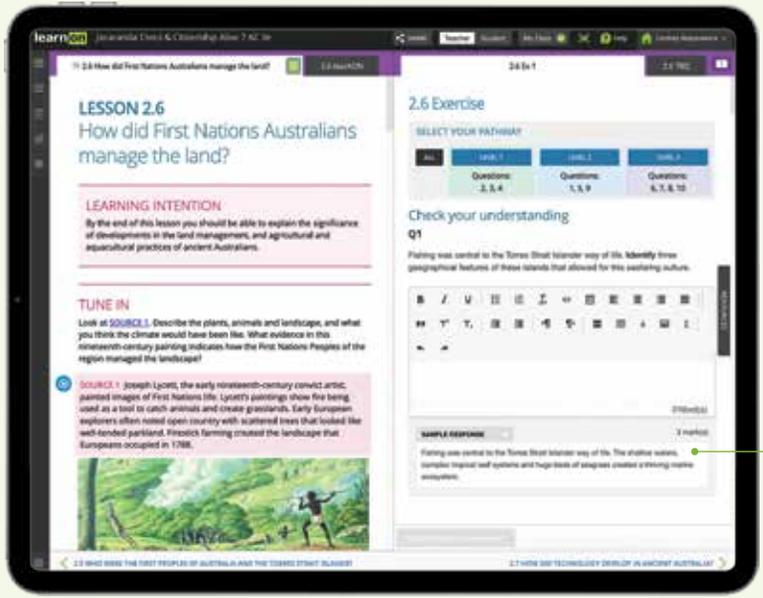
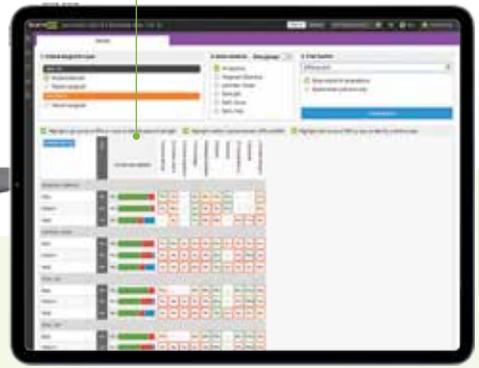
New teaching videos are designed to help students learn concepts by having a 'teacher at home', and are flexible enough to be used for pre-and post-learning, flipped classrooms, class discussions, remediation and more.



Brand new! Tune in activities to spark interest and kick off every lesson with discussion and source analysis



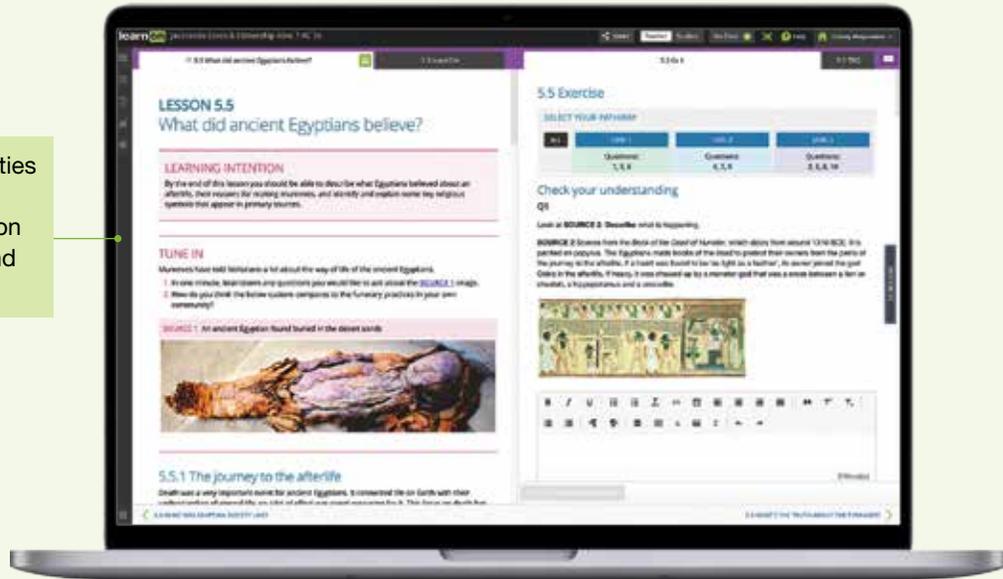
Three differentiated question sets, with immediate feedback in every lesson, enable students to challenge themselves at their own level. Instant reports give students visibility into progress and performance.



Every question has immediate, feedback to help students overcome misconceptions as they occur and get unstuck as they study independently – in class and at home.

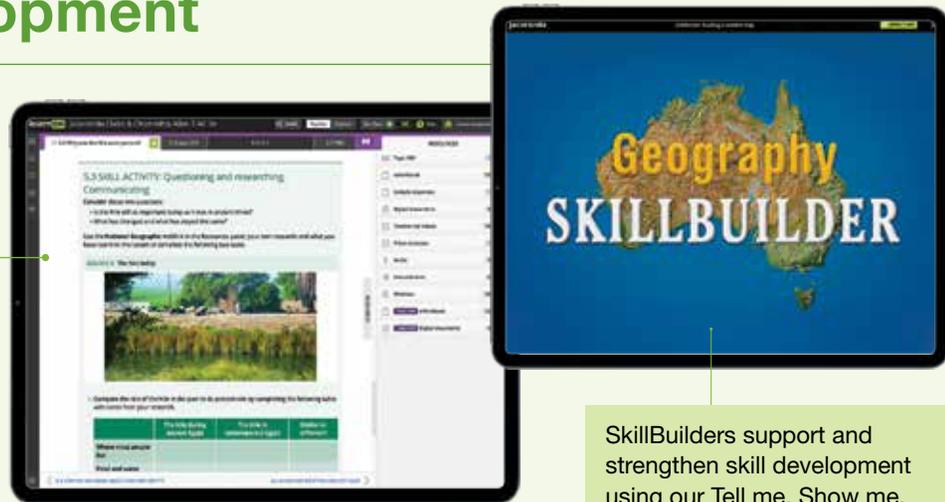
TUNE IN lesson starters

New Tune In activities spark interest and kick off every lesson with discussion and source analysis.



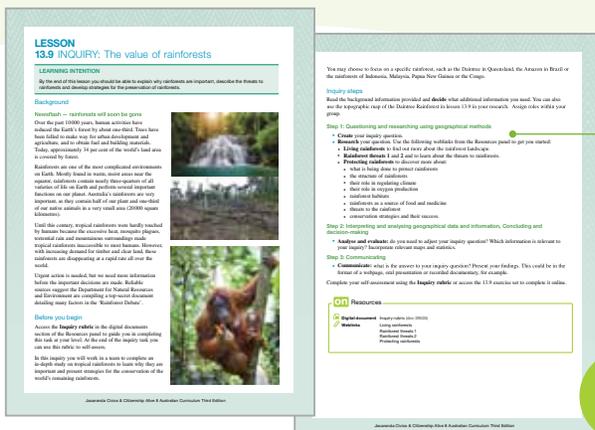
Skill development

New skill activities provide opportunities to develop and build crucial Civics and Citizenship skills using research, collaboration and analysis.



SkillBuilders support and strengthen skill development using our Tell me, Show me, Let me do it approach.

Inquiry projects



New Inquiry lessons use project-based learning and a clear skill structure for a deep dive into every topic while practising the curriculum-specific skills.

A wealth of teacher resources

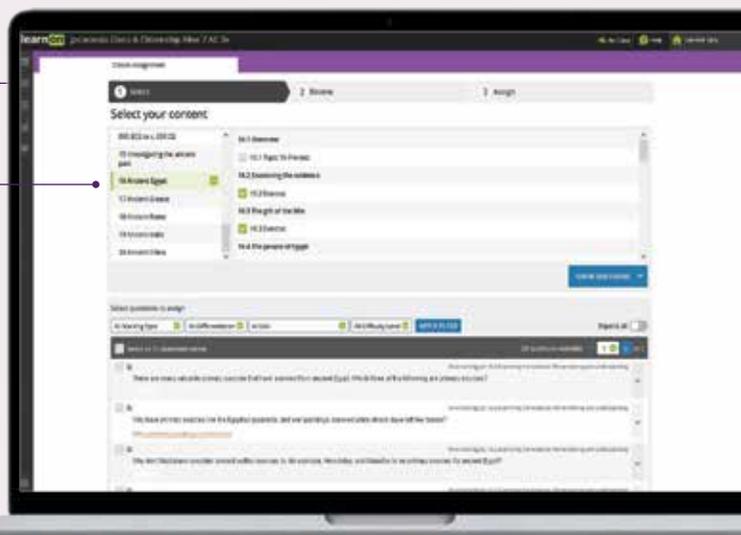


Enhanced teaching-support resources for every lesson, including:

- work programs and curriculum grids
- practical teaching advice
- three levels of differentiated teaching programs
- quarantined topic tests (with solutions)

Customise and assign

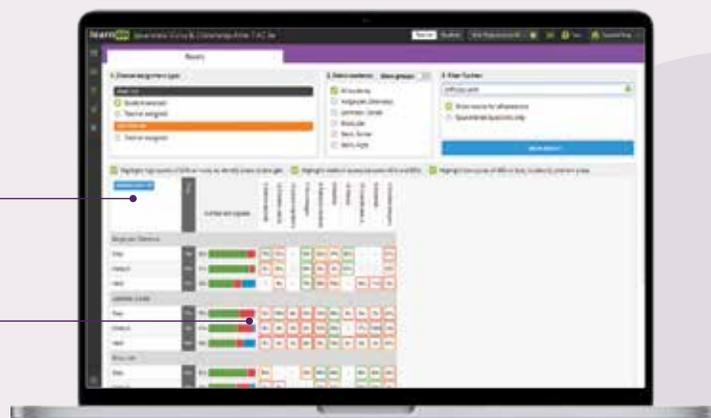
An inbuilt testmaker enables you to create custom assignments and tests from the complete bank of thousands of questions for immediate, spaced and mixed practice.



Reports and results

Data analytics and instant reports provide data-driven insights into progress and performance within each lesson and across the entire course.

Show students (and their parents or carers) their own assessment data in fine detail. You can filter their results to identify areas of strength and weakness.



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Understanding cognitive verbs

Cognitive verbs in the Australian Curriculum

The Australian Curriculum aims to develop students' disciplinary knowledge, skills, understanding and general capabilities across the curriculum. Students are also expected to progressively develop their thinking skills.

In the Australian Curriculum, cognitive verbs are used as signposts for this depth of thinking. Cognitive verbs signify different types of thinking and are already used in the classroom by many teachers and students.

Questions within Jacaranda resources use these cognitive verbs to support students in cognitive verb 'thinking'. The following list describes the cognitive verbs that are frequently used in Years 7 and 8.

Cognitive verb	Description
analyse	considering something in detail, finding meaning or relationships and identifying patterns. In an analysis you may reorganise ideas and find similarities and differences.
apply	using knowledge and understanding in order to solve a problem or complete an activity. This may involve applying a familiar concept to an unfamiliar situation.
compare	recognising how things are similar and dissimilar. Concepts or items are generally grouped before a comparison is made.
decide	selecting from available options. This may involve considering criteria on which to base your selection.
describe	giving an account of a situation, event, pattern or process. A description may require a sequence or order.
develop	bringing something to a more advanced state. Processing and understanding are required in order to develop an idea or opinion.
evaluate	making a judgement using a set of criteria. This may include considering strengths and limitations of something in order to make a judgement on a preferred option.
examine	considering the information given and recognising key features. This sometimes requires making a decision.
explain	making an idea, concept or relationship between two things clear by giving in-depth information. Explanations may include details of who, what, when, where, why and how.
identify	recognising and showing a particular part or feature of something. This might also include showing what or who something or someone is.
interpret	gaining meaning from text, graphs, data or other visuals. An interpretation includes stating what something might mean.
select	choosing the most suitable option from a number of alternatives. This might require some consideration of context.

Source: Adapted from the QCAA Cognitive Verbs.

1 Civics and Citizenship concepts and skills

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1.5 SkillBuilder: Using the deconstruct–reconstruct method	online only
1.6 SkillBuilder: Developing argument paragraphs	online only
1.7 SkillBuilder: Delivering an oral presentation	online only
1.8 SkillBuilder: Writing and conducting a survey	online only
1.9 SkillBuilder: Writing a submission	online only
1.10 Review	11



LESSON

1.1 Overview

Hey students! Bring these pages to life online



Watch videos



Engage with interactivities



Answer questions and check results

Find all this and MORE in jacPLUS



1.1.1 Introduction

As a student of Civics and Citizenship, you are developing the knowledge and skills that will be needed by you and society now and into the future. In your study of Civics and Citizenship, you will cover topics around Australia's democratic systems of government and the justice system.

Studying Civics and Citizenship may be necessary for your chosen career, or help indirectly by giving you broader knowledge and skills, especially in the understanding of government and legal systems. You will also learn about your rights and responsibilities, such as the right to publicly express your views and the responsibilities and expectations that come with that right.

FIGURE 1 Protesters marched through the streets of Perth, 26 January 2020, calling for Australia Day to be replaced as a sign of respect to First Nations of Australia Peoples.



Resources



eWorkbook

Customisable worksheets for this topic (ewbk-10772)



Video eLesson

Civics and Citizenship concepts and skills (eles-6035)

LESSON

1.2 Concepts in Civics and Citizenship

LEARNING INTENTION

By the end of this lesson you should be able to identify the five Civics and Citizenship concepts and explain why they are important.

1.2.1 Why study Civics and Citizenship?

Australia is generally a safe place in which to work and travel, in comparison to many other countries in the world, due to many factors. We have laws enforced by police that apply to the whole community. Public roads are built and maintained by local councils and state government. Many essential services are provided by the government, such as electricity, hospitals and the post. Australia also has comparatively low unemployment levels.

Most of these factors are dependent on having a stable and secure government, and parliamentary representatives, who are accountable to the people who elected them.

Government decisions and laws passed by parliament affect many areas of your life. The political ideologies or beliefs that influence government policies will continue to affect you, and the society in which you live, into the future. You have a responsibility to care about these various ideas and to engage with the society that your vote will help shape in the future.

1.2.2 What are the main concepts in Civics and Citizenship?

Active citizenship

People enjoy certain rights and freedoms from living in a democratic society. This includes the right to vote, joining political parties and standing as an independent candidate in an election. However, with rights come responsibilities, such as informed voting, undertaking jury duty, and advocating for our democratic values. Active citizens are informed and participate in civic and political processes at local, state, national, regional and global levels.

Democracy

Democracy is a political system where power rests with the people. Rules govern the electoral process that is used to choose our government and to the way our government operates. Regular elections that are free and fair, enable us to remove and replace our political leaders if we believe they are no longer meeting our needs. Democracy respects individual freedoms such as the right of individuals to hold and express their own views, beliefs and values.

FIGURE 1 Abraham Lincoln was President of the United States from 1861–1865.

'...that this nation, under God, shall have a new birth of freedom – and that government of the people, by the people, for the people, shall not perish from the earth.'

–Abraham Lincoln, 19 November 1863



DISCUSS

Abraham Lincoln was President of the United States of America during the American Civil War, when a number of southern states formed the Confederacy and sought to break away from the Union. Lincoln's short speech at the dedication of the Soldiers' National Cemetery in Gettysburg, Pennsylvania has become historic for many reasons. One of these reasons was the way he succinctly described democracy, without even using the word.

Democratic systems of government are appealing for a number of reasons, including the fact that they aim to be representative. In your study of Civics and Citizenship, you will learn more about the liberal democratic system of government that Australia chose to adopt in 1901.

As a class, discuss what government 'by the people' might mean.

Global citizenship

Australia is a part of a global community; our civic participation is not confined to within our national borders. On the world stage, we have an obligation to ensure that we advocate for the rights and freedoms of individuals regardless of where they live. Australia enters into agreements to ensure that our own citizens enjoy those same rights and freedoms.

Legal systems

Our legal system is based on rules and laws, and regardless of our personal beliefs citizens are expected to follow them. Good laws share several characteristics, but they do not all come from the same source. Some laws are made by parliament and others are made by courts. Laws fall into different categories. Our legal system must balance the needs of a diverse society, including the customary law of First Nations Australians.

FIGURE 2 How do you define justice? Is the idea of justice the same in all cultures and groups? Can you think of any situations or examples that you have felt were not just?



Identity and diversity

Australia is a culturally diverse society and our sense of belonging is a blend of our differences and shared experiences. Distinct communities are evident amongst First Nations Peoples, and those who have migrated to Australia in search of a new life. People are free to express their differences and culture. Shared experiences such as the ANZACS, Reconciliation Week and Mabo Day unite us and help to define our sense of community and belonging.

1.2.3 Your focus in Year 8

This year in Civics and Citizenship, you will be learning about the design of our political and legal system and how our laws are made. You will also learn how active citizens can play a role and influence our law-makers. In particular, you will learn about:

- The freedoms that enable active participation in Australia's **democracy** within the limits of law, including freedom of speech, association (which groups you can join), assembly (who you can meet or assemble with), religion and movement
- How citizens can participate in Australia's democracy, including use of the electoral system, contact with their elected representatives, use of lobby groups and **direct action**
- How laws are made in Australia through parliaments (statutory law)
- How laws are made in Australia through the courts (common law)
- The types of law in Australia, including **criminal law**, **civil law** and the place of First Nations **customary law**
- Different perspectives about Australia's **national identity**, including First Nations Peoples' perspectives and what it means to be Australian.

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

direct action showing your disapproval or disagreement with the government and their policies by directly trying to influence their decisions and the views of the public, for example through protesting

criminal law the branch of law that judges whether someone has committed a crime, and punishes them if they are found guilty

civil law the branch of law that protects people's rights and property

customary law rules for behaviour developed by and for First Nations Peoples

national identity the parts of a society that make people feel like they belong, such as shared values or sense of identity

LESSON

1.3 Skills in Civics and Citizenship

LEARNING INTENTION

By the end of this lesson you should be able to name the key Civics and Citizenship skills and explain why they are important.

1.3.1 What skills will you build this year?

The skills you will develop fall into four main groups. You will use these skills in specific ways in Civics and Citizenship in Year 8.

Questioning and researching

You will investigate the operation of Australian democracy, political and legal systems through asking questions. These questions will form the basis of your research into contemporary Australian society and its capacity to foster fairness, diversity and inclusiveness for different groups such as First Nations Peoples of Australia and refugees.

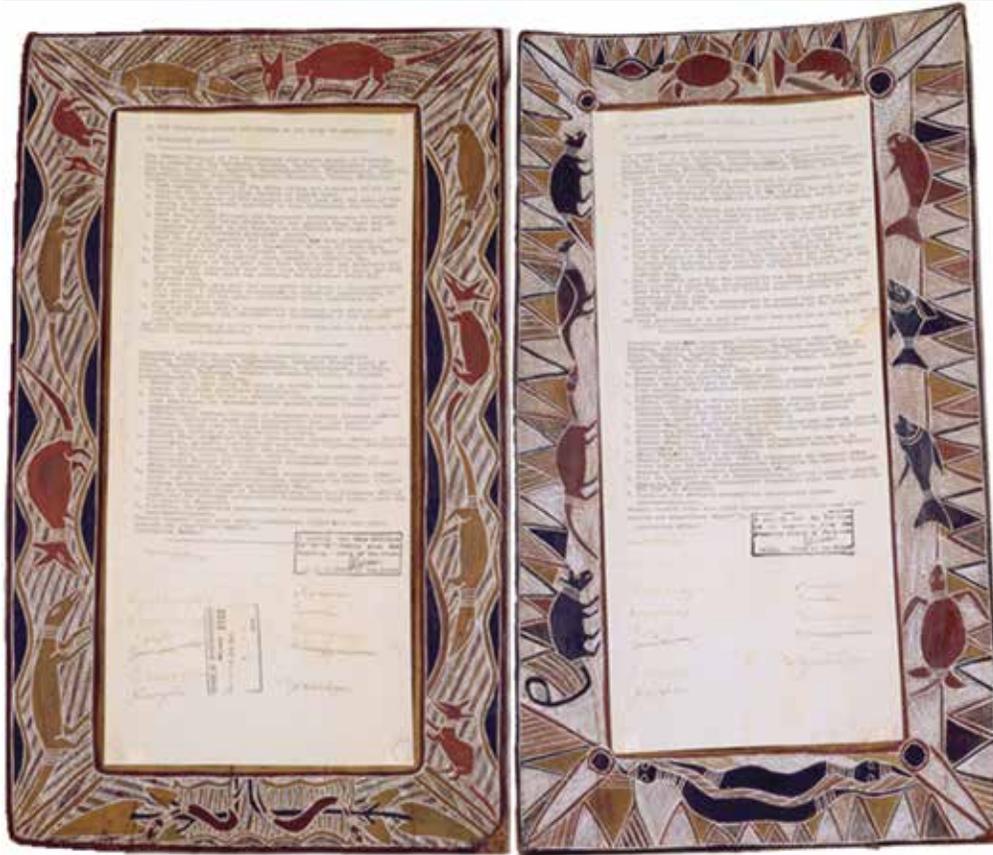
Data will be gathered from multiple sources such as tables, media reports (print and visual) and different perspectives will be considered and evident in your research. Reliability of sources and the reasons for different perspectives and bias will be considered.

Analysis, evaluation and interpretation

Analysis involves interpreting information to identify the main features or ideas from a range of sources and perspectives. Bias and different perspectives will be considered in selecting information used to form opinions. Alternative viewpoints will be acknowledged in your evaluations.

You will draw evidence-based conclusions about the capacity of Australia's political and legal institutions to enhance and foster democratic values and civic participation. You will evaluate the effectiveness of Australian citizens in using the political and legal systems to contribute at a range of scales.

FIGURE 1 These petitions were presented to parliament in 1963 by the Yolngu Peoples of Yirrkala, in the Northern Territory, and raised issues relating to their dispossession from their traditional lands. If you were researching this issue, what extra information would examining this source give you that an online text-only transcript of the documents would not?



Civic participation and decision-making

Participating in the civic process involves identifying the ways in which active and informed citizens can participate within society. You will be able to explain how our democratic political and legal systems uphold our values and where they might live up to expectations. Working within democratic processes enables us to make decisions in relation to contemporary issues and design an action plan for change in a responsible way.

Communicating

You will present and communicate ideas, perspectives and arguments based on evidence and research on contemporary civics and citizenship issues. Explanations will be clearly expressed and consider not just the issue but also the outcome of civic action, participation, and engagement.

FIGURE 2 What factors might affect an Australian's point of view of this Australian stamp from 1988?



1.3.2 SkillBuilders in the topic

In addition to these broad skills, there is a range of essential practical skills that you will learn, practise and master as you study Civics and Citizenship. The SkillBuilders in this topic will tell you about the skill, show you the skill and let you apply the skill to the topics covered.

The SkillBuilders you will use in Year 8 are:

- Writing inquiry questions for research
- Using the deconstruct–reconstruct method
- Developing argument paragraphs
- Delivering an oral presentation
- Writing and conducting a survey
- Writing a submission.

LESSON

1.4 SkillBuilder: Writing inquiry questions for research

online only

Why are inquiry questions important when researching?

When you are asked to ‘do research’ you need to investigate a particular topic or event. To do this investigation well, it is important to have questions to guide your investigation (inquiry). The purpose of this skill is to help you understand and create helpful inquiry questions.

Select your learnON format to access:

- an overview of the skill and its application (Tell me)
- a step-by-step process to explain the skill (Show me)
- an activity for you to practise the skill (Let me do it).

LESSON

1.5 SkillBuilder: Using the deconstruct–reconstruct method

online only

What is the deconstruct–reconstruct method?

Copying another person’s work without acknowledging the author is plagiarism, whether it is copied from the student sitting next to you in class or from an article you found on the internet. For many students, plagiarism occurs simply because they do not know how to read information and then use it appropriately in their own work. The deconstruct–reconstruct method teaches you how to use another person’s work appropriately.

Select your learnON format to access:

- an overview of the skill and its application (Tell me)
- a step-by-step process to explain the skill (Show me)
- an activity for you to practise the skill (Let me do it).

LESSON

1.6 SkillBuilder: Developing argument paragraphs

online only

What are argument paragraphs?

Argument paragraphs help you to present an explanation or argument, in a straightforward way, and to communicate this in a written form, such as an essay. An argument paragraph discusses either a positive or a negative aspect of an issue — it presents an argument in a ‘scholarly’ or academic way.

Select your learnON format to access:

- an overview of the skill and its application (Tell me)
- a step-by-step process to explain the skill (Show me)
- an activity for you to practise the skill (Let me do it).

LESSON

1.7 SkillBuilder: Delivering an oral presentation

online only

What makes a successful oral presentation?

An oral presentation involves presenting a short, structured speech or presentation to a specific audience for a specific purpose. Preparation is key to presenting your ideas well to an audience and the effectiveness of your speech often relates to the connection you make with your audience.

Select your learnON format to access:

- an overview of the skill and its application (Tell me)
- a step-by-step process to explain the skill (Show me)
- an activity for you to practise the skill (Let me do it).

LESSON

1.8 SkillBuilder: Writing and conducting a survey

online only

What is a survey?

A survey is the process of collecting data for the purpose of analysing an issue. It consists of putting a set of questions to a sample group of people. Surveys are an efficient way of collecting information from a large number of people. The questions can range widely to reveal people’s attitudes, values, opinions and beliefs on political or legal issues.

Select your learnON format to access:

- an overview of the skill and its application (Tell me)
- a step-by-step process to explain the skill (Show me)
- an activity for you to practise the skill (Let me do it).

LESSON

1.9 SkillBuilder: Writing a submission

online only

What is a submission?

Being able to communicate ideas through a variety of methods, including structured writing, such as essays, is an important skill. A formal submission is a letter or email to an organisation or government body asking for a specific action to take place, or expressing an opinion on an issue.

Select your learnON format to access:

- an overview of the skill and its application (Tell me)
 - a step-by-step process to explain the skill (Show me)
 - an activity for you to practise the skill (Let me do it).
-

LESSON

1.10 Review

1.10.1 Key knowledge summary

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

1.2 Concepts in Civics and Citizenship

- Active citizenship means that people participate in the political and legal systems to influence a change in their society.
- Democracy is a political system in which citizens choose the way in which they are governed.
- Global citizenship involves an understanding in Australia's place and obligations on an international level and our preparedness to take action to influence change.
- Legal systems in Australia are underpinned by the rule of law. Justice should be fair and equitable.
- Identity and diversity in our multicultural society allow for freedom of expression and help shape our shared beliefs and sense of belonging.

1.3 Skills in Civics and Citizenship

- The skills you will develop by studying Civics and Citizenship fall into four main groups:
 - Asking questions about civics and citizenship provides an insight our contemporary society and drives us to ask different questions to learn more.
 - Researching contemporary civics and citizenship issues involves locating relevant information and data from different sources to develop an understanding of political and legal issues. Different perspectives are found through analysis of our research.
 - Participating in civic processes by identifying ways to participate actively and responsibly in our democratic society.
 - Communicating by selecting appropriate methods to share your ideas, perspective and arguments on contemporary civics and citizenship issues.

1.10.2 Key terms

civil law the branch of law that protects people's rights and property

criminal law the branch of law that judges whether someone has committed a crime, and punishes them if they are found guilty

customary law rules for behaviour developed by and for First Nations Peoples

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

direct action showing your disapproval or disagreement with the government and their policies by directly trying to influence their decisions and the views of the public, for example through protesting

national identity the parts of a society that make people feel like they belong, such as shared values or sense of identity



Resources



eWorkbook Customisable worksheets for this topic (ewbk-10772)
Reflection (ewbk-10774)



Interactivity Civics and Citizenship skills and concepts crossword (int-9029)

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LESSON

1.4 SkillBuilder: Writing inquiry questions for research

LEARNING INTENTION

By the end of this lesson you will be able to write focussed inquiry questions for your research in Civics and Citizenship.

1.4.1 Tell me

Writing inquiry questions is part of the questioning and researching skill in HASS. In Year 7, you began writing inquiry questions to help you focus your research. At a Year 8 level, you will build this ability to locate relevant and detailed information and/or data from a range of appropriate sources.

When you are asked to ‘do research’ you need to investigate a particular topic or event. To do this investigation well, it is important to have questions to guide your investigation (inquiry). The purpose of this skill is to help you understand and create helpful inquiry questions.

In Civics and Citizenship this year, you will use this skill to start investigating topics from sources such as this textbook and websites. You may also conduct your own research with surveys.

When carrying out your own research, the steps in **FIGURE 1** can provide a useful guide. You might remember this process from Year 7. This SkillBuilder will show you how to use these steps for the slightly more complicated questions and tasks you will complete in Year 8.

1.4.2 Show me

Many countries throughout the world have a ‘bill of rights’ or ‘charter of rights’ to protect the rights and freedoms of their citizens. Imagine you have been asked to find out what a bill or charter of rights is, and how it protects people’s rights and freedoms. You will need to plan your investigation and break it into some clear steps.

Step 1

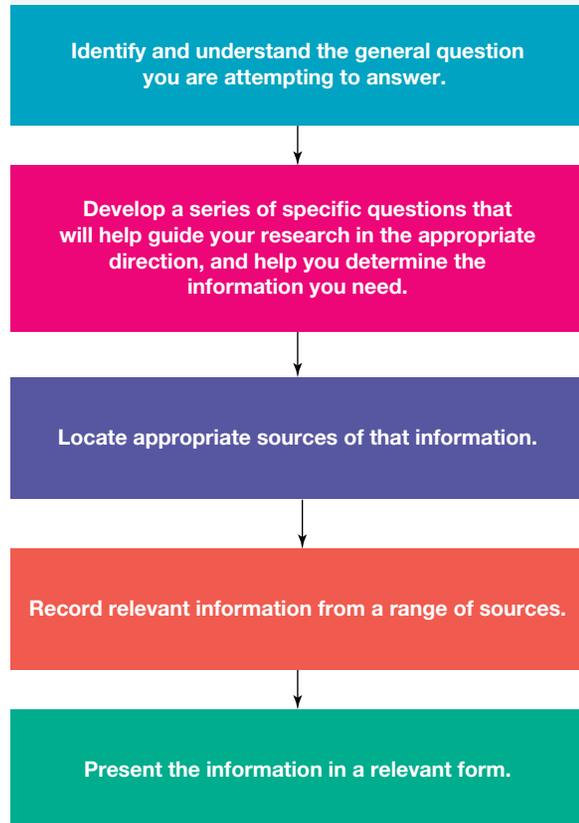
Your first step is to clearly identify the essential *key questions*. These could be expressed as follows: ‘What is a bill or charter of rights? What is a good example of a bill or charter of rights? What rights does it actually protect? How does it protect these rights?’

Step 2

It is now necessary to break these key questions down into a series of more specific *inquiry questions*. These could include:

1. What is a bill of rights?
2. What is a charter of rights?

FIGURE 1 How to carry out your own research



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

Step 3

The next step is to locate appropriate sources to test your inquiry questions. Ask yourself: will my questions find all the information I need? Try searching online with your questions — is your search finding relevant, accurate sites?

There is a wide variety of sources that can be used for research, including textbooks, websites and books written by experts in the subject. You need to ensure that the sources of information you use are relevant to your topic and reliable. To do this, start with sources from trusted educational institutions or official organisations, such as this textbook or the Museum of Australian Democracy.

Internet searches can bring up a huge list of information sources, but not all of them are reliable. You need to carefully select a small number of sources that are reliable.

REMEMBER: BE CAREFUL WITH SITES THAT CAN BE EDITED BY THE PUBLIC

Wikipedia is often one of the first sources suggested in a web search, and yes, Wikipedia often has reliable information. It is a good starting point to understand a topic. However, because Wikipedia articles can be edited, it is recommended to go to the sources listed at the bottom of the Wikipedia article page. If there are no sources listed, then that specific article may be unreliable. If there are sources listed, it may be a good idea to use these directly. To help ensure that your information is correct, it is a good idea to use at least two sources to answer each question. Keep your inquiry questions beside you as you read each source and note the location of the source material for your answers.

Step 4

Once you have done some basic research, refine your questions based on the results of your test searches.

- Can you be more specific?
- Do you need to ask broader questions in some areas?

1.4.3 Let me do it

1.4 ACTIVITY

Practice the skill of writing inquiry questions with the worksheet in the Resources panel to respond to the following topic.

1. In Australia, the state of Victoria has brought in a Charter of Human Rights and Responsibilities and the Australian Capital Territory has a bill of rights known as the Human Rights Act. Select one of these and prepare a report explaining:
 - a. what rights are protected by the bill or charter you have selected
 - b. what actions can be taken by a person to protect his or her rights under that bill or charter.

LESSON

1.5 SkillBuilder: Using the deconstruct-reconstruct method

LEARNING INTENTION

By the end of this lesson you will be able to write a paragraph in your own words using information from your research in an ethical way.

1.5.1 Tell me

The deconstruct-reconstruct method is part of the questioning and researching skill in HASS. At Year 8 level, you will learn how to avoid plagiarising another person's work by making careful notes from sources of information.

Copying another person's work without acknowledging the author is plagiarism, whether it is copied from the student sitting next to you in class or from an article you found on the internet. For many students, plagiarism occurs simply because they do not know how to read information and then use it appropriately in their own work. The deconstruct-reconstruct method teaches you how to use another person's work appropriately.

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



1.5.2 Show me

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

Step 1

You should first read the entire source from beginning to end. It might be tempting, but for this first readthrough do not highlight or take notes. You want to simply read and take in the meaning of the author's work.

Step 2

When you have read the information once, the second step is to re-read it. The more times you watch a movie, the better you can see the elements that the director wants you to see. Similarly, the more times you read a source, the better you can see the elements that the author wants you to see. When re-reading a source, you should use a table like the one shown below to help you collect information and organise your own thoughts.

You should divide your table into two columns: 'quotes/facts' and 'notes'. In the 'quotes/facts' column, write only factual or statistical information. The 'notes' column is for any ideas and questions that you might have after reading the quote or fact. You can write this section in dot points or full sentences — whatever makes sense to you. You do not necessarily need to comment on each quote or fact you record; similarly, you may write notes that do not relate to a specific quote. Completing this section is crucial because these notes will form the basis of your writing.

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

Let us use one of the paragraphs about Hinduism from your textbook to practise the deconstruct-reconstruct method.

FIGURE 2 *Humanities and Social Sciences for Western Australia 8, 2nd Edn, Darlington et al., John Wiley & Sons, Milton 2020. (Image: Sri Venkateswara Temple, Helensburgh, NSW.)*

Hinduism

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



This is what your notes might look like:

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

Step 3

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

The paragraph below has been written using the information summarised in the practice table. Extra research has also been completed to answer some of the questions written in the notes column.

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

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

1.5.3 Let me do it

1.5 ACTIVITY

Practise using the deconstruct-reconstruct method by choosing any paragraph from this resource and applying the three steps of the process.

To do this, complete the step-by-step worksheet from the Resources panel.



LESSON

1.6 SkillBuilder: Developing argument paragraphs

LEARNING INTENTION

By the end of this lesson you will be able to present a clear point of view about a topic using two well-constructed argument paragraphs.

1.6.1 Tell me

Writing argument paragraphs is part of the communicating and reflecting skill in HASS. In Year 7, you practised using the TEEL structure in your argument paragraphs. In Year 8, you will build your skills in presenting your argument in a straightforward way, and using your arguments together in a longer piece of writing, such as an essay.

Many times in your academic career at school and beyond, you will be asked to write responses to questions that need several paragraphs. An effective essay or extended response has several characteristics.

- It clearly explains the background of an issue.
- It contains strong evidence and multiple examples.
- It discusses the positives and negatives of an issue.

This final characteristic is best demonstrated through argument paragraphs. An argument paragraph is a section of an essay that presents a point of view.

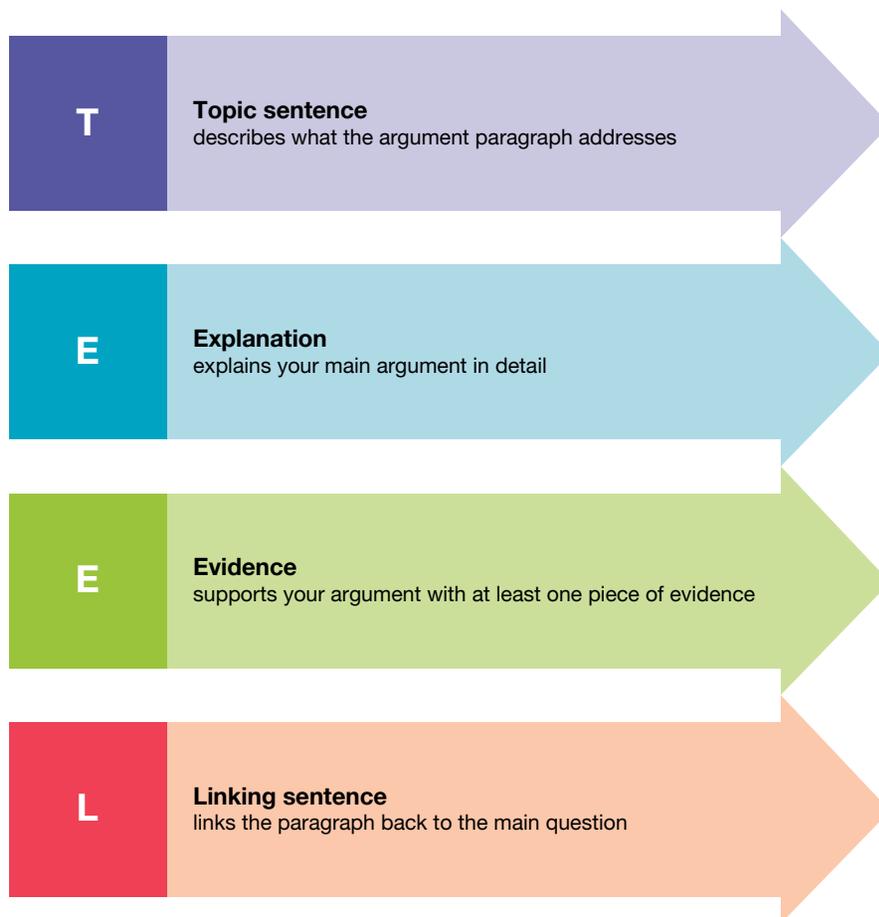
1.6.2 Show me

Imagine your teacher asks you to write two paragraphs in response to the following statement: ‘The Aboriginal flag should be the only national flag of Australia’.



Step 1

As you learnt in Year 7, an argument paragraph has the following structure:



The first step in writing your paragraph is to collect your information: your key arguments, the reasons why you believe each argument is true or important, and the evidence that supports each argument. One way to make sure you have all the information you need to set it out in a table to help you plan.

For this topic, ‘The Aboriginal flag should be the only national flag of Australia’, you might include these two key arguments:

T	What is the argument I am making in this paragraph?	National flags are powerful symbols.
E	Why do I believe this argument is true or important?	Flags are used as a representation of a country and its people internationally, so they should be a symbol of the people and the country.
E	What evidence can I use to back up my argument?	The symbolism of the Aboriginal flag and why it represents all of Australia
L	How does this link to the main topic?	Because the symbol is powerful, we should have a flag that really reflects Australia

T	What is the argument I am making in this paragraph?	We are no longer ruled by Britain.
E	Why do I believe this argument is true or important?	The current flag was designed a long time ago, when the influences of Britain were much greater and does not represent Australia today.
E	What evidence can I use to back up my argument?	It includes the symbols of place country – the Union Jack.
L	How does this link to the main topic?	Australia's flag should represent modern Australia, not the past.

Step 2

Draft both of your paragraphs using the TEEL planning structure, paying close attention to how each part of the paragraph works together. Your paragraph should not read like a list of your four TEEL sections, but should flow smoothly. One way to do this is to think about the transitions between your sentences.

Transition phrases (groups of words that show you are moving from one thing to the next) and conjunctions (connecting words between parts of a sentence that show their relationship) will help you with the smooth movement from one part of your paragraph to the next.

Simple transition phrases you could use include:

- This is supported by ...
- This is demonstrated by ... — For this reason ...
- The most significant reason this should be the case is ...
- The evidence supporting this includes ...

The more experience you have writing, the more subtle (or more fluent to read) your transitions will become.

Step 3

Because you have been asked to write two paragraphs, the final step is to make sure you have a smooth shift from the first to the second paragraph. This helps to make your writing easier to read and makes your argument clearer.

To decide the best way to do this, look at the question you have been asked for clues.

In this example, you have been asked to write two paragraphs explaining your reasons for why the Aboriginal flag should be the national flag of Australia. In this case, start both paragraphs with a phrase that shows you are introducing a new idea related to that topic. For example:

- One reason why we should use the Aboriginal flag as our national flag is...
- The most important reason we should change our flag is...
- Changing the flag would also be an important way to show...

Try not to repeat the same phrase or structure to start each of your paragraphs; variety is what will make your writing easier and more interesting to read.

Your final response might be:

One significant reason why we should use the Aboriginal flag as our national flag is that flags are the simplest and most powerful representations of a country and its people. They commonly contain symbols of culture, values and history. Because Aboriginal and Torres Strait Islander peoples are the true owners of this land, it should be their culture, their values and their history that are represented in Australia's national flag. The background of the Aboriginal flag is divided horizontally into a black half and a red half. The black section represents the Aboriginal and Torres Strait Islander peoples of Australia and the red section represents the connection Aboriginal and Torres Strait Islander peoples have to the land. The middle of the flag is a yellow disc that represents the provider of life: the sun. The Aboriginal flag reflects much about the Aboriginal people, and thus Australia itself. For this reason, the Aboriginal flag should be the only national flag used in Australia.

To show respect for the traditional owners of this land, we should not be using a national flag that includes symbols of Britain. The current flag was designed a long time ago when the influences of Britain were much greater and does not represent Australia today. The British symbols also represent the taking of land, culture and language from traditional peoples of Australia, and this should not represent Australia today. The Union Jack on the flag is a reminder of these awful events in our past. Australia's flag should represent modern Australia, not the past. Changing it will show greater respect for Aboriginal and Torres Strait Islander cultures.

1.6.2 Let me do it

1.6 ACTIVITY

Below are some essay topics that you can use to form the basis of your argument topics. To do this complete a step-by-step worksheet from the Resources panel.

Use the information and tips in this SkillBuilder to practise writing your own argument paragraphs. Be sure to use the TEEL structure — it will help you logically organise your thoughts and arguments.

You will need to do some research before writing your practice paragraphs.

1. Australian identity: no such thing exists.
2. It is not important for a country to have a national identity.
3. The Aboriginal flag should be the only official flag of Australia.
4. Religion and government should remain separated.
5. It is impossible for people from different backgrounds to share common values.
6. New migrants should abandon their traditions and customs and adopt an Australian way of life.
7. New migrants should not be allowed to speak their native language after they arrive in Australia.



LESSON

1.7 SkillBuilder: Delivering an oral presentation

LEARNING INTENTION

By the end of this lesson you will be able to present a short, structured speech or presentation to a specific audience for a specific purpose.

1.7.2 Tell me

A successful oral presentation starts before a single word has been spoken, with these three stages.

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

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



1.7.3 Show me

Step 1

The first step in preparing your oral presentation is planning what you will say. Preparation is key to presenting your ideas well to an audience. This is especially true if you are nervous about public speaking.

Use the following table to help you plan the elements of your presentation.

TABLE 1 Preparing for your presentation

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

Step 2

Think about the strategies you could use to make sure your audience remembers and understands your message. Visual information can add to your presentation, but if used incorrectly, it can decrease the effectiveness and clarity of your message.

Make sure that any visual aids serve a clear purpose. Do not commit any of the mistakes shown in the **How not to use PowerPoint** weblink in the Resources panel.

Step 3

The effectiveness of your speech often relates to the connection you make with your audience, so the third step is to practice.

Confident eye contact requires more than simply looking up from your notes every now and then. You need to make and hold eye contact with members of your audience. This will only be possible if you have practised your speech often and know the content extremely well.

Sustained eye contact will also improve your delivery of the speech itself. Remember not to rush your speech, and be sure to explain your points clearly and carefully.

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



1.7.3 Let me do it

Complete the following activity to practise this skill.

1.7 ACTIVITY

Investigate the national identity of a nearby Asian country. Working either individually or in pairs, you will need to deliver a five-minute oral presentation in which you discuss your chosen country and how its national identity is displayed. You could present either in person to your class, or by video.

Draw up a table (similar to **TABLE 1**) to help you prepare and plan your speech. Then use the procedure discussed in this SkillBuilder to ensure that your presentation is successful. You can also complete a step-by-step worksheet from the Resources panel to help you with this task.

on Resources

 **Weblink** How not to use PowerPoint

LESSON

1.8 SkillBuilder: Writing and conducting a survey

LEARNING INTENTION

By the end of this lesson you will be able to construct a simple survey to collect information about a specific issue or research question.

Collecting information through a survey is part of the questioning and researching skill in HASS. In Year 8, you will extend the ways you research by collecting data and information yourself, as well as using information that has already been published.

1.8.1 Tell me

A survey is the process of collecting data for the purpose of analysing an issue. It consists of putting a set of questions to a sample group of people. For example, a political party might conduct a survey to find out whether citizens are satisfied with the party's policies.

Surveys are an efficient way of collecting information from a large number of people. The questions can range widely to reveal people's attitudes, values, opinions and beliefs on political or legal issues.

A good survey:

- has a clear written introduction
- has simple questions early on
- places more sensitive personal questions towards the end
- leaves enough room for all the questions to be answered
- is of reasonable length
- is well presented
- is clearly analysed once responses are collected.

FIGURE 1 outlines more tips on creating a good survey.

1.8.2 Show me

Step 1

Decide what you want to learn from your survey. You need to clearly decide the goals of your survey beforehand, otherwise your survey results will be unclear.

Step 2

Decide whom you want to survey. Will your target group include both young people and adults, or just young people? How many people will you survey? Generally, the more people you survey, the more reliable your results will be.

FIGURE 1 Survey tips



FIGURE 2 Personal interviews may be conducted in a variety of places, such as at shopping centres or outside theatres. Personal interviews usually cost more to conduct than other survey methods.



Step 3

Decide what method you will use to collect the data. Consider factors such as cost, speed and whether sensitive information is involved. Survey methods include:

- personal interviews
- telephone survey
- mail survey
- email survey
- internet/intranet webpage survey.

Online formats such as Survey Monkey and Google Forms are a useful method of conducting surveys online.

Step 4

Design your survey. Start with a friendly introduction to encourage people to complete the survey. Work out your questions. There are two main types of survey questions.

- Open questions allow the respondent to record their thoughts about an issue. Look at the examples provided in the **FIGURE 3** sample survey for ideas.
- Closed questions ask the respondent to select an answer from a range of options; for example, yes or no.

Try to keep your survey short and your questions simple. Make sure the layout is uncomplicated and easy to follow.

FIGURE 3 Examples of different types of questions

Question type	Example															
RATING SCALE	How would you rate the performance of our courts? Please circle one response. Excellent Good Fair Poor															
AGREEMENT SCALE	How much do you agree with the following statements? Please tick one response. <table border="1"> <thead> <tr> <th></th> <th>Strongly agree</th> <th>Agree</th> <th>Disagree</th> <th>Strongly disagree</th> </tr> </thead> <tbody> <tr> <td>The courts treat everyone fairly.</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Australia's judges are independent.</td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>		Strongly agree	Agree	Disagree	Strongly disagree	The courts treat everyone fairly.					Australia's judges are independent.				
	Strongly agree	Agree	Disagree	Strongly disagree												
The courts treat everyone fairly.																
Australia's judges are independent.																
MULTIPLE CHOICE	What is your age? Please circle one response. Age: 12–14 15–16 17–18 Over 18															
OPEN-ENDED	Why do we allow people to appeal court decisions? .															

TIPS FOR CREATING CLOSED QUESTIONS

Closed questions that ask respondents to rate something against a scale should have an even number of options for such a scale. This is because people often go for the easy option and pick the middle number. An even number of possible ratings (e.g. 1–6, instead of 1–5) means that respondents can't just pick the middle 'neutral' number.

Step 5

Conduct a small trial of your survey to make sure the questions are clear and will achieve your goals. Make any necessary changes based on feedback from the trial.

Step 6

Conduct your survey and collate the results. These can then be analysed for patterns or anything unusual. When you analyse the results, consider working out percentages. For example, the females aged 12–16 surveyed spend 10 per cent of their money on computer games, while the males aged 12–16 spend 25 per cent.

1.8.3 Let me do it

Complete the following activity to practise your skills.

1.8 ACTIVITY

In a small group, design and conduct a survey. It is to be a paper-based survey carried out by personal interview. Note that paper surveys should allow enough room for interviewees to write their answers. (If it is difficult to meet in person, you can plan the survey via video chat and create a simple online survey.)

In your group, select one of the following topics for your survey:

- Australian cultural identity
- An Australian republic
- Recognition of Aboriginal Australians in the Constitution
- Freedom of speech

You can also complete a step-by-step worksheet from the Resources panel to help you with this task.



LESSON

1.9 SkillBuilder: Writing a submission

LEARNING INTENTION

By the end of this lesson you will be able to write a structured submission to an organisation or government body that clearly identifies a problem and suggests what action should be taken to resolve the problem.

1.9.1 Tell me

A formal submission is a written communication (letter or email) to an organisation or government body that requests that a specific action takes place, or that expresses an opinion on an issue. Submissions from the public are often called for by parliamentary committees investigating community issues, or current bills going through parliament. Any Australian citizen or resident may write a formal submission to government. Formal submissions are also used to request permission from government agencies, for example, permission to hold a community event. You practiced this skill in Year 7, when you practised writing argument paragraphs; in Year 8 you will refine your process.

A submission is similar to an essay in that it should have a clear structure and developed ideas, but it is different because it often asks for the recipient to take action, and may be more personal (often written in the first person).

The purpose of learning how to write a submission is to apply written communication skills in ‘real-world’ scenarios, and to enable you to be an active participant within our democratic society.

1.9.2 Show me

Your submission may be one of hundreds of letters sent to that government department or parliamentary committee, therefore it is important that it is clear and concise (short).

Step 1

Identify the specific issue/s you wish to have addressed and why they are a problem. An example of an issue that someone might want addressed is:

Hyun’s mother slipped down some steps at a council-run swimming pool and bruised her hip. Hyun has also seen several other people trip or slip on the same step.

Specific issue: poor safety at the local pool means people are being injured

FIGURE 1 There can be hundreds or thousands of communications sent to government departments, so it’s important to know how to ensure yours is seriously considered.



Step 2

Research or investigate the issue to clearly identify specific problems that need addressing, and possible solutions that may solve those problems.

Hyun investigated:

- Are the steps broken? No.
- Is the floor slippery and wet? Yes.
 - Maybe the floor needs more matting at the top of the stairs to soak up water?
- Do the steps have clear anti-slip flooring or grip strips? Yes, but it has come off in some places.
 - Needs replacing/fixing
- Are there any safety measures such as warning signs? No.
 - Needs a warning sign that stairs may be slippery
- Specific problems and potential solutions:
 - The stairs are often wet from people who have just been swimming.
 - The anti-slip flooring strips are not effective and need fixing.
 - There are no warning signs and there should be.

Step 3

Research and identify the people or organisations that have responsibility for the issue (or may have influence in addressing the issue). Monitor public information channels to find out if there are opportunities for public submissions, such as Parliamentary Committees and Inquiries or complaints to council.

DISCUSS

Review the information provided by the City of Perth regarding how to submit a petition or submission (see the weblinks in the Resources panel). Discuss the requirements for making a petition. Do they give everyone in the community an equal opportunity to request action? Investigate the council rules where you live. Do they have similar requirements? As someone who is under 18 in the City of Perth, you are not eligible to vote, which means you may not be eligible to petition or make a submission to your council. What is your view of this? How else could you make yourself heard by your local representatives?

Hyun wasn't sure which level of government was responsible for the pool, so he searched online to find out that it was maintained by his local government (council). He rang the council and discovered the right person to address his submission to was the Ms Tan, the Council's properties manager.

Step 4

Once you have identified your issue and specific points, and researched who your submission should be addressed to, you need to write your submission. Remember that you might have to write several drafts and edit your final version to create the best submission you can.

The following tips are a useful guide for writing your submission:

- clearly address the issue (or terms of reference for a parliamentary committee)
- stay relevant and highlight your own perspective
- begin with a short introduction about yourself or the organisation you represent
- emphasise the key points so that they are clear
- outline how problems can be addressed
- only include documents that directly relate to your key points
- only include information you would be happy to see published on the internet (if writing to a parliamentary committee).

Hyun could write the following submission:

Dear Ms Tan,

I write to express concern with the safety of the exit stairs by the north gate of Low-Water Public Swimming Pool.

I live a few blocks from the pool and swim there regularly with my family. Recently my mother fell down the north gate stairs and injured her hip. I have also seen other adults and small children slip at a similar point of the stairs. While I understand that any staircase near a swimming pool will be likely to get wet, and that it is our responsibility to move around the pool safely, the stairs do require some maintenance and better safety warnings. Primarily, there are three problems that make the stairs unsafe:

1. The anti-slip strips that had been applied to the stairs have come loose in some places or have worn away.
2. There is no matting at the top of the stairs, so water runs from people's legs and feet down the stairs making them wet.
3. There is no warning sign that the stairs might be slippery.

The stairs could be made much safer if each of these problems were fixed. I have included photographs of the stairs so you can see the issues I have raised. I look forward to hearing from you with regards to this matter.

Kind regards,

Hyun-Jin Park

FIGURE 2 The stairs outside near the pool get especially wet when the pool is busy.



FIGURE 3 Loose and worn-out grips and warning tapes



Step 5

When your submission has been written and edited, you need to send it.

Members of parliament and local councils generally have websites and social media accounts that provide contact details. These details usually include email and postal addresses.

1.9.3 Let me do it

Practice writing a formal submission by selecting one of the following issues, or choosing an issue that is important to you, and working through the steps. If it is an issue that genuinely concerns you, you may choose to send the submission to the relevant organisation.

Complete the following activity to practice your skills.

1.9 ACTIVITY

Write a submission to ask a local or state government body about one of the following issues. You can also complete a step-by-step worksheet from the Resources panel to help you with this task.

Examples of different levels of issue:

That your local government:

- fixes a specific intersection or section of road that is dangerous
- changes or fixes something in a local park
- changes their policy about an issue that affects you or your family, such as waste removal or pet registration.

That the state government:

- relaxes the laws about wearing bike helmets on public roads and paths
- makes public transport to regional areas more affordable.

Resources



Weblinks

Making a submission (Parliament of NSW)
Making a submission to a Committee (WA parliament)
Making a submission to a Senate Committee (Australian Parliament House)
Petition to Council or a Committee submission

2 Australia's government and democracy

LESSON SEQUENCE

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LESSON

2.1 Overview

Hey students! Bring these pages to life online



Watch videos



Engage with interactivities



Answer questions and check results

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How can active and informed citizenship be achieved in Australia, and what role do the media, social media, political parties and interest groups play in shaping our decisions?

In Australia, our citizens participate in a democracy. This includes being able to vote in elections, contact local representatives from the government, join political parties and stand as an independent politician.

We expect our elected representatives in Parliament to reflect our values and represent us honestly. Through our voting systems and democratic processes, we also have the right to challenge, question, and take direct action against issues we do not agree with.

Active and informed citizenship means knowing why and how the media, social media, political parties and other interest groups can shape and influence our decisions, and how to make informed choices.



on Resources



eWorkbook

Customisable worksheets for this topic (ewbk-13436)



Video eLesson

Australia's government and democracy (eles-6036)

LESSON

2.2 How do Australians participate in our democracy?

LEARNING INTENTION

By the end of this lesson you should be able to explain how young people can raise, and take action against, issues of concern in Australia.

TUNE IN

The right to assemble peacefully includes protests and demonstrations and applies to people meeting privately or publicly.

1. Have you ever attended or witnessed a protest, march, or other kind of demonstration? What was the issue?
2. Look at **FIGURE 1**. What do you think is the purpose of this demonstration? In your answer, consider both what the people are protesting *against* and *for*.
3. Brainstorm or list any current issues in society you think that young people should be challenging.

FIGURE 1 Students protesting in Sydney



2.2.1 The right to disagree

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

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

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

2.2.2 Expressing dissent

Expressing dissent is one of the ways in which we can participate in a democratic society. While we are required to obey the law, we are not required to blindly follow whatever a government tells us. Every individual is free to undertake a range of activities in an attempt to have a particular law changed — for example, to organise and participate in a demonstration or public rally, or to sign a **petition** supporting a change in the law. (Details of such activities are discussed in section 2.3.3.) Participation in a rally or protest march allows many people who disagree with particular government policies to express their point of view. Such protests are also aimed at changing those policies and convincing other undecided citizens to support their cause.

petition a formal request for change signed by many people

2.2.3 Identifying issues of concern

Because the right to dissent is a basic democratic right, all young people in Australia are entitled to challenge issues of concern. But how do you identify an issue of concern? Raising political issues may involve challenging a law which you believe is unfair or forces people to act against core values, human rights, or basic dignity. It may also involve challenging policies and practices which seem to be embedded in society, reflecting how society's values shift over time. To identify a genuine issue of concern, you should reflect on the policies, practices, laws and norms of society to see if there are any ideas which make you feel uncomfortable, silenced, or even oppressed.

2.2.4 CASE STUDY: Student climate strikes

School Strike 4 Climate is a global movement of students who demonstrate and protest against policies which promote fossil fuels and industries which damage the environment. The movement gained traction across the world in 2018, when Greta Thunberg — then a pupil in a Swedish school — staged a protest outside the Swedish parliament building.

A global strike followed on 15 March 2019, which included over a million strikers across 125 countries, including Australia. SS4C Australia now operates as a student-led network which is demanding:

- Net Zero by 2030 which means no new coal, oil or gas projects including the Adani mine
- 100 per cent renewable energy generations and exports by 2030
- Fund a transition and job creation for all fossil-fuel workers and their communities.

Is it legal?

In media coverage of the climate strikes, a number of politicians claimed that the students were acting illegally. New South Wales education minister Rob Stokes informed a news reporter that, 'You simply can't strike if you don't have a job ... the law is very clear, this is a notified school day, kids should be at school.'

However, statements like this were countered by Greta Thunberg and organisations like the Australian Youth Climate Coalition. The right to strike is broadly considered in democratic countries to be protected, protecting the social, health and economic interests of workers. Australian Lawyers for Human Rights supported the strikes, recognising the young people's rights to peaceful assembly and freedom of speech.

Is it effective?

SS4C Australia continues to operate with planned strikes, sit-ins and social media events. According to a study from the University of Sydney, 'Students learn through their participation in striking, in contrast to the often insufficient climate change education taught in schools.'

On 15 March 2022, Federal Minister Sussan Ley successfully appealed against a 2021 Federal Court decision that the minister has a duty of care to young people when assessing fossil fuel developments. As bushfires and floods continue to impact young people's lives in Australia, many young people see it as their responsibility to keep the issue of the climate crisis on the agenda.

2.2.5 Direct action

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

2.2 SKILL ACTIVITY: Questioning and researching

An important part of being an active citizen is the ability to ask the right kinds of questions. Sometimes, questioning can be used to gather information or clarify your understanding. At other times, questioning is an important tool for probing issues, critical thinking, and challenging people's assumptions.

For each of the tiers below, **write** your own question about government and democracy.

Question type	Useful verbs	Example question
Knowledge and comprehension	Tell List Describe Find State Name Explain	Can you explain the term 'freedom to assemble peacefully'?
Application	Show Illustrate Examine Solve	Illustrate your understanding of the democratic process by examining a real or fictional protest.
Analysis	Analyse Compare Contrast Investigate Explore	What is the relationship between democracy and active citizenship?
Synthesising and evaluating	Create Invent Construct Design Imagine Justify Argue Discuss	Justify the position of a youth advocacy group of your choice on a current Australian issue.

2.2 Exercise

Learning pathways

■ LEVEL 1

1, 3, 4

■ LEVEL 2

2, 5, 8

■ LEVEL 3

6, 7, 9, 10

These questions are even better in jacPLUS!

- Receive immediate feedback
- Access sample responses
- Track results and progress



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Check your understanding

- Complete the following passage by **selecting** the correct words from the options provided.
As showing **attitude** / **dissent** / **rebellion** / **obedience** is an essential part of democratic society, it is **reasonable** / **unreasonable** that some groups and individuals would feel the need to voice their opposition to government policies and decisions.
- Identify** some of the limits or bounds of law.
 - Explain** how they could reasonably be placed on dissent in Australian society.
- What do we mean by 'direct action' as a form of political activity?
 - When the government makes a change based on protests
 - Taking violent action during a protest
 - Some form of public protest or demonstration of disapproval regarding an issue or government policy
 - All of the above
- Some young men opposed to conscription broke the law during the Vietnam War. True or false?
- Identify** how the Franklin River protesters defied the law during that campaign.

Apply your understanding

Civic participation and decision-making

- Examine** how dissent directed towards government policies or actions can have a positive influence on Australian democracy.
- In both the anti-conscription campaign during the Vietnam War and the Franklin blockade, people broke the law to achieve their aims. Their campaigns were ultimately successful. Is it appropriate for people to break the law to achieve the changes they want? **Explain** your answer.
- Discuss** occasions when it would definitely not be appropriate to break the law.
- School students in many parts of the world have taken time off school to protest against government inaction on climate change. Should such action take place in school hours or at weekends or after school? **Justify** your answer.
- The Western Australia Liberal government of Colin Barnett lost the 2017 state election amid protests against the construction of stage 8 of the Roe Highway. As the government was replaced through a democratic election, were violent protests justified? **Explain** your answer.

LESSON

2.3 How do we form a government?

LEARNING INTENTION

By the end of this lesson you should be able to examine the structure of the Australian government and evaluate different voting systems.

TUNE IN

Australian federal elections use a preferential voting system. This means that voters enter their choices in order of preference, with one being the highest. To make every vote count, voters should use each number only once.

1. Have you ever attended a vote (for example with a parent or carer)? What did you see there?
2. There are many ways to vote incorrectly. Brainstorm ways which you think the voting slip in **FIGURE 1** could be made invalid.
3. Complete the voting slip in a correct manner.

FIGURE 1 An incomplete voting slip

Number the boxes from 1–6 in the order of your choice

<input type="checkbox"/>	AGATHA, Alloysius Blue party
<input type="checkbox"/>	BARRY, Beatrice Red party
<input type="checkbox"/>	CALORMEN, Chris Yellow party
<input type="checkbox"/>	DAVIDS, David Purple party
<input type="checkbox"/>	EUGENIDI, Eva Orange party
<input type="checkbox"/>	FAN, Fai Grey party

2.3.1 How to have your say

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

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

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

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

2.3.2 The electoral system

Our system of government is a democracy. This means it is based on the idea that we elect representatives to make **laws** for us. Because we vote for them, these representatives are expected to make laws that we agree with. If they do not do

that, then we can vote for different representatives at the next election. Those with the right to vote have the opportunity to elect representatives to:

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

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

Preferential voting and proportional representation

Preferential voting

In preferential voting — like Australian federal elections — voters must nominate candidates in their order of preference from highest to lowest. In full preferential voting, this means numbering every candidate on the voting slip from high to low. In optional preferential voting, voters can just nominate their main preferences without numbering every candidate.

Proportional representation

Senate elections use Proportional Representation. Voters may vote ‘above the line’ or ‘below the line’. Voting above the line requires completing at least six boxes in preferential order. Voting below the line requires at least 12 boxes to be numbered. The order of the boxes on the paper is random.

FIGURE 2 An example of a senate ballot

SENATE POSTAL BALLOT PAPER
ELECTION OF 6 SENATORS

You may vote in one of two ways

either

By placing the single figure 1 in one and only one of these SQUARES to indicate the way that you wish to elect or prefer your vote.

A	B	C	D	E	F	G	H
TASMANIAN INDEPENDENT SENATOR BRIAN HARRADINE	AUSTRALIAN LABOR PARTY	TASMANIA SENATE TEAM	LIBERAL/NATIONAL PARTY	TASMANIAN GREENS	CALL TO AUSTRALIA (FRED WILE) GROUP	NATURAL LAW PARTY	AUSTRALIAN DEMOCRATS

or

By placing the numbers 1 to 12 in the order of your preference.

A	B	C	D	E	F	G	H	Ungrasped
TASMANIAN INDEPENDENT SENATOR BRIAN HARRADINE	AUSTRALIAN LABOR PARTY	TASMANIA SENATE TEAM	LIBERAL/NATIONAL PARTY	TASMANIAN GREENS	CALL TO AUSTRALIA (FRED WILE) GROUP	NATURAL LAW PARTY	AUSTRALIAN DEMOCRATS	JAMIESON (INDEPENDENT)
HARRADINE BRIAN TASMANIAN INDEPENDENT SENATOR BRIAN HARRADINE	TATE MICHAEL AUSTRALIAN LABOR PARTY	SPEDALE ASH TASMANIA SENATE TEAM	SAUNE MICHAEL LIBERAL	HENDERSON JOY TASMANIAN GREENS	HOPSON FRED CALL TO AUSTRALIA (FRED WILE) GROUP	BRISZCZYK CAROL NATURAL LAW PARTY	HARMSEN PATRICK AUSTRALIAN DEMOCRATS	JAMIESON INDEPENDENT
	COATES JOHN AUSTRALIAN LABOR PARTY	MASHANE FRANKIE TASMANIA SENATE TEAM	TIERNY JOHN LIBERAL	JONES FRANK TASMANIAN GREENS	HOPSON JANETTE CALL TO AUSTRALIA (FRED WILE) GROUP	BRISZCZYK CAROL NATURAL LAW PARTY	STEPHEN DAVID AUSTRALIAN DEMOCRATS	
	MURPHY SHARON AUSTRALIAN LABOR PARTY		MACDONALD SHIRLEY LIBERAL/NATIONAL PARTY	FRY MARGOT TASMANIAN GREENS				
	AULICH TERRY AUSTRALIAN LABOR PARTY		PAYNE SHIRLEY ANN LIBERAL					

Fill the ballot paper, place it in the envelope addressed to the Divisional Returning Officer and fasten the envelope.

AEC

on Resources

- [Weblink](#) Voting enrolment form
- [Practise voting](#)

2.3.3 The structure of government

Members of parliament in the local community

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

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

FIGURE 3 Members of parliament often perform official opening ceremonies in their electorates.



electorate an area of Australia that elects one member to parliament

Helping the community

Because each electorate has a similar number of voters, the electorates can vary in geographical size depending on how densely populated they are. This means that an inner-city electorate will be smaller in area than a rural electorate because the population in the country is more thinly spread. For example, the smallest Australian electorate in terms of geographical size is Grayndler, which is in the south-eastern suburbs of Sydney. It has a total area of 32 square kilometres.

The largest in area is Durack, which takes up most of country Western Australia. It covers more than 1.6 million square kilometres. This is approximately 60 per cent of the total area of Western Australia, equivalent to more than 20 per cent of the total landmass of Australia. Its voters are spread out on cattle stations, mining towns and remote First Nations Australian communities. As you can imagine, it is much harder for the member for Durack to maintain contact with the voters than it is for the member for Grayndler. Nevertheless, both members will attempt to perform similar duties in relation to their respective communities.

Every member of parliament maintains an office in his or her electorate. Members representing very large electorates such as Durack will probably have electorate offices in more than one town. Those in large electorates also spend a great deal of time travelling around the electorate. Members are regularly called on to visit schools, sporting clubs and various other community groups. They often have the task of making presentations to individuals and groups, and performing opening ceremonies for new community facilities.

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

Ultimately, it is the voters in each electorate who judge the performance of their local members of parliament at every election. Members need to maintain strong links with their local communities and to publicly support

the interests of their electorates if they want to be re-elected.

Helping individual voters

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

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

Providing a direct link to parliament

Voters can sometimes raise issues that have significance beyond the electorate. When several members are approached

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

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

Helping with petitions to the House of Representatives

An important way in which voters can bring an issue to the attention of the parliament is to organise a petition. Members of parliament can provide advice on the preparation of petitions to be presented to the House of

FIGURE 4 The divisions of (a) Durack in Western Australia and (b) Grayndler in New South Wales

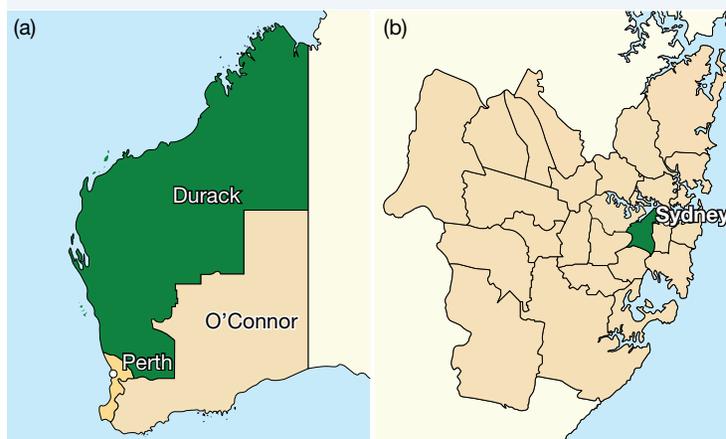


FIGURE 5 A member of parliament can often help individual voters with the help of staff in their electorate office.



Representatives. Members will also make sure the petition goes through the formal processes that are necessary for the petition to be dealt with. The House of Representatives has a Petitions Committee to deal with all petitions to be presented to the lower house. The local member will ensure that the petition is passed on to the Petitions Committee.

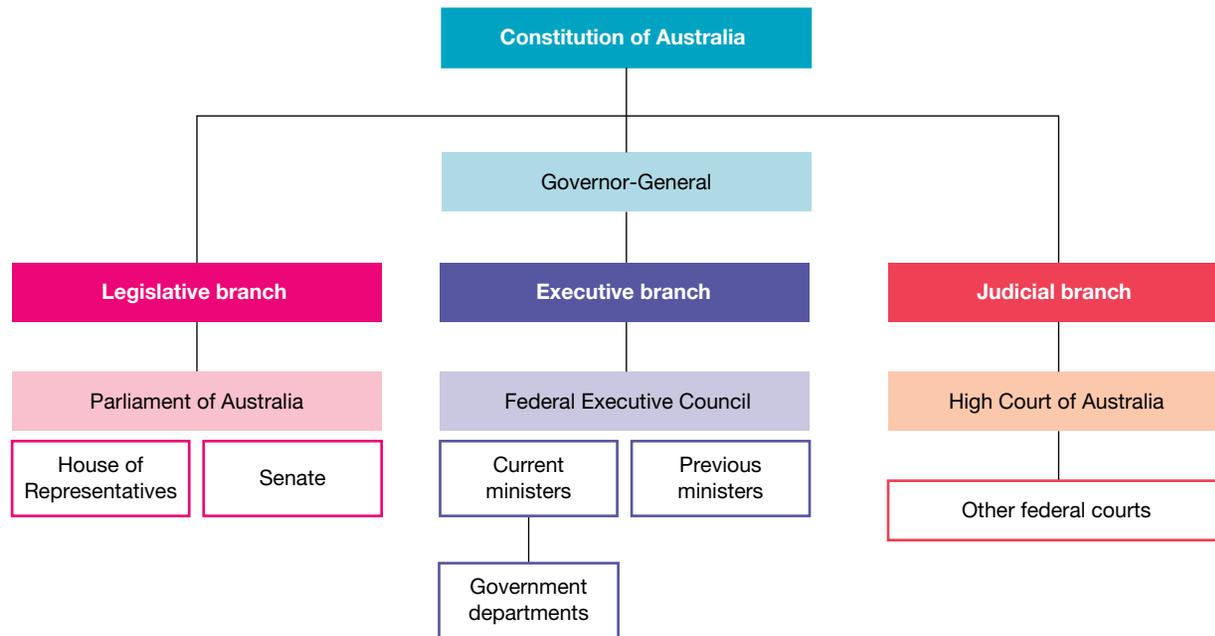


int-9030



tlvd-10637

FIGURE 6 The structure of Australia's government



2.3.4 How governments are formed and lost

In democratic countries like Australia, governments can be formed and lost in many ways according to the needs, wants and actions of the citizens. There are various factors which impact upon whether a party or coalition of parties have the right to form government.

Parliamentary majority

Parliamentary majority requires a party or coalition (group of parties) to have the support of over 50 per cent of the members in the House of Representatives. If a government has a majority, it can pass bills and carry out policies (see topic 20). Because there are 151 seats in the House of Representatives, a parliamentary majority requires 76 seats (half of the total plus one).

The role of the Opposition

The official opposition is the party or coalition which has the next highest number of seats. If the government loses the confidence of the House of Representatives or the citizens, the Opposition would step into the role of government with its leader as the new Prime Minister. The Shadow Ministry, led by the Leader of the Opposition, is a mirror image of the government Ministry. The purpose of the Opposition is to carefully examine, criticise and challenge the government in power.

Hung parliament

A hung parliament occurs when no party or group has over 50 per cent of the seats in the House of Representatives. This means that no party can pass laws without getting support from independents. During a hung parliament, the two main parties or coalitions will attempt to convince independents to support them so that they can get the 76 seats needed for a majority.

Minority governments and the balance of power

The term **balance of power** refers to the position held by a minor party or coalition if their vote is needed for bills or motions to be passed. This means that the minor party may be needed by the major party to pass bills.

Minority governments rely on the support of other parties in the lower house. If a government can maintain the **confidence** of the lower house, it can stay in power. This means that the minority parties and independents hold the balance of power.

balance of power when no political party holds a clear majority in parliament, smaller parties or independent members can hold the power to influence or block legislation

confidence the level of support that the government has from the parliament, which is necessary for the government to remain in power

2.3 SKILL ACTIVITY: Civic participation and decision-making

In this activity you will develop a plan of action to raise an issue and make sure that your voice is heard. You will also need to provide a consultation and feedback process to make sure that everyone involved has an opportunity to respond. This activity can be conducted 'for real' or just as planning up to question 5.

Have your say

Working in a group of up to three people, complete the following activities.

1. **Brainstorm** a variety of issues in the following areas:
 - a. This class
 - b. Your school
 - c. Your local community
 - d. Your national community
 - e. Globally.
2. Choose **one** issue from your brainstorm to focus on. It does not matter at which level; choose the issue you are most passionate about.
3. **Identify the stakeholders:** Who are the people involved in the issue? Consider both those directly impacted by the issue and those who have some power to resolve or change the issue.
4. **Plan** a way to gather information to ensure a range of voices are heard (i.e., not just your opinion). For example you could **create** a survey, petition, or website to collect information.
5. **Decide** who you should communicate your information with: who from your list of stakeholders could use this information to act? Who would benefit from receiving the information?

2.3 Exercise

learnon

2.3 Exercise

Learning pathways

■ LEVEL 1
2, 3, 4

■ LEVEL 2
1, 6

■ LEVEL 3
5, 7, 8

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Check your understanding

1. **Define** an electorate.
2. What is the estimated percentage of people aged between 18 and 24 who have not registered to vote?
 - A. 10 per cent
 - B. 20 per cent
 - C. 25 per cent
 - D. 30 per cent

3. How do most opinion polling companies carry out surveys of people's opinions?
 - A. Door knocking and asking a series of questions
 - B. Online surveys
 - C. Phoning people and asking a series of questions
 - D. They don't carry out surveys of people's opinions
4. Why do polling companies ask about age and level of income?
 - A. To obtain responses from a diverse range of people
 - B. To obtain responses from a limited range of people
 - C. To obtain responses from a specific range of people
 - D. There is no reason why polling companies ask about age and level of income
5. **Explain** why the major newspapers have close relationships with particular polling companies.

Apply your understanding

Communicating

6. **Identify** the particular right that Australians have that makes this country a democracy.
7. **Explain** why the Senate is elected in a different way from the House of Representatives.
8. Members of the Commonwealth Parliament are paid over \$200 000 per year. Some people argue that, as they spend less than half the year in Canberra, and only four days a week in Parliament when they are there, they are overpaid.
Is this a fair assessment of a member's work? Give two reasons to **justify** your opinion.

LESSON

2.4 How is opinion shaped?

LEARNING INTENTION

By the end of this lesson you should be able to examine the different strategies used to influence citizens' choices and the extent to which these influences enhance or undermine democracy

TUNE IN

During political debates like the 2022 Great Debate (**FIGURE 1**) discussions should be centred on national policy, finance and other important national issues. However, because party leaders are also real people, these debates can sometimes become very heated. It is the role of the chairperson to maintain order in a debate.

1. If you were chairing a debate between two party leaders, what rules would you put in place?
2. What are the advantages to a live, televised political debate?
3. What are the disadvantages?

FIGURE 1 Anthony Albanese and Scott Morrison during the 2022 Great Debate



2.4.1 Political debates

The word 'parliament' actually comes from the French *parler*, meaning to speak. Debate and discussion is a vital part of the democratic process.

Political debates are held between the members of opposing political parties: sometimes the leaders. Debates like the 2022 Leader’s Debate between Scott Morrison and Anthony Albanese are televised and broadcast nationally, where they try to convince the public to listen to their party’s message. Other kinds of political debate include the debates in the House of Representatives when a new bill is proposed.

To ‘move a motion’ or make a decision in the House of Representatives, the following structure is followed in the debate:

- a Member gives notice (if necessary)
- the Member moves the motion
- another Member seconds the motion (if necessary)
- the Chair proposes the question
- Members debate the question
- (Members may move amendments, which are debated and voted on)
- the Chair puts the question (as amended)
- the House makes its decision.

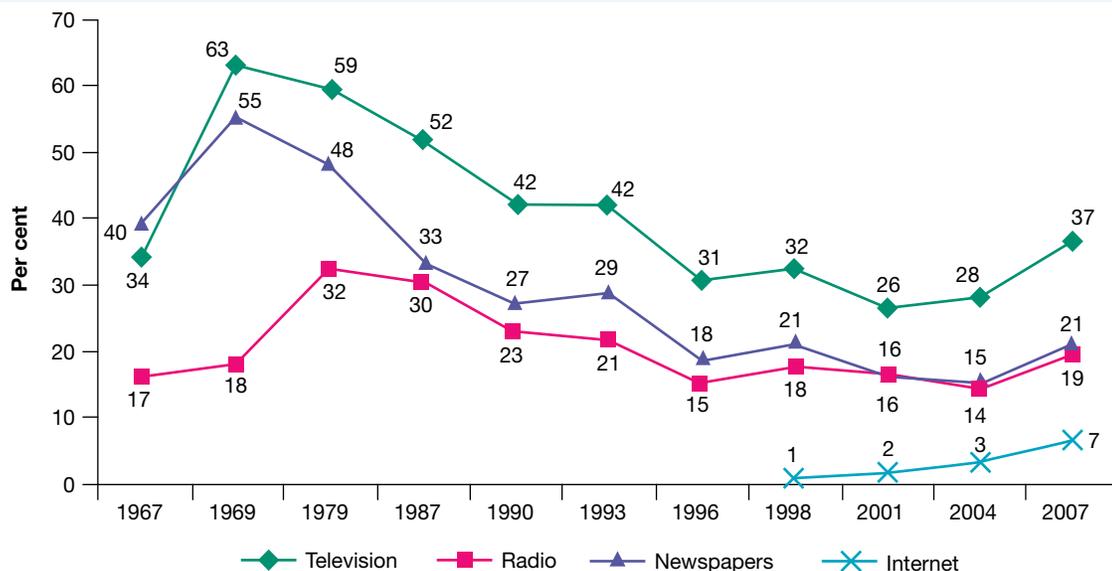
There are also many rules governing what can be said during the debate. These rules include remaining on topic, not using derogatory or insulting language, and not being ‘tedious’ or repetitive. It is the job of the Chair to enforce order in a debate.

2.4.2 Politics in the media

Traditional media outlets such as radio, television and newspapers offer lots of coverage of important political moments like elections. Because an important part of the democratic process is giving citizens access to politics, it is a good thing that politics get media coverage. However, it is important to note that the media is often *biased*, meaning that the opinions are not neutral.

Public attention towards media coverage of politics changes over time (see **FIGURE 2**). In recent years, the level of engagement in politics has started to increase, but the focus is shifting from traditional media to ‘new’ media outlets such as blogs and social media on the internet. Consider what the **FIGURE 2** graph might look like if it continued to today.

FIGURE 2 Over time, attention has shifted away from traditional media outlets and towards ‘new media’ like the internet, blogs and social media.



2.4.3 Politics and social media

The rise of social media has had two main impacts on citizens' electoral decisions. Firstly, the speed of communication has increased. This means that political 'gossip', damaging reports about politicians, interviews and other news stories can be published and spread very quickly.

The second change is the rise of 'fake news'. Because of the rapid nature of social media and internet it is difficult to stop stories from spreading even if they are false.

FIGURE 3 below, shows a recent survey of voter trust in various outlets. As you can see, scientific bodies like CSIRO are very well trusted, but digital news platforms are not trusted by the public.



tlvd-10638

FIGURE 3 A survey of voter trust in various outlets

How much trust do you have in the information you receive from the following institutions?

	Government	Digital platforms (e.g. Facebook)	Traditional news and media	Scientific bodies (e.g. CSIRO)	Business groups and peak bodies
Have a lot of trust	12%	3%	7%	30%	5%
Have some trust	31%	16%	32%	37%	27%
Have little trust	33%	33%	36%	20%	42%
Have no trust at all	18%	42%	18%	6%	16%
Unsure	6%	6%	6%	7%	10%
Have a lot of trust + Have some trust	43%	19%	40%	67%	32%
Have a little + Have no trust	51%	75%	54%	26%	26%

2.4.4 Paying for your vote

There are many ways which governments and political parties can attempt to influence voters' decisions. These include:

- paid advertising on billboards, in traditional media and online
- using political consulting firms and public relations experts to tell members the 'right' things to say to their audience
- paying for focus and interest groups who may have a biased opinion
- launching political campaigns which may include all of the above and target audiences for a set period of time, usually on the run up to an election.

2.4 SKILL ACTIVITY: Analysis, evaluation and interpretation

1. Look at the images below. Based on what you see, what do you believe is the issue being discussed?



2. The top image was taken from an article referring to the dissemination of 'fake news' in the Taiwanese media. The fake news was designed to disrupt the election of a pro same-sex marriage politician. Do you believe you have encountered fake news online? Where, and what, made you believe it was fake?
3. Social media has an important role to play in modern politics. What steps can you take to evaluate a source of information and ensure its credibility?

2.4 Exercise

Learning pathways

■ LEVEL 1

1, 2, 3

■ LEVEL 2

4, 5, 6, 7

■ LEVEL 3

8, 9, 10

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Check your understanding

- Which of the following steps is **not** part of the debate process when passing a motion in the House of Representatives?
 - The Member moves the motion
 - The Chair proposes the question
 - Members debate the question
 - The party leaders hold a televised debate
- The public trusts the government more than social media as a source of information. True or false?
- Which of the following are methods of 'paying for votes' that political parties may use during an election?
 - Paid advertising on billboards, in traditional media and online
 - Using political consulting firms and public relations experts to tell members the 'right' things to say to their audience
 - Paying for focus and interest groups who may have a biased opinion
 - All of the above.
- In your own words, **detail** one reason for the Leaders (Great) Debate.
- Compare** the different trust levels in the chart in **FIGURE 3**. Who is the most trusted source, and why do you think that is?

Apply your understanding

Analysis, evaluation and interpretation

- Consider** the kinds of advertising you see on social media. What are some of the products or services, and why do you believe you have been targeted with these adverts?
- Identify** some of the risks of advertising on social media.
- Study the data in the **FIGURE 2** graph. Over time, attention has shifted away from traditional media outlets and towards 'new media' like the internet, blogs and social media. What trends can you **identify** in the graph? Write a short paragraph **explaining** your answer and refer to the graph.
- Imagine you wanted to present a petition to parliament. **Identify** and **explain** three things that you might need to do if you wanted to increase the chances of that petition being successful.
- Technological developments mean that the opinions of ordinary people can be expressed through online methods such as social media. Does this make the parliamentary system of one member representing everyone in an electorate obsolete in today's world? Could it be replaced with a system where everyone can go online to vote in favour or against proposed legislation? **Identify** two possible strengths and two possible weaknesses of such a system, when compared to our present system.

LESSON

2.5 INQUIRY: What is the role of digital media in Australian politics?

LEARNING INTENTION

By the end of this lesson you should be able to analyse the role of digital media in Australian politics.

In this inquiry you will investigate the role of digital media, including websites and social media, in Australian politics. Refer to **FIGURES 1** and **2** or find two of your own.

Before you begin

Access the **Inquiry rubric** in the digital documents section of the Resources panel to guide you in completing this task at your level. At the end of the inquiry task you can use this rubric to self-assess.

FIGURE 1 The main page of the Australian Liberal Party website

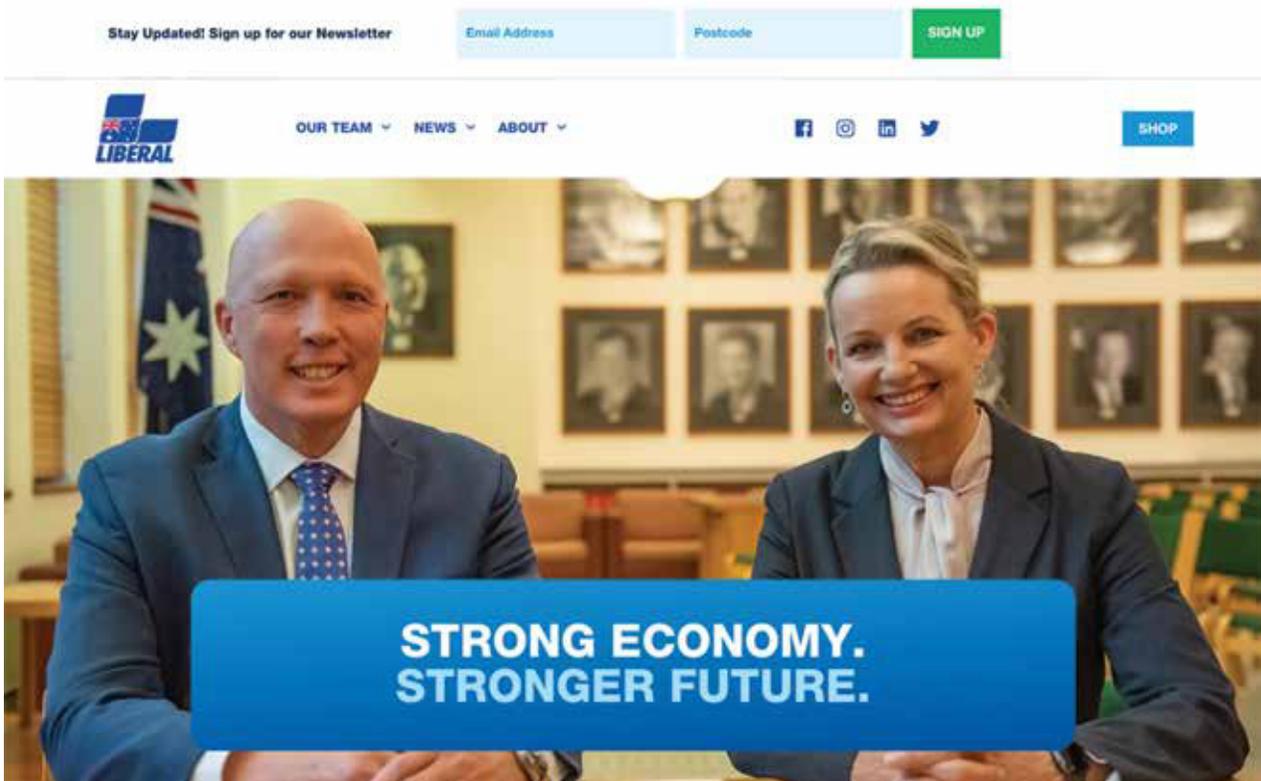


FIGURE 2 The main page of the Australian Labor Party website



Inquiry steps

Discuss the following:

- What information about the two parties can you gain from **analysing** the main pages of their websites?
- What would you change about the websites?

Step 1: Questioning and researching

Write your **inquiry question**. What do you already know about Australian politics and the media? What would you like to know about the role of digital media in politics?

Research your question. Use the **Liberal Party** and **ALP** weblinks in the Resources panel to support your research.

Step 2: Analysis, evaluation and interpretation

Analyse the messages and emotional appeal of these two political parties by interpreting the construction of their media materials, including advertising, websites and other materials. Use the provided model of a poster analysis to guide you.

Step 3: Civic participation and decision-making

Compare the similarities and differences between the two websites using a dot point comparison table, or a Venn diagram. What is the same? What is different? Most importantly: *Why are there differences?*

Step 4: Communicating

Communicate: *What is the answer to your inquiry question?* Present your findings in a format of your choosing. Support your answer with examples from your research, analysis and evaluation. You could also design your own social media page or website for a fictional party of your design to demonstrate your understanding.

Complete your self-assessment using the **Inquiry rubric** or access the 2.5 exercise set to complete it online.



on Resources

-  **Weblinks** Liberal Party
ALP
-  **Digital document** Inquiry rubric (doc-39545)

LESSON

2.6 Review

Hey students! Now that it's time to revise this topic, go online to:



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2.6.1 Key knowledge summary

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

2.2 How do Australians participate in our democracy?

- In a democracy, citizens have the right to disagree with those in power.
- There are many lawful ways to express dissent, including protests.
- Protests and petitions can have an impact, such as leading to laws being changed.

2.3 How do we form a government?

- All citizens over the age of 18 have the right to vote in Australian elections, although they need to register to take full advantage of this right.
- Preferential voting means that voters nominate candidates in the order they prefer from highest to lowest.
- Local members are voted in to help their constituents.
- A parliamentary majority requires that a party or group holds over 50 per cent of the seats in the House of Representatives.

2.4 How is opinion shaped?

- The Leaders Debate is a televised event, often around election time.
- Debates are held in the House of Representatives when moving a motion.
- Media use has changed over time, and many people get their political news online even though trust in social media is low.
- There are many ways for parties to try to 'buy' votes.

2.5 INQUIRY: What is the role of digital media in Australian politics?

- Digital media plays a role in influencing how people vote.
- Political parties use their websites and social media to present a certain message.

2.6.2 Key terms

balance of power when no political party holds a clear majority in parliament, smaller parties or independent members can hold the power to influence or block legislation

confidence the level of support that the government has from the parliament, which is necessary for the government to remain in power

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

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

electorate an area of Australia that elects one member to parliament

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

petition a formal request for change signed by many people

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

2.6.3 Reflection

Complete the following to reflect on your learning.

Revisit the inquiry question posed in the Overview:

How can active and informed citizenship be achieved in Australia, and what role do the media, social media, political parties and interest groups play in shaping our decisions?

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

Resources



eWorkbooks Customisable worksheets for this topic (ewbk-13436)
Reflection (ewbk-10778)
Crossword (ewbk-10779)



Interactivity Australia's government and democracy crossword (int-9031)

2.6 Review exercise

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Access additional questions



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Multiple choice

1. What is democracy?
 - A. Any form of government where laws protect the freedom of speech
 - B. Any form of government with rights protected by a constitution
 - C. Any form of government in which the people determine how they will be governed
 - D. Any form of government with two houses of parliament
2. Which of the following is a lawful form of dissent?
 - A. Protest
 - B. Writing a threatening letter
 - C. Overthrowing a government by force
 - D. A verbal threat or accusation
3. What might a protest achieve?
 - A. A change in laws
 - B. A new law being passed
 - C. Raising public awareness
 - D. All of the above
4. How old must you be to vote in Australia?
 - A. 20
 - B. 17
 - C. 18
 - D. 21
5. What does preferential voting mean?
 - A. Voters vote in preference from lowest to highest
 - B. Voters number their votes from 1–10
 - C. Voters vote in order of preference from highest to lowest
 - D. Voters do not need to number their votes
6. How many votes must be numbered 'above the line' on a senate voting slip?
 - A. 6
 - B. 4
 - C. 10
 - D. 12
7. How many votes must be numbered 'below the line' on a senate voting slip?
 - A. Fewer than 12
 - B. 12
 - C. More than 12
 - D. At least 12

8. What is the role of the opposition?
- A. To create diversity
 - B. To argue with the Government
 - C. To carefully examine, criticise and challenge the government in power.
 - D. To generate conflict
9. How many seats must a majority government hold?
- A. Over 50 per cent
 - B. Fewer than 50 per cent
 - C. 80 per cent
 - D. 25 per cent
10. Who participates in the Leaders Debate?
- A. The opposition leader
 - B. The leader of the government
 - C. The leaders of the government and the opposition
 - D. All of the leaders from the House of Representatives

Short answer

Communicating

11. **Identify** when might a protest gathering be reasonably restricted by government.
12. Briefly **explain** how each state is represented in the Senate.
13. **Explain** how local members of parliament can assist individuals and community groups.
14. **Suggest** what the purpose is of holding a Leaders (Great) Debate.
15. **Explain** the term 'parliamentary majority'

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3 Where do our laws come from?

LESSON SEQUENCE

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LESSON

3.1 Overview

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Where do our laws come from and why should they be obeyed?

3.1.1 Introduction

What would happen if there were no laws? People would probably do as they pleased. There might be riots, crime and chaos, and it might not be safe to travel anywhere.

Laws are the legal rules that act as guidelines for behaviour. We have laws to protect us and to settle disputes. Laws are also used to give consequences to people who break them. But who actually makes these laws? How are our laws made?

FIGURE 1 Laws are created to discourage wrongful behaviour such as rioting.



Resources



eWorkbook

Customisable worksheets for this topic (ewbk-13437)



Video eLesson

What if we had no laws? (eles-2264)

LESSON

3.2 Why do we need laws?

LEARNING INTENTION

By the end of this lesson you should be able to explain the difference between legal and non-legal rules and identify and explain the five characteristics of an effective law.

TUNE IN

It seems that in cartoons, ignorance of the law is an excuse. In the real world however, this is not the case — you can be held accountable, even if you were not aware a law exists.

FIGURE 1 Do you think Plankton's scheme will break any laws in 'Bikini Bottom'?



1. Make a list of five laws of which you are aware.
2. How do you know they are laws?
3. Identify one way that the law has had an influence on your life today.

3.2.1 Legal and non-legal rules

Our lives are governed by a wide range of rules and laws, which provide us with guidelines of how we should behave. However, not all rules are laws.

Non-legal rules

Non-legal rules are made by different groups within society, for example you parents, your school, or a sporting group. These rules are made and enforced by the group that made them and do not apply to the whole community. For example, your school may have rules related to wearing uniform and the process to follow if you are out of uniform. The uniform rules and the consequences for not following the rules will be different in different schools.

Legal rules

Legal rules apply to everyone in the community. They are made by law-making bodies and enforced through the courts. For example, people who drive cars are expected to obey the posted sign-limits and stop at a red light. Under the **rule of law**, any person

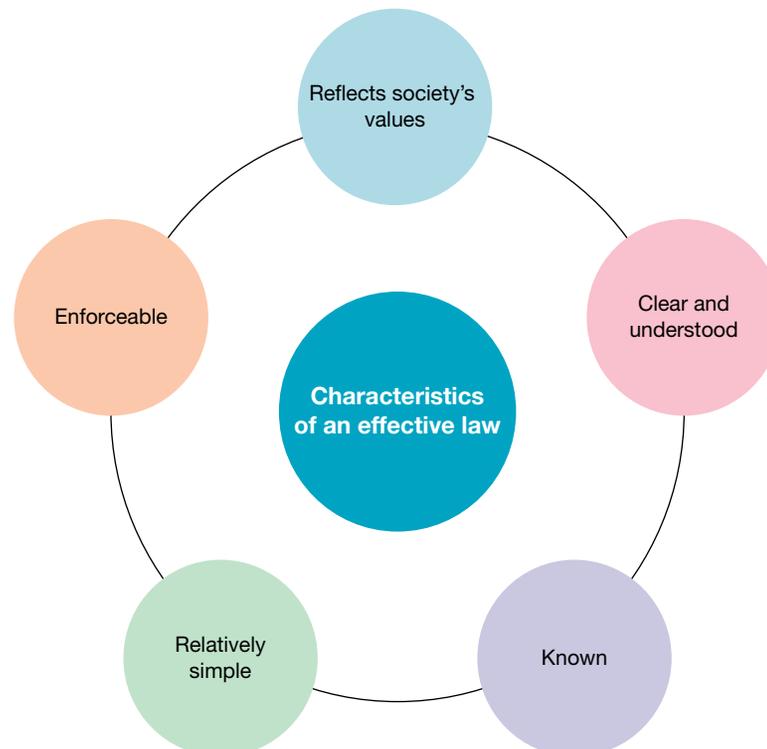
rule of law a legal principal that all citizens are subject to the law and equal before the law. The law applies equally to all citizens regardless of status or wealth

who is caught not obeying the law will be punished. People who break the road laws, for instance, might receive a fine. In 2021, Deputy Prime Minister Barnaby Joyce was fined \$200 for not wearing a face mask indoors, a breach of New South Wales COVID-19 regulations. Similarly, Victorian Premier Daniel Andrews was issued two \$200 fines for failure to wear a mask.

3.2.2 What are the characteristics of effective laws?

Laws are not the same everywhere. Regardless of where you are, laws help regulate the behaviour of people within a society. For a society to function and flourish its laws need to be effective. Effective laws share five characteristics (see **FIGURE 2**).

FIGURE 2 To be effective laws should have the following characteristics.



Reflects society's values

When the law is in line with the current values of the society in which they apply, people will be more inclined to follow them. For example, designated smoking areas and smoking bans reflect changes in attitudes to smoking and the harmful health effects linked to smoking.



Clear and understood

The law must be written in a way that makes it easy for people to understand. If the language is not clear or can be interpreted in different ways people will have difficulty obeying the law and it will become ineffective.

For example, in Victoria, it is illegal to fly a kite in a public place to the annoyance of another person. The word 'annoyance' will mean different things to different people. What if a child is flying the kite?



Known

The public must know about the law for it to be effective. People cannot obey the law if they do not know about it. However, 'Ignorance of the law' cannot be used as an excuse; this means that it is up to individuals to find out the laws that are relevant to them.

To make it easier for the public to be informed about any new laws or changes the government will use the media to make laws known. For example, the public were informed about the need to wear masks and vaccination requirements through the media. Similar campaigns ran when 40kph school zones were introduced, give way rules changed, and mobile phone use in cars were banned.



Relatively stable

Effective laws must be stable. If the law were constantly changing, it would be difficult for people to obey the law. Individuals would either not know the law or would not understand the law. Our laws typically do not change often, and changes are advertised well in advance.



Enforceable

Effective laws can be enforced. This does not mean that every person who breaks the law will be caught and punished. It means that it is possible to catch people who have broken the law. For example, modern technology has made it easier for the police to detect people using mobile phones while driving. The presence of fixed and mobile speed cameras means more people will follow the speed limits or risk getting a fine. Conversely, until very recently, it was difficult to enforce laws involving the use of social media as a result of the social media companies like Facebook and X's refusal to hand over information about their clients to governments.



on Resources

 **Weblink** [Weird Australian laws](#)

3.2 SKILL ACTIVITY: Questioning and researching, Communicating

Use the **Weird Australian laws** weblink in the Resources tab to locate some lesser-known laws.

1. Working with a partner, **select** one weird law that appeals to you both.
2. **Investigate** your chosen law and make notes on the following:
 - a. What is this law about?
 - b. Why do you think it was made?
 - c. In your opinion, do we need this law? **Justify** your point of view.
3. **Apply** the characteristics of an effective law.
 - a. Which characteristics are met?
 - b. Which characteristics are not met?
4. **Create** an infomercial to make people aware of this law.
5. Play your infomercial to the class.

3.2 Exercise

Learning pathways

■ LEVEL 1

1, 2, 4

■ LEVEL 2

3, 5, 6, 9

■ LEVEL 3

7, 8, 10

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Check your understanding

1. You have just joined a local basketball team and will play competition matches on a Saturday afternoon. The coach has said that you need to attend training or your court time during matches will be restricted. This is an example of a **legal / non-legal** rule.
2. After a car accident the drivers must exchange registration details. This is an example of a **legal / non-legal** rule.
3. **Identify** which of the following is a characteristic of an effective law.
 - A. Stable
 - B. Rule of law
 - C. Changeable
 - D. Legal rules
4. A new law has been passed that makes it illegal to wear clothing with raised studs. Bill is not sure whether the decorative collar he bought for his dog is permitted. Which one of the characteristics of an effective law does this fail to meet?
 - A. The law is stable
 - B. The law is enforceable
 - C. The law is clear and understood
 - D. The law applies to everyone
5. Imagine that a new law came into effect that required all renewable energy sources to be banned. **Identify** which of the characteristics of an effective law this law seems to disregard.
 - A. Able to be enforced
 - B. Reflects community values
 - C. Rule of law
 - D. Clear and understood

Apply your understanding

Communicating

6. Using examples, **explain** the difference between a legal and a non-legal rule.
7. To be effective, laws must be enforceable. Does this mean that every person who breaks the law will be caught and punished? **Justify** your answer.
8. **Explain** what is meant by the phrase 'ignorance of the law is no excuse.'
9. **Explain** what is meant by the 'rule of law.'
10. Recent television advertising has informed the public that a new law banning people from smoking in their own home will come into effect in three weeks. With reference to at least one of the characteristics of an effective law, **explain** why this new law might not be effective.

LESSON

3.3 How do parliaments make laws?

LEARNING INTENTION

By the end of this lesson you should be able to explain how parliament makes laws and distinguish between a bill and an Act of Parliament. You should also be able to explain the term Royal Assent.

TUNE IN

There are laws related to the protection of Australia's environment. They can be found in the *Environmental Protection and Biodiversity and Conservation Act 1999*.

1. Working with a partner propose three reasons why we might need laws related to the protection of the environment.
2. Brainstorm reasons why laws might need to change.
3. Hypothesise: What might parliament do to change this law?

FIGURE 1 Australia's wildlife is protected under specific laws.



3.3.1 The law-making process

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

Sometimes the ideas for new laws, comes from the people within parliament or from government departments. Parliament also engages formal law reform bodies to investigate an area of law and make suggestions on how a law can be improved.

Parliament can become aware of the need for new laws or change in the law because of groups within society (**FIGURE 1**), or because of the actions of people within society.

A law made by Parliament is called **legislation**, a statute or an **Act**. Before any proposed laws can become Acts of Parliament, they have to be debated and passed by both houses of Parliament and then approved by the **Crown**. During the debate in parliament, the government explains why the law is needed and why it will be good for Australia. The **Opposition** may try to argue why this is not the case. Let us see, step by step, how all of this might happen in federal parliament (**FIGURE 2**).

statute law law made by Parliament

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

legislation a law made by Parliament

Act a law passed by Parliament

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

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

FIGURE 2 How laws are made in Federal Parliament



STEP 1

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



STEP 2

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

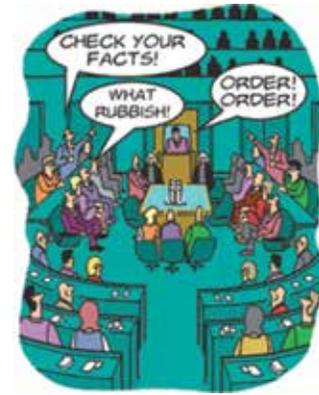


STEP 3

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

STEP 4

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



STEP 5

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

STEP 6

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



STEP 7

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

STEP 8

If the Governor-General approves and signs the Bill, on behalf of the Crown it becomes an Act of Parliament. This is referred to as Royal Assent. It is proclaimed and legally binding for all Australians.



3.3.2 Executive law

When Parliament passes legislation, many of the clauses in the new law can be very general, and details of how the law is to be applied are not always included. The legislation will delegate power to the relevant government minister to make detailed rules and regulations, particularly to deal with new situations as they might arise. These rules and regulations make up what is known as executive law, or delegated law, because the power is delegated to the minister, who is a member of the executive, the **Cabinet**, to develop these regulations. Executive law also applies to the power the minister has to make appointments to particular positions in the government, such as ambassadors to overseas countries.

Because such regulations and orders have to be made with the approval of the Governor-General at the federal level, or the state Governor, they are known as Governor-General in Council Regulations, or Governor in Council Regulations. These regulations also have to be **tabled in Parliament**, and can be removed or overruled by a majority vote in the Parliament. This is because under our principles of responsible government, ministers are accountable to the parliament and the parliament and parliament is answerable to the people who voted them into office.

Cabinet the main group of parliamentary members from the governing party
tabled in Parliament the document has been presented to the Parliament and laid on the Table in either or both houses of Parliament. This means it is available to members for review.

3.3.3 Secondary legislation

Parliament is our main law-making body; however, it does not have the time or resources to make all the laws needed in society. As a result, state and Commonwealth parliaments delegate their law-making power to other bodies known as subordinate authorities. Parliament will pass a parent or enabling act that enables these bodies to make laws within their area of expertise. For example:

- Local councils make local laws in relation to pet ownership, parking, and rubbish removal.
- VicRoads is a statutory body that makes laws about roads and traffic, such as road safety initiatives, road networks and licencing. Similar bodies exist in other states.
- Government departments, such as the Education Department, oversees the provision of education services within each state and territory.

Any regulation or by-law made as a result of the delegation of law-making power is checked by a Parliamentary Committee to ensure that it is within the scope of the *Enabling Act* and consistent with other legislation. Any person who believes that any law is unjust can challenge the law in the courts.

Resources

 **Weblink** Commonwealth Parliament

3.3 SKILL ACTIVITY: Analysis, evaluation and interpretation

Working in pairs, use the **Commonwealth Parliament** weblink in the Resources tab to **investigate** a new law that is going through parliament now.

- Briefly **describe** the law you have found and explain what stage it has reached.
- Describe** what will happen next in the stage of the process of your bill passing through parliament.
- In your opinion, will this proposed law be changed much on its way through parliament. **Justify** your opinion.
- Share your findings with another pair of students.

3.3 Exercise

Learning pathways

■ LEVEL 1

1, 2, 5,

■ LEVEL 2

3, 4, 6

■ LEVEL 3

7, 8, 9, 10

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Check your understanding

- Identify** the correct definition of statute law.
 - Laws that are made by local government.
 - Laws that are made by the judiciary.
 - Laws that are made by state and federal parliaments.
 - Rules that made at school.
- Select** from the following words to complete the sentence below.

petition	bill	slip
Act of Parliament	Act of Law	Act of Government

A _____ is a proposed law and an _____ is the final version of the law.

- Royal Approval / Governor-General Assent / Royal Assent / Double majority** is approval by the ruling monarch of Australia or his/her representative to a proposed bill.
- Explain** what is meant by the term 'executive law'.
- Identify** the person who is normally responsible for the development of executive laws.
 - Parliament
 - The relevant government minister
 - The Prime Minister
 - The Governor-General

Apply your understanding

Communicating

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

LESSON

3.4 How do courts make laws?

LEARNING INTENTION

By the end of this lesson you should be able to identify the courts and their position in the court hierarchy. You should also be able to define the term 'precedent' and explain how courts create laws using 'precedent'.

TUNE IN

Did you know that courts often must decide the meaning of words in statutes when deciding cases?

The control of Weapons Act makes it an offence to carry a regulated weapon without a lawful excuse. Studded belts were listed in the regulations that were made as executive law (see lesson 4.3).

The police charged a man wearing a leather belt with silver studs for having a regulated weapon.

You be the judge:

1. Brainstorm a list of items that you think could be classed as weapons.
2. Do you think the man should be convicted of the offence 'carrying a regulated weapon without a lawful excuse? Justify your answer.
3. Suggest one reason a person might need to have a weapon.

FIGURE 1 Is a belt with raised studs really a weapon?



3.4.1 Common law

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

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

3.4.2 CASE STUDY: Finders keepers

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

common law law developed by judges through the decisions of courts

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

Money found buried on private property

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

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

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

Gold found by the side of the road

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

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

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

FIGURE 2 Does a gold ingot found on someone's property belong to the property owner or to the person finding it?



Bracelet found at the airport

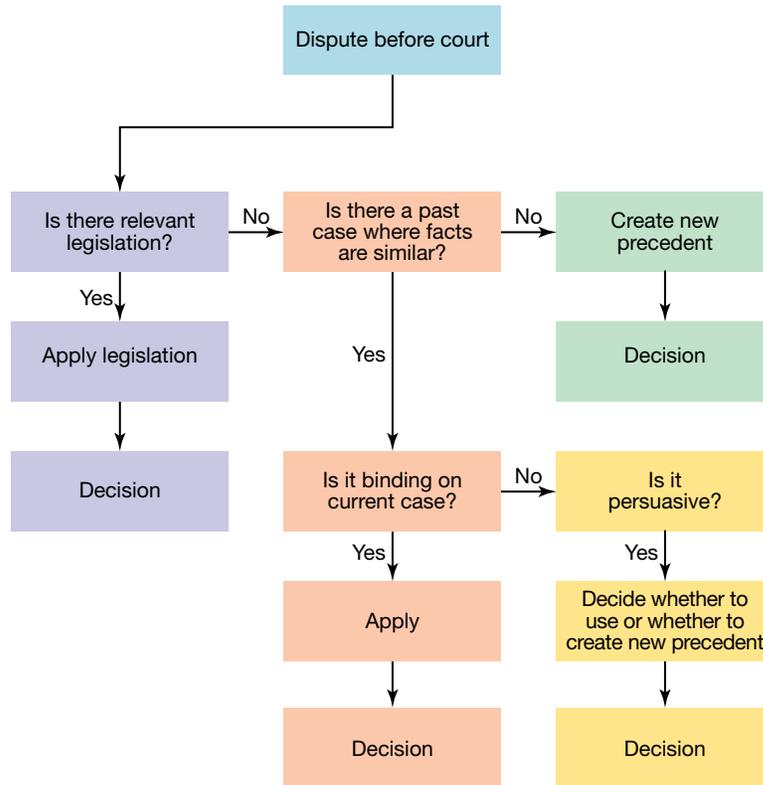
In 1982 a traveller waiting in an airline lounge found a valuable gold bracelet. He handed it in to the manager of the lounge, and was told that the airline would attempt to locate the owner. If this attempt was unsuccessful, it would be handed over to the finder of the bracelet, who could then keep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

3.4.3 Precedent

Common law is developed through the legal principle of precedent. If your sister was given a car for her eighteenth birthday, you might expect your parents to do the same for you because your parents have set a precedent. Courts use the same idea. When a judge makes a decision in a court case, this decision will be recorded in a law report. Other judges hearing cases with similar facts will refer to these decisions. Just as you would expect your parents to follow their precedent, the people involved in legal cases expect the judge to follow the precedent of similar cases and therefore come to the same decision. This process is used by courts to interpret statutes is shown in **FIGURE 3**.

Precedent works because of our court hierarchy.

FIGURE 3 The decision-making process for settling disputes in court



3.4.4 Australia's court hierarchy

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

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

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

binding precedent a decision made in a higher court in the same court hierarchy that must be followed by a lower court where the facts of the cases are similar

persuasive precedent a decision made in a lower court or a court in a different hierarchy that does not have to be followed but may be used as a guide

FIGURE 4 The Australian court system

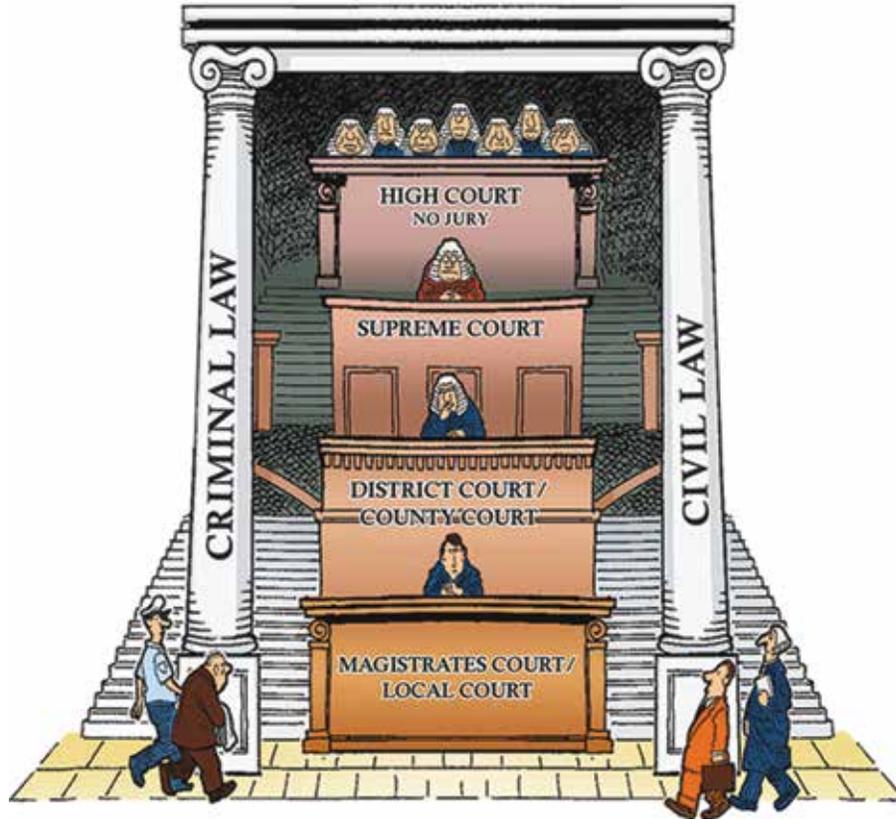


FIGURE 5 If there is no existing relevant law, judges can create a new rule to settle a dispute.



3.4 SKILL ACTIVITY: Questioning and researching, Communicating

- Using the internet or newspapers, find an article that reports on a new principle of law that has been made through a landmark court case.
- Investigate** how this case proceeded through the courts.
- Write a brief report on how this case established a new legal principle.

If you are having difficulty finding a case, try one of these:

- *Commonwealth v. Tasmania* (Tasmanian Dams Case)
- *Eddie Mabo & Ors v. The State of Queensland* (Mabo Case)
- *Dietrich v. the Queen* (Dietrich's case)
- *Plaintiff M701/2011 v. Minister for Immigrations and Citizenship* (Malaysian Solution Case)
- *Love v. the Commonwealth of Australia; Thoms v. the Commonwealth of Australia.*

3.4 Exercise

learn

3.4 Exercise

Learning pathways

■ **LEVEL 1**

1, 2, 4

■ **LEVEL 2**

4, 5, 7

■ **LEVEL 3**

6, 8, 9, 10

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Check your understanding

- Identify** the statement that best explains common law.
 - Laws that are made by state and federal parliaments
 - Laws that are made by the courts
 - Laws that are made by local government
 - Rules that are made at school
- Identify** the statement that best describes precedent.
 - Laws that are made by local government
 - A previous court decision that has a high degree of similarity to a case that is currently before the court
 - Any decision that is heard in the Supreme Court
 - Any decision that is made in the Magistrates' Court
- Identify three statements that are relevant to the case studies under the heading of 'Finders Keepers'.
 - All cases concern lost items (of significant value)
 - All cases have items that were never claimed
 - All cases involve common law
 - All cases involve ownership disputes
- List** the courts in your state's court hierarchy, from highest to lowest.
- Recall** where common law originated.

Apply your understanding

Civic participation and decision-making

6. **Summarise** how the judges in the case study 'Finders Keepers' made changes to the law.
7. **Identify** two things that could happen if a judge decided to ignore a precedent and make a completely new decision.
 - A. The judge could be fined.
 - B. A new precedent could be set.
 - C. The decision would be overruled.
 - D. An appeal to a higher court may be made.
 - E. an appeal to a lower court may be made.
8. **Consider** the following cases:

Case 1 — a former barmaid sues the hotel where she used to work. She contracted throat cancer caused by breathing environmental tobacco smoke during the course of her employment. The court awards her compensation of more than \$400 000.

Case 2 — a former pie-seller sues the sports stadium where he used to work. He contracted throat cancer caused by breathing environmental tobacco smoke during the course of employment. The court uses Case 1 as a precedent.

Case 3 — a waitress sues the restaurant where she works. She contracted throat cancer caused by smoking cigarettes for 30 years.

Case 4 — a former miner sues the mining company he used to work for. He was injured in a fall.

- a. In Case 2, should the former pie-seller receive compensation? **Justify** your decision.
 - A. Yes
 - B. No
 - C. It is not clear
- b. In Case 3, should the court use the first two cases as precedents and provide compensation? **Justify** your decision.
 - A. Yes
 - B. No
 - C. It is not clear
- c. In Case 4, are any of the first three cases a precedent for this situation? **Justify** your decision.
 - A. Yes, Case 1
 - B. Yes, Case 2
 - C. Yes, Case 3
 - D. Yes, Cases 1 and 2
 - E. No

Communicating

9. Many people argue that judges should not make law because they are not democratically elected as members of parliament are. **Identify** and **explain** one positive and one negative effect of judges making law through precedent.
10. The doctrine of precedent states that judges must apply a precedent established in a higher court in the same court hierarchy, but occasionally judges apply a precedent from a court in a different state or different country. **Explain** when and why this might occur.

LESSON

3.5 What is the relationship between parliament and courts in law-making?

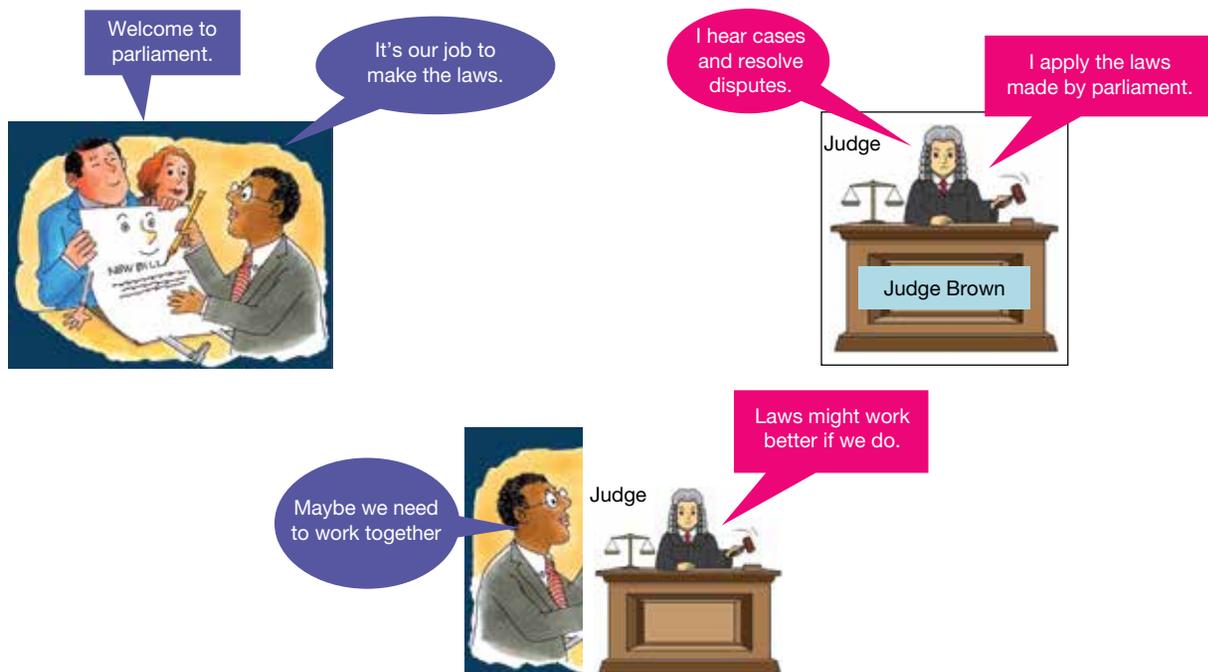
LEARNING INTENTION

By the end of this lesson you should be able to explain the relationship between parliament and the courts in law-making.

TUNE IN

Brainstorm a list of ways in which parliament and courts might work together.

FIGURE 1 Neither the parliament nor the courts could operate effectively without the other.



3.5.1 How do parliament and the courts work together?

There are three sources of law in Australia:

- statute law, made by parliament
- secondary legislation, made by bodies to whom parliament has delegated law-making power
 - statutory authorities
 - government departments
 - local councils
- common law, made by the courts.

Some of our laws are made by the federal government and others by state governments. It is important that all our law-making bodies work cooperatively.

The relationship (**FIGURE 2**) between parliament and the courts is sometimes complex and the two bodies need to work together to ensure that the legal system operates effectively. Parliament makes the laws, creates the courts, and sets their jurisdiction. The courts, on other hand, need to apply these laws to the cases that come before them and make sure the laws are enforceable and just.

As parliament was elected to make laws, they are the supreme law-making body. This means they have more power in law-making than courts.

FIGURE 2 There are four parts to the relationship between parliament and the courts.



3.5.2 Statutory interpretation

As laws made by parliament (see lesson 3.3) are often written in general terms, so that they can apply to a variety of different situations. This means that the intention of parliament is not clear when the courts are trying to apply the statute to a particular case that has come before them. This process, where the judge must decide the meaning of the words in an Act of Parliament is referred to as **statutory interpretation**.

Refer to **FIGURE 1** in lesson 3.4 where you had the opportunity to be the judge. When this case went before the Magistrates' Court the man was found guilty and he decided to appeal the decision.

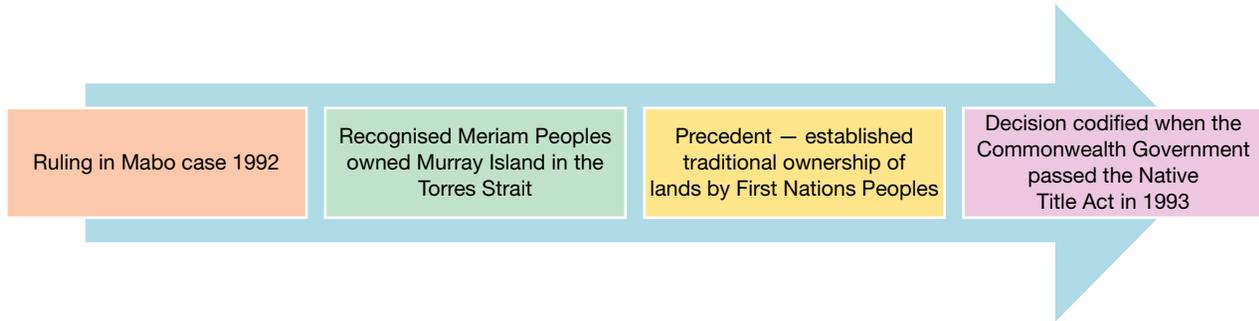
The judge hearing the appeal in the Supreme Court had to decide whether a belt used to hold up trousers was a regulated weapon. He decided that the belt was not a weapon, because it was used for a different purpose — to hold up the man's trousers — and not as a weapon. The man therefore had a lawful excuse for having the belt and was not guilty of possessing a regulated weapon.

statutory interpretation the process used by judges to decide the meaning of words or phrases in a statute (Act of Parliament)

3.5.3 Codification of common law

The law can become fragmented when courts are creating precedents. Parliament can bring together all the laws on a single topic into one Act of Parliament. This sometimes occurs when the courts have created a precedent and parliament wants to combine this law with laws found in statutes (see **FIGURE 3**).

FIGURE 3 The decision in the Mabo case was ‘codified,’ when the government passed the *Native Title Act*.

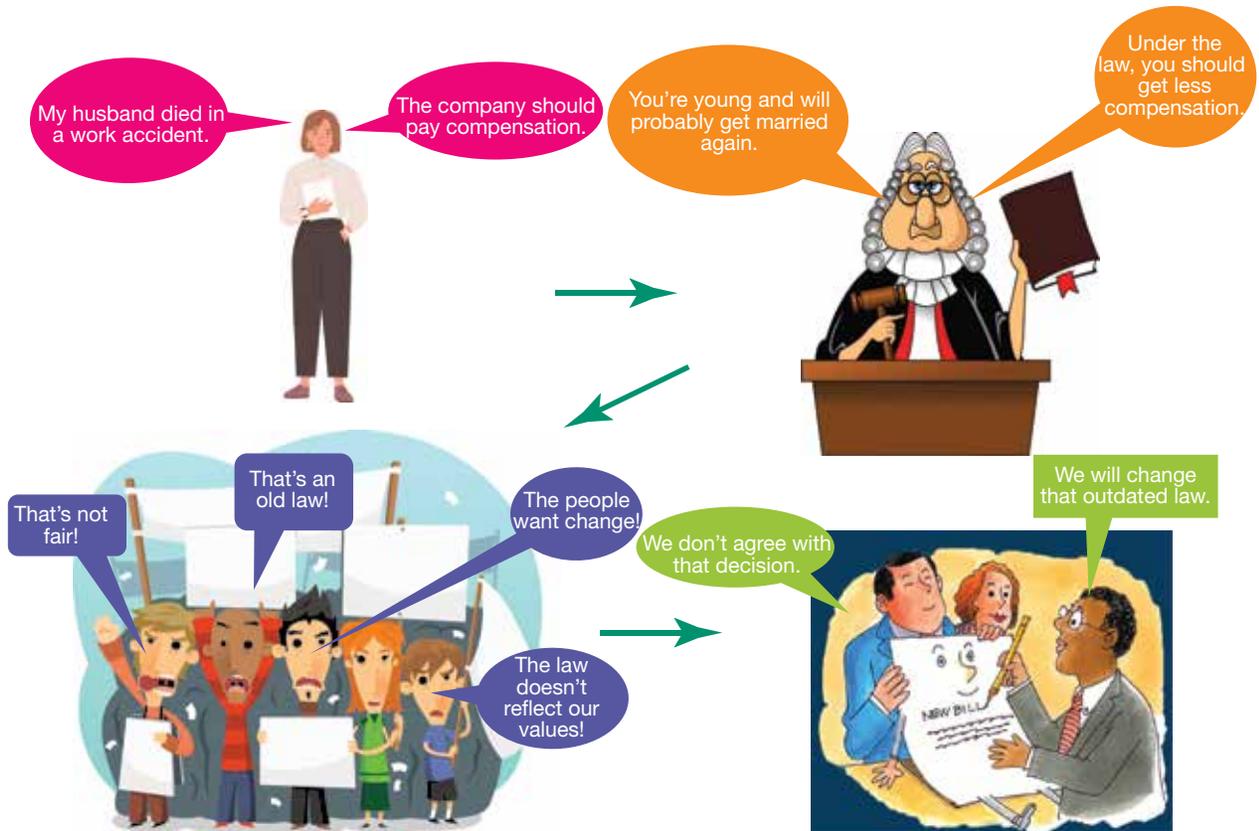


3.5.4 Abrogation of common law

Courts cannot ask parliament for advice when they are interpreting statutes and on occasions may make decisions that do not reflect the way parliament intended the law to operate or does not agree with. Nor can courts seek input from the community when deciding cases and may make decisions that do not reflect the values of society. As parliament is the supreme law-making body, they can **abrogate**, and change laws made by the courts (**FIGURE 4**).

abrogate passing an Act of Parliament to cancel or abolish a law (precedent) made by the courts

FIGURE 4 Parliament can change decisions made in court so they do not apply in future cases.



3.5.5 Courts influencing parliament to change the law

The court's role in law-making is secondary to their role in hearing cases and settling disputes. This means that judges are sometimes reluctant to change the law and think that the law should be changed by parliament. In Trigwell's case (**FIGURE 5**) the court followed an old legal principle; however, as part of the decision, the judge stated that they thought parliament needed to change the law.

FIGURE 5 When making his ruling in Trigwell's case, the judge alerted parliament of the need for a change in the law.

Trigwell's case

- Sheep had escaped from a property adjacent to the highway.
- The court ruled that the owner of the sheep was not responsible for the damage that resulted from an accident with the sheep.
- The decision was based on a very old common law principle.
- In his ruling the judge stated that parliament should change this law.
- Parliament passed legislation to make landowners responsible for the damage caused by their livestock.



3.5 SKILL ACTIVITY: Civic participation and decision-making

In the last three lessons you have looked at parliament and the courts as law-makers.

1. **Create** a table that **illustrates** why the courts are involved in law-making.

Reasons for courts being involved in law-making	Reasons courts should not be involved in law-making

2. **Create** a table that **evaluates** the ability of parliament to be the sole law-maker

Reasons for parliament being the sole law-maker	Reasons why courts cannot be the sole law-maker

3. Use the information in your tables to present your point of view on the following question. Members of parliament are elected by the people to make laws, judges are not. Do you think judges should be allowed to make laws? **Justify** your opinion.

3.5 Exercise

Learning pathways

■ LEVEL 1

2, 3, 4

■ LEVEL 2

1, 5, 6, 7

■ LEVEL 3

8, 9, 10

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Check your understanding

- Identify** the word or phrase **defined** by the following statement.
The process where judges decide the meaning of words or phrases in an Act of Parliament.
 - Abrogation
 - Statutory Interpretation
 - Codification
 - Precedent
- Identify** which of the following is not an aspect of the relationship between parliament and the courts in law-making.
 - Abrogation
 - Statutory interpretation
 - Precedent
 - Codification
- Identify** the word or phrase defined by the following statement:
Parliament collects all the laws on a single topic, including those made in the courts and brings them together in a single statute.
 - Precedent
 - Abrogation
 - Statutory interpretation
 - Codification
- Determine** whether the following statements are true or false.
 - Parliament was created by the courts.
 - The federal government is solely responsible for making laws in Australia.
 - Courts can seek input from the community when deciding cases in Australia.
- Define** abrogation.

Apply your understanding

Analysis, evaluation and interpretation

- Following an inquest into drownings in backyard swimming pools, the coroner's court recommended that laws be introduced to make pool fences compulsory. Parliament has since passed laws setting minimum standards for fences around pools.
Explain why this is an example of the courts alerting parliament of the need for a change in the law.

Communicating

- Explain** why judges become involved in law making.
- When the people do not agree with the decision of a court, they may pressure the government to change the law. Parliament may respond to this pressure by changing the law.
Identify the aspect of the relationship between parliament and the courts that this represents. **Justify** your answer.
- Summarise** why the Mabo case is an example of codification.
- Using an example, **elaborate** on how the courts can alert courts to the need for a change in the law.

LESSON

3.6 What is the difference between civil and criminal law?

LEARNING INTENTION

By the end of this lesson you should be able to explain the difference between criminal and civil law and the difference between a summary and indictable offence.

TUNE IN

1. Draw a table such as the one below.
 - a. In the first column brainstorm a list of everything you know about criminal law.
 - b. In the second column brainstorm a list of everything you know about civil law.
 - c. Which list is longer?

Criminal law	Civil law

2. How do you think criminal and civil law might be involved in the car accident shown in **FIGURE 1**?

FIGURE 1 Did you know that a car accident can involve both criminal and civil law?



3.6.1 Criminal v. civil

There are two main types of law in Australia:

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

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

3.6.2 Criminal law

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

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

During the court case, you as the accused will have the opportunity to tell your side of the story. If you are found guilty, you will be punished with a fine, imprisonment, some form of community service order or a combination of these punishments (see **FIGURE 2**).

Indictable offences

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

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

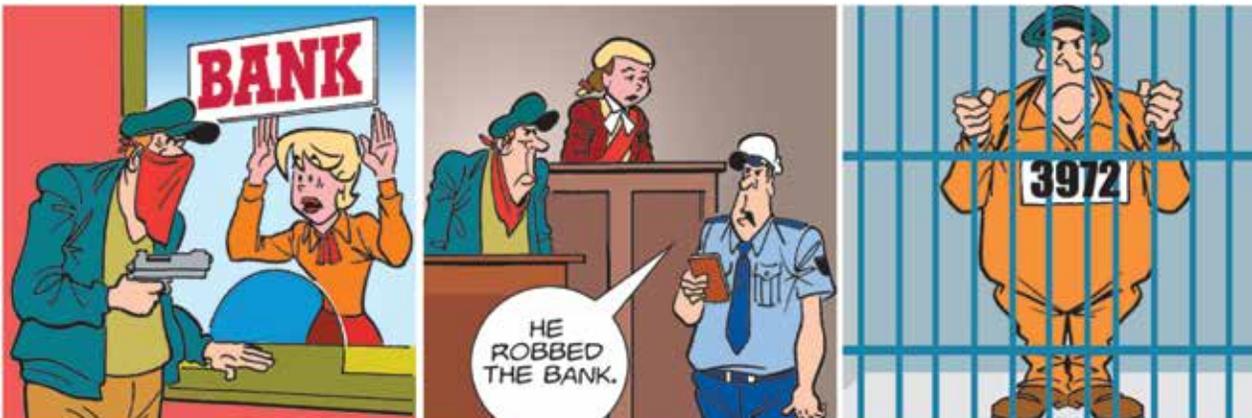
homicide the killing of one person by another person
manslaughter the accidental or unintentional killing of one person by another person
dispute an argument
prosecute to take legal action against another person for a criminal offence
burden of proof the legal principle describing who has to prove a case in court. In a criminal trial, this burden is on the prosecution
accused the party in a criminal trial against whom an action has been brought
jury in a criminal trial, a randomly selected group of people who decide the guilt or innocence of an accused person
standard of proof the level of proof required to establish a case. In criminal law, the prosecution must prove that the accused is guilty beyond reasonable doubt

FIGURE 2 A criminal act is treated as an offence against the state, which deploys the police and courts to apprehend, prosecute and imprison the wrongdoer.

In criminal cases

...the police prosecute

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



Summary offences

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

In the car accident shown in **FIGURE 1**, the state would take action if the driver who caused the accident had broken the road laws, such as speeding, failing to give way or had a blood alcohol level over 0.05.

3.6.3 Civil law

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

For example, imagine you discover half a decomposed snail at the bottom of a soft-drink bottle from which you have just drunk. You are then violently sick and suffer a serious stomach illness. You decide to sue the manufacturer for negligence, meaning that the manufacturer did not take enough care to prevent an injury. You, the **plaintiff**, go to court to prove your case (see **FIGURE 3**). You ask a judge to order the soft-drink manufacturer, the defendant, to pay you compensation. The plaintiff does not always win such cases. Sometimes the judge decides that the plaintiff's rights were not breached and can order him or her to pay the defendant's legal costs. As the following case study 'Civil v. criminal law' illustrates, sometimes civil law is required to deal with a wide range of unusual circumstances.

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

In the car accident shown in **FIGURE 1**, the driver who caused the accident can be sued for medical expenses related to injuries suffered by others and the damage caused to property.

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

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

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

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

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

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

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

liable legally responsible for a civil wrong

plaintiff the person who commences a legal action in civil law

balance of probabilities requires reasonable satisfaction that the facts as presented are probably correct and occurred as stated

FIGURE 3 A civil wrongdoing is treated as a private matter between the disputing parties, and the losing side is ordered by the judge to pay compensation or rectify the wrong done.

In civil cases

...the injured person sues

...and can receive compensation.



3.6.4 CASE STUDY: Civil v. criminal law

Case 1

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



Case 2

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

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

Resources

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

3.6 SKILL ACTIVITY: Questioning and researching

You may use digital or print media for this task — read all the instructions before you begin.

1. In pairs, find three newspaper articles describing civil law cases and three describing criminal law cases. Make sure your articles relate to Australian law and are not more than 12 months old.
2. Cut out (or print) the heading for each article and paste them on a large sheet of paper (leave room for annotations). Record the newspaper the article is from and the date of the article. **Classify** each article as relating to criminal or civil law and provide evidence from each article to support your decision.
3. Write a paragraph that **summarises** (presents the main points) each article under each heading.
4. **Identify** the laws that apply to each article.

3.6 Exercise

Learning pathways

■ LEVEL 1

1, 2, 3

■ LEVEL 2

4, 5, 7

■ LEVEL 3

6, 8, 9, 10

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Check your understanding

- Fill in the gaps in the following sentence to **define** criminal and civil law.
_____ protects our rights and property while _____ protects people and punishes offenders.
- Classify** the following as either criminal crimes or civil wrongs.
 - Negligence
 - Robbery
 - Drug offences
 - Trespass
 - Arson
 - Breach of contract
 - Homicide
 - Trespass
 - Defamation
- Summary offences can only be dealt with by the Supreme Court. True or false?
- State** the difference between:
 - the plaintiff and the defendant (or accused)?
 - indictable offences and summary offences?
 - burden of proof and standard of proof
- Explain** the differences between civil law and criminal law.

Apply your understanding

- Evaluate** Case 1 in the 3.6.4 case study 'Civil v. criminal law' to outline the differences between criminal law and civil law.
 - Why is this case a civil matter?
 - Identify** the plaintiff and what they are seeking in the action.
 - Identify** the standard of proof required in this case.
 - Explain** the outcome of this case.
- Identify** whether the following cases involve criminal law, civil law, or both.
 - You are held up at knifepoint and your purse or wallet is stolen.
 - A woman slips on a wet supermarket floor and breaks an ankle.
 - A man is convicted of driving with a blood alcohol content of 0.08.
 - You find maggots in a tuna sandwich you just bought from a café.
 - A neighbour's loud music at 3 am is disturbing you.
- Demonstrate** your understanding of how a case can include both criminal and civil elements.
Create your own scenario for a case that might involve both criminal and civil law. **Identify** the part of your scenario that is civil and the part of your scenario that is criminal.
- In a civil case the victim can sue for compensation, but in criminal cases the wrongdoer is punished and the victim is frequently not compensated for harm done to them. Limited victim compensation is available in some cases but not in every case.
It has been suggested that the law should be changed to provide compensation in every criminal case.
Explain one advantage of this change and **predict** a possible disadvantage of this change.

10. Criminal cases are dealt with by the courts because the state prosecutes the wrongdoer. Only around 20 per cent of civil cases come before the courts because they are resolved out of court by negotiation between the parties, or because one party does not have the money to fight the case. This can mean that the wealthiest or most powerful party wins.

Propose a reform to the law that could help resolve this situation.

LESSON

3.7 What is the role of the law in protecting our rights?

LEARNING INTENTION

By the end of this lesson you should be able to identify key rights in Australian society and explain how these rights are protected in Australia. You should also be able to explain why rights are important and why they are sometimes limited.

TUNE IN

In Australia we are governed by the 'rule of law.' This means that no one is above the law, no matter how rich or powerful they might be. Our rights and freedoms are protected by some provisions in the Australian Constitution as well as by legislation and common law that governs our behaviour.

Infringing these rights falls under criminal law and others fall under civil law.

1. Write your own definition of rights.
2. Compare your definition with other members of the class and develop a shared understanding.
3. Brainstorm a list of rights that you have and where you think these rights are found.

FIGURE 1 Our rights and freedoms unite us as Australians.



3.7.1 Protecting rights through the Constitution

Rights contained in the Constitution

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

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

referendum the process of allowing the people to vote on an important issue that will result in a change to the Australian Constitution.

Protecting democracy

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

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

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



Five express rights

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

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

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



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

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



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

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



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

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



3.7.2 Protecting rights through legislation

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

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

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



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

3.7.3 Protecting rights through common law

Judges have established common law rights through creating precedents in the cases they have heard. Some of these rights have been codified (see lesson 3.5) by parliament incorporating them into legislation.

Examples of rights established through the courts include:

- The right to silence which ensures an accused person cannot be forced to answer police questions or give evidence in court during a trial (**FIGURE 8**)
- The right to a fair trial implies that the accused should have access to legal representation in court.
- People have the right to express opinions about the government and be informed about what the government is doing.

FIGURE 8 Both the right to freedom of speech and the right to silence were established under common law. Freedom of speech allows the public to be informed and have a voice in political matters, while the right to silence protects an accused from self-incrimination.



3.7.4 The importance of freedom of speech

One of our key freedoms in Australia is the freedom of speech, which allows us to express our opinions publicly. However, this right needs to be balanced against the rights of others who might be harmed by what we say.

Freedom of speech plays a significant role in Australian democracy as it allows you to be fully informed about the policies of all candidates when we vote to elect representatives to parliament.

In many countries around the world, and throughout history, this right has not always existed. In medieval societies, anyone who publicly criticised the king or church could be executed. Some countries, still limit freedom of speech today (see **FIGURE 9**).

In Middle Eastern countries such as Iran citizens are expected to observe the strict religious practices prescribed by the government. Failure to do so can result in imprisonment or even death. In Dubai, a foreign couple was sentenced to one month in prison after being found hugging and kissing in a public restroom.

FIGURE 9 Kim Jong-Un is revered as the leader of North Korea, and any criticism of him or his government within that country is punishable by a long prison sentence or even death. It was reported that a man wiped up a spilt drink with a newspaper. Someone noticed that the newspaper featured a photo of Kim Jong-Un and reported the man, who was imprisoned for insulting the leader.



3.7.5 Limits on our freedom of speech

Our right to freedom of speech in Australia is limited by the 'bounds of law.' This means that the law imposes some boundaries to prevent specific types of behaviour, such as hate speech, bullying, defamation and obscenity.

Hate speech

It is illegal in Australia to publicly use language that is likely to offend, insult, humiliate or intimidate anyone because of their race, colour, or national or ethnic origin. Football clubs have taken a stand against this type of abuse, the AFL for example, have banned people from their matches and clubs have revoked club memberships (see **FIGURE 10**).

Bullying and harassment

State governments have acted to protect people from bullying, especially in the workplace. In 2010, four men and the company they worked for were fined a total of \$335 000 for bullying a young waitress who later committed suicide. The bullying involved name-calling and offensive language (see **FIGURE 11**) and led to the introduction of Brodie's law. A survey by the Australian Human Rights Commission reported that in the 12 months prior to the survey 23 per cent of women and 16 per cent of men had experienced sexual harassment at work.

Defamation

Defamation occurs when one person writes or says something about another that causes damage to their reputation. A person who believes they have been defamed must prove the following.

- The defamatory material was published or communicated to a third party. Publication includes on a Facebook page.
- It must be clear that the person claiming to be defamed is referred to if they are not specifically named.
- There must be some clear damage to reputation, such as limiting your employment prospects. If no one believes the material, defamation has not occurred.
- The material must be untrue.

Defamation laws place a limit on free speech, by protecting innocent people from malicious harm and gossip.

FIGURE 10 AFL footballer Eddie Betts was subjected to anonymous racial abuse on social media in early 2019. His club, the Adelaide Crows, vowed to track down the person who posted the abuse and 'name and shame' them.



FIGURE 11 The suicide of 19-year-old Brodie Panlock led to a change in the law. Ms Panlock endured months of bullying at the café where she worked. Following her suicide the Victorian state government brought in new laws, with a penalty of up to 10 years for anyone found bullying in the workplace.



Obscenity

Laws related to obscenity are designed to protect community standards of public decency and include the following:

- *Offensive language* — if you are caught swearing loudly in public, you can be charged with using offensive language in a public place.
- *Sexually explicit or violent material* — there are several laws that govern this type of material
 - Film and television classifications place restrictions on violent or sexually explicit materials by giving it a 'R 18+' classification.
 - Some materials, such as child pornography are banned completely, and people can be prosecuted and imprisoned for possessing it.
 - Sexting by teenagers has become an increasing problem and is classified as child pornography. Serious consequences apply to anyone caught participating in this practice.

3.7 SKILL ACTIVITY: Questioning and researching

Work with a partner to complete the following activity.

1. Use the internet to **identify** three laws passed by either a state parliament or the federal parliament designed to make it illegal to discriminate against any person based on their personal characteristics.
 - a. For each law **explain** what characteristics (type of behaviour) the legislation is seeking to change.
 - b. Suggest a reason for the introduction of this law.
 - c. Find an example or **create** your own scenario to **illustrate** this new law in action.
2. Several states are considering changing the laws dealing with sexting. Using internet resources, **investigate** the following:
 - a. **Identify** the states that have changed the law or are considering changes.
 - b. **Explain** the changes that are being considered.
 - c. **Propose** a reason for the changes being proposed.
3. Collect the findings of each class member and **create** a class publication that can be used as a resource by other students.

3.7 Exercise

learnon

3.7 Exercise

Learning pathways

■ LEVEL 1

1, 2, 3

■ LEVEL 2

4, 5, 6, 10

■ LEVEL 3

7, 8, 9,

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Find all this and MORE in jacPLUS

Check your understanding

1. The 'bounds of law' are boundaries on free speech which prohibit certain behaviours. **Identify** those behaviours in following list. **Select** all that apply.
 - A. Criticism
 - B. Hate speech
 - C. Debating
 - D. Bullying
 - E. Arguing
 - F. Defamation
 - G. Obscenity
 - H. Complaints

2. **Identify** the circumstances under which the Australian Constitution guarantees a jury trial to an accused person.
- A. When someone is accused of any crime under Commonwealth law
 - B. When someone is accused of a serious crime under Commonwealth law
 - C. When someone goes to court for a civil dispute that is claiming more than \$100 000
 - D. When someone goes to court for a civil dispute claiming any amount

3. **Identify** the right that best completes each sentence.

Interstate trade and commerce

freedom of religion

trial by jury

compensation for acquired property

residential non-discrimination

- A. _____ is an express right that requires the government to take over property from individuals on just terms.
 - B. _____ is an express right that ensures that no state government can treat someone differently based on which state they reside in.
4. **Explain** what laws against obscenity are designed to do.
5. **Identify** the four elements that you would have to prove to successfully take legal action against someone for defamation.

Apply your understanding

Communicating

- 6. **Identify** the safeguards the Constitution provides for anyone who has their property taken over by the Commonwealth Government.
- 7. **Explain** why freedom of speech is important in supporting democracy in Australia.
- 8. A woman qualified as a doctor in Perth and moved to Queensland to live. The Queensland medical authorities attempted to prevent her from practicing as a doctor, because she did not gain her qualifications there. **Summarise** why such an action would be unlawful.

Analysis, evaluation and interpretation

9. **Recognise** the likely consequences of each of the following actions.
- a. A group of employees in a factory engages in name-calling and using insulting language towards a workmate, who becomes afraid to go to work as a result.
 - b. A young man lies about his ex-girlfriend on his Facebook page, saying that she lost her job because she stole money from her employer. When the girlfriend applies for another job, she is unsuccessful because the prospective employer believes she is a thief.
 - c. A passenger on a bus begins harassing a family of African migrants, using racist language and telling them to 'go back where they came from'.
 - d. A 14-year old girl sends a topless photograph of herself to her boyfriend's phone. The boy keeps the photograph on his phone and, when they break-up, he resends it to all his friends with nasty comments about the girl.
10. **Examine** each of the following cases and determine whether or not there has been a case of discrimination.
- a. A woman was unsuccessful in gaining a job because she was pregnant.
 - b. A real estate agent refused to rent an apartment to a family because they are First Nations Australians.
 - c. A man failed to get a job as a bus driver because he had no driver license.
 - d. A taxi driver with a sign on his cab saying 'No dogs' refused to pick up a blind person with a guide dog.
 - e. A carpenter advertises for an apprentice to work with him, and specifies that only males should apply.
 - f. A menswear store advertises for a model for its advertising catalogue, and specifies that only males should apply.

LESSON

3.8 What is customary law in First Nations of Australia communities?

First Nations readers are advised that this topic may contain photos of, or references to, people who have died.

LEARNING INTENTION

By the end of this lesson you should be able to describe some of the ways in which customary laws are significant to First Nations cultures, and outline examples of how customary law is practiced within the legal system today.

TUNE IN

First Nations Peoples recognise ‘payback’ as an element of customary law. Traditional punishments include spearing and ‘singing’ a person.

Though the man in **FIGURE 1** is just giving a demonstration, imagine that he is about to deliver ‘payback’.

1. As a class, discuss what you think happens during a spearing.
2. Brainstorm ideas about what is meant by ‘spearing’ and ‘singing’ a person.
4. Discuss whether you think this sounds like a suitable way to deliver justice.

FIGURE 1 Spearing is a possible punishment within customary law.



3.8.1 What is customary law?

Customary law refers to the guidelines for behaviour that have been developed by First Nations Peoples. These laws are passed on by word of mouth and have not been written down. In what way is customary law significant to First Nations Peoples? We will explore the answer to this question throughout the rest of this lesson.

The Dreaming

First Nations laws originated in the Dreaming. The Dreaming is an English term that refers to the origins and practice of First Nations Peoples’ of Australia beliefs and cultural systems. They have a very strong relationship with the Australian land. They believe that they do not own the land — that the land is a spiritual part of them and you cannot separate one from the other. so it is their responsibility to take care of it. The stories, songs and dances told about the Dreaming reveal the many ways in which First Nations Australians are connected to the land.

Dreaming stories

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

customary law rules for behaviour developed by and for First Nations Peoples

FIGURE 2 Fern Pool, Karijini National Park. On the traditional lands of the Banyjima, Kurrama and Innawonga people. First Nations Australians believe that the Australian landscape and all its features were created by their ancestors.



Dispute resolution

First Nations Australians did not have governments, police or courts in the same way that modern Australia does. Disputes were resolved by the elders, who would meet to discuss the incident or dispute and then agree on an appropriate solution or consequence. Punishments might include shaming or public ridicule for less serious offences, or exile or spearing for more serious cases. Within the Warlpiri nation of central Australia, spearing involved stabbing a spear into the thigh of a person who had committed an offence. The scar left behind would always remind the offender of the wrong act they had carried out.

3.8.2 Recording customary law

Customary law has not been **codified**. It is not easy to record. This is because it is not always the same throughout Australia. Different language groups and communities have their own customary laws, languages, beliefs and traditions. The laws that apply to one group do not necessarily apply to another group.

3.8.3 Customary laws and Australian law

Some state and territory laws have been amended to specifically refer to customary law — the Northern Territory’s *Sentencing Act* recognises customary law. Many courts have also taken customary law into account when considering sentences. Refer to the case study ‘Court imposes customary punishment’ in section 4.8.4 for an example.

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

DISCUSS

Look at **FIGURE 3** and discuss the ways that perspectives have changed over time. Why do you think maps such as this one are highly contestable? Which aspects of this map would now be considered inappropriate or incorrect?

FIGURE 3 Map showing the distribution of the First Nations of Australia Tribes. Norman B. Tindale, 1940. Users of this map should be aware of its historical context and may be considered inappropriate today, but may have reflected the creator's attitude or the period in which they were written. Bor...



Map Showing the Distribution of the Aboriginal Tribes of Australia, Norman B. Tindale, 1940
Mitchell Library M3 804eca/1788/1 A

The Tindale Map is a historical map illustrating the diversity of Aboriginal languages groups across Australia.

Please note that this map is being made available for general reading and use. The map illustrates language groups according to anthropologist Norman Tindale in 1940. It is not the only Aboriginal language map available, and borders and terminology used may be contested in contemporary contexts.

The map is not suitable for use in contemporary contexts. Users of this map should be aware of its historical context and may be considered inappropriate today, but may have reflected the creator's attitude or the period in which they were written.

Be aware that certain words, terms or descriptions may be culturally sensitive. Orders and terminology used may be contested in contemporary contexts.

3.8.4 CASE STUDY: Court imposes customary punishment

The 1993 case of Wilson Jagamara Walker was the first in Australia to include a customary punishment as part of a sentence. Walker was a 23-year-old First Nations Australian man from central Australia who pleaded guilty to manslaughter.

He had been walking home when he heard a cry for help from a person being attacked by a group. Walker went to assist and ended up killing one of the attackers by stabbing him near the neck. The judge, Chief Justice Martin, initially sentenced Walker to 3 years' imprisonment. The sentence was then suspended and Walker was released on a 2-year good behaviour bond with conditions, including that he was to be speared in the thigh by relatives of the victim.

FIGURE 4 Wilson Jagamara Walker's case was the first in Australia to include a customary punishment as part of a sentence.



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

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

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



for use in native title, or other legal claims. It should also be aware that certain words, terms or descriptions may be culturally sensitive and may be considered inappropriate as they may have reflected the creator's attitude when they were written.

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3.8.5 Alternative sentencing for First Nations offenders

First Nations offenders who plead guilty early in the proceedings may be offered alternatives to having a sentence imposed by the court. These options differ from state to state. One initiative is circle sentencing, a scheme operating in New South Wales that tries to avoid imprisonment for First Nations offenders. This is where a circle of people — including the offender's Elders, the victim, the offender, the offender's lawyer, the prosecutor or police and a Magistrate – will sit together to attempt to decide an appropriate sentence. The offender must have pleaded guilty and this is seen as an indication of the offender taking full responsibility for the offence. Circle sentencing is not appropriate for people who have been charged with murder or a sexual assault.

The offence is considered first, and then the offender and his or her background is discussed as well as the effect of the wrongdoing on the victim and the community. The elders decide the sentence, which must be approved by the Magistrate. The circle will often hand down a good behaviour bond with conditions attached, such as counselling or community service that includes culturally appropriate supervision that is designed to establish the cause of criminal behaviour and break the cycle of offending.

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

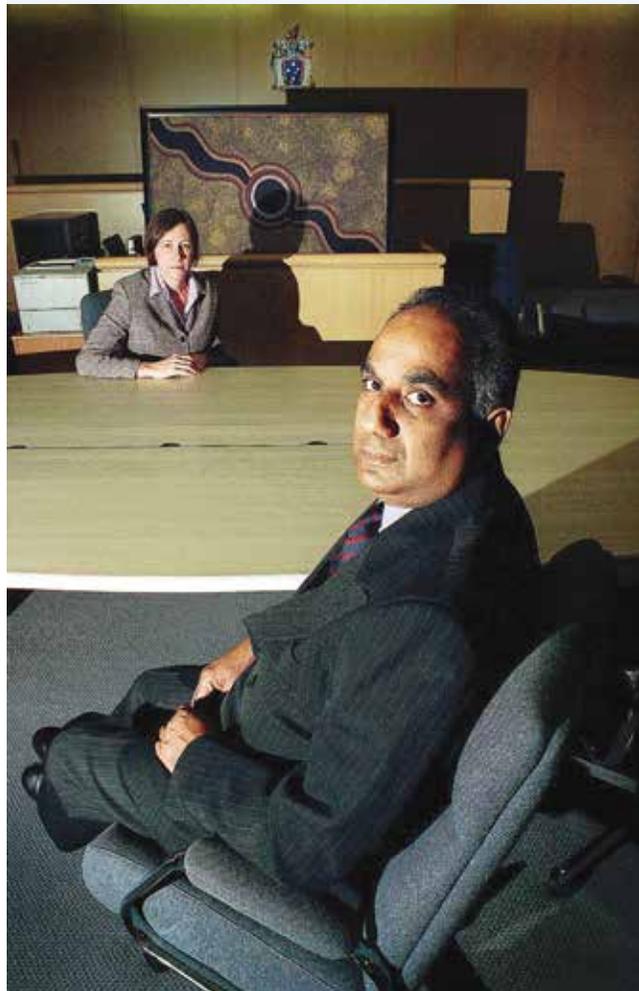
Positive outcomes for First Nations offenders

The census in 2021 found that First Nations Peoples of Australia make up 3.3 per cent of the Australian population and account for 28 per cent of prison population. The major reason for the over-representation of First Nations Australians in the criminal justice system is related to their unequal position in the wider community and cultural differences.

Circle sentencing has proven to be effective to some extent. A study by the Bureau of Crime Statistics and Research has found that reoffending and imprisonment rates were lower where First Nations Peoples were sentenced using circle sentencing rather than through the traditional courts. An important aspect of sentencing was addressing the cause of the offending, such as alcohol and drug addiction.

One criticism of this approach to sentencing is the fact that the accused is required to plead guilty. This is seen as undermining the presumption of innocence, where the prosecution is required to establish the guilt of an offender.

FIGURE 5 The Koori Court in Victoria provides a more informal environment for First Nations offenders, who must plead guilty if they wish to be sentenced here.



In 2018, the Victorian Supreme Court found that First Nations Australians cultural rights should be considered when sentencing offenders and that a request to be sentenced by the Koori Court was appropriate and cannot be refused.

3.8.6 Native Title Law and First Nations Australians

Mabo Day occurs during Reconciliation Week and is celebrated as an official holiday by Torres Strait Islanders. It commemorates the High Court decision handed down on June 3 1992, that overturned the notion of **terra nullius** and recognised the rights of First Nations Peoples of Australia to their land and waters and led to the passing of the *Native Title Act*. The decision marked the end of a 10-year struggle by Eddie Mabo and the Meriam people in the Torres Strait to their land.

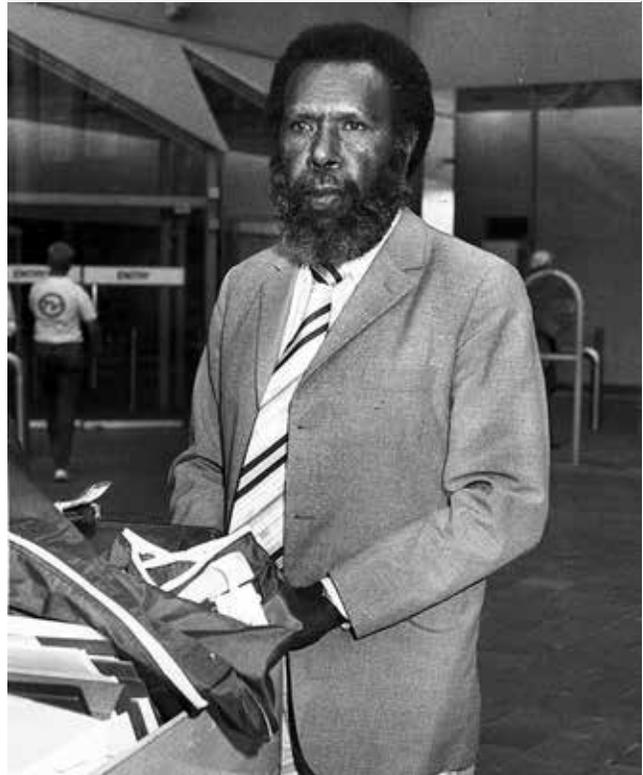
Following the decision in the Mabo case the Commonwealth Parliament passed the *Native Title Act in 1993*, codifying (see section 3.5.3) the decision and creating the process settling and protecting native title claims. A native title claim can be made where First Nations Australians can demonstrate a continuing connection to the land.

This connection is much easier to establish before European colonisation, however, issues arise where they dispossessed and forced off their lands. Native title cannot be claimed where other valid rights exist, such as home ownership or free access is required, such as marine access. It has been found to exist on vacant Crown land such as parks, public reserves or where the Commonwealth has granted pastoral or mining leases.

Approximately 40 per cent is covered by native title; of this First Nations communities have exclusive possession of around 17 per cent, with the rest shared, such as land subject to pastoral or mining leases.

Use the **Creative Spirits** weblink to learn more about native title and land rights.

FIGURE 6 Eddie Mabo successfully challenged the concept of *Terra nullius* in the High Court and paved the way for subsequent claims under the *Native Title Act*.



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

3.8 SKILL ACTIVITY: Civic participation and decision-making

Work with a partner to **investigate** one of the circle sentencing courts.

1. **Explain** why the court was established.
2. **Explain** how the court works and the types of cases it sentences.
3. **Identify** one case that has been resolved by a circle sentencing court, make a **summary** of the facts of the case and the judgement made by the court.

3.8 Exercise

3.8 Exercise

Learning pathways

■ **LEVEL 1**

1, 2, 3

■ **LEVEL 2**

4, 7, 9

■ **LEVEL 3**

5, 6, 8, 10

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Check your understanding

1. Customary law refers to the guidelines for behaviour that were developed by **British courts / First Nations Peoples / Australian courts**.
2. **Identify** how elders are involved in the administration of justice in cases involving young First Nations offenders in Victoria.
 - A. They are never involved.
 - B. They act as lawyers for the offender.
 - C. They keep the offender in their custody until sentencing.
 - D. They participate in determining the punishment handed down to the offender.
3. **Identify** an example of legislation that recognises customary law in Australia.
 - A. *The Northern Territory Sentencing Act*
 - B. *The Constitution of Australia Act*
 - C. *The Racial Discrimination Act*
 - D. *Sex Discrimination Act*
4. **Explain** why it is difficult to codify customary law.
5. **Summarise** why many politicians and law makers in the early years of colonisation and federation did not understand that First Nations Peoples had incredibly detailed customary laws that governed their societies.

Apply your understanding

Communicating

6. Read the case study 'Court imposes customary punishment'. **Outline** the way in which the judge incorporated customary law into the sentence imposed on Mr. Walker.
7. **Identify** two reasons for recognising customary law as part of Australia's legal system.
8. **Consider** whether new courts should be established to reflect the traditional laws of other ethnic or religious groups in Australia. For example, should an Islamic court be established so that Muslim offenders could be sentenced according to Sharia law? **State** one argument for or against this idea.
9. **Recall** as many reasons as you can to **explain** why First Nations People of Australia find customary laws significant.
10. If there is a conflict between First Nations law and laws legislated by parliament, which should apply? **Justify** your point of view.

LESSON

3.9 INQUIRY: Does Australia need a bill of rights?

LEARNING INTENTION

By the end of this lesson you should be able to summarise the arguments for and against Australia's need for a bill of rights. You should also be able to compare Australia to another Western democracy.

Background

In this inquiry you will **investigate** whether Australia needs a bill of rights.

Did you know that many countries throughout the world have a bill of rights or charter of rights to protect the human rights and freedoms of their citizens? Australia is one of the few western democracies that does not have a bill of rights.

A bill of rights can be part of a country's constitution, in which case it can be difficult to change; or it can be legislation passed by parliament, which can be changed by that parliament at any time, if most members of parliament support that change.

Many people say that a constitutional bill of rights would better protect the rights of citizens, because it cannot be easily changed. Victoria, Queensland, and the Australian Capital Territory have all introduced legislated charters of rights.

FIGURE 1 The United States, Britain, Canada, and New Zealand are all countries with similar democratic systems to us that have a bill of rights or a charter of rights.



Before you begin

Access the **Inquiry rubric** in the digital documents section of the Resources panel to guide you in completing this task at your level. At the end of the inquiry task you can use this rubric to self-assess.

Inquiry steps

Step 1: Questioning and researching

- What is a bill of rights or charter of rights?
- How does a bill or charter of rights protect rights and freedoms?
- How does a bill of rights operate in another country?
- Why doesn't Australia have a bill of rights?
- How are rights and freedoms protected in Australia (for example, freedom of speech, right to silence)?
- What can people do in Australia and overseas if they think their rights have been affected by the actions of government or someone else?
- Now choose one of your questions as your inquiry question.

Step 2: Analysis, evaluation and interpretation

Begin by **investigating** the bill or charter of rights in one of these countries:

- Britain
- Canada
- New Zealand
- United State of America

Use the **Charter of rights** weblinks in the Resources panel to get you started.

Make notes under your inquiry questions.

Step 3: Civic participation and decision-making

- **Propose** possible reasons for Australia having a bill of rights.
- What options does Australia have for obtaining a bill of rights?
- **Explain** how a bill of rights supports a democratic society.

Evaluating political and legal institutions

- **Create** a table that shows the advantages and disadvantages of having a bill of rights.
- How are rights protected in Australia?
- Are these protections enough, or does more need to be done?

Step 4: Communicating

Select a format to **present** your point of view. This could be a short video, a mock TV interview or a PowerPoint presentation for example.

Complete your self-assessment using the **Inquiry rubric** or access the 3.9 exercise set to complete it online.



Resources



Weblinks

Charter of rights - various countries
Victorian Charter of Rights and Responsibilities
Human Rights Act Queensland



Digital document

Inquiry rubric (doc-39546)

LESSON

3.10 Review

Hey students! Now that it's time to revise this topic, go online to:



Review your results



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3.10.1 Key knowledge summary

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

3.2 Why do we need laws?

- Society has both legal and non-legal rule.
- Non-legal rules apply to specific groups and may differ between groups, such as school rules.
- Legal rules apply to everyone in the community, such as road laws.
- There are five characteristics of effective laws.

3.3 How do parliaments make laws?

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

3.4 How do courts make laws?

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

3.5 What is the relationship between parliament and courts in law making?

- Parliament and courts perform different roles in the legal system.
- Parliament and courts work together to make the legal system work effectively,
- Courts interpret statutes and can alert parliament to the need for a change in the law.
- Parliament creates courts and can change the laws they make.

3.6 What is the difference between civil and criminal law?

- Criminal law protects the community as a whole. It incorporates crimes including robbery, manslaughter and murder. The police or a representative of the government (the prosecution) takes the accused (the defendant) to court. There, a consequence, such as a fine or imprisonment, may be imposed.
- Civil law protects the private rights of individuals. It incorporates civil wrongs including negligence, defamation and breach of contract. A person who feels that a civil wrong has been done to him or herself (the plaintiff) will sue the other party (the defendant) in court to repair

3.7 What is the role of the law in protecting our rights?

- Rights are an important part of the rule of law and living in a democracy.
- Rights are protected by the Australian Constitution, statute law and common law,
- Rights are not absolute, the law sets boundaries on rights.

3.8 What is customary law in First Nations of Australia communities?

- First Nations customary law provides guidance for how to behave and live. Disputes or incidents are resolved by the Elders, who agree on an appropriate solution or consequence.
- Sentencing Courts that incorporate customary law have had positive outcomes.
- Native Title law has recognised land rights of First Nations Peoples

3.9 INQUIRY: Does Australia need a bill of rights?

- Australia is one of the few Western democracies that does not have a Bill of Rights
- In this Inquiry students investigate the Bill or Rights in another country and whether one is needed in Australia.

3.10.2 Key terms

abrogate passing an Act of Parliament to cancel or abolish a law (precedent) made by the courts

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

Act a law passed by Parliament

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

balance of probabilities requires reasonable satisfaction that the facts as presented are probably correct and occurred as stated

binding precedent a decision made in a higher court in the same court hierarchy that must be followed by a lower court where the facts of the cases are similar

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

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

Cabinet the main group of parliamentary members from the governing party

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

common law law developed by judges through the decisions of courts

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

customary law rules for behaviour developed by and for First Nations Peoples

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

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

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

dispute an argument

homicide the killing of one person by another person

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

legislation a law made by Parliament

liable legally responsible for a civil wrong

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

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

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

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

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

persuasive precedent a decision made in a lower court or a court in a different hierarchy that does not have to be followed but may be used as a guide

plaintiff the person who commences a legal action in civil law

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

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

referendum the process of allowing the people to vote on an important issue that will result in a change to the Australian Constitution.

republic the process of allowing the people to vote on an important issue that will result in a change to the Australian Constitution

rule of law a legal principle that all citizens are subject to the law and equal before the law. The law applies equally to all citizens regardless of status or wealth

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

statute law law made by Parliament

statutory interpretation the process used by judges to decide the meaning of words or phrases in a statute (Act of Parliament)

tabled in Parliament the document has been presented to the Parliament and laid on the Table in either or both houses of Parliament. This means it is available to members for review.

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

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

3.10.3 Reflection

Complete the following to reflect on your learning.

Revisit the inquiry question posed in the Overview:

Where do our laws come from and why should they be obeyed?

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

Resources



eWorkbook Customisable worksheets for this topic (ewbk-13437)
Reflection (ewbk-10782)
Crossword (ewbk-10783)



Interactivity Where do our laws come from? crossword (int-8236)

3.10 Review exercise

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Multiple choice

- Parliament makes laws by passing bills. Identify what must happen for a bill to become a law.
 - Pass the lower house, pass the upper house and receive royal assent
 - Be passed by the Labor Party, be passed by the Liberal Party and be approved by the Governor-General
 - Be passed by a lower court, be passed by a higher court and receive the approval of the High Court
 - Be agreed to by all of the parties
- Following the decision of the Mabo case, the Commonwealth Parliament passed the *Native Title Act*, which included the court ruling. Identify the aspect of the relationship between parliament and the courts that this reflects.
 - Abrogation
 - Statutory interpretation
 - Codification
 - Consideration
- Identify the name given to a law made by the courts.
 - Legislation
 - A Bill
 - An Act
 - Common law
- Review the following statements and identify which involves a precedent.
 - Parliament passing new laws banning smoking.
 - A court finding that a contract existed due to a ruling made in a similar case in a higher court.
 - A court imposing a penalty for non-payment of speeding fines.
 - Parliament blocking a new law around immigration.
- Rights are protected in several ways in Australia. Identify which of the following is not one of these ways.
 - Common law
 - The Australian Constitution
 - A bill of rights
 - Legislation
- Criminal laws are the laws made to
 - be passed by both houses of parliament and approved by the Crown.
 - protect the community from harm.
 - develop legal principles in the process of courts resolving disputes.
 - protect the private rights of individuals.
- Suing another person for negligence is an example of which law?
 - Criminal law
 - Statute law
 - Contract law
 - Civil law

8. Identify the standard of proof in a criminal case.
 - A. on the balance of probabilities.
 - B. with room for some doubt.
 - C. beyond reasonable doubt.
 - D. when the jury does not like the person.
9. Under First Australians customary law, how are disputes or incidents resolved?
 - A. Police will charge you and take you to court
 - B. Courts that examine all the evidence before them
 - C. Elders agree on an appropriate solution or consequence
 - D. Parliament that passes laws through both houses
10. Identify the statement that best describes First Nations customary law.
 - A. Laws passed through parliament that only apply to First Nations of Australia Peoples.
 - B. Civil law that only applies to First Nations of Australia Peoples.
 - C. The rules and guidelines in First Nations of Australia Peoples for how to behave.
 - D. One set of rules for behaviour that applied in First Nations of Australia cultures before colonisation.

Short answers

Communicating

11. **List** the steps involved when laws are made.
12. **Explain** the difference between criminal and civil law.
13. **Explain** what is meant by customary law and explain how it originated.
14. **Describe** the characteristics of effective laws.
15. The 'bounds of law' place limitations on free speech. Using an example, **explain** what is meant by this phrase.

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4 Citizenship, diversity and identity

LESSON SEQUENCE

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4.3 How has Australia's identity been shaped?	92
4.4 What are the different perspectives on national identity in Australia?	97
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LESSON

4.1 Overview

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What are the influences on Australian identity and how is this identity represented by individuals and communities?

4.1.1 Introduction

For tens of thousands of years, Australian society existed without significant influence from the outside world. Living in relative geographical isolation, the First Nations Peoples of Australian society developed a distinct, yet varied culture free from external influences. This changed abruptly with the arrival of European settlers who brought with them their own culture and traditions.

For over 200 years, successive waves of immigration have continued to bring new cultures, traditions and customs to Australia, creating a complex tapestry of national identity. The impact of external influences on Australian culture and identity has continued to grow, fuelled in many ways by the influence of popular culture and media. In this topic, you will investigate the development of Australian identity in the context of the global community. You will discuss how Australian identity has evolved and examine the drivers behind this evolution.

FIGURE 1 Australia's identity is constantly evolving.



Resources



eWorkbook

Customisable worksheets for this topic (ewbk-13438)



Video eLesson

Citizenship, diversity and identity (eles-6037)

LESSON

4.2 What does national identity mean in a globalised world?

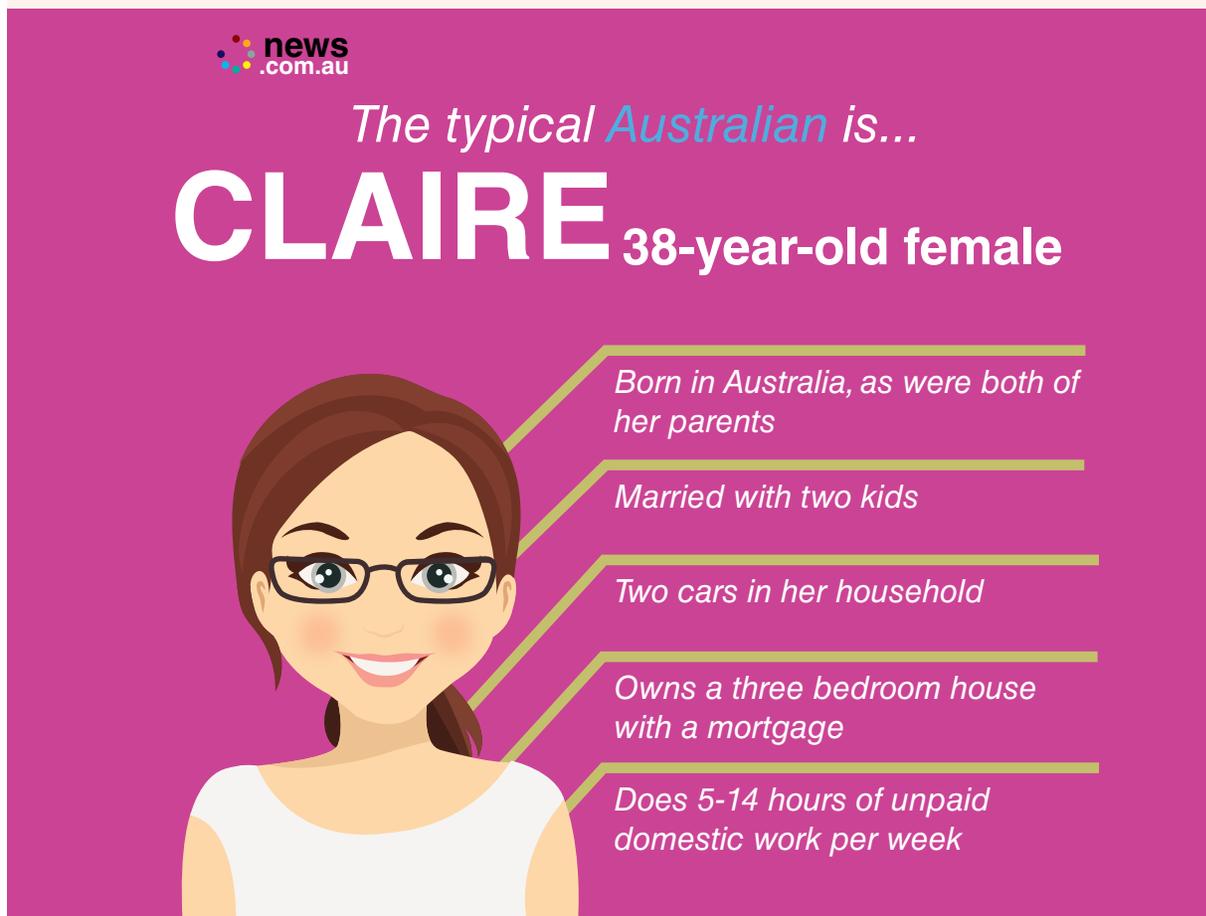
LEARNING INTENTION

By the end of this lesson you should be able to describe the impacts of globalisation on Australian national identity.

TUNE IN

The image in **FIGURE 1** represents the 'typical' Australian according to the most recent Australian Census data.

FIGURE 1 The typical Australian



1. Were you surprised by any of the characteristics shown in this image?
2. Discuss your own ideas of who you consider to be the 'typical' Australian.

4.2.1 ‘We are one, but we are many...’

You may have heard or perhaps sung the song ‘I am Australian’ before, but have you ever stopped to think about the lyrics? Australia is a unique country with a rich tapestry of cultures and histories. First Nations Peoples have a deep connection to these lands, with ancestors who have lived here for tens of thousands of years. Over time, people from a range of diverse backgrounds have also made Australia their home, contributing to its multicultural society. The lyric ‘we are one, but we are many’ captures this essence of unity in diversity. This lyric also directly relates to the discussion of Australia’s national identity. It is an impossible task to assign one singular identity to the people of Australia. Instead, it is often said that Australia’s identity is defined by our diversity. In an increasingly globalised world, it becomes more difficult to determine unique national identities and the search for Australia’s national identity is no different.

4.2.2 The globalised world

In 1922, it would have taken you between 30 to 40 days to travel from Melbourne to London. In 1972, it would have taken you over forty-eight hours to fly between the two cities including several stopovers! In 2022, you can fly the route directly in only twenty-three and a half hours! This significant reduction in time is evidence of the technological developments which have changed the world dramatically. Rapid improvements in transport and information communication technology have combined to effectively make the world a smaller place. It has never been easier for people to move around the world as it is right now and it has never been easier for people to communicate with one another. These improvements have resulted in increased global connectedness, trade and cultural exchange — a process known as **globalisation**.

Examples of globalisation are all around you. Your phone, your clothes, the ideas you hold and even some of the friends that you have are all outcomes of an increasingly globalised world. Globalisation has many positive and negative aspects. While it is easier for us to travel, to trade and to share ideas, globalisation comes at a huge environmental cost, especially as most of the world still relies on fossil fuels for energy. Globalisation can, and is also having a significant impact on cultural identity.

globalisation the process of interacting with markets in other countries around the world, as part of an integrated global economic system

FIGURE 2 The Qantas Airways Airbus A380 allows large numbers of people to travel great distances, such as from Melbourne to London.



4.2.3 Globalisation and national identity

The relationship between globalisation and national identity is fascinating. If we go back in time before the era of globalisation, it is far easier to isolate unique national identities. Individual countries had distinct national cuisine, music, fashion and other cultural characteristics. Globalisation has blurred the lines between these cultural distinctions. The increased movement of people and ideas has increased the transmission of cultural characteristics between countries. Although many distinctions still exist, they are far less obvious than they were one hundred years ago.

The spread of the English language is one example of this trend. In 1900, English was the third most spoken language in the world, behind Spanish and Chinese/Mandarin. English overtook Spanish in 1912 and over one hundred years later, English eclipsed Chinese/Mandarin as the most spoken language in the world. English is now the official language of 67 countries and is seen as the preeminent language of business, diplomacy and international communication.

Halloween and homogenisation

Critics of globalisation argue that it has resulted in **cultural homogenisation**; that because people all over the world have access to the same products and the same information, that the diversity of unique national identities are being replaced by a uniform identity for all. Halloween has never traditionally been recognised in Australia. However, the increasing degree to which it is now being celebrated here demonstrates how globalisation can result in cultural homogenisation.

The popularity of Halloween has increased in recent times, largely due to the presence of American popular culture in Australia. American TV shows are streamed onto the televisions and phones of young Australians around the country, exposing more people to Halloween celebrations. Such is the growth in Halloween celebrations in Australia that supermarket Woolworths recorded a 20 per cent increase in pumpkin sales during October 2021. If left unchecked, cultural homogenisation is a serious threat to national identity in the globalised world.



FIGURE 3 Halloween products being sold in an Australian supermarket

Ceremonies or spectacle

Another threat posed by globalisation occurs when demonstrations of national identity lose meaning, becoming token gestures or novelties. **Cultural tokenism** occurs when aspects of a particular culture are used incorrectly or without the proper context. Imagine if your teacher brought in a boomerang into a class on First Nations culture only to discover that this boomerang was cheaply produced overseas and was not even the same style as boomerangs used by the First Nations Peoples of your local area. The presence of the boomerang thus becomes a token gesture and one not based on historical accuracy or cultural understanding and respect. This kind of cultural tokenism is disrespectful and can cause harm and offence to people who follow the customs or beliefs being demonstrated. Inviting local First Nations representatives from the country on which your school stands to discuss the tools used throughout their history would be a much more genuine and respectful way to understand First Nations culture.

cultural homogenisation the diversity of unique national identities are being replaced by a uniform identity for all

cultural tokenism when demonstrations of national identity lose meaning, becoming token gestures or novelties

Conclusions on identity

As you have just learned, the impacts of the globalised world on national identity can be both positive and negative. Increased globalisation can make it more challenging to identify unique cultural characteristics and may even lead to cultural homogenisation. However, globalisation has also facilitated more cultural exchange and increased our understanding of other nations and their respective identities. As long as existing cultural traditions and values are understood, appreciated and celebrated, it is possible for globalisation and national identity to exist simultaneously.

4.2.4 Active citizenship in globalised world

As citizens in a pluralist society, it is our responsibility to embody the values and demonstrate behaviours that are characteristic of **pluralism**. Each Australian citizen has rights and responsibilities which, if upheld, can protect and foster pluralism within our society. The responsibilities of an Australian citizen according to the Australian Department of Home Affairs are shown in **FIGURE 4**.

pluralism the recognition and affirmation of diversity within a political body, which is seen to permit the peaceful coexistence of different interests, convictions, and lifestyles

A further complexity in this discussion occurs when we consider why some migrants choose to become Australian citizens whilst others do not. While Australia does allow its citizens to hold dual citizenship of another country, that other country may not.

In fact, some migrants may be forced to completely renounce their citizenship in their home countries, before becoming an Australian citizen.

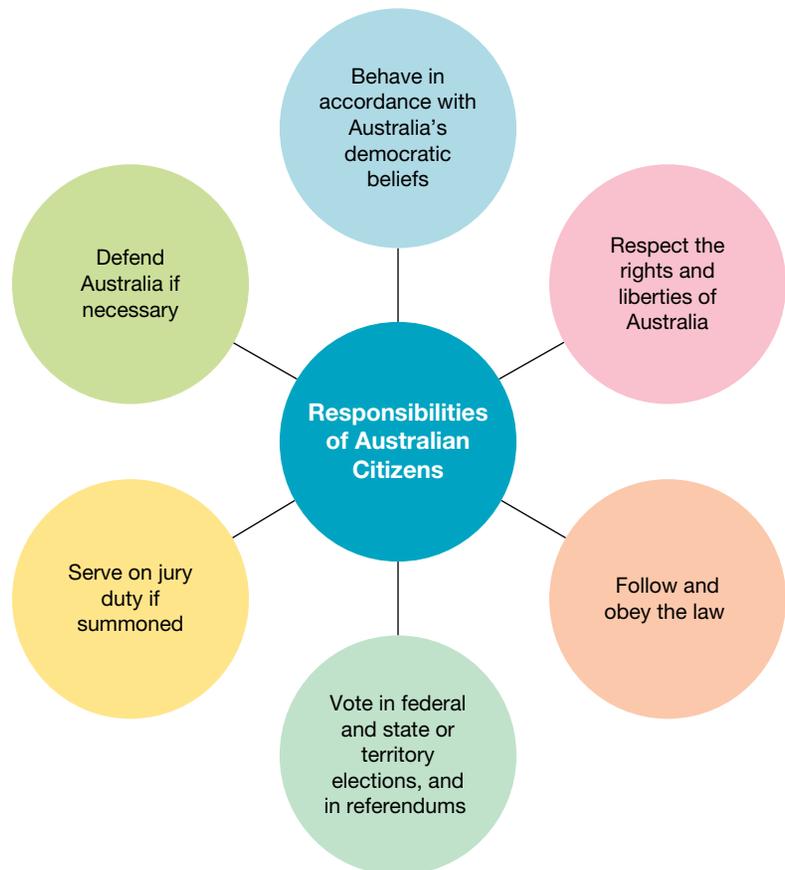
Most migrants to Australia must sit a 'citizenship test' as part of the citizenship process. This test is based on their knowledge of:

- Australia and its people
- Australian democratic beliefs, rights and liberties.
- government and the law in Australia.
- an understanding and commitment to Australian values based on freedom, respect and equality.

You can practice the test by visiting the immigration and citizenship page of the Department for Home Affairs website.



FIGURE 4 The responsibilities of an Australian citizen



These are the rights and responsibilities we have as Australian citizens. However, as our country is part of the global community, we also need to consider our role as global citizens. According to the Oxfam International definition of **global citizenship**, these responsibilities include those shown in **FIGURE 5**.

global citizenship being aware of the interconnectedness of the globalised world and acting in a way which promotes this notion

As you can see, being an active global citizen is no easy task, especially when you consider that active global citizens also need to be active citizens of their own countries. However, to maintain the strength and cohesion of our communities, it is important that we have an understanding of our roles and a willingness to participate.

tlvd-10642

FIGURE 5 The responsibilities of a global citizen



4.2 SKILL ACTIVITY: Analysis, evaluation and interpretation

As you have learned in this lesson, globalisation has several key positive and negative impacts on contemporary society. In this skill activity, you will **evaluate** the impacts globalisation can have on national identity.

When you evaluate something, you need to make a judgement. If you are evaluating a cake, you would judge it by its taste, texture and appearance. If you are evaluating an issue, such as globalisation, you need to set parameters which enable you to make that judgement. For this activity, you may wish to use categories of factors to help you. For example, what are the social, environmental and economic impacts of globalization?

4.2 Exercise

learnon

4.2 Exercise

Learning pathways

■ LEVEL 1
1, 2, 3

■ LEVEL 2
4, 5

■ LEVEL 3
6, 7, 8

These questions are even better in jacPLUS!

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Check your understanding

1. At one stage in their families' history, most Australians were
 - A. emigrants.
 - B. immigrants.
 - C. colonialists.
 - D. convicts.
2. It is often said that Australia's national identity is characterised by what?
 - A. Its diversity
 - B. Its age
 - C. Its language
 - D. Its people
3. **Identify** the two areas in which technology improvements have facilitated globalisation.
 - A. Mobile phones
 - B. Transport
 - C. Machinery
 - D. Information technology
 - E. Robotics
4. **Identify** two positive and two negative consequences of globalisation.
5. **Define** the term cultural homogenisation.

Apply your understanding

Communicating

6. **Explain** why it is so difficult to assign one singular view of Australian national identity.
7. Do you believe the benefits of globalisation outweigh the negative consequences? **Explain** your opinion.

Civic participation and decision-making

8. **Compare** the responsibilities of individuals as both Australian citizens and global citizens.

LESSON

4.3 How has Australia's identity been shaped?

LEARNING INTENTION

By the end of this lesson you should be able to explain how events in Australian history have influenced our national identity.

TUNE IN

To get you thinking in the right frame of mind for this lesson, think about your own family's history in Australia. Consider the following questions or discuss with a partner if you feel comfortable doing so.

1. When/how did your family come to Australia?
2. What challenges has your family faced during its history in Australia?

FIGURE 1 Immigration arrivals



4.3.1 Diversity as identity

Because ours is a pluralist society, it is difficult to define Australian identity. The identity of a pluralist society will, by definition, be as diverse as the backgrounds of its citizens. Australian identity has evolved over time and continues to evolve today. Our history has featured several waves of immigration which have brought new cultures, traditions and beliefs to our shores. Each wave has contributed to the diverse cultural identity that we see in Australia today. We see evidence of these changes in different aspects of daily life including food, music and fashion. In this lesson we will consider how waves of immigration have contributed to the evolution of Australian identity.

FIGURE 2 Shaped by waves of immigration, Australia's diverse cultural identity continues to develop.



4.3.2 The evolution of First Nations identity

Our investigation of Australian identity begins with the First Australians. One of several mistakes made by early European settlers was the assumption that First Nations Peoples of Australia lacked an identifiable culture. Since the First Nations Peoples' way of life bore little resemblance to British culture, the settlers made the flawed assumptions that First Nations culture must simply not exist. This false claim lay the foundation of the British claim of **terra nullius**. Yet for tens of thousands

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

of years before European settlement, Australia had indeed been occupied by a people with complex social structures and cultural traditions. First Nations Peoples' habitation of Australia began at least 65 000 years ago, with the first Australians arriving via a land bridge that once connected Australia with Papua New Guinea.

For thousands of years, First Nations populations flourished with cultures characterised by strong family connections and deep spiritual connection with the land. As First Nations Peoples spread across the country, more than 500 nations developed with distinct geographic boundaries. Despite some cultural and language differences that existed between these nations, they were linked by key ideological themes including kinship and connection to Country. Kinship was, and still is, a central principle of First Nations cultures. An individual's place within the kinship system established their relationship to others and their responsibilities and duties to their community. This sense of civic responsibility can still be seen in contemporary Australian culture.

Land or 'Country' has a special meaning in First Nations cultures and refers to more than simply a physical location. While natural environments and the resources they contain can be used by humans, they are also sacred places that must be protected and preserved for the future. In this way, we can see First Nations cultures as the origin of the close connection that many Australians have with their natural environment.

4.3.3 The evolution of Australian identity: European settlement

It could be argued that the impact of European settlement in Australia has had the biggest influence on the evolution of Australian identity. The arrival of the First Fleet in 1788 and the subsequent development of colonial settlements across Australia significantly altered the country's physical and cultural landscapes. While interactions between European settlers and First Nations Australians may have begun peacefully, settlers' marginalisation of First Nations Peoples, combined with cultural differences and a lack of understanding, soon led to conflict. Competition for resources, resistance against the Europeans and the introduction of European diseases **decimated** First Nations communities. By 1798 — just 20 years after the arrival of the First Fleet — it is estimated that Australia's First Nations population had been reduced by 90 per cent.

Not only did these interactions have a horrific impact at the time, but they have continued to influence First Nations communities, leaving a legacy of disadvantage and **marginalisation**. Unfortunately, we still see aspects of this disadvantage in First Nations communities today, as detailed in **TABLE 1**; measurements of wellbeing for First Nations Peoples are lower than that of non-Indigenous Australians in all indicators listed.

It is important to remember the negative impacts that European settlement had on First Nations communities. We also need to consider the other ways in which this period of Australian history influenced the evolution of our national identity. British colonisation of Australia left our country with significant links to Britain, particularly in regard to aspects of popular culture. British sport, literature, music, customs and traditions were all very much a part of Australian life. In fact, it was our connection to Britain, as a member of its empire, which directly led to Australia's involvement in World War I.

decimate to kill, destroy, or remove a large proportion of something
marginalisation treatment of a group of people which relegates them to the fringes of society

TABLE 1 Differences in wellbeing statistics for First Nations Peoples and non-Indigenous Australians (2021)

Wellbeing indicator	First Nations Peoples of Australia	Non-Indigenous Australians
Male life expectancy	71.6 years	81.3 years
Female life expectancy	75.6 years	83.2 years
High school completion rate	57%	89%
Median weekly income	\$830	\$1,124

4.3.4 The evolution of Australian identity: The bonds of war

Over 400 000 Australians enlisted in the First Australian Imperial Force (AIF) during World War I, with 60 000 losing their lives. The horrors of war left many soldiers with physical and psychological scars. Some soldiers found it difficult to return to their previous jobs and lives and it took the entire country time to recover as a nation. Amidst the hardship of war, however, came one of the most frequently debated parts of Australia’s cultural identity — the concept of mateship.

The word mateship is commonly associated with Australian ‘diggers’ who fought in World War I, and more specifically, at Gallipoli. The word itself conjures images of soldiers risking their own lives to help injured comrades. However, the concept of mateship and even the use of the word ‘mate’ in Australia originated a long time before World War I. The word mate has its origins in the Germanic word *gemate*, which refers to people ‘eating at the same table’. ‘Mate’ was also used frequently in a naval context and more broadly in colonial Australia as well. The concept of mateship in Australian culture gained prominence in the early twentieth century through the works of poets such as Henry Lawson. The romantic view of mateship was further enshrined in Australian culture through stories of war and resilience.

Australia’s involvement in World War II also had significant cultural impacts. This event marked the beginning of a closer relationship between Australia and the United States of America. To strengthen its position in the Pacific, the US established naval bases in Queensland. At the height of this operation, more than 150 000 US soldiers were based in Australia. The American presence began to influence trends in fashion, music, technology and other customs. By the end of 1944, nearly two-thirds of Australian imports were sent from the US. Soon, it was the US, rather than Britain, that would have the strongest influence on Australian culture and identity.

The cultural impacts of war on Australian identity are also evident in the waves of migration that have been preceded by various twentieth-century conflicts. For a significant part of the twentieth century, immigration to Australia was closely restricted by the now controversial Immigration Restriction Act (1901) or, as it was widely known, the White Australia Policy. Under this policy, it was extremely difficult for immigrants from non-European countries to settle in Australia. The policy was relaxed after World War II and finally abolished in 1973 under the Whitlam government. **TABLE 2** summarises the relationship between global conflicts and immigration patterns.

FIGURE 3 World War I diggers are often associated with the concept of mateship due to the close bonds they formed under extraordinary circumstances.



TABLE 2 Flows of migrants to Australia associated with world conflicts

Conflict	Origin of migrants
World War II	Europe
Vietnam War	Vietnam, Cambodia
Cold War	USSR: Russia, Ukraine, Baltic states
Various African civil conflicts	South Africa, Sudan, Somalia

4.3.5 The evolution of Australian Identity: Twenty-first-century influences

Australian identity has also been influenced by global events that have occurred in the early part of the twenty-first century. The impacts of the horrific terror attacks committed in the US on 11 September 2001 were felt across the world, including in Australia. Not only were strict and controversial anti-terror laws introduced by the federal government, but an underlying feeling of fear began to seep into Australian society. The 2002 Bali bombings, in which 88 Australians were killed, and the 2014 Lindt Café siege in Sydney, in which two hostages and the lone gunman were killed, also contributed to the development of a tense social climate. Times of crisis caused by these events are difficult for governments and communities to manage. While the safety of Australian citizens is paramount, we must also ensure that such events do not inflame racial tensions or lead to xenophobia (fear or dislike of anything or anyone considered foreign).

As Australia's relationship with our Asian neighbours has increased, so too has that region's influence on our national identity increased as well. Asian immigration is nothing new to Australia — with the first major wave of Asian migrants experienced during the Gold Rush. However, Australia's economic relationship with South-East Asia has intensified over the last 20 to 30 years. Strong trade partnerships with China, India, South Korea and Japan are a critical part of the Australian economy. A larger number of international students from Asia also attend Australian universities. As of September 2021, there were over 500 000 international students in Australia. Out of the top ten countries on this list, eight were from Asia. Cultural influences from a youthful Asian population can be readily seen in Australian cities — from fashion and music to more trivial examples such as the bubble tea phenomenon.

FIGURE 4 Bubble tea is now very popular in Australia.



SkillBuilders to support skill development

- 19.8 Writing and conducting a survey

4.3 SKILL ACTIVITY: Questioning and researching, Communicating

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

1. Your first step is to **develop** your interview questions. The best way to write an interview question is to think carefully about what you want to discover. A basic list of questions could include:
 - Where does our family come from?
 - Who were the first people in our family to migrate to Australia and why did they come here?
 - When did our family arrive in Australia and how did they get here?
 - What was life like when you (they) first arrived in Australia?
 - How did you (they) demonstrate their identity then and how do you (they) demonstrate your identity now?
 - If your family has Aboriginal and Torres Strait Islander heritage, you could ask questions such as:
 - What language group does our family belong to?
 - Where are the traditional lands of our family?
 - Does anyone from our family still live there? Why/why not?

You can also add your own questions to these lists.

- Once you have written your questions, **organise** a time to conduct your interview (this will have to be after school or on a weekend).
- Conduct** your interview. Make sure you either record your interview or write comprehensive notes during the interview.
- Once you have completed your interview, you will need to **present** your findings to the class. The format you choose for this presentation is up to you. You can create a poster, Google Slide/PowerPoint or another form of multimedia presentation.
Your presentation should provide a summary of your interview and should focus on the topic of Australian identity.

4.3 Exercise

learn**on**

4.3 Exercise

Learning pathways

■ LEVEL 1
1, 3, 4

■ LEVEL 2
2, 5, 7

■ LEVEL 3
6, 8, 9, 10

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Check your understanding

- Upon their arrival in Australia, European settlers assumed that First Nations cultures were foreign and complicated. True or false?
- Explain** how the first inhabitants of Australia arrived.
- After 20 years of European settlement in Australia, what percentage of First Nations Peoples had died?
 - 10 per cent
 - 30 per cent
 - 60 per cent
 - 90 per cent
- Identify** which of the following was an impact of British settlement of Australia.
 - Interest in British sport, literature, music and customs
 - Australia's involvement in World War I
 - Development of the Australian accent
 - All of the above.
- Explain** why it was difficult for non-European migrants to enter Australia during the mid-twentieth century.

Apply your understanding

Analysis, evaluation and interpretation

- Identify** the country you believe has had the biggest impact on Australia's national identity.
 - Justify** your decision.

Communicating

- Explain** how Australia's involvement in World War II led to a closer relationship with the United States of America.
- First Nations cultures have a strong connection to natural environments. **Explain** how this connection can be seen in Australian culture today.
- Identify** evidence of British cultural influence that still exists in Australia today.
- Consider** how the concept of mateship applies to modern Australians. Do you feel a sense of mateship with anyone? **Explain** your answer.

LESSON

4.4 What are the different perspectives on national identity in Australia?

LEARNING INTENTION

By the end of this lesson you should be able to explain why the debate over Australia's national identity is not always clear and straightforward.

TUNE IN

Though debates can be formal and public events, often they are just a discussion between people in which they express different opinions about something.

1. Think of an issue which has multiple sides to the debate. Briefly discuss this issue and the arguments of the opposing sides with a partner.
2. Which side of the debate do you believe and why?
3. Discuss whether you believe this debate (or similar issues) need to have a clear outcome.

FIGURE 1 Debating involves differing perspectives.



You have already learned how there is no such thing as one singular Australian national identity, but instead our identity is in fact defined by its diversity. Due to this diversity, individuals and groups within Australian society may have different perspectives on national identity and issues related to cultural celebrations, values and traditions. Unfortunately, some of these perspectives are built on false assumptions and incorrect cultural stereotypes. Later in this lesson, we will use two case studies to investigate differing perspectives on national identity in Australia. Before discussing these case studies, it is important to learn about how stereotypes can impact these perspectives and, in turn, social cohesion.

4.4.1 Representations of social groups in Australian media

Stereotypes exist due to the way social groups are represented in the media. Our perceptions of these groups are heavily influenced by what we watch on television and read in newspapers and on social media. So influential are these sources of information that they can often override our existing knowledge of social groups. We can see the influence of stereotypes in the results of the following two studies. A 2018 Deakin University report found that over a third of news stories about minority communities portrayed them in a negative light. Another study investigated the ways in which elderly people are represented by the Australian media. The results of this survey are shown in the **FIGURE 2** graphic. Words that appear more frequently appear larger in this image. These two studies remind us that we need to think critically about the way that social groups are represented in the Australian media and consider the impacts these representations can have.

Stereotypes can have a significant impact in societies regardless of the way that they are created or perpetuated. Most stereotypes have negative connotations and are based on only a small part of a social group's true identity. By accepting a stereotype, we limit ourselves in developing a true understanding of different cultures. We exaggerate cultural and religious differences and forget the similarities we may share. In this way, stereotypes can undermine cohesion in Australian society.

stereotype widely held but oversimplified idea of a type of person or thing

right to seek refuge, they want that person to do so through official channels. What some people do not understand is that it may not always be possible for an asylum seeker to pursue assistance through these channels. Besides, if the second verse of the anthem were true, shouldn't the same rights be offered to all those seeking to make Australian their home?

4.4.3 Flagging a change?

The design of the Australian flag has been frequently debated, particularly in recent years. The current flag was chosen from a national competition to celebrate Australia's federation in 1901. It features the Union Jack — the flag of Great Britain, as well as Southern Cross and a seven-pointed larger star to represent Australia's state and territories. While the current flag is well-known and loved by many, proponents of changing the flag point to several key issues with the current design. The presence of the Union Jack is the most pressing of these concerns.

Although Australia is still part of the Commonwealth, it is no longer under the direct control of Great Britain. As such, there is no real need for the Union Jack to feature on our national flag. Since so many other national flags feature the Union Jack, its presence on the Australian flag also detracts from the unique quality of its design. Yet most importantly, the Union Jack's presence is also a painful reminder to First Nations Peoples of the significant impacts of British colonisation.

The depiction of the Southern Cross constellation is another element of the flag which has promoted discussion. The Southern Cross had been used on colonial flags long before federation and was a familiar symbol to European settlers. While the Southern Cross also has some meaning to First Nations Peoples, they traditionally have seen the constellation as merely one of many parts to a larger story. In recent years, some social commentators have noted the symbol's negative connotations, particularly in reference to some racist and far-right organisations. Historian Dr Martin states that:

It was used in the trade union movement, but in recent years has also been picked up by elements of the racist right. For many Indigenous or non-white Australians, it is a very difficult emblem. We need to think carefully about how it has been used if we want a symbol for all Australians.

This quote shows that we need to carefully consider the ways in which symbols can have meaning for different groups of people. By including symbols on our national flag, we are in turn making comments about our national identity. It is for this reason that many individuals and community groups have called for the Australian flag to be updated to better reflect our diverse national identity.

FIGURE 4 The Australian flag



on Resources

 **Weblinks** Refugee Council of Australia
Red Cross
Asylum Seeker Resource Centre

4.4 SKILL ACTIVITY: Questioning and researching, Communicating

There are lots of incorrect assumptions and perceptions of refugees and asylum seekers in Australia. Your task is to communicate the facts around the issue to other Year 8 students.

1. **Conduct** research on five areas regarding refugees and asylum seekers. Areas to focus on could include:
 - why they have fled their countries
 - their average age, gender and situation (single, family, occupation, etc.)
 - how they travel to Australia
 - what they have with them when they arrive
 - what processes and conditions they face when they arrive in Australia
 - how long they are detained.

You could use the **Refugee Council of Australia**, **Red Cross** or **Asylum seeker Resource Centre** weblinks in your research.

2. **Create** a factsheet about this topic. A factsheet should be free of opinion and should focus on statistics and factual information.

Remember your audience (year 8 students) and your purpose (to inform).

4.4 Exercise

learnon

4.4 Exercise

Learning pathways

■ LEVEL 1

1, 2, 5

■ LEVEL 2

3, 4

■ LEVEL 3

6, 7, 8

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Check your understanding

1. **Name** three factors that can influence someone's perspective on national identity.
2. How are stereotypes created and perpetuated?
 - A. Through the media
 - B. Personal experiences
 - C. Cultural trends
 - D. All of the above
3. **Explain** the difference between a refugee and asylum seeker.
4. Approximately _____ refugees are resettled in Australia each year.
5. The Australian flag was designed to celebrate which event?
 - A. Federation
 - B. The arrival of the First Fleet
 - C. The 1967 referendum
 - D. The 1956 Olympic Games

Apply your understanding

Communicating

6. **Propose** a way in which negative stereotypes could be changed to better reflect true cultural traditions, values and practices.
7. **Explain** whether you believe refugees and asylum seekers are treated differently by the Australian government. Is this difference justified?
8. **Create** a new version of the Australian flag. Ensure that your design appropriately reflects Australia's diverse national identity. Include a written explanation of the features/symbols/colours which you have chosen to include.

LESSON

4.5 INQUIRY: Change the Date — The future of Australia Day

LEARNING INTENTION

By the end of this lesson you should be able to describe the debate surrounding Australia Day and propose a new date based on your own research and analysis.

Background

The debate that surrounds the celebration of Australia Day provides another example of the complex nature of Australian national identity. Australia Day (currently celebrated on 26 January) is the official national day of Australia. This date commemorates the arrival of the ships of the First Fleet at Port Jackson, New South Wales in 1788. The first evidence of Australia Day celebrations comes from colonial New South Wales.

Referred to as ‘Foundation Day’, Governor Lachlan Macquarie issued the first official observance of the date in 1818 — the thirtieth anniversary of the founding of the colony. Prior to 1888, the individual colonies celebrated their respective commemorative events on separate days. It was not until 1935 that all Australian states and territories officially adopted the term ‘Australia Day’ and it was only as recent as 1994 that the date was marked by a national public holiday.

The celebration of this day is far from straightforward — even before we start to discuss what a national day to celebrate the arrival of the British signifies to First Nations Peoples.

FIGURE 1 Invasion Day protesters call for a change of date



In modern Australia, our national day is celebrated in many different ways. Barbeques, concerts, community events and citizenship ceremonies are held on Australia Day across the country. Some people argue that Australia Day is the perfect opportunity to reflect on what makes our country unique and what it means to be Australian. But to many other Australians, there is nothing about 26 January that warrants celebration.

To many Australians, this date is a reminder of the beginning of a brutal invasion and one which had lasting consequences. For this reason, celebrating Australia's official national day on the anniversary of European colonisation is seen by many as deeply disrespectful to First Nations Peoples and their cultural heritage. The first official protests against Australia Day celebrations occurred in 1938 with the National Day of Mourning. This event was heavily publicised and is seen by many historians as the beginnings of the Indigenous civil rights movement. Day of Mourning protests have been held ever since, with more recent events using the names Invasion Day or Survival Day. In recent years, there have been calls to change the date of Australia Day. People calling for this change are not against celebrating an Australian national day. Instead, they want to celebrate Australian culture and identity on a date that has a more positive meaning for all Australians.

Before you begin

Access the **Inquiry rubric** in the digital documents section of the Resources panel to guide you in completing this task at your level. At the end of the inquiry task you can use this rubric to self-assess.

Inquiry steps

Your task is to choose a new date to host Australia's national day. You need to **create** and **communicate** a presentation to your class which explains the rationale behind your choice. Use the following scaffold to help you investigate the issue further and to help you create your presentation

Step 1: Questioning and researching

The basis of the issue has been provided for you, but now it's up to you to find out more. Start by **listing** potential new dates and their significance to Australian history.

Step 2: Analysis, evaluation and interpretation

What are you looking for in a new date for Australia Day? What do you think would unite Australians behind your choice? Why is one potential new date better than another?

Step 3: Civic participation and decision-making

Having researched and analysed the issue, now comes the time to make your own decision. Which date provides the best reflection of Australian society?

Step 4: Communicating

Now it's time to put it all together.

Select a line of argument and stick to it. Be clear and concise with your reasoning. Make sure that you include evidence to support your decision.

Complete your self-assessment using the **Inquiry rubric** or access the 4.5 exercise set to complete it online.

Resources

 **Digital document** Inquiry rubric (doc-39547)

LESSON

4.6 Review

Hey students! Now that it's time to revise this topic, go online to:



Review your results



Watch teacher-led videos



Practise questions with immediate feedback

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4.6.1 Key knowledge summary

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

4.2 What does national identity mean in a globalised world?

- Due to Australia's diverse cultural composition, a singular national identity is difficult to isolate.
- Improvements in transportation and information communication technology, the world has been a smaller place – a process known as globalisation.
- Globalisation has facilitated the movement of people and ideas, creating a blend of cultural identities within many countries, including Australia.
- National identities have become more similar in the modern world.
- Citizens of countries have responsibilities to their own countries but also to the global community.

4.3 How has Australia's identity been shaped?

- Australian national identity has evolved over time, beginning with First Nations Peoples over 65 000 years ago.
- Changes to Australian national identity have mirrored the country's immigration history and also our changing regional relationships and alliances.

4.4 What are the different perspectives on national identity in Australia?

- People have differing perspectives on national identity and what it means to be Australian. These perspectives are sometimes built on false assumptions and incorrect cultural stereotypes.
- Symbols (such as the Australian national flag) and issues (such as Australia's attitude towards refugees and asylum seekers) can often reflect the way cultural identity is felt and represented by different cultural groups within Australian society.

4.5 INQUIRY: Change the Date – The future of Australia Day

- The date currently used to celebrate Australia Day is problematic, largely because of the significance of that date in the history of First Nations Peoples.

4.6.2 Key terms

asylum seeker a person whose request for sanctuary has yet to be processed

cultural homogenisation the diversity of unique national identities are being replaced by a uniform identity for all

cultural tokenism when demonstrations of national identity lose meaning, becoming token gestures or novelties

decimate to kill, destroy, or remove a large proportion of something

global citizenship being aware of the interconnectedness of the globalised world and acting in a way which promotes this notion

globalisation the process of interacting with markets in other countries around the world, as part of an integrated global economic system

marginalisation treatment of a group of people which relegates them to the fringes of society

pluralism the recognition and affirmation of diversity within a political body, which is seen to permit the peaceful coexistence of different interests, convictions, and lifestyles

refugee a person who has been forced to leave their country in order to escape war, persecution, or natural disaster

stereotype widely held but oversimplified idea of a type of person or thing

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

4.6.3 Reflection

Complete the following to reflect on your learning.

Revisit the inquiry question posed in the Overview:

What are the influences on Australian identity and how is this identity represented by individuals and communities?

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

Resources



eWorkbooks Customisable worksheets for this topic (ewbk-13438)
Reflection (ewbk-10786)
Crossword (ewbk-10787)



Interactivity Citizenship, diversity and identity crossword (int-9038)

4.6 Review exercise

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Access additional questions



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Multiple choice

- Which of the following is NOT a benefit of globalisation?
 - Faster international travel times
 - More effective communication channels
 - Increased environmental damage
 - Global transference of ideas and information
- Globalisation has made a country's national identity
 - easier to identify.
 - harder to identify.
 - more similar to that of other countries.
 - All of the above.
- Which of the following provides the best definition of cultural homogenisation?
 - When all countries have the same national identity
 - When some countries have similar parts of their national identity compared to others
 - When all countries have unique national identities
 - When some countries have no identifiable national identity
- What effect can cultural tokenism have on the meaning of traditions and customs?
 - It can make them better and easier to see
 - It can lessen the meaning of these traditions and customs
 - It has equal positive and negative effects
 - It has no impact at all
- All of the following are rights and responsibilities of Australian citizens except
 - follow and obey the law.
 - defend Australia if necessary.
 - respect the rights and liberties of Australia.
 - give everyone a 'fair-go'.
- The impact of _____ had the biggest impact on the evolution of Australian national identity.
 - European settlement
 - Post-war immigration
 - The White Australia Policy
 - First Nations cultures
- Changes in Australian national identity have followed
 - waves of cultural trends.
 - waves of immigration.
 - waves of global conflicts.
 - waves of economic relationships.
- Which region has had the biggest recent impact on Australian national identity?
 - South-East Asia
 - Sub-Saharan Africa
 - Western Europe
 - North America

9. Most stereotypes are
- A. accurate and constructive.
 - B. true and helpful.
 - C. negative and hurtful.
 - D. neither positive nor negative.
10. Asylum Seekers are people whose refugee status has
- A. been ignored.
 - B. been denied.
 - C. been approved.
 - D. not been decided.

Short answer

Analysis, evaluation and interpretation

11. **Evaluate** the impact of globalisation on Australian national identity. Do you think globalisation has had an overall positive or negative impact on the evolution of our identity?
12. After reading the section on Halloween and cultural homogenisation, do you think Australians should continue to celebrate this event? **Justify** your stance.

Communicating

13. **Suggest** ways in which cultural tokenism can be avoided.
14. **Explain** what you think should be the higher priority for Australians — to act as Australian citizens or as global citizens?
15. **Create** a timeline which documents important changes in Australia's immigration history and their impacts on national identity.

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GLOSSARY

- abrogate** passing an Act of Parliament to cancel or abolish a law (precedent) made by the courts
- accused** the party in a criminal trial against whom an action has been brought
- Act** a law passed by Parliament
- asylum seeker** a person whose request for sanctuary has yet to be processed
- balance of power** when no political party holds a clear majority in parliament, smaller parties or independent members can hold the power to influence or block legislation
- balance of probabilities** requires reasonable satisfaction that the facts as presented are probably correct and occurred as stated
- Bill** a proposed law that has not yet been agreed to by Parliament or received royal assent
- binding precedent** a decision made in a higher court in the same court hierarchy that must be followed by a lower court where the facts of the cases are similar
- breach of contract** a situation where a legally binding agreement is not honoured by one or more of the parties to the contract
- burden of proof** the legal principle describing who has to prove a case in court. In a criminal trial, this burden is on the prosecution
- Cabinet** the main group of parliamentary members from the governing party
- civil law** the branch of law that protects people's rights and property
- codified** refers to laws that have been collected and organised, usually in written form
- common law** law developed by judges through the decisions of courts
- confidence** the level of support that the government has from the parliament, which is necessary for the government to remain in power
- criminal law** the branch of law that judges whether someone has committed a crime, and punishes them if they are found guilty
- Crown** the King's authority in the Australian parliament, represented by the Governor-General at the federal level and a Governor at the state level
- cultural homogenisation** the diversity of unique national identities are being replaced by a uniform identity for all
- cultural tokenism** when demonstrations of national identity lose meaning, becoming token gestures or novelties
- customary law** rules for behaviour developed by and for First Nations Peoples
- decimate** to kill, destroy, or remove a large proportion of something
- defamation** unlawful damage to a person's good reputation through written or verbal statements
- defendant** the party in a civil trial against whom an action has been brought
- democracy** a form of government in which the people determine how they will be governed
- democratic** supporting democracy, or the system of government where supreme power is vested in the people and exercised directly by them or by their elected representatives under a free electoral system
- direct action** showing your disapproval or disagreement with the government and their policies by directly trying to influence their decisions and the views of the public, for example through protesting
- dispute** an argument
- electorate** an area of Australia that elects one member to parliament
- global citizenship** being aware of the interconnectedness of the globalised world and acting in a way which promotes this notion
- globalisation** the process of interacting with markets in other countries around the world, as part of an integrated global economic system

homicide the killing of one person by another person

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

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

legislation a law made by Parliament

liable legally responsible for a civil wrong

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

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

marginalisation treatment of a group of people which relegates them to the fringes of society

national identity the parts of a society that make people feel like they belong, such as shared values or sense of identity

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

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

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

persuasive precedent a decision made in a lower court or a court in a different hierarchy that does not have to be followed but may be used as a guide

petition a formal request for change signed by many people

plaintiff the person who commences a legal action in civil law

pluralism the recognition and affirmation of diversity within a political body, which is seen to permit the peaceful coexistence of different interests, convictions, and lifestyles

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

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

referendum the process of allowing the people to vote on an important issue that will result in a change to the Australian Constitution.

refugee a person who has been forced to leave their country in order to escape war, persecution, or natural disaster

republic the process of allowing the people to vote on an important issue that will result in a change to the Australian Constitution

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

rule of law a legal principle that all citizens are subject to the law and equal before the law. The law applies equally to all citizens regardless of status or wealth

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

statute law law made by Parliament

statutory interpretation the process used by judges to decide the meaning of words or phrases in a statute (Act of Parliament)

stereotype widely held but oversimplified idea of a type of person or thing

tabled in Parliament the document has been presented to the Parliament and laid on the Table in either or both houses of Parliament. This means it is available to members for review.

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

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

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