Jacaranda Civics & Citizenship Alive 8 for the Australian Curriculum

Authors: Graeme Smithies | Benjamin Rood | Matt Richardson

First published 2015 by
John Wiley & Sons Australia, Ltd
42 McDougall Street, Milton, Qld 4064

© John Wiley & Sons Australia, Ltd 2018

The moral rights of the authors have been asserted.

ISBN: 978 0 7303 2632 8 (eBook)

Reproduction and communication for educational purposes
The Australian *Copyright Act 1968* (the Act) allows a maximum of one chapter or 10% of the words of this work, whichever is the greater, to be reproduced and/or communicated by any educational institution for its educational purposes provided that the educational institution (or the body that administers it) has given a remuneration notice to Copyright Agency Limited (CAL).

Reproduction and communication for other purposes
Except as permitted under the Act (for example, a fair dealing for the purposes of study, research, criticism or review), no part of this book may be reproduced, stored in a retrieval system, communicated or transmitted in any form or by any means without prior written permission. All inquiries should be made to the publisher.

Trademarks
Jacaranda, the JacPLUS logo, the learnON, assessON and studyON logos, Wiley and the Wiley logo, and any related trade dress are trademarks or registered trademarks of John Wiley & Sons Inc. and/or its affiliates in the United States, Australia and in other countries, and may not be used without written permission. All other trademarks are the property of their respective owners.

Cover image: © Digital Vision

Platform powered by SnapWiz

Illustrated by diacriTech and Wiley Composition Services

Course converted by diacriTech

Acknowledgements

The authors and publisher would like to thank the copyright holders, organisations and individuals listed in the Acknowledgements document in the Resources section for their permission to reproduce copyright material in this book.

Every effort has been made to trace the ownership of copyright material. Information that will enable the publisher to rectify any error or omission will be welcome. In such cases, please contact the Permissions Section of John Wiley & Sons Australia, Ltd.

Chapter 1: Your rights and freedoms

Contents

1.1 Overview

1.2 How are our rights and freedoms protected?

1.3 How free is freedom of speech?

1.4 Some other democratic freedoms

1.5 Dissent in a democracy

1.6 SkillBuilder: Questioning and research

1.7 Review

Note to students and teachers: This PDF has been provided as an offline solution for times when you do not have internet access or are experiencing connectivity issues. It is not intended to replace your eBook and its suite of resources. While we have tried our best to replicate the online experience offline, this document may not meet Jacaranda's high standards for printed material. Please always refer to your eBook for the full and latest version of this title.

jacaranda
A Wiley Brand

1 Your rights and freedoms

1.1 Overview

1.1.1 Everybody has rights in Australia

on Resources

Watch this eLesson: Rights and freedoms
Searchlight ID: eles-2260

You have probably heard many people talking about protecting their rights, or complaining when they believe someone has interfered with those rights. What is a **right** and how are rights protected in Australia? When we speak of rights and freedoms, we are usually referring to the way individuals are treated in a particular organisation or community. These can include the rights that students and teachers have within a school community, or the rights that employees have within a particular workplace. Most importantly, it includes the rights we have as citizens of Australia.

In Australia we are said to be governed by the 'rule of law'. This means that no person is above the law, no matter how rich or important they are. In ancient and medieval times, however, kings or emperors were above the law. They could make laws to suit themselves and to further their own wealth and power. Ordinary people only had whatever rights and freedoms their ruler felt like granting to them. A harsh or cruel ruler could take away ordinary people's rights whenever he or she wished.

Today in Australia, the rule of law means that we have a number of guaranteed rights and freedoms, and no government can take these away from us. In addition, governments in Australia have passed laws to ensure that the rights of all people are respected. Examples include laws that guarantee equal opportunity and those that make racial discrimination illegal.

FIGURE 1 Medieval rulers had the power to grant or take away the rights of ordinary people.

Learning objectives

Students will investigate:

- the freedoms that enable active participation in Australia's democracy within the bounds of law, including freedom of speech, association, assembly, religion and movement.

1.1 EXERCISE 1

Starter questions

1. List three rights that you have within your family and household.
2. List three rights that you have as a student at your school.
3. Can you think of ways in which your rights as a family member and school student are limited or restricted? Why do these limits exist?
4. List and explain three rights and/or freedoms that you believe Australians have today.
5. Outline any limits that could be placed on these rights and freedoms.
6. It is sometimes said that 'every right is balanced by a responsibility'. What do you think this means?

1.2 How are our rights and freedoms protected?

1.2.1 What laws protect us?

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

FIGURE 1 Our rights and freedoms unite us as Australians.

1.2.2 Rights contained in the Constitution

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

Protecting democracy

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

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

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

Five express rights

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

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

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

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

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

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

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

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

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

on Resources

Watch this eLesson: The Australian Constitution
Searchlight ID: eles-2076

1.2.3 Rights protected by legislation

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

- gender or gender identity
- sexual orientation
- pregnancy
- breastfeeding
- marital status
- status as a carer

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

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

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

Resources

Watch this eLesson: What is Parliament?
Searchlight ID: eles-2077

Explore more with this weblink: Australian Human Rights Commission

1.2 EXERCISE 1

How are our rights and freedoms protected?

1. What is the meaning of the term 'democracy'?
2. In what way is freedom of religion protected in Australia?
3. In what circumstances does the Constitution guarantee a jury trial to an accused person?
4. Choose two democratic rights and explain what they are.
5. Identify and explain five ways in which the Australian Constitution protects our rights.
6. What safeguards does the Constitution provide for anyone who has his or her property taken by the Commonwealth Government?
7. Use internet resources to identify three laws, passed by either a state parliament or the Commonwealth Parliament, designed to make it illegal to discriminate against any person based on his or her personal characteristics
8. Examine each of the following cases and determine whether or not there has been a case of discrimination, and explain your reasons:
    a. A woman was unsuccessful in gaining a job because she was pregnant.
    b. A real estate agent refused to rent an apartment to an Indigenous family.
    c. A man failed to get a job as a bus driver because he had no driver's license.
    d. A taxi driver with a sign on his cab saying 'No dogs' refused to pick up a blind person with a guide dog.
    e. A carpenter advertises for an apprentice to work with him, and specifies that only males should apply.
    f. A menswear store advertises for a model for its advertising catalogue, and specifies that only males should apply

1.3 How free is freedom of speech?

1.3.1 The importance of freedom of speech

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

FIGURE 1 Australians highly value the right of free speech.

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

- In Russia in February 2012, members of a female punk–rock group known as Pussy Riot staged a performance in a cathedral in Moscow. The women were protesting against the policies of the Russian government and its close relationship with the Russian Orthodox Church. They were arrested and charged with 'hooliganism', and imprisoned. Their imprisonment led to widespread protests in Russia and other countries. Eventually they were pardoned by the Russian Parliament and released from prison in December 2013. Their case is seen as an example of the lack of freedom of speech in Russia.

- In North Korea, it is illegal to say or do anything that criticises the government or is seen to insult the country's leader, Kim Jong-un. It was recently reported that a man was thrown into prison for wiping up a spilt drink with a sheet of newspaper. Someone noticed that the newspaper featured a photo of Kim Jong-un and reported the man, who was imprisoned for insulting the leader.

FIGURE 2 The imprisonment of members of the Russian punk–rock group Pussy Riot led to many protests calling for their release.

1.3.2 Limits on our freedom of speech

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

Hate speech

Australia's laws against racial discrimination place a limit on our right of free speech. It is illegal in Australia to publicly use language that is likely to offend, insult, humiliate or intimidate anyone because of that person's race, colour or national or ethnic origin. Very few people have actually been brought to court under this law, but it sends a strong message to the community about using racially abusive language. In May 2013, a 13-year-old girl was removed from an AFL match at the Melbourne Cricket Ground for racially abusing Aboriginal footballer Adam Goodes.

FIGURE 3 A teenage girl was removed from a football game for racially abusing AFL footballer Adam Goodes.

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

on Resources

Watch this eLesson: Je suis Charlie
Searchlight ID: eles-2430

Bullying

In recent years, state governments have acted to protect people from bullying, particularly in the workplace. In February 2010, four men and the company they worked for were fined a total of $335 000 for bullying a young waitress who later killed herself. The waitress, Brodie Panlock, committed suicide after months of bullying at the café where she worked. Much of the bullying involved name-calling and using offensive language towards Ms Panlock, who was 19 years old. Following the publicity surrounding Brodie Panlock's death, the Victorian state government brought in a new law against workplace bullying. It allows for workplace bullies to be prosecuted through the criminal law, and for prison sentences of up to ten years for those found guilty. The new law has become known as 'Brodie's law'. Some other state governments have now also acted to make bullying language illegal.

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

Defamation

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

- The defamatory material was published or communicated to someone other than yourself. It is not defamatory if the person communicates it only to you, and no-one else sees or hears it. It would be defamatory, though, if someone published it on his or her Facebook page, or anywhere likely to be read by other people.

- It has to be clear that it is you as an individual the person is referring to. If someone said that members of your sports team were cheats, you could not sue them unless they clearly identified you in person.
- There has to be some clear damage to your reputation. If the material is likely to prevent you getting a particular job, or in some other way can be seen to disadvantage you, you may have a good legal case.
- The material must be untrue. If someone communicates material about you that can be proven to be true, then that person has a strong defence if you try to take legal action for defamation. In this case, a court may rule that no defamation has occurred.

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

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

Obscenity

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

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

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

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

1.3 EXERCISE 1

How free is freedom of speech?

1. What is meant by the term 'bounds of law'?
2. Outline the purpose of laws against obscenity.
3. In what ways do laws against racial discrimination put limits on our right of free speech?
4. What are the four elements you would have to prove to be able to successfully to take legal action against someone for defamation?
5. Explain why freedom of speech is important in supporting democracy in Australia.
6. A number of states are considering changing the laws dealing with sexting. Using internet resources, find out the following:
    a. Which states have changed or are considering changes?
    b. What changes are being considered?
7. What are the likely consequences of each of the following actions:
    a. A group of employees in a factory engages in name-calling and using insulting language towards a workmate, who becomes afraid to go to work as a result.
    b. A young man lies about his ex-girlfriend on his Facebook page, saying that she lost her job because she stole money from her employer. When the girlfriend applies for another job, she is unsuccessful because the prospective employer believes she is a thief.
    c. A passenger on a bus begins harassing a family of African migrants, using racist language and telling them to 'go back where they came from'.
    d. A 14-year-old girl sends a topless photograph of herself to her boyfriend's phone. The boy keeps the photograph on his phone and, when they break up, he resends it to all his friends with nasty comments about the girl.

1.4 Some other democratic freedoms

1.4.1 The benefits of living in a democracy

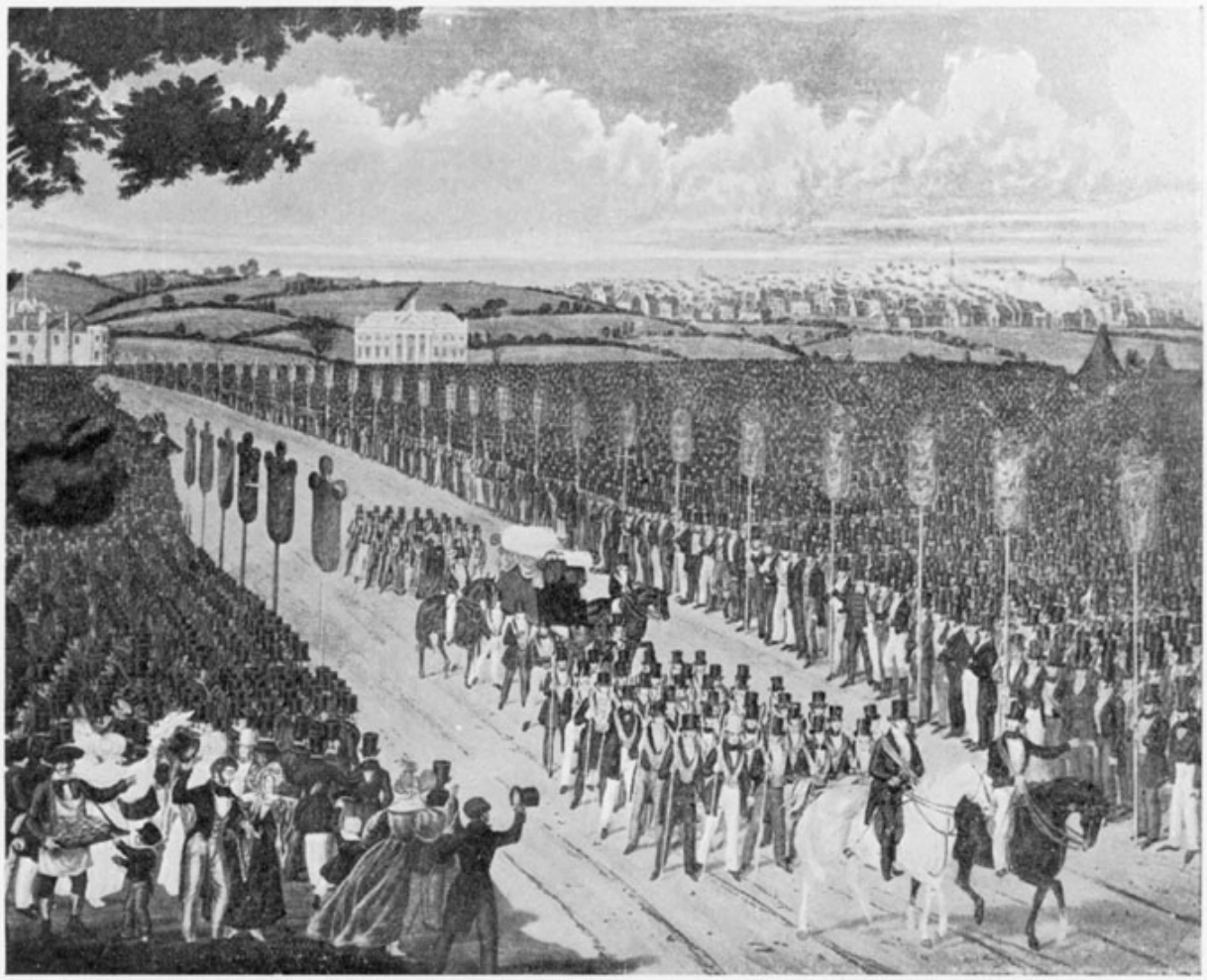
In addition to freedom of speech, there are a number of other freedoms we associate with living in a democracy. These include freedom of association, freedom of assembly, freedom of movement and freedom of conscience. All of these freedoms have been included in international **treaties** that have been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

1.4.2 Freedom of association

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

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

FIGURE 1 Between 50 000 and 60 000 people gathered outside London to protest at the transportation of the Tolpuddle Martyrs in 1834.



DEMONSTRATION AT COPENHAGEN FIELDS, LONDON

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

1.4.3 Freedom of assembly

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

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

FIGURE 2 Freedom of assembly includes the right to public protest.

Freedom of assembly, including the right to public protest, provides many groups with a means of having their views heard by the broader public. If these views then gain support among large numbers of people, they can influence a government to change laws or make new laws to deal with the issue under protest. (See subtopic 1.5 for further discussion of this issue.)

1.4.4 Freedom of movement

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

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

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

FIGURE 3 Freedom of movement includes the right of Australians to leave the country and return at any time.

1.4.5 Freedom of conscience

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

FIGURE 4 Freedom of conscience gives us the right to think and believe differently from those around us.

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

- In some Muslim countries (including Saudi Arabia and Iran), anyone who converts from Islam to another religion (such as Christianity) is guilty of a crime. The person will usually be imprisoned and may be subject to the death penalty.
- In February 2014, an Australian Christian missionary called John Short was detained in North Korea for distributing Christian pamphlets. Christianity is banned in North Korea along with most other religions, and Mr Short faced the possibility of a 15-year prison sentence. He was eventually released after about ten days, and required to make a public apology to the government of North Korea.

on Resources

Watch this eLesson: Dangerous ideas
Searchlight ID: eles-2427

FIGURE 5 Galileo Galilei was imprisoned by the Catholic Church because he published scientific findings that were different from accepted beliefs.

In Australia, expressing one's own conscientious beliefs is subject to the same bounds of law that apply to freedom of speech generally (see subtopic 1.3). Freedom of conscience is important in a democracy because we need to have choices when we vote. The free exchange of political ideas can help us to decide who we want to represent us in parliament and make laws on our behalf. We will usually vote for people whose beliefs and values are as close as possible to our own because they are more likely to make laws we agree with.

DISCUSSION

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

1.4 EXERCISE 1

Some other democratic freedoms

1. Who were the Tolpuddle Martyrs?
2. Why did the Menzies government try to ban the Communist Party in 1951?
3. Outline one way in which freedom of assembly might be restricted by the bounds of law.
4. Describe two circumstances when it might be reasonable to restrict a person's freedom of movement.
5. List two examples of freedom of conscience.
6. Why is each of the following important in maintaining Australia as a democratic society?
    a. Freedom of association
    b. Freedom of assembly
    c. Freedom of movement
    d. Freedom of conscience

7. In October 2013, the Queensland government brought in new laws directed at members of motorcycle clubs, particularly those labelled as members of 'criminal motorcycle gangs'. The laws prohibit any gathering of those members in groups of three or more. They also ban such members from going to certain declared locations, promoting their organisation or recruiting new members.
    a. Identify two rights or freedoms that may have been breached by these laws.
    b. The Queensland government has claimed that the laws are designed to protect innocent people from violent bikie gangs. Explain whether or not you agree with this argument, and give reasons for your response.
    c. The government that brought in these laws was democratically elected by a huge majority of the voters. Do you believe this gives the government the right to make any laws it wishes, or should there be some limits on the power of governments to restrict basic rights and freedoms? Give reasons for your answer.

1.5 Dissent in a democracy

1.5.1 The right to disagree

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

1.5.2 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 topic 2, subtopic 2.5.) In recent years in Australia, we have seen examples of very successful campaigns of dissent aimed at different government actions. Each of these has resulted in a change in government policy or even a change of government.

CASE STUDY

The WorkChoices campaign

In 2005, the Liberal–National Party coalition government led by John Howard brought in new laws to deal with the way in which wages and working conditions were to be decided in Australian workplaces. These laws, known as the WorkChoices laws, reduced the ability of unions to act on behalf of their members. They were also designed to remove some of the entitlements that many workers were used to enjoying as part of their working conditions. It would be made easier for workers to be dismissed from their jobs, and many employees feared that their jobs would be less secure as a result.

The Labor Party and the Australian Greens opposed the WorkChoices laws being passed in parliament. However, the government had the majority of members in both the Senate and the House of Representatives, so the laws were passed. The trade union movement then entered the fight, launching an advertising campaign designed to turn the majority of Australian voters against the new laws. Protest marches were held in every major city as part of the effort to change these laws. This campaign was very successful as it made many employees worried about maintaining their wages and working conditions.

WorkChoices became a major issue in the 2007 federal election. It was a significant factor in the defeat of the Liberal–National Party coalition government and the victory of the Labor party, led by Kevin Rudd. The new Labor government quickly moved to **repeal** the WorkChoices laws and replace them with a different set of laws to deal with wages and working conditions.

FIGURE 1 The campaign against WorkChoices contributed to a change of government in 2007.

CASE STUDY

The mining tax

In 2008, the federal Labor government led by Kevin Rudd set up a committee to review the taxation system. In December 2009, the review committee presented its report to the government. In May 2010, the government decided to adopt one of the report's recommendations for tax changes. It was announced that a Resource Super Profits Tax would be introduced. This tax was to be paid by mining companies, but was strongly opposed by those companies. The mining companies conducted a strong advertising campaign across all media, claiming that the tax would destroy the mining industry.

This advertising campaign worked very well, and the tax became deeply unpopular. The Liberal–National Party coalition came out in opposing the tax and supporting the mining companies. In June 2010, the Labor Party members of parliament voted to remove Kevin Rudd as their leader and to replace him with Julia Gillard. This meant that Julia Gillard became prime minister as she was now the leader of the government party. The new prime minister decided to negotiate with representatives of the mining companies to make changes to the tax. The name of the tax was changed to the Minerals Resource Rent Tax, and only the largest mining companies had to pay it. The leader of the Liberal Party, Tony Abbott, maintained that his party would repeal the tax if it won government at the next election. In September 2013, the Liberal–National Party coalition won the federal election. The new government then set out to introduce new laws into parliament that would remove the tax on mining companies. In September 2014, legislation to repeal the mining tax was passed by the Senate. Go to the **Anti-mining tax campaign** weblink in your Resources section for more information on this issue.

FIGURE 2 The mining industry conducted a strong campaign against the original mining tax in 2010.

CASE STUDY

The carbon tax

Over the last 20 years or so, there has been growing concern in the community over climate change caused by excessive emissions of carbon dioxide into the atmosphere. At the 2007 Australian federal election, both sides of politics promised to introduce an emissions trading scheme to deal with the problem. During the next three years, the Labor government led by Kevin Rudd attempted to introduce such a scheme but was unsuccessful.

After the 2010 federal election, neither major political party had a majority in the House of Representatives. This meant that neither party could form a government without the support of smaller parties and members who did not belong to any political party. As part of the negotiations with these representatives, Prime Minister Julia Gillard agreed to introduce a carbon tax. Because they now had to pay a tax on carbon emissions, businesses were expected to reduce those emissions. It was hoped that this would eventually provide a solution to climate change. Before the election, the prime minister had promised that her government would not introduce a carbon tax, so she was attacked as having broken an election promise. Opposition Leader Tony Abbott promised that he would repeal the laws setting up the carbon tax, and began a campaign against the tax. Other opponents of the Labor government joined in the anti–carbon tax campaign, with some of them protesting outside Parliament House in Canberra. After winning the 2013 election, Prime Minister Tony Abbott began the process of repealing the laws that had set up the carbon tax. In July 2014, the Abbott government successfully passed a bill through parliament to remove the carbon tax.

FIGURE 3 Anti–carbon tax: protests against the carbon tax took place on the lawn in front of Parliament House in Canberra.

FIGURE 4 Pro–carbon tax: many people came out to support the carbon tax as the most effective way of tackling climate change.

on Resources

Explore more with this weblink: Anti-mining tax campaign

1.5 EXERCISE 1

Dissent in a democracy

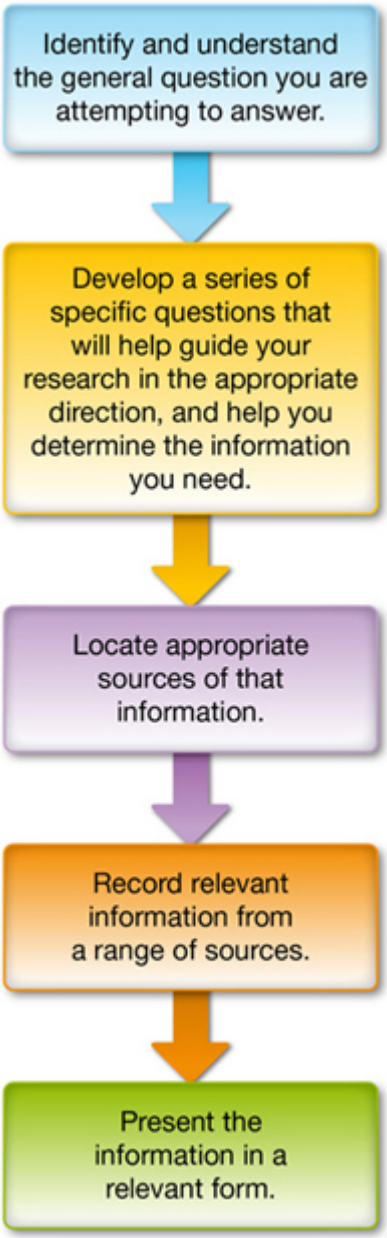
1. Identify which groups expressed dissent towards each of the following:
    a. WorkChoices
    b. the mining tax
    c. the carbon tax.
2. Describe one way in which each group expressed its dissent.
3. Why is it reasonable for groups and individuals to express dissent towards government policies and actions?
4. Give two examples of limits or bounds of law, and explain how they could reasonably be placed on dissent in Australian society.
5. Using internet resources, identify who has been involved in expressing dissent towards the following government actions and the methods they have used to present their views:
    a. Australia's involvement in the war in Iraq from 2003 to 2009
    b. the detention of asylum seekers on Nauru and Manus Island
    c. laws preventing same-sex marriage.
6. Is dissent directed towards government policies or actions a positive or negative influence on Australian democracy? Give reasons for your answer.

1.6 SkillBuilder: Questioning and research

1.6.1 Tell me

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

FIGURE 1 How to carry out your own research



1.6.2 Show me

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

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

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

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

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

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

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

1.6.3 Let me do it

ACTIVITIES

Practise the skill

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

DISCUSSION

Did you follow the steps in the research process? Discuss how segmenting the problem assisted you in solving the problem.

1.7 Review

1.7.1 Summary

When we speak of rights and freedoms, we are usually referring to the way individuals are treated in a particular organisation or community, including the democratic rights we have as citizens. Today in Australia, the rule of law means that we have a number of guaranteed rights and freedoms, and no government can take these away from us.

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

- Freedom of association, freedom of assembly, freedom of movement and freedom of conscience are all important freedoms enjoyed in Australia. These are also limited by the bounds of law.
- In a democracy such as Australia, we all have the right to dissent against laws passed by parliament. We can express our dissent publicly and vote for political parties that promise to change those laws.

1.7.2 Your turn

ACTIVITIES

A number of people have expressed concern about section 18C of the Racial Discrimination Act. This is the law that makes it illegal in Australia to publicly use language that is likely to offend, insult, humiliate or intimidate anyone because of his or her race, colour or national or ethnic origin. Individuals opposing section 18C argue that it is an unnecessary restriction on freedom of speech. Others believe that it is an important safeguard to protect people against hate speech.

Carry out the following tasks in groups of four:

1. Use internet resources to locate material on this law. You will find many websites that discuss the issue.
2. Divide your group into two pairs. One pair should find arguments in favour of keeping section 18C, and the other pair should find arguments in favour of repealing it.
3. Once this is done, bring your group together and discuss the arguments in favour of and against retaining this law. Which arguments are the strongest? Can you reach agreement as a group or not?
4. Each group should present its findings to the rest of the class. Your teacher may be able to make a summary of the arguments.
5. After considering all the arguments gathered and presented by each group, is there a point of view supported by the majority of the class? Have a vote to determine this.

on Resources

Try out this interactivity: Your rights and freedoms crossword
Searchlight ID: int-5316

Chapter 2: Participating in Australian democracy

Contents

2.1 Overview

2.2 Having an influence

2.3 What can my local member do?

2.4 Lobby groups and others

2.5 Taking direct action

2.6 SkillBuilder: Communication and reflection

2.7 Review

Note to students and teachers: This PDF has been provided as an offline solution for times when you do not have internet access or are experiencing connectivity issues. It is not intended to replace your eBook and its suite of resources. While we have tried our best to replicate the online experience offline, this document may not meet Jacaranda's high standards for printed material. Please always refer to your eBook for the full and latest version of this title.

jacaranda
A Wiley Brand

2 Participating in Australian democracy

2.1 Overview

2.1.1 Australians have the right to protest

on Resources

Watch this eLesson: You can make a difference
Searchlight ID: eles-2263

What do all of the following groups have in common?

- In late 2013 and early 2014, police clashed with protesters in the inner-northern suburbs of Melbourne. The protesters had gathered to oppose the Victorian state government's proposed road tunnel to link two of the city's busiest freeways.
- On 26 January 2014, more than 2000 protesters gathered in a Brisbane park. They were there to protest against the Queensland state government's laws to restrict the activities of bikie gangs.
- On 23 February 2014, about 15 000 people around Australia commemorated the death of an asylum seeker in an Australian-operated detention centre on Manus Island, Papua New Guinea. In Melbourne, 5000 people gathered in Federation Square; in Sydney, 4000 gathered outside the town hall; smaller numbers gathered in other cities and towns. They all lit candles in memory of the dead man, and to protest over the Australian government's treatment of asylum seekers.
- Knitting has taken on a new purpose as groups of women, known as 'knitting nannas', have been protesting peacefully at sites across Australia. In the northern rivers region of New South Wales, the knitting nannas are protesting against the possible damage that coal seam gas mining could do to local farmlands. In the Toolangi forest region of Victoria, they have been protesting against the logging of native forests. In the town of Tecoma, east of Melbourne, the protest was directed against the building of a fast-food restaurant.

All these groups have been participating in Australia's democracy.

FIGURE 1 People throughout Australia held a candlelit vigil to protest against the Australian government's treatment of asylum seekers.

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.

Learning objectives

Students will investigate:

- 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.

on Resources

Explore more with this weblink: Norty Knitting Nannas

2.1 EXERCISE 1

Starter questions

1. Are you aware of any protest rallies or marches that have taken place recently? When and where were they, and what were the people protesting about?
2. Think of any changes you would like to see in your community or in Australia as a whole. What do you think you could do to achieve that change?

2.2 Having an influence

2.2.1 How to have your say

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

2.2.2 The electoral system

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

- the Commonwealth Parliament in Canberra
- the state or territory parliament sitting in each capital city

- local councils in the city, town or shire in which the electors live.

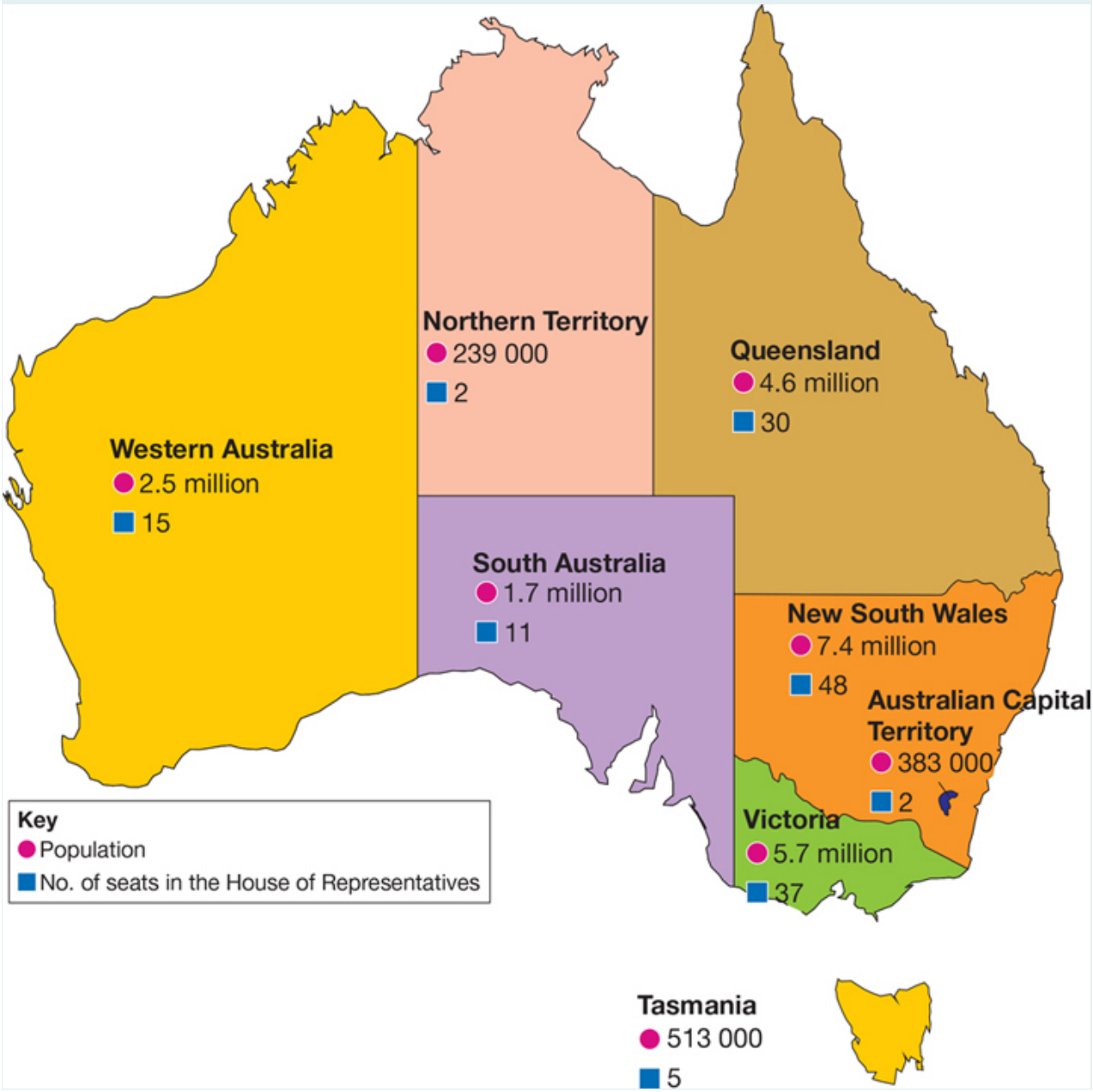
Voting is compulsory in Australia, and all Australian citizens aged 18 years or over are legally required to enrol to vote. You can actually enrol any time after your sixteenth birthday, and you can do so online or by filling in a paper form. Go to the **Voting enrolment form** weblink in your Resources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

Electing a Commonwealth Parliament

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

- The House of Representatives has 150 members, each elected for three years. Each member represents an **electorate** or 'seat' that covers a particular geographic area. All electorates have roughly the same number of electors, about 90 000 each. States with larger populations, such as New South Wales and Victoria, elect the largest number of members. States with smaller populations, such as Tasmania and South Australia, elect much smaller numbers.

FIGURE 1 Population and the House of Representatives



- The Senate has 76 members. Each of the six states elects twelve senators regardless of size or population, and the Northern Territory and ACT each elect two senators. In contrast, the members of the lower house are elected on the basis of population. Because there are so many representatives from New South Wales and Victoria, they could out-vote all the other members combined. The Senate was therefore created with equal numbers from each state to act as a safeguard against this happening in the upper house.

Electing a state or territory parliament

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

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

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

on Resources

Explore more with this weblink: Voting enrolment form

2.2.3 Social media

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

- The activist group GetUp! has conducted online campaigns on political issues including Australia's migration laws, the Murray–Darling Basin environment, and coal seam gas mining. GetUp! uses its website as a means by which its members and followers can express their opinions and call for changes in the law.
- The online organisation Change.org allows people to create petitions and get others to sign them on its website.
- In 2011, protest groups in different cities throughout the world set out to occupy significant public places to promote their views on the need for change in society. These groups, known as the 'Occupy movement', set up their own Facebook pages and Twitter accounts. These were used to allow members to express their opinions on political and social issues, and to keep followers updated. Social media also allowed the Occupy movement to bring large numbers of people to its protest activities. Watch the video of the Occupy movement protesting in New York.

on Resources

Watch this eLesson: Occupy Wall Street
Searchlight ID: eles-2431

Explore more with this weblink: GetUp!

FIGURE 3 The Occupy movement used social media to inform supporters of the location of protest activities.

- In March 2014, protest marches took place around Australia under the banner of ‘March in March’. The stated aim of the organisers was ‘a vote of no confidence in the Abbott government’. The participants were protesting against certain policies of the federal Liberal–National Party coalition government. The protest began with a Twitter account set up in December 2013 followed by a Facebook page, which was used to provide information to supporters. By the time the protest marches actually took place, the campaign had 45 000 online followers. It was estimated that as many as 100 000 protesters participated across Australia, with the largest crowd of 30 000 being recorded in Melbourne.

- Almost every member of parliament in Australia today has a Twitter account. One of the first to do so was the former prime minister, Kevin Rudd. At its peak, his Twitter account had over 1.3 million followers. Prime Minister Malcolm Turnbull has over 700 000 Twitter followers.

Members of parliament, supporters of particular political parties, opponents of the same political parties, as well as people campaigning for new laws can all use social media to get their message across. The amount of information available enhances everyone’s ability to participate in Australian democratic processes.

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

2.2.4 Opinion polls

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

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

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

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

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

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

Effectiveness of opinion polls

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

2.2 EXERCISE 1

Having an influence

1. What is an electorate?
2. What is the estimated percentage of people aged between 18 and 24 who have not registered to vote?
3. How do opinion polling companies carry out surveys of people's opinions?
4. Why do polling companies ask about age and level of income?
5. Why do the major newspapers have close relationships with particular polling companies?
6. What particular right do Australians have that makes this country a democracy?
7. Why is the Senate elected in a different way from the House of Representatives?
8. Explain one way in which social media has been used to influence political debate in Australia.
9. Use the **GetUp!** weblink in your Resources section to answer these questions:
    a. Describe one issue the organisation has been campaigning on recently.
    b. Identify an issue that the organisation claims to have campaigned successfully on in the past.

10. Use internet resources to find a newspaper report of an opinion poll.
    a. Which newspaper published the report?
    b. Which polling company conducted the poll?
    c. When was the poll conducted, and how many people were surveyed?
    d. What were the results of the poll?

11. Opinion polls on people's voting intentions are sometimes believed to influence the way people vote. One influence is called the 'bandwagon effect'. It suggests that if undecided voters see an opinion poll showing that a particular person or party is more popular, they will 'jump on the bandwagon' and decide to vote for that person or party. Another influence is called the 'underdog effect'. This suggests that if some people see a poll showing that a particular person or party is likely to lose an election, they will feel sorry for this 'underdog' and will therefore vote for that person or party.

    Which of these effects do you think is likely to be the most powerful? Give reasons for your answer. Compare your answers with others in your class.

2.3 What can my local member do?

2.3.1 Members of parliament in the local community

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

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

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 Wentworth, which is in the eastern suburbs of Sydney. It has a total area of 30 square kilometres. The largest in area is Durack, which takes up most of country Western Australia. It covers more than 1.5 million square kilometres. This is approximately 60 per cent of the total area of Western Australia, equivalent to more than 20 per cent of the total landmass of Australia. Its voters are spread out on cattle stations, mining towns and remote Indigenous communities. As you can imagine, it is much harder for the member for Durack to maintain contact with the voters than it is for the member for Wentworth. Nevertheless, both members will attempt to perform similar duties in relation to their respective communities.

FIGURE 1 Many of the voters in the electorate of Durack live in remote locations.

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.

FIGURE 2 Members of parliament are often called upon to perform official opening ceremonies in their electorates.

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. A member might also raise the issue of a local industry that is under threat of closure, potentially causing unemployment in the area. In early 2014, the fruit-processing company SPC Ardmona in Shepparton, Victoria, was looking for government funding to help its business survive. The local member, Dr Sharman Stone, took up the case with the government at the time, but the funding was denied. Dr Stone was very critical of the prime minister and other government leaders for refusing the funding, even though she was a member of the same political party as the government. Supporting an industry in her community took priority for her as a local member.

FIGURE 3 Sharman Stone, member for the federal electorate of Murray, spoke up to support business in her electorate.

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

Helping individual voters

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

FIGURE 4 A member of parliament can often help individual voters in his or her electorate.

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

Providing a direct link to parliament

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

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

Helping with petitions to the House of Representatives

An important way in which voters can bring an issue to the attention of the parliament is to organise a petition. Members of parliament can provide advice on the preparation of petitions to be presented to the House of Representatives. Members will also make sure the petition goes through the formal processes that are necessary for the petition to be dealt with.

If an individual or group wishes to petition the House of Representatives, the petition needs to meet the following requirements:

- The petition must have a principal petitioner (that is, the main person organising the petition). This person's name and contact details should appear at the beginning of the petition.
- It must be formally addressed to 'The Speaker and the Members of the House of Representatives'.
- The petition must state the reasons the petition has been prepared. These are the issues or problems that have been identified by the petitioners.
- It must also contain the request for action desired by the petitioners. This is the action the petitioners want parliament to take to solve the problem.
- The petition must be written in moderate language that is not abusive or offensive.
- The main body of the petition should be divided into three columns to include the name, address and signature of each petitioner. Each petitioner should be numbered.
- The request for action should be repeated at the top of every page, and every name and address should be handwritten by each petitioner. Photocopied names and signatures are not accepted.

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. The following procedure is then followed:

- The chairperson of the Petitions Committee usually presents petitions to parliament on the Monday of each sitting week.
- Details of petitions are published on the website of the Petitions Committee.
- The issues raised will usually be brought to the attention of the relevant minister, who is expected to arrange a response from his department.
- Details of ministerial responses to the petitions are published on the website of the Petitions Committee.

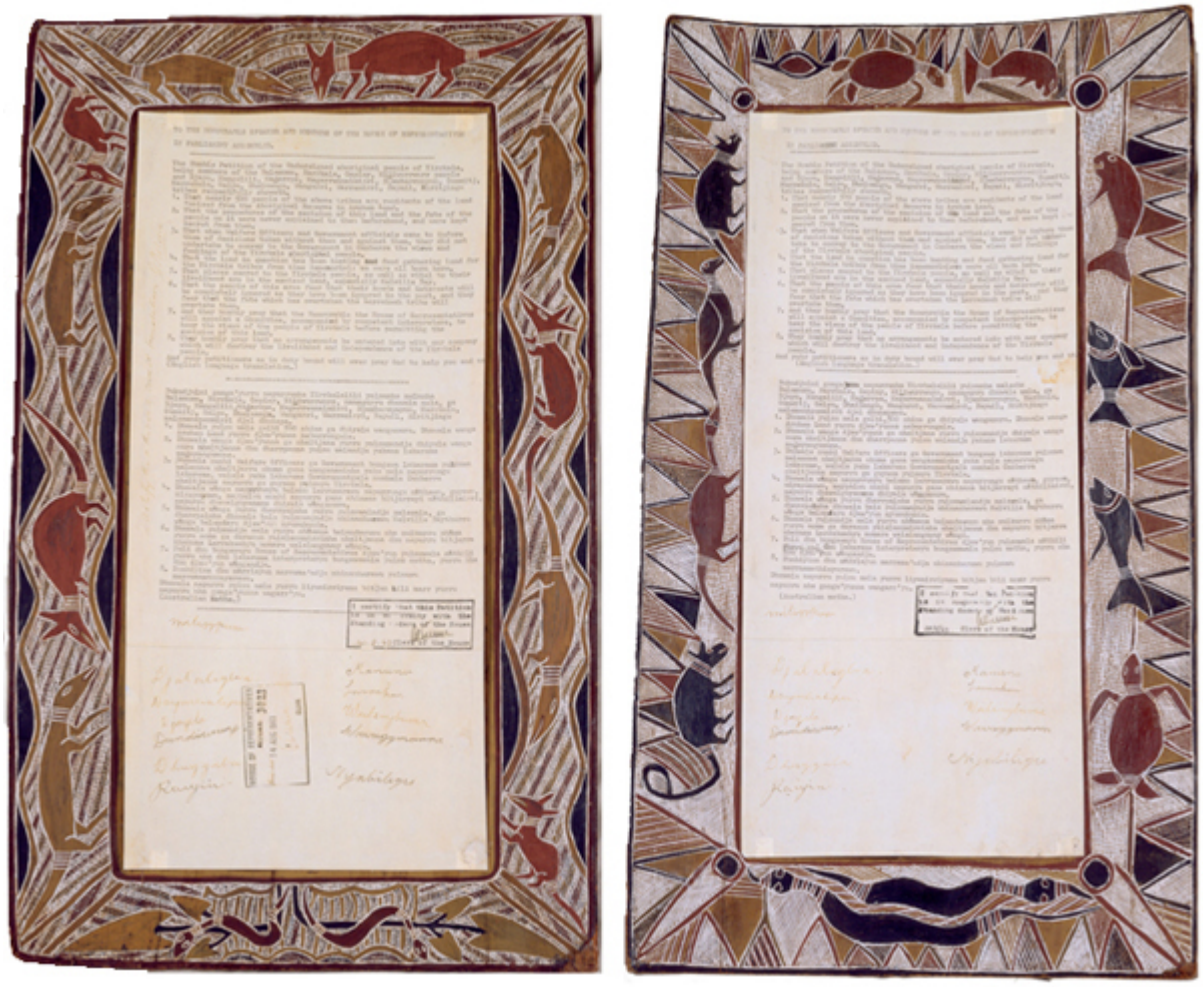
Helping with petitions to the Senate

Petitions can also be presented to the Senate. The requirements for a petition to be presented to the Senate are similar to those that apply to the House of Representatives, with some differences in procedure. Only senators can present petitions to the Senate, so voters will usually approach one of the senators representing their state or territory to present the petition for them. The Senate also accepts petitions that have been posted on a website, with people having 'signed' it by adding their names and addresses online. A petition such as this must still be presented by a senator, and it must take the form of a printout that includes the names and addresses of all the signatories. Go to the **Petitions** weblink in your Resources section to find out what the Senate requirements are for this type of petition.

How effective are petitions?

Parliament receives hundreds of petitions each year and not all will result in action from the government. Petitions alone are usually not enough to force a government to take action, but they can be successful in drawing parliament's attention to an issue. Petitions can gain support because they are a peaceful means of effecting change. Any citizen can organise a petition, but petitions that gain more signatures are more likely to bring about change. Two of the most famous petitions presented to parliament were prepared in 1963 by the Yolngu people of Yirrkala, in the Northern Territory, raising issues relating to their dispossession from their traditional lands. These petitions were made on pieces of bark, with traditional designs painted around the outside and typed petitions glued in the centre. These are now on display at Parliament House in Canberra (see figure 5).

FIGURE 5 The famous Yirrkala petitions were presented on bark, with traditional paintings around the outside.



on Resources

Explore more with this weblink: Petitions

Explore more with this weblink: Change.org

2.3 EXERCISE 1

What can my local member do?

1. Roughly how many weeks per year are members of parliament likely to spend in their electorates?
2. What is the smallest federal electorate in Australia in terms of area?
3. Describe three ways in which members of parliament can assist people in their local community.
4. What is a petition?
5. Why do electorates vary so much in geographical size?
6. Explain three formal requirements of any petition that is to be presented to parliament.
7. How are petitions dealt with once they reach parliament?
8. Use internet sources to find out who is the member for Durack, how many electorate offices that member has and where those offices are located.
9. Who is your local member of federal parliament? Where is his or her office located?
10. Who is your local member of state parliament? Where is his or her office located?
11. Use the **Change.org** weblink in your Resources section to identify a petition on the Change.org website that you believe is worth supporting. Prepare a one-minute speech to convince the rest of your class to support that petition.
12. 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.

2.4 Lobby groups and others

2.4.1 What do lobby and pressure groups do?

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

2.4.2 Lobby groups

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

FIGURE 1 Former government minister Alexander Downer now runs a business that lobbies members of parliament on behalf of business clients.

The Commonwealth Government has established a special **code of conduct** for lobbyists, as well as a register of lobbying businesses and their clients. Almost 300 lobbying businesses are registered, employing more than 600 lobbyists. About 2000 organisations are registered as clients of these lobbyists, including businesses such as the major banks, and major manufacturing and mining companies; sporting bodies such as the Australian Football League and National Rugby League; educational organisations such as universities; and community organisations as diverse as the Salvation Army and the Wilderness Society. All are prepared to pay a fee to have a lobbyist present their views to members of parliament.

FIGURE 2 The big four Australian banks are all clients of lobbying businesses.

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

2.4.3 Pressure groups

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

Environmental groups

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

FIGURE 3 Protecting Australia's natural environment

Great Barrier Reef, Queensland

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

Great Barrier Reef, Queensland

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

Franklin River, Tasmania

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

Franklin River, Tasmania

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

Ningaloo Reef, Western Australia

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

Ningaloo Reef, Western Australia

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

Employee and employer groups

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

FIGURE 4 Unions often conduct campaigns on issues that affect their members.

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

FIGURE 5 Unions and employer organisations represent the interests of their members.

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

FIGURE 6 National union and employer bodies operate as pressure groups to further the interests of their members.

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

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

FIGURE 7 Workers in the hospitality industry are often paid penalty rates for working on weekends.

In campaigns like this, both sides try to influence the government in relation to any possible changes to the law. They also run advertising and publicity campaigns to try and influence the general public, knowing that governments will take notice of what the voters want. If opinion polls show that most voters believe that penalty rates are a good thing, the government would be reluctant to remove them. If opinion polls show that the majority of voters are opposed to penalty rates, the government would be more likely to change the law to abolish penalty rates. Pressure groups like the ACTU and the ACCI can have a strong influence on the final result.

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

DISCUSSION

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

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

2.4 EXERCISE 1

Lobby groups and others

1. What is a lobby group?
2. List two different organisations that use lobby groups to present their views to members of parliament.
3. What is a pressure group?
4. What is the difference between the ACTU and the ACCI?
5. What are penalty rates?
6. Why do lobby groups often employ former members of parliament?
7. Identify and explain two examples where pressure groups have been successful.
8. Use either the **Australian Conservation Foundation** weblink or the **Wilderness Society** weblink in your Resources section to identify two campaigns that your chosen organisation is focusing on.
9. Use internet resources to investigate the activities of Greenpeace and the Sea Shepherd organisation. What are these groups trying to achieve? What activities do they undertake to achieve these aims?
10. Use the **Australian Chamber of Commerce and Industry** weblink in your Resources section to visit the ACCI website and identify one campaign that the organisation is currently engaged in.

11. Use the **Australian Council of Trade Unions** weblink in your Resources section to visit the ACTU website and identify one campaign that the organisation is currently engaged in.
12. Working in small groups, identify two arguments in favour of people being paid penalty rates and two arguments against. Which arguments do you think are the stronger? Is your group opposed to or in favour of penalty rates? Compare your views with the rest of the class.

on Resources

Try out this interactivity: The road
Searchlight ID: int-5432

Explore more with this weblink: Australian conservation foundation

Explore more with this weblink: Wilderness society

Explore more with this weblink: Australian Chamber of Commerce and Industry

Explore more with this weblink: Australian Council of Trade Unions

2.5 Taking direct action

2.5.1 Making their voices heard

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.

2.5.2 Demonstrations

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

FIGURE 1 A demonstration is a way different groups can make their views known to government and the general public.

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

- In the late 1960s, demonstrations against Australia's involvement in the Vietnam War were relatively small, often with only a few hundred protesters. They were largely dismissed by government as the views of a small minority. As more people became aware of the issues, the size of the demonstrations grew, culminating in protest marches in all major cities and towns across Australia in May 1970. More than 200 000 demonstrators marched in total, with 100 000 of these in Melbourne. Within 18 months, Australian troops had been withdrawn from Vietnam. Got to the **Melbourne moratorium march** weblink in your Resources section for more information on the protests against the Vietnam war.

FIGURE 2 In May 1970, marchers outside the Melbourne Town Hall protested against Australia's involvement in the Vietnam War.

- In 2007, the Victorian state government introduced new liquor licensing laws requiring all live music venues to have increased security. For many smaller venues, the additional cost made the provision of live music too expensive and they began closing down their live music activities. When one of the most popular venues, the Tote Hotel in Collingwood, faced closure in early 2010, between 20 000 and 50 000 demonstrators protested in the streets of Melbourne. This led to a relaxation of some of these laws, with small music venues allowed greater flexibility to organise their own security.

FIGURE 3 Protests against the closure of the Tote Hotel in Melbourne led to changes in the security requirements of live music venues.

on Resources

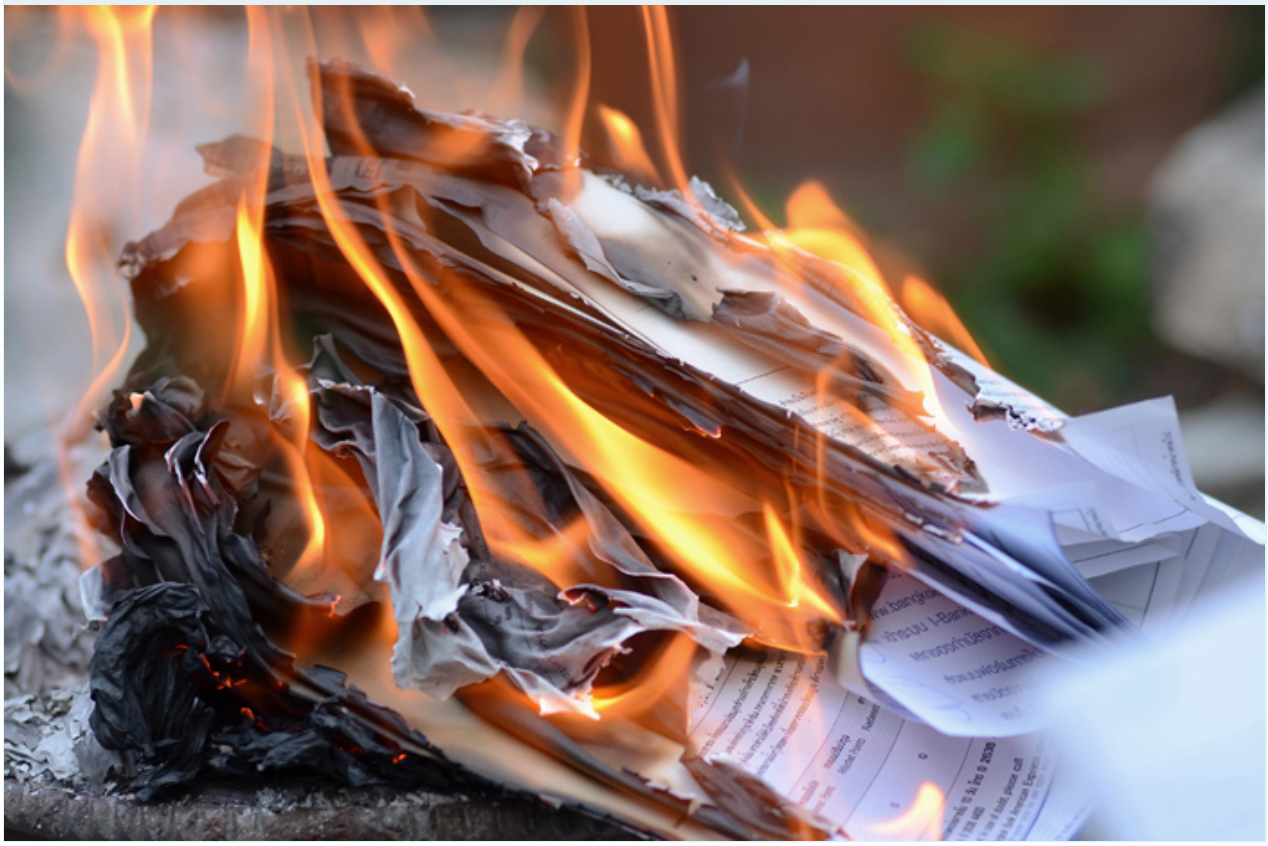
Explore more with this weblink: Melbourne moratorium march

2.5.3 Defiance of the law

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

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

FIGURE 4 Many of those conscripted to fight in the Vietnam War burned their conscription documents and refused to report to the army.



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

FIGURE 5 Protesters set up a blockade in 1982 to prevent earth-moving equipment being brought onto the dam site in Tasmania.

- In 2011, fast-food company McDonald's proposed the building of a fast-food restaurant in Tecoma, a small town in the hills to the east of Melbourne. Most of the local population of about 2100 people opposed the building of the restaurant because they felt it was not appropriate for the character of their community. They formed a pressure group to campaign against the building of the restaurant. The local council refused to provide a permit for the restaurant to be built. McDonald's appealed to the state planning tribunal and was granted a permit. When work commenced in 2013, protesters gathered to try and prevent the demolition of an old dairy that occupied the site of the proposed restaurant. People were arrested for entering the site illegally, including a woman who climbed onto the roof of the dairy in protest. McDonald's was able to continue with its building but local campaigners vowed to continue the fight. Go to the **Tecoma protest** weblink in your Resources section for more detail on this protest.

FIGURE 6 Residents of Tecoma campaigning against the building of a McDonald's outlet in their town in 2013

on Resources

- **Explore more with this weblink:** Tecoma protest
- **Explore more with this weblink:** Franklin River blockade 1
- **Explore more with this weblink:** Franklin River blockade 2

2.5.4 The effectiveness of direct action

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

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

2.5 EXERCISE 1

Taking direct action

1. What is a by-election?
2. How were voters able to influence the major political parties in the by-election in late 1982?
3. How were supporters of live music able to convince the Victorian state government to abandon its strict security requirements for live music venues?
4. What do we mean by 'direct action' as a form of political activity?
5. Why did some young men opposed to conscription break the law? How did they do this?
6. How did the Franklin River protesters defy the law during that campaign?
7. Why were so many people in Australia opposed to this country's involvement in the Vietnam War in the 1960s and early 1970s? Use internet resources to research the main reasons for this opposition.
8. Use internet resources to find out what eventually happened with the McDonald's Tecoma dispute.
    a. Were the protesters able to continue any form of opposition once the outlet was built?
    b. What has happened with the protesters more recently?
9. 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.
    a. Is it appropriate for people to break the law to achieve the changes they want? Give reasons for your answer.
    b. Can you think of occasions when it would definitely not be appropriate to break the law?

2.6 SkillBuilder: Communication and reflection

2.6.1 Tell me

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

A good advertisement:

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

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

2.6.2 Show me

The following advertisement was used to encourage people to attend a rally at Federation Square to support the protest against the building of a McDonald's outlet in Tecoma. The advertisement has these features:

- It uses bright colours, including some of the colours used by McDonald's in its own advertising.
- The key information (time, date and location of the protest) is shown in the centre, in large print, using white lettering on a red background.

FIGURE 1 An advertisement to encourage people to attend a Tecoma McDonald's protest rally

- The original poster included two logos widely used in the Tecoma anti-McDonald's campaign — a burger and the 'golden arches' logo — each with a circle and diagonal line. The circle and diagonal line are widely accepted as negative symbols. For copyright reasons we have been unable to reproduce the McDonald's logo here. However, you can see the original poster by using the **Burger off** weblink in your Resources section.
- The slogan 'Burger off' was widely used in the Tecoma campaign and so has a level of recognition from that campaign. The phrases 'Tecoma goes to town' and 'No Maccas in the hills' also clearly identify the purpose of the protest.
- The information that the MC for the protest is Rod Quantock (a well-known Melbourne comedian), and the phrases 'See the film', 'Hear the music' and 'Meet the people' are all designed to encourage people to attend. It is particularly designed to attract those who do not live in Tecoma but wish to show their support for the campaign.
- The addresses of two websites for further information is also an important part of the advertisement.

on Resources

Explore more with this weblink: Burger off

2.6.3 Let me do it

ACTIVITIES

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

2.7 Review

2.7.1 Summary

Australia is recognised as a democracy because we have the right to elect representatives to parliament to make laws on our behalf. If we do not like those laws, we can vote for different representatives at the next election. While voting in elections is important, it is not the only way of participating in the democratic process. There are lots of other ways in which we can have our voices heard and influence the future of our country.

- All citizens over the age of 18 have the right to vote in Australian elections, although they need to register to take full advantage of this right.
- Social media can be used to spread ideas and opinions, and to gain support for changes in the law.
- Participating in opinion polls allows us to have our views communicated to our members of parliament, and may influence some of their decisions.
- Local members of parliament can assist individuals in their electorates, and can ensure that petitions from the voters are tabled in parliament.
- Lobby groups attempt to influence members of parliament on behalf of businesses and other groups. They aim to have laws passed that favour the group they represent, or have laws changed if they disadvantage that group.
- Pressure groups are groups of people who try to influence public opinion on particular issues. They include groups such as environmental campaigners and trade unions.
- Some groups and individuals attempt to influence parliament by taking direct action. This can include demonstrations and protest marches, as well as defiance of the law.

2.7.2 Your turn

ACTIVITIES

The state government has decided to build a new freeway to connect two existing freeways. The planned route of the new freeway is through parkland that contains sporting grounds, as well as a nature reserve. The local council decides the freeway is inappropriate and votes to not allow it. The local state member of parliament is a government minister, and supports the freeway. The local federal member of parliament has strong links with some of the sporting clubs based in the parkland. The state government is hoping that the federal government will help pay for the cost of the new freeway. Local sporting club members, and supporters of the nature reserve, vow to do everything they can to protect the parkland.

1. How could the people opposed to the freeway use the electoral system to encourage the state member of parliament to change his or her position?
2. If an opinion poll was taken of local attitudes to the freeway, how might that influence the debate over the issue?
3. How might the federal member of parliament be able to assist those opposed to the freeway?

4. The local sporting clubs wish to organise a petition to the federal parliament.
    a. Write the wording you think they could use at the start of the petition. (This is the request for action that is repeated at the top of each page in a formal petition to parliament.)
    b. Explain what will happen to that petition once it is sent to Canberra.
5. How can the state government use lobbying to convince the federal government to help fund the freeway?
6. The opponents of the freeway join together to form a pressure group to campaign against the freeway. What might they call their group? Create a slogan and a logo for the group.
7. Identify two ways in which the newly formed group might use social media to help its campaign.
8. The group decides to stage a demonstration on the site of the proposed freeway. What should its members do to make sure the demonstration is effective?

on Resources

Try out this interactivity: Participating in Australia's democracy crossword
Searchlight ID: int-5317

Chapter 3: Where do our laws come from?

Contents

3.1 Overview

3.2 How do parliaments make laws?

3.3 How do courts make laws?

3.4 What is the difference between criminal law and civil law?

3.5 SkillBuilder: Group consensus

3.6 How is customary law used in Indigenous communities?

3.7 Review

Note to students and teachers: This PDF has been provided as an offline solution for times when you do not have internet access or are experiencing connectivity issues. It is not intended to replace your eBook and its suite of resources. While we have tried our best to replicate the online experience offline, this document may not meet Jacaranda's high standards for printed material. Please always refer to your eBook for the full and latest version of this title.

jacaranda
A Wiley Brand

3 Where do our laws come from?

3.1 Overview

3.1.1 Laws protect us

on Resources

Watch this eLesson: What if we had no laws?
Searchlight ID: eles-2264

What would happen if there were no **laws**? People would do as they pleased. There would be riots, crime and chaos. It would not be safe to go 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 and, if it occurs, to punish any person who participates in it.

Learning objectives

Students will investigate:

- how laws are made in Australia through parliaments (statutory law) and through the courts (common law)
- the types of law in Australia, including criminal law and civil law, and the place of Aboriginal and Torres Strait Islander customary law.

3.1 EXERCISE 1

Starter Questions

1. How do you feel when you look at the image in figure 1?
2. List the laws that you can see being broken.
3. Why do we need laws?
4. Who do you think makes these laws?

3.2 How do parliaments make laws?

3.2.1 The law-making process

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

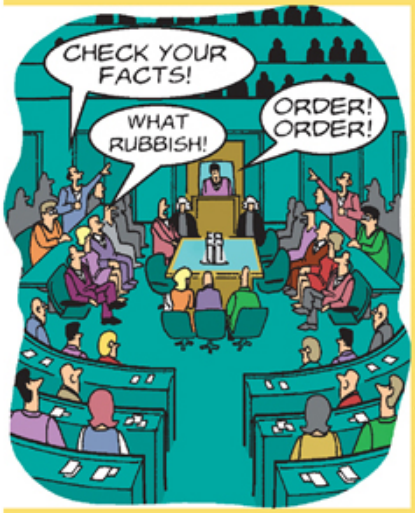
A law made by parliament is called **legislation**, a statute or an **Act**. Before any proposed laws can become Acts of Parliament, they have to be debated and passed by both houses of parliament and then approved by the **Crown**. During the debate in parliament, the government explains why the law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

FIGURE 1 How laws are made in Parliament

STEP 1
A proposed new law, or changed law, is discussed in Cabinet. Often, people in Australia put pressure on the government to change something. A decision is then made on what to do.

STEP 2
If the government decides to proceed, government lawyers are asked to draft a Bill. A Bill is basically a 'first draft' of an Act of Parliament.

STEP 3
Copies of the Bill are given to all members of the lower house (*House of Representatives*). The members read the material in their own time. This is known as the 'First Reading'.

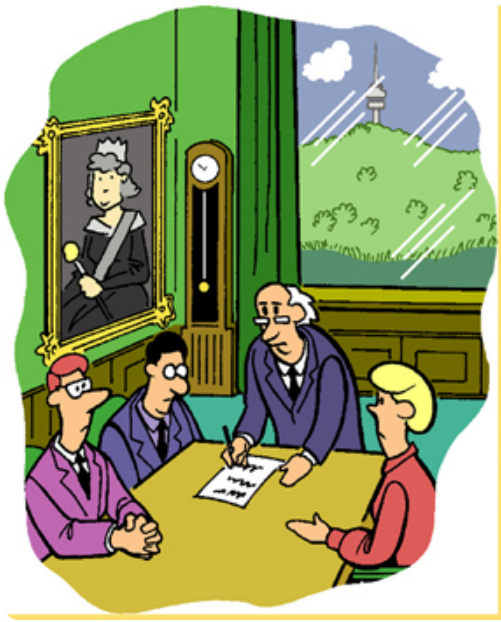


STEP 4
The Bill goes through a 'Second Reading'. During this stage, the responsible minister (for example the Minister for Immigration if the Bill is to do with migrants) describes the main purpose and likely benefits of the Bill. Speakers from the government and opposition say what they think about it. Debates may take weeks. Then there is a vote. If the majority vote in favour, the Bill moves to the next stage in the process.

STEP 5
The Bill is debated again, this time bit by bit. This stage is known as Consideration in Detail as each part of the bill is discussed in detail. Changes to the Bill may be made.

STEP 6
The Bill, including any changes made during step 5, goes through a 'Third Reading' in the house. A vote is taken. If the majority vote for it, the Bill is passed through to the Senate.

STEP 7
The upper house (the Senate) goes through similar processes to those outlined in steps 3 to 6. If the Senate decides to change something, the Bill is referred back to the House of Representatives for another debate and vote. Sometimes the Senate may refuse to approve a Bill. If the Senate votes to approve the Bill, it is sent to the Governor-General for royal assent.



STEP 8
If the Governor-General approves and signs the Bill, it becomes an Act of Parliament. It is proclaimed and legally binding for all Australians.

CASE STUDY

The carbon tax

The federal parliament in 2011 passed laws introducing a price on carbon, called a carbon tax. The tax was proposed by the Gillard government to address climate change. Under the carbon pricing mechanism, the businesses that emit the largest amounts of greenhouse gases (including electricity generators, gas suppliers, and resources and manufacturing companies) pay for each tonne of carbon they release into the atmosphere. The cost was initially set at $23 per tonne, to be increased gradually until 2015.

The Labor Party introduced several bills into the parliament, including the Clean Energy Bill, to support the carbon tax legislation. The bills passed the lower house and the upper house at the end of 2011, so the carbon pricing mechanism became law. However, when the Liberal Party was voted into power in 2013, Prime Minister Tony Abbott promised to remove the carbon tax and in July 2014 he successfully passed legislation in the Senate to do so. The Abbott government's repeal of the carbon tax makes Australia the first country in the world to abolish a price on carbon.

FIGURE 2 Legislation establishing the carbon tax was introduced by federal parliament in response to the need to address climate change.

3.2 EXERCISE 1

How do parliaments make laws?

1. What is statute law?
2. What is the difference between a Bill and an Act of Parliament?
3. What is meant by the term ‘royal assent’?
4. 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.
5. Read the case study ‘The carbon tax’ in this section and answer the following questions:
    a. Who had the idea for the laws that established the carbon tax?
    b. What government policy did this law address?
    c. How did this idea become a law?
    d. Research the development of the legislation to create the carbon tax. Write down the arguments supporting the tax and the arguments opposing it.
    e. What arguments were used by the Abbott government to abolish the carbon tax in 2014?
6. Working in pairs, use the **Commonwealth Parliament** weblink in your Resources section to find out about a new law that is going through parliament at the moment.
    a. Briefly describe the law you have found and explain what stage it has reached on your flowchart.
    b. In your opinion, will this proposed law be changed much on its way through parliament? Give reasons for your answer.
    c. Share your findings with another pair of students.
7. Use internet resources to help you to discover which new or proposed laws your local member of parliament (MP) is involved with. Use this information to email your MP your ideas about this new or proposed law.
8. What would happen if the Governor-General refused to give royal assent to a Bill?
9. In your view, is the process of law making in Australia fair? Does law making by parliament give ordinary people enough opportunity to have their say when new laws are being made? Explain your answer.

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

on Resources

Explore more with this weblink: Commonwealth Parliament

3.3 How do courts make laws?

3.3.1 Common law

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

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

CASE STUDY

Finders keepers

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

Money found buried on private property

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

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

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

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.

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

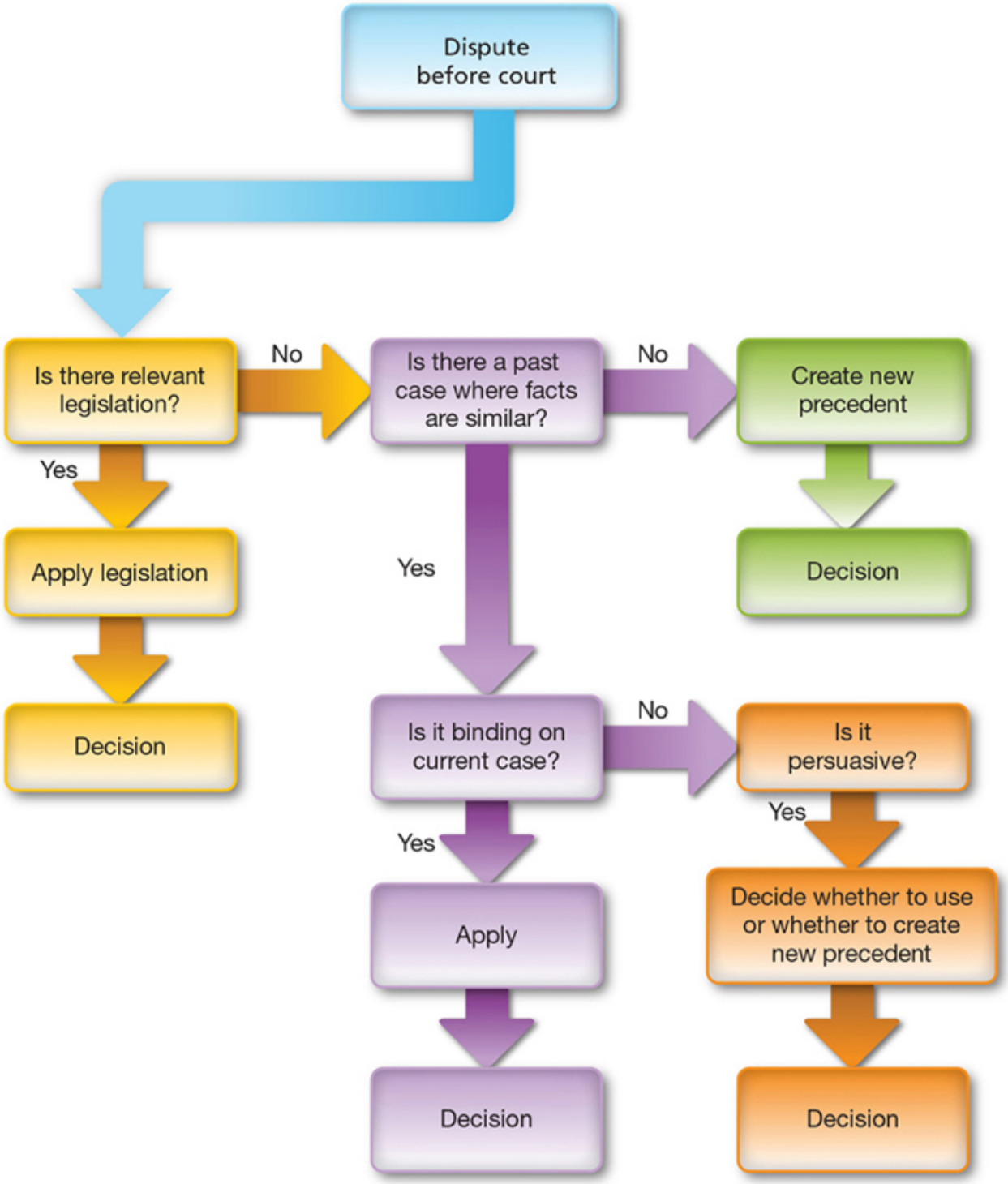
The judge hearing the case decided that the land was regularly accessed by the public and that the police officer could keep the gold ingot because his job was to direct traffic, not to find lost things. Any other member of the public might have found the ingot, and the fact that the officer was on duty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

3.3.2 Precedent

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

Precedent works because of our court hierarchy.

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

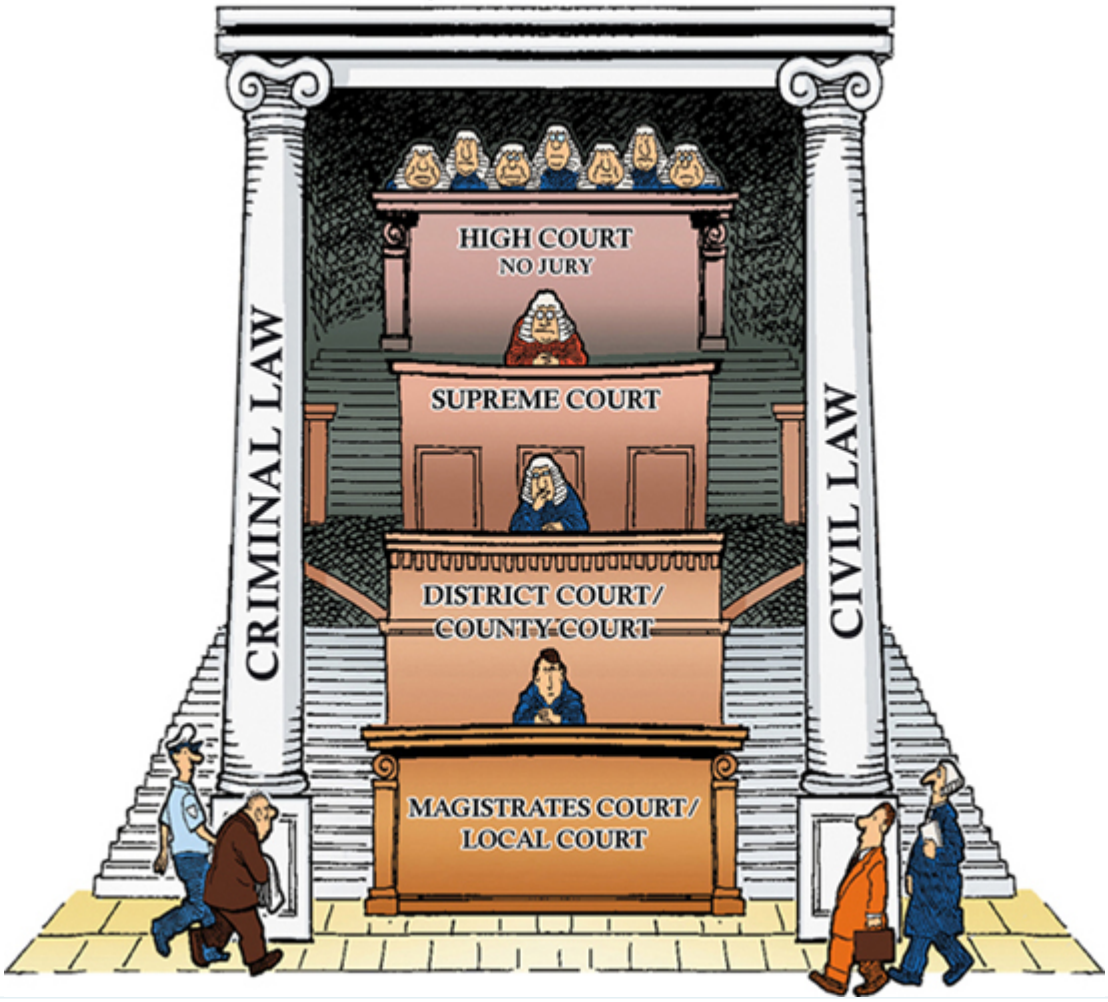


3.3.3 Australia's court hierarchy

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

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

FIGURE 3 The Australian court system



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

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

DISCUSSION

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

on Resources

Try out this interactivity: The court room
Searchlight ID: int-1206

3.3 EXERCISE 1

How do courts make laws?

1. What is common law?
2. What is precedent?
3. List the courts in your state's court hierarchy, from highest to lowest.
4. From where did common law originate?
5. Outline the similarities and differences between the cases in the case study, 'Finders keepers'.
6. Explain how the judges in the case study 'Finders keepers' made changes to the law.
7. Using the internet or newspapers, find an article that reports on a new principle of law being made through a landmark court case. Investigate how this case proceeded through the courts.
8. What would happen if a judge decided to ignore a precedent and make a completely new decision?
9. Consider the following cases:
    - Case 1 — a former barmaid sues the hotel where she used to work. She contracted throat cancer caused by breathing environmental tobacco smoke during the course of her employment. The court awards her compensation of more than $400 000.
    - Case 2 — a former pie-seller sues the sports stadium where he used to work. He contracted throat cancer caused by breathing environmental tobacco smoke during the course of his employment. The court uses case 1 as a precedent.

- Case 3 — a waitress sues the restaurant where she works. She contracted throat cancer caused by smoking cigarettes for 30 years.
- Case 4 — a former miner sues the mining company he used to work for. He was injured in a fall.
  a. In case 2, should the former pie-seller receive compensation? Explain your answer.
  b. In case 3, should the court use the first two cases as precedents and provide compensation? Explain your answer.
  c. In case 4, are any of the first three cases a precedent for this situation? Should the court provide compensation? Explain your answer.

3.4 What is the difference between criminal law and civil law?

3.4.1 Criminal vs. civil

There are two main types of law in Australia:

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

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

3.4.2 Criminal law

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

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

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

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

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 **defendant** is determined by a jury.

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

Summary offences

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

3.4.3 Civil law

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

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

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

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'.

CASE STUDY

Civil v. criminal law

Case 1

The family of a young girl who became ill after eating a chicken wrap sued KFC in 2012. Seven-year-old Monika Samaan suffered severe brain damage as a result of salmonella poisoning. The family sued in common law negligence (for breach of duty of care). Monika's family was awarded more than $8 million in damages and costs by the New South Wales Supreme Court.

Case 2

Lynn Matia, a security guard, was found guilty of killing a man with a single punch following a brawl in 2012. The Sydney District Court heard that the victim, his brother and friends were refused entry into a hotel in Kings Cross. The Crown prosecutor told the court that after a fight broke out, the bouncer hit the victim, knocking him to the ground. The judge sentenced the security guard to a minimum of 18 months' jail.

on Resources

Try out this interactivity: Time out — civil and criminal law
Searchlight ID: int-1402

3.4 EXERCISE 1

What is the difference between criminal law and civil law?

1. Define civil law and criminal law.
2. List some common crimes. List some civil wrongs.
3. What is the difference between:
    a. plaintiff and defendant
    b. indictable offences and summary offences
    c. burden of proof and standard of proof

   d. beyond reasonable doubt and balance of probabilities?

4. Outline the differences between civil law and criminal law.
5. Use the case study ‘Civil v. criminal law’ earlier in this section to outline the differences between criminal law and civil law. Copy and complete the table below:
6. Select a partner and cut out three newspaper articles describing civil law cases and three describing criminal law cases. Paste these on a large sheet, then discuss and list the laws being broken in each case.
7. Do the following cases involve criminal law, civil law, or both? Copy and complete the table below by writing each case into the appropriate column.
   a. You are held up at knifepoint and your purse or wallet is stolen.
   b. A woman slips on a wet supermarket floor and breaks an ankle.
   c. A man is convicted of driving with a blood alcohol content of 0.08.
   d. You find maggots in a tuna sandwich you just bought from a café.
   e. A neighbour's loud music at 3 am is disturbing you.
8. Think of a case that might involve both criminal law and civil law. What part of the case is criminal law? What part of the case is civil law?

3.5 SkillBuilder: Group consensus

3.5.1 Tell me

What is a group consensus?

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

Why is a group consensus useful in civics and citizenship?

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

Model

CASE STUDY

Find the crime

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

FIGURE 1 What crime has been committed?

Decide if a crime was committed

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

Decide if the defendant is guilty or not guilty

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

Elements of a good group consensus

A good group consensus:

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

3.5.2 Show me

How to reach a group consensus

You will need:

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

Procedure:

Step 1

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

Step 2

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

Step 3

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

Step 4

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

Step 5

Discuss the advantages and disadvantages of each solution.

Step 6

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

Step 7

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

3.5.3 Let me do it

ACTIVITIES

DEVELOPING MY SKILLS IN REACHING A GROUP CONSENSUS

Consider the following case studies:

- Case 1 — Fred is talking to Bob over the back fence about his tomatoes and calls him a silly old fool. No-one else hears the comment.
- Case 2 — Phil is found asleep in the driver's seat of his parked car by a police patrol. He has been drinking heavily.

- Case 3 — Masako holds a black belt in karate. When stopped by a would-be mugger intent on robbery, she kicks the robber and breaks his arm.
- Case 4 — Petros likes to take a shortcut to work by cutting through Karen's vacant corner block of land. He has been doing this for over five years.
- Case 5 — Wayne is a spectator at a football match. On seeing a bad error of judgement by umpire Thompson, he verbally abuses Thompson in a loud and clear voice.
- Case 6 — Daniel gets involved in an argument with Martin. He becomes so angry that he threatens to punch Martin on the nose. Martin believes that he means it.
- Case 7 — While digging a garden in her backyard, Rachel breaks a water pipe and floods Mrs Paize's henhouse next door, drowning her prize rooster.
- Case 8 — Nerida's house has been burgled several times. She sets a trap and shoots Tom as he enters with the intent to burgle again.

1. Working in groups of three or four, choose one of the case studies. Decide whether the case involves a criminal action, a civil action (or perhaps both), or even no action at all. State the crime or the civil wrong that you think is involved. (Use the crimes and civil wrongs listed in subtopic 3.4 as a guide.)
2. As a group, come to an agreement about whether or not you think the defendant is guilty or not guilty, or liable or not liable.
3. Explain your decisions to the rest of the class, outlining how you reached a consensus on those decisions.

Questions

1. How did you make decisions in your group? Did everyone contribute equally?
2. How democratic were your group decisions? Did someone take charge while others stayed silent? Did everyone start by contributing ideas before someone with a more dominant personality won out?
3. In your opinion, what does reaching a consensus mean?

DISCUSSION

How easy was it to come to consensus in your group? Discuss what your group did well and what could have been done to improve decision making in your group. Examine the values and beliefs of members of your group; were they different or similar to those of your own?

3.5 EXERCISE 1

How is customary law used in Indigenous communities?

1. What is meant by the term 'customary law'?
2. What is the Dreamtime (or the Dreaming)?
3. Give an example of legislation that recognises customary law in Australia.
4. List as many reasons as you can to explain why Aboriginal and Torres Strait Islanders find customary laws significant. Compare your reasons with other class members. Write down any new ideas.
5. Read the case study 'Court imposes customary punishment' in this section. Outline the way in which the judge incorporated customary law into the sentence imposed on Mr Walker.
6. Use the internet or a newspaper to find a recent case where a court has recognised customary law when sentencing an Indigenous Australian.
7. Work in groups to investigate one of the circle sentencing courts.
    a. How does the court work and what sort of cases does it sentence?
    b. Identify one case that has been resolved by a circle sentencing court. Prepare a summary of the facts of the case and the judgement made by the court.
8. Create a list of pros and cons for recognising customary law as part of Australia's legal system. Do you think that customary law should be recognised?
9. Working in groups of three, 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?

3.6 How is customary law used in Indigenous communities?

3.6.1 What is customary law?

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

3.6.2 The Dreaming

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

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

3.6.3 Dreaming stories

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

3.6.4 Dispute resolution

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

3.6.5 Recording customary law

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

FIGURE 2 Indigenous Australia is made up of many different language groups, each with its own customary laws, languages, beliefs and traditions.

3.6.6 Customary laws and Australian law

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

CASE STUDY

Court imposes customary punishment

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

FIGURE 3 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.

3.6.7 Alternative sentencing for Indigenous offenders

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

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

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

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

3.7 Review

3.7.1 Summary

Laws establish guidelines for behaviour, protect us and settle disputes. They are used to give consequences to people who break them. Laws are made by our federal and state parliaments (statute law) and by our courts (common law). Australia has two main types of law — criminal law, which protects us from individuals who break a law against the community or society as a whole; and civil law, which involves a dispute between individuals. Customary law is significant for Aboriginal and Torres Strait Islander peoples. It provides the guidelines for behaviour developed by Indigenous peoples over the course of many years, and has been passed on by word of mouth.

- 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.
- 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.
- Criminal law protects the community as a whole. It incorporates crimes including robbery, manslaughter and murder. The police or a representative of the government (the prosecution) takes the accused (the defendant) to court. There, a consequence, such as a fine or imprisonment, may be imposed.
- Civil law protects the private rights of individuals. It incorporates civil wrongs including negligence, defamation and breach of contract. A person who feels that a civil wrong has been done to him or herself (the plaintiff) will sue the other party (the defendant) in court to repair the harm caused, often seeking damages.
- Aboriginal and Torres Strait Islander customary law originated in the Dreaming and provides guidance for how to behave and live. Disputes or incidents are resolved by the elders, who agree on an appropriate solution or consequence

3.7.2 Your turn

ACTIVITIES

1. Go to the **Hoddle Street killer** weblink in your Resources section to read an article about Julian Knight and then answer the following questions:
    a. Who had the idea for this new legislation?
    b. What was the purpose of this new law?
    c. Explain what will need to happen before the idea for the law can actually become legislation.
    d. What government policy do you think this new law is enacting?
    e. Do you think everyone, including mass murderers, should have a chance to be released from prison at some point; or do you think some people's crimes are so bad that they should never be released from prison?

2. Look at the cartoon in figure 1.
   a. List three criminal incidents you can see.
   b. List all the civil wrongs that you can see.
   c. What are the consequences of breaking criminal law? What are the consequences of breaching civil law?

FIGURE 1 Civil wrongs versus crimes

3. Examine the Aboriginal artwork in figure 2. This artwork depicts stories from the Dreaming. In the image, you can see a female figure, Barrginj (pronounced *barr-jeen*). She is the wife of Namarrgon (*narm-arr-gon*), an important Creation ancestor. Their children, called the Alyurr, are shown below her. The children gave the local Aboriginal people their language and laws during the Creation time.

FIGURE 2 Artwork from Nourlangie Rock, Kakadu National Park, Northern Territory

   a. What is the Dreaming?
   b. Explain how Aboriginal and Torres Strait Islander peoples believe that customary law originated from the Dreaming.
   c. In what ways is customary law significant for Aboriginal and Torres Strait Islander peoples?

4. You will role play a mock trial of the following cases in your classroom:
   - Case 1 — a student who attends a school with a no make-up policy arrives at class wearing bright pink lipstick. She is immediately sent home. The following day another student arrives at school wearing clear nail polish.
   - Case 2 — four boys attend a school that bans playing ball sports in the main assembly area. They are caught playing football in the assembly area at lunchtime. Their ball is confiscated and they are sent home. The following day, two boys use a tennis ball to play four square in the assembly area an hour before school starts. They were the only students in the school at the time but they were spotted by the deputy principal.

   Begin your role play by dividing up the courtroom roles as follows:

   - judge
   - jurors (twelve)
   - prosecutor (team of three)
   - defence (team of three)
   - accused
   - witnesses.

   In case 1, the defence team will represent the second student and argue that she should not be sent home because clear nail polish should be treated differently from bright lipstick. The prosecution team will argue that the student should be sent home because nail polish is still make-up.

   In case 2, the defence team will represent the two boys and argue that they should not be sent home because playing with a tennis ball, at a time when no others are present, is not dangerous. The other team (the prosecution) will argue that they should be sent home because four square is still a ball sport.

on Resources

Explore more with this weblink: Hoddle Street killer

Try out this interactivity: Where do our laws come from? crossword

Searchlight ID: int-5318

Chapter 4: Religion in Australian society

Contents

4.1 Overview

4.2 Judeo-Christian traditions

4.3 Evolution of Australian religion

4.4 The influence of religion on Australian society

4.5 SkillBuilder: Deconstruct/reconstruct method

4.6 Review

Note to students and teachers: This PDF has been provided as an offline solution for times when you do not have internet access or are experiencing connectivity issues. It is not intended to replace your eBook and its suite of resources. While we have tried our best to replicate the online experience offline, this document may not meet Jacaranda's high standards for printed material. Please always refer to your eBook for the full and latest version of this title.

jacaranda
A Wiley Brand

4 Religion in Australian society

4.1 Overview

4.1.1 People have different beliefs

on Resources

Watch this eLesson: What do we believe?
Searchlight ID: eles-2289

In 2001, a curious incident occurred when the Australian census was conducted. A national census is a survey in which people are asked numerous questions ranging from their occupation to their religion. According to data from the Australian Bureau of Statistics, more than 70 000 Australians listed their religion as 'Jedi'. This mock response was part of a worldwide movement involving citizens of several other countries including Canada, New Zealand and the United Kingdom. In case you are unaware, Jedi is not a religion at all. The Jedi are characters from the famous science fiction movie *Star Wars*. Although some people do actually follow a set of beliefs similar to those in the *Star Wars* series, the majority of the 70 000 Australians who identified themselves as Jedi did so merely as a joke.

While it is a funny story, the 2001 Jedi stunt raises interesting questions about religion and its place in Australian society. What are the major religions followed in Australia and why do these patterns exist? You may also wonder what kind of impact religion can have on Australian society and culture. Take a look at the list of religions below and see how many of their accompanying symbols you recognise.

on Resources

Explore more with this weblink: Jedi religion
Try out this interactivity: Religious symbols
Searchlight ID: int-5663

Learning objectives

Students will investigate:

- how Australia is a secular nation
- the values and beliefs of religions practised in contemporary Australia, including Christianity.

4.1 EXERCISE 1

Starter Questions

1. Make a list of the religions that you have heard of. Work with the person next to you and place a tick next to the religion if you or your classmate knows someone who practises this religion.
2. What role does religion play in your life?
3. Do you think it matters if governments are religious?
4. Should Jediism be classified as a religion? Explain your answer.

4.2 Judeo-Christian traditions

4.2.1 Religion from across the seas

Since European settlement of Australia, Christianity has been the dominant religion of our country. Before this time, Indigenous Australian peoples worshipped various deities and had a deep spiritual connection to the natural world through their teachings from the Dreaming. As European influence over Australia spread, so too did that of religion. In this section, we will examine the development of Judeo-Christian traditions in Australia and how they influenced early colonial society.

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

4.2.2 Origins of Judeo-Christian religion in Australia

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

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

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

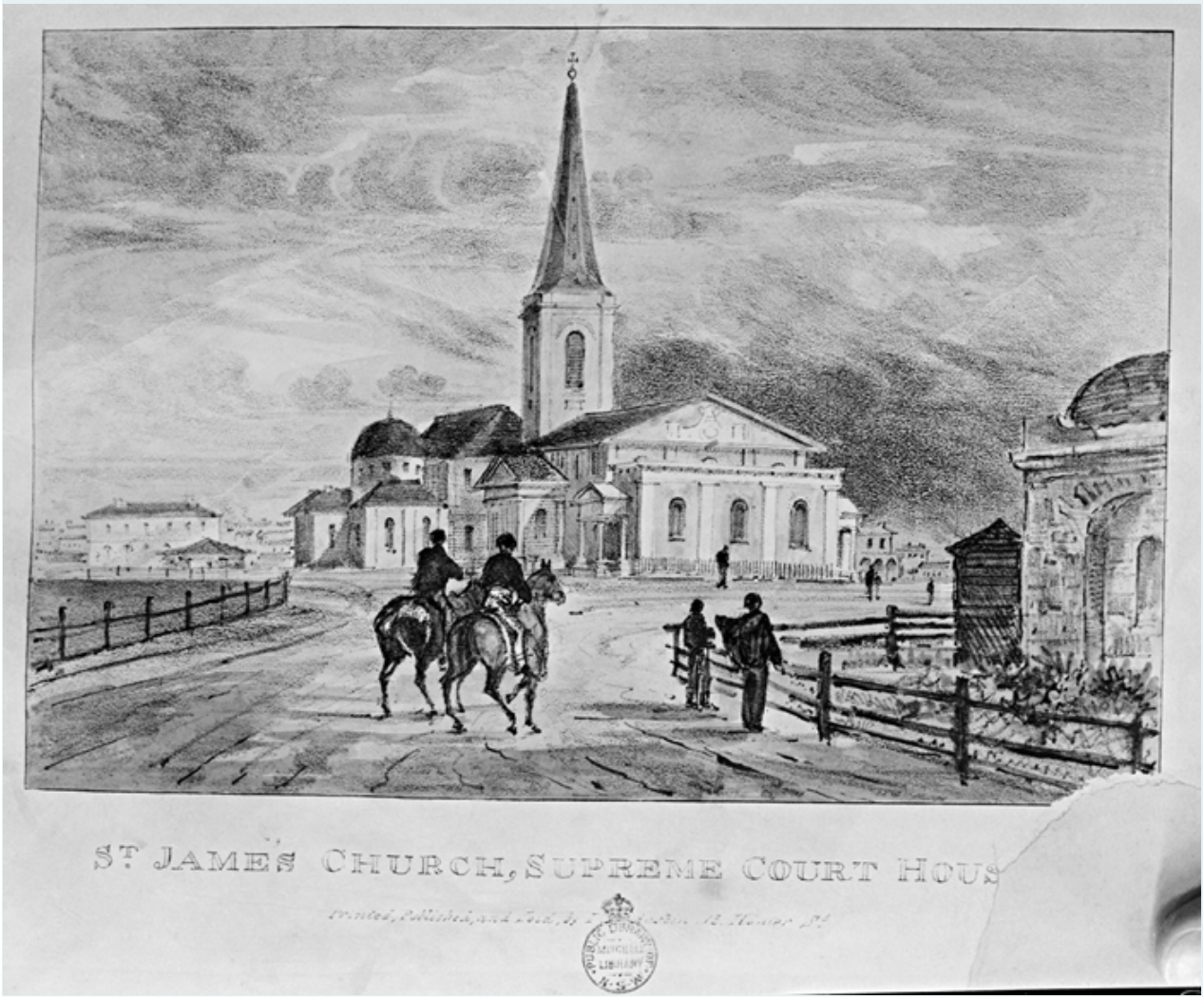


FIGURE 3 *A government jail gang* (1830), by Augustus Earle. The vast majority of convicts were Christian.

4.2.3 Religious activity in colonial Australia

As the presence of religion in colonial Australia increased, so too did its influence. Churches became heavily involved in education and the provision of welfare to convicts and settlers alike. Religious and charitable organisations that still function in modern Australian society have their origins in this historical period. The Sisters of Charity is one such example. The first Catholic nuns in Australia (1838), the Sisters of Charity were concerned with the health and safety of workers in so-called female factories such as the one located in Parramatta. Female convicts and children were forced to work and live in appalling conditions in these factories. The Sisters of Charity fought for better working conditions and for the rights of these convicts. The organisation remains active in Australia today and still fights for social justice. There have been hundreds of religious groups that have played similar roles throughout Australia's history. These groups show how Australia's Judeo-Christian traditions have influenced our communities and the lives of Australians.

4.2 EXERCISE 1

Judeo-Christian traditions

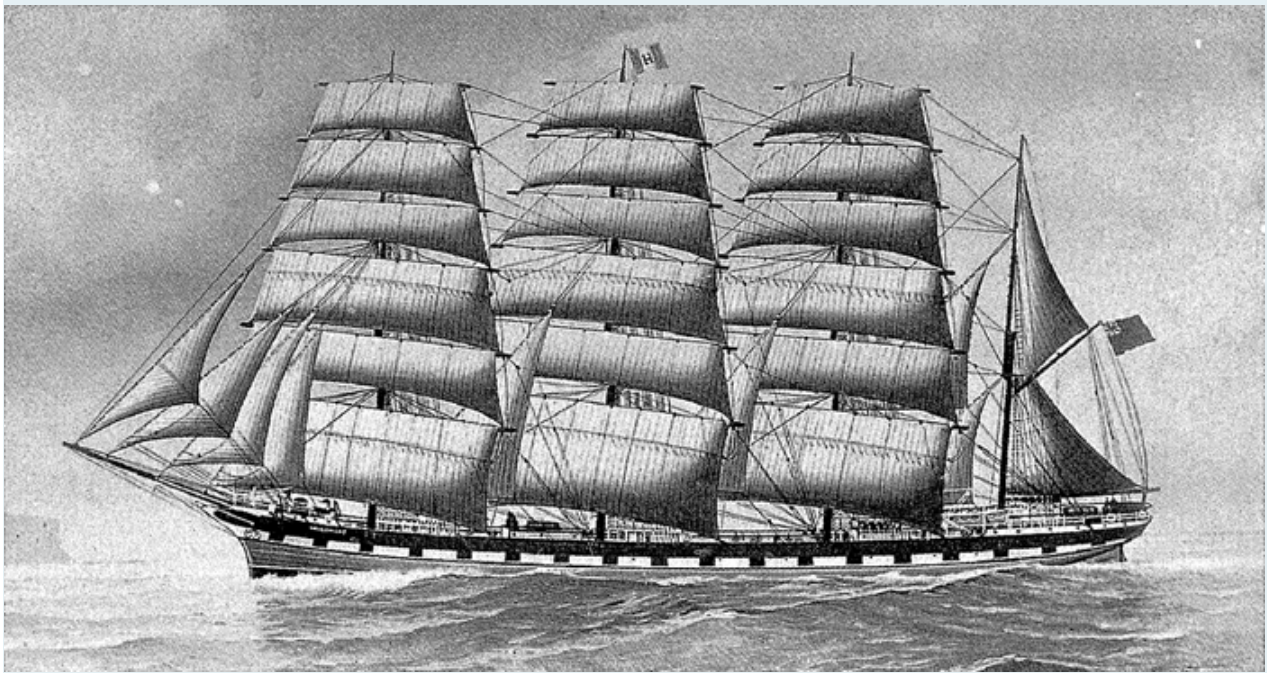
1. Before European settlement, what religion did Indigenous Australians follow?
2. We know a lot about each individual convict from records that were kept. What piece of relevant information was not recorded?
3. How were colonial government officials required to show their allegiance to the Church of England?
4. How did religious organisations influence early colonial life? Provide an example.
5. Choose a religious organisation to study (St Vincent de Paul, The Salvation Army and CARE Australia are some examples). Use the internet to research your organisation's history in Australia and the influence it had on early Australian society.

4.3 Evolution of Australian religion

4.3.1 Immigration and religion

Many changes in Australian society and culture can be linked to immigration patterns. These may be superficial changes such as the rise in popularity of a particular cuisine, or they can be more meaningful such as the rise in popularity of a religion. Throughout Australia's immigration history, new migrants have brought with them the culture and religion of their homelands. In this section, we will identify the religions practised in contemporary Australia and investigate their development and impact on society.

FIGURE 1 The *Hougoumont* was the last convict ship to land in Australia.



Since the first European settlement was established in 1788, new migrant groups have influenced religious observance in Australia. The relationship between immigration and religion can be seen at various times throughout Australia's history. As we have already learned, Christianity and its many denominations were first introduced to Australia by convicts and colonial settlers. Today, 61.1 per cent of Australians identify as being Christian. The introduction of other religions to Australia has followed various immigration trends, which we will now examine.

Judaism

FIGURE 2 The first synagogue in Australia, York Street, New South Wales (1844). It is shown in the far left of the painting.

Together with Christianity, Judaism was one of the first religions practised in colonial Australia. Approximately 8 to 16 convicts on the First Fleet were Jewish, and the first Jewish free settlers arrived in the early nineteenth century. The number of Jewish immigrants continued to increase, with the majority initially coming from Britain and later from Germany. In 1844, the first Australian synagogue was built in Sydney (see figure 2), with places of worship in Hobart, Melbourne and Adelaide soon to follow. As with many migrant groups, the Jewish population in Australia increased during the gold rush. However, the biggest period of Jewish immigration occurred during and directly after World War II. Australia was one of the main countries of destination for Jews fleeing the atrocities of Nazi Germany. In fact, outside of Israel, Melbourne has the largest population of **Holocaust** survivors in the world. Today, Australian Jewish communities are small yet vibrant, with only 0.5 per cent of all Australians identifying themselves as being Jewish.

Buddhism

FIGURE 3 The Nan Tien Temple in Wollongong, New South Wales

The first Buddhists in Australia were Chinese immigrants who arrived during the gold rush. Although many of these people returned home after the mines were exhausted, some remained in Australia and continued to actively practise Buddhism. A second wave of early Buddhist immigration occurred in the 1870s with Sri Lankan nationals arriving to work in the sugar plantations of northern Queensland. Permanent Buddhist communities were established during this time, but it was not until nearly a hundred years later that the popularity of Buddhism began to explode. From the 1970s, Australia witnessed huge increases in Asian immigration. Many of these new immigrants were practitioners of Buddhism. In contemporary Australia, Buddhism is our country's fastest growing religion with 2.5 per cent of Australians practising this religion.

Islam

FIGURE 4 A camel being lifted off a boat in Port Augusta, South Australia, in 1920

It is likely that Australia has been known to the Islamic world for hundreds of years. There is even evidence to suggest that Islamic scholars knew about Australia as early as 820 CE! We know for certain that Indigenous Australian peoples traded with the Macassans (from what is now Indonesia) who had converted to Islam in the seventeenth century. While there are records of a small number of Islamic convicts, the main period of Islamic immigration occurred with the arrival of the Afghan cameleers in the 1860s. With their expert knowledge of desert conditions, the cameleers were heavily involved in major construction projects across rural Australia. Despite its early success, Muslim immigration was severely restricted by the **White Australia** policy of the twentieth century. Since the official removal of this policy in 1973, Muslim immigration and the practice of Islam have steadily increased in Australia. Today, approximately 2.2 per cent of Australia's population is Muslim and 62 per cent of these people were born overseas.

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 2011 Australian census, Hindu practitioners accounted for 1.3 per cent of the population.

on Resources

Explore more with this weblink: Hindu Council

Atheism

Religion is not a significant part of life for all Australians. An atheist is someone who does not believe in the existence of god and therefore in the need for religion. Approximately 15.5 per cent of Australians describe themselves as being atheists or as having no religion.

4.3 EXERCISE 1

Evolution of Australian religion

1. When did the largest period of Jewish immigration take place?
2. There were two early waves of Buddhist immigration. During the first, Chinese migrants came to seek their fortune in the goldfields. Where did Sri Lankan Buddhists work upon their arrival?
3. Explain how the White Australia policy influenced the expansion of Islam and Hinduism in Australia.
4. Every paragraph in this section states the percentage of Australians who follow the religion being discussed. (For example, 2.2 per cent of Australians identify as being Muslim.) Use these percentages to create a graph of your choice showing the main religions followed by Australians today.
5. The number of Australians who call themselves atheists is increasing. Why do you think this is occurring?

4.4 The influence of religion on Australian society

4.4.1 Judeo-Christian influences

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

4.4.2 Religious values

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

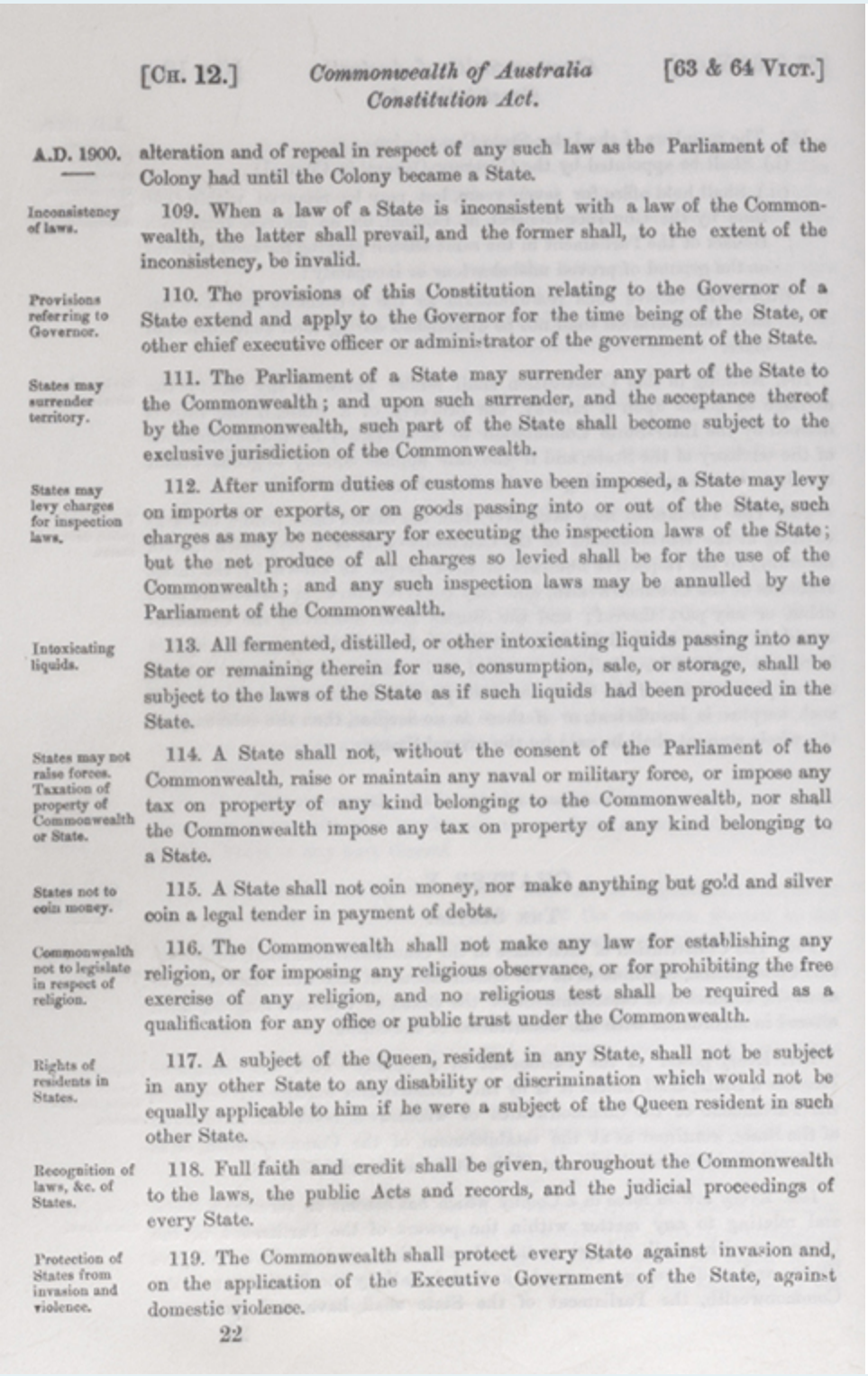
4.4.3 Religion and the law

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

4.4.4 Religion and democracy

Religion has influenced the democratic rights of Australian citizens, despite our Constitution prohibiting parliament from discriminating against people because of their religion. Australian governments are officially secular. This means that governments cannot favour one religion over another, and cannot stop people from following the religion of their choice. In this way, a secular government is one that permits religious freedoms, and therefore also permits and encourages democracy. Although secularism is not related to Australia’s Judeo-Christian traditions, the freedom of religion provisions in our Constitution have allowed religion to flourish in our communities (see figure 1).

FIGURE 1 Australia is legally a secular country — section 116 of our Constitution makes it illegal for the Australian government to promote or prohibit religious activity.



[CH. 12.] *Commonwealth of Australia Constitution Act.* [63 & 64 VICT.]

A.D. 1900.

alteration and of repeal in respect of any such law as the Parliament of the Colony had until the Colony became a State.

Inconsistency of laws.

109. When a law of a State is inconsistent with a law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid.

Provisions referring to Governor.

110. The provisions of this Constitution relating to the Governor of a State extend and apply to the Governor for the time being of the State, or other chief executive officer or administrator of the government of the State.

States may surrender territory.

111. The Parliament of a State may surrender any part of the State to the Commonwealth; and upon such surrender, and the acceptance thereof by the Commonwealth, such part of the State shall become subject to the exclusive jurisdiction of the Commonwealth.

States may levy charges for inspection laws.

112. After uniform duties of customs have been imposed, a State may levy on imports or exports, or on goods passing into or out of the State, such charges as may be necessary for executing the inspection laws of the State; but the net produce of all charges so levied shall be for the use of the Commonwealth; and any such inspection laws may be annulled by the Parliament of the Commonwealth.

Intoxicating liquids.

113. All fermented, distilled, or other intoxicating liquids passing into any State or remaining therein for use, consumption, sale, or storage, shall be subject to the laws of the State as if such liquids had been produced in the State.

States may not raise forces. Taxation of property of Commonwealth or State.

114. A State shall not, without the consent of the Parliament of the Commonwealth, raise or maintain any naval or military force, or impose any tax on property of any kind belonging to the Commonwealth, nor shall the Commonwealth impose any tax on property of any kind belonging to a State.

States not to coin money.

115. A State shall not coin money, nor make anything but gold and silver coin a legal tender in payment of debts.

Commonwealth not to legislate in respect of religion.

116. The Commonwealth shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth.

Rights of residents in States.

117. A subject of the Queen, resident in any State, shall not be subject in any other State to any disability or discrimination which would not be equally applicable to him if he were a subject of the Queen resident in such other State.

Recognition of laws, &c. of States.

118. Full faith and credit shall be given, throughout the Commonwealth to the laws, the public Acts and records, and the judicial proceedings of every State.

Protection of States from invasion and violence.

119. The Commonwealth shall protect every State against invasion and, on the application of the Executive Government of the State, against domestic violence.

22

4.4.5 Religion in daily life

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

FIGURE 2 Some shops and businesses still close on Sundays, a tradition that originates from the Jewish observance of the Sabbath on the seventh day of the week. Christian religions adopted this concept, but Sunday rather than Saturday became their day of rest and worship.

4.4.6 In the name of religion

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

DISCUSSION

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

4.4 EXERCISE 1

The influence of religion on Australian society

1. How are religion and values similar?
2. Describe how Judeo-Christian traditions have influenced the Australian legal system.
3. Why is Sunday trading only a recent addition to Australian life?
4. Use the **Trading hours** weblink in your Resources section to research and compare the trading hours of your state or territory with the trading hours of another state or territory. What similarities and differences did you find?
5. What if our Constitution did not protect our right to freedom of religion? Do you think this would have a good or bad effect? Explain your answer in detail.

on Resources

Explore more with this weblink: Trading hours

4.5 SkillBuilder: Deconstruct/reconstruct method

4.5.1 Tell me

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

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

4.5.2 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.

There are three steps to the deconstruct/reconstruct method.

Step 1: Read

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

Step 2: Re-read

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

Quotes/facts	Notes
• Factual information • Direct quotes from authors or other people • Statistics	• Ideas and questions you might think of while reading the source • Dot points and/or whole sentences

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

> Hinduism is the oldest major religion in the world and has been practised for more than 5000 years. Hinduism in Australia, however, only began in the mid nineteenth century. Although there is evidence of Hindu crews trading with the First Fleet, the first major period of Hindu immigration occurred well after the establishment of the Australian colonies. Hindu immigrants undertook several roles in early Australian 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 2011 Australian census, Hindu practitioners accounted for 1.3 per cent of the population.

This is what your table could look like:

Quotes	Notes
• Hinduism is 5000 years old. • It began in Australia during the mid nineteenth century.	• Hinduism was the world's first religion. • Where did Hinduism begin? • How old are the other religions mentioned in this section?
• By 1911, there were over 1000 Hindus in Australia.	• 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?
• Hindu immigrants undertook several roles in early Australian society.	• Hindu immigrants had a number of different jobs in colonial Australia, many based on the environmental conditions of their home countries.
• In 2011, 1.3 per cent of all Australians practised Hinduism.	• How many people is this in total numbers? • What factors have helped Hinduism grow so much in recent years? • How does this growth rate compare to other religions?

Step 3: Write

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

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

Some of the world's religions have been around for 5000 years. One of these long-standing religions is Hinduism. Although Hinduism is such an old religion, it began in Australia only during the mid nineteenth century. Historically, Hindu communities have been small in size, with only about 1000 Australians identifying themselves as Hindu in 1911. Hindu immigrants had a number of different jobs in colonial Australia, many based on the environmental conditions of their home countries. At the most recent Australian census (2011), the total of Hindu practitioners was 476 300. 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.

4.5.3 Let me do it

ACTIVITIES

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

4.6 Review

4.6.1 Summary

Much of modern Australian society has its roots in Judeo-Christian traditions. Religion encourages particular values and explores particular themes. Many of these have found their way into our culture, law and communities. As immigration continues, so too will the evolution of religion within Australia. It is likely that these new religions will combine with Judeo-Christian traditions to further influence Australian society.

- Australian society has been shaped by Judeo-Christian traditions.

- Immigration has profoundly influenced the religious beliefs practised in Australia. Judaism, Buddhism, Islam, Hinduism and atheism are all practised in modern Australia.
- Although section 116 of our Constitution prohibits the government from promoting or prohibiting religious activity, Judeo-Christian beliefs have shaped our laws and continue to do so.
- Religion in Australia continues to evolve and reflects demographic changes in Australian society.

4.6.2 Your turn

ACTIVITIES

Government and religion have been officially separated in Australia since our Constitution took effect in 1901. According to this founding document, no government can force people to follow a religion or ban people from following the religion of their choice. Rules such as these give Australia a secular government. As you could imagine, secularism has caused controversy throughout Australia's history. Some people believe it is essential for proper government, while others believe religion can provide an important influence on governments. Imagine that a prime minister with a significant religious background has just been elected. The new prime minister is Catholic and believes that this religion should have a greater influence on Australian society. All references to secularism are to be removed from the Australian Constitution.

1. Do you believe secularism should be included in Australia's Constitution? Explain why.
2. Explain any possible negative or positive benefits of the new prime minister's plan.
3. Investigate the global trends in religious beliefs by going to the **World religions map** weblink in your Resources section. Answer the following questions:
    a. Which religion is most widespread around the world? Explain why you think this religion has the most followers.
    b. Which religion has the smallest representation?
    c. Make a list of countries in which the dominant religion is Christianity.
    d. Make a list of countries in which the dominant religion is Islam.
    e. Describe any patterns on this map which you find interesting.

on Resources

Explore more with this weblink: World religions map

Try out this interactivity: Religion in Australian society crossword

Searchlight ID: int-5319

Chapter 5: Australia's national identity

Contents

5.1 Overview

5.2 Australian identity — traditional v. changing views

5.3 Reconciliation — contribution to national identity

5.4 Belonging to a new country — migrant experiences

5.5 SkillBuilder: Investigating national identity in another country

5.6 Review

Note to students and teachers: This PDF has been provided as an offline solution for times when you do not have internet access or are experiencing connectivity issues. It is not intended to replace your eBook and its suite of resources. While we have tried our best to replicate the online experience offline, this document may not meet Jacaranda's high standards for printed material. Please always refer to your eBook for the full and latest version of this title.

jacaranda
A Wiley Brand

5 Australia’s national identity

5.1 Overview

5.1.1 A diverse culture

on Resources

Watch this eLesson: What is national identity?
Searchlight ID: eles-2291

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

In Australia, our national identity has always been complex. Our country is a diverse collection of nationalities and cultures. Because of this, isolating individual aspects of an Australian national identity is a challenging task. In this topic we investigate Australia's national identity, how it was formed, how it continues to evolve and how it creates a sense of belonging for the people who call this country home.

Learning objectives

Students will investigate:

- different perspectives about Australia's national identity, including Aboriginal and Torres Strait Islander perspectives
- what it means to be Australian, and how national identity can shape a sense of belonging in Australia's multicultural society.

5.1 EXERCISE 1

Starter questions

1. How has Australia's national identity been formed?
2. How does Australia's national identity continue to change?
3. What impact does national identity have on society?
4. How are Indigenous and Torres Strait Islander cultures represented in Australia's national identity?
5. What impact have migrants played in the development of Australia's national identity?
6. Do you show part of your individual identity through fashion? If so, describe how.
7. Choose a group to which you belong (for example, a youth group, friendship circle or sporting team) and describe how belonging to this group makes you feel.
8. Design a flag that you believe represents Australia's national identity.
9. Write a list of the elements of Indigenous society that you know about.
10. Discuss your family's migration history with the person next to you.

5.2 Australian identity — traditional v. changing views

5.2.1 What has influenced our national identity?

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

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

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

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

FIGURE 1 Children playing cricket in 1925 (left) and 2013 (right)

5.2.3 The mother country

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

Australia's involvement in World War I had an enormous influence on our national identity. This conflict saw the birth of the Anzac legend with its values of determination, sacrifice and mateship. These values have now become cornerstones of Australian national identity. The British influences on Australia can also been seen in our adoption of the British Westminster system of parliament, or in the simple fact that the Queen is still Australia's official head of state.

FIGURE 2 A World War I enlistment poster

5.2.4 Multicultural Australia

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

FIGURE 3 Australian soldiers fighting in the Vietnam War in 1967

Changes in Australian identity are reflected in changes to our government's foreign policy. Australia's foreign policy has recently changed again, this time with a focus on closer relationships with China, Japan and other Asian countries. The gradual removal of Australia's White Australia policy has enabled these new relationships to develop. These changes can be seen in schools such as your own.

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

FIGURE 4 Chinese characters

Greater numbers of Australian students have the chance to study Asian languages today than ever before. This is due to Australia becoming less focused on British and European cultures, and more influenced by a range of nationalities and cultures.

一 one	二 two	三 three	春 spring	夏 summer
秋 autumn	冬 winter	龍 dragon	虎 tiger	馬 horse
獅 lion	木 wood	水 water	火 fire	土 soil
雨 rain	吃 eat	喝 drink	父 father	母 mother

5.2 EXERCISE 1

Australian Identity – traditional vs changing views

1. Why did the British feel the need to introduce their national identity to Australia?
2. Why is it so difficult to define Australian national identity?
3. During both the Korean and Vietnam wars, the people of Australia were under no direct threat or danger. Explain how Australia became involved in these conflicts.
4. Look at figure 2. Who do the lions in this poster represent?
5. How do you think Australian national identity will change in the next 50 years? For example, where do you think the next wave of immigration will come from?
6. List aspects of Australian national identity that have British origins.
7. Describe what being Australian means to you.

5.3 Reconciliation — contribution to national identity

5.3.1 Making amends

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

5.3.2 What went wrong?

Although the first interactions between Indigenous Australian peoples and the British were positive, relationships quickly deteriorated and conflict erupted. Using their resources and weaponry, the British expanded their settlement and pushed further into Aboriginal lands. The Indigenous owners of these lands saw this expansion as an act of aggression and responded with violence. A lack of understanding and respect for each other's culture fuelled the so-called Frontier Wars. However, this conflict was only the first event in a series of hardships faced by Indigenous Australian peoples following the arrival of the British in 1788.

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

The Stolen Generations

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

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

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

Homes Are Sought For These Children

A GROUP OF TINY HALF-CASTE AND QUADROON CHILDREN at the Darwin half-caste home. The Minister for the Interior (Mr Perkins) recently appealed to charitable organisations in Melbourne and Sydney to find homes for the children and rescue them from becoming outcasts.

I like the little girl in centre of group, but if taken by anyone else, any of the others would do, as long as they are strong

Whose land is it?

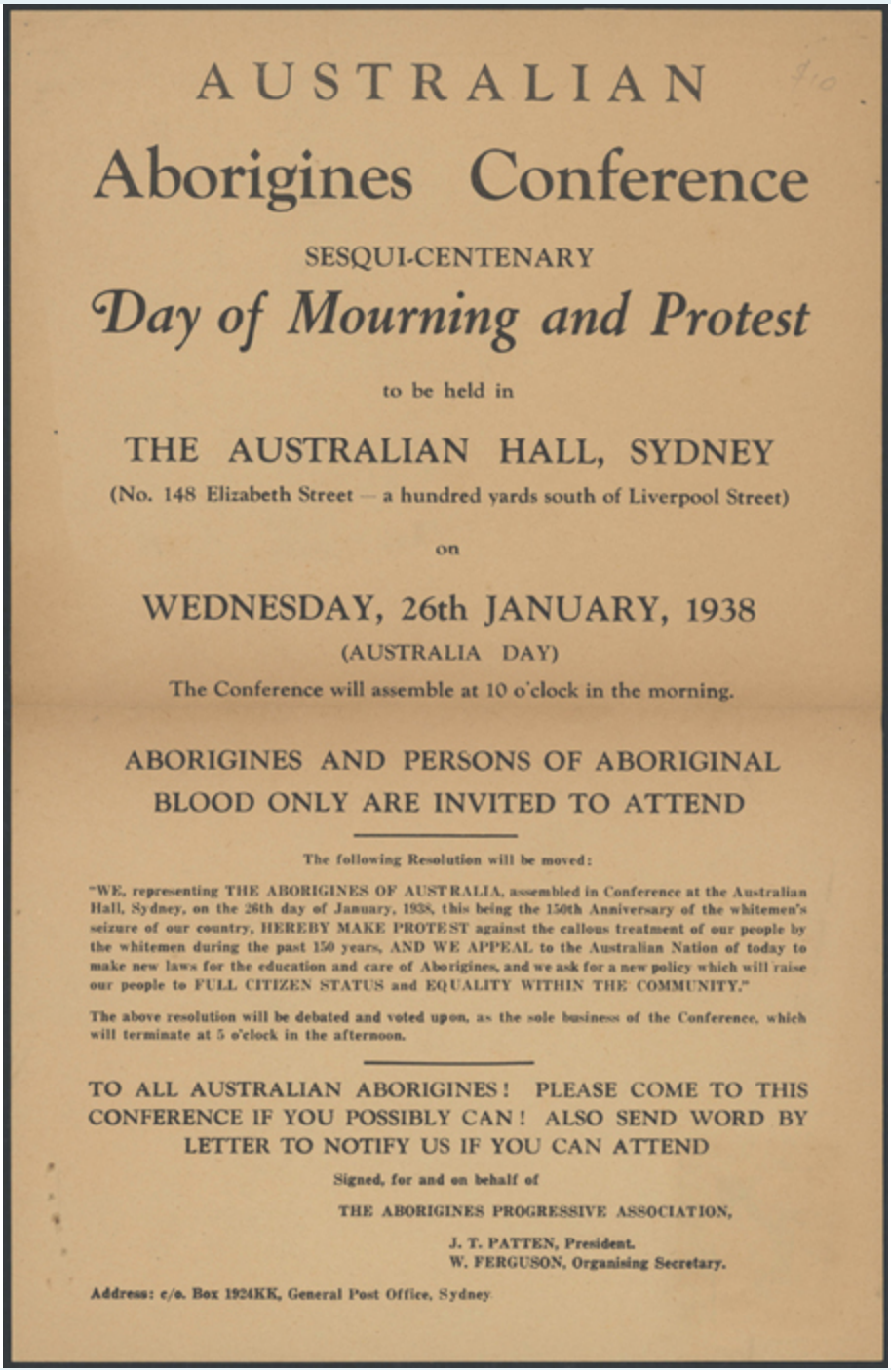
One of the most important aspects of Indigenous culture and identity is a connection to the land. Representing the past, present and future of Indigenous Australian peoples, this relationship is deeply spiritual. Upon arrival in Australia, the British failed to officially recognise Indigenous land ownership.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

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

5.3.3 The path to reconciliation

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

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



AUSTRALIAN

Aborigines Conference

SESQUI-CENTENARY

Day of Mourning and Protest

to be held in

THE AUSTRALIAN HALL, SYDNEY

(No. 148 Elizabeth Street — a hundred yards south of Liverpool Street)

on

WEDNESDAY, 26th JANUARY, 1938

(AUSTRALIA DAY)

The Conference will assemble at 10 o'clock in the morning.

ABORIGINES AND PERSONS OF ABORIGINAL BLOOD ONLY ARE INVITED TO ATTEND

The following Resolution will be moved:

"WE, representing THE ABORIGINES OF AUSTRALIA, assembled in Conference at the Australian Hall, Sydney, on the 26th day of January, 1938, this being the 150th Anniversary of the whitemen's seizure of our country, HEREBY MAKE PROTEST against the callous treatment of our people by the whitemen during the past 150 years, AND WE APPEAL to the Australian Nation of today to make new laws for the education and care of Aborigines, and we ask for a new policy which will raise our people to FULL CITIZEN STATUS and EQUALITY WITHIN THE COMMUNITY."

The above resolution will be debated and voted upon, as the sole business of the Conference, which will terminate at 5 o'clock in the afternoon.

TO ALL AUSTRALIAN ABORIGINES! PLEASE COME TO THIS CONFERENCE IF YOU POSSIBLY CAN! ALSO SEND WORD BY LETTER TO NOTIFY US IF YOU CAN ATTEND

Signed, for and on behalf of

THE ABORIGINES PROGRESSIVE ASSOCIATION,

J. T. PATTEN, President.
W. FERGUSON, Organising Secretary.

Address: c/o. Box 1924KK, General Post Office, Sydney

In 1948, Indigenous Australian people officially became British subjects and Australian citizens, although they were only granted voting rights in 1962. Perhaps the most famous of these victories was the 1967 **referendum**, after which Indigenous Australian people were finally recognised as part of the population. The referendum was a formal statement announcing that Indigenous culture and Australian culture were one and the same. This event had a significant impact on Australian identity.

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

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

5.3 EXERCISE 1

Reconciliation — contribution to national identity

1. Why did the relationship between British settlers and Indigenous Australians turn sour?
2. Who were the Stolen Generations?
3. How did declaring terra *nullius* allow the British to claim the land of Australia?
4. What is reconciliation?
5. Use the **Indigenous rights movement timeline** weblink in your Resources section to create a timeline of the major events that occurred in the process of reconciliation.
6. What do you believe to be most important for Indigenous Australians?
   A. Becoming citizens in 1948
   B. Being given voting rights in 1962
   C. Being included in the population count in 1967
7. Use the **National apology** weblink in your Resources section to watch the video of Prime Minister Kevin Rudd's apology to the Stolen Generations. Imagine you are the relative of a member of the Stolen Generations and write a brief response to this speech.

on Resources

Explore more with this weblink: Indigenous rights movement timeline

Explore more with this weblink: National apology

5.4 Belonging to a new country — migrant experiences

5.4.1 Seeking a better life

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

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

5.4.2 Migrant identity

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

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

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

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

5.4.3 Migrant case studies

The best way to learn about the challenges faced by Australian migrants is to read and listen to their experiences. The **Migrant case studies** weblink in your Resources section contains fascinating stories from a diverse range of migrants. Read articles and watch video clips from a variety of migrants in order to get a more complete understanding of the challenges they have faced. Have a pen and paper handy while you read the stories and watch the videos so you can write down any information you find interesting and areas you want to investigate further.

FIGURE 3 The migrant experience in Australia

Migrant Stories

James and Lucy's Story

Occupation: Registered Nurses

Immigrated from: People's Republic of China

Settled in: Portland, Victoria

"We have a very good life in Victoria with good opportunities. This is the best place for us."

Since the First Fleet dropped anchor in 1788, close to 10 million settlers have moved from across the world to start a new life in Australia. They have arrived in waves, encouraged by developments like the 1850s gold rushes, or to escape adverse conditions at home such as the Industrial Revolution's social upheavals in 19th-century Britain, the two world wars and the aftermath of the Vietnam War in the 1970s. Collectively these migrants have helped shape a unique British-based and now multicultural society on the perimeter of Asia.

Image: Group of migrants on MV *Toscana* at Trieste, 1954. ANMM Collection Gift from Barbara Alysen

5.4 EXERCISE 1

Belonging to a new country — migrant experiences

1. What is dual citizenship?
2. How can dual citizenship influence a person's sense of national identity?
3. Use the **Department of Immigration case studies** weblink and the **SBS case studies** weblink in your Resources section to discover the stories of a diverse group of Australian migrants. Summarise the reasons why the people you learned about chose to migrate to Australia.
4. 'New migrants should abandon their existing national identity and adopt that of their new country.' Do you agree or disagree with this statement? Why?
5. Why is it important for people to feel a sense of belonging to their country?
6. Do you believe all people, regardless of reason, should be allowed to migrate to Australia? Justify your answer.

on Resources

- **Explore more with this weblink:** Migrant case studies
- **Explore more with this weblink:** Department of Immigration case studies
- **Explore more with this weblink:** SBS case studies

5.5 SkillBuilder: Investigating national identity in another country

5.5.1 Tell me

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

- *Preparation*. It is crucial that you 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 the proper use of these tools. Avoid making the mistake of overloading the 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.

5.5.2 Show me

How to give an oral presentation

Preparation

The following table will 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, students can overcome their potential fear of public speaking
Secondary message	Explain the elements of successful oral presentations: • preparation — research and planning • proper use of visual aids • delivery — sustained eye contact and confident delivery of the speech.

Proper use of visual aids

Visual information can add to your presentation. However, it can also decrease the effectiveness and clarity of your message if used incorrectly. 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 your Resources section.

Delivery

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

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

on Resources

Explore more with this weblink: How not to use PowerPoint

5.5.3 Let me do it

ACTIVITIES

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

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

5.6 Review

5.6.1 Summary

Australia's national identity is known for its diversity. Our communities are comprised of people from a large range of cultural and ethnic backgrounds. This cultural diversity unifies Australian society and creates a sense of belonging. Many of our laws and values have their origins in the religious traditions of European settlers. However, due to the secular nature of Australian government, religious freedom is still allowed and encouraged. In recent years, the mistreatment of Indigenous Australians has been formally recognised and steps to true reconciliation have begun.

- The diversity of Australian identity can be used to unify communities and create a sense of belonging.
- Judeo-Christian traditions have influenced the society in which we live.
- Proper understanding and respect for the culture and traditions of Indigenous Australians are important parts of modern Australian society.

5.6.2 Your turn

ACTIVITIES

Congratulations! You've just been appointed as the prime minister's new immigration advisor. It is an extremely prestigious position and one that is taken very seriously. The prime minister is under pressure because some people believe that Australia allows too many immigrants to enter Australia. You know this is not true and so does the prime minister. Your task is to create a short five-minute presentation (in any format) that explains the positive role that immigrants play in Australian society and why they should continue to be allowed to enter Australia. Use the knowledge and skills you have learned in this topic to help you complete this task. Good luck!

on Resources

Try out this interactivity: Australia's national identity crossword
Searchlight ID: int-5230

GLOSSARY

Act a law passed by Parliament

Affiliations close connections with a group or organisation

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

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

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

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

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

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

Common law law developed by judges through the decisions of courts

Compassion feeling empathy towards someone in a less fortunate position

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

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

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

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

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

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

Defendant the party in a civil or criminal trial against whom an action has been brought

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

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

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

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

Electorate an area of Australia that elects one member to parliament

Eurocentric a point of view that has a strong European focus

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

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

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

Homicide the killing of one person by another person

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

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

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

Legislation a law made by Parliament

Liable legally responsible for a civil wrong

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

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

Migrants people who leave one country to reside in another

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

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

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

Plaintiff the person who commences a legal action in civil law

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

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

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

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

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

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

Repeal to remove a law so that it no longer applies

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

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

Statute laws laws made by parliament

Terra nullius 'land belonging to no-one'

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

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

Transportation the process of sending convicts to a penal colony

Treaties an agreement between two or more countries to carry out certain actions. It is usually legally binding on those countries.

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

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