

# 21.16 Review

## 21.16.1 Key knowledge 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.

### 21.2 Protecting our rights and freedoms

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

### 21.3 Freedom of speech and other democratic freedoms

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

### 21.4 Dissent in a democracy and taking direct action

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

### 21.6 Taking part in the democratic process

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

### 21.7 The role of members of parliament

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

### 21.8 Lobby and pressure groups

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

### 21.10 How parliaments make laws

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

### 21.11 How courts make laws

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

## 21.12 Criminal law and civil law

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

## 21.14 Customary law in Indigenous communities

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

## 21.16.2 Reflection

Complete the following to reflect on your learning.

### 21.16 ACTIVITIES

Revisit the inquiry question posed in the Overview:

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1. <Content to come>

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### on Resources



eWorkbook Reflection (doc-xxxxx)

Crossword (doc-xxxxx)



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

### KEY TERMS

**Act** a law passed by Parliament

**Affiliations** close connections with a group or organisation

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

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

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

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

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

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

**Common law** law developed by judges through the decisions of courts

**Compassion** feeling empathy towards someone in a less fortunate position

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

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

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

**Customary law** guidelines for behaviour developed by 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

**Repeal** to remove a law so that it no longer applies

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

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

**Statute laws** laws made by parliament

**Terra nullius** 'land belonging to no-one'

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

**Transportation** the process of sending convicts to a penal colony

**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