

Francis Burt Law Education Programme

DEMOCRACY AND LAW IN ACTION YEAR 8 TEACHER POST-VISIT RESOURCE

1. POINTS TO REVIEW AFTER YOUR VISIT TO THE FRANCIS BURT LAW EDUCATION PROGRAMME

Review the points below and your previous answers with a partner or in a small group and then discuss them with your class.

Note: We have created a [Year 8 Kahoot! Quiz](#)

Instructions:

Read the sentences below and mark them True or False.		
a. Generally speaking there are two types of law in WA; civil and criminal law.	True	False
b. If you are accused of a crime in WA you must prove to the court that you are not guilty. A very important legal principle is the burden of proof. That is, the onus/responsibility is on the State to prove that the accused is guilty. The State must prove the accused person's guilt beyond reasonable doubt. That is the standard of proof. Another important legal principle is the presumption of innocence, i.e. the accused is always presumed to be innocent until proven guilty.	True	False
c. The Federal Court is the highest court in Australia. The highest court in Australia is the High Court. The jurisdiction of the High Court is cases of special federal significance including interpretation of the Constitution, challenges relating to the validity of laws and the hearing of appeals where there has been an alleged injustice, from Federal, State and Territory courts. The jurisdiction of the Federal Court of Australia covers approximately 150 statutes of the Australian Parliament and includes copyright, fair trading, patents and the recently introduced Fair Work Australia the national workplace relations tribunal. It is interesting to note that Federal criminal matters are heard by the State and Territory courts, i.e. The Commonwealth Director of Public Prosecutions prosecutes Federal matters in the State and Territory courts.	True	False

Read the sentences below and mark them True or False.

d. Jury duty is a civic responsibility of everyone who has their name on the electoral roll in WA except in special situations and except for people in special types of jobs. Significant amendments were made to the <i>Juries Act WA</i> in 2011. Those amendments included deferring jury duty for six months on request, increasing the minimum fine to \$800 for failing to respond to a jury duty summons and reducing the number of occupations which make a person ineligible for jury duty.	True	False
e. Everyone must swear an oath on the Bible when giving evidence in WA courts. If you are not religious you can make an affirmation; a solemn promise without any religious connection. In addition the courts have the holy book and oath for most recognized religions, e.g. The Koran/Muslim oath, No holy book/Buddhist oath, The Pentateuch/Jewish oath etc.	True	False
f. Everyone is treated equally by the courts and the law in WA. An essential element of our legal system is that everyone must be treated equally and that everyone is answerable before the law, i.e. the courts and the law in WA must not discriminate. However, it is important to remember that the same laws and systems can affect different people differently, this is the difference between equality (treating everyone the same) and equity (providing people with everything they need to be successful/achieve the same outcome). A clear example of this is that all hearings are provided in English, however not all Australians speak English as a first language and there are insufficient interpreters available for Aboriginal and Torres Strait Islander languages.	True	False
g. The government can remove a judge from his/her position at any time. A judge can only be removed from his/her position if s/he breaks the law and a possible sentence is imprisonment. When a judge reaches the age of 70 s/he must step down. This system is referred to as security of tenure for judges. Security of tenure for judges is important as it helps to ensure that they can act without fear or favour in their role.	True	False
h. An accused person must give evidence if s/he pleads not guilty and the matter goes to trial. An accused person does not have to give evidence if s/he pleads not guilty and the matter goes to trial. It is important to remember that an accused person does not have to prove that s/he is not guilty. On the contrary, it is the State that must prove beyond reasonable doubt that the accused is guilty. In Western Australia, the so called 'right to silence' (note: there is no legislation which enshrines this as a right) actually results from the rules of the Supreme Court which aim to avoid self-incrimination. As the State of WA has a lot of resources at its disposal it is assumed that justice can still be done in circumstances when an accused person remains silent. After completing the pre-visit activities it would be good to discuss the standard of behaviour expected when the group visits the Francis Burt Law Education Programme.	True	False
i. Each Australian State and Territory has its own laws and courts.	True	False
j. Under the rule of law every Australian has legal rights and legal responsibilities.	True	False

2. LEGAL VOCABULARY

Match the vocabulary below to the descriptions in the table.

Criminal Law Common Law The Australian Constitution Statute Law Civil Law

VOCABULARY	DEFINITION
Common Law	Law which is created by judge's decisions. Those decisions set precedents which all the lower courts must follow. This type of law is created when there is a gap in the existing legislation.
Civil Law	Law which focuses on formal disagreements between two or more people in our community.
The Australian Constitution	The document which identifies the fundamental principles of how Australia is governed. It includes details on what laws and courts the Federal Government is responsible for and what laws and courts the State Governments are responsible for.
Criminal Law	Law which aims to stop anti-social behaviour and danger to our community.
Statute Law	Legislation that has been passed through Parliament. The terms 'statute' and 'legislation' may be used interchangeably

3. FREEDOMS THAT ENABLE ACTIVE PARTICIPATION IN AUSTRALIA'S DEMOCRACY WITHIN THE BOUNDS OF THE LAW - FREEDOM OF ASSOCIATION, FREEDOM OF ASSEMBLY AND FREEDOM OF MOVEMENT

Under the Australian Constitution only limited protection is provided for freedom of association and freedom of movement. Limited protection is also provided through the operation of the common law.

In March 2016 the Australian Law Reform Commission tabled a report on 'Traditional Rights and Freedoms – Encroachments by Commonwealth Laws'. See the following extracts from that report and then answer the questions below:

Freedom of association and assembly

- 1.31 *Freedom of association concerns the right of all persons to group together voluntarily for a common goal or to form and join an association, such as a political party, a professional or sporting club, a non-governmental organisation or a trade union. Freedom of association is different from, but also closely related to, freedom of assembly. Australians are generally free to associate with whomever they like and to assemble to participate in activities including, for example, a protest or demonstration.*
- 1.32 *A wide range of Commonwealth laws may be seen as interfering with freedom of association or freedom of assembly. These include counter-terrorism and other criminal laws and laws concerning public assembly, workplace relations, migration, and anti-discrimination. Many of these laws provide limitations on freedom of association or assembly that have long been recognised by the common law itself—for example, in relation to consorting with criminals, public assembly and other aspects of preserving public order. Areas of most concern include aspects of counter-terrorism and the character test in migration law.*
- 1.33 *Workplace relations laws in Australia have been subject to criticism on the basis of lack of compliance with International Labour Organization Conventions. However, while some of these provisions may offend ILO norms, they do not necessarily infringe common law freedom of association.*

- a. In your own words describe what freedom of association and freedom of assembly mean:

Answers will vary. For example, every person has the right to associate with whomever they wish including the right to form or join a trade union, an organisation or a group providing that such trade union, organisation or group is legal. In addition, every person has the right to refuse to join an association.

Generally Western Australians are free to meet with other people in public or private places and in either small or large groups for legal, social or political purposes. However, it should be noted that the Western Australian Government introduced proposed new anti protest laws into Parliament in March 2015. The Government has insisted the new legislation would only target radical protesters using devices like chains or thumb locks to block or stop lawful activities. The Western Australian Attorney-General said that 'laws were directed at protesters who physically interfered with the rights of others through the threat of force or by blocking access to stop lawful activity.'¹ Opponents fear that the proposed new legislation will undermine fundamental civil rights and protest rallies have already taken place by concerned citizens.

In February 2016 the United Nations called on the Western Australian Government to withdraw the controversial new legislation and said it would 'result in criminalising lawful protests and silencing environmentalists and human rights defenders' and '... go against Australia's international obligations under international human rights law, including the right to freedom of opinion and expression as well as peaceful assembly and association'.²

Freedom of movement

- 1.34 *Freedom of movement at common law primarily concerns the freedom of citizens both to move freely within their own country and to leave and return to their own country. Freedom of movement has commonly - both in theory and practice - been subject to exceptions and limitations. For example, the freedom does not extend to people trying to evade punishment for a crime and, in practice, a person's freedom to leave one country is limited by the willingness of other countries to allow that person to enter.*
- 1.35 *A range of Commonwealth laws may be seen as interfering with freedom of movement. Some of these provisions relate to limitations that have long been recognised by the common law itself, for example, in relation to official powers of arrest or detention, customs and passport controls, and quarantine.*
- 1.36 *While many laws interfering with freedom of movement have strong and obvious justifications, it may be desirable to review some laws to ensure that they do not unjustifiably interfere with the right. The areas of concern include various counter-terrorism measures, including aspects of the control and preventative detention order provisions and declared area offences in the Criminal Code (Cth). Provisions of the Bankruptcy Act 1966 (Cth), which provide that a bankrupt person must automatically give their passport to the trustee, also warrant review.*

- b. In your own words describe what freedom of movement means:

Answers will vary. For example, every person who is lawfully within Australia has the right to freedom of movement, to choose where they live and to enter and leave the country.

- c. Describe what freedoms referred to above you are able to use in your everyday life?

Answers will vary. Examples could be:

- **Freedom of Speech** – texting, tweeting, blogging or posting on other social media.
- **Freedom of Religion** – being able to decide which religion they want to follow or whether they don't wish to follow any religion, choosing a place to worship.

1. <http://www.abc.net.au/news/2015-03-18/attorney-general-dismisses-concerns-over-protest-laws/6330504>

2. <http://www.abc.net.au/news/2016-02-16/un-urges-wa-government-not-to-bring-in-anti-protest-laws/7172738>

- **Freedom of Association and Assembly** – attending movie cinemas, sports stadiums, concerts, rallies or protest marches.
- **Freedom of Movement** – travelling within Australia or overseas, deciding to live anywhere in Australia.

d. Why is it important that you are able to continue to have those freedoms in your everyday life?

Answers will vary. For example, it is a basic right and fundamental freedom that all human beings are entitled to – see the Universal Declaration of Human Rights (UDHR). The UDHR was adopted by the General Assembly of the United Nations in 1948 following the atrocities of the preceding World Wars. Australia was a founding member of the United Nations and was one of 8 nations involved in drafting the UDHR. Australia continued to be a supporter of human rights throughout international treaty negotiations. Australia has ratified almost all of the major international human rights instruments.

e. Sometimes freedom of association and freedom of assembly go together. For example, people assemble without being in association with others at the cinema or a sports stadium. Can you think of examples where limits on freedom of assembly are necessary for other people to enjoy freedom of association?

There may be times where we need laws to facilitate the freedom of assembly of some to limit the freedom of assembly of others. For example:

- **Limits may be justified for restricting the association of certain classes, groups or organisations of persons who are involved or likely to be involved in crime.**
- **Limits may be justified to prevent people getting together to hatch crimes.**
- **A noisy protest outside a church would interfere with the churchgoers freedom of association and therefore a limit may be justified.**

4. TRADITIONAL ABORIGINAL LORE

Noongar people have complex lore and customs pre-dating European contact. Our lore has existed alongside European laws and still does today. The terms 'lore' and 'law' are sometimes used interchangeably, but 'law' refers to written European law. Lore for Noongar people is unwritten and refers to *kaartdijin* (knowledge), beliefs, rules or customs. Noongar lore is linked to kinship and mutual obligation, sharing and reciprocity. Our lore and customs relate to marriage and trade, access, usage and custodianship of land. Traditionally, it has governed our use of fire, hunting and gathering, and our behaviour regarding family and community. Noongar lore works with nature to protect animals and our environment. Noongar people do not eat animals that have totemic significance with our names. This contributes to assuring biodiversity is maintained and food supplies are always in abundance.



Kaartdijin and lore belongs to Noongar people only and is different from other Aboriginal groups. All of these lores have been transmitted from the Elders, fathers and mothers to their sons and daughters through unknown generations, and are fixed in the minds of Noongar people as sacred and unalterable.³

The Trial Of Weewar

In 1842 the Crown prosecuted Weewar, a Binjareb Nyungar warrior, for carrying out tribal payback by spearing Dyung of the Mooro Group. When Weewar heard that Dyung, a member of the tribe responsible for the death of his son, was moving through Binjareb Territory he was governed by one law - traditional Aboriginal law. Weewar's trial became the test case in Western Australia which determined that British law took precedence over traditional law.⁴

The trial of Weewar was held in the Old Court House and shows the significant conflicts between traditional Aboriginal lore and British law.

3. Kaartdijin Noongar – Noongar Knowledge, Sharing Noongar Culture, South West Aboriginal Land and Sea Council, Noongar Lore. < <http://www.noongarculture.org.au/noongar-lore/>>.
 4. Kaartdijin Noongar – Noongar Knowledge, Sharing Noongar Culture, South West Aboriginal Land and Sea Council, In 1842 Weewar, a Noongar, was convicted under British Law for carrying out payback. < <http://www.noongarculture.org.au/in-1842-weewar-a-noongar-was-convicted-under-british-law-for-carrying-out-payback/>>.



- a. Watch the [Weewar video](#) on the Kaartdijin Noongar – Sharing Noongar Culture website and discuss the following in small groups.

- (1) Do you agree or disagree with the precedent that British law is supreme to traditional Aboriginal law? Why?

Answers will vary from one person to another. Encourage the students to support their point of view with reasons.

Possible answers could be as follows:

I agree with the precedent that British law is supreme to traditional Aboriginal law because everyone in Australia needs to be answerable to the same laws and the Courts must treat everyone the same.

I disagree with the precedent that British law is supreme to traditional Aboriginal law because British law was brought to this country whilst traditional Aboriginal law has been here for 40,000+ years. Morally and ethically the British should have adopted and adapted to traditional Aboriginal culture and customs in WA from 1829.

- (2) If you were the Judge in the matter, what would your judgment have been?

- a. British law takes precedence over traditional Aboriginal law
- b. Aboriginal law takes precedence over British law
- c. Traditional Aboriginal law and British law would exist together with neither being superior to the other
- d. Other: _____

- (3) Clash of laws

- a. Does traditional Aboriginal law still exist today? **Yes** / No

Yes, traditional Aboriginal law still exists across Western Australia today and in some circumstances Aboriginal persons will face regulation and punishment from both their law and the law.

- b. Is there still a clash of laws in Western Australia today? **Yes** / No

Yes, for Aboriginal peoples the clash of laws most certainly continues today.

The majority of non-Aboriginal people lack knowledge and/or awareness of traditional Aboriginal lore and are unaware of the on-going clash of laws. An example of this is the concepts of reciprocity and communal ownership which exist in traditional Aboriginal lore which clash with the concepts of individual ownership under European law. This is a significant issue when it comes to the protection of Indigenous intellectual property under the law.



(4) Traditional Aboriginal Culture and Customs

- a. How important do you think it is for non-Aboriginal people to value and acknowledge traditional Aboriginal culture and customs? Why?

Unimportant / Medium importance / Very important

Answers will vary from one person to another. Encourage the students to support their response with reasons.

A possible response could be as follows:

I think for the majority of non-Aboriginal people it is unimportant to value and acknowledge Aboriginal culture and customs because most non-Aboriginal people have very little contact with Aboriginal peoples and very little awareness and understanding of Aboriginal culture and customs and believe that Australians should all follow one system of law.

- b. How important do you think it is for Aboriginal people to value and acknowledge traditional Aboriginal culture and customs?

Unimportant / Medium importance / Very important

Answers will vary from one person to another. Encourage the students to support their response with reasons.

A possible response could be as follows:

I think for the majority of Aboriginal peoples it is very important to value and acknowledge Aboriginal culture and customs because those cultures and customs have existed for generations and are at the core of what makes the person Aboriginal.

- c. How important do you think it is to value and acknowledge traditional Aboriginal culture and customs?

Unimportant / Medium importance / Very important

Answers will vary from one person to another. Encourage the students to support their response with reasons.

A possible response, in addition to those above, could be as follows:

For me it is very important to value and acknowledge Aboriginal culture and customs because Aboriginal peoples are the first nation peoples of Australia and their culture and customs are, therefore, at the core of the Australian identity.

As the majority of Australians are non-Aboriginal some people have suggested that little will change in terms of the disadvantage that Aboriginal peoples experience until the majority of Australians value and recognise the importance and significance of Aboriginal culture and customs.



5. DIFFERENT PERSPECTIVES ABOUT AUSTRALIA'S NATIONAL IDENTITY

Australia Day

The City of Fremantle has cancelled its annual Australia Day fireworks from 2017 in order to do something more “culturally appropriate”.

Fremantle Mayor Brad Pettit told 720 ABC Perth the council voted Wednesday night 10 to one against the fireworks display in favour of hosting an alternative event, which may or may not be held on Australia Day.

“The [fireworks] are fun, and they are much loved, and it was a pretty tough decision ... but at the heart of it, it came down to some conversations quite a few of us had with local Aboriginal people in Fremantle.

“For them there was a real sense that Australia Day is not a day of celebration for everybody, in fact, for them it is a day of sadness and in many ways, a day that marks the start of much of their dispossession.”

Mr Pettit said he anticipated the public reaction to the vote would be mixed⁵.

a. Read Appendix 1, the *Alternatives to Australia Day on 26 January – Have you considered Wattle Day?* article, and discuss the following in small groups.

1. Can you understand why some Aboriginal Peoples find Australia Day being held on 26 January insensitive and insulting? Yes / No

Answers will vary.

2. What are the two strongest arguments against Australia Day being held on 26 January in your opinion? Explain with reasons.

Answers will vary from one person to another. Encourage the students to support their point of view with reasons.

3. What are the two weakest arguments against Australia Day on 26 January in your opinion? Explain with reasons.

Answers will vary from one person to another. Encourage the students to support their point of view with reasons.

4. Which of the suggested alternatives to Australia Day being held on 26 January would you support if you had to? Explain with reasons.

Answers will vary from one person to another. Encourage the students to support their point of view with reasons.

5. Are you in favour of an alternative to Australia Day being held on 26 January? Explain with reasons. Yes / No

Answers will vary from one person to another. Encourage the students to support their point of view with reasons.

5. ABC News, *Fremantle Council Cancels Australia Day Fireworks Display*. <<http://www.abc.net.au/news/2016-08-25/fremantle-council-cancels-australia-day-fireworks-display/7785128>>.

Appendix 1

Alternatives to Australia Day on 26 January – Have you considered Wattle Day?

By Tammy Solonec



On 26 January 2009, Mick Dodson was named Australian of the Year. He used the opportunity to urge national debate on changing the date of Australia Day, saying that the use of January 26 alienates Aboriginal and Torres Strait Islander people.

The 26 January is the anniversary of when Captain Phillip first raised and saluted the British flag at Sydney Cove in 1788. This marked the commencement of the invasion by the British, and killing and deprivation of the First Peoples. The population at that time was estimated at about 750 000 people, with hundreds of language groups, clans and sophisticated societies. Within a century, as a result of murder, disease and famine, the population was reduced to just 40 000.

Because of this, and all the injustices that have happened since, it has always been insensitive and insulting to Aboriginal and Torres Strait Islander peoples that this day is celebrated as 'Australia Day'. It is the anniversary of colonisation, dispossession, suffering and loss. I agree with Mick Dodson that it is alienating to Aboriginal and Torres Strait Islander people to celebrate the 'birth' of this nation on 26 January.

Aboriginal and Torres Strait Islander people have been protesting on 26 January since the 1800s. Most notably, as the Day of Mourning in 1938, the day the Aboriginal Tent Embassy was erected in 1972, the day 40 000 marched in protest in 1988, when it was dubbed 'Invasion Day', and the day in 1992 that marked the commencement of the Survival Concerts, and the naming of the day to 'Survival Day'. Since then, Survival Day concerts have spread across the country and are celebrated annually as the 'Survival Movement'.

Despite this sustained resistance, Australia continues to celebrate its nationhood on this day and there is little political appetite for changing it. Even Kevin Rudd, who as Prime Minister apologised to the Stolen Generations and signed the Declaration on the Rights of Indigenous Peoples, was not open to the idea. When asked about Mick Dodson's statement in 2009 he said: "Let me say a simple, respectful, but straightforward no". Opposition Leader Malcolm Turnbull also would not enter into a conversation: "People have been arguing this for a long time. Mick Dodson is nowhere near the first that's made that case. I think Australia Day, and I'm sure most Australians agree, is very appropriate today," he said.

I disagree with Malcolm Turnbull's comments that "most Australians agree" that the date is appropriate today. As well as being persistently disrespectful to Aboriginal and Torres Strait Islander peoples, in recent years, the celebrations have also become alienating to newly arrived Australians and various minority groups. There is an uncomfortable feeling to the day, connected to its white supremacy past, evidenced by clothing and stickers with the phrases such as "like it or leave".

There is also an unpleasant association between the day and alcohol, with the earliest historical descriptions filled with drinking and merriment. In recent years a number of firework events have been marred by alcohol fuelled violence from mainly young Australians who go along in droves, with eskies full and the Australian flag proudly draped around them.

Another criticism of 26 January is that it celebrates the foundation of the Colony of New South Wales, thereby lacking national significance. The fact that it falls during the longest Australian school holidays has also been criticised, as it limits the ability of schools to engage children in the event.

As Australia grows into a multicultural country, with recognition of the First Peoples, it will no longer be appropriate to celebrate on a day that commemorates British rule, fuelled by alcohol. We do need to think seriously about an alternative date.

There are many factors to consider in choosing a day of national celebration. This includes the time of the year, whether it clashes with or complements existing public holidays, the historical significance of the day and most importantly, whether or not it can be seen as a day that represents the spirit of the nation and the unification of the people within it.

The timing of public holidays is very important to Australians and requires special consideration. In regards to the current rotation of 'national' public holidays in Australia, we have three close together in summer (Christmas, Boxing and New Year's Days), closely followed by Australia Day, then three more close together in autumn with Good Friday, Easter Monday and ANZAC Day. The last national public holiday, the Queen's Birthday, is celebrated at the start of winter on the second Monday in June, except in Western Australia and Queensland.

However, there are also all the state and territory public holidays to consider. They are: WA Labour Day (5 March); ACT Canberra Day, SA Adelaide Cup, VIC Labour Day and TAS Eight Hours Day (12 March); NT May Day and QLD Labour Day (7 May); WA Foundation Day (4 June); QLD Queen's Birthday (11 June); NSW Bank Holiday and NT Picnic Day (6 August), NSW and SA Labour Day and WA Queen's Birthday (1 October), ACT Family and Community Day (8 October) and VIC Melbourne Cup Day (6 November).

When analysing these dates, it is evident that there are no public holidays in February, July or September, and no 'national' public holidays between July and November. It would therefore appear in terms of timing, that September is the most favourable month to consider.

Over the years, there have been a number of alternative dates for Australia Day suggested including 1 January (Federation), 25 April (ANZAC day), 9 May (Federal Parliament), 9 July (Constitution Day), 1 September (Wattle Day) and 3 December (Eureka Stockade).

There have also been calls for a national public holiday centred around Aboriginal and Torres Strait Islander peoples including National Sorry Day (26 May), the anniversary of the 1967 Referendum (27 May), Mabo Day (3 June) and National Aboriginals Day, during NAIDOC Week (either the first Monday or Friday of July). Whilst all these dates are very important anniversaries, celebrating Australia Day on any of these days may not be seen as unifying for all Australians, and would be difficult to foster popular support. However, there is a deep need for a national day which celebrates Australia's First Peoples and honours our survival of Australia's horrific past, as an additional national public holiday. In my next column I will discuss these alternatives, and the support they have garnered over the years.

With regards to the other alternatives, Wattle Day on 1 September has the most potential. But first, I will surmise why the other days are not suitable.

New Year and ANZAC days are out because we already have public holidays on those days, connected with different traditions and celebrations. Many Australians would dread celebrating Australia day on New Year's Day, and we don't need another public holiday at that time of the year. ANZAC Day has a life of its own, and is not truly representative of all Australians. It also lacks political support. When raised in 2007 it was strongly opposed by both Prime Minister John Howard and Opposition Leader Kim Beazley.

The anniversary of Melbourne Parliament (1901) and Federal Parliament (1927) on 9 May and Constitution Day on 9 July are also not suitable choices. The timing is poor for both (being close to other public holidays and during winter), they have little tradition of being celebrated nationally and they lack public interest or significance.

The last contender, the Eureka Stockade, has been suggested as an alternative since the 1880s. Over the years however, the idea has failed to garner public support. Downsides include that it is closely associated with Victoria, that it is associated with radical political affiliations and because it's too close to Christmas and other public holidays.

That leaves us with Wattle Day, which seems to tick all boxes. First, it is nationally celebrated on the first day of spring, which is a beautiful time across Australia, connected with concepts of new life and fresh beginnings. It also falls nicely in the national public holiday deficit between July and November and being in September, it does not clash with any state or territory wide celebrations. Apart from the timing being good,

however, the really poignant aspect of Wattle Day is its underlying ethos and rich history about a grassroots environmental movement, struggling for recognition.

Wattle Day's long and interesting history has been described in detail by Maria Hitchcock in her book 'Wattle', and is also available in summary on the Wattle Day Association's website. According to this history, the wattle was first used as an emblem in Tasmania in 1838. Near the end of the nineteenth century, it was embraced in Adelaide, where an association designed a flag and held the Wattle Blossom Social in 1890. Although this association dissolved, the wattle re-emerged in Melbourne, after it was mentioned in an article on national symbols in 1891. The article was in part responding to Canada's choice of the maple leaf as their national emblem. That discussion led to the idea that the wattle should become the Australian emblem.

The first suggestion of a Wattle Day was made in September 1908. This idea received support at a public meeting held to form a Wattle Day League in 1909. The meeting also agreed to encourage the coordination of all states. By around 1910, consensus was nationally reached that the wattle (rather than the waratah) should be the national emblem, since it grows throughout the nation. In that year, Wattle Day was celebrated in Sydney, Melbourne and Adelaide on 1 September 1910. Early Wattle Day activities included the planting of wattle trees in school grounds, school lessons on botany, street decorations of wattle blossom, and wearing sprigs of wattle, often sold for charity.

Wider acceptance of a national Wattle Day was achieved at an Australian Wattle Day League Conference in 1913. Branches were formed in a number of states, with the general aim of officially proclaiming wattle as the national floral emblem and extending Wattle Day celebrations throughout the nation. About this time, the wattle was officially incorporated into the Commonwealth coat-of-arms and the first wattle blossom stamp was issued.

Public support for Wattle Day peaked at the outbreak of World War I. The wattle took on a new significance as a symbol of home. It also became a means of fundraising for organisations including the Red Cross, and beautifully designed Wattle Day badges and sprigs were sold. Wattle Day continued to be celebrated during the 1920s and 1930s closely associated with schools and tree planting.

The World War II effort did not follow on in this tradition however, and following the war, it slowly died as a national celebration. It was not really resurrected again until April 1984, when the wattle's green (leaves) and gold (blossom) were chosen as the national colours for Australia. This was followed on Wattle Day 1988 (the bicentennial year), when the Golden Wattle (*Acacia pycnantha*), was officially declared the national emblem for Australia. And in 1992, it was finally agreed that the first day of spring (1st September) each year would be Wattle Day, in every state and territory.

The ethos and history behind Wattle Day has enormous potential for public support. The Wattle Day leaders included botanists, naturalists and environmental enthusiasts. The day is about revering the natural beauty of Australia including our flora, fauna, national parks, rivers, lakes and oceans and could well include our national natural treasures like Uluru. The Australian bush is something most people who were born or raised here have a connection to and visitors are fascinated with. Popular activities like fishing, surfing, camping and bush walking all complement Wattle Day and could be seen as representative of the 'spirit' of Australia.

The day is also sensitive to Aboriginal and Torres Strait Islander peoples because it is about Australia's natural beauty pre and post British arrival. Changing the day to Wattle Day would also be an important symbolic gesture to the First Peoples, which would aid in reconciliation and unifying the nation.

BIO: Tammy Solonec is a Nyikina woman from Derby in the Kimberley of WA. As well as being a qualified human rights lawyer, Tammy was a Director of the National Congress of Australia's First Peoples, the Vice Chairperson of NAIDOC Perth, and is a member of the Indigenous Legal Issues Committee of the Law Society of Western Australia. Tammy has written this piece in her private capacity. The views contained are not representative of any of the organisations she is associated with.



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Appendix 2

Democracy and Law in Action

Year 8 Assessment Task: Rule of Law



The most important concept of the rule of law is that the law applies equally and fairly to everyone. The rule of law is the underpinning factor for human rights and is seen as the key to maintaining the right to life, security and liberty.

With the rule of law in mind, choose one of the two topics below and complete the associated tasks for your chosen topic.

Topic 1: Right to Protest (Include images relevant to the topic)

The Right to Protest is not written in the Australian Constitution. Victoria, the ACT and Queensland (from Jan 2020), all of which have human rights acts, have legislated the right to protest. In Western Australia, when more than three people in Western Australia come together in public for a protest, meeting or procession they must obtain a permit from the police.¹

In recent times, there has been the rise of several high profile environmental protest movements. One of these is the School Strike for Climate marches, where youth across the world have led and coordinated school strikes to demand action on climate change. Greta Thunberg has become a well-known and influential leader of this movement.

[Greta Thunberg says school strikes have achieved nothing](#)

[Extinction Rebellion](#) is another group demanding action on climate change and acts of non-violent civil disobedience took place across the world in 2019.

[Extinction Rebellion protesters take to Perth CBD](#)

Federal and State Governments have proposed a variety of ways to deal with the rise of recent environmental protests:

In October 2019, in the wake of several high-profile climate action protests, the Queensland Parliament passed a law that unreasonably criminalises peaceful protest tactics with penalties of up to two years. The Palaszczuk Government failed to provide any evidence to support their claims that the new laws were needed.

The NSW Government also introduced harsh, unnecessary proposed laws targeting protest activity on agricultural and forestry land, including public land.

At the Federal level, the Morrison Government introduced laws in 2019 targeting agricultural protest and announced it would seek to outlaw secondary boycott campaigns that try to pressure Australian companies not to do business with other companies involved in environmental harm or human rights violations².

1. Section 7 of the Public Order in Streets Act 1984 (WA)

2. Human Rights Law Centre website, Democratic Freedoms, 9 Dec 2019, <https://www.hrlc.org.au/democratic-freedoms>.

[Queensland parliament introduces anti-protest law](#)

[Call to review NSW excessive protest laws](#)

The Federal Government has identified boycotts of businesses, especially those in the resources sector, as a concern and proposed that such acts be unlawful.

[Scott Morrison slams environmental groups 'targeting' businesses with 'selfish' secondary boycotts](#)

[Scott Morrison wants to outlaw boycott campaigns](#)

[Fact or fiction? Morrison's war on protesters](#)

One of the principles of the rule of law is that the law should be subject to open and free criticism by people who are able to assemble without fear. Prepare a presentation on the right to protest and the rule of law. This can be in the form of a multimodal presentation or an informative essay:

1. Outline the principles of the rule of law. The [Rule of Law Institute](#) has some useful information regarding this topic.
2. Outline one of the recently implemented or proposed anti-protest laws.
3. Do you think that recently implemented or proposed anti-protest law limits any of our freedoms? If so, which one/s?
4. Is that recently implemented or proposed anti-protest law in keeping with the principle of the rule of law? Give reasons for your views.
5. Do you agree with the recently implemented or proposed anti-protest laws? Give reasons for your views.

Topic 2: Freedom of the Press (Include images relevant to the topic)

In June 2019, the Australian Federal Police (AFP) raided the ABC headquarters and News Corp journalist Annika Smethurst's home following the publication of an article related to the Australian government monitoring Australian citizens. The AFP's position is that those raids were necessary for national security.

The AFP raids were viewed by national and international media organisations as an assault on the freedom of press in Australia.

The Attorney General, the Hon Christian Porter, has determined that Commonwealth prosecutors must seek his approval before charging any journalists in relation to those raids.

The Federal Government has distanced itself from the raids and has noted that the AFP acts independently from the Executive arm of government. However, others have noted the expanding field of Commonwealth national security laws ([data surveillance](#) powers and [secrecy offences](#)) and point to those laws as threatening the freedom of the press in Australia.

[ABC raid: Outcry as Australian police search public broadcaster](#)

[Explainer: what are the media companies' challenges to the AFP raids about?](#)

[Attorney-General orders prosecutors seek his approval before charging ABC, News Corp journalists](#)

[Media chiefs unite on press freedom, but will it result in any action?](#)

One of the principles of the rule of law is that the law should be subject to open and free criticism, including by a free and independent press. Prepare a presentation on freedom of the press and the rule of law. This can be in the form of a multimodal presentation or an informative essay:

1. Outline the principles of the rule of law. The Rule of Law Institute has some useful information regarding this topic.
2. Outline the details of either raid.
3. Outline the reasons that the AFP gave for raiding either the ABC headquarters or Annika Smethurst's home.

4. Why are the AFP raids on either the ABC headquarters or Annika Smethurst's home viewed as threats to the freedom of press in Australia. Do you agree or disagree with those arguments? Give reasons for your views.
5. Was the AFP raid on either the ABC headquarters or Annika Smethurst's home in keeping with the principle of the rule of law? Give reasons for your views.

CRITERIA FOR ASSESSMENT

1. Relevance to the topic
2. Shows a good understanding of the rule of law
3. Provides well-reasoned answers for views taken
4. Accuracy of grammar and spelling
5. Referencing of sources used (either with footnotes or endnotes)

11. <http://www.ruleoflaw.org.au/education/case-studies/organised-crime-australia/> and <http://www.hhg.com.au/blog/how-well-do-you-know-your-friends-anti-association-laws-in-australia>.



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Appendix 3

Democracy and Law in Action

Year 8 Assessment Task: Lore/Law



Indigenous Australians have lived according to their lore for tens of thousands of years long before European settlement. After settlement, clashes between Indigenous lore and British law caused extreme hardship for the local Indigenous. View the eight minute audio-visual presentation of [Weewar](#).

Prepare a presentation in the form of a multimodal presentation or an informative essay:

- Using the following websites research the difference between Indigenous Lore and Australian Law.
- Outline the different perspectives for both Indigenous and non-Indigenous Australians in regards to a national identity.
- Discuss ways in which the two types of lore/law may be able to work together.

[Aboriginal Australia](#)

[Kaartdijin Noongar – Noongar Knowledge](#)

[Clashes of Lore/Laws](#)

CRITERIA FOR ASSESSMENT

1. Relevance to the topic
2. View the eight minute audio-visual presentation of [Weewar](#) and refer to Weewar as an example of the clash of lore/laws
3. Refer to at least one of the following websites in your discussion

[Aboriginal Australia](#)

[Kaartdijin Noongar – Noongar Knowledge](#)

[Clashes of Lore/Laws](#)

4. Show an awareness of the different perspectives for both Indigenous and non-Indigenous Australians in regards to a national identity
5. Creativity: add any other details which you think are appropriate
6. Accuracy of grammar and spelling
7. Referencing of sources used (either with footnotes or endnotes)



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