

# Exploring the systems that protect our Rights and Freedoms



# Equality before the law

Equality before the law means that the law should apply in the same way to **ALL** people **EQUALLY**.



# Equality before the law

The Universal Declaration of Human Rights emphasises the rule of law in its preamble:

*"...it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law."*



In other words, all people's human rights should be protected - equally - by the Rule of Law.

# The Rule of Law

The Rule of Law includes concepts such as:

- The government and citizens knowing and obeying the law
- The existence of checks and balances on the use of government power
- Courts that are independent to make judgements without outside influence
- The idea that a person is innocent of a crime, unless it's proven in a court that they are guilty
- All people having access justice
- All people having the right to a fair trial

(adapted from information found at <https://www.ruleoflaw.org.au/what-is-the-rule-of-law/>)

# The Rule of Law

- Rule of Law requires that we have rules that are followed and enforced.
- Rule of Law is an Australian legal tradition.
- Rule of Law ensures that societies are governed by laws. It means that all people, regardless of who they are (their status) are expected to follow the same laws and are held to the same standard. This includes the government.
- If a law is broken, then there is a clear process and guidelines for consequences for these actions.
- Rule of Law is fundamental in maintaining a free, democratic and fair society.

# The Judicial System

The Judicial System (also known as the courts) is where laws are interpreted and applied. In court, decisions are made about whether actions taken by people are legal or illegal.

The Judicial system is one of the three branches or institutions of government (the others are the Executive and the Legislature). Under Australia's Constitution, each of the institutions of government (including the Judiciary) is supposed to be independent from the others. This is called the separation of powers.

Separation of powers ensures that judicial officers (judges) interpret and apply the law independently and without interference (from other government powers such as the Legislature or the Executive).



# The Australian Court System

The courts are an official place where people present their side of a legal dispute. In the courts, the dispute is resolved through a fair and unbiased judgement (according to the law).

There are many different courts in the Australian Judiciary (court) System. Different courts resolve different types of legal matters.

Courts exist in a hierarchy, meaning some courts can overturn decisions made in courts below them.

State and federal laws exist in Australia. There are state and federal courts to hear cases based on the type of law involved.

# What are you wondering about the Court system?



## Your research could focus on one specific Australian court:

- Magistrates' Court
- District Court/County Court
- Supreme Court
- Federal Circuit Court

- Family Court
- Federal Court
- High Court

## You could find out more about:

- How the court fits in with Australian laws.
- Court processes.
- The role of the court.
- The different people who work in the court.
- The types of cases that the court hears.

Or, use the 5Ws to set yourselves some research questions:

- Who
- What
- When
- Where
- Why