



Teacher Reference Document 7



AUSTRALIAN
CONSTITUTION
CENTRE

Unit 2: How British laws and principles, including the rule of law, were brought to Australia by the First Fleet in 1788 and their impact on Aboriginal and Torres Strait Islander peoples – Year 4 - Civics and Citizenship (C & C) Strand: Laws and Citizens

Topic 4.2: A conflict of laws and perspectives

Why the British colonised Australia

Have you ever wondered why the British colonised a land on the other side of the world? One reason was so they could send their convicts far away from Britain, instead of having them clog up British prisons. It also gave the British a foothold in a distant part of the world, from where they could develop trade routes and eventually exploit any natural resources. It added to British global power and Empire. But the immediate cause was dealing with the convicts.

Transportation to the American colonies

England had been transporting convicts to its colonies in America from the 17th century. A crack-down on crime resulted in harsh sentences. Hundreds of different types of crime were punished by the death penalty. They were known as 'capital crimes' or 'capital offences'. The judges often had no choice and had to sentence people to death once a jury found them guilty of a crime, like theft. But where a person stole some clothes or food to survive, the penalty seemed extremely unfair. So sometimes the King exercised his power to grant mercy by 'commuting' (ie changing) a sentence from death to transportation to an overseas colony, like America.

Once the convicts arrived in America they were often auctioned off to the highest bidder as 'indentured labourers'. This meant they had to serve out the rest of their sentence by working for the businessman who paid for them. Generally, for non-capital crimes the sentence was seven years and for capital crimes the sentence was 14 years.

Some repeat offenders were given life sentences. If you look at convict records, these life sentences are listed as 99 years. After they had served the full term of their sentence, the convicts were allowed to return, but not many did. It was a capital offence to return to England before their sentence had expired.

By 1670 two of the British colonies in America, Maryland and Virginia, banned receiving transported convicts. The King respected this, but convicts were still sent to the other British colonies in America.

In 1689 after the Glorious Revolution, during which King James II fled England, the Bill of Rights was enacted by the English Parliament. It limited the power of the King and increased the power of Parliament.



US Revolutionary leader
George Washington
purchased convicts as
indentured labourers in 1774
Source: Wiki Commons

The Bill of Rights required Parliament to meet regularly. It declared there should be free elections. It also prohibited 'cruel and unusual punishment'. Parliament became the ruling power of England, rather than the King.

By the early 18th century, crime was again a problem and English prisons continued to fill beyond capacity. The existing punishments had failed to stop people from committing crimes, such as stealing, so the British Parliament passed the *Transportation Act* of 1717. It gave judges the power to impose transportation as a sentence for certain crimes, rather than relying upon the King to grant mercy.

But the colonies that received the convicts were not always pleased at their arrival. They were afraid that the convicts would increase crime, endanger free citizens and discourage other free settlers from coming to the colonies.

The American colonies were also beginning to resent the way they were treated by the British Government. They were angry about increases in taxes imposed by Britain. From 1775 to 1783 there was a revolt in the 13 American colonies against the British rule. This War of Independence, which the Americans won, led to the creation of the United States Constitution in 1787. It also meant the end of the transportation of British convicts to America.

Convicts in the 'hulks'

High levels of crime were still occurring in England. The prisons were starting to overflow. The solution was to convert old trading ships and navy ships into floating prisons (known as 'hulks') on the river Thames. Judges were still reluctant to sentence people to death for minor crimes and so the sentence of transportation was given instead. But there was nowhere to send these prisoners. It was also very expensive. Because the American businessmen had paid Britain for the convicts sent there, that program was cheap to run. Housing the prisoners on the hulks was costing the government a lot of money. Some of the convicts were put to work dredging the Thames to try to make up some of the costs.

The conditions on board the prison hulks were also very dangerous. There was overcrowding and not much opportunity for the prisoners to wash and keep themselves clean. The death rate was around 30%, so while many of the prisoners had escaped a death sentence in the court, being held on these prison ships could also be a death sentence. As the prison hulks continued to fill up, the Government had to come up with a new plan.



Portsmouth Harbour with
Prison Hulks
Source: Wiki Commons



Transportation to New South Wales

In January 1787, the British Government decided to transport convicts to New South Wales. Captain Cook, in his previous visit to Australia in 1770, had identified a place he named 'Botany Bay' (called 'Kamay' by the local Gweagal people) as a good place to settle, so that is where they headed. The first fleet of 11 ships departed England in May 1787 with around 750 convicts and their children and around 350 soldiers, sailors and officials, along with their wives and children. Captain Arthur Phillip was chosen to command the fleet and to be Governor of the new colony in New South Wales. He was given a 'Commission', which gave him legal powers, and 'Instructions' which told him what he had to do when he got there.

Governor Phillip arrived in Botany Bay (Kamay) on 18 January 1788, with the other ships in the fleet arriving on 19 and 20 January. It was inhabited by the Gweagal people of the Dharawal nation. After some exploration, Cook decided it was not a suitable spot and instead moved to Port Jackson, which he discovered had a wonderful natural harbour and a good place to settle with fresh water and good soil. On 26 January 1788, the soldiers and convicts landed at Sydney Cove, which was named after Lord Sydney, who was the British Minister (the 'Home Secretary') who was responsible for the expedition.

Captain Arthur Phillip at the raising of the British flag at Sydney Cove (Aboriginal name Warrane), which was home to the Gadigal people of the Eora Nation

Source: State Library of NSW

On 26 January, Governor Phillip raised the British flag in Sydney Cove and formally proclaimed British sovereignty over New South Wales. At this time New South Wales covered about half of Australia as well as its offshore islands. The claim to sovereignty over such a vast expanse was not legally effective at that time, because the British did not control all the territory that they claimed. But over time, that changed.

The date of 26 January is now commemorated as 'Australia Day'. It is a date that remains controversial in Australia, with some instead calling it 'Invasion Day', a 'Day of Mourning' or 'Survival Day'. However it is viewed, it is a day that marked a major turning-point in Australia's history.

Over a period of 80 years, more than 160,000 convicts were transported to Australia. They were sent from England, Ireland, Scotland and Wales. Many made important contributions to the new colony after serving their term as convicts, such as [Francis Greenway](#) who became the first Government architect, designing major [buildings](#) in Sydney, including the Supreme Court.



Topic 4.2 Activity/ Lesson Three



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Why the British colonised Australia

Time/Lesson

- 1 hour

Learning Goal

To understand that on 26 January 1788, Governor Phillip caused the British flag to be raised in Sydney Cove and formally proclaimed British sovereignty over half of the Australian continent and all the islands to the east and called it New South Wales.

Rationale

For students understand that the British had a need to transport convicts away from Britain. This and the wish to expand the British Empire was the driving force behind the colonisation of Australia. The date that the colonists arrived at Sydney Cove is commemorated as Australia Day. Some refer to it as Invasion Day, Day of Mourning or Survival Day.

Success Criteria

Students understand why the British colonised New South Wales to create a penal settlement, what British sovereignty meant, the symbolism of Governor Phillip raising the British flag, and why some Indigenous Australians see the 26 January as a day of mourning due to the impact colonisation had on their peoples and culture.

Teaching Reference Documents:

TRD 7 Why the British colonised Australia

Resources

CEFA Yaba video: The flipside of Australia Day: <https://vimeo.com/104687900>

Tuning In

Revise TRD 7 Why the British colonised Australia:

Have you ever wondered why the British colonised a land on the other side of the world? One reason was so they could send their convicts far away from Britain, instead of having them clog up British prisons. It also gave the British a foothold in a distant part of the world, from where they could develop trade routes and eventually exploit any natural resources. It added to British global power and Empire. But the immediate cause was dealing with the convicts.

Teacher Instruction

- Show the picture from TRD 7 of Captain Arthur Phillip at the raising of the British flag at Sydney Cove and discuss what students see, think and wonder about the picture. What might any Aboriginal people who may have been watching the ceremony have thought? What might they have thought when they realised the flag raising meant the permanent settlement of the British on their land?
- 'Sovereignty' can mean different things: 'legal sovereignty', being the power to impose and enforce laws over territory and control its borders; 'political sovereignty', which includes rights of self-determination within an existing sovereign nation; and 'spiritual sovereignty', which includes an ancestral tie between a people and their land, as described in the Uluru Statement. Note that discussions about sovereignty can become confused when people are using the word 'sovereignty' to mean different things. Discuss how different types of sovereignty can function peacefully together.
- Students research and find a map of the land claimed as New South Wales by the British.
- Watch the video the flipside of Australia day <https://vimeo.com/104687900>. Students vote on whether Australia Day should be celebrated on January 26 or whether it should not. Select two teams to set up a classroom debate on this topic. After the debate ask if anyone has been persuaded to change their mind on the issue and then take another vote.

Group/Independent Learning

- Students write a letter to their Federal Member of Parliament either:
 - o Supporting the Australia Day holiday on 26 January and explaining reasons for their support; or
 - o Letting the MP know that they don't support the Australia Day holiday on 26 January suggesting reasons why the holiday should be abolished or the date changed. They may like to suggest an alternate date.

Differentiation/Enrichment

Support and Extension

Watch the first man landing on the moon and the American Flag planting ceremony. Listen to the astronauts say that they come from planet Earth. Students now imagine that they are in a space ship heading to a yet unexplored planet. They carry an Australian flag. When they arrive they find that there are aliens who already live on the planet. Will the students still go ahead and raise the Australian flag and claim Australian sovereignty? Write and illustrate a story on this scenario.

Assessment strategies

In the introduction phase the students write a set of questions. These can be used as formative assessment of this skill or as a part of a summative assessment folio using the criteria from the Standard Elaborations.

HASS Skill – Question Posing

	A	B	C	D	E
Inquiry Question	development of clear and informed questions to frame an investigation	development of informed questions to frame an investigation	development of appropriate questions to frame an investigation	guided development of questions to frame an investigation	directed use of questions to frame an investigation

Using a retrieval chart is a research skill. This can be used as formative assessment of this skill or as a part of summative assessment folio using the criteria from the Standard Elaborations (below).

HASS Skill – Collection of information

	A	B	C	D	E
Research	location and considered collection of data and information from a range of relevant sources	location and informed collection of data and information from a range of sources	location and collection of data and information from a range of sources	location and guided collection of data and information from a range of sources	use of directed data and information from a range of sources

If using a source analysis in this activity:

HASS Skill – Source Analysis

	A	B	C	D	E
Source Analysis	considered examination of sources to: <ul style="list-style-type: none"> • determine their purpose • identify different viewpoints 	informed examination of sources to: <ul style="list-style-type: none"> • determine their purpose • identify different viewpoints 	examination of sources to: <ul style="list-style-type: none"> • determine their purpose • identify different viewpoints 	partial examination of sources to: <ul style="list-style-type: none"> • determine their purpose • identify different viewpoints 	fragmented examination of sources to: <ul style="list-style-type: none"> • determine their purpose • identify different viewpoints