**Sample Unit of work**

Option Area 2: When Rights Collide (and elements of Focus Area 1: Sources of Law)

Big Questions:

**How can the tension between conflicting rights be fairly resolved?**

or

**Whose values are reflected in our laws?**

Defining what is fair is a significant cause of tension between individuals, groups and the government. When we investigate the cause and effect cycle between common law decisions and either complimentary or remedial legislation, we are able to make informed evaluations of how the Australian Legal System has evolved – or not – to fairly resolve conflicting rights. Through an historical understanding of when, how and why laws have changed, we better understand the extent to which power has been shared in the past and investigate potential changes that could better equalise any imbalance of power.

In focusing on **the empowered and the disempowered** as the competing tension, the following inquiry questions will help students gather the knowledge and understanding needed to think critically and analytically to answer the Big Question.

**Inquiry Questions**

How and where are human rights reflected in our laws?

* Explicit rights
* Constitution interpretation
* Customary international law
* International agreements (treaties)

How does the separation of powers impact Australia’s protection of human rights?

* Treaty making process
* Customary international law precedents
* External affairs power
* Judicial interpretation

How effective are complimentary and remedial legislation in protecting rights of groups and individuals, including Aboriginal and Torres Strait Islanders?

How can individuals and groups in society influence laws and lawmakers?

* Representative government
* Responsible government
* Political party pressure groups

What are the strengths and weaknesses of different types of lawmaking for human rights?

Students will need to explore the values represented in various laws and evaluate how those values may have impacted decisions made in court. Some relevant topics to explore can include but is not limited to:

Cases/disputes

* Koowarta v Bjelke-Petersen (1982)
* Mabo v Queensland [No 1] (1988)
* Mabo v Queensland [No 2] (1992)
* Minister of State for Immigration and Ethnic Affairs v Teoh (1995) (aka the Teoh case)
* Northern Territory v Arnhem Land Aboriginal Land Trust (2008) (aka Blue Mud Bay case)
* Mojgan Shamsalipoor asylum dispute (2016)
* Ngaringman and Larrakia peoples land claims decision (2016)

Treaties

* International Convention on the Elimination of All Forms of Racial Discrimination
* International Covenant on Civil and Political Rights
* Convention on the Rights of the Child
* The Universal Declaration of Human Rights
* Convention on the Rights of Persons with Disabilities

Legislation

* Migration Act 1958 (Cth)
* Racial Discrimination Act 1975 (Cth)
* Aboriginal Land Rights (northern Territory) Act 1976 (Cth)
* Queensland Coast Islands Declaratory Act 1985 (Qld)
* Native Title Act 1993 (Cth)