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Compare and contrast disputes between individuals and those between individuals and the state

Assess the effectiveness of methods of resolving disputes

Identify and examine methods of resolving disputes between individuals
Resolving disputes with the state

Compare and contrast disputes between individuals and those between individuals and the state

WHAT’S THE DIFFERENCE?

THEME: The **effectiveness** of legal mechanisms in achieving justice for **individuals** and **society**

THEME: Balancing the rights of **individuals** with the needs of the **state**
Governments and other authorities make decisions that affect us. Denying visas; changing workplace laws; stopping Centrelink payments; etc etc etc.

Sometimes the people who make those decisions make the wrong decision. They went beyond their power; or they’re corrupt; or the way their decisions are made is wrong.

There has to be some way to challenge those decisions because:
1. We don’t want people in the government, or in government departments, to be “above the law”;
2. We don’t want to feel powerless, like the government can “do what it wants” to us.

If you believe that an authority has made the wrong decision and you try to get it changed, you have a ‘dispute with the state’.
### Resolving disputes

#### Resolving disputes with the state

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- Compare and contrast disputes between individuals and those between individuals and the state
- Assess the effectiveness of methods of resolving disputes

Non-legal methods
- Media
- Members of parliament
- Trade unions
- Interest groups, including NGOs

Legal methods
- Internal Review
- External Review
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    1. Australian Human Rights Commission
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Resolving disputes

Resolving disputes with the state

There are a quite a few ways that a ‘dispute with the state’ (when you want a government decision or policy changed) can be resolved:

Some of these methods are *informal* or ‘non-legal’.

Others involve *formal* legal channels/ways.

Distinguish between non-legal and legal methods of enforcing rights and resolving disputes

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Distinguish between non-legal and legal methods of enforcing rights and resolving disputes

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In cases where a person feels like a government department has not treated them fairly and that they’re “just not listening”, people often go to the media (Today Tonight, ACA, talk-back radio, etc).

There are times when this is successful in getting the person/department to change their decision (“And the pensioner in that story DID end up getting his Centrelink payments back”), but it’s not always a good idea.

1. The media is exploiting your problem for their own gain, not to help you
   It’s the opposite of constructive problem-solving.
2. Competing media may take the opposite side (attacking you)
   Your story about losing your Centrelink payments airs on TT on Monday. Then ACA runs a story on Tuesday making you out as a dole bludger, to make TT look bad.
3. Your privacy is gone
   More people watch Today Tonight than go to any tribunal or court.
Resolving disputes with the state

Non-legal methods
- Media

Contact Today Tonight

Today Tonight welcomes input from viewers. Here are the details on how to contact us - please choose the appropriate category for your message.

Suggest a Story

Viewer Feedback

Fair Go

Volunteer to be on TT
“The government” is **ENORMOUS**. There are so many different parts and departments, so it’s a bit ridiculous to talk about having a dispute “with the state” (you really have a dispute with a *particular* department over a *particular* issue).

Sometimes resolving a dispute can be as simple as ringing/emailing your local **Member of Parliament**.

They can:

1. Take the issue to their political party so they might change a law or policy
2. Just “use their connections” within politics to get some solution to your particular problem.

   *e.g. If you disagreed about Australia Post removing a post box from your area*
Groups of people who work in the same job or industry (e.g. ‘teachers’, ‘health workers’, ‘maritime workers’) join together to form trade unions to protect their rights and fight for better conditions of employment.

Workers will often “go to the union” about an issue, so that the union negotiates with the bosses, instead of one single, powerless worker.

**WHAT DOES THIS HAVE TO DO WITH ‘THE STATE’???**

1. Sometimes, the state IS their employer (so a dispute with their boss IS a dispute with the state); and
2. Trade unions are able to influence ELECTIONS
   
   *e.g. the 2007 Federal election where John Howard lost, mostly because the unions campaigned against his WorkChoices laws.*

Because of this, when the government makes decisions that will affect workers, they have to think about what the unions will do if they decide to hurt workers.
An ‘**interest group**’ is a group of people with a shared ‘interest’.

They want the government to make decisions that are in line with what they believe.

Some interest groups have a very specific, one-off goal.

- *e.g. Save a local building or park from development.*

Some interest groups are enormous, and can affect MAJOR government decisions.

- *e.g. Business Council of Australia* – represents the top 100 businesses in Australia
- *e.g. Get Up!* – aims to increase individual participation in political action
- *e.g. Australian Council of Social Services* – represents especially people on welfare

When these groups make ads and “lobby” (try to convince the government) to change their mind about something, the government MIGHT listen...
Resolving disputes

Resolving disputes with the state

Non-legal methods

- Interest groups, including NGOs

E.g. The Business Council of Australia

BCA’s Workplace Relations Action Plan for Future – Feb 2005
The government should bring in individual workplace agreements

Howard government’s Work Choices Bill – May 2005
The government will bring in individual workplace agreements

Howard government’s Work Choices Act – November 2005
The government did bring in individual workplace agreements
Questions

1. The chart on slide 4 is all about the range of dispute resolution in the legal system. Explain the chart in words.
2. What are the 4 broad non-legal mechanisms of dispute resolution?
3. How does the media fit as a MECHANISM of dispute resolution? (slide 8-9) (this time we’re talking about the media as a mechanism not an agency like we did in the last unit)
4. How can a Member of Parliament resolve disputes between individuals and the government? (slide 10) Can you find an example of this (own research)
5. What are trade unions? (slide 11)
6. How do trade unions resolve disputes between individuals and the government? (slide 11)
7. What are interest groups? (slide 12)
8. What are NGOs? (slide 11-12)
9. Find an example of an NGO that has been involved in dispute resolution. (see slide 13 and own research)