



Characteristics of Effective Laws:

How do we know that a law is doing what it is meant to?

What are laws and who makes them?

Laws are societal rules and norms that are made formal by authorities given the power to make laws. Laws are necessary to keep our community safe and running smoothly. Laws differ from rules.

In Australia's representative democracy, the authorities given the power to make laws by the Constitution are the Federal and State Parliaments, the Territory Legislative Assemblies and Local Governments.

But how can law makers ensure that they are making effective laws that are 'fit for purpose' (i.e do what they are meant to)?

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Why do we need **laws**?

- Where laws are created under the rule of law, laws creates certainty and predictability for the members of the community. This is not the case in tyranny or autocracy where there is rule by law.
- Laws keep the community safe and create order
- They protect the rights of all members of the community
- Laws establish the responsibilities that community members and visitors have to others
- A peaceful society is created by establishing a consistent set of regulations for everyone to live by
- Laws create equality and fairness for everyone in the community by having the same law that applies to everyone
- Penalties are created for those people that break the laws

Laws in our democracy under the **rule of law**

As opposed to a dictatorship or authoritarian regime that is ruled by one person or group of people (rule by law), Australia is a representative democracy under the rule of law.

This means:

- Laws are made for the people by their elected representatives
- Everyone, including those in power, must follow the law
- People can only be punished for breaking laws in accordance with that law.

According to the World Justice Project, **effective laws are just laws**

To know if a law is just, we need to ask:

- Is the law understandable to all people?
- Is the law publicly available and easily accessible?
- Is the law stable and steady?
- Does the law apply equally to people of all backgrounds and social classes?
- Are core human, procedural, and property rights protected in the law?

<https://worldjusticeproject.org/about-us/overview/what-rule-law#:~:text=just%20law%20The%20law%20is,accessible%2C%20fair%2C%20and%20efficient.>

Checklist of the characteristics of an effective law

- ✓ **Protects the Rule of Law and Human Rights**
- ✓ **Clear**
- ✓ **Known and accessible**
- ✓ **Accepted**
- ✓ **Applied consistently and fairly to all members of the community**
- ✓ **Enforceable**
- ✓ **Stable**
- ✓ **Amendable (changeable)**
- ✓ **Prospective, not retrospective**

What exactly are these characteristics?

- ✓ **Protects the Rule of Law and Human Rights** – laws must comply with the rule of law principles (such as made in a transparent way, people can only be punished in accordance with the law) and with Australia’s human rights obligations.
- ✓ **Clear** – Clearly states what is expected and what the penalties are for breaking it
- ✓ **Known and accessible** – can be found easily by members of the community and uses simple language so that it can be understood
- ✓ **Accepted** – the community believes the law is relevant to their wants and needs and reflects the values and norms of the current society
- ✓ **Applied consistently and fairly** – everyone is subject to the law regardless of position, and the law treats everyone the same way for similar breaches

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What exactly are these characteristics?

- ✓ **Enforceable** – penalties can be given for breaches of the law and its requirements, meaning that there are incentives for the law to be followed
- ✓ **Stable** – the law is not constantly changing so that it makes it easier to be known and for the community to follow it. This also promotes confidence in the justice system
- ✓ **Amendable** – the law can be changed if it is not functioning the way it should or if social values or needs change over time
- ✓ **Prospective, not retrospective** – a prospective law is one where stated regulations and penalties will only apply after a law is passed by Parliament. Retrospective laws mean that people can be penalised for past actions when a law is made after the fact. Retrospective laws mean that members of the community can be penalised for breaking a law even though it did not exist when they acted.

Quiz:

- ? True or False: accessible **laws** are known **laws**.
- ? True or False: Retrospective and clear **laws** are fair.
- ? **Laws** exist to create a community and create for people who do not follow the law.
- ? How do we know if a law is effective?
- ? Laws should reflect society's and
- ? Further exploration: Find a law being debated by a State or Federal Parliament right now and evaluate it using at least 4 of the characteristics above.



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