# DOT POINT

## QCE LEGAL STUDIES UNITS 1 AND 2

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Science Press

© Science Press 2020
First published 2020

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# Words to Watch

**account, account for** State reasons for, report on, give an account of, narrate a series of events or transactions.

**analyse** Interpret data to reach conclusions.

**annotate** Add brief notes to a diagram or graph.

**apply** Put to use in a particular situation.

**assess** Make a judgement about the value of something.

**calculate** Find a numerical answer.

**clarify** Make clear or plain.

**classify** Arrange into classes, groups or categories.

**comment** Give a judgement based on a given statement or result of a calculation.

**compare** Estimate, measure or note how things are similar or different.

**construct** Represent or develop in graphical form.

**contrast** Show how things are different or opposite.

**create** Originate or bring into existence.

**deduce** Reach a conclusion from given information.

**define** Give the precise meaning of a word, phrase or physical quantity.

**demonstrate** Show by example.

**derive** Manipulate a mathematical relationship(s) to give a new equation or relationship.

**describe** Give a detailed account.

**design** Produce a plan, simulation or model.

**determine** Find the only possible answer.

**discuss** Talk or write about a topic, taking into account different issues or ideas.

**distinguish** Give differences between two or more different items.

**draw** Represent by means of pencil lines.

**estimate** Find an approximate value for an unknown quantity.

**evaluate** Assess the implications and limitations.

**examine** Inquire into.

**explain** Make something clear or easy to understand.

**extract** Choose relevant and/or appropriate details.

**extrapolate** Infer from what is known.

**hypothesise** Suggest an explanation for a group of facts or phenomena.

**identify** Recognise and name.

**interpret** Draw meaning from.

**investigate** Plan, inquire into and draw conclusions about.

**justify** Support an argument or conclusion.

**label** Add labels to a diagram.

**list** Give a sequence of names or other brief answers.

**measure** Find a value for a quantity.

**outline** Give a brief account or summary.

**plan** Use strategies to develop a series of steps or processes.

**predict** Give an expected result.

**propose** Put forward a plan or suggestion for consideration or action.

**recall** Present remembered ideas, facts or experiences.

**relate** Tell or report about happenings, events or circumstances.

**represent** Use words, images or symbols to convey meaning.

**select** Choose in preference to another or others.

**sequence** Arrange in order.

**show** Give the steps in a calculation or derivation.

**sketch** Make a quick, rough drawing of something.

**solve** Work out the answer to a problem.

**state** Give a specific name, value or other brief answer.

**suggest** Put forward an idea for consideration.

**summarise** Give a brief statement of the main points.

**synthesise** Combine various elements to make a whole.

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# Introduction

## What the book includes

This book provides questions and answers for each dot point in the Queensland Certificate of Education syllabus for the Year 11 Legal Studies course:

**Unit 1 Beyond Reasonable Doubt**

- Topic 1 Legal Foundations
- Topic 2 Criminal Investigation Process
- Topic 3 Criminal Trial Process
- Topic 4 Punishment and Sentencing

**Unit 2 Balance Of Probabilities**

- Topic 1 Civil Law Foundations
- Topic 2 Contractual Obligations
- Topic 3 Negligence and Duty of Care

## Format of the book

The book has been formatted in the following way:

### 1.1 Subtopic from syllabus.

**1.1.1 Assessment statement from syllabus.**

**1.1.1.1** First question for this assessment statement.

**1.1.1.2** Second question for this assessment statement.

The number of lines provided for each answer gives an indication of how many marks the question might be worth in an examination. As a rough rule, every two lines of answer might be worth 1 mark.

## How to use the book

Completing all questions will provide you with a summary of all the work you need to know from the syllabus. You may have done work in addition to this with your teacher as extension work. Obviously this is not covered, but you may need to know this additional work for your school exams.

When working through the questions, write the answers you have to look up in a different colour to those you know without having to research the work. This will provide you with a quick reference for work needing further revision.

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# Unit 1

## Beyond Reasonable Doubt

In this unit you will:

- Be introduced to the Australian legal system, the sources of law, and the roles of Parliament and the courts.
- Focus on legal principles and criteria such as just and equitable outcomes.
- Consider how criminal law attempts to balance individuals' rights with society's need for order referring to issues such as data and metadata collection and storage; and DNA and fingerprint collection, use and storage.
- Examine the consequences of alleged criminal behaviour in terms of trial processes, punishments and sentences.
- Explore issues such as acts causing injury and death; property offences such as extortion and theft, wilful damage (for example graffiti and arson), and environmental pollution; cybercrime; business, credit card and social security fraud and deception; drug and public order offences; and traffic and vehicle regulatory offences.

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## TOPIC 1

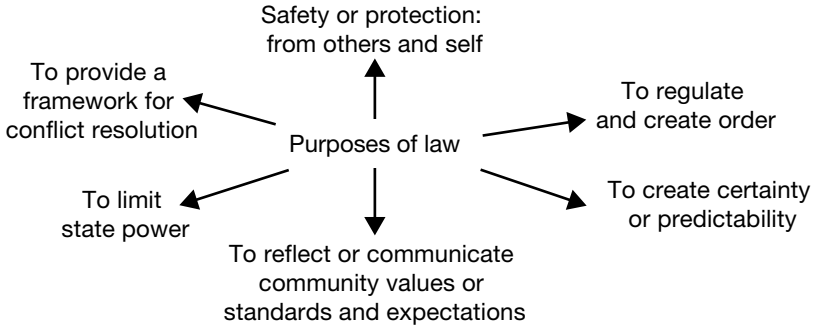
# Legal Foundations

In this topic you will:

- With a focus on criminal law, be introduced to the foundations, features and processes of Australia's legal system.
- Investigate the differences between legal and non-legal rules by considering who makes, interprets and enforces the rule of law.
- Describe key terms such as jurisdiction code, justice, equitable outcomes, rule of law, crime and customary law.
- Describe various concepts such as the rule of law, the sources of law in Australia, the separation of powers doctrine and court hierarchy.
- Explain the purpose of laws within society, the difference between a rule and a law and concepts of just and equitable outcomes.
- Analyse a range of criminal legal issues and the role of customary law in Australia.
- Create responses that communicate legal meaning to suit the intended purpose.

## 1.1 Legal foundations.

### 1.1.1 The purpose of laws in society.




**1.1.1.1** Define each of the following terms.

Law

Protect

Regulate

Certainty

Conflict resolution

Community values

Expectations

State power

**1.1.1.2** List six purposes of the law.

**1.1.1.3** How does the law provide safety or protection?

**1.1.1.4** How do laws create order?

**1.1.1.5** If a person is unsure about what to do in a given situation, how can the law be useful? Refer to an example in your answer.

**1.1.1.6** Describe the importance of creating certainty (or predictability) as a purpose of law.

**1.1.1.7** Why should laws reflect community standards and expectations, or widely held community values?

**1.1.1.8** Explain how the law can limit the power of the state.

**1.1.1.9** Outline the role of the law in assisting to resolve conflicts.

**1.1.1.10** Why do laws vary from place to place?

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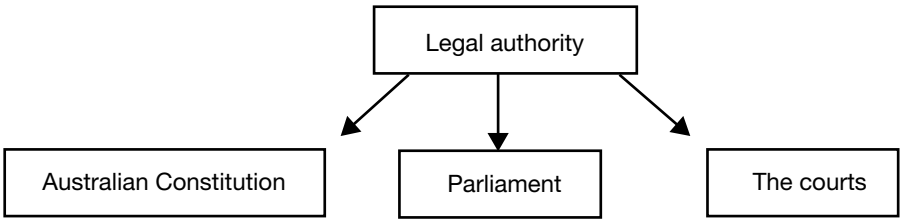
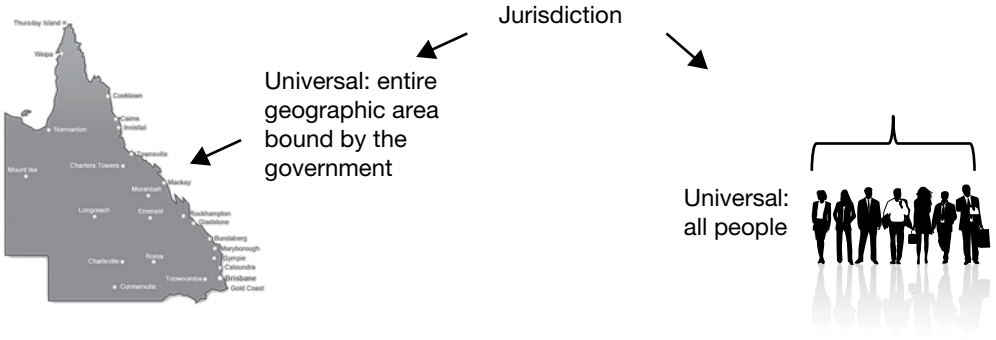
## 1.1.2 Where laws come from and who they apply to.

**Where laws come from: legal authority**




**Who do laws apply to: jurisdiction**




**1.1.2.1** Identify three sources of law in Australia.

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**1.1.2.2** Define the following terms.

Jurisdiction

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Universal

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**1.1.2.3** Explain the relationship between legal authority and legal jurisdiction.

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**1.1.3 The difference between a rule and a law.**

**1.1.3.1** Define the following terms.

Universal

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Situation specific

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Sanction

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Enforcement

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**1.1.3.2** Distinguish between each of the following on the basis of whom they apply to and what happens if a person breaches a rule or law.

Rules

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Laws

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**1.1.3.3** How are laws and rules sometimes related? Illustrate your answer with two examples.

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**1.1.4 Concept of the rule of law.**

**1.1.4.1** Define the following terms.

Rule of law

Equality

Natural justice

Separation of powers

**1.1.4.2** Recall an alternate name for natural justice.

**1.1.4.3** Outline the following features of the rule of law.

Separation of powers between legislature, executive and judiciary

Periodic and regular democratic ('genuine') elections

Free and independent media

Judges appointed on merit

An open court system

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The principle that a person is innocent until proven guilty

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The presence of an office of ombudsman

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Lawyer-client legal privilege

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Freedom from arbitrary abuse or interference by the state

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Life tenure for judges

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**1.1.4.4** Outline the following aspects of natural justice.

Fair hearing rule

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No bias rule

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**1.1.4.5** Distinguish between apprehended and actual bias.

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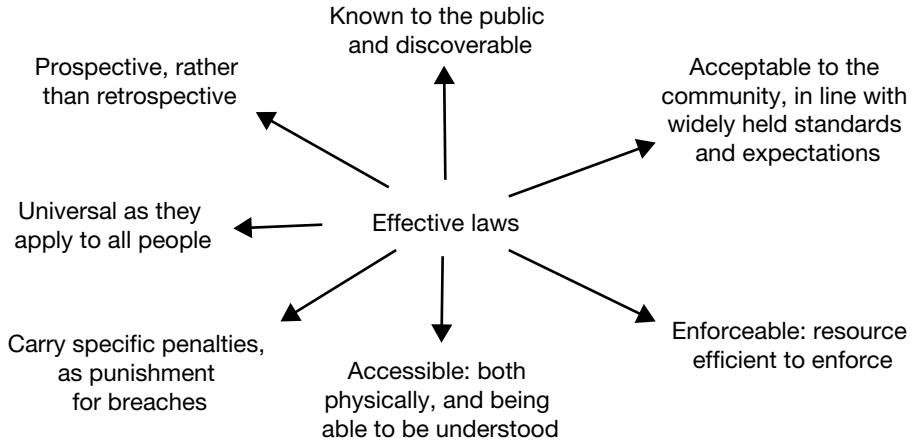
**1.1.5 Characteristics of an effective law, e.g. known to the public, acceptable in the community, able to be enforced, and carry specific penalties or punishment that apply to all.**




**1.1.5.1** Define each of the following terms.

Discoverable

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Universal

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In line with community standards and expectations

Enforceable

Accessible

Equal

Just

Values

Prospective

Retrospective

Resource efficient

Punishment

**1.1.5.2** Why should laws be consistent with broadly held social values?

**1.1.5.3** How does being known make the law effective?

**1.1.5.4** Explain the importance of the law being in line with community standards and expectations.

**1.1.5.5** Why is enforceability an important feature of effective law?

**1.1.5.6** Distinguish between the following aspects of accessibility.

The law can be physically accessed

The law can be understood (cognitively accessed)

**1.1.5.7** How do specified penalties enhance the effectiveness of the law?

**1.1.5.8** Explain the importance of universality to effective law.

**1.1.5.9** Why do effective laws apply prospectively rather than retrospectively?

**1.1.6 Concepts of just and equitable outcomes as a foundation principle of criminal law in Australia.**

**1.1.6.1** Define the following terms.

Justice

Fair

Equality

Equitable

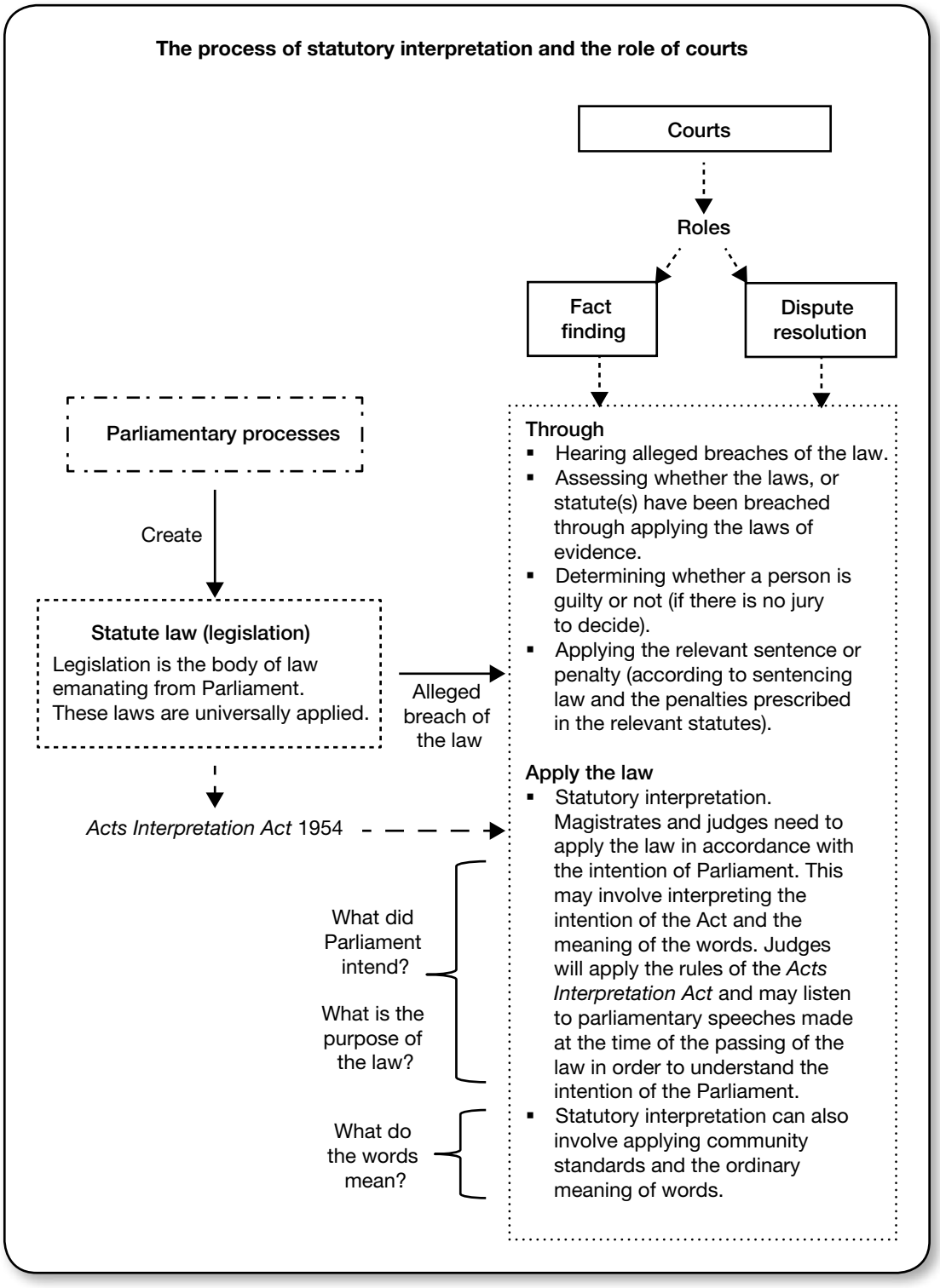
**1.1.6.2** Distinguish between equality and fairness.

**1.1.6.3** How is equality an objective concept?

**1.1.6.4** Explain why treating people identically is likely to lead to injustice.

**1.1.6.5** How can individual circumstances relate to just and equitable outcomes? Provide an example to illustrate your answer.

### 1.1.7 The process of statutory interpretation and the role of courts.




**1.1.7.1** Why do courts consider the intentions of the Parliament when interpreting the law?

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# Answers

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## Unit 1 Beyond Reasonable Doubt

**1.1.1.1** Law: A system of rules set by government, applicable to the whole of society and a breach of which is punishable by the state.

Protect: To keep free from harm or threat of harm.

Regulate: Provide a system of legal rules that guide the conduct of citizens and the activity of organisations, institutions and government.

Certainty: Predictability resulting from a system of rules that are uniformly upheld and universally applied.

Conflict resolution: Methods for solving legal issues and disputes, which may or may not use the courts.

Community values: The widely held beliefs of people within a society that are reflected in the laws and supported by the community.

Expectations: A state of knowing what to anticipate on account of previous experience and the certainty the law brings.

State power: The legal capacity of the state to enforce the laws it makes through the authority granted by various legal instruments (such as the Constitution and legislation).

**1.1.1.2** Six purposes of the law are: to regulate and create order, to create certainty and predictability, to reflect or express community standards or expectations, to limit state power, to provide a framework for the resolution of conflict and to provide safety and protection.

**1.1.1.3** The law provides safety and protection through limiting certain behaviours and activities, punishing offences and by stating what conduct is acceptable.

**1.1.1.4** The law creates order by providing a set of rules for people to follow. When people follow rules then order follows – such as the rule to keep left when driving on Australian roads.

**1.1.1.5** If a person does not know what to do in a given situation then they can seek the guidance of the law. The law can help to clarify what is 'right' in a situation where there is uncertainty. If, for example, a parent or guardian does not know whether to let a 12 year old watch a particular movie, they can be guided by the rating classification (G, PG, MA15+, R) and then decide.

**1.1.1.6** It important for the law to create certainty or predictability as a society is only safe when there is a sense of order and people know what to expect. Certainty means that people can act with confidence – otherwise citizens may feel constrained in their actions and choices.

**1.1.1.7** The law should reflect community standards and expectations (or widely held community values) as this will then be in line with what people believe is right. This means, ideally, that there will be compliance with the law and it will be widely supported.

**1.1.1.8** The law can limit the power of the state by prescribing the rules that apply to the government and its statutory authorities. The law can do this by specifying what the state can, and cannot do and also by being clear about the legal rights or entitlements of citizens.

**1.1.1.9** The law can be useful in resolving conflicts because it can specify standards of behaviour. Once these are known then any breaches of those standards can be brought to account by enforcement of the law (through punishments). It can also provide a guide to how conflicts can be resolved (the steps). Through the courts, the law can provide an independent assessment of whether the law has been breached and what, if any penalty applies.

**1.1.1.10** Laws will vary from place to place depending on the type of government, the values that are widely held, the traditions and customs that shaped the law over a long period of time and the particular factors important to a society at a point in time.

**1.1.2.1** The Australian Constitution, Parliament and the courts (common law).

**1.1.2.2** Jurisdiction is the extent over which the law operates or is effective – such as within a geographic boundary and for a prescribed set of behaviours.

Universal means applies to all people at all times under all circumstances.

**1.1.2.3** Legal authority is the power to make decisions. Legal authority comes from a legal instrument such as law. The authority will only act over a particular sphere of activity or conduct. Therefore the authority is limited to a particular jurisdiction and can only act within the parameters of the authority (within jurisdiction).

**1.1.3.1** Universal means applies to all people at all times under all circumstances.

Situation specific means only applies to particular activities, types of conduct or situations.

Sanction means the punishment that is applicable due to a breach of the law.

Enforcement means the capacity to impose a penalty for a breach of the law.

**1.1.3.2** Rules are situation specific and are prescribed and incur a penalty when breached. Examples include the offside rule in football (soccer) which attracts a free kick for the opposing side. Rules do not apply outside of the situation (game, school, activity).

Laws, coming from the state, are universal, meaning that they apply to all people within a jurisdiction. They can also be situation specific (such as driving laws). A breach of laws carries a sanction imposed by the state and is enforced.

**1.1.3.3** Laws and rules can sometimes be related as in the example of driving laws and road rules. Sometimes rules become laws. For example, the rule banning smoking within restaurants exercised by some restaurant owners has now become a law. Similarly, local council rules requiring dogs to be kept on leashes in public places, is now a law.