

Law and Government



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Rationale



Law and Government is aimed at upper primary and lower secondary school students. It aims to encourage students to think about issues relating to civics and citizenship and to develop an understanding of the key elements of Australia's legal and political systems through awareness of their own rights and responsibilities.

This book makes explicit the awareness students have of the linkages between rights and responsibilities for members of a specific community within a range of local contexts and throughout wider contexts such as local, state and federal governments.

The fact sheets and activities cover a wide variety of topics including:

- The need for laws and governments;*
- Crimes and punishments;*
- The court system;*
- Governments around the world;*
- Australia's three-tier system of government;*
- Elections;*
- Australia's constitution;*
- United Nations as world government.*

All activities are outcomes based with links to the political and legal strands of the Society and Environment / HSIE / SOSE learning areas of the curriculum. Activities are designed to use a variety of learning strategies including Internet research and critical thinking.

Internet References

For ease of use, all websites referred to in this book can easily be accessed through the **Law and Government** book WWW links page at:

▶ **www.readyed.com.au/urls/laws**

Accessing this site saves students from typing in complicated addresses and also allows us to update any links that may move or disappear from the World Wide Web altogether.

This page is regularly updated so check the site frequently. If you wish to report a broken link please email **fixlink@readyed.com.au**

Contents



Rationale	2		
Links To Student Outcome Statements	4		
Relevant Websites	5-6		
Fact Sheet: Who Needs Laws Anyway?	7		
Activity: Controlling Our Behaviour	8		
Activity: Box Office Blockbuster	9		
Fact Sheet: Where Did Our Laws Come From? ...	10		
Activity: Press Conference	11		
Activity: Aboriginal Australian Laws	12		
Fact Sheet: Making Laws	13		
Activity: Creating a Law	14		
Activity: Laws In Australia	15		
Fact Sheet: Types of Laws: Criminal And Civil	16		
Activity: Legal Link	17		
Activity: Newspaper Study	18		
Activity: Unsolved Crimes	19		
Activity: Wacky World Laws	20		
Fact Sheet: Crime and Punishment – The Police ..	21		
Activity: Rights and Responsibilities	22		
Activity: On The Beat	23		
Fact Sheet: Enforcing The Law – The Courts	24		
Activity: Courts Around The Country	25		
Activity: Doing Your Duty	26		
Activity: International Law 1	27		
Activity: International Law 2	28		
Fact Sheet: What Is a Government?	29		
Activity: Calling Out Around The World	30		
Activity: Who's In Charge?	31		
		Activity: Democracy Ancient Greek Style	32
		Activity: From Democracy to Dictatorship	33
		Activity: Political Power	34
		Activity: Federation	35
		Fact Sheet: Government in Australia	36
		Activity: Newswatch	37
		Activity: Thinking Local 1	38
		Activity: Thinking Local 2	39
		Activity: State Government 1	40
		Activity: State Government 2	41
		Activity: Mapping the State	42
		Fact Sheet: Federal Government	43
		Activity: Jobs in Parliament	44
		Activity: Getting Elected 1	45
		Activity: Getting Elected 2	46
		Activity: Student Council Elections	47
		Activity: The Governor-General	48
		Fact Sheet: Prime Ministers	49
		Activity: Prime Ministerial Awards	50
		Activity: A Day in the Life of a Politician	51
		Activity: Our Constitution 1	52
		Activity: Our Constitution 2	53
		Fact Sheet: World Government – The United Nations .	54
		Activity: Do We Need the United Nations?	55
		Activity: Governing the World	56
		Activity: Design an Educational Centre	57

Who Needs Laws Anyway?

Imagine the scene: You've just arrived home from school – first your Mum tells you off because you're a bit late, then she mentions it's your turn to help with the dinner preparation and then you remember the big maths assignment that's due tomorrow. So many rules, you think, who makes them and why do we need them anyway? Wouldn't it be great to get home when you wanted, play computer games all afternoon and not worry about any rules anyone tried to enforce? You probably wouldn't have to go to school; you could stay up all night if you felt like it and your weekends would be totally job-free. Sound good?

Well, it would be good if you also liked a world where there is no protection from murder or assault, where anyone could steal your stuff and get away with it and no one actually ran the country!

Rules and laws are important to the operation of society. In fact, rules, laws and customs have controlled most of the school day you have had so far.

■ Customs:

Sometimes our behaviour is based on our usual way of doing something. We act not because there are rules or laws that control us, but because it is expected of us. For example, there is no rule or law that says in Australia you must eat with a knife and fork – some people do, some people instead eat with chopsticks. What we do is our **custom**.

■ Rules:

Rules are more formal than customs and usually apply to a certain group of people. They could be said to be a more dominant custom. Schools, classrooms, sporting associations and families are all likely to have rules that apply to the members of that particular group. If you play football or netball, for example, there are rules that apply to how the game is played. Every player must play by the rules or accept the game's penalties.

■ Laws:

Whilst rules apply to certain groups of people **laws** apply to everyone. Laws are made by the government and are important to everyone in society. Laws protect people, their property and their rights and freedoms. People who live in society have rights but they also have responsibilities. Rights can be taken away from people if they do not show responsibility.

■ Anarchy:

Anarchists are people who believe that there is no need for government or laws. Anarchists believe individuals would do the right thing without any laws.



Controlling Our Behaviour



- Read the **Who Needs Laws Anyway?** Fact Sheet and then complete the table below.

	CUSTOMS	RULES	LAWS
Definition in your words			
Who does the control apply to?			
Two examples			

CRITICAL THINKING



- Imagine you are the principal of a large school that has a combination of both primary students and high school students. You are examining the school rules to see whether anything needs to change.

- 1 List all of the groups who would be interested in the school rules.

- 2 List five rules you would consider to be essential for the school.

- 3 List one additional rule that you think each group would want to have.

- 4 Explain why these rules are different to laws.

ON THE BACK OF THIS SHEET ...

- 5 List two laws that you think the school would have to comply with.

- 6 Explain why you believe rules and laws are necessary for the running of the school.

Aboriginal Australian Laws



■ Imagine you are an Aboriginal Australian elder. You have been invited to talk to a local school about how Aboriginal laws worked when you were a child. The form below has been given to you as a guide to what to say. Conduct some research and then fill in the form in preparation for your talk.

TRADITIONAL ABORIGINAL LAW

① What was the basis of Aboriginal law?

② What system of society did Aboriginal law work through?

③ What is the difference between traditional Aboriginal law and modern Australian law?

④ What were the consequences of law breaking in Aboriginal society?

⑤ Do you believe traditional Aboriginal law and modern Australian law can exist together in society? Explain.

Making Laws

Every citizen is required to obey a number of laws.

Not only are there local laws and laws that apply to a particular state or territory in which a person lives, but there are also national (or federal) laws and international laws. Who makes them all up?

Originally laws were made from something known as **precedent**. If a case came to court (say for a theft) then the next time a similar case came along the previous judgement would be examined. Decisions in similar cases would then be continually developed. This is known as **common law**. If the circumstances of a case were different then the decision may be different and the new decision would become a precedent for the next similar case.

Statute law is the most common way of making laws in Australia today. This type of law is made in parliaments by governments who have been elected by the people.

Sometimes cases may come before the court where parliaments have not made any laws so court cases are decided according to common law. In matters where there are laws, judges must follow those laws. If there is ever any conflict between the two types of law then statute law is followed.

Most proposals for new laws (called **bills**) can usually be made by either house of parliament (with some exceptions).



- ❶ The draft of a new law is called a bill. The first step to making a new law is for it to get read out in the lower house of parliament.
- ❷ At the second reading it gets read out again in more detail.
- ❸ At the committee stage members of parliament get to discuss the bill and suggest changes.
- ❹ A third reading is given following any changes and then members of parliament get to vote for or against the bill.
- ❺ Once the bill is approved in the lower house it goes to the upper house and once it is approved it goes to the governor (or Governor-General) for signing and then becomes law.

