

1.2 What Is Law, and Why Do We Have It?



Laws change in response to changes in society. Cyberbullying is the use of electronic communications technologies, such as your e-mail or cellphone, to intentionally and repeatedly harass or threaten others. Such acts could result in your suspension or expulsion from school, and the use of threats might even end up with you being charged with the serious crime of “uttering threats.”

Laws reflect the values and beliefs of a society. As society’s values change, so do its laws. For example, you no longer have to wear a bathing suit that covers you from your neck to your ankles when you sunbathe on a public beach, as was the case a century or so ago. We have traffic laws about how fast you can drive, drug laws on possession and trafficking of illegal substances, criminal laws related to stealing, and environmental laws that punish us for polluting, to name just a few. Even the development of new technology has resulted in the creation of laws. For example, we now have criminal laws that punish people if they try to steal your credit card information or your whole identity. But what exactly is a law?

Laws versus Rules

When people get together in groups, whether at school, at work, at home, or in a social situation, some rules are needed to keep order. Imagine playing sports without rules! You may be familiar with the consequences of not following these rules. However, when you break these rules, even if you suffer consequences for doing so, they are not as serious as the consequences you will experience if you break the law. For example, shoplifting from your favourite store could result in you being charged with theft and having a

criminal record. So, when does a rule become a law?

True, we do talk about the “laws” of physics or economics. But, when we talk about a law, it refers to a rule that is enforced by the government. A law is intended to be obeyed by everyone living within that society. As a society, we have banned some activities because of their consequences for other citizens. Laws strike a balance between individual freedom and the needs of society. If a member of society breaks the law by stealing from another person, he or she is punished. As an individual, you are free to do whatever you want, with one exception: You must not do those things the law forbids or prohibits. The characteristics of laws are summarized in the illustration on the next page.

What Is Law?

1. Laws are a set of rules established and enforced by the government.
2. Laws are mandatory.
3. Laws involve a detailed system of consequences.

These three characteristics are what make laws different from rules.

Although most people willingly accept laws about highway speed limits or restrictions on certain drugs, some people do not. If Canadians do not agree with one of the country's laws, they can join pressure groups and **lobby** the government to change the law. Lobby groups try to raise public awareness about changing laws to reflect their opinions and needs. For example, victims' rights groups have pushed for stronger gun control laws. Lobby groups may also challenge laws by going to court or by organizing peaceful demonstrations. Canada is a free country, so people can oppose the laws in a number of ways, but only up to a certain point. If protesters break the law, they can be arrested.

lobby attempt to influence government to benefit a particular group or organization

Why Do We Have Laws?

Society needs laws to limit the behaviour of its citizens. To enforce those laws, society has created punishments for breaking criminal law. Society tries to develop fitting penalties depending on the severity of the offence. Sometimes penalties change. For example, a society concerned with street racing may increase penalties to include long-term suspensions of drivers' licences. It may permanently take licences away from those caught racing.

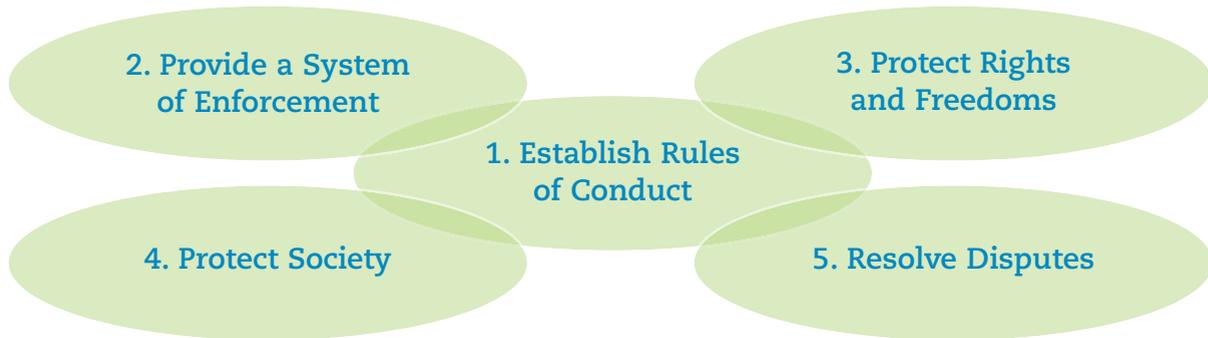
Laws not only try to protect us from harm, but they also provide a system for settling disputes. For example, suppose you paid money to a bicycle repair shop to fix your mountain bike, but then found out that the store did not fix your bike. What could you do? You could go to a small claims court to try to get your money back (those under 18 would need the help of a responsible adult to do so). As a guide to help you better understand why we have laws in Canada, see the illustration on the next page describing the functions of law.



You and the Law

Every day, laws and rules impact your lives. Can you think of any laws or rules that affected you on your way to school today? Explain.

Five Functions of Law



Why we have laws in Canada

Did You Know?

Another function of law is to bring order to social relations. Contract, family, and other aspects of civil law establish practices and make it easier to predict how others will act. For example, if you loan someone money, under the law, he or she must pay you back.

- 1. Establish Rules of Conduct:** Laws try to outline guidelines for individuals living with others in society to reduce conflicts between them. For example, in order for you to get your driver's licence, you must pass a written test and a road test to demonstrate that you know traffic safety rules. Imagine what would happen if there were no rules for our roads. The resulting chaos would be a danger to everyone.
- 2. Provide a System of Enforcement:** For laws to have any meaning, they must be enforced. Police and the courts oversee the operation of laws. For example, if you break a law such as speeding in your car, police may charge you, and then you will have to answer for your actions in a court.
- 3. Protect Rights and Freedoms:** In our free and democratic society, laws protect our rights and freedoms. Laws help encourage the values of tolerance and respect. In Canada, we have basic freedoms such as freedom of expression or of peaceful assembly. These rights cannot be limited unless there is a solid legal reason for doing so. For example, your freedom of expression does not allow you to harass or verbally disrespect someone in your school. You will learn more about your rights and freedoms in Chapter 2.
- 4. Protect Society:** Criminal laws are designed to protect people from harm. Our society defines what we consider wrong and sets out punishments for those who break the law. For example, we have criminal laws that prevent you from carrying an unlicensed handgun or beating up your neighbour. Civil laws also protect individuals from being harmed or taken advantage of. For example, we have labour and occupational safety laws that protect you from harm when you are working.
- 5. Resolve Disputes:** An important function of law is to settle conflicts. Disputes can be settled through negotiation or through the court system. Laws help to create order and ensure that disagreements are solved fairly. For example, if you went on someone's property without the owner's permission, you could be sued for trespass.

Review Your Understanding

1. What is law?
2. Distinguish between laws and rules.
3. Summarize the five functions of law.
4. What factors might cause laws to change?
5. Justify the importance of law enforcement in society.

substantive law the laws that outline your rights and obligations in society

procedural law the legal processes involved in protecting our rights

1.3 Divisions of Law

Law can be divided into two basic types:

- substantive law
- procedural law

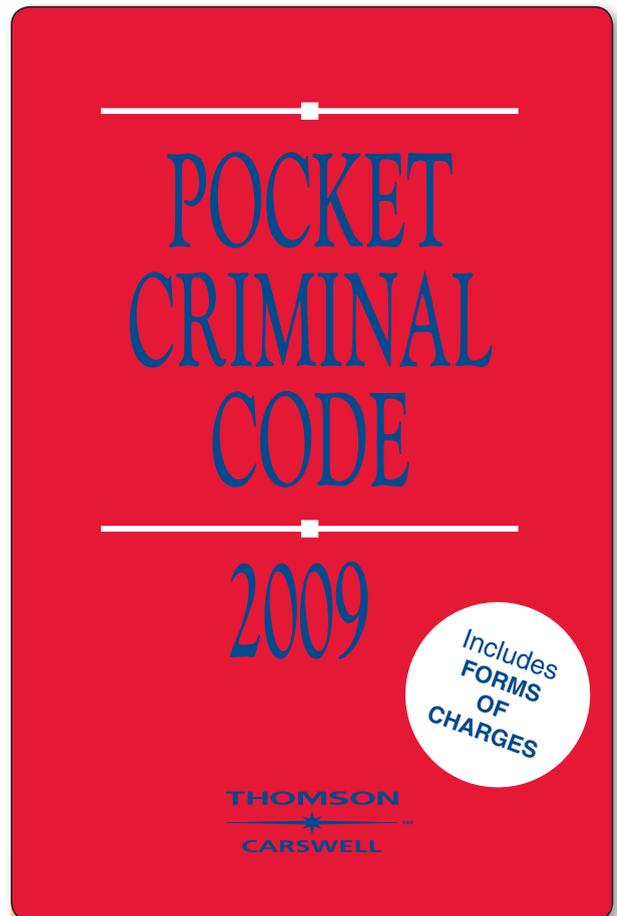
Substantive and Procedural Law

Substantive law consists of rules that outline your rights and obligations in society. Substantive laws in the *Criminal Code* outline the activities or actions that are considered crimes in our society. For example, it is a crime to beat up another person. The *Criminal Code* describes the various types of assault. The offence of aggravated assault is defined as an action that “wounds, maims, disfigures or endangers the life” of another person.

Procedural law outlines the steps involved in protecting our rights. For example, there are formal legal processes that the police must follow to obtain a legal search warrant. There are formal procedures they must perform to conduct a proper alcohol or drug spot check on a suspected impaired driver.

Public Law and Private Law

Substantive law is divided into the areas of public law and private law, also known as civil law. Public law controls the relationships between governments and the people who live in society. It represents laws that apply to all individuals. The main types of public law are criminal, constitutional, and administrative law.



The *Criminal Code* lists the activities that are considered crimes in Canada.