

Safeguards To Society From the Rule Of The Law

The rule of law suggests that the legal system of the state will properly apply the law that is said to be applicable: that is the state is ruled by the law and will not make any unnecessarily arbitrary decisions about citizen's rights.

Various safeguards are recognised as a standard:

- There must be an independent judiciary that is able to make decisions without the fear of being criticised by either the executive or legislature.
- The legal system should monitor the police processes of the state to ensure that the investigation, arrest, detention and confession of defendants are properly undertaken.
- Advocates for the accused (barristers and solicitors) must be free from pressure from the state.
- The accused must know the charges and these must be known to the public.
- Citizens must be free from moral influences.
- Criminal law must not be retrospective.
- Accused people must not be forced to incriminate themselves.
- The executive must be supervised (by courts or other bodies) to ensure their decisions are not an abuse of privilege or power.
- There should be rights to freedom of speech, freedom of religion and a belief in the Constitution.

Questions

1. Define legislature, executive and judiciary.
2. Give examples of how the judicial system is monitoring the police system. How successful is this monitoring?
3. Give examples of how the legal system has been used to impose the moral viewpoints of a small group in society.
4. What is the meaning of retrospective?
5. How do we prevent accused people from incriminating themselves?
6. Give examples of how the executive arm of government is supervised by courts or other tribunals.
7. Do we have the right to freedom of speech in Australia? How is it created?