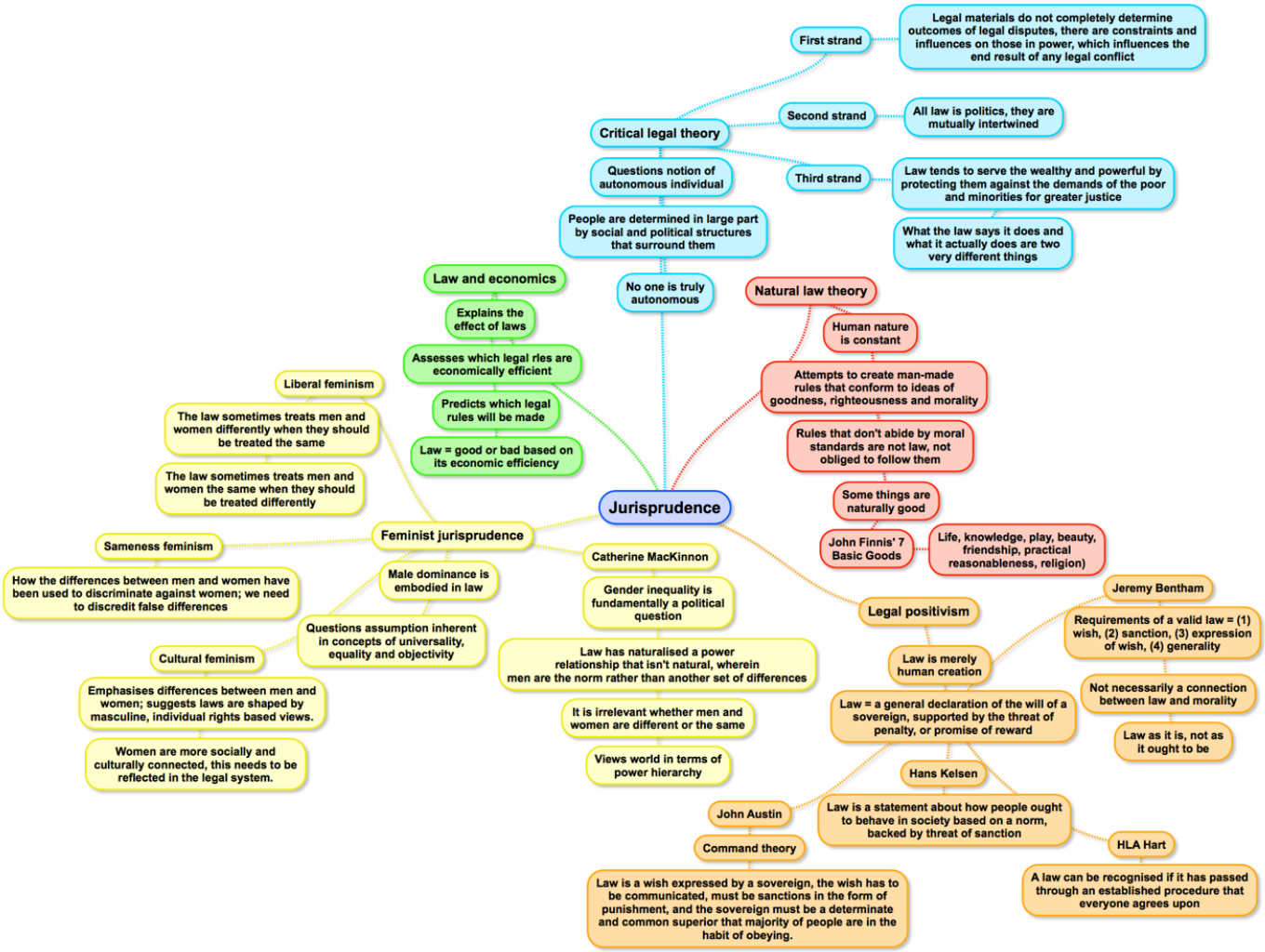
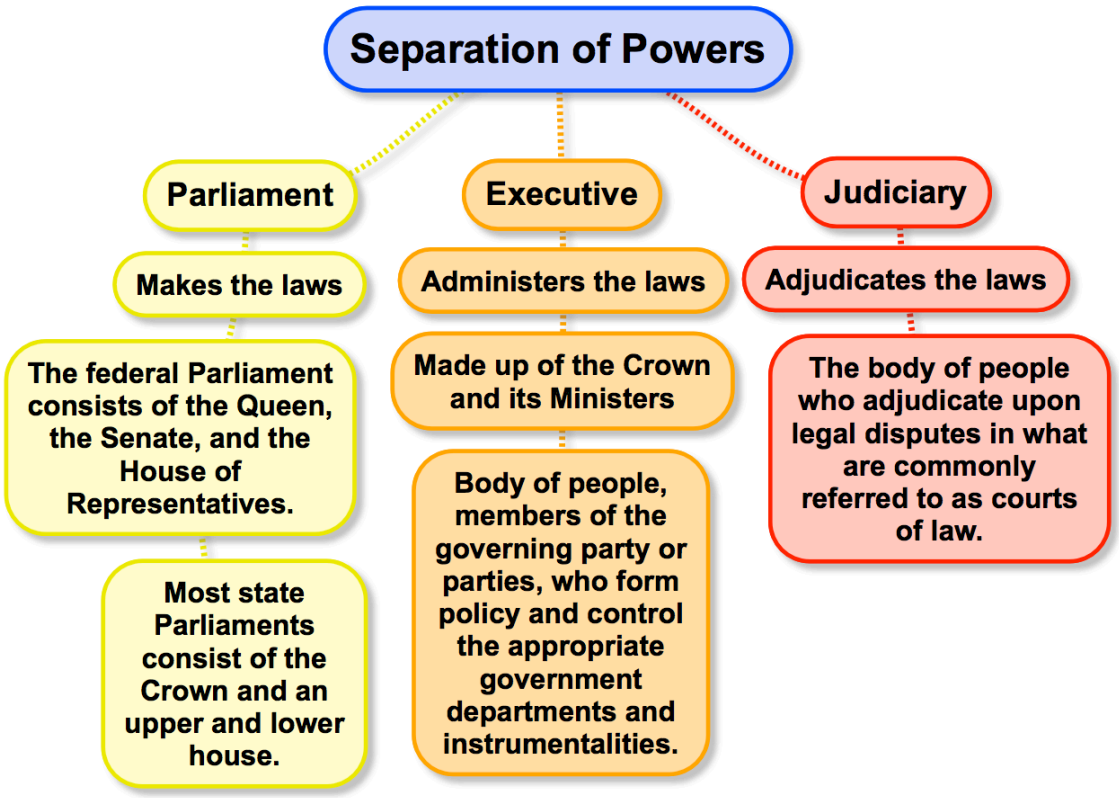
**What are the theories of law? (Jurisprudence)**

Jurisprudence examines the relationship between rules, morality and justice. There are five major theories of law.




**Understanding general morality**

| Method | Basic description of approach | Difference from other approaches |
|---|---|---|
| Kantian/deontological Fairness | 'Right' actions or policies are those that primarily enhance and respect individual autonomy by treating persons as 'ends' | Concerned to refute the notion that the end justifies the means- arguing that the means, since they often involve what happens to individuals, are at |




The Doctrine of Separation of Powers states that these branches should not mix their functions. However, this Doctrine assumes that the powers and functions of modern government can neatly be divided and categorized. A further problem is, in Australia, the doctrine is not really applicable to our system (based on the Westminster system) and demands that the ministers of government are drawn from the Parliament- therefore, the functions of the Parliament and Executive in Australia are somewhat mixed.

**Responsible government**

A system of government in Australia where the executive arm of government (made up of the Crown and its Ministers) is responsible and accountable to the House of Representatives, which is in turn accountable to the people under the concept of representative government.

**The adversarial system and its alternatives**

See: above for adversarial system.

The Inquisitorial system is used by civil law countries (most states of continental Europe, some states in South America and some in Asia, such as Thailand and Japan). In the civil law system, all laws, both substantive and procedural, are contained in comprehensive documents called 'codes', and principles are generally developed by deduction from the principles of the codes.

(1) Judges have the power to gather evidence, call witnesses and determine how the legal proceedings will proceed. They serve a more bureaucratic function- they don't make the law, they merely apply the law that is set out in the codes.
(2) Has hearings at various stages.
(3) Strives to find justice, rather than just settle a dispute.

**Alternative Dispute Resolution (ADR) and Non Adversarial Justice**

ADR is a dispute resolution process which operates outside the usual court-based litigation model. The aim of ADR is to encourage the settlement of a dispute between parties, usually with the assistance of a neutral person. ADR includes processes such as assisted negotiation, expert appraisal, mediation, conciliation, evaluation, early neutral evaluation, and mediation-arbitration.

**Law reports**

A law report is a published account of legal proceedings including the judicial opinion and orders made, and usually a statement of facts and reasoning behind the court's decision. Authorized reports contain judgments that have been approved by the court prior to publication, and are published by official law reporting councils.

**The Crown**

The Queen is represented in the Australian legal system by the Governor-General and Governors. There are departments governed in the Queen's name- these representatives have a number of functions to perform, including the giving of consent to the passing of Acts of Parliament, and the making of regulations. With the exception of a small number of issues, by convention, the Crown exercises power in accordance with the wishes of the Government. Australia has 7 Crowns- the Crown of the right of the Commonwealth, and the Crown of the rights of each 6 states.