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Topic 1 - Introducing the Law

1. What is one definition of the law?

A set of rules developed over a long period of time regulating people's interaction with each other that sets standards of conduct between individuals and individuals and the state

2. What are the six purposes of law?

- resolves disputes
- maintains social order
- preserves and enforces community values
- protects the disadvantaged
- regulates the economy
- prevents the misuse of power

3. What are the six rules of law?

- The law is predictable
- It is passed by a proper authority in a proper manner
- Everyone (government included) is bound by the law
- The law is not arbitrary
- The law is not retrospective
- The law is enforceable

4. For what five reasons does the law regularly change?

- political change
- the need to fix problems with the law
- changing community values
- pressure from lobby groups
- changing technology

5. What is justice?

Justice can be understood as fairness, such as fair compensation or punishment, a fair decision or a fair distribution of resources

6. What is the difference between law and ethics?

A legal choice is one that complies with the law; an ethical choice is one that is recognised as 'good' and 'right'

7. What are the three functions of commercial law?

- Facilitate e.g. contract law
- Regulate e.g. Australian Consumer Law
- Adjudicate e.g. specialised tribunal and courts

8. What are the two main types of legal systems? Explain each

Civil law: primary source of law is legislation

Common law: has two main sources of law - legislation and case law (places greater emphasis on judiciary)

9. Give examples of countries with common law and civil law systems

Common:

- Australia
- NZ
- Malaysia
- Singapore
- India
- PNG
- Samoa

Civil:

- Japan
- China
- Vietnam
- Indonesia
- Vanuatu
- East Timor

10. What was the legal system prior to British settlement?

Indigenous Australian legal system

11. What is the doctrine of reception?

The process in which the English law becomes applicable to a British Crown Colony, protectorate, or protected state

12. Who were the colonies in Australia initially controlled by? What happened over time?

British government as represented by the colonial Governor

- As time passed, the British government granted the Australian colonies increasing levels of independence.
- Each colony had its own constitution, setting out how the legal system should operate.

13. When did the Commonwealth of Australia come into existence?

1 January 1901

14. What are the three arms of government? What do each do?

- Legislature - makes law