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The Nature and Function of Laws

Legal Rules

Laws are rules of conduct or organization that are recognized, applied and enforced by the power of the state (e.g. government, police judges)

Non-legal Rules

Non-legal rules are rules of conduct or organization that are enforced by things such as peer pressure, a need for co-operation, feels of goodwill or convenience (e.g. queuing in lines). These are derived from a variety of sources:

- Moral or philosophical beliefs
- Religious beliefs
- Social values
- The laws of nature
- Rules that have been customary in a community

Why laws are made

In larger groups, non-legal rules becomes inadequate and thus rules are enforced by the state to regulate conduct. The state may decide to enforce rules that originates as non-legal rules. Alternatively, they may make new rules to be created in response to a perceived need for regulation.

Who makes laws

- The courts
 - Judges hear cases and improve on existing laws
 - Not proactive in making new laws - except for common law (case law)
- Legislatures and local government councils
 - Politicians draft new laws and vote on them to make new laws in their jurisdiction
 - They are proactive in coming up with new laws to address social, political and economic issues
 - If they see something as an issue, then they start to draft new rules and see if they can pass them within the legislature so it becomes law

Who enforces laws

- Police

Types of laws

- Criminal law - protecting safety: state will take action
- Contract law - binding agreements with other people
- Tort law - wrongful behaviour between people: private individuals (e.g. law of negligence). For example, slipping on the wet floor in a supermarket
- Property law - land, goods, software, designs
- Agency law - someone else acts as your representative
- Corporations law - governed by statutes relating to how companies are formed, how they are organised, responsibilities etc
- Constitutional law - what powers government have
- Administrative law - government officials making decisions are using all information and are following procedures
- National and international law - international is often called treaties
- Consumer law
- Tax laws

Australia's history