

Legal Studies

Topic 7: Issues in Civil Law

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Contents

Review Questions	
As it appears in Units 2 & 4 Review Questions	
Civil Law Trial procedure	
Civil Law Remedies	
Tort Law - Negligence	
As it appears in Unit 2 Review Questions	
As it appears in Unit 2 Review Questions	
Solutions to Review Questions	

Issues in Civil Law

Our legal system categorises laws into criminal and civil law. Civil law is concerned about the rights of individuals and the responsibilities that go with those rights.

Initial terminology

As it appears in Units 2 & 4

In TYS1 the concept of why laws are needed were discussed and in TYS2 reasons why laws need to change were introduced. These reasons apply to civil law as well as criminal law.

During your study of civil law you will be required to study two specific areas of civil law – Tort law and one other area drawn from the following list:

- Contract law
- Family law
- Environmental law
- Workplace law
- Sports and the law
- Human Rights

Civil Law characteristics

As it appears in Units 2 & 4

Civil law is needed:

- To protect the rights of individuals and groups in society. For example, a person who buys a product has the right to expect that the product is not faulty and will operate as described. A person has the right to enjoy their land and their possessions without undue interference. These are two examples and there are numerous others
- To impose a duty on us and on others to not cause harm by their actions or their omissions (failure to act). This is about responsibilities and how each person is responsible for the way they interact with other members of society.
- To provide a means of resolving a dispute and provide a remedy for those whose rights have been breached by others.

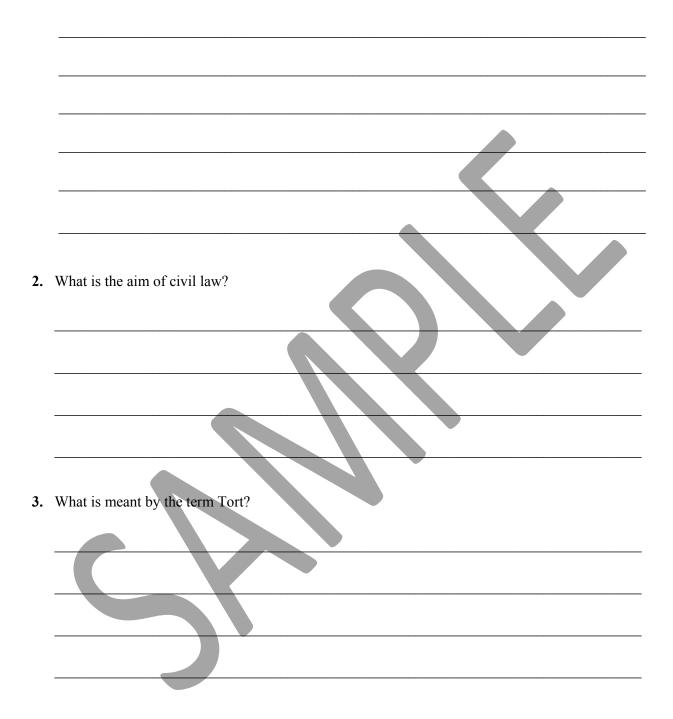
The Principles of Civil Law

There are a number of key principles upon which all civil law is based. These principles are:

- A person must believe their rights have been infringed upon for there to be a civil dispute
- A person must have suffered some harm or loss as a result of that infringement
- The person who has had their rights infringed is responsible for bringing the dispute forward for resolution
- The person who is bringing the dispute forward for resolution has the burden of proof they must prove that their rights have been infringed and that loss or harm was suffered as a result of the infringement.
- The person bringing the dispute is called the plaintiff
- The plaintiff must meet the necessary standard of proof to be successful in their civil claim. This standard of proof is 'on the balance of probabilities'. This means that on balance, the plaintiffs version of the facts are more probable than the other parties version.
- The party defending the civil claim is called the defendant
- The plaintiff is seeking a remedy from the resolution
- A remedy is designed to restore the injured party (the plaintiff) back to the position they were in (or as near as possible) before the infringement occurred.
- A breach of civil law is referred to as a 'wrong'
- A wrong can result from an act or an omission by the defendant
- If the plaintiff is successful in the case the defendant is held liable
- Juries are optional in a civil trial
- When used, a jury will comprise of six jurors
- A jury's role is to determine if the defendant is liable or not liable for the harm or loss suffered by the plaintiff

Review Questions

1. What is the standard of proof in a civil case and who has the onus of proving the case?





Solutions to Review Questions

- 1. The standard of proof in a civil matter is based on the Balance of Probabilities and the onus lays with the Plaintiff to show that the defendant is most probably in the wrong.
- 2. The aim of civil law is to protect the rights of the individual and r in the wronged person/party to a position similar to the one they were in prior to the wrong having oc i red.
- **3.** A tort is a civil wrong.
- 4.

C: ··· · · · · · · · · · · · · · · · · ·	Crin aw
Protec anvia rights	Protect socie. as a whole
Perse vhose righ have	nciety
be infringed	
Pr. tiff	Prosecution
Defen	Defendant
Wrong	Crime
rintiff	Prosecution
Ba ice of obability	Beyond reasonable doubt
L le or n 'iable	Guilty or not guilty
Op nal jury 6	Jury of 12 in County and
	Supreme Courts
hedy	Sanction
	Protection Latvic. rights Perse vhose righ have be infringee Pi. tiff Defen. Wrong vintiff Defen. Ba ce o. Op nal jury. Op nal jury.

5. Directions Hearings 'e hear. held once orties are ready to go to trial.

The im to speed to the transferred by incouraging the parties to jointly admit certain facts in the discultary don't not discult at trial.

ey are generally he days after the defendant has filed a Notice of Appearance.