

the judge's words that provides the legal reasoning for his or her decision. Everything else the judge says is called **obiter dictum**. Obiter dictum is something that is not really necessary for the legal basis for the decision. Only the ratio decidendi is binding.

A later judge dealing with a similar case must decide which precedents are binding. He or she may decide that a precedent suggested by a lawyer is either:

- relevant to the case before him or her, or
- **distinguishable** from the present case, which means that the case is so different that the precedent does not apply in this particular situation.

Many countries use a codified system. However, many people believe that the common law is more practical than a codified system because it was developed from real life situations that were presented to the courts.

- |   |                               |                                |
|---|-------------------------------|--------------------------------|
| <b>a</b> Common law and civil law mean exactly the same thing.                              | <input type="checkbox"/> True | <input type="checkbox"/> False |
| <b>b</b> Recorded can mean written as well as recorded on disk.                             | <input type="checkbox"/> True | <input type="checkbox"/> False |
| <b>c</b> All judges can make new precedents.  | <input type="checkbox"/> True | <input type="checkbox"/> False |
| <b>d</b> Everything a judge says forms part of the precedent.                               | <input type="checkbox"/> True | <input type="checkbox"/> False |
| <b>e</b> Sometimes a judge will say that a precedent suggested by a lawyer is not relevant. | <input type="checkbox"/> True | <input type="checkbox"/> False |

### Help desk

#### What do these words mean?

**a source of law** – a place where law comes from, for example, a civil code.

**a body of laws** – a collection of laws. All of them together.

**a pronouncement** – an old-fashioned word meaning a judge's words at the end of a case giving his or her decision.

**a principle of law** – an accepted idea that forms part of the law.

**a factor** – something that is important to consider when making a decision.

**relevant** – of significance or importance to a particular situation.

### Exercise 2

Choose one of the words or phrases from the key vocabulary in Exercise 1 to complete these sentences.

- In England and the USA much of the law is based on the decisions made by judges. This source of law is called the \_\_\_\_\_ law.
- A judge's decision that forms the law for future cases is known as a \_\_\_\_\_.
- The important part of a judge's pronouncement when he or she gives a decision in a precedent case is not the obiter dictum but the \_\_\_\_\_.
- Once a precedent is established it forms part of the law and is \_\_\_\_\_ upon lower courts.
- The lower courts in the English system are called courts of first \_\_\_\_\_.