**Exploring Precedent in Law: R v. Dudley and Stevens:**

Canadian Law is built around an idea called c*ommon law*. In common law, *precedents* are very important. This means that legal decisions made previously are used to shape current ones. Of course, no two legal cases are the same, and it the role of lawyers to convince, through evidence, that the current case is or is not *governed* by a specific precedent.

Consider the following famous, precedent-setting case:

The trial of Dudley and Stevens took place in England in 1884. It was set it motion when a boat called the *Migonette* sank near South Africa. The four-man crew attempted to escape on a flimsy lifeboat. They were: Tom Dudley, the captain, Edwin Stephens, Edmund Brooks, and Richard Parker, the cabin boy. Parker was 17 years old and an inexperienced sailor. At the time the men began their journey to land, they were 1,100 kilometres away.

The journey on the lifeboat was difficult. The first night, the crew had to fight off a shark with their oars. In terms of food, they ate two tins of turnips. They also caught and ate a turtle which weighed 1.4 kilograms. They even ate the bones.

The crew refused to drink seawater, which was thought to be fatal at this time. They were unsuccessful in their attempts to catch rain water. With no other sources of fluid available, they began to drink their own urine.

Eventually, Parker became unwell, likely from drinking seawater. Stevens also became unwell, likely for the same reason. Parker slipped into a coma. The three remaining sailors discussed drawing lots for the purpose of determining which of them would be sacrificed for cannibalism.

One night, Dudley and Stevens silently signalled to each other that Parker would be killed. Killing Parker before his natural death would better preserve his blood to drink. Brooks, who had not been party to the earlier discussion claimed to have signalled neither assent nor protest. Dudley always insisted that Brooks had assented.

Dudley said a prayer and, with Stephens standing by to hold the youth's legs if he struggled, pushed his penknife into Parker's jugular vein, killing him.

In some of the varying and confused later accounts of the killing, Parker murmured, "What me?" as he was slain.

The three fed on Parker's body, with Dudley and Brooks consuming the most and Stephens very little. The crew even finally managed to catch some rainwater.

The three survivors were eventually picked up by a German boat. When they arrived at customs, they freely explained what had occurred. The men believed that the “customs of the sea” made their actions acceptable.

The result of the trial was Dudley and Stevens were found guilty of murder and sentenced to death, with a recommendation of mercy. Eventually, they both spent six months in prison. Dudley, especially, felt that this sentence was unjust.

Two important legal truths emerged from R v. Dudley and Stevens. Firstly, it concluded that “ignorance of the law is no excuse”. As well, it concluded that federal laws held authority over regional customs and codes.

**R v. Dudley and Stevens: Analysis Questions:**

1. How is Canada's legal system ruled by precedents?
2. Why was Edmund Brooks not charged in this case?
3. What was the defence offered by Dudley and Stevens?
4. Because Dudley and Stevens were found guilty, both mens rea and actus reus were proven in this case. Indicate how each appeared.
5. Why did Dudley believe that justice was not served in this case?
6. Explain, in your own words, the concept of “ignorance of the law is no excuse”.

