



NZQA Assessment Support Material

Unit standard	27839				
Title	Explain concepts of justice				
Level	2	Credits	4	Version	2

Note

The following guidelines are supplied to enable assessors to carry out valid and consistent assessment using this internal assessment resource.

Assessors must manage authenticity for any assessment from a public source, because students may have access to the assessment schedule or student exemplar material. Use of this assessment resource without modification may mean that students' work is not authentic. The assessor will need to change figures, measurements or data sources or set a different context or topic.

While this ASM lends itself to written assessments, there are other activities and approaches that could be taken.

See Generic Resources and Guidelines at <https://www.nzqa.govt.nz/providers-partners/assessment-and-moderation/assessment-of-standards/generic-resources/>

Assessor guidelines

Context/setting

In this activity, students will explore a variety of concepts of justice by defining and explaining each in terms of the purpose of justice.

Students will define and explain two concepts of justice in terms of the purpose of justice and/or how it can be achieved, using specific examples. The concepts will be selected from: utilitarian, retributive, restorative, distributive, social, or marae.

A W A R D O F G R A D E S



- For award with **Achieved**, concepts of justice are defined and explained in terms of the purpose of justice and/or how it can be achieved, using specific examples. Specific examples refer to actual events from New Zealand or overseas, past or present.

AWARD OF GRADE S - CONTINUATION



- For award with **Merit**, the explanation of each concept of justice is developed by including relevant supporting detail. Supporting detail may include but is not limited to any one of:
 - particular facts or events;
 - particular legislation;
 - case law, media reports.
- For award with **Excellence**, the explanation of each concept of justice is fully developed, by applying each concept to a specific example.

CONDITIONS OF ASSESSMENT

Assessors will set the conditions of assessment as appropriate.

Assessment activity

This assessment activity has two tasks.

The students will be provided with a total of two articles over two separate occasions. One is related to the concept of retributive justice and one is related to the concept of restorative justice. The students should use these articles as the basis for their explanations.

For **Task One** the students should refer to:

- The purpose of retributive justice.
- The process involved in retributive justice.
- Relevant facts or events, legislation, case law, media reports.
- Specific examples of how a retributive justice approach has been applied. These examples must be drawn from actual events from New Zealand or overseas, past or present.

For **Task Two** the students should refer to:

- The purpose of restorative justice.
- The process involved in restorative justice.
- Relevant facts or events, legislation, case law, media reports.
- Specific examples of how a restorative justice approach has been applied. These examples must be drawn from actual events from New Zealand or overseas, past or present.

Resource requirements

Assessors may find the following resources useful in gathering information on the concepts of justice which are explored in this assessment.

Retributive justice

- <https://www.stat.auckland.ac.nz/~balemi/attitudes-crime-punishment.pdf> Justice Dept Study: 'Attitudes to Crime and Punishment: A NZ Study' 2003.
- <http://www.stuff.co.nz/world/middle-east/5010470/Eye-for-an-eye-punishment-postponed> Kwek, G. 'Eye for an eye' punishment postponed' 16/05/2011.

- <http://www.youtube.com/watch?v=s967kBKEJow> Retributive vs Restorative Justice in Vermont and NZ.

Restorative Justice

- <https://www.justice.govt.nz/courts/criminal/charged-with-a-crime/how-restorative-justice-works/> Ministry of Justice information on Restorative Justice.
- <https://www.justice.govt.nz/assets/Documents/Publications/evidence-brief-restorative-justice.pdf> Ministry of Justice information on evidence base for Restorative Justice.
- <http://www.stuff.co.nz/national/crime/87787053/restorative-justice--victims-family-and-offender-find-peace> Article on impact of restorative justice for victims and offenders.
- <https://www.lawsociety.org.nz/practice-resources/research-and-insight/practice-trends-and-statistics/restorative-justice-impact-on-reoffending-2008-to-2015> Article on impact of restorative justice approach on reoffending rates.
- <https://issafrica.s3.amazonaws.com/site/uploads/111CHAP2.PDF> Book extract on Restorative Justice in the South African context.
- <https://www.theguardian.com/society/2014/sep/17/restorative-justice-young-offenders-crime> Article on impact of restorative justice in the United Kingdom.
- <http://bettinajung.files.wordpress.com/2011/10/case-study-theft.pdf> Restorative Justice Case Study.
- <http://www.courtnews.co.nz/story.php?id=4250> 'Teen shooter will have to explain and apologise' by David Clarkson.

Note: The teacher may also consider inviting in guest speakers to discuss the different concepts of justice with their class. Refer to the following link for a list of restorative justice providers in New Zealand: <https://www.justice.govt.nz/about/lawyers-and-service-providers/service-providers/restorative-justice-providers/list-of-rj-providers/>

Additional information

Teaching and learning guidelines that inform legal studies as it is taught in New Zealand can be found at <http://seniorsecondary.tki.org.nz/Social-sciences/Legal-studies>.

Assessment Schedule

Unit standard		27839			
Title	Explain concepts of justice				
Level	2	Credits	4	Version	2

Judgements for achievement		Judgements for achievement with merit		Judgements for achievement with excellence	
<p>Define and explain concepts of justice in terms of the purpose of justice and/or how it can be achieved, using specific examples.</p> <p>Concepts of justice include two of – utilitarian, retributive, restorative, distributive, social, marae.</p>		<p>The explanation of each concept of justice is developed by including relevant supporting detail such as:</p> <ul style="list-style-type: none"> • particular facts or events; • particular legislation; • case law, media reports. 		<p>The explanation of each concept of justice is fully developed, by applying each concept to a specific example.</p>	
Task	Evidence for achievement	Evidence for achievement with merit		Evidence for achievement with excellence	
One Outcome 1 PC 1.1	<p>Part answer for the definition and explanation of retributive justice in terms of the purpose of justice</p> <p><i>Retributive justice is based on the idea that <u>punishment</u>, provided it is proportionate to the crime, is morally acceptable. It is based around the concept of 'just deserts'</i></p>	<p>Part answer of a developed explanation with supporting detail</p> <p><i>Retributive justice is a variation of justice that considers that <u>punishment</u>, provided it is proportionate to the crime, is morally acceptable. This means that more severe crimes must be punished more harshly than minor crime. It is based around the concept of 'just deserts' with some proponents of</i></p>		<p>Part answer for an explanation of a concept of justice showing how each applies to an actual case or event</p> <p><i>An example of an extreme retributive justice approach is the recent case of Troy Davis who was executed on the 23rd September 2011 in the US state of Georgia. He was convicted of the murder of policeman Mark MacPhail in 1989. At the time of his execution, demonstrators gathered to voice</i></p>	

or "eye for an eye," meaning that the punishment is considered to be deserved because of the wrongdoing. In other words, people deserve to be treated in the same way that they voluntarily choose to treat others. Many cultures throughout the world support retributive justice on the basis that punishment provides a sense of satisfaction for the victim and society in general.

Example

The death penalty for murderers is perhaps the clearest example of retributive justice with an offending paying for taking another person's life with their own life. An example of this is Troy Davis who was executed in the US after being convicted of the murder of a policeman. Although New Zealand no longer has the death penalty, imprisonment can be seen as retributive justice as the offender 'pays' for their crime by being denied their freedom.

An extreme example of retributive justice is shown in the article about the Iranian man who was ordered by the court to be blinded because he took the sight of a woman by throwing acid in her face.

retribution relying on the Bible, specifically Deuteronomy (19:17-21) and Exodus (21:23-21:27) as supporting this theory of justice "life for life, eye for eye, tooth for tooth, hand for hand, foot for foot." (reference to evidence)

When someone commits a crime, it is considered that the balance of justice is disturbed. Unless that balance is restored, society succumbs to a rule of violence. However, cultures and individuals vary greatly in their judgment of whether a punishment is appropriate in light of the crime which has been committed. This is shown in the United States where there has long been division over the use of the death penalty for murder. As of 2012, sixteen states had banned its use and a 2011 poll showed 61% of Americans favoured the death penalty in cases of murder while 35% opposed it (reference to statistics) This division over extreme retribution was shown in the recent case of Troy Davis who was executed on the 23rd September 2011 in the US state of Georgia after being convicted of the murder of policeman Mark MacPhail in 1989. (reference to particular facts/case)

While New Zealand abolished the death penalty more than fifty years ago in 1961 by amending section 14 of the Crimes Act (reference to particular legislation), imprisonment can be seen as retributive justice as the offender 'pays' for their crime by being denied their freedom. Many New Zealanders support longer prison terms for criminals, particularly those convicted of violent crime. This was shown in the 1999 Citizens Initiated

support for the death penalty and for the family of MacPhail. In their view Davis took a life and so he should have his life taken applying a strict retributive approach. At the same time hundreds of people gathered outside the prison chanting: "They say, death row; we say, hell no". This shows how individuals and groups in society hold very different views on the merits of such retributive justice. It must be noted that some of these protestors were not only opposing the death penalty as a form of retributive justice but they were also questioning whether MacPhail was in fact guilty. (application of retributive justice to a specific case)

Despite New Zealanders' support for retribution in the 2003 Justice Department Study, 'Attitudes to Crime and Punishment: A NZ Study', it is doubtful whether many New Zealanders would support the extreme examples of retributive justice discussed in the article 'Eye for an Eye punishment postponed.' The article explores the application of retributive justice in the case of an Iranian man who took the sight of a woman by throwing acid in her face. The court ordered him to be blinded, applying the concept of 'just deserts' or quite literally in this case an 'eye for an eye.' (application of retributive justice to a specific case)

		<p>Referendum when almost 92% of the public voted in favour of harsher penalties (<i>reference to particular facts</i>).</p> <p>Despite their support for retribution, it is doubtful whether many New Zealanders would support the extreme examples of retributive justice discussed in the article ‘Eye for an Eye punishment postponed.’ (<i>reference to particular facts/case</i>)</p> <p>Note – Further detail such as reference to statistics could be drawn from reports or studies such as Ministry of Justice and Law Society reports and studies.</p>	
<p>Two Outcome 1 PC 1.1</p>	<p>Part answer for the definition and explanation of Restorative Justice in terms of the purpose of justice</p> <p><i>Restorative justice is a way of dealing with offenders which focuses on the offender ‘putting things right’ for the victim. It is considered that given that crime hurts victims/communities, justice should heal and so this is the purpose of restorative justice. To achieve this purpose the victim is involved in the process of deciding how the offender can repair the harm caused to the victim/ community.</i></p> <p><i>Restorative justice usually occurs prior to sentencing and only if an</i></p>	<p>Part answer of a developed explanation with supporting detail</p> <p><i>Restorative justice is a process for resolving crime. It focuses on redressing the harm done to the victim, while at the same time holding the offender to account. The community also has a role in resolving the conflict. This is achieved through a restorative justice conference which is a meeting between the victim and the offender. Throughout most of human history restorative justice was the dominant criminal justice model. The ancient Arab, Greek, and Roman civilizations all required compensation for the victim. Restorative justice was also the main focus of various aboriginal communities in Australia, New Zealand, and Canada. Since 1974, many Western countries have implemented restorative justice programmes as additional</i></p>	<p>Part answer for an explanation of a concept of justice showing how each applies to an actual case or event</p> <p><i>The benefits to the victim of a restorative justice approach are noted in the article, ‘Restorative Justice hailed success in Cambridgeshire’ in which it states that ‘the motive for introducing restorative justice is because it’s about doing the right thing for the victim’. The article shows how a restorative justice approach was applied in the case of a 16-year-old shoplifter who stole goods to the value of £3. Similarly, a 12-year-old who caused £75 worth of damage to a car had to send a written apology, and the parents paid for damage. (<i>application of restorative justice to a specific case</i>)</i></p> <p><i>The way in which restorative justice is applied in New Zealand’s youth courts is also</i></p>

offender pleads guilty. The presiding judge refers the case to a community-based restorative justice provider who determines whether the case is appropriate or suitable for a restorative justice approach. Cases involving sexual offences are generally considered unsuitable for a restorative justice approach. As restorative justice is a voluntary process, it will only take place if the victim and the offender agree to it.

A restorative justice conference is held and this provides a chance for the victim to meet with the offender and explain to them the impact which the offending has had on their life. They then work on developing an agreement to ensure that the offender can make up for their offending in a way which will address the harm they have caused to the victim and the community.

Example

This restorative justice approach is often used in New Zealand's youth courts and many people believe it is successful. For example, in Christchurch in May 2012 a teenager who shot a 17-year-old woman five times with paintball pellets in a St Albans street was

sentencing options, e.g., Australia, New Zealand, Canada, the USA, France, Germany, Belgium, Italy, Denmark, Norway, Sweden, Finland, England, and Scotland (reference to particular facts or events)

The main goal of restorative justice is to provide opportunities for both victims and offenders to be involved in finding ways to hold the offender accountable for their offending and, as far as possible, repair the harm caused to the victim and community.

In New Zealand, restorative justice processes are formally recognised in the Sentencing, Parole and Victims' Rights Acts 2002 and the Corrections Act 2004 (reference to particular legislation).

The Acts encourage the use of restorative justice wherever appropriate. The Sentencing and Parole Acts specify that where restorative justice processes have taken place the outcomes have to be taken into account in decisions about the sentencing and parole of offenders. Restorative justice is particularly used in the Youth Courts in a fairly similar way to that discussed in the article, 'Restorative Justice hailed success in Cambridgeshire' (reference to particular facts)

The use of a restorative justice approach New Zealand's youth courts was shown in a recent Christchurch case. In May 2012 a teenager who shot a 17-year-old woman five times with paintball pellets in a St Albans street was ordered by Christchurch Youth Court Judge

illustrated by a recent Christchurch case. In May 2012 a teenager who shot a 17-year-old woman five times with paintball pellets in a St Albans street was ordered by Christchurch Youth Court Judge John Strettell to explain his actions to the victim at a family group conference. The judge told him: "You are going to have to explain why it happened, and provide an apology to the young woman you hit." He went on to explain to the youth that the purpose of the family group conference was for the victim to have a chance to explain to him the impact which his offending had on her. (application of restorative justice to a specific case)

	<p><i>ordered to explain his actions to the victim at a family group conference.</i></p> <p>Note – this sample answer only shows one example for restorative justice.</p>	<p><i>John Strettell to explain his actions to the victim at a family group conference. (reference to actual case)</i></p> <p><i>The benefits to the victim of a restorative justice approach are also noted in the article, 'Restorative Justice hailed success in Cambridgeshire' in which it states that 'the motive for introducing restorative justice is because it's about doing the right thing for the victim'. (extensive reference to studies/statistics/media reports)</i></p> <p>Note – Further detail such as reference to statistics could be drawn from reports or studies such as Ministry of Justice and Law Society reports and studies.</p>	
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Final grades will be decided using professional judgement based on a holistic examination of the evidence provided against the criteria in the unit standard.