Legal Studies Assessment Support Material

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| **Unit standard** | 27840 | | | | |
| **Title** | Evaluate a concept of justice in relation to an actual situation | | | | |
| **Level** | 3 | **Credits** | 4 | **Version** | 3 |

Assessor Guidelines

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| **Notes** 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 ākonga/learners may have access to the assessment schedule or ākonga/learner exemplar material. Use of this assessment resource without modification may mean that ākonga/learners' 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. Consider the benefits of using different assessment approaches.  See [Gathering evidence of learner achievement](https://www2.nzqa.govt.nz/tertiary/assessment-and-moderation-of-standards/assessment/resources/gathering-evidence-of-learner-achievement/) and [Online Assessor Support](https://www2.nzqa.govt.nz/ncea/ncea-for-teachers-and-schools/assessor-support/catalogue/online-workshops-courses-and-modules/)  Assessors should use innovative, valid and fair ways of recognising achievement, without overburdening themselves or the ākonga/learner with too much assessment. |

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# **Context/Setting**

In this activity, ākonga/learners will evaluate a concept of justice in relation to an actual situation.

The actual situation relates to an actual significant case from past, present, New Zealand or overseas law, or to a particular area of law or piece of legislation. Significance will be determined by the case’s legal and/or social and/or political impact.

# **Award of Grades**

* For award with ***Achieved***, a concept of justice is evaluated in relation to its application to an actual situation. The evaluation compares different viewpoints in relation to the application of a concept of justice.
* For award with ***Merit***, the in-depth evaluation of a concept of justice in relation to an actual situation is demonstrated by:
* discussing one strength and one weakness of a concept of justice;
* discussing a range of differing viewpoints in relation to the application of a concept of justice.
* selecting and applying relevant supporting detail.
* For award with ***Excellence***, the comprehensive evaluation of a concept of justice in relation to an actual situation is demonstrated by
* assessing the validity of differing viewpoints in relation to the application of a concept of justice
* selecting and applying a range of relevant supporting detail;
* considering actual and/or possible consequences: consequences may be for any one of but not limited to:
* future law making
* societal development
* civic engagement
* economic development
* environmental development
* justifying clear conclusions.

# **Conditions of Assessment**

Assessors will set the conditions of assessment as appropriate.

# **Assessment activity**

# **“Justice seen to be done?”**

This assessment activity has two tasks. The ākonga/learners will undertake research for, and complete, an essay related to one concept of justice.

**Task One** – Research

The task involves the ākonga/learner:

* choosing an actual situation (an actual significant case from past, present, New Zealand or overseas law, or a particular area of law or piece of legislation.)
* researching the actual situation.

The assessor will suggest some actual situations, to fit in with the teaching programme, for example:

* the Troy Davis capital punishment case (USA);
* the law relating to criminal sentencing in New Zealand;
* the law relating to Relationship Property Division (as a whole; or in its application to certain circumstances e.g. as it is applied to de facto relationships);
* the Claim of Right and the Waihopai “Dome-Busters” case;
* WikiLeaks and the case(s) against Julian Assange;
* the Guantanamo Bay detention camp;
* the Urewera four case.

The ākonga/learner may wish to select a different actual situation, but they must first check its suitability with their assessor.

**Task Two** – Essay

This task involves the ākonga/learner using their research to write an essay in which they apply one concept of justice to the actual situation.

Concepts of justice may include:

* utilitarian;
* retributive;
* restorative;
* distributive;
* marae;
* balancing competing claims;
* impartiality;
* equity.

Ākonga/learners should include references; however, this is not a requirement of the standard, but rather good academic practice.

# **Resource requirements**

There are no specific resources required.

# **Additional information**

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

# **Assessment Schedule**

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| --- | --- | --- | --- | --- | --- |
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# **Assessment Criteria**

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| --- | --- | --- |
| **Achievement** | **Achievement with Merit** | **Achievement with Excellence** |
| A concept of justice is evaluated in relation to its application to an actual situation. The evaluation compares different viewpoints in relation to the application of a concept of justice. | The in-depth evaluation of a concept of justice in relation to an actual situation is demonstrated by:   * discussing one strength and one weakness of a concept of justice * discussing a range of differing viewpoints in relation to the application of a concept of justice * selecting and applying relevant supporting detail. | The comprehensive evaluation of a concept of justice in relation to an actual situation is demonstrated by:   * assessing the validity of differing viewpoints in relation to the application of a concept of justice * selecting and applying a range of relevant supporting detail * considering actual and/or possible consequences: consequences may be for any one of but not limited to:   + future law making   + societal development   + civic engagement   + economic development   + environmental development   + justifying clear conclusions (*explaining the reasons for the particular conclusions, with supporting evidence*). |

| ****Task**** | ****Achievement**** | ****Achievement with Merit**** | ****Achievement with Excellence**** |
| --- | --- | --- | --- |
| ONE  Outcome 1  PC 1.1, 1.2 | **Note –** this sample answer relates to the concept of moral justice.  The range statement in the performance criteria for this standard is not exhaustive. Only one viewpoint has been exemplified  Sample **part** answer for Claim of Right and Waihopai “Dome- Busters” case could include:  *In April 2008, teacher Adrian Leason, Dominican friar Peter Murnane and farmer Sam Land cut through alarmed electric fences at the Government Communications Security Bureau (GCSB) base at Waihopai near Blenheim then used sickles to slash and deflate one of two inflatable domes covering satellite dishes. The action was done as a protest at the use that information from the base is allegedly being put to.*  *The three men were charged with burglary and wilful damage and were tried in the Wellington District Court in March 2010.*  *The defence did not attempt to deny that the three men did actually illegally enter the communications base and damage one of the satellite dishes, but based its argument on the traditional defence of Claim of Right.*  *Claim of Right is a traditional common law defence, but is also specifically referred to in the Crimes Act.1961. The Claim of Right defence was usually used in cases like theft where defendant honestly believed he had some legal right or claim to the goods, meaning that the intention required to commit the offence was not present.*  *The defence in this case required serious extension to the concept of Claim of Right, because the defendants did not believe that they had any property right.*  *The judge allowed the jury to consider this defence, and it was on this basis that the jury found the three defendants not guilty on all charges.*  *The concept of Moral Justice can be applied to this case, because it provided the lynchpin to the whole defence.*  *Moral Justice is concerned with what is right, or ethical. In this case, the defence of Claim of Right, as accepted by the jury, effectively hinged on the defendants’ honest belief that what they were doing was morally right.*  *It was accepted that the belief of the defendants (all committed Christians) in the rightness of their actions was honestly held.*  *Some commentators disagreed with the view that the defendants’ actions were morally just – for example, New Zealand's intelligence agency, the Government Communications Security Bureau (GCSB), issued a press release denying that information obtained from the base was used to contribute to “…torture, war, and the use of weapons of mass destruction and other unspeakable evil," (*[*"Security agency refutes*](http://www.stuff.co.nz/national/politics/3562100/Security-agency-refutes-Waihopai-claims)[*Waihopai claims"*](http://www.stuff.co.nz/national/politics/3562100/Security-agency-refutes-Waihopai-claims)*.* [*www.stuff.co.nz. 2010-04-08*](http://www.stuff.co.nz.2010-04-08/)*”).*  *The Crown also sued the three men in a civil case.* | **Note** – this sample answer relates to the concept of moral justice. The range statement in the performance criteria for this standard is not exhaustive. Only one viewpoint has been exemplified. A comparison of differing viewpoints would be required for a Merit grade.  Sample **part** answer for Claim of Right and Waihopai Dome-Busters” case could include:  *There was a good deal of criticism of the decision in the Waihopai case.*  *One of the criticisms, as seen in the refutal by the Government Communications Security Bureau, was that the defendants were wrong in their belief in the moral justness of their actions. The defence presented evidence that the Waihopai station had provided information to the USA which assisted in the invasion of Iraq, which the defence labelled an “illegal war” costing innocent Iraqi lives. However, though the defendants honestly believed that their actions in disrupting satellite transmissions would save innocent lives, an honest belief in something does not make it true. Because the operations of the Waihopai base are secret, there was of course no evidence presented by the prosecution to say what the base did actually do with any information collected. It may have been that the information transmitted at the base was being used against terrorists, to save innocent lives, and that in disrupting transmissions, the defendants actually cost lives. In that case, the defendants’ actions could hardly be considered “morally just”.* | **Note –** this sample answer relates to the concept of moral justice. The range statement in the performance criteria for this standard is not exhaustive. Further expansion of the ākonga/learner’s position would be required for an Excellence grade.  Sample **part** answer for Claim of Right and Waihopai “Dome-Busters” case could include:  *I do not believe that it is appropriate to apply the concept of moral justice in a case like the Waihopai one. Morality is a very subjective concept. Were the Defendants actually saving lives? We really don’t know – as stated above, it is possible that they may have cost lives. The defendants’ actions may have been immoral. Certainly they caused a lot of damage to public property and cost taxpayers a lot of money. I do not agree with MP Keith Locke’s description of this case as a “technical breach of the law” – the defendants were deliberately trying to cause extensive and expensive damage to public property.*  *Also, applying the Concept of Moral Justice to the claim of right defence, if taken to logical conclusion, could be used to justify a modern day “Robin Hood” stealing from the rich to give to the poor – hardly satisfactory if you yourself are one of those that Robin deems to be rich!*  *I believe that the application of moral justice here is in conflict with the principle that no- one is above the law.* |

Final grades will be decided using professional judgement based on a holistic examination of the evidence provided against the criteria in the unit standard.