



## NZQA Assessment Support Material

<b>Unit standard</b>	<b>27840</b>				
<b>Title</b>	Evaluate a concept of justice in relation to a specific situation				
<b>Level</b>	3	<b>Credits</b>	4	<b>Version</b>	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 evaluate a concept of justice in relation to a specific situation.

The specific 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.

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



- For award with **Achieved**, a concept of justice is evaluated in relation to its application to a specific situation. The evaluation compares differing viewpoints in relation to the application of a concept of justice.

## AWARD OF GRADE S - CONTINUATION



- For award with **Merit**, the comparison of differing viewpoints on the application of a concept of justice is developed by including relevant supporting detail in relation to the specific situation. Supporting detail may include but is not limited to any one of: media reports, case commentary, expert commentary.
- For award with **Excellence**, the evaluation justifies a position on the application of a concept of justice, by weighing up the arguments and counter-arguments related to the specific situation.

## CONDITIONS OF ASSESSMENT

Assessors will set the conditions of assessment as appropriate.

### Assessment activity

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

### Task One – Research

The task involves the student:

- choosing a specific 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 specific situation.

The assessor will suggest some specific 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.

A student may wish to select a different specific situation, but they must first check its suitability with their assessor.

### Task Two – Essay

This task involves the student using their research to write an essay in which they apply one concept of justice to the specific situation.

Concepts of justice may include:

- utilitarian;
- retributive;
- restorative;

- distributive;
- marae;
- balancing competing claims;
- impartiality;
- equity.

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

### **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.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.

### **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

<b>Unit standard</b>		<b>27840</b>			
<b>Title</b>	Evaluate a concept of justice in relation to a specific situation				
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### “ Justice seen to be done? ”

Judgements for achievement		Judgements for achievement with merit	Judgements for achievement with excellence
A concept of justice is evaluated in relation to its application to a specific situation. The evaluation compares differing viewpoints in relation to the application of a concept of justice.		The comparison of differing viewpoints on the application of a concept of justice is developed by including relevant supporting detail in relation to the specific situation.	The evaluation justifies a position on the application of a concept of justice, by weighing up the arguments and counter-arguments related to the specific situation.
Task	Evidence for achievement	Evidence for achievement with merit	Evidence for achievement with excellence
One Outcome 1 PC 1.1, 1.2	<p><b>Note</b> – 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</p> <p>Sample <b>part</b> answer for Claim of Right and Waihopai “Dome-Busters” case could include:</p>	<p><b>Note</b> – 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.</p> <p>Sample <b>part</b> answer for Claim of Right and Waihopai Dome-Busters” case could include:</p> <p><i>There was a good deal of criticism of the decision in the Waihopai case.</i></p>	<p><b>Note</b> – 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 student’s position would be required for an excellence grade.</p> <p>Sample <b>part</b> answer for Claim of Right and Waihopai “Dome-Busters” case could include:</p> <p><i>I do not believe that it is appropriate to apply the concept of moral justice in a case like the</i></p>

*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*

*One of the criticisms, as seen in the refutation 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”.*

*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.....*

*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*

	<p><i>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,"</i>  <i><u>("Security agency refutes Waihopai claims".</u></i>  <i><u>www.stuff.co.nz. 2010-04-08").</u></i></p> <p><i>The Crown also sued the three men in a civil case.</i></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.