



NZQA Assessment Support Material

Unit standard	32360				
Title	Evaluate key concepts of New Zealand's legal system from pre-European practices to current practices				
Level	3	Credits	4	Version	1

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 would 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

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

Context/setting

In this activity, students will evaluate key concepts of New Zealand's legal system from pre-European practices to current practices., with supporting evidence,

Supporting evidence includes – Te Tiriti o Waitangi/Treaty of Waitangi principles, English statutes and New Zealand legislation, legislation of wider jurisdictions, case commentary, expert commentary.

The evaluation considers the actual and/or possible evolution of the legal system.

The context for this particular assessment is the way in which the New Zealand legal system has developed from its English origins, as evidenced by the creation and development of the Rangatahi Courts, Ngā Kōti Rangatahi in the Youth Justice sector.

AWARD OF GRADES



- For award with **Achieved**, learners must evaluate key concepts of New Zealand's legal system, from pre-European practices to current practices. The evaluation refers to a specific development that illustrates the current practices of the New Zealand legal system and their impact on individuals and society.
- For award with **Merit**, the evaluation must include in depth discussion of two or more of the key concepts of the New Zealand legal system to show understanding of how and why the legal system has evolved over time; show understanding of past and present practices and make an informed conclusion about the impacts of the legal system on individuals and on society with supporting evidence. The supporting evidence may refer to: Te Tiriti o Waitangi/Treaty of Waitangi principles, English statutes and New Zealand legislation, legislation of wider jurisdictions, case commentary, expert commentary.
Specific developments may refer to: the Treaty of Waitangi, The Treaty of Waitangi Act 1975 (the Waitangi Tribunal), the development of the Rangatahi Courts, Ngā Kōti Rangatahi and the Māori Land Court, the establishment of the Supreme Court.
- For award with **Excellence**, the evaluation must demonstrate insightful and comprehensive understanding about how and why the legal system has evolved over time including perceptive conclusions that consider the impacts of past and present practices on individuals and society with a range of supporting evidence.

CONDITIONS OF ASSESSMENT



This is an **open book assessment** that will take place over a timeframe set by the teacher. Answers must be in student's own words.

Assessment Activity

This activity involves students evaluating key concepts of the New Zealand legal system from pre-European practices of Māori through to current practices of today. Students will evaluate the presence of the Māori concepts of *kawa* and *tikanga*, *utu**, *hara* and *murū* in the development of the Rangatahi Courts, Ngā Kōti Rangatahi.

* An important concept concerned with the maintenance of balance and harmony in relationships between individuals and groups and order within Māori society, whether through gift exchange or as a result of hostilities between groups. It is closely linked to *mana* and includes reciprocation of kind deeds as well as revenge.

This assessment activity has two tasks:

Task One involves the students identifying and explaining two or more of the key concepts of the pre-European practices and *tikanga* of Māori and explaining how they relate to some of the key practices and procedures of the New Zealand legal system today. Students need to make reference to the Rangatahi Courts, Ngā Kōti Rangatahi in their explanation and include some form of evaluation of this development in terms of the relationship with the key concepts.

Task Two involves the students developing further their evaluation to include discussion of the actual and/or possible development of the New Zealand legal system in terms of the relationship with the key concepts and impact on individuals and society.

The evaluation should:

- include supporting detail such as: Te Tiriti o Waitangi/Treaty of Waitangi principles, English statutes and New Zealand legislation, legislation of wider jurisdictions, case commentary, expert commentary.
- Explain two or more of the pre-European concepts of *kawa*, *tikanga*, *tapu*, *hara*, *noa*, *rāhui*, *take tupuna*, *take raupatu*, *take whenua tuku*, *utu* and *murū*.
- Explain the principles of the Treaty of Waitangi in particular the concepts of partnership, protection and participation.
- Explain how the principles of the Treaty of Waitangi influenced the development of the Rangatahi Courts, Ngā Kōti Rangatahi.
- Discuss, using supporting detail, to what extent the key elements of *kawa* and *tikanga*, *utu*, *hara* and *murū* are present in the Rangatahi Courts, Ngā Kōti Rangatahi.
- Discuss possible developments of the Rangatahi Courts, Ngā Kōti Rangatahi that may have positive impacts for individuals and society, using supporting evidence, to justify your opinions.

Sources of information should be cited, however the standard does not require this, but good academic practice is to be encouraged.

Resource requirements

The students will require access to research facilities such as the library and the internet as well as notes from a unit of work on this context completed in class.

Assessment Schedule

Unit standard		32360			
Title	Evaluate key concepts of New Zealand's legal system from pre-European practices to current practices				
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Task	Judgements for achievement	Judgements for achievement with merit	Judgements for achievement with excellence
	Key concepts of New Zealand's legal system, from pre-European practices to current practices are evaluated AND a specific development that illustrates the current practices of the New Zealand legal system is included that shows its impact on individuals and society.	The evaluation includes a discussion of the key concepts of New Zealand legal system, using supporting evidence, in relation to the specific development that illustrates the current practices of the New Zealand legal system and shows its impact on individuals and society.	The evaluation includes a comprehensive discussion of how and why the legal system has changed, stayed the same or is being reformed and reviewed.

Task	Evidence for achievement	Evidence for achievement with merit	Evidence for achievement with excellence
One and Two Outcome 1 PC 1.1 PC 1.2	The evaluation includes consideration of the key concepts of the development of New Zealand's Legal System from pre-European practices to current practices and includes consideration of the specific development that illustrates the relationship between the key elements and current practices of the New Zealand legal system by considering the establishment of the Rangatahi Courts,	Meets criteria for Achieved plus the following:	Meets criteria for Merit plus the following: Note – this sample answer relates to the development of the Rangatahi Courts, Ngā Kōti Rangatahi. The range statement in the performance criteria for this standard is not exhaustive. Further expansion of the student's thoughts would be required for an Excellence grade.

	<p>Ngā Kōti Rangatahi in the Youth Justice System.</p>		
	<p>A part answer that includes consideration of the development of New Zealand’s Legal System from pre-European practices to current practices in relation to the development of the Rangatahi Courts, Ngā Kōti Rangatahi could read:</p> <p><i>Prior to the introduction of the European Justice system, the concept of justice or kawa was administered in New Zealand through the practices and protocols of tikanga. The concept of hara traditionally meant the violation of tapu but came to refer to wrongdoings or sins in the sense of breaking the criminal law. The key concept of muru was central to the kawa in the sense of compensating for the mistake or offending or hara. The protocols and practices involved depended upon various factors, including the mana of the victim or offender, the degree of the offence and the intent of the offender. Muru was used to redress wrongdoing so as to return the victim back to their original position in society. It can be described as an effective form of social control and restorative justice. The presence of the concept of muru in the justice system strengthened when New Zealand’s Youth Court began an innovative journey in 1989 with the passing of the Children, Young</i></p>	<p>A part answer that includes discussion of the key elements of the development of New Zealand’s Legal System from pre-European practices to current practices, with supporting detail, in relation to the development of the Rangatahi Courts, Ngā Kōti Rangatahi could read:</p> <p><i>In a 2014 Māori Law Review, Judge Heemi Taumaunu wrote that “The Treaty of Waitangi was signed by the Crown and Māori in 1840. Prior to the signing of the Treaty of Waitangi, Māori whānau (extended families), hapū (sub-tribes) and iwi (tribes) conducted their affairs in accordance with tikanga Māori (Māori customary protocols). As a consequence of the signing of the Treaty of Waitangi, the English legal system was established as the legal system of New Zealand”. Te Tiriti o Waitangi establishes the principles of the three “P’s”, partnership, participation and protection. These principles underpin the relationship between the State and Māori under the Treaty of Waitangi. The establishment of the Ngā Kōti Rangatahi within the Youth Justice legal system addresses both the needs of a European justice system based upon the concepts of retribution and accountability to the state and the concept of muru or a restorative approach which more closely aligned with pre-European practices and tikanga.</i></p>	<p>Sample part answer for the Rangatahi Courts, Ngā Kōti Rangatahi as evidence of the influence of pre-European practices on the development of the New Zealand legal system could include:</p> <p><i>The Rangatahi Courts, Ngā Kōti Rangatahi are a consequence of a shifting awareness around the importance of acknowledging both Te Tiriti and tikanga Māori when considering how the justice system can best serve the needs of Māori as tangata whenua.</i></p> <p><i>The Rangatahi Courts, Ngā Kōti Rangatahi were established to address both the needs of the justice system - that seeks an outcome that satisfies a societal need for appropriate punishment of an offender - and that of the offender - for whom a more “culturally-adapted setting”¹ provides a more successful means of holding the offender to account for their actions. While the success of this is difficult to quantify, the reception has been such that the principles of the Rangatahi Courts, Ngā Kōti Rangatahi are being considered for use in the ordinary Youth Court. Here, there will be far greater access to the principles, and therefore benefit gained, without the necessity of a marae setting.</i></p>

<p><i>Person's and Their Families Act, now Oranga Tamariki Act 1989. The legislation was a pioneering restorative approach to restoring the prospects of young offenders and diverting them from starting down a life-long path of crime. In 2008, this approach was developed further by the establishment of the Ngā Kōti Rangatahi within the Youth Justice legal system.</i></p> <p><i>The Rangatahi Courts, Ngā Kōti Rangatahi were established to address both the needs of the justice system - that seeks an outcome that satisfies a societal need for appropriate punishment or retribution of an offender and to help young Māori engage in the youth justice process. The Rangatahi Courts, Ngā Kōti Rangatahi are held on a marae and provide a more “culturally-adapted setting”¹ but are not separate courts. The young offender will appear at a conventional Youth Court first and must have admitted their wrongdoing. The Rangatahi Courts, Ngā Kōti Rangatahi monitor and sentence alongside the traditional Youth Courts. The young offender is held accountable for his or her actions.</i></p> <p>https://www.districtcourts.govt.nz/youth-court/publications/taking-lessons-from-the-rangatahi-courts/</p>	<p><i>Principal Youth Court Judge Walker wrote that “The emphasis on tikanga in a Rangatahi Court, Ngā Kōti Rangatahi creates a feeling of inclusiveness and belonging for marginalised young Māori”.¹</i></p> <p>¹https://www.districtcourts.govt.nz/youth-court/publications/taking-lessons-from-the-rangatahi-courts/</p>	<p><i>Once the Youth Court has mainstreamed elements of the Rangatahi Courts, Ngā Kōti Rangatahi it doesn't take much to imagine a time when our regular court system is able to do the same and adult offenders have similar access to the principles that govern the Rangatahi Courts, Ngā Kōti Rangatahi.</i></p> <p>¹ https://www.districtcourts.govt.nz/youth-court/publications/taking-lessons-from-the-rangatahi-courts/</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.