**Assessment schedule: Evaluate a concept of justice in relation to a specific situation**

**Assessment activity: “Justice seen to be done?”**

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<tr>
<th>Judgements for achievement</th>
<th>Judgements for achievement with merit</th>
<th>Judgements for achievement with excellence</th>
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<td>A concept of justice is evaluated in relation to how it can be applied to a specific situation. The evaluation identifies differing viewpoints in relation to the application of a concept of justice.</td>
<td>The evaluation considers differing viewpoints of the application of a concept of justice in relation to a specific situation.</td>
<td>The evaluation justifies a position on the application of a concept of justice, by weighing up the arguments and counter-arguments related to a specific situation.</td>
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<th>Evidence for achievement</th>
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<td>Sample part answer for Claim of Right and Waihopai “Dome-Busters” case could include:</td>
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- **Task One Outcome 1 ER 1.1, 1.2**

  - 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.

- **Evidence**

  - 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

  - 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.
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 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 only exemplifies one viewpoint. Consideration of differing viewpoints to this would be required for a merit grade.

I believe that the application of moral justice here is in conflict with the principle that no-one is above the law.………..

Note – further expansion of the student’s position would be required for an excellence grade.
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 Waihopai claims”. www.stuff.co.nz. 2010-04-08).

*The Crown also sued the three men in a civil case.*

**Note** – only one viewpoint has been exemplified here. Differing viewpoints would need to be identified.

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