

Legal Studies

Stage 6 Syllabus

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1 The Higher School Certificate Program of Study

The purpose of the Higher School Certificate program of study is to:

- provide a curriculum structure that encourages students to complete secondary education;
- foster the intellectual, social and moral development of students, in particular developing their:
 - knowledge, skills, understanding and attitudes in the fields of study they choose
 - capacity to manage their own learning
 - desire to continue learning in formal or informal settings after school
 - capacity to work together with others
 - respect for the cultural diversity of Australian society;
- provide a flexible structure within which students can prepare for:
 - further education and training
 - employment
 - full and active participation as citizens;
- provide formal assessment and certification of students' achievements;
- provide a context within which schools also have the opportunity to foster students' physical and spiritual development.

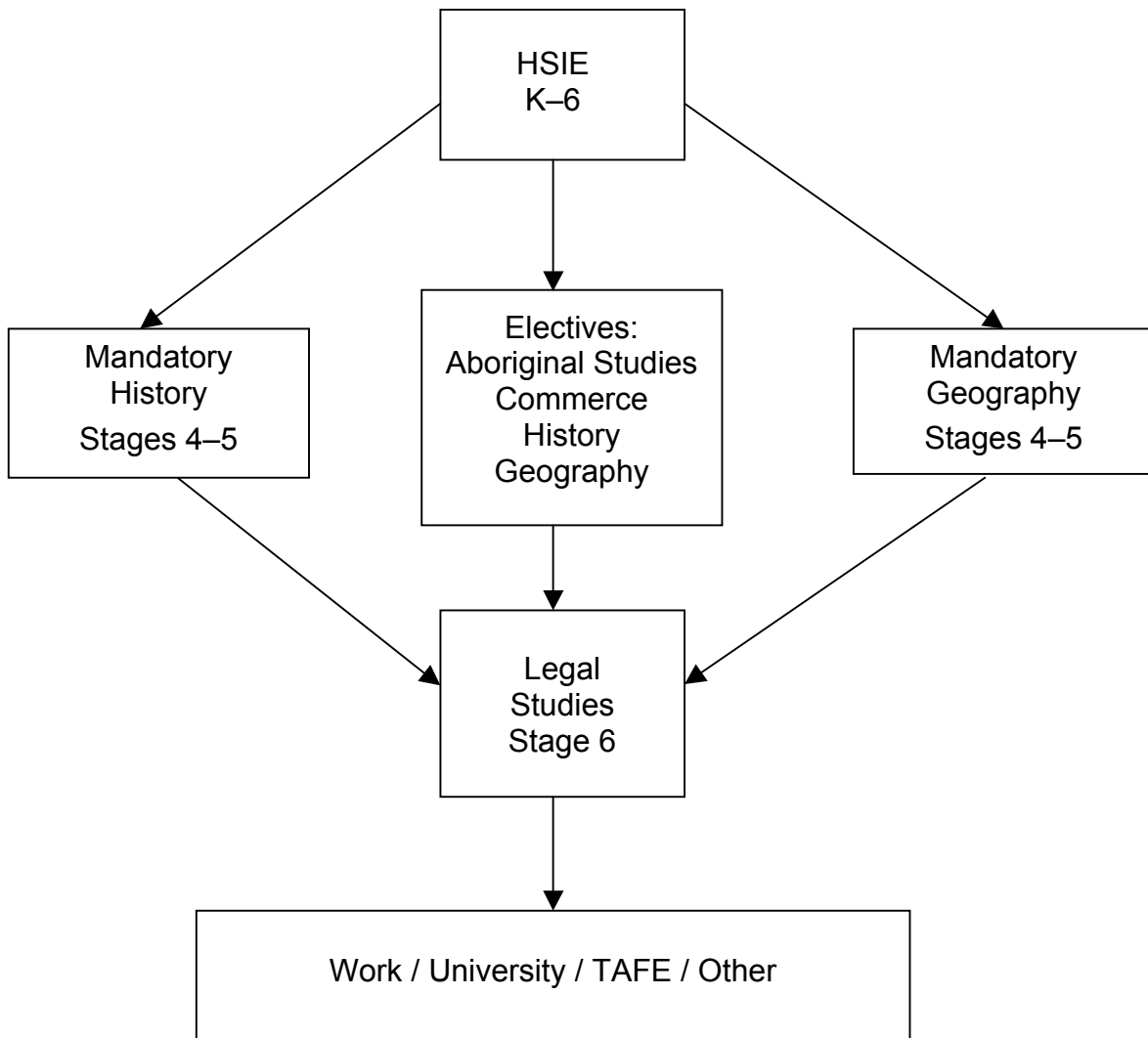
2 Rationale for Legal Studies in the Stage 6 Curriculum

Legal Studies is designed to foster intellectual, social and moral development by empowering students to think critically on the role of law and legal institutions in society. This is achieved through a review of selected legal rules, institutions and processes at the domestic and international level, a demystification of terminology and a focus on change, effectiveness, dispute resolution and justice.

Legal Studies has a significant impact on students' confidence in approaching and accessing the legal system and provides them with a better appreciation and understanding of the relationship between social and legal structures in society. The subject offers excellent preparation for life skills through an understanding of the legal system, its principles, structures, institutions and processes. Legal Studies further fosters a respect for cultural diversity and promotes tolerance. It allows students to question and evaluate the legal and democratic institutional structures within the domestic and international environment and to undertake a comparative analysis of other political and institutional structures.

Legal Studies provides a flexible learning structure. It allows students to acquire skills in analysis, independent research and the development of coherent arguments. All of these help to prepare students for further education, training and employment. It allows for full and active participation as citizens by encouraging diverse opinions, open rational debate, respect for persons, equality before the law and involvement in democratic processes and structures.

3 Continuum of Learning for Legal Studies Stage 6 Students



Both Mandatory History and Mandatory Geography in Stages 4–5 contain components dealing with civics and citizenship that provide foundational material for Legal Studies Stage 6. There are different concepts relating to citizenship and teachers must recognise and be sensitive to students’ experiences in relation to these concepts, namely: Australian Identity; Rights and Responsibilities; and Decision-making and Democratic Processes.

An understanding of this material is assumed knowledge for Legal Studies Stage 6 students.

4 Aim

Legal Studies develops students' knowledge, understanding and skills in relation to the legal system and its effectiveness in promoting a just and fair society, with a view to empowering students to participate effectively as citizens at the local, national and international level.

5 Objectives

Through Legal Studies, students will develop:

knowledge and understanding about:

- the general nature, functions, systems, processes and institutions of domestic and international law
- the operation and dimensions of the Australian and international legal systems and the importance of the rule of law
- how changes in societies influence change and reform in the law
- access to and participation in the legal system and methods of dispute resolution;

skills in:

- investigating, analysing and synthesising legal information and issues from a variety of perspectives
- communicating legal information and issues using appropriate forms;

and an interest in, and informed and responsible **values and attitudes** about, legal functions, practices and institutions.

6 Course Structure

Themes	
Justice, law and society Culture, values and ethics Conflict and cooperation	Continuity and change Legal processes and institutions Effectiveness of the legal system
<p style="text-align: center;">Preliminary course (120 indicative hours)</p> <p>Part I – The Legal System (40% of course time)</p> <p>Topics:</p> <ol style="list-style-type: none"> 1. Basic legal notions 2. Sources of law: <ol style="list-style-type: none"> 2.1 Aboriginal and Torres Strait Islander customary law 2.2 Contemporary Australian law 2.3 International law 3. The constitutional system in Australia 4. The operation of the legal system <p>Part II – The Individual and the State (20% of course time)</p> <p>Topics:</p> <ol style="list-style-type: none"> 5. Power and authority 6. Legal controls on State power 7. Duties 8. Rights <p>Part III – The Law in Focus (40% of course time)</p> <p>Application of Part III as the dynamic context for the study of Parts I and II in the following common areas:</p> <ul style="list-style-type: none"> • Status under the law • Mechanisms for achieving justice • Responsiveness of the legal system <p>to TWO focus groups chosen from:</p> <ol style="list-style-type: none"> 1. Aboriginal and Torres Strait Islander peoples 2. People who have a mental illness or intellectual or physical disability 3. Migrants 4. People who are socioeconomically disadvantaged 5. Women 6. Members of other groups covered by human rights legislation, including anti-discrimination legislation 	<p style="text-align: center;">HSC course (120 indicative hours)</p> <p>Part I – Law and Society (25% of course time)</p> <p>Topics:</p> <ol style="list-style-type: none"> 1. Law and justice 2. Human rights <p>Parts II and III – Focus Studies Framework</p> <p>Study of the operation of the legal system through the application of the following common areas:</p> <ul style="list-style-type: none"> • Key legal concepts and features of the legal system • Legal issues and remedies • Morality, ethics and commitment to the law • Effectiveness of the law • Law reform <p>Part II – Focus Study: Crime (25% of course time)</p> <p>Application of the focus studies framework to Crime</p> <p>Part III – Additional Focus Studies (50% of course time)</p> <p>Application of the focus studies framework to TWO focus studies chosen from:</p> <ol style="list-style-type: none"> 1. Consumers 2. Family 3. Global environment 4. Indigenous peoples 5. Shelter 6. Technological change 7. Workplace 8. World order

Themes

The six themes that are incorporated across topic areas and reflected in the outcomes of the Preliminary and HSC courses are:

Justice, law and society

- the interrelationship between the concepts of justice, law and society

Continuity and change

- the evolution of legal rules and institutions
- the importance of precedent in establishing rules
- the effects of social, political, economic and ideological factors and of community attitudes
- the means and processes by which the law changes

Culture, values and ethics

- the extent to which law reflects the culture and values of different societies and groups within society
- the importance of ethics in the functioning of society

Legal process and institutions

- how laws are made
- the nature of legal institutions such as parliaments, courts, the United Nations
- the adjudication and settlement of disputes and enforcement of legal rules

Conflict and cooperation

- the nature and extent of conflict in society
- the place of law in resolving conflict and encouraging cooperation

Effectiveness of the legal system

Effectiveness within the legal system has a number of meanings. They include:

- the extent to which an issue can be dealt with by the law
- if an issue is dealt with by the law, how well it is dealt with in terms of ease of access, simplicity, consistency, predictability and delivery of just outcomes
- the capacity of a law to stop or change human behaviour.

7 Objectives and Outcomes

7.1 Table of Objectives and Outcomes

Outcomes should inform teaching, learning and assessment processes.

Objectives	Preliminary Course Outcomes	HSC Course Outcomes
<p>A student develops knowledge and understanding about:</p> <p>1. the general nature, functions, systems, processes and institutions of domestic and international law</p>	<p>A student:</p> <p>P1.1 identifies legal concepts and terminology and applies them to appropriate legal contexts</p> <p>P1.2 describes how the legal system operates in Australia</p> <p>P1.3 describes the major international legal processes and institutions</p>	<p>A student:</p> <p>H1.1 applies domestic and international legal vocabulary in appropriate contexts</p> <p>H1.2 assesses the role of Australian and major international legal institutions</p>
<p>2. the operation and dimensions of the Australian and international legal systems and the importance of the rule of law</p>	<p>P2.1 states the origins and sources of Australian and international law</p> <p>P2.2 describes the key features of customary law, statutory law, common law and international law</p> <p>P2.3 explains the effectiveness of the legal system in addressing issues</p>	<p>H2.1 explains the origins and sources of Australian and international law</p> <p>H2.2 compares similarities and contrasts differences in relation to customary law, statutory law, common law and international law</p> <p>H2.3 evaluates the effectiveness of domestic law in responding to global challenges</p>
<p>3. how changes in societies influence change and reform in the law</p>	<p>P3.1 describes the interrelationship between law, justice and society and the changing nature of law</p> <p>P3.2 explains the extent to which law reflects the cultures and values of different groups within society</p> <p>P3.3 explains the impact of continuity and change in the legal system</p> <p>P3.4 uses legislation, cases, media reports and opinions to review arguments for change and reform in the law</p>	<p>H3.1 analyses the interrelationship between law, justice and society and the changing nature of law</p> <p>H3.2 assesses how cultures and values of different groups within society impact on the legal system</p> <p>H3.3 evaluates the effectiveness of the processes and mechanisms of change in the legal system</p> <p>H3.4 analyses legislation, cases, media reports and opinions to review arguments for change and reform in the law</p>

<p>4. access to and participation in the legal system and methods of dispute resolution</p>	<p>P4.1 discusses the specific problems encountered in gaining access to the legal system</p> <p>P4.2 investigates and assesses the formal and informal means of resolving conflict</p> <p>P4.3 describes the role of legal rights and responsibilities in resolving conflict and encouraging cooperation</p>	<p>H4.1 analyses specific problems encountered in gaining access to the legal system</p> <p>H4.2 assesses the effectiveness of dispute resolution mechanisms</p> <p>H4.3 explains rights and responsibilities and evaluates the provisions of domestic and international legal systems in addressing these issues</p>
<p>A student develops skills in:</p> <p>5. investigating, analysing, synthesising and communicating legal information and issues.</p>	<p>A student:</p> <p>P5.1 selects and organises relevant legal information from a variety of sources and evaluates information and sources for usefulness, validity and bias</p> <p>P5.2 investigates, analyses and synthesises legal information from a variety of perspectives and presents the findings of investigations to a particular audience</p> <p>P5.3 communicates law-related issues coherently and responsively to different audiences using appropriate written and oral forms characterised by complexity of purpose, procedure and subject matter</p> <p>P5.4 creates well-structured texts to describe, explain, argue, discuss, analyse, evaluate and apply legal information, ideas and issues</p> <p>P5.5 negotiates individually or in groups to allocate tasks, establish roles, procedures and evaluation strategies to achieve appropriate goals in set timelines.</p>	<p>A student:</p> <p>H5.1 selects and organises relevant legal information from a variety of sources and evaluates information and sources for usefulness, validity and bias</p> <p>H5.2 investigates, analyses and synthesises legal information from a variety of perspectives and presents the findings of investigations</p> <p>H5.3 communicates through well-structured texts to describe, explain, argue, discuss, analyse, evaluate and apply legal information, ideas and issues using appropriate written and oral forms</p> <p>H5.4 uses planning and review strategies to manage effectively the competing demands of complex tasks and makes effective use of time and resources.</p>

7.2 Key Competencies

Legal Studies provides a powerful context within which to develop general competencies considered essential for the acquisition of effective, higher-order thinking skills necessary for further education, work and everyday life.

Key competencies are embedded in the Legal Studies syllabus to enhance student learning. The key competencies of **collecting, analysing and organising information** and **communicating ideas and information** are explicit in the objectives, outcomes and content of the Preliminary and HSC courses. The development of these key competencies results from the nature of Legal Studies and the investigation and analysis of legal issues. The key competency, **working with others and in teams**, is explicit in the outcomes for the Preliminary course and **planning and organising activities** is explicit in the outcomes for the HSC course. Students will also work towards the other key competencies throughout the Legal Studies Stage 6 course. When students undertake analysis of statistical data, they are developing the key competency **using mathematical ideas and technologies**. During investigations they will need to use appropriate information technologies and so develop the key competency **using technology**. Finally, as students investigate and propose resolutions to legal problems, they are developing the competency **solving problems**.

8 Content: Legal Studies Preliminary Course

8.1 Part I – The Legal System

In this part of the course, students learn to understand the nature and social functions of law and examine law-making processes and the institutions that administer and enforce the law in modern society.

Percentage of Course Time 40%

<p>Topics:</p> <ol style="list-style-type: none">1. Basic legal notions2. Sources of law:<ol style="list-style-type: none">2.1 Aboriginal and Torres Strait Islander customary law2.2 Contemporary Australian law2.3 International law3. The constitutional system in Australia4. The operation of the legal system	<p>Focus Groups</p>	<p>Themes</p> <p>Justice, law and society</p> <p>Culture, values and ethics</p> <p>Continuity and change</p> <p>Legal processes and institutions</p> <p>Conflict and cooperation</p> <p>Effectiveness of the legal system</p>
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Note: the material in Part I is to be taught in conjunction with Part II and the focus groups in Part III

Topic 1 – Basic Legal Notions

Principal Focus

Students learn about basic legal terms and concepts and understand the relationship between the concepts.

Outcomes

A student:

- P1.1 identifies legal concepts and terminology and applies them to appropriate legal contexts
- P3.1 describes the interrelationship between law, justice and society and the changing nature of law
- P5.1 selects and organises relevant legal information from a variety of sources and evaluates information and sources for usefulness, validity and bias
- P5.2 investigates, analyses and synthesises legal information from a variety of perspectives and presents the findings of investigations to a particular audience
- P5.3 communicates law-related issues coherently and responsively to different audiences using appropriate written and oral forms characterised by complexity of purpose, procedure and subject matter
- P5.4 creates well-structured texts to describe, explain, argue, discuss, analyse, evaluate and apply legal information, ideas and issues.

Content

Students learn about:

Basic Legal Notions

- anarchy, custom, rules, law, fairness, equality and justice, values and ethics
- relationship between rules, laws and custom.

Key Questions/Issues

- What is meant by each of these legal notions and what is the relationship between them?
- Is law necessary?
- Do different people have different perceptions of law and law-making?

Topic 2 – Sources of Law

Principal Focus

Students learn about the development of the Australian and international legal systems and examine the different sources of law and law-making processes.

Outcomes

A student:

- P1.2 describes how the legal system operates in Australia
- P1.3 describes the major international legal processes and institutions
- P2.1 states the origins and sources of Australian and international law
- P2.2 describes similarities and differences in relation to customary law, statutory law, common law and international law
- P2.3 explains the effectiveness of the legal system in addressing issues
- P3.1 describes the interrelationship between law, justice and society and the changing nature of law
- P3.2 explains the extent to which law reflects the cultures and values of different groups within society
- P3.3 explains the impact of continuity and change in the legal system
- P3.4 uses legislation, cases, media reports and opinions to review arguments for change and reform in the law
- P5.1 selects and organises relevant legal information from a variety of sources and evaluates information and sources for usefulness, validity and bias
- P5.2 investigates, analyses and synthesises legal information from a variety of perspectives and presents the findings and investigations to a particular audience
- P5.3 communicates law-related issues coherently and responsively to different audiences using appropriate written and oral forms characterised by complexity of purpose, procedure and subject matter
- P5.4 creates well-structured texts to describe, explain, argue, discuss, analyse, evaluate and apply legal information, ideas and issues
- P5.5 negotiates individually or in groups to allocate tasks, establish roles, procedures and evaluation strategies to achieve appropriate goals in set timelines.

Content

Students learn about:

Aboriginal Customary Law and Torres Strait Islander Customary Law Prior to 1788

- the spiritual nature of Aboriginal customary law and Torres Strait Islander customary law
- diversity of Aboriginal laws and Torres Strait Islander laws
- ritual and oral traditions within Aboriginal and Torres Strait Islander societies
- conciliation and mediation within Aboriginal and Torres Strait Islander societies
- enforcement and sanction within Aboriginal and Torres Strait Islander societies
- the significance of land and bodies of water to Aboriginal and Torres Strait Islander societies

Sources of Contemporary Australian Law

- common law and the different uses of the term 'common law'
- the system of precedent
- statute law and delegated legislation
- the constitution
- criminal law and civil law

Sources and Framework of International Law

- origins and sources of international law: treaties, customs, legal decisions, legal writings
- principal international organisations: United Nations (UN), International Court of Justice (ICJ).

Key Issues/Questions

- What is the difference between common law and statute law?
- What are the distinguishing features of Aboriginal and Torres Strait Islander law?
- What is the relationship between government and the parliament?
- What are the different roles of domestic and international law?
- What are the essential features of criminal and civil law?
- What is the relevance of Aboriginal and Torres Strait Islander law in the contemporary Australian legal system?

Topic 3 – The Constitutional System in Australia

Principal Focus

Students learn about the powers of governments and examine the role of the High Court and the division of power as laid down in the Australian constitution.

Outcomes

A student:

- P1.1 identifies legal concepts and terminology and applies them to appropriate legal contexts
- P1.2 describes how the legal system operates in Australia
- P3.1 describes the interrelationship between law, justice and society and the changing nature of law
- P3.2 explains the extent to which law reflects the cultures and values of different groups within society
- P3.3 explains the impact of continuity and change in the legal system
- P3.4 uses legislation, cases, media reports and opinions to review arguments for change and reform in the law
- P5.1 selects and organises relevant legal information from a variety of sources and evaluates information and sources for usefulness, validity and bias
- P5.2 investigates, analyses and synthesises legal information from a variety of perspectives and presents the findings and investigations to a particular audience
- P5.3 communicates law-related issues coherently and responsively to different audiences using appropriate written and oral forms characterised by complexity of purpose, procedure and subject matter
- P5.4 creates well-structured texts to describe, explain, argue, discuss, analyse, evaluate and apply legal information, ideas and issues.

Content

Students learn about:

The Constitutional System in Australia

- constitutional division of power between the Commonwealth, the States and the Territories
- the role of the High Court in constitutional interpretation, the system of judicial review and separation of powers
- the gradual transfer of legislative power from the imperial government to the colonies, States and the Commonwealth.

Key Questions/Issues

- Is the division of power between the Commonwealth, States and Territories under the Australian constitution relevant to the 21st century?
- What is the role of the High Court?
- What is the significance of the following: the Statute of Westminster; abolition of appeals to the Privy Council and the Australia Acts?
- Are there checks and balances under the Australian constitution? Are they important?

Topic 4 – The Operation of the Legal System

Principal Focus

Students examine the function and operation of legal institutions and the personnel involved in legal processes and they learn about the application of the law in relation to native title from 1788 to the present.

Outcomes

A student:

- P1.1 identifies legal concepts and terminology and applies them to appropriate legal contexts
- P1.2 describes how the legal system operates in Australia
- P2.3 explains the effectiveness of the legal system in addressing issues
- P3.1 describes the interrelationship between law, justice and society and the changing nature of law
- P3.2 explains the extent to which law reflects the cultures and values of different groups within society
- P3.3 explains the impact of continuity and change in the legal system
- P3.4 uses legislation, cases, media reports and opinions to review arguments for change and reform in the law
- P4.1 discusses the specific problems encountered in gaining access to the legal system
- P4.2 investigates and assesses the formal and informal means of resolving conflict
- P4.3 describes the role of legal rights and responsibilities in resolving conflict and encouraging cooperation
- P5.1 selects and organises relevant legal information from a variety of sources and evaluates information and sources for usefulness, validity and bias
- P5.2 investigates, analyses and synthesises legal information from a variety of perspectives and presents the findings and investigations to a particular audience
- P5.3 communicates law-related issues coherently and responsively to different audiences using appropriate written and oral forms characterised by complexity of purpose procedure and subject matter
- P5.4 creates well-structured texts to describe, explain, argue, discuss, analyse, evaluate and apply legal information, ideas and issues.

Content

Students learn about:

Operation of the Legal System

- structure of State and Federal courts
- the adversary system and the legal profession
- court procedures in civil and criminal proceedings
- observation of civil and criminal cases in the local court
- enforcement agencies: police, government departments, other authorities
- legal aid

- alternatives to the court system: administrative and other tribunals
- alternative dispute resolution, self-help remedies, political processes, community justice centres

Operation of the Legal System in Relation to Native Title

- the doctrine of terra nullius in Australia
- the growth of recognition of native title in some countries
- the major High Court decisions on native title: Mabo (Mabo v Queensland (No.2) (1992) 175 CLR (1)) and Wik (The Wik Peoples v The State of Queensland and Ors; the Thayorre People v The State of Queensland and Ors (1996) 183 CLR1)
- subsequent legal developments: common law, statutory law
- native title as a collective right.

Key Questions/Issues

- How is the law enforced?
- How are courts structured? Why?
- How does the adversary system affect the court process?
- Distinguish between civil and criminal court procedures.
- Why have alternative dispute resolution mechanisms developed?
- What is the role of legal aid?
- How is the law as to native title enforced?
- How is the Native Title Tribunal structured? Why?
- How did the doctrine of terra nullius affect the status of indigenous peoples?
- How do recent legal developments affect the significance of the 1992 High Court decision in Mabo and Wik?

8.2 Part II – The Individual and the State

In this part of the course, students learn to understand the role of law in national and international society in protecting the individual and the reciprocal obligations on individuals and governments to meet their own duties.

Percentage of Course Time 20%

<p>Topics:</p> <ul style="list-style-type: none"> 5. Power and authority 6. Legal controls on State power 7. Duties 8. Rights 	<p>Focus Groups</p>	<p>Themes</p> <ul style="list-style-type: none"> Justice, law and society Culture, values and ethics Continuity and change Legal processes and institutions Conflict and cooperation Effectiveness of the legal system
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Note: the material in Part II is to be taught in conjunction with Part I and the focus groups in Part III.

Topic 5 – Power and Authority

Principal Focus

Students understand and analyse different forms and sources of power, the abuse of power and the tensions in balancing the needs of the individual and the State.

Outcomes

A student:

- P1.1 identifies legal concepts and terminology and applies them to appropriate legal contexts
- P1.2 describes how the legal system operates in Australia
- P2.2 describes similarities and differences in relation to customary law, statutory law, common law and international law
- P3.1 describes the interrelationship between law, justice and society and the changing nature of law
- P3.2 explains the extent to which law reflects the cultures and values of different groups within society
- P5.1 selects and organises relevant legal information from a variety of sources and evaluates information and sources for usefulness, validity and bias
- P5.2 investigates, analyses and synthesises legal information from a variety of perspectives and presents the findings and investigations to a particular audience
- P5.3 communicates law-related issues coherently and responsively to different audiences using appropriate written and oral forms characterised by complexity of purpose procedure and subject matter
- P5.4 creates well-structured texts to describe, explain, argue, discuss, analyse, evaluate and apply legal information, ideas and issues.

Content

Students learn about:

Power and Authority

- concepts of power
 - social, cultural, economic, political, legal
- concepts of authority
 - customary, statutory, common law, delegated
- relationship of the individual to power and authority.

Key Questions/Issues

- Who has power? How is power used?
- When do the needs of the individual and the State conflict?
- Should the needs of the State or the needs of individuals be given priority? When? Why?

Topic 6 – Legal Controls on State Power

Principal Focus

Students understand the importance of restraining the power of the State and learn about the bodies that assist the individual in doing so.

Outcomes

A student:

- P4.1 discusses the specific problems encountered in gaining access to the legal system
- P4.2 investigates and assesses the formal and informal means of resolving conflict
- P4.3 describes the role of legal rights and responsibilities in resolving conflict and encouraging cooperation
- P5.1 selects and organises relevant legal information from a variety of sources and evaluates information and sources for usefulness, validity and bias
- P5.2 investigates, analyses and synthesises legal information from a variety of perspectives and presents the findings and investigations to a particular audience
- P5.3 communicates law-related issues coherently and responsively to different audiences using appropriate written and oral forms characterised by complexity of purpose procedure and subject matter
- P5.4 creates well-structured texts to describe, explain, argue, discuss, analyse, evaluate and apply legal information, ideas and issues.

Content

Students learn about:

Legal Controls on State Power

- official duties and discretionary powers
- parliamentary control of executive: ministerial responsibility, parliamentary committees
- individuals' rights to access information: common law and statutory rights
- informal means of challenging State power through: the media, members of parliament, trade unions, interest groups, including non-government organisations (NGOs)
- formal means of challenging power: internal and external review, including general merit review tribunals, privacy bodies, courts, Office of the Ombudsman, commissions of inquiry and the Independent Commission Against Corruption.

Key Questions/Issues

- Why do people need to know what decisions have been made about them and how can individuals get access to that information?
- What are the relative strengths and weaknesses of the various formal and informal means of challenging State power?
- How adequate are the powers of the courts in reviewing administrative actions?
- How does the law impact on institutions?

Topic 7 – Duties

Principal Focus

Students learn about domestic and international duties expected of both governments and individuals.

Outcomes

A student:

- P2.1 states the origins and sources of Australian and international law
- P2.2 describes similarities and differences in relation to customary law, statutory law, common law and international law
- P3.1 describes the interrelationship between law, justice and society and the changing nature of law
- P3.2 explains the extent to which law reflects the cultures and values of different groups within society
- P5.1 selects and organises relevant legal information from a variety of sources and evaluates information and sources for usefulness, validity and bias
- P5.2 investigates, analyses and synthesises legal information from a variety of perspectives and presents the findings and investigations to a particular audience
- P5.3 communicates law-related issues coherently and responsively to different audiences using appropriate written and oral forms characterised by complexity of purpose procedure and subject matter
- P5.4 creates well-structured texts to describe, explain, argue, discuss, analyse, evaluate and apply legal information, ideas and issues.

Content

Students learn about:

Duties: domestic

- the different meanings of duties: legal (statutory and common law), social and cultural, moral, religious and ethical
- the interrelationship of legal and other duties

Duties: international

- meanings of international duties and their evolving nature
- restrictions on the use of force as an instrument of national policy in international relations
- obligation on governments to practice tolerance and live together in peace with one another as good neighbours and to work for the promotion of the economic and social advancement of all peoples.

Key Questions/Issues

- What are the different types of duties within society?
- What duties does a country have internationally?
- What are the differences between domestic and international duties of government?
- Illustrate the difference between legal and non-legal duties of an individual.

Topic 8 – Rights

Principal Focus

Students understand the concepts of rights and the relationship between duties and rights.

Outcomes

A student:

- P2.1 states the origins and sources of Australian and international law
- P2.2 describes similarities and differences in relation to customary law, statutory law, common law and international law
- P3.1 describes the interrelationship between law, justice and society and the changing nature of law
- P3.2 explains the extent to which law reflects the cultures and values of different groups within society
- P5.1 selects and organises relevant legal information from a variety of sources and evaluates information and sources for usefulness, validity and bias
- P5.2 investigates, analyses and synthesises legal information from a variety of perspectives and presents the findings and investigations to a particular audience
- P5.3 communicates law-related issues coherently and responsively to different audiences using appropriate written and oral forms characterised by complexity of purpose procedure and subject matter
- P5.4 creates well-structured texts to describe, explain, argue, discuss, analyse, evaluate and apply legal information, ideas and issues

Content

Students learn about:

Rights: domestic

- legal basis of rights
- the distinction between moral, customary and legal rights
- different types of legal rights – common law and statutory rights
- self-determination

Rights: international

- international treaties and declarations of rights
- the limitations of international law in protecting rights
- self-determination

Key Questions/Issues

- What is the relationship between rights and duties?
- What is the difference between moral, customary and legal rights?
- What are the differences between domestic and international rights?

8.3 Part III – Law in Focus

In this part of the course, students learn to investigate and understand the nature of the struggle for legal justice by individuals belonging to particular groups.

Percentage of Course Time 40%

Application of Part III as the dynamic context for the study of Parts I and II using the following framework:

Areas	Themes
Status under the law	Culture, values and ethics Continuity and change
Mechanisms for achieving justice	Legal processes and institutions Conflict and cooperation
Responsiveness of the legal system	Effectiveness of the legal system Justice, law and society

to **TWO** focus groups chosen from:

1. Aboriginal and Torres Strait Islander peoples
2. People who have a mental illness or intellectual or physical disability
3. Migrants
4. People who are socioeconomically disadvantaged
5. Women
6. Members of any other groups covered by human rights legislation, including anti-discrimination legislation.

Focus Group 1 – Aboriginal and Torres Strait Islander Peoples

Principal Focus

In applying the framework, students understand the nature of disadvantage experienced by Aboriginal and Torres Strait Islander peoples, the legal and non-legal means to address the disadvantage and the limitations these measures have in addressing the disadvantage.

Outcomes

A student:

- P1.2 describes how the legal system operates in Australia
- P2.3 explains the effectiveness of the legal system in addressing issues
- P3.1 describes the interrelationship between law, justice and society and the changing nature of law
- P3.2 explains the extent to which law reflects the cultures and values of different groups within society
- P3.3 explains the impact of continuity and change in the legal system
- P4.1 discusses the specific problems encountered in gaining access to the legal system
- P4.2 investigates and assesses the formal and informal means of resolving conflict
- P4.3 describes the role of legal rights and responsibilities in resolving conflict and encouraging cooperation
- P5.1 selects and organises relevant legal information from a variety of sources and evaluates information and sources for usefulness, validity and bias
- P5.2 investigates, analyses and synthesises legal information from a variety of perspectives and presents the findings and investigations to a particular audience
- P5.3 communicates law-related issues coherently and responsively to different audiences using appropriate written and oral forms characterised by complexity of purpose procedure and subject matter
- P5.4 creates well-structured texts to describe, explain, argue, discuss, analyse, evaluate and apply legal information, ideas and issues.

Content

Students learn about:

Status Under the Law

Theme emphasis: Culture, Values and Ethics; Continuity and Change

- history of government policy
- the legal status of Aboriginal and Torres Strait Islander peoples, including civil and criminal law, pre and post 1967 referendum

Mechanism for Achieving Justice

Theme emphasis: Legal Processes and Institutions; Conflict and Cooperation

- mechanisms for achieving justice for Aboriginal and Torres Strait Islander peoples
- racial vilification, anti-discrimination legislation, legal aid, special commissions and government inquiries, land councils and trusts, political power, self-determination, including treaties

Responsiveness of the Legal System

Theme emphasis: Effectiveness of the Legal System; Justice, Law and Society

- misunderstandings due to ignorance and differences in points of view
- language and cultural differences
- the extent to which governments have recognised and responded to issues and rights, for example land rights, deaths in custody recommendations, forcible removal of children from their families.

Key Questions/Issues

- To what extent has Australian law embodied Aboriginal and Torres Strait Islander customary law?
- Is there a difference between Federal and State mechanisms for achieving justice for Aboriginal and Torres Strait Islander peoples?
- How effective are inquiries in addressing the issues and rights referred to above?
- How have governments responded to the outcomes of such inquiries?

Focus Group 2 – People who Have a Mental Illness or Intellectual or Physical Disability

Principal Focus

In applying the framework, students understand the nature of the disadvantage encountered by those who have a mental illness or intellectual or physical disability and the legal and non-legal means adopted to address that disadvantage and the limitations those measures have in addressing the disadvantage.

Outcomes

A student:

- P1.2 describes how the legal system operates in Australia
- P2.3 explains the effectiveness of the legal system in addressing issues
- P3.1 describes the interrelationship between law, justice and society and the changing nature of law
- P3.2 explains the extent to which law reflects the cultures and values of different groups within society
- P3.3 explains the impact of continuity and change in the legal system
- P4.1 discusses the specific problems encountered in gaining access to the legal system
- P4.2 investigates and assesses the formal and informal means of resolving conflict
- P4.3 describes the role of legal rights and responsibilities in resolving conflict and encouraging cooperation
- P5.1 selects and organises relevant legal information from a variety of sources and evaluates information and sources for usefulness, validity and bias
- P5.2 investigates, analyses and synthesises legal information from a variety of perspectives and presents the findings and investigations to a particular audience
- P5.3 communicates law-related issues coherently and responsively to different audiences using appropriate written and oral forms characterised by complexity of purpose procedure and subject matter
- P5.4 creates well-structured texts to describe, explain, argue, discuss, analyse, evaluate and apply legal information, ideas and issues.

Content

Students learn about:

Status Under the Law

Theme emphasis: Culture, Values and Ethics; Continuity and Change

- the importance of the distinction between mental illness, mental disorder and intellectual disability, including definitions
- the extent to which the State guarantees the rights of people with mental illness, intellectual or physical disabilities
- the nature of disadvantage for people in these groups

Mechanisms for Achieving Justice

Legal Processes and Institutions; Conflict and Cooperation

- prejudice and discrimination: legislative sanctions against discriminatory behaviour
- guardianship and mental health legislation, including: rights, powers and responsibilities
- voluntary and involuntary institutionalisation, voluntary treatments in the community
- rights affected by mental illness, intellectual or physical disability
- institutions and people with a protective role for people with mental illness or intellectual or physical disability: The Guardianship Board and the Mental Health Review Tribunal, the Public Guardian and the Protective Commissioner, family, friends, guardians, holders of powers of attorney, service providers such as welfare agencies, hospitals, group homes

Responsiveness of the Legal System

Effectiveness of the Legal System; Justice, Law and Society

- types of problems legislation attempts to address
- how community attitudes towards people with a disability influence law makers and law enforcers.

Key Questions/Issues

- Why is it important to make a distinction between people with mental illness and people with physical or intellectual disability?
- To what extent does the State guarantee the rights of people who have a mental illness or intellectual or physical disability?
- How do decision makers balance a person's rights with their need for protection and/or treatment?

Focus Group 3 – Migrants

Principal Focus

In applying the framework, students understand the nature of the disadvantage encountered by migrants, the legal and non-legal means adopted to address that disadvantage and the limitations those measures have in addressing the disadvantage.

Outcomes

A student:

- P1.2 describes how the legal system operates in Australia
- P2.3 explains the effectiveness of the legal system in addressing issues
- P3.1 describes the interrelationship between law, justice and society and the changing nature of law
- P3.2 explains the extent to which law reflects the cultures and values of different groups within society
- P3.3 explains the impact of continuity and change in the legal system
- P4.1 discusses the specific problems encountered in gaining access to the legal system
- P4.2 investigates and assesses the formal and informal means of resolving conflict
- P4.3 describes the role of legal rights and responsibilities in resolving conflict and encouraging cooperation
- P5.1 selects and organises relevant legal information from a variety of sources and evaluates information and sources for usefulness, validity and bias
- P5.2 investigates, analyses and synthesises legal information from a variety of perspectives and presents the findings and investigations to a particular audience
- P5.3 communicates law-related issues coherently and responsively to different audiences using appropriate written and oral forms characterised by complexity of purpose procedure and subject matter
- P5.4 creates well-structured texts to describe, explain, argue, discuss, analyse, evaluate and apply legal information, ideas and issues.

Content

Students learn about:

Status Under the Law

Culture, Values and Ethics; Continuity and Change

- distinctions between the various categories of immigration: family sponsored, independent, refugee and humanitarian categories, persons without authority to remain in Australia
- the nature of disadvantage for people in these groups

Mechanisms for Achieving Justice

Legal Processes and Institutions; Conflict and Cooperation

- development of multiculturalism
- legislative sanctions against discriminatory behaviour
- access to housing, social services and the law
- issues of court access, including challenging immigration decisions, bringing other cases before courts, use of interpreters
- special criminal law processes: deportation, extradition and detention

Responsiveness of The Legal System

Effectiveness of the Legal System; Justice, Law and Society

- administrative review of immigration decisions
- forms of responses: international treaties, racial vilification legislation, anti-discrimination legislation, legal aid
- recognition of cultural diversity.

Key Questions/Issues

- To what extent should the legal system recognise cultural diversity?
- How has the administrative review of immigration decisions developed?
- How effective are legislative sanctions against discriminatory behaviour?

Focus Group 4 – People who are Socioeconomically Disadvantaged

Principal Focus

In applying the framework, students understand the nature of the disadvantage encountered by people who are socioeconomically disadvantaged, the legal and non-legal means adopted to address that disadvantage and the limitations those measures have in addressing the disadvantage.

Outcomes

A student:

- P1.2 describes how the legal system operates in Australia
- P2.3 explains the effectiveness of the legal system in addressing issues
- P3.1 describes the interrelationship between law, justice and society and the changing nature of law
- P3.2 explains the extent to which law reflects the cultures and values of different groups within society
- P3.3 explains the impact of continuity and change in the legal system
- P3.4 uses legislation, cases, media reports and opinions to review arguments for change and reform in the law
- P4.1 discusses the specific problems encountered in gaining access to the legal system
- P4.2 investigates and assesses the formal and informal means of resolving conflict
- P4.3 describes the role of legal rights and responsibilities in resolving conflict and encouraging cooperation
- P5.1 selects and organises relevant legal information from a variety of sources and evaluates information and sources for usefulness, validity and bias
- P5.2 investigates, analyses and synthesises legal information from a variety of perspectives and presents the findings and investigations to a particular audience
- P5.3 communicates law-related issues coherently and responsively to different audiences using appropriate written and oral forms characterised by complexity of purpose procedure and subject matter
- P5.4 creates well-structured texts to describe, explain, argue, discuss, analyse, evaluate and apply legal information, ideas and issues.

Content

Students learn about:

Status Under the Law

Culture, Values and Ethics; Continuity and Change

- the distinction between different categories of applicants for social security
- the nature of disadvantage for people in these groups

Mechanisms for Achieving Justice

Legal Processes and Institutions; Conflict and Cooperation

- overview and administration of the social security legislation
- discretionary powers exercised by government
- appeal mechanisms
- issues about accessing the system

Responsiveness of the Legal System

Effectiveness of the Legal System; Justice, Law and Society

- the effectiveness of social security legislation in providing for pensioners, invalids, the unemployed and single parents
- types of problems legislation attempts to address, such as prejudice and discrimination
- how community attitudes towards people who are socioeconomically disadvantaged influence law makers and law enforcers.

Key Questions/Issues

- To what extent should the legal system recognise the needs of people who are socioeconomically disadvantaged?
- Why is social security necessary?
- What forms of discrimination may social security applicants face?
- How effective is the legal system in addressing social disadvantage?
- What mechanisms/procedures exist for achieving justice?

Focus Group 5 – Women

Principal Focus

In applying the framework, students understand the nature of disadvantage encountered by women, the legal and non-legal means adopted to address that disadvantage and the limitations those measures have in addressing the disadvantage.

Outcomes

A student:

P1.2 describes how the legal system operates in Australia

P2.3 explains the effectiveness of the legal system in addressing issues

P3.1 describes the interrelationship between law, justice and society and the changing nature of law

P3.2 explains the extent to which law reflects the cultures and values of different groups within society

P3.3 explains the impact of continuity and change in the legal system

P4.1 discusses the specific problems encountered in gaining access to the legal system

P4.2 investigates and assesses the formal and informal means of resolving conflict

P4.3 describes the role of legal rights and responsibilities in resolving conflict and encouraging cooperation

P5.1 selects and organises relevant legal information from a variety of sources and evaluates information and sources for usefulness, validity and bias

P5.2 investigates, analyses and synthesises legal information from a variety of perspectives and presents the findings and investigations to a particular audience

P5.3 communicates law-related issues coherently and responsively to different audiences using appropriate written and oral forms characterised by complexity of purpose procedure and subject matter

P5.4 creates well-structured texts to describe, explain, argue, discuss, analyse, evaluate and apply legal information, ideas and issues.

Content

Students learn about:

Status Under the Law

Culture, Values and Ethics; Continuity and Change

- changing roles of women
- changing status of women: political suffrage, jury duty, economic rights, property rights, social security, minority groups

Mechanisms for Achieving Justice

Legal Processes and Institutions; Conflict and Cooperation

- mechanisms for resolving particular problems confronting women, including: political and economic inequality in accessing education, training, development, gaining promotion, equal pay; sexual harassment
- the legal and non-legal mechanisms: role of trade unions, lobby groups, welfare groups, government agencies
- affirmative action and anti-discrimination legislation, education and training schemes
- health policies

Responsiveness of the Legal System

Effectiveness of the Legal System; Justice, Law and Society

- forms of response
- the extent to which the law reflects the changing role of women; the issues that have been addressed and those issues still to be addressed.

Key Questions/Issues

- Historically, to what extent were women treated as second class citizens?
- How effective are the legal and non-legal responses in addressing the changing needs of women?
- To what extent is there gender bias in the culture, processes and practices of the legal system?

Focus Group 6 – Members of Other Groups Covered by Human Rights Legislation, including Anti-discrimination Legislation

Principal Focus

In applying the framework, students understand the nature of the disadvantage encountered by specific groups, the legal and non-legal means adopted to address that disadvantage and the limitations those measures have in addressing the disadvantage.

Outcomes

A student:

- P1.2 describes how the legal system operates in Australia
- P2.3 explains the effectiveness of the legal system in addressing issues
- P3.1 describes the interrelationship between law, justice and society and the changing nature of law
- P3.2 explains the extent to which law reflects the cultures and values of different groups within society
- P3.3 explains the impact of continuity and change in the legal system
- P4.1 discusses the specific problems encountered in gaining access to the legal system
- P4.2 investigates and assesses the formal and informal means of resolving conflict
- P4.3 describes the role of legal rights and responsibilities in resolving conflict and encouraging cooperation
- P5.1 selects and organises relevant legal information from a variety of sources and evaluates information and sources for usefulness, validity and bias
- P5.2 investigates, analyses and synthesises legal information from a variety of perspectives and presents the findings and investigations to a particular audience
- P5.3 communicates law-related issues coherently and responsively to different audiences using appropriate written and oral forms characterised by complexity of purpose procedure and subject matter
- P5.4 creates well-structured texts to describe, explain, argue, discuss, analyse, evaluate and apply legal information, ideas and issues.
- P5.5 negotiates individually or in groups to allocate tasks, establish roles, procedures and evaluation strategies to achieve appropriate goals in set timelines.

Content

Note: Teachers selecting this area are invited to construct content consistent with the application of the framework, for example, about youth, the aged or members of other groups not included in focus groups 1–5, but covered by human rights legislation, including anti-discrimination legislation.

Students learn about:

Status Under The Law

Theme emphasis: Culture, Values and Ethics; Continuity and Change

Mechanisms for Achieving Justice

Theme emphasis: Legal Processes and Institutions; Conflict and Cooperation

Responsiveness of the Legal System

Theme emphasis: Effectiveness of the Legal System; Justice, Law and Society

Key Questions/Issues

- To what extent has the legal system responded to the needs of members of these groups?
- How effective have these responses been in relation to members of these groups?
- How effective have non-legal measures been in addressing the needs of members of these groups?
- To what extent are special measures required to overcome disadvantage encountered by specific groups?

9 Content: Legal Studies HSC Course

9.1 Part I – Law and Society

Percentage of Course Time 25%

<p>Topics:</p> <ol style="list-style-type: none">1. Law and justice2. Human rights	<p>Themes</p> <p>Justice, law and society Culture, values and ethics Continuity and change Legal processes and institutions Conflict and cooperation Effectiveness of the legal system</p>
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Topic 1 – Law and Justice

Principal Focus

Students understand the nature of law and justice, the place of law in society and the values that are embodied in the legal system.

Outcomes

A student:

- H2.1 explains the origins and sources of Australian and international law
- H2.2 compares similarities and contrasts differences in relation to customary law, statutory law, common law and international law
- H3.1 analyses the interrelationship between law, justice and society and the changing nature of law
- H3.2 assesses how cultures and values of different groups within society impact on the legal system
- H5.1 selects and organises relevant legal information from a variety of sources and evaluates information and sources for usefulness, validity and bias
- H5.2 investigates, analyses and synthesises legal information from a variety of perspectives and presents the findings of investigations
- H5.3 communicates through well-structured texts to describe, explain, argue, discuss, analyse, evaluate and apply legal information, ideas and issues using appropriate written and oral forms.

Content

Students learn about:

The Essential Influences on Law

- the concept of the rule of law
- the social, cultural, moral, political and economic influences

Nature of Law

- development of law as a reflection of past and present society
- customary law, common law and civil law systems
- doctrine of natural justice
- the purpose of different types of law: domestic and international law; public and private law; civil and criminal law; contract law; tort law; property law; Aboriginal and Torres Strait Islander customary law

Nature of Justice

- concepts of access, equity, fairness, equality and human rights.

Key Questions/Issues

- To what extent is law influenced by the society in which it operates?
- What characterises a just law?
- Does formal equality before the law hide institutionalised inequality?

Topic 2 – Human Rights

Principal Focus

Students understand the notion of individual and collective human rights and the extent to which the law embodies such human rights and promotes them in practice. The depth of attention needs to be on the protection of human rights in Australia and the evolution of the recognition of human rights in international law.

Outcomes

A student:

- H1.2 assesses the role of Australian and major international institutions
- H2.1 explains the origins and sources of Australian and international law
- H2.3 evaluates the effectiveness of domestic law in responding to global challenges
- H3.1 analyses the interrelationship between law, justice and society and the changing nature of law
- H3.2 assesses how cultures and values of different groups within society impact on the legal system
- H3.3 evaluates the effectiveness of the processes and mechanisms of change in the legal system
- H4.3 explains rights and responsibilities and evaluates the provisions of domestic and international legal systems in addressing these issues
- H5.1 selects and organises relevant legal information from a variety of sources and evaluates information and sources for usefulness, validity and bias
- H5.2 investigates, analyses and synthesises legal information from a variety of perspectives and presents the findings of investigations
- H5.3 communicates through well-structured texts to describe, explain, argue, discuss, analyse, evaluate and apply legal information, ideas and issues using appropriate written and oral forms.

Content

Students learn about:

Rights

- the nature and development of concepts of human rights
 - state sovereignty, ‘natural law’ doctrine, historic constitutional documents, movement for slavery abolition, trade unionism, universal suffrage and universal education
 - distinguishing between moral, customary and legal rights
 - differences between domestic and international rights
- identifying the types of international rights
 - civil and political rights; economic, social and cultural rights; environmental and peace rights
 - collective right to self-determination

- the recognition of human rights under Australian law: common and statute law, evolving human rights, including the possibility of a Bill of Rights, recognition and enforcement of rights
- contemporary struggles for human rights, the changing understanding of human rights and the effectiveness of legal measures both domestically and internationally in addressing human rights issues.

Key Questions/Issues

- What are rights?
- How are they recognised and enforced?
- How effective are legal measures, both domestically and internationally, in addressing human rights issues?
- How effective are non-legal measures?

9.2 Part II – Focus Study: Crime

Percentage of Course Time 25%

Study of the operation of the legal system through the application of the following framework:

Areas	Themes
Key legal concepts and features of the legal system Legal issues and remedies Morality, ethics and commitment to the law Effectiveness of the law: – for individuals – for society Law reform	Justice, law and society Culture, values and ethics Continuity and change Legal processes and institutions Conflict and cooperation Effectiveness of the legal system

Students apply the areas and themes of the framework to the study of **Crime**.

Focus Study – Crime

Principal Focus

In applying the framework, students explain and understand legal processes and institutions within the context of crime and understand the tension between community interests and individual rights and freedom.

Outcomes

A student:

- H1.1 applies domestic and international legal vocabulary in appropriate contexts
- H1.2 assesses the role of Australian and major international institutions
- H2.2 compares similarities and contrasts differences in relation to customary law, statutory law, common law and international law
- H3.1 analyses the interrelationship between law, justice and society and the changing nature of law
- H3.2 assesses how cultures and values of different groups within society impact on the legal system
- H3.3 evaluates the effectiveness of the processes and mechanisms of change in the legal system
- H3.4 analyses legislation, cases, media reports and opinions to review arguments for change and reform in the law
- H4.1 analyses specific problems encountered in gaining access to the legal system
- H4.2 assesses the effectiveness of dispute resolution mechanisms
- H5.1 selects and organises relevant legal information from a variety of sources and evaluates information and sources for usefulness, validity and bias
- H5.2 investigates, analyses and synthesises legal information from a variety of perspectives and presents the findings of investigations
- H5.3 communicates through well-structured texts to describe, explain, argue, discuss, analyse, evaluate and apply legal information, ideas and issues using appropriate written and oral forms
- H5.4 uses planning and review strategies to manage effectively the competing demands of complex tasks and makes effective use of time and resources.

Content

Students learn about:

Key Legal Concepts and Features of the Legal System

- types of crime: offences against persons, economic offences (property/white collar crime), offences against the State, drug offences, public order offences, traffic offences, ‘victimless’ crimes, preliminary crimes (attempts, conspiracy)
- sources: statute law, common law, constitutional separation of powers
- the court structure (role of local court, district court, supreme court, court of criminal appeal and high court in relation to criminal cases)
- factors affecting definition of crime and criminal behaviour: social, economic, genetic, political, self-interest
- elements of crime: *mens rea* (mental state of offender), *actus reus* (conduct of offender), causation

- distinguishing summary (minor) and indictable (serious) crimes
- parties: principal in first degree (actual perpetrator), principal in the second degree (person who was present, assisting), accessory before the fact (person who helped to plan), accessory after the fact (person who, knowing about the crime, helped the offender afterwards)
- defences: complete defences (mental illness, self-defence necessity, duress, consent); partial defences to murder (provocation, substantial impairment of responsibility), which reduce murder to manslaughter
- the criminal process and the role of discretion
 - reporting crime
 - investigation, arrest and charge
 - bail
 - plea, hearing (evidence, procedure, including the role of juries)
 - appeals
 - personnel (police, prosecutors, defence lawyers, magistrates, judges)
- the role of legal aid
- types of international crime (crimes committed outside the jurisdiction, transnational crimes, crimes against the international community)
- sources of law for international crimes (treaties)

Legal Issues and Remedies

- creating social order through education, regulation and coercion
- crime prevention (situational, social)
- enforcing the law through punishment
 - purposes of punishment: rehabilitation (reform), deterrence (specific and general), retribution, incapacitation, reintegrative shaming
- the sentencing process
 - the hearing (evidence, role of prosecutor, defence and victim)
 - factors affecting the decision: purposes of punishment (see above): circumstances of the offence (objective features); circumstances of the offender (subjective features); aggravating and mitigating factors; judicial discretion and limits on discretion (eg judicial guidelines, mandatory sentencing, maximum penalties)
- penalties
 - types of penalty: fine, bond, probation order, community service order, home detention, periodic detention, imprisonment
 - penalties no longer available: capital punishment, corporal punishment
 - penalties that infringe human rights laws: cruel and unusual punishment (see International Covenant on Civil and Political Rights)
- post-sentencing decisions: security classification, protective custody, parole
- dealing with international crime (international criminal court, sanctions)
- extradition (dealing with fugitive domestic criminals)
- assessing the efficiency and the effectiveness of various forms of legal measures in achieving justice through researching a current criminal justice issue

Morality, Ethics and Commitment to the Law

- the extent to which law reflects moral and ethical standards
- commitment to the law – the issue of compliance and non-compliance

Effectiveness of the Law

- factors to be considered when evaluating the effectiveness of law in achieving justice:
 - for individuals: equality, accessibility, enforceability, resource efficiency, protection and recognition of individual rights
 - for society: resource efficiency, law as a reflection of community standards and expectations, opportunities for enforcement, appeals and review, balance of individual rights and values and community rights and values

Law Reform

- The agencies of reform and the conditions which give rise to the need for reform
 - law reform commissions, parliament, courts, changing social values and composition of society, new concepts of justice, failure of existing law, international law and new technology.

Key Questions/Issues

- What kinds of behaviour are criminalised? Why?
- How does the practical operation of the criminal process influence enforcement of the law?
- Do people show the same respect for all criminal laws? Why?
- Is the adversary system the best system for achieving justice in criminal trials?
- What international instruments have been developed with respect to international crime?
- What role could be played by an international criminal court?
- What international instruments and regimes have been developed with respect to extradition?
- To what extent is there a proper balance between the rights of the victim and the rights of the community; and between the rights of the victim and the rights of accused people?
- What are the implications of plea bargaining for the notion of justice for the accused, the victim, the community and the efficiency of the court process?
- How effective are the various forms of punishment in achieving their objectives?

9.3 Part III – Additional Focus Studies

Percentage of Course Time 50%

Study of the operation of the legal system through the application of the following framework:

Areas	Themes
Key legal concepts and features of the legal system Legal issues and remedies Morality, ethics and commitment to the law Effectiveness of the law: – for individuals – for society – for the nation-state Law reform	Justice, law and society Culture, values and ethics Continuity and change Legal processes and institutions Conflict and cooperation Effectiveness of the legal system

Students apply the areas and themes of the framework to **TWO** focus studies chosen from:

1. Consumers
2. Family
3. Global environment
4. Indigenous peoples
5. Shelter
6. Technological change
7. Workplace
8. World order.

Optional Focus Study 1 – Consumers

Principal Focus

In applying the framework, students learn about the rights of consumers and the effectiveness of the law in achieving justice for consumers.

Outcomes

A student:

- H1.1 applies domestic and international legal vocabulary in appropriate contexts
- H2.3 evaluates the effectiveness of domestic law in responding to global challenges
- H3.1 analyses the interrelationship between law, justice and society and the changing nature of law
- H3.2 assesses how cultures and values of different groups within society impact on the legal system
- H3.3 evaluates the effectiveness of the processes and mechanisms of change in the legal system
- H3.4 analyses legislation, cases, media reports and opinions to review arguments for change and reform in the law
- H4.1 analyses specific problems encountered in gaining access to the legal system
- H4.2 assesses the effectiveness of dispute resolution mechanisms
- H4.3 explains rights and responsibilities and evaluates the provisions of domestic and international legal systems in addressing these issues
- H5.1 selects and organises relevant legal information from a variety of sources and evaluates information and sources for usefulness, validity and bias
- H5.2 investigates, analyses and synthesises legal information from a variety of perspectives and presents the findings of investigations
- H5.3 communicates through well-structured texts to describe, explain, argue, discuss, analyse, evaluate and apply legal information, ideas and issues using appropriate written and oral forms
- H5.4 uses planning and review strategies to manage effectively the competing demands of complex tasks and makes effective use of time and resources.

Content

Students learn about:

Key Legal Concepts and Features of the Legal System

- concepts of the consumer in the law
 - the nature of the change from a rural subsistence society to an urban mass-consumption/production society, including the effect of this change on the role of the State in consumer affairs
 - contracts and terms implied by common law and statutes
 - the regulation of marketing and advertising, including general standards, specific requirements, deceptive marketing practices and ‘cooling off’ periods
 - occupational licensing, including self-regulation, State regulation, licensing of occupations such as motor car dealers and repairers, travel agents and review of licensing decisions
 - financing a purchase, including the notion of security, rights and remedies of borrowers and credit providers and the regulation of credit providers

Legal Issues and Remedies

- consumers' rights
 - the nature of contracts, including the binding nature of a contract, written and oral contracts, terms and conditions of contracts, parties to contracts and privity of contract
 - the role of common law in remedying injustice, legislation designed to remedy injustice such as the *Contracts Review Act 1980* (NSW), problems of language and literacy, discrimination in supply of goods and services (including credit) and remedies for breach of contract
 - statutory controls, including rights against suppliers, rights against manufacturers, rights against finance companies, quality of goods and services, compliance with description and promotional material and legislation governing spare parts and repair facilities
- consumer redress
 - self-help and awareness, including complaints to suppliers and manufacturers
 - sources of advice and assistance for dealing with complaints, including relevant government agencies, consumer groups, the media, investigating agencies
 - processes for redress, including self-help, mediation and conciliation, Fair Trading Tribunal, arbitration, class actions and the courts
 - consumer remedies, including damages, rescission and modification of contract, special orders, injunctions and specific performance

Morality, Ethics and Commitment to the Law

- the extent to which law reflects moral and ethical standards
- commitment to the law – the issue of compliance and non-compliance

Effectiveness of the Law

- factors to be considered when evaluating the effectiveness of law in achieving justice:
 - for individuals: equality, accessibility, enforceability, resource efficiency, protection and recognition of individual rights
 - for society: resource efficiency, law as a reflection of community standards and expectations, opportunities for enforcement, appeals and review, balance of individual rights and values and community rights and values

Law Reform

- the agencies of reform and the conditions that give rise to the need for reform
 - law reform commissions, parliament, courts, changing social values and composition of society, new concepts of justice, failure of existing law, international law and new technology.

Key Questions/Issues

- To what extent can competition policy achieve equity and justice?
- How useful are legal controls in protecting the rights of consumers in regulating manufacturers/suppliers?
- How effective is the law in protecting consumers, manufacturers/suppliers?

Optional Focus Study 2 – Family

Principal Focus

In applying the framework, students learn about the legal nature of the institution of marriage, the rights and obligations of family members and the effectiveness of the law for achieving justice.

Outcomes

A student:

- H1.1 applies domestic and international legal vocabulary in appropriate contexts
- H2.3 evaluates the effectiveness of domestic law in responding to global challenges
- H3.1 analyses the interrelationship between law, justice and society and the changing nature of law
- H3.2 assesses how cultures and values of different groups within society impact on the legal system
- H3.3 evaluates the effectiveness of the processes and mechanisms of change in the legal system
- H3.4 analyses legislation, cases, media reports and opinions to review arguments for change and reform in the law
- H4.1 analyses specific problems encountered in gaining access to the legal system
- H4.2 assesses the effectiveness of dispute resolution mechanisms
- H4.3 explains rights and responsibilities and evaluates the provisions of domestic and international legal systems in addressing these issues
- H5.1 selects and organises relevant legal information from a variety of sources and evaluates information and sources for usefulness, validity and bias
- H5.2 investigates, analyses and synthesises legal information from a variety of perspectives and presents the findings of investigations
- H5.3 communicates through well-structured texts to describe, explain, argue, discuss, analyse, evaluate and apply legal information, ideas and issues using appropriate written and oral forms
- H5.4 uses planning and review strategies to manage effectively the competing demands of complex tasks and makes effective use of time and resources.

Content

Students learn about:

Key Legal Concepts and Features of the Legal System

- concepts of a family in the law
 - the different functions of a family as dealt with by the law
 - the institution of marriage, including the legal definition of marriage, requirements of a valid marriage, including marriageable age, parental consent, prohibited degrees of relationship, notice of marriage, requirements for a valid marriage ceremony and marriage licence
 - legal consequences and responsibilities of marriage, including mutual duties of husband and wife, maintenance, property rights, agency, wills and family provision legislation

- legal rights and obligations between parents and children, including care and control, education, discipline, medical treatment, autonomy of children and inheritance
- dissolution of marriage

Legal Issues and Remedies

- alternative family arrangements, including Aboriginal and Torres Strait Islander peoples' customary law marriages, single parent families, blended families, same sex relationships, polygamous marriages, de facto relationships and all family agreements
- parents and children, including United Nations Convention on the Rights of the Child, birth technology and surrogacy, ex-nuptial children, adoption and guardianship
- problems in family relationships, including causes, legal response to violence between spouses, by and against children, children in trouble, including care and abuse issues
- children's courts and legal aid
- dissolution of marriage, including development of family law legislation and the Family Court of Australia
- counselling, limits of the court's jurisdiction, parental responsibility and parental orders (including residence, contact and child maintenance), property allocation, spousal maintenance and problems of enforcement
- agreements, including parenting plans, cohabitation agreements and pre-nuptial agreements

Morality, Ethics and Commitment to the Law

- the extent to which law reflects moral and ethical standards
- commitment to the law – the issue of compliance and non-compliance

Effectiveness of the Law

- factors to be considered when evaluating the effectiveness of law in achieving justice:
 - for individuals: equality, accessibility, enforceability, resource efficiency, protection and recognition of individual rights
 - for society: resource efficiency, law as a reflection of community standards and expectations, opportunities for enforcement, appeals and review, balance of individual rights and values and community rights and values

Law Reform

- the agencies of reform and the conditions that give rise to the need for reform
 - law reform commissions, parliament, courts, changing social values and composition of society, new concepts of justice, failure of existing law, international law and new technology.

Key Questions/Issues

- What are the familial arrangements recognised by law? Why does the law respond differently to different arrangements? What changes have taken place in this area?
- Why is marriage a legal institution?
- How does the law respond to domestic violence?
- Is the current family law legislation an improvement on previous legislation?
- Why are some aspects of family law dealt with by State courts?

Optional Focus Study 3 – Global Environment

Principal Focus

In applying the framework, students learn about the role of law in protecting the global environment.

Outcomes

A student:

- H1.1 applies domestic and international legal vocabulary in appropriate contexts
- H2.3 evaluates the effectiveness of domestic law in responding to global challenges
- H3.1 analyses the interrelationship between law, justice and society and the changing nature of law
- H3.2 assesses how cultures and values of different groups within society impact on the legal system
- H3.3 evaluates the effectiveness of the processes and mechanisms of change in the legal system
- H3.4 analyses legislation, cases, media reports and opinions to review arguments for change and reform in the law
- H4.1 analyses specific problems encountered in gaining access to the legal system
- H4.2 assesses the effectiveness of dispute resolution mechanisms
- H4.3 explains rights and responsibilities and evaluates the provisions of domestic and international legal systems in addressing these issues
- H5.1 selects and organises relevant legal information from a variety of sources and evaluates information and sources for usefulness, validity and bias
- H5.2 investigates, analyses and synthesises legal information from a variety of perspectives and presents the findings of investigations
- H5.3 communicates through well-structured texts to describe, explain, argue, discuss, analyse, evaluate and apply legal information, ideas and issues in appropriate written and oral forms
- H5.4 uses planning and review strategies to manage effectively the competing demands of complex tasks and makes effective use of time and resources.

Content

Students learn about:

Key Legal Concepts and Features of the Legal System

- the concepts of environment in the law
- the need for global environmental protection
 - environmental impact of industrial society and culture
 - development of environmental awareness
 - interdependence
 - impact on indigenous peoples and local communities
- the meanings of ‘sustainable development’, ‘precautionary principle’, ‘intergenerational/intra-generational equity’, ‘biological diversity’, ‘ecological integrity’ and ‘renewable resources’
- implementation of international agreements: State sovereignty and the roles of national governments in being both the vehicle to implement international environmental agreements and also the obstacle to accepting new ones

Legal Issues and Remedies

- coverage and adequacy of issues at the 1972 Stockholm and 1992 Rio Conferences, international instruments (declarations and treaties), international customary law, United Nations, regional inter-governmental organisations, non-governmental organisations (including Greenpeace, Worldwide Fund for Nature) and media
- the role of international tribunals
 - International Court of Justice (ICJ),
 - other international tribunals
- Australia's role in global environmental protection: the scope of Australia's federal structure in determining Australia's response

Morality, Ethics and Commitment to the Law

- the extent to which law reflects moral and ethical standards
- commitment to the law – the issue of compliance or non-compliance

Effectiveness of the Law

- factors to be considered when evaluating the effectiveness of law in achieving justice:
 - for individuals: equality, accessibility, enforceability, resource efficiency, protection and recognition of individual rights
 - for society: resource efficiency, law as a reflection of community standards and expectations, opportunities for enforcement, appeals and review, balance of individual rights and values and community rights and values
 - for the nation-state: recognition of nation-state, sovereignty, interdependence of nation-states, enforceability, equality of treatment between nation-states, addressing inequality between nation-states, balance of international standards and expectations of nation-states

Law Reform

- the agencies of reform and the conditions that give rise to the need for reform
 - law reform commissions, parliament, courts, changing social values and composition of society, new concepts of justice, failure of existing law, international law and new technology.

Key Questions/Issues

- How effective have international conferences been in protecting the environment?
- How are international obligations reflected in Australian law?
- What are the different Commonwealth and State powers and responsibilities in environmental protection?
- How effective are Commonwealth and State powers in protecting the environment?
- Is litigation an effective way of protecting World Heritage areas?
- What is the relationship between local and global efforts to protect the environment?

Optional Focus Study 4 – Indigenous Peoples

Principal Focus

In applying the framework, students learn about how indigenous peoples use international law to achieve justice.

Outcomes

A student:

- H1.1 applies domestic and international legal vocabulary in appropriate contexts
- H2.3 evaluates the effectiveness of domestic law in responding to global challenges
- H3.1 analyses the interrelationship between law, justice and society and the changing nature of law
- H3.2 assesses how cultures and values of different groups within society impact on the legal system
- H3.3 evaluates the effectiveness of the processes and mechanisms of change in the legal system
- H3.4 analyses legislation, cases, media reports and opinions to review arguments for change and reform in the law
- H4.1 analyses specific problems encountered in gaining access to the legal system
- H4.2 assesses the effectiveness of dispute resolution mechanisms
- H4.3 explains rights and responsibilities and evaluates the provisions of domestic and international legal systems in addressing these issues
- H5.1 selects and organises relevant legal information from a variety of sources and evaluates information and sources for usefulness, validity and bias
- H5.2 investigates, analyses and synthesises legal information from a variety of perspectives and presents the findings of investigations
- H5.3 communicates through well-structured texts to describe, explain, argue, discuss, analyse, evaluate and apply legal information, ideas and issues using appropriate written and oral forms
- H5.4 uses planning and review strategies to manage effectively the competing demands of complex tasks and makes effective use of time and resources.

Content

Students learn about:

Key Legal Concepts and Features of the Legal System

- effect of global pressures on indigenous peoples: affinity of indigenous peoples with land and nature, social and cultural traditions of indigenous peoples, colonisation, resistance and resurgence, interdependence and role of indigenous peoples in contributing to global development
- meanings of ‘indigenous peoples’ over time and how indigenous peoples identify themselves:
 - ‘peoples’, ‘tribes’, ‘nations’, ‘first nations’, ‘indigenous peoples’, ‘Aboriginal peoples’
- implementation of international agreements
 - State sovereignty and the roles of national governments in being both the vehicle to implement international agreements to protect indigenous peoples within their national borders and also the obstacle to accepting new ones

Legal Issues and Remedies

- the frameworks to be used in respecting the rights of indigenous peoples: right of self-determination, sovereignty and self-identification and cultural integrity
- international instruments (declarations and treaties), international customary law, United Nations, regional and inter-governmental organisations, non-governmental organisations (including Unrepresented Nations and Peoples Organisation (UNPO)) and media
- the role of international tribunals: International Court of Justice (ICJ) and other international tribunals
- the role of Australia's federal structure in determining Australia's response to the legal protection of indigenous peoples

Morality, Ethics and Commitment to the Law

- the extent to which law reflects moral and ethical standards
- commitment to the law – the issue of compliance and non-compliance

Effectiveness of the Law

- factors to be considered when evaluating the effectiveness of law in achieving justice:
 - for individuals: equality, accessibility, enforceability, resource efficiency, protection and recognition of individual rights
 - for society: resource efficiency, law as a reflection of community standards and expectations, opportunities for enforcement, appeals and review, balance of individual rights and values and community rights and values
 - for the nation-state: recognition of nation-state, sovereignty, interdependence of nation-states, enforceability, equality of treatment between nation-states, addressing inequality between nation-states, balance of international standards and expectations of nation-states

Law Reform

- the agencies of reform and the conditions that give rise to the need for reform
 - law reform commissions, parliament, courts, changing social values and composition of society, new concepts of justice, failure of existing law, international law and new technology.

Key Questions/Issues

- How has the meaning of 'indigenous' changed over time?
- How do indigenous peoples identify themselves?
- How does Australia's federal structure affect responsibility for and response to indigenous issues?
- How and why do global pressures affect indigenous peoples?
- How effective has international law been in protecting the rights of indigenous peoples?
- Do morality and ethics assume different meanings for indigenous and non-indigenous peoples?

Optional Focus Study 5 – Shelter

Principal Focus

In applying the framework, students learn about the legal means of securing shelter and the degree of security afforded by the legal system.

Outcomes

A student:

- H1.1 applies domestic and international legal vocabulary in appropriate contexts
- H2.3 evaluates the effectiveness of domestic law in responding to global challenges
- H3.1 analyses the interrelationship between law, justice and society and the changing nature of law
- H3.2 assesses how cultures and values of different groups within society impact on the legal system
- H3.3 evaluates the effectiveness of the processes and mechanisms of change in the legal system
- H3.4 analyses legislation, cases, media reports and opinions to review arguments for change and reform in the law
- H4.1 analyses specific problems encountered in gaining access to the legal system
- H4.2 assesses the effectiveness of dispute resolution mechanisms
- H4.3 explains rights and responsibilities and evaluates the provisions of domestic and international legal systems in addressing these issues
- H5.1 selects and organises relevant legal information from a variety of sources and evaluates information and sources for usefulness, validity and bias
- H5.2 investigates, analyses and synthesises legal information from a variety of perspectives and presents the findings of investigations
- H5.3 communicates through well-structured texts to describe, explain, argue, discuss, analyse, evaluate and apply legal information, ideas and issues using appropriate written and oral forms
- H5.4 uses planning and review strategies to manage effectively the competing demands of complex tasks and makes effective use of time and resources.

Content

Students learn about:

Key Legal Concepts and Features of the Legal System

- the right to shelter
 - political statements on housing policy
 - housing for poor and disadvantaged people
- legal methods of securing shelter
 - concepts of real property: ownership, possession, adverse possession, freehold, tenancy
 - systems of registration: freehold, leasehold, company, strata, community titles, Old System and Torrens Titles
 - private housing: separate dwellings or shared space, purchase and sale of private housing, contract, the role of estate agents, solicitors and licensed conveyancers
 - rights and obligations of landlords and tenants
 - public housing and the role of authorities

- accommodation for Aboriginal and Torres Strait Islander peoples in urban areas and rural areas
- other special types of shelter: aged, caravan parks, boarding houses, group homes, squatting

Legal Issues and Remedies

- private housing: the advantages and disadvantages of separate housing compared with shared space, mortgages, personal loans, credit reporting, insurance, common property, owners' corporation, transfer and lease, type of title, problems, neighbours, dispute resolution, protection for buyers
- leasing: security of tenure, default and eviction, the role of tribunals, protection for landlords and tenants, repairs and damage, discrimination
- advantages and disadvantages of public housing
- issues of discrimination and self-determination in relation to Aboriginal and Torres Strait Islander peoples' housing
- advantages and disadvantages of different types of special shelter
- settling disputes between neighbours: the role of community, tribunals, local governments, courts, community justice centres, comparison of mediation and litigation

Morality, Ethics and Commitment to the Law

- the extent to which law reflects moral and ethical standards
- commitment to the law – the issue of compliance and non-compliance

Effectiveness of the Law

- factors to be considered when evaluating the effectiveness of law in achieving justice:
 - for individuals: equality, accessibility, enforceability, resource efficiency, protection and recognition of individual rights
 - for society: resource efficiency, law as a reflection of community standards and expectations, opportunities for enforcement, appeals and review, balance of individual rights and values and community rights and values

Law Reform

- the agencies of reform and the conditions which give rise to the need for reform
 - law reform commissions, parliament, courts, changing social values and composition of society, new concepts of justice, failure of existing law, international law and new technology.

Key Questions/Issues

- Is there a legal right to shelter in domestic or international law?
- What are the differences between private and public housing?
- To what extent should the State provide protection for homebuyers?
- To what extent do different forms of special accommodation require a person to give up personal rights?
- How are housing disputes resolved?
- Is there a legal obligation on government to provide shelter for particular groups?

Optional Focus Study 6 – Technological Change

Principal Focus

In applying the framework, students learn about the response of the legal system to the ways in which technology has transformed many aspects of life.

Outcomes

A student:

- H1.1 applies domestic and international legal vocabulary in appropriate contexts
- H2.3 evaluates the effectiveness of domestic law in responding to global challenges
- H3.1 analyses the interrelationship between law, justice and society and the changing nature of law
- H3.2 assesses how cultures and values of different groups within society impact on the legal system
- H3.3 evaluates the effectiveness of the processes and mechanisms of change in the legal system
- H3.4 analyses legislation, cases, media reports and opinions to review arguments for change and reform in the law
- H4.1 analyses specific problems encountered in gaining access to the legal system
- H4.2 assesses the effectiveness of dispute resolution mechanisms
- H4.3 explains rights and responsibilities and evaluates the provisions of domestic and international legal systems in addressing these issues
- H5.1 selects and organises relevant legal information from a variety of sources and evaluates information and sources for usefulness, validity and bias
- H5.2 investigates, analyses and synthesises legal information from a variety of perspectives and presents the findings of investigations
- H5.3 communicates through well-structured texts to describe, explain, argue, discuss, analyse, evaluate and apply legal information, ideas and issues using appropriate written and oral forms
- H5.4 uses planning and review strategies to manage effectively the competing demands of complex tasks and makes effective use of time and resources.

Content

Students learn about:

Key Legal Concepts and Features of the Legal System

- factors affecting technological change: the development of western industrial society, different approaches to technological change in developing countries, interdependence, impact on indigenous peoples and local communities
- the legal infrastructure of technological change: intellectual property, research agreements, exchange of information, technological transfer, licence, protection of privacy, regulation of biotechnology, technological forgery, fraud and theft, technology of social control
- implementation of international agreements: State sovereignty and the roles of national governments in being both the vehicle to implement international technological agreements and also the obstacle to accepting new ones

Legal Issues and Remedies

- the role played by the various international bodies in responding to technological change
 - international instruments (declarations and treaties)
 - international customary law
 - the United Nations
 - regional inter-governmental organisations
 - non-governmental organisations (eg scientific associations)
 - media
- the role of international tribunals
 - International Court of Justice (ICJ)
 - other international tribunals
- the role of Australia's federal system in determining Australia's response to technological change

Morality, Ethics and Commitment to the Law

- the extent to which law reflects moral and ethical standards
- commitment to the law – the issue of compliance and non-compliance

Effectiveness of the Law

- factors to be considered when evaluating the effectiveness of law in achieving justice:
 - for individuals: equality, accessibility, enforceability, resource efficiency, protection and recognition of individual rights
 - for society: resource efficiency, law as a reflection of community standards and expectations, opportunities for enforcement, appeals and review, balance of individual rights and values and community rights and values
 - for the nation-state: recognition of nation-state, sovereignty, interdependence of nation-states, enforceability, equality of treatment between nation-states, addressing inequality between nation-states, balance of international standards and expectations of nation-states

Law Reform

- the agencies of reform and the conditions which give rise to the need for reform
 - law reform commissions, parliament, courts, changing social values and composition of society, new concepts of justice, failure of existing law, international law and new technology.

Key Questions/Issues

- What factors affect technological change?
- Should the law play a role in sharing technology equally between all countries and nations?
- To what extent is it necessary for a country to be part of an international regime to benefit from technological change?
- To what extent can the law keep pace with technological change?

Optional Focus Study 7 – Workplace

Principal Focus

In applying the framework, students learn about the relationship between employer and employee and the role of law in the workplace.

Outcomes

A student:

- H1.1 applies domestic and international legal vocabulary in appropriate contexts
- H2.3 evaluates the effectiveness of domestic law in responding to global challenges
- H3.1 analyses the interrelationship between law, justice and society and the changing nature of law
- H3.2 assesses how cultures and values of different groups within society impact on the legal system
- H3.3 evaluates the effectiveness of the processes and mechanisms of change in the legal system
- H3.4 analyses legislation, cases, media reports and opinions to review arguments for change and reform in the law
- H4.1 analyses specific problems encountered in gaining access to the legal system
- H4.2 assesses the effectiveness of dispute resolution mechanisms
- H4.3 explains rights and responsibilities and evaluates the provisions of domestic and international legal systems in addressing these issues
- H5.1 selects and organises relevant legal information from a variety of sources and evaluates information and sources for usefulness, validity and bias
- H5.2 investigates, analyses and synthesises legal information from a variety of perspectives and presents the findings of investigations
- H5.3 communicates through well-structured texts to describe, explain, argue, discuss, analyse, evaluate and apply legal information, ideas and issues using appropriate written and oral forms
- H5.4 uses planning and review strategies to manage effectively the competing demands of complex tasks and makes effective use of time and resources.

Content

Students learn about:

Key Legal Concepts and Features of the Legal System

- employment law: development of the law of employment, 'laissez-faire' versus State intervention
- the contract of employment: types of employment contracts, common law contract of employment, differences between contract of service and contract for services, express and implied terms, rights and duties of employers and employees
- statutory framework: industrial awards, superannuation guarantee, industrial relations, enterprise agreements, Australian Workplace Agreements (AWAs), State and Federal tribunals
- changes in the master/servant relationship: the development of machinery for settling industrial disputes, standing to seek industrial law remedies
- negotiations between employers and employees: workplace bargaining, individual action, collective bargaining, consensual forms of dispute resolution (such as mediation, grievance procedures)

Legal Issues and Remedies

- change in the workplace
 - the impact of technological change on work patterns
 - redundancy/dismissal/retirement/retraining
- safety in the workplace: the meaning of safety in the workplace, common law duty of care, statutory duties of employers and employees, Workcover and occupational health and safety, workplace injuries, diseases and rehabilitation
- the contract of employment
 - vicarious liability of employers
 - remedies of employers against employees in breach of contract
- termination of employment: dismissal, remedies of individual employees against wrongful dismissal, redundancy agreements and retirement schemes
- discrimination in the workplace: legislation aimed at combating racism, sexism, physical disability, age discrimination, equal employment opportunity, equal pay for equal work
- industrial relations
 - breakdown in negotiations: strikes, stand-downs, lock-outs, demarcation disputes, work-to-rule, secondary boycotts
 - process of settling industrial disputes: definition of an industrial dispute, role of the union, shop floor meetings, industry log of claims, institutional structures and powers, Commonwealth and State powers, conciliation and arbitration: functions of Industrial Commissioners, compulsory conferences, fines and deregistration
- the role of the courts

Morality, Ethics and Commitment to the Law

- the extent to which law reflects moral and ethical standards
- commitment to the law – the issue of compliance and non-compliance

Effectiveness of the Law

- factors to be considered when evaluating the effectiveness of law in achieving justice:
 - for individuals: equality, accessibility, enforceability, resource efficiency, protection and recognition of individual rights
 - for society: resource efficiency, law as a reflection of community standards and expectations, opportunities for enforcement, appeals and review, balance of individual rights and values and community rights and values

Law Reform

- the agencies of reform and the conditions that give rise to the need for reform
 - law reform commissions, parliament, courts, changing social values and composition of society, new concepts of justice, failure of existing law, international law and new technology.

Key Questions/Issues

- What rights and duties exist in the employment contract for employees and employers?
- Why do some people prefer enterprise bargaining to industrial awards?
- How has legislation responded to the changing needs of employees, employers and society's values in dynamic workplace environments?
- What are the advantages and disadvantages of legal and non-legal methods for regulating workplace arrangement?
- What will the role of the trade unions be in the workplace in the 21st century?

Optional Focus Study 8 – World Order

Principal Focus

In applying the framework, students learn about the different components and legal instruments of world order.

Outcomes

A student:

- H1.1 applies domestic and international legal vocabulary in appropriate contexts
- H2.3 evaluates the effectiveness of domestic law in responding to global challenges
- H3.1 analyses the interrelationship between law, justice and society and the changing nature of law
- H3.2 assesses how cultures and values of different groups within society impact on the legal system
- H3.3 evaluates the effectiveness of the processes and mechanisms of change in the legal system
- H3.4 analyses legislation, cases, media reports and opinions to review arguments for change and reform in the law
- H4.1 analyses specific problems encountered in gaining access to the legal system
- H4.2 assesses the effectiveness of dispute resolution mechanisms
- H4.3 explains rights and responsibilities and evaluates the provisions of domestic and international legal systems in addressing these issues
- H5.1 selects and organises relevant legal information from a variety of sources and evaluates information and sources for usefulness, validity and bias
- H5.2 investigates, analyses and synthesises legal information from a variety of perspectives and presents the findings of investigations
- H5.3 communicates through well-structured texts to describe, explain, argue, discuss, analyse, evaluate and apply legal information, ideas and issues using appropriate written and oral forms
- H5.4 uses planning and review strategies to manage effectively the competing demands of complex tasks and makes effective use of time and resources.

Content

Students learn about:

Key Legal Concepts and Features of the Legal System

- the need for world order: forms of conflict, expansionism, growth of interest in limiting war in human society, interdependence, impact of conflict on indigenous peoples and local communities
- the main ways of working for world order: world government, world/regional federation, peace-enforcement and peacekeeping, regulation of the conduct of hostilities, humanitarian intervention
- implementation of international agreements: State sovereignty and the roles of national governments in being both the vehicle to implement world order agreements and also the obstacle to accepting new ones

Legal Issues and Remedies

- the scope for achieving world order: force, international instruments (declarations and treaties) international customary law, the United Nations, regional inter-governmental organisations, non-government organisations (eg Red Cross/Red Crescent Movement) and media
- the role of international tribunals
 - International Court of Justice (ICJ)
 - other international tribunals
- the role of Australia's federal structure in determining Australia's response to the search for world order
- non-legal remedies (force, persuasion, political negotiation)

Morality, Ethics and Commitment to the Law

- the extent to which law reflects moral and ethical standards
- commitment to the law – the issue of compliance and non-compliance

Effectiveness of the Law

- factors to be considered when evaluating the effectiveness of law in achieving justice:
 - for individuals: equality, accessibility, enforceability, resource efficiency, protection and recognition of individual rights
 - for society: resource efficiency, law as a reflection of community standards and expectations, opportunities for enforcement, appeals and review, balance of individual rights and values and community rights and values
 - for the nation-state: recognition of nation-state, sovereignty, interdependence of nation-states, enforceability, equality of treatment between nation-states, addressing inequality between nation-states, balance of international standards and expectations of nation-states

Law Reform

- the agencies of reform and the conditions that give rise to the need for reform
 - law reform commissions, parliament, courts, changing social values and composition of society, new concepts of justice, failure of existing law, international law and new technology.

Key Questions/Issues

- Why do we need world order?
- What forms of conflict disrupt world order?
- What are the legal measures for the peaceful settlement of international disputes?
- How effective are the remedies that seek to achieve world order?

10 Course Requirements

For the Preliminary course:

- 120 indicative hours are required to complete the course.

For the HSC course:

- the Preliminary course is a prerequisite
- 120 indicative hours are required to complete the course.

Note: A course comprises 120 hours indicative time in each of the Preliminary and HSC courses. Indicative time is the time expected for a typical student to achieve the objectives and outcomes of the course. The Board recognises that less time may be allocated to a unit where a student demonstrates the ability to achieve the course outcomes in less time. The Board does not accept that where less than this indicative time is allocated to a Preliminary course in a subject that more time can be allocated to an HSC course in that subject.

11 Post-school Opportunities

The study of Legal Studies Stage 6 provides students with knowledge, understanding and skills that form a valuable foundation for a range of courses at university and other tertiary institutions.

In addition, the study of Legal Studies Stage 6 assists students to prepare for employment and full and active participation as citizens. In particular, there are opportunities for students to gain recognition in vocational education and training. Teachers and students should be aware of these opportunities.

11.1 Recognition of Student Achievement in Vocational Education and Training (VET)

Wherever appropriate, the skills and knowledge acquired by students in their study of HSC courses should be recognised by industry and training organisations. Recognition of student achievement means that students who have satisfactorily completed HSC courses will not be required to repeat their learning in courses in TAFE NSW or other Registered Training Organisations (RTOs).

Registered Training Organisations, such as TAFE NSW, provide industry training and issue qualifications within the Australian Qualifications Framework (AQF).

The degree of recognition available to students in each subject is based on the similarity of outcomes between HSC courses and industry training packages endorsed within the AQF. Training packages are documents that link an industry's competency standards to AQF qualifications. More information about industry training packages can be found on the National Training Information Service (NTIS) website (www.ntis.gov.au).

Recognition by TAFE NSW

TAFE NSW conducts courses in a wide range of industry areas, as outlined each year in the *TAFE NSW Handbook*. Under current arrangements, the recognition available to students of Legal Studies in relevant courses conducted by TAFE is described in the *HSC/TAFE Credit Transfer Guide*. This guide is produced by the Board of Studies and TAFE NSW and is distributed annually to all schools and colleges. Teachers should refer to this guide and be aware of the recognition available to their students through the study of Legal Studies Stage 6. This information can be found on the TAFE NSW website (www.tafensw.edu.au/mchoice).

Recognition by other Registered Training Organisations

Students may also negotiate recognition into a training package qualification with another Registered Training Organisation. Each student will need to provide the RTO with evidence of satisfactory achievement in Legal Studies Stage 6 so that the degree of recognition available can be determined.

12 Assessment and Reporting

Advice on appropriate assessment practice in relation to the Legal Studies syllabus is contained in *Assessment and Reporting in Legal Studies Stage 6*. That document provides general advice on assessment in Stage 6 as well as the specific requirements for the Preliminary and HSC courses. The document contains:

- suggested components and weightings for the internal assessment of the Preliminary course
- mandatory components and weightings for the internal assessment of the HSC course
- the HSC examination specifications, which describe the format of the external HSC examination.

The document and other resources and advice related to assessment in Stage 6 Legal Studies are available on the Board's website at www.boardofstudies.nsw.edu.au/syllabus_hsc

13 Glossary

civil law	1. law that regulates conduct between private individuals (eg negligence, defamation). Can be contrasted with the criminal law, which regulates behaviour between the State and the citizen (eg murder, theft) 2. the law of the old Roman Empire and most continental European countries which have based their legal system on its rules. Can be contrasted with the common law
common law	1. historically referring to the law common to all English people 2. the law developed by the courts; the decisions of judges; precedent (as opposed to statutory law) 3. the law laid down by the common law courts, that is, the King's (Queen's) Bench, Exchequer and Common Pleas in contrast to the Rules of Equity
constitution	the fundamental rules that establish how a country is governed; typically establishing the role and powers of parliament, the executive and the judiciary. Constitutions can be written (eg USA), unwritten (eg UK) or a combination (eg Australia)
content	the substance or subject matter of what is to be studied by students in the Legal Studies syllabus. Syllabus content encompasses: knowledge and understanding; skills and the themes
customary law	1. laws based on traditions and customs; often in non-writing societies (domestic) 2. a source of international law drawn from the common practices of governments which over a period of time become accepted as legally binding (international)
equity	1. the body of law developed by the Court of Chancery (can be contrasted with the body of law developed by the common law courts, which it was designed to supplement) 2. a principle of fairness
ethics	a set of moral beliefs governing behaviour; there are various sets of ethics, many of which come from religions. A behaviour may be seen as 'legal' but not necessarily as 'ethical'. Conversely, a behaviour may be considered to be 'ethical' even though not 'legal'
focus groups/ focus studies	areas of content to be studied in depth study
framework	a list of areas and themes from which the focus studies should be addressed

licence	<p>an authority to do something that would otherwise be wrongful or illegal. Some examples:</p> <ol style="list-style-type: none">i. discharge from prison prior to the completion of sentence under certain conditionsii. the authority by the holder of a copyright to make copies of their workiii. formal permission given to a person to engage in a particular occupationiv. formal permission to enter onto land or into buildings which would otherwise be a trespass. <p>Licences are always revocable</p>
nation-state	<p>term used in international law for a country</p>
objectives	<p>these provide more specific statements of the intent of the syllabus. They amplify the aim and provide direction to teachers on the teaching and learning process emerging from the syllabus. They define in broad terms the knowledge and understanding, skills, and values and attitudes fundamental to Legal Studies</p>
outcomes	<p>statements that express the specific intended results of the teaching of the syllabus. Outcomes are derived from the content of the syllabus and are arranged in stages. They provide clear statements of the knowledge and understanding and skills expected to be gained by most students as a result of effective teaching and learning</p>
principal focus	<p>a point of view or standpoint from which historical events, problems and issues can be analysed</p>
self-determination	<p>1. indigenous peoples deciding their own future within a country (domestic) 2. the international law principle whereby a people will form their own independent country</p>
State	<p>1. a country (sometimes known as a nation-state) 2. the authority structure of a country (including the government, judiciary and legislature) 3. a sub-division of a federated country (eg NSW, Victoria)</p>
topics	<p>the content of parts 1 and 2 of the Preliminary course and part 1 of the HSC course are divided into a number of topics. These topics are to be taught in conjunction with the focus groups in part III of the Preliminary course and the focus studies of parts II and III of the HSC course respectively</p>