

LEGAL STUDIES

General Comments

This year 6557 candidates presented for the 2 Unit Legal Studies examination and 1703 for the 3 Unit examination, a decrease in the 2 Unit candidature for 1994, and an increase from the number presenting for 3 Unit in the same year. The most notable changes from the examination in 1994 were:

- An increase in the time available for Sections II and III. The result of this was that the quality of the responses was improved.
- The holistic questions were directed and response to this was very positive, although some candidates went no further than the suggested dot points.
- As in other years, the good candidates referred successfully to the stimulus material which the poorer candidates often ignored altogether.
- Again candidates are reminded that the marks are an indication of the amount of time they should spend in answering the relevant part.
- By and large most candidates answered the structured questions as required.
- The new structure for the case studies resulted in an increase in the quality of these responses.
- In the options the structured question was generally the most popular except for Environment and the Law, where twice as many candidates chose to answer the holistic question.
- In the case studies this trend was less obvious.
- In the 3 Unit paper the pilot modules are still popular, reflecting a hesitation to try the new modules.

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2 UNIT

SECTION I

The multiple choice answers are as follows. As in previous years, there were very few candidates who chose more than one answer or who failed to choose any correct answer.

Question	Answer	% Correct
1	B	26.33
2	A	62.03
3	C	94.45
4	C	51.42
5	B	43.95
6	D	31.41
7	B	36.82
8	D	43.13
9	B	69.77
10	A	13.70
11	B	93.97
12	C	53.36
13	B	78.34
14	C	49.87
15	A	14.09
16	D	69.54
17	A	73.85
18	C	89.13
19	D	43.62
20	D	36.02

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SECTION II

Consumers and the Law

Question 21

Consumers have a right to receive accurate information about products or services so that they can make informed decisions when they buy. It is often argued, however, that business should be free to advertise and market goods in such a way as to maximise sales.

Discuss this statement and evaluate the role of regulation and self-regulation of marketing in protecting the rights of consumers.

In your answer you should at least:

- *identify the ways in which marketing and advertising are regulated by consumer law;*
- *comment on the extent to which the control of advertising and marketing interfere with freedom of expression.*

General Comments

The general standard of the responses was good, reflecting an adequate knowledge of the relevant legislation. Problems, however, arose in addressing the stem and with identifying the meaning and role of self-regulation in particular. Candidates, in their interpretation of the question, tended to blend marketing and advertising. Often they failed to analyse legislative controls and the way(s) in which these impact on business freedom and independence.

Excellent Responses

These responses dealt with all aspects of the question, often including a brief historical summary. Relevant legislation affecting advertising and marketing was also discussed, as was occupational licensing by both government and industry (self-regulation). Using their analytical and evaluative skills, students successfully showed an appreciation of the relative positions of consumer rights and the rights of business.

Above Average Responses

These responses contained material relevant to all aspects of the question dealt with at a slightly more superficial level. Self-regulation was often not discussed, and many students failed to differentiate adequately between advertising and marketing. An attempt was usually made to identify and analyse the role of the law in relation to a free unregulated market.

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Average Responses

In these responses candidates dealt with some relevant legislation and showed a basic understanding of the impact of regulation. Self-regulation, however, was either ignored or misunderstood. Emphasis was on descriptive passages highlighting legislation and relevant cases, but including only some analysis of interference. Many responses included prepared but irrelevant information.

Poor Responses

These responses did not answer the greater part of the question, were very descriptive but included no coherent or relevant argument. Confusion about self-regulation, advertising and marketing, and the concept of freedom of expression as applied to business, was common. Such responses were often brief, inaccurate, emotional or irrelevant.

Question 22

Kate bought a toy for her daughter, Isabel. Her daughter is injured because of a manufacturing fault in the toy.

Refer to the above statement and use your knowledge of the legal system to answer the following questions:

- (a) What is the nature of the consumer contract?*
- (b) Describe the manner in which statutory controls both protect the rights of consumers and regulate manufacturers and suppliers of consumer goods and services.*
- (c) Evaluate the effectiveness of the law in protecting consumers such as Kate and Isabel, and in providing redress against manufacturers and suppliers of faulty goods and services.*

General Comments

In this, the most popular of the consumer questions, the standard achieved was generally good and better than in previous years. Not all students referred to the stimulus material, and of those who did so many were often the poorer candidates. The wording of the question proved difficult for many of the poorer candidates, e.g. terms such as *redress*, *statutory controls* and *evaluate* were frequently not understood.

Excellent Responses

These responses included a comprehensive definition of consumer contract, including offer and acceptance, intention, consideration, privity, implied and expressed terms, and the notion

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of liability. These responses included relevant description of statutory controls, Sale of Goods Act, Trade Practices Act, Door to Door Sales Act, and Motor Dealers Act including the specific provisions of these acts, as well as excellent summaries of their effectiveness, and other forms of redress, viz, self-help, mediation, Tribunals, Trade Practices Commission and Courts, as well as a discussion of the time, cost and availability of each.

Above Average Responses

Much of the information contained in the excellent responses was also found here, e.g. elements of a contract, terms, statutes, controlling Acts, descriptions of relevant statutory controls and how they operate to the benefit of consumers. Although good descriptions of the various forms of redress were included, this section tended to lack the depth of analysis of effectiveness that typified excellent responses.

Average Responses

Most of these responses included a good explanation of the elements of a contract - offer and acceptance, intention, consideration - some included implied terms, as well as a list of the relevant legislation but only that relating to the point of view of the manufacturers or suppliers or the consumers, but not both. Evaluation of the effectiveness of the law was not good, with most responses giving a list of the avenues of redress but failing to discuss the effectiveness of such avenues.

Poor Responses

These were mainly inappropriate prepared answers that failed to answer the question. Some elements of the contract were listed as was some case material. Often, however, the facts of such cases were incorrect.

Environment and the Law

Question 23

As political issues, conservation and protection of the environment are of comparatively recent origin. Indeed, 20 years ago a book on environmental law would never have been written. Today it is acknowledged that the Commonwealth and the States play important roles in relation to the environment.

Discuss this statement and evaluate the effectiveness of Australian environmental law in responding to the changes in conditions and attitudes that have focussed attention on the protection of the environment.

In your answer, you should at least:

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- *identify the sources of environmental law*
- *comment on the role of law reform agencies and other groups in the development of environmental law.*

General Comments

This was the most popular question of this Option. Average to poor candidates tended to identify the pointers on sources and pressure groups only, rather than tailoring their responses to the question. Unfortunately many tended to ignore the stem or referred only briefly to it. There was generally excellent use of supporting material that was both relevant and up-to-date.

Excellent Responses

In responses in this category students used the stem of the question, referring to it as a stimulus to discuss the growth of environmental law in the 20th century. They showed a good understanding and elaboration of the sources of environmental law, which were supported by the accurate use of relevant cases and legislation. Here students discussed the role of pressure groups and law reform agencies, linking this role to changes in this area of the law. They acknowledged both the initiatives and the weaknesses that still exist.

Above Average Responses

Candidates whose responses were in this category made reasonable use of the stem by acknowledging the fact that environmental law has grown recently. They listed the sources and cited some relevant cases and legislation, as well as recognising the role of pressure groups and law reform agencies, but made only a limited attempt to evaluate their impact on environmental law. At this level reasonable attempts were made to assess the positive initiatives made in this area of law and the areas that still need to be addressed.

Average Responses

In responses in this category candidates failed to grasp what the question was really asking. Descriptive and sketchy explanations of the sources of environmental law were provided, as well as reference to some relevant cases and to appropriate legislation. There was some recognition of the role of pressure groups but little or no evaluation of the effectiveness of environmental law in responding to changing attitudes.

Poor responses

Poor students tended either to dwell completely on the stem of the question or to ignore it completely. Their responses were patchy descriptions of the sources and included some vague references to pressure groups. Any cases cited were often irrelevant or incorrect, with no real understanding of the question and no analysis being displayed.

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Question 24

Margaret and Eilis live next to a factory where meat is processed. An awful smell comes from the factory almost all the time, and once every two weeks Margaret's and Eilis's house is covered in black smoke from the factory. Margaret and Eilis would like to take legal action against the factory.

Refer to the above statement and use your knowledge of the legal system to answer the following questions:

- (a) What rights and duties are recognised by the Common Law might be relevant to this situation?*
- (b) Explain the ways in which the laws passed by the three levels of Australian government have both increased the protection of environmental rights available at Common Law and imposed additional duties.*
- (c) Evaluate the effectiveness of the system of environmental law in recognising and balancing various interests in the environment.*

General Comments

Many candidates showed a lack of understanding of environmental rights and duties at Common Law and many assumed that rights and duties were the same thing. There was general misunderstanding of the jurisdiction of the Land and Environment Court, and many students had difficulty in identifying the various interests referred to in part (c).

Excellent Responses

Here candidates provided answers that addressed the whole question and used relevant support material and analysis.

In part (a) they made excellent use of the stimulus and cited the relevant rights and duties at Common Law that may be applicable.

In part (b) candidates recognised the fact that statute law can impose additional rights and duties and that there are weaknesses associated with the Common Law.

In part (c) the candidates recognised the different competing interests and were able to evaluate the effectiveness of the law in its attempts as well as its failures to balance these competing interests.

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Above Average Responses

Responses in this category were very good and, in them, candidates attempted to answer the whole question, providing good supporting material and analysis.

- (a) In this part they recognised the importance of the stimulus and were able to explain and analyse the relevant Common Law.
- (b) Here candidates understood the fact that the Common Law rights and duties might be extended by statute and they used relevant support material.
- (c) Candidates analysed the problems created by competing interests in this part. A good attempt was generally made to evaluate the effectiveness of environmental law in balancing these competing interests.

Average Responses

Here candidates provided responses that, while addressing most of the question, tended to be descriptive and lacking any real analysis (prepared answers usually fall into this category).

- (a) In this part candidates gave a brief acknowledgment of the stimulus and made some reference to the relevant Common Law; some details, however, were often irrelevant or overlooked.
- (b) Here the students generally failed to recognise the fact that Common Law rights and duties may be extended by statute.
- (c) Most candidates failed to recognise or understand competing interests here; there was little real evaluation or analysis of the general effectiveness of the legal system with regard to the environment.

Poor Responses

- (a) Here candidates were often over-concerned about the stimulus material and either provided all known information about the Common Law (relevant or not) or had no real understanding of the Common Law at all.
- (b) In this part most students made no attempt to address the question and generally provided only a very sketchy list of State environment legislation.
- (c) Here most candidates made passing reference to cases and legislation and made no real attempt to address the question.

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Family and the Law

Question 25

Federal Parliament has power to make laws about custody and access to children of a marriage. The Family Court now deals with the custody and maintenance of, and access to, all children, whatever the status of their parents.

*AUSTRALIAN LAW REFORM COMMISSION
Equality before the Law, Discussion paper, 1993.*

Discuss this statement and evaluate the effectiveness of the law in protecting the best interests of children. In your answers, you should at least:

- *identify and explain how the Federal Parliament and the Family Court have used their powers in this area;*
- *discuss the legal rights and obligations between parents and children.*

General Comments

Many candidates answered the question selectively, focussing on one part of the question at the expense of the rest, few kept the emphasis on the effectiveness of the law and, instead, simply listed what the law did. The general standard in terms of knowledge of the law and legal processes was quite good, but the standard of evaluation was low. Many essays were descriptive, discussing the role of the Family Law Court but failing to discuss the role of the Federal Parliament in this area.

Excellent Responses

In these responses candidates analysed all aspects of the question, examining the Family Court jurisdiction very well and also looking at other legislative and social initiatives taken by Federal Parliament. They examined in some detail the *status* of parents and highlighted areas in which the law protects the best interests of children. These responses raised many issues and provided serious and well informed analysis of them.

Above Average Responses

These responses showed a good knowledge of the law as it affects children and successfully distinguished between Federal Parliament and the Family Court in this area. They also clearly identified links between children's rights and the associated obligations of parents. As well, they attempted to identify and evaluate problems associated with this area of law but the analysis was not as comprehensive as in those of the excellent category.

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Average Responses

These responses addressed most of the question but, though showing some knowledge of the law, included very little evaluation. Many merely listed the rights and obligations of parents and children as well as the matters the Family Court considers when making custody/access decisions, but failed to incorporate any significant discussion of these.

Poor Responses

These responses ignored sections of the question completely and contained no discussion or evaluation. They were limited to lists of powers and/or obligations, and also included some errors, e.g. a failure to distinguish between State and Federal legislation. Many were emotive and devoid of *legal* reference.

Question 26

Until recently, domestic violence was inadequately recognised by the law, due to a reluctance on the part of those who enforce the law to enter what they saw as a private or domestic area.

*AUSTRALIAN LAW REFORM COMMISSION
Equality before the Law, Discussion Paper, 1993*

Refer to the above statement and use your knowledge of the legal system to answer the following questions:

- (a) What are the causes of domestic violence and other crises in family relationships?*
- (b) Describe and discuss the legal responses to violence within the family and identify recent changes in these responses.*
- (c) Evaluate the effectiveness of the legal system in achieving justice for family members in situations of violence.*

General Comments

This question was generally well answered. Some students spent too much time on part (a) and failed to discuss or evaluate adequately legal responses in part (c). Many students tended to provide a descriptive answer, but did not evaluate the issues or formulate informed opinions.

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Excellent Responses

These responses analysed all aspects of the question, and were noteworthy for good organisation, clear definitions, and careful examination of the broader content. Here candidates examined the evolution of legislation to accommodate areas of ineffective application of the law. They evaluated the effectiveness of the legal system in terms of all the stakeholders - the judiciary, the community, the victim(s) and the perpetrator(s). They examined violence as a community concern not just as a legislative problem.

Above Average Responses

In these responses candidates displayed a good depth of knowledge of the legal system and its operation and were able to identify and evaluate issues associated with the legal responses to domestic violence. Most commented on *current* law and how it has developed, and attempted to identify and evaluate issues associated with achieving justice for family members in situations of violence; nevertheless they were not as comprehensive as those of the excellent range.

Average Responses

These responses dealt in detail with the basic causes of domestic violence. They were also able to identify the main legal responses, such as apprehended violence orders, Family Court injunctions and criminal assault charges, but many did little else. There was little evidence of knowledge of recent changes and some were, in fact, referring to outdated provisions.

Poor Responses

Candidates in this category failed to address all parts of the question and often tended to be very emotive. *Causes* were limited to only one or two and *other crises* were non-existent. These responses failed to provide much specific detail about the legal responses and did not attempt to identify recent changes. The majority contained insufficient detail and showed little evidence of understanding of the meaning of *evaluate the effectiveness*.

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Housing and the Law

Question 27

Housing law, like all other areas of the law, deals with problems arising out of the actual requirements of human life. The foundations of this law were laid in the world of the Middle Ages, when the problems to be solved by the law were very different from those of the twentieth century. Although social problems have altered, the original legal answers have been kept to serve as the basis of modern housing law.

*Peter Butt, Introduction to **Land Law***

Discuss this statement and evaluate the effectiveness of the law in dealing with the range of interests in housing that must be protected.

In your answer you should at least:

- *refer to the problems housing law deals with in the twentieth century*
- *comment on the twentieth century developments in housing law.*

General Comments

Most students did incorporate the stimulus into their response. This was seen as a positive development from past years when it was found that many students ignored the stimulus material.

The majority of candidates had no problem with the interpretation of the question and made some attempt at evaluating the effectiveness of the law. Many followed a logical structure with:

1. Problem described
2. Development of laws and regulations to deal with the problem
3. Evaluation of the effectiveness of that law in dealing with the problem

This tended to be more effective than the responses of those who discussed all the problems in one section and then went on to deal with housing law. A number of students overlooked the general interests/issues/problems such as the homeless, new housing estates, and insufficient infrastructure, concentrating on such issues as *gazumping*, neighbourhood disputes, fences and tenant/landlord relationships.

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Excellent Responses

These candidates displayed excellent knowledge of the content. They covered either a wide range of interests or problems or at least two of these issues in depth. These included:

the homeless and public housing, neighbourhood disputes,

disputes between landlords and tenants, *gazumping*, along with problems associated with living in retirement villages, hostels and nursing homes, including lack of privacy and dignity.

They linked the problems with the development of laws and, in each case, included some evaluation of the effectiveness of these laws. Relevant legislation included the Landlords and Tenants Act, 1977, Residential Tenancies Act, 1987, Retirement Villages Act, 1989, Conveyancing Act, 1990, and the Anti-discrimination Act, 1977. Also discussed were Community Justice Centres, Local Government, Police, the EPA and the Court system. The evaluation tended to be more critical in its nature; some issues included, Court delays, and the cost involved, mediation and the fact that it cannot be enforced.

Above Average Responses

These responses also displayed excellent knowledge of the content of the question, with a wide range of problem areas and accompanying legislation being discussed. An obvious attempt was made to evaluate the effectiveness of these laws, but it tended to be less critical and less well emphasised.

Average Responses

Here candidates also covered two or more areas of interest and included a description of the laws developed in each area. They tended to be much more descriptive and very little emphasis was placed on the evaluation of the effectiveness of the law.

Poor Responses

These responses tended to be very descriptive and disjointed, with limited factual content. They made no attempt to evaluate the effectiveness of laws in this area.

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Question 28

Hai, Quy and Thom in their last year of university are considering their accommodation options for the following year. It has been suggested that they buy a house together.

Refer to the above statement and use your knowledge of the legal system to answer the following questions:

- (a) What are the advantages and disadvantages of buying rather than leasing a house?*
- (b) If Hai, Quy and Thom decide to buy, what options are available to them to obtain finance and to insure the property?*
- (c) Evaluate the effectiveness of protection given by the law to those who lease or buy. Compare it with the protection given to those who live in public housing or special accommodation.*

General Comments

This was the most popular question in this option. The majority of candidates were able to discuss a variety of forms of protection given to those who lease and/or buy and to those in public housing and/or special accommodation. A clear awareness of relevant Acts was apparent in a majority of the essays; a minority of students were able to provide an adequate assessment of the evaluation of the effectiveness of the protection given. Some students misinterpreted the term *protection* as meaning *home security/police protection*.

Many candidates put far more effort into part (a) (worth 5 marks) than they did for part (b) (worth 9 marks). The stimulus material was used by the majority of students. This was seen as a positive development from past years when only a minority of students used the stimulus material.

Excellent Responses

In these candidates displayed excellent knowledge, including a wide range of advantages/disadvantages and incorporating the stimulus material. Advantages included:

- quiet enjoyment
- security
- ability to change the home environment
- capital appreciation.

Disadvantages included:

- legal or financial costs involved
- increasing interest rates and reduced mobility.

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A variety of finance and insurance options were discussed, including:

- quiet enjoyment
- security
- ability to change the home environment
- capital appreciation.

Disadvantages discussed included:

- legal or financial costs involved
- increasing interest rates and reduced mobility.

A range of examples of legislation and regulations aimed at protecting people involved in lease/buy and public/special forms of shelter was included.

These responses both critically evaluated and compared the forms of protection given to one or both types highlighted in the question. They noted that protection afforded to those who lease or buy tends to be more effective than that afforded to those who live in most forms of special accommodation such as hostels and caravan parks. The majority did recognise the apparently high level of protection afforded to those living in public housing. They emphasised situations which demonstrated some of the less effective aspects of the protection given. Most noted that boarders and lodgers are not covered by the Residential Tenancies Act and that many tenants still find it difficult to have repairs carried out by landlords, while a number of people still experience problems when purchasing a home.

Above Average Responses

Candidates in this category possessed good knowledge of the content but their evaluation was weak and they tended to place less emphasis on the comparison between leasing and buying.

Average Responses

These responses provided less depth of discussion or description in parts (a) and (b). Candidates tended here to overlook aspects such as loan options and various types of insurance. Answers to part (c) tended to be very descriptive and evaluation was very poor or non-existent. Most candidates neglected to compare the types given.

Poor Responses

These responses were very limited, and included little or incorrect information in all parts. No attempt was made to evaluate the forms of protection.

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The Workplace and the Law

Question 29

Australia's industrial relations system can only be described in the context of Australia's federal system. The Federal Parliament and the State Parliaments both have some constitutional power to legislate for industrial relations.

Discuss this statement and evaluate the effectiveness of Australia's system of industrial law.

In your answer, you should at least:

- *explain the impact of Australia's federal system on workers' rights and employers' responsibilities;*
- *outline the growth of federal power in workplace law.*

General Comments

Answers were significantly longer this year; nevertheless, many students did not refer to the question.

This question was the least popular in this option. Students continue to lack a clear understanding of the division of powers under Section 51 of the Constitution, and still fail to understand State and Federal responsibilities for Industrial Relations. Very few candidates were able to explain adequately the growth of federal power in the workplace.

Excellent Responses

These responses clearly showed an understanding of the division of powers and gave an accurate description of the industrial relations structures at both State and Federal level. Students demonstrated their knowledge and understanding of the areas of growth of federal power in the workplace across a range of legislation. These candidates discussed numerous statutes and then evaluated their effectiveness while using specific examples.

Above Average Responses

These candidates showed understanding of the State/Federal jurisdictions in industrial relations without showing a real depth of knowledge of the Constitution. They also showed a reasonable knowledge of recent State and Federal legislation, but were limited in their ability to discuss the effectiveness and the growth of federal power. They included good descriptions of rights and responsibilities of workers and employers in their responses.

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Average Responses

Here candidates made little or no reference to either the constitution or the division of powers between State and Federal Governments. Their responses were descriptive and lacked detailed understanding or analysis of the effectiveness as well as the growth of federal power. They tended to focus on historical process rather than on current events, emphasising especially arbitration and conciliation rather than enterprise agreements.

Poor Responses

These were generally descriptive answers which provided few relevant facts. In them candidates were confused about the division of powers and made no attempt to analyse effectiveness.

Question 30

Fatima, a chef in the hospitality industry, was injured at work. Fatima is unable to continue working as a chef and seeks compensation for her injury.

Refer to the above statement and use your knowledge of the legal system to answer the following questions:

- (a) What rights of action does the Common Law give Fatima and other injured workers? What duties does the Common Law impose on employers?*
- (b) Identify the rights recognised, and the duties imposed, by legislation in the workplace.*
- (c) Evaluate the effectiveness of the legal system in regulating both safety in the workplace and termination of employment.*

General Responses

In this option the majority of students attempted this question. The responses were generally longer and, in some cases, better than in previous years. The evaluation of the effectiveness of the legal system in regulating safety in the workplace and termination of employment was dealt with comprehensively by the more able students. A large number of candidates, however, found it difficult to evaluate the effectiveness and their answers were superficial. Part (b) of the question was interpreted in different ways. Some candidates assumed that *rights* and *duties* referred only to safety issues, while others looked at a range of Common Law duties and statutory duties.

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Excellent Responses

Candidates were able to distinguish between Common Law rights and the *rights* and *duties* created by statutes. A range of legislation was identified and discussed. Effectiveness was examined in terms of the number of accidents, reactive and proactive measures, citation and explanation of cases. Termination of all four types was examined and assessed, as was effectiveness of the law from the perspective of both the employers and employees.

Above Average Responses

These responses showed a good understanding of the different rights under Statute and Common Law. Candidates were able to outline rights and responsibilities and understand key Acts. Both safety and termination issues were addressed, as were remedies for breaches of safety and unfair dismissal.

Average Responses

These responses were often descriptive and included some confusion over Common Law and statutory requirements, usually with greater emphasis on Common Law rights and duties. A poor understanding of current trend, particularly of dismissal law, was evident.

Poor Responses

Here candidates were often unaware of the right to sue. There was restricted knowledge of *rights and duties* and no evaluation of effectiveness. These responses were short and provided few relevant facts.

SECTION III : CASE STUDIES

Aboriginal and Torres Strait Islander Peoples

Question 31

The response of the Commonwealth Government to the recommendations of the Report of the Royal Commission into Aboriginal Deaths in Custody has been heartening. Tragically, Aboriginal people continue to die in jail. The underlying causes - poverty, racism and homelessness - have to be assessed.

Discuss this statement and evaluate the responsiveness of the legal system to the pursuit of justice by Aboriginal and Torres Strait Islander peoples.

In your answer you should at least:

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- *outline the problems the Aboriginal and Torres Strait Islander peoples have faced in their dealings with police;*
- *refer to the difficulties that may be faced by Aboriginal and Torres Strait Islander peoples in criminal-court proceedings;*
- *explain how poverty, racism and homelessness have led to the over-representation of Aboriginal and Torres Strait peoples in the prison system.*

General Comments

The majority of candidates attempting this option chose this question and responses were of a better standard than in previous years. The ability to analyse and evaluate was a major discriminating factor. It is clear that most candidates are now thoroughly prepared in the areas of ATSI and the courts/police; emphasis must be given, however, to the question as it is asked.

Excellent Responses

These responses were noteworthy for depth and variety of factual information, as well as a high level of objective evaluation and analysis. They provided a more holistic perspective, e.g. the effects of landrights and education. In some responses candidates evaluated points as they made them rather than leaving evaluation to the end. Extensive use was made of appropriate cases and legislation in support of arguments given. Candidates evaluated justice and, in their responses, showed that they were up-to-date on these issues and were widely read.

Above Average Responses

In these responses, although candidates evaluated and analysed most parts of the question, they did not cover as many aspects as were covered in the excellent responses but were usually familiar with the Royal Commission into Aboriginal Deaths in Custody and were able to address correctly the responsibilities of various government agencies. These responses showed a clear understanding of the fact that there are interrelated social/legal/economic causes that cannot simply be addressed by changes to statute law.

Average Responses

These responses tended to describe the causes of Aboriginal disadvantage without evaluating the effectiveness of the legal system in dealing with such causes. Here candidates explained adequately the difficulties faced, but many presented prepared *textbook* responses that did not answer the question.

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Poor Responses

These were brief responses with little factual basis and little or no referral to legislation or cases. Here candidates over-generalised and usually made only one basic point in support of their argument. They showed little or no understanding of the concept of justice, and were generally vague and descriptive.

Question 32

*On the 3 June 1992, the High Court of Australia reached a decision, known widely as the **Mabo** decision. This decision recognised that the Murray Island people of the Torres Strait were entitled 'as against the whole world, to possession, occupation, use and enjoyment of the Murray Islands'. The judgment made a fundamental change to the law of Australia by overturning the doctrine of **Terra Nullius**, that is, that the land of Australia belonged to no-one before European colonisation.*

Refer to the above statement and use your knowledge of the legal system to answer the following questions:

- (a) What is the traditional significance of land to the Aboriginal and Torres Strait Islander peoples?*
- (b) Outline the changes in government policy towards Aboriginal and Torres Strait Islander peoples between 1788 and 1992.*
- (c) Explain how Aboriginal and Torres Strait Islander land councils and trusts have tried to achieve justice for Aboriginal and Torres Strait Islander peoples.*
- (d) Evaluate the present and possible future effectiveness of the Mabo decision in achieving justice for Aboriginal and Torres Strait Islander peoples.*

General Comments

Most students found part (c) difficult since they appeared to possess very little understanding of Land Councils and how they work. Surprisingly *Mabo* was not well covered or evaluated, neither was subsequent legislation. Students had problems with analysing effectiveness and the achievement of justice.

Excellent Responses

These responses were well structured and began well with a thorough discussion of the ways in which land is significant to the Aboriginal and Torres Strait Islander peoples. In part (b) they also discussed relevant legislation and case law in illustrating historical changes. In part

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(c) they showed their understanding of the role and organisation of Land Councils, notably in respect of financing, legislation and the roles the Councils play not only in land acquisition, as well as the various types of Land Councils - Local, Regional and State. In part (d) the shortcomings of *Mabo* and subsequent legislation were discussed. These responses discussed the *Justice Statement* and evaluated the Native Title Act.

Above Average Responses

In these responses candidates answered parts (a) and (b) well, but their responses to part (c) were poor, especially in evaluating the effectiveness of Land Councils in achieving justice. They understood the main thrust of the *Mabo* decision and subsequent legislation but did not comment on the misconceptions and shortcomings of the decision and legislation.

Average responses

In part (a) the responses were based on an adequate, but not thorough, knowledge of land and its current and traditional significance.

In part (b) there was confusion about some historical changes and some policies were omitted. There was little or no knowledge of Land Councils and Trusts; often the Land Councils were confused with the Aboriginal and Torres Strait Islander Commission. There was little knowledge or understanding of *Mabo* or subsequent legislation.

Poor Responses

These responses contained little factual content. They consisted of generalised comments about justice and effectiveness, as well as vague and often incorrect information.

Migrants

Question 33

Power placed in the hands of public officials and elected politicians is open to abuse unless there are controls built into the system. Nowhere can this control be more clearly seen than in the review of decisions that are made about immigration matters.

BOBBY WATT, legal academic

Discuss this statement and evaluate the effectiveness of the legal system in controlling decisions about immigration and achieving justice for immigrants.

In your answer, you should at least:

- *identify and explain the categories used to describe migrants on their arrival in Australia;*

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- *describe how administrative decisions that might affect the status of a migrant in Australia are made;*
- *explain how these decisions are controlled by the legal system.*

General Comments

This was the least popular of the two questions in this option. Very few candidates referred to the stimulus material, a considerable number ignored the phrases *evaluate the effectiveness* and *discuss the statement*, and few students attempted to present more information than was suggested by the dot points. Administrative review is an important area of the Syllabus and must be thoroughly dealt with.

Excellent Responses

These responses focussed on the question and answered it thoroughly. They alluded to the stimulus, discussed the dot points, and explained the legal and review mechanisms in relation to the evaluation of migrant status. Categories of migrants were clearly identified and relevant Acts, legal bodies and cases were used. Evaluation was an ongoing process.

Above Average Responses

These incorporated much of the content found in the excellent responses, but failed to analyse any of this content adequately in relation to the question. Evaluation was often found only in a paragraph towards the end of the essay. Many failed to address the issue of legal controls on migration. Categories and administrative decisions were dealt with briefly, but there was no real in-depth evaluation.

Average Responses

These responses tended to be descriptive, especially in relation to categories and administrative decisions. Acts were often mentioned but their impact was not evaluated. There was little development of argument and little or no evaluation. Candidates tended to list information rather than to evaluate it.

Poor Responses

These contained very few facts. Here candidates tended to present their own opinions but showed very poor understanding of the topic.

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Question 34

From 1901 until the 1970s the White Australia Policy controlled entry to the nation in explicitly racist terms. In 1947 a mass immigration policy was introduced to increase population for strategic reasons and to provide labour for industrial growth ... Later policies were designed to bring about complete political and cultural assimilation ... However, there were (and remain today) a number of institutional barriers which prevent migrants from fully participating in society, and lead to economic and social disadvantage.

STEPHEN CASTLES. *The Challenge of Multiculturalism*

Refer to the above statement and use your knowledge of the legal system to answer the following questions:

- (a) *How have Australian attitudes to migrants changes since 1901?*
- (b) *Identify and explain the problems migrants face in Australian society.*
- (c) *In what ways do Australian laws continue to create problems for immigrants?*
- (d) *Evaluate the effectiveness of the Australian legal system in addressing institutional and other barriers faced by migrants.*

General Comments

Many candidates did not manage their time well, spending insufficient time on the parts worth most marks, with many combining parts (c) and (d) into one response. Candidates generally understood the terms *assimilation*, *multiculturalism* and *pluralism*, but, again, failed to evaluate well the effectiveness of the legal system.

Excellent Responses

In these responses candidates answered all four parts well. The historical perspective of immigration policy was well covered, as were the economic, social and political problems. Most students critically appraised the effectiveness of the legal system.

Above Average Responses

These responses showed a very good knowledge of the changes in policy regarding migrants and migrant policies. Parts (a) and (b) were well covered in regard to relevant legislation and cases, but parts (c) and (d) were dealt with only in general terms and the resulting analysis was poor.

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Average Responses

These responses tended to present little more than a history of immigration policies. Many, however, dealt with parts (a) and (b). Parts (c) and (d) were dealt with superficially and briefly. Many were unable to discuss the areas in which the law has not responded to migrants' needs, dealing with these issues at length.

Poor Responses

These were very brief responses and usually consisted of only one or two sentences. Parts (c) and (d) were not covered.

Women

Question 35

Women are entitled to have their fundamentally different position in society respected. Women are subjected to unequal treatment, for example in employment, which needs to be addressed through anti-discrimination laws. Aspects of women's difference needs to be recognised and respected because they define women's distinctive place in our society. The mistake is to see 'anti-discrimination' as identified only with the pursuit of equality. The concept of 'anti-discrimination' can extend to recognising and protecting difference.

SIMON RICE, Sydney Morning Herald

Discuss this statement and evaluate the effectiveness of the Australian legal system in addressing equality and achieving justice for women.

In your answer, you should at least:

- outline the struggle for women's rights in the twentieth century;*
- identify the problems women may encounter in society;*
- explain how anti-discrimination legislation addresses problems faced by women in the workplace.*

General Comments

Most responses showed a good understanding of the topic, but many ignored the stimulus material, while evaluating the effectiveness of the legal system in addressing equality and achieving justice for women was handled poorly. Some students treated the question as a workplace question.

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Excellent Responses

These responses identified the *recognising and protecting difference* issue in the stimulus material and included it in their answer. They provided a balanced discussion of all parts of the question and did not limit *problems women may encounter* to the workplace. In these responses candidates accurately described relevant legislation and case examples, and then evaluated their effectiveness.

Above Average Responses

In these responses candidates demonstrated an understanding of the struggle for women's rights. Most of them included a good description of anti-discrimination legislation. Some extended their discussions beyond the workplace, but gave only a basic evaluation of the effectiveness of the legal system.

Average Responses

These responses were very descriptive and general. Here candidates listed some of the gains made by women this century, and raised a few problems in relation to the workplace. The relevant Acts were mentioned but they were not discussed fully, nor did students explain here how the legislation addressed problems faced by women.

Poor Responses

These responses were weak in all areas and included many generalisations and inaccuracies. No cases were mentioned, while many candidates wrote about women in general and not in relation to their rights and/or legal issues.

Question 36

The increasing use of mediation and related alternative dispute resolution processes for family disputes is one of the most significant changes presently taking place in Australia. Mediation, however, cannot provide protection for women who are the targets of male violence. It is an inadequate and unsuitable mechanism for almost all family disputes where there has been violence. It is highly likely to produce inequitable results and may place women and children in their care in danger.

HILARY ASTOR, *Women, Male Violence, and the Law* 1994

Refer to the above statement and use your knowledge of the legal system to answer the following questions:

- (a) How does domestic violence affect women and families?

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- (b) *What are the different forms of marriage and how do they affect the status of women in society?*
- (c) *Why is the law sometimes ineffective in dealing with violence in relationships?*
- (d) *Evaluate the role of women, the legal system and society in protecting women in danger of violence.*

General Comments

The last two parts of the question, worth 20 marks, were poorly attempted. Part (b), dealing with the *different forms of marriage*, was often wrongly interpreted.

Excellent Responses

These responses included a definition and discussion of all forms of abuse as well as a discussion of their effects upon families, e.g. financial, emotional, psychological and physical.

In part (b) there was excellent discussion about the various forms of marriage and a good attempt was made to examine the status of women in each of them. These responses also discussed a wide range of reasons for the ineffectiveness of the law, including privacy, public/police/judicial attitudes, evidence problems, time lags, difficulties with families and ineffective sanctions. Part (d) was well done.

Above Average Responses

These responses included a good definition, although in part (b) there was only limited discussion of status. Candidates gave the main reasons for the ineffectiveness of the law in dealing with violence. Here the evaluation was more limited.

Average Responses

These responses were more general and included some discussion of domestic violence but showed little understanding of how it affects families. Here candidates listed the main forms of marriages but failed to mention such things as de facto relationships. Discussion of the ineffectiveness of the law in this area was brief and mainly confined to police and judges.

Poor Responses

These responses were very limited and merely described domestic violence. They confused forms of marriage, often talking about *good* and *bad*.

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Other Disadvantaged People

Question 37

In 1947 the Social Security Act provided benefits in the form of direct cash payments to clients. Now it targets individuals and families in genuine need, while positively encouraging them towards independence of the welfare system.

MR HOWE, Minister for Community Services and Health, December 1990

Discuss this statement and evaluate the effectiveness of the legal system in providing for people in need of social security.

In your answer you should at least:

- *refer to the grounds on which an applicant can claim benefits under the Social Security Act;*
- *identify the problems that can be faced by people claiming benefits under the Social Security Act;*
- *describe and explain the ways in which the Department of Social Security helps people who are experiencing difficulty in gaining access to the system.*

General Comments

The better responses focussed on the quotation and analysed the effectiveness of the legal system. Most did not refer to the stimulus material, but details of the social services available was good.

Excellent Responses

These responses covered the full range of categories and the problems faced by recipients. Problems were dealt with well, particularly in relation to access to DSS and the legal system. Evaluation of the effectiveness of the legal system was good, but the term *institutional barriers* presented some difficulties.

Above Average Responses

These responses generally provided a good coverage of benefits but the effectiveness of the legal system was only superficially covered. There was a limited discussion of the problems encountered with low esteem, prejudice and discrimination being emphasised. The stimulus material was rarely referred to.

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Average Responses

These responses provided some discussion of the benefits available under the DSS but were generally limited to discussion of the unemployed. Many candidates did not know how people gain access to the system and there was no discussion of the appeal-review mechanism, and very little evaluation.

Poor Responses

These were mainly anecdotal responses, were very brief, showed no knowledge and failed to discuss many parts.

Question 38

Those involved in the process of bringing into effect mental-health legislation are inevitably faced with the task of balancing competing interests relevant to the care, treatment and control of mentally ill and mentally incapacitated persons.

Report of the Mental Health Act Implementation Monitoring Committee, 1992

Refer to the above statement and use your knowledge of the legal system to answer the following questions:

- (a) What are the legal definitions of mental illness and other forms of mental incapacity?
- (b) Identify and explain the legal measures that exist to address the problems of the mentally ill or mentally incapacitated.
- (c) Describe how mental incapacity and mental illness affect the rights of these disadvantaged people.
- (d) Evaluate the effectiveness of the legal system in balancing competing interests relevant to the care, treatment and control of mentally ill and mentally incapacitated persons.

General Comments

Many candidates made little reference to the full definition of *mental illness* and other forms of mental incapacity. Evaluation of the legal system was poorly covered, although most students were familiar with the relevant Health Acts.

Excellent Responses

These responses covered all parts of the question, including mental incapacity. The Mental Health Acts were thoroughly dealt with, and rights were well covered. The Burdekin Report was discussed and used in the evaluation of the effectiveness of the law.

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Above Average Responses

These responses included much the same information as the excellent responses. They differed, however, in the area of evaluation in that here it was much less effective. Some candidates confused parts (b) and (c).

Average Responses

In these responses candidates were able to define *mental illness* but not *mental incapacity*, while rights were recognised but not dealt with. These answers were descriptive with little or no evaluation of the legal system or understanding of competing interests.

Poor Responses

These responses were short, anecdotal and showed no clear understanding of the area. Many simply restated the question.

3 UNIT

SECTION I

Challenge : Global Environmental Protection

Question 1

In the middle of the twentieth century we saw our planet from space for the first time ... We see a small and fragile ball dominated not by human activity and buildings but by a pattern of clouds, oceans, greenery and soils. Humanity's inability to fit its activities into that pattern is changing planetary systems, fundamentally. Many such changes are accompanied by life-threatening hazards. This new reality, from which there is no escape, must be recognised - and managed.

Brundtland Report

Clearly identify, at the beginning of your answer, the TWO depth studies you will discuss.

Refer to the above statement and use examples drawn from the TWO depth studies you have identified to answer the following question.

To what extent has international law succeeded in recognising and managing this 'new reality'?

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General Comments

This was the most popular question in this, the most popular module. Most students clearly identified their depth studies, although many concentrated on the overview of the international environmental law rather than on the depth studies. A significant number did not come to terms with the *new reality* and very few attempted to discuss or evaluate this key element of the question.

Students need to be aware that :

they do not need to define and describe in detail every convention, treaty, legislation or terms, and that

they must evaluate the effectiveness of the global response to environmental change.

Students should study a selected amount of material, focussing on a significant number of examples within each depth study. They should also be encouraged to use the stimulus material.

Excellent Responses

These were explicit responses that went into good detail, providing a balanced answer that related the existing international agreements to the *recognition and management of the new reality*. Depth studies were given equal weighting and discussion of them was supported by a range of examples and case studies. These responses critically analysed and evaluated the international laws and obligations that were referred to.

Above Average Responses

Here the two specific depth studies were clearly identified . They clearly described the role and purpose of international law and linked legal knowledge to the broader issues raised in the question. They showed a sound knowledge of the topic, referring to treaties, conventions and case studies, but were limited in their evaluation of effectiveness. Often in these responses students could identify weaknesses in global environmental initiatives, but were able to analyse these weaknesses only superficially.

Average Responses

A typical response here listed the international treaties but gave no real analysis of their effectiveness in achieving global protection. Many students provided a *shopping list* of relevant conventions, treaties and legislation, and often provided an historical approach to international law without assessing its value or effectiveness. Most responses were very descriptive and lacked analysis and evaluation.

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Poor Responses

Candidates here were often unsure of the difference between a depth study and a case study. Their responses were very descriptive and showed little understanding of the law, conventions and treaties. Many were disjointed, emotive or vague.

Question 2

Australia's Federal Environment Minister has gone to the Berlin greenhouse conference - a follow-up to the agreements reached at the 1992 Rio Earth Summit - armed with what conservationists say is a completely inadequate Australian effort. Even a developed nation like Australia will not implement policies to meet the targets agreed to in 1992.

JAMES WOODFORD, Sydney Morning Herald

Clearly identify, at the beginning of your answer, the TWO depth studies you will discuss.

Refer to the above statement and use examples drawn from the TWO depth studies you have identified to answer the following question:

Assess Australia's record in meeting its international obligations in the area of environmental law and policy.

General Comments

On the whole candidates found it very difficult to evaluate and analyse Australia's response to global environmental initiatives, and the majority chose to ignore the stimulus and concentrate on Australia's legislation. Depth studies, however, tended to be well covered and included relevant Australian legislation.

Students should not regurgitate endless lists of treaties, conventions, etc, but should, rather, show how Australia's legislation is a response to international initiatives.

Excellent Responses

These responses clearly identified the relevant depth studies. Candidates recognised the relationship between international and domestic law and clearly analysed Australia's response. Some compared the effectiveness of the two specific depth studies, successfully synthesised the information and did not treat the two depth studies as two separate entities. These candidates used relevant and current examples, cases, Acts and treaties, and were able to evaluate critically Australia's response to its international obligations.

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Above Average Responses

These responses also clearly identified the specific depth studies. In them candidates discussed the Federal and State Governments' division of powers in relation to the implementation of international treaties. These candidates had a good, sound knowledge of the topic and made good use of treaties, cases and conventions. Their responses were, however, limited in analysis and evaluation.

Average Responses

Here most candidates mentioned two depth studies, and often provided a descriptive list of Acts, conventions and treaties, but with very little discussion. Their responses were generalised and were not supported by case material. Many students concentrated on one of their nominated depth studies to the detriment of the other. Little emphasis was placed on the relationship between Australian law and international agreements, and there was no attempt at evaluation.

Poor Responses

These responses tended to be very descriptive and did not address the question. Many candidates described at length media and populist issues, e.g. French nuclear testing, without relating it back to the question. Much of the material presented was irrelevant and the approach disjointed.

SECTION II

Challenge : Technological Change

Question 3

Technological progress has affected people and society more decisively than ever before. It has a decisive impact on international relations. Culture and technology have become two complementary aspects of human experience.

*MANFRED LACHS, **Thoughts on Science, Technology and World Law***

Clearly identify, at the beginning of your answer, the TWO depth studies you will discuss.

Refer to the above statement and use examples drawn from the TWO depth studies you have identified to answer the following question:

Discuss the effectiveness of international law in addressing issues relating to technological progress and culture.

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General Comments

Few candidates addressed the issue of international law and the more difficult concept of *culture*. Those who did so rarely came to grips with the implications of the relationship between technological progress and the state of development in society. The depth studies of Biotechnology and Multimedia appeared to be the most popular; some responses, however, concentrated far too heavily on one depth study.

Excellent Responses

In these responses candidates provided detailed knowledge of international instruments, related these to their specific depth studies, and quoted relevant conventions, treaties and related these to appropriate examples. Specific legislation was discussed and evaluated. These responses had a good balance between the depth studies and contained logical, effective argument.

Above Average Responses

In these responses candidates analysed the effectiveness of international law in addressing the impact of technology on culture. They mentioned some legislation and referred to its relevance to technological progress.

Average Responses

In these responses candidates quoted appropriate international instruments but provided little or no analysis. Some of these responses were descriptive or analysis in them was poor since these candidates were unable to evaluate the effectiveness of international law.

Poor Responses

In these responses candidates made little use of depth studies to illustrate their answers and made little, if any, reference to international instruments or organisations.

Question 4

Technology is a dynamic, rapidly evolving area and one that will ultimately affect everyone. Developments are occurring at such a rate that legislation is having trouble keeping pace.

Clearly identify, at the beginning of your answer, the TWO depth studies you will discuss.

Refer to the above statement and use examples drawn from the TWO depth studies you have identified to answer the following question:

Evaluate the responsiveness of Australian law to the global challenges posed by the rate of technological development.

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General Comments

Students had some difficulty in evaluating the responsiveness of Australian law to global challenge and, while they were able to list, describe and name Australian initiatives, many were unable to place them into a global context.

Excellent Responses

Here candidates showed a detailed knowledge of international instruments and related these to their depth studies. They clearly demonstrated the link between their knowledge, their depth studies and the question. The evaluation of Australia's responsiveness to global challenges was high; candidates recognised the strengths and weaknesses of the response and drew their own conclusions. Some mentioned the fact that Australia is a world leader in some areas and yet lags behind in others.

Above Average Responses

These responses focussed on the Australian response, often ignoring the global context. Here candidates were able to evaluate but not to the same degree as in the excellent responses. Legislation was accurately cited and some case law was presented.

Average Responses

These responses were descriptive and lacked analysis. Candidates generally could not link Australia's responsiveness to the global challenges and were unable to analyse the reasons for Australia's responses to such challenges.

Poor Responses

These responses were brief and made little reference to depth studies. They lacked analysis and often contained inaccurate or irrelevant material.

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SECTION III

Challenge : World Order

Question 5

Normally a state is considered to possess independence and 'sovereignty' over its subjects and its affairs, and within its territorial limits. Yet at the present time there is hardly a state which, in the interests of the international community, has not accepted restrictions on its liberty of action.

*J G STARKE, Introduction to **International Law***

Clearly identify, at the beginning of your answer, the TWO depth studies you will discuss.

Refer to the above statement and use examples drawn from the TWO depth studies you have identified to answer the following question:

What problems of World Order demand an international legal response? How effective is international law in getting nations to look beyond national boundaries in solving these problems?

General Comments

Some responses relied on a general critique of the United Nations and failed to consider régimes and responses. Most candidates did not address the question of *sovereignty* and all that it embraces. Many, however, defined World Order and discussed problems associated with it; some wrote a very general answer with no reference to international treaties and instruments.

Excellent Responses

In these responses candidates grappled with the concept of looking beyond national boundaries or sovereignty, discussed examples of world or regional organisation, and examined their role. NGOs were also discussed. The concept of effectiveness was analysed by examination of a wide range of examples.

Above Average Responses

These responses discussed two depth studies but the evaluation was not detailed. The idea of national boundaries was mentioned and relevant facts and instruments used to back up the comments made.

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Average Responses

These were very general descriptive responses and made little mention of international laws. Often they concentrated on only one depth study and failed to address both parts of the question.

Poor Responses

These lacked analysis and contained inaccuracies. The specific depth studies were poorly identified and there was no reference to the issues.

Question 6

Although Australia is geographically isolated, questions of World Order are of great significance to Australia's Government and its people.

Clearly identify, at the beginning of your answer, the TWO depth studies you will discuss.

Refer to the above statement and use examples drawn from the TWO depth studies you have identified to answer the following question:

How effective have Australia's responses been to international initiatives on issues of World Order?

General Comments

International Crime and Military Conflict appeared to be the most popular depth studies, Transnational Trade was discussed by very few. Most students clearly identified their depth studies and responded in a clear and analytical way, making good reference to the stimulus.

Excellent Responses

These responses were clear and focussed on the core of the question, i.e. the effectiveness of Australia's response to international initiatives. Evaluation of the effectiveness of the response was well done. Such evaluation even included criticism.

Above Average Responses

These responses used relevant terms and discussed the issues. Australia's responses to international initiatives on issues of World Order were considered and the global context discussed. Evaluation was attempted but not to the same degree as in the excellent responses.

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Average Responses

These responses were descriptive and included little or no evaluation. They often concentrated on one depth study to the detriment of the other and simply listed Australian laws without any evaluation or analysis.

Poor Responses

These responses made little or no reference to the depth studies and showed little or no understanding of the question.

SECTION IV

Challenge : Indigenous Peoples

Question 7

Let us go back 500 years to the period which saw the rise of the modern state, the beginnings of European colonial expansion, the birth of modern international law ...

Themes emerged then in discussions about the relationships between colonisers and indigenous peoples that continue to resound today. Satisfactory resolution seems as elusive today as it was then.

*GARTH NETTHEIM, **International Law and Indigenous Political Rights: Yesterday, Today and Tomorrow***

Clearly identify, at the beginning of your answer, the TWO depth studies you will discuss.

Refer to the above statement and use examples drawn from the TWO depth studies you have identified to answer the following question:

To what extent does international law address issues faced by indigenous peoples?

General Comments

Approximately half of those who had studied this module chose to answer this question. The stimulus material invited an historical type of introduction, and most students appeared comfortable in providing such an introduction. Here most candidates identified ways in which indigenous peoples have been exploited internationally, showing how, in many cases, this situation continues today, and then drew the link between this exploitation and the need for a global response to the problem.

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Excellent Responses

Candidates identified the need for a global response, and discussed problems regarding the definition of indigenous peoples, sovereignty and representation at the United Nations. The main aspects of international law as it affects indigenous peoples were identified here, and examples were provided to illustrate their meaning. Candidates linked international law to a host of issues faced by indigenous peoples.

Above Average Responses

Here candidates generally provided a solid historical introduction and then discussed most of the main aspects of the law as it affects indigenous peoples. Some candidates were more comfortable in discussing the depth studies in detail, but had trouble in linking them back to international law.

Average Responses

Candidates were able to discuss the problems of indigenous peoples in an historical context, and then usually provided only a superficial discussion of their depth studies. These students were unable to connect their depth studies with the international initiatives and issues facing indigenous peoples.

Poor Responses

These responses provided only a superficial account of the historical aspects of the rights of indigenous peoples but were unable to discuss international law or the issues facing indigenous peoples.

Question 8

The Universal Declaration of Human Rights drafted after the Second World War was squarely based on the recognition of individual rights. The current Draft Declaration of Indigenous Peoples reflects a realisation that the collective rights of the world's indigenous peoples require special recognition.

Aboriginal and Torres Strait Islander Social Justice Commission, First report, 1993

Clearly identify, at the beginning of your answer, the TWO depth studies you will discuss.

Refer to the above statement and use examples drawn from the TWO depth studies you have identified to answer the following question:

How has Australia responded to international initiatives designed to further the interests of indigenous peoples?

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General Comments

Many responses were very descriptive but lacked knowledge of treaties and/or legislation. Some students failed to identify depth studies at the beginning of their response. The details of Australia's response were often vague.

Excellent Responses

These responses showed a clear understanding of international initiatives relevant to indigenous peoples and discussed them in detail with reference to their two specific depth studies and Australia's response to them. In such responses candidates criticised Australia's record to date.

Above Average Responses

In these responses students identified the international initiatives designed to further the interests of indigenous peoples in general but their knowledge of Australia's initiatives was limited. They covered both depth studies equally.

Average Responses

In these responses candidates referred to the stimulus material and showed some knowledge of Australian initiatives in relation to the two depth studies studied. Most responses discussed *terra nullius* in detail but were unable to integrate this concept satisfactorily into the outcomes of the *Mabo* case.

Poor Responses

These responses were very brief and had little relevance to the question. They did not refer to the stimulus and, in some cases, did not mention their specific depth studies.

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ACKNOWLEDGEMENTS

2 UNIT

Ref	Material	Acknowledgement
Q21	Extract: 'Consumers have a right...'	'Fair Go! Every student's guide to fair trading', 1994. Dept of Fair Trading - NSW Consumer Protection Agency.
Q23	Extract: 'As political issues...'	'The political impact of the High Court', D Solomon, Allen and Unwin, 1992.
Q25 and Q26	Extracts: 'Federal Parliament...' and 'Until recently...'	'Equality before the law', Discussion paper, July 1993. Australian Law Reform Commission.
Q27	Extract: 'Housing law...'	'Introducton to Land Law', Peter Butt, Law Book Company.
Q31	Extract: 'The response...', Sol Bellear	Courtesy ATSIC.
Q31	Extract: 'Power placed...'	Bobby Watt.
Q34	Extract: 'From 1901...'	'The Challenge of Multiculturalism', Stephen Castles, Centre for Multicultural Studies, 1992.
Q35	Extract: 'Women are entitled...'	Simon Rice, Solicitor, SMH 31 January 1995.
Q36	Extract: 'The increasing use...'	'Women, male violence and the law', Hilary Astor, Institute of Criminology, 1994.
Q37	Extract: 'In 1947...'	Mr Howe, Minister for Community Services and Health, December 1990.
Q38	Extract: 'Those involved...'	

3 UNIT

Ref	Material	Acknowledgement
Q1	Extract: 'In the middle of the...', The Bruntland Report	
Q2	Extract: 'Australia's federal...'	

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Ref	Material	Acknowledgement
Q3	Extract: 'Thoughts on Science, Technology and World Law', M Lachs.	From 86 AJIL (American Journal of International Law) 673 (1992), © American Society of International Law.
Q5	Extract: 'Normally a state...'	'Introduction to International Law', JG Starke, Butterworths 1984.
Q7	Extract: 'Let us go back...'	'International Law and Indigenous Political Rights, Garth Nettheim, ALTA, 1991.
Q8	Extract: 'The Universal Declaration...'	Aboriginal & Torres Strait Islander Social Justice Commission, <i>First report</i>, AGPS, 1993. Commonwealth of Australia ©