

Student Number: ..... Teacher: .....

**Baulkham Hills High School**

**Trial Examination**

**Higher School Certificate**

**2016**

# Legal Studies

## General Instructions

- Reading time, 5 minutes
- Working time, 3 hours
- Write using black pen
- Attempt all questions
- Write your candidate number and teacher's name in the spaces indicated

**Total Marks: 100**

## **Section I** [pages 2-5]

**20 marks**

- Attempt Questions 1-20
- Allow about 30 minutes for this section

## **Section II** [pages 6-11]

**30 marks**

This section has TWO parts  
Allow about 1 hour for this section

### **Part A – 15 marks**

Attempt Questions 21-24

### **Part B – 15 marks**

Attempt Question 25

## **Section III** [pages 12-14]

**50 marks**

- Attempt TWO questions from Questions 26-32
- Allow about 1 hour and 30 minutes for this section

**Section I**

**20 marks**

**Attempt Questions 1-20**

**Allow about 30 minutes for this section**

**Use the multiple choice answer sheet for Questions 1-20**

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1. Threatening someone characterises which of the following categories of crime?
  - a) Economic offences
  - b) Public order offences
  - c) Offences against the person
  - d) Offences against the sovereign
  
2. Which of the following provides the most effective protection of human rights in Australia?
  - a) The Constitution
  - b) Customary law
  - c) Statute law
  - d) Equity law
  
3. CCTV footage shows a woman walking out of a store carrying an item she has not paid for.  
What elements of a crime does the evidence establish?
  - a) *Actus reus*
  - b) *Mens rea*
  - c) Causation
  - d) Intention
  
4. An offender can be given a sentence of imprisonment for the term of their natural life under the *Crimes (Sentencing Procedure) Act 1999*.  
Such a sentence reflects which purpose of punishment?
  - a) Reform
  - b) Reintegration
  - c) Incapacitation
  - d) Rehabilitation
  
5. An Indigenous community is given the ability to govern themselves.  
What is this an example of?
  - a) *Terra nullius*
  - b) Universal suffrage
  - c) Self-determination
  - d) Separation of powers

6. Who presents the State's case for an indictable offence?
- a) The Director of Public Prosecutions
  - b) The Sentencing Council
  - c) The Police
  - d) Legal Aid
7. What is the purpose of the separation of powers?
- a) To create an avenue for appeal in the Federal Court hierarchy
  - b) To ensure that police and parliamentary corruption is minimised
  - c) To provide checks and balances in the legal and parliamentary system
  - d) To allow state and federal governments to specialise in specific areas of law
8. Which of the following is a distinctive feature of the adversarial system?
- a) Codified laws
  - b) Oral testimony
  - c) Customary law
  - d) An impartial judge
9. What are the features of the provocation defence?
- a) Complete; leads to an acquittal
  - b) Partial; reduce murder to manslaughter
  - c) Complete; reduce murder to manslaughter
  - d) Partial; reduce manslaughter to murder
10. How is the truth of oral evidence tested in an adversarial system of trial?
- a) Through lie detectors
  - b) Through the appeal process
  - c) Through cross-examination
  - d) Through questioning by the judge
11. Josh, who is 12 years of age, hacks into a computer.
- What presumption must be rebutted for the prosecution to gain a conviction?
- a) *Obiter dicta*
  - b) *Doli incapax*
  - c) *Actus reus*
  - d) *Mens rea*
12. Which international organisation allows for cooperation in law enforcement bodies across international jurisdiction?
- a) Interpol
  - b) NSW Police
  - c) The Australian Federal Police
  - d) The United Nations

13. Mike is sentenced to attend drug rehabilitation.

How can this penalty be described?

- a) Periodic detention
- b) Probation
- c) Suspended sentence
- d) Diversionary program

14. Which of the following is a widely recognised feature of human rights?

- a) Determination
- b) Inalienable
- c) Enforceable
- d) Intergenerational

15. Which of the following statements would best apply to the case of *Jacobs v R (2016)*?

- a) Jacobs is the Plaintiff
- b) Jacobs is appealing a conviction or sentence
- c) The defendant holds the burden of proof
- d) This case will be heard by the Federal Court

16. An inquiry is established after the sudden death of a 15 year old child.

Which court would have jurisdiction over this inquest?

- a) District Court
- b) Coroners Court
- c) Supreme Court
- d) Children's Court

17. Rebecca attends university and works part time for a fast food chain. Her employer is not paying her the correct wage.

Which type of international rights is being breached in this situation?

- a) Economic Social and Cultural Right
- b) Civil and Political Right
- c) Universal education
- d) Universal suffrage

18. In a criminal trial, following the passing of reasonable time for deliberation, the jury have voted 10 to 2 in favour of a guilty verdict.

This is an example of which of the following?

- a) A unanimous verdict
- b) A majority verdict
- c) A hung jury
- d) A fair jury

19. While driving, Mary was stopped by police for a random drug test.

What must Mary do?

- a) Provide police with her name
- b) Answer all police questions
- c) She is not required to do anything
- d) Get out of the car to greet the police

20. Legal Aid has been provided in the case of *R v Sylvester (2016)*.

Which of the following legal personnel will represent Sylvester in court?

- a) Public defender
- b) Public prosecutor
- c) Barrister
- d) Police

**End of Section I**

**Section II**  
**30 marks**  
**Allow about 1 hour for this section**

**Part A – Human Rights**  
**15 marks**  
**Attempt Question 21-24**

Answer the questions in the spaces provided. These spaces provide guidance for the expected length of the response.

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**Question 21 (2 marks)** **2**

Identify TWO (2) human rights founds in the International Covenant on Civil and Political Rights.

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.....

.....

.....

**Question 22 (2 marks)** **2**

Using an example, outline how state sovereignty impedes the enforcement of human rights.

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.....

**Part A continued on page 7**









**Section II continued**

**Part B – Crime**

**15 marks**

**Attempt Question 25**

Answer the question in the writing booklet provided. Extra writing booklets are available.

Write your student number and teacher's name at the top of each writing booklet.

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In your answer, you will be assessed on how well you

- demonstrate knowledge and understanding of legal issues relevant to the question
  - communicate using relevant legal terminology and concepts
  - refer to relevant examples such as legislation, cases, media reports, international instruments and documents
  - present a sustained, logical and cohesive response
- 

**Question 25 (15 marks)**

**15**

Evaluate the effectiveness of sentencing and punishment as a means of achieving justice.

**End of Section II**

### Section III – Option

**50 marks**

**Attempt TWO questions from Questions 26-32, each from a different Option.**

**Allow about 1 hour and 30 minutes for this section.**

Answer EACH question in a SEPARATE writing booklet. Extra writing booklets are available.

Clearly indicate the number of the question you are attempting.

Write your student number and teacher's name at the top of each writing booklet.

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In your answer, you will be assessed on how well you

- demonstrate knowledge and understanding of legal issues relevant to the question
  - communicate using relevant legal terminology and concepts
  - refer to relevant examples such as legislation, cases, media reports, international instruments and documents
  - present a sustained, logical and cohesive response
- 

#### **Question 26 – Consumers (25 marks)**

- a) Assess the effectiveness of a range of different remedies available to consumers **25**

**OR**

- b) How effectively do legal measures promote and enforce the protection of consumers. **25**

#### **Question 27 – Global Environmental Protection (25 marks)**

- a) Assess the effectiveness of Australia's responses in relation to global environmental protection. **25**

**OR**

- b) With reference to TWO contemporary issues, assess the extent to which legal measures have been effective in protecting the global environment. **25**

**Section III continued on page 13**

### Section III continued

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In your answer, you will be assessed on how well you

- demonstrate knowledge and understanding of legal issues relevant to the question
  - communicate using relevant legal terminology and concepts
  - refer to relevant examples such as legislation, cases, media reports, international instruments and documents
  - present a sustained, logical and cohesive response
- 

#### Question 28 – Family (25 marks)

- a) Evaluate the effectiveness of the law in responding to problems in family relationships. 25

**OR**

- b) How effectively has family law responded to the changing nature of parental responsibility? 25

#### Question 29 – Indigenous Peoples (25 marks)

- a) How effective have Australia's responses been in achieving justice for Indigenous peoples? 25

**OR**

- b) How effective are legal processes in responding to the rights of Indigenous peoples? 25

#### Question 30 – Shelter (25 marks)

- a) Assess the effectiveness of legal remedies available to people seeking and providing shelter? 25

**OR**

- b) How effectively do legal measures promote and enforce the protection of those securing shelter? 25

Section III continued on page 14

### Section III continued

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In your answer, you will be assessed on how well you

- demonstrate knowledge and understanding of legal issues relevant to the question
  - communicate using relevant legal terminology and concepts
  - refer to relevant examples such as legislation, cases, media reports, international instruments and documents
  - present a sustained, logical and cohesive response
- 

#### Question 31 - Workplace (25 marks)

- a) Assess the effectiveness of the legal system in regulating the workplace and resolving disputes. 25

**OR**

- b) Does the law effectively enforce legal rights and responsibilities in the workplace? 25

#### Question 32 – World Order (25 marks)

- a) Assess the success of global cooperation in achieving world order. 25

**OR**

- b) With reference to TWO contemporary issues, assess the effectiveness of legal and non-legal measures in promoting and maintaining world order. 25

**End of Paper**

Student Number: ..... Teacher: .....

## Baulkham Hills High School

### Trial Examination

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2016

# Legal Studies

## Section I – Multiple Choice Answer Sheet (20 marks)

Select the alternative A, B, C or D that best answers the question. Fill in the response oval completely.

Sample:  $2 + 4 =$  (A) 2 (B) 6 (C) 8 (D) 9  
A  B  C  D

If you think you have made a mistake, put a cross through the incorrect answer and fill in the new answer.

A  B  C  D

If you change your mind and have crossed out what you consider to be the correct answer, then indicate the correct answer by writing the word *correct* and drawing an arrow as follows.

A  B  C  D   
*correct*  
↓

Start here →

1. A  B  C  D

11. A  B  C  D

2. A  B  C  D

12. A  B  C  D

3. A  B  C  D

13. A  B  C  D

4. A  B  C  D

14. A  B  C  D

5. A  B  C  D

15. A  B  C  D

6. A  B  C  D

16. A  B  C  D

7. A  B  C  D

17. A  B  C  D

8. A  B  C  D

18. A  B  C  D

9. A  B  C  D

19. A  B  C  D

10. A  B  C  D

20. A  B  C  D

## Trial HSC Exam Legal Studies 2016

### Marking Guidelines

#### Section I - *Multiple Choice* (20 marks)

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>	<b>20</b>
C	C	A	C	C	A	C	D	B	C	B	A	D	B	B	B	A	C	A	A

#### Section II

#### Part A – Human Rights (15 marks)

##### Question 21 (2 marks)

Identify TWO (2) human rights found in the International Covenant on Civil and Political Rights

Criteria	Marks
<ul style="list-style-type: none"><li>Accurately states TWO (2) human rights</li></ul>	2
<ul style="list-style-type: none"><li>Accurately states ONE (1) human right</li></ul>	1

Answer could include:

##### Question 22 (2 marks)

Using an example, outline how state sovereignty impedes the enforcement of human rights.

Criteria	Marks
<ul style="list-style-type: none"><li>Clearly sketches in general terms how state sovereignty impedes the enforcement of human rights</li></ul>	2
<ul style="list-style-type: none"><li>Refers to state sovereignty and/or the enforcement of human rights</li><li>May use an example</li></ul>	1

Answer could include:

##### Question 23 (4 marks)

Describe the role of common law in recognising and protecting human rights in Australia

Criteria	Marks
<ul style="list-style-type: none"><li>Clearly provides characteristics and features of the role of common law in recognising and protecting human rights in Australia</li></ul>	3-4
<ul style="list-style-type: none"><li>Provides characteristics and features of the role of common law in recognising and protecting human rights in Australia</li></ul>	2
<ul style="list-style-type: none"><li>Makes a general statement about common law and/or human rights</li></ul>	1

Answer could include:

**Question 24** (7 marks)

*Domestic compliance with international human rights treaties is difficult to achieve*

Discuss this statement with reference to ONE contemporary human rights issue

Criteria	Marks
<ul style="list-style-type: none"><li>• <b>Clearly outlines international human rights agreements</b></li><li>• <b>Clearly outlines domestic responses</b></li><li>• <b>Extensively discusses the difficulties of enforcing domestic compliance with international agreements</b></li><li>• <b>Refers explicitly to one contemporary issue</b></li><li>• <b>Answers clearly and concisely</b></li></ul>	7
<ul style="list-style-type: none"><li>• <b>Outlines international human rights agreements</b></li><li>• <b>Outlines domestic responses</b></li><li>• <b>Limited discussion of enforcing domestic compliance with international agreements</b></li><li>• <b>Refers to one contemporary example</b></li><li>• <b>Answers clearly</b></li></ul>	5-6
<ul style="list-style-type: none"><li>• <b>Outlines domestic responses OR international agreements</b></li><li>• <b>Refers to difficulties in enforcing agreements</b></li><li>• <b>May refer to a contemporary example</b></li><li>• <b>Answers are indirect and descriptive</b></li></ul>	3-4
<ul style="list-style-type: none"><li>• <b>Makes a general statement about human rights agreements</b></li><li>• <b>May refer to a human rights issue</b></li><li>• <b>Not extensive</b></li></ul>	1-2

**Part B – Crime (15 marks)**

**Question 25**

***Evaluate the effectiveness of sentencing and punishment as a means of achieving justice.***

Criteria	Marks
<ul style="list-style-type: none"> <li>• Demonstrates an extensive understanding of sentencing and punishment</li> <li>• Makes an informed judgement (explicitly or implicitly) of the effectiveness of sentencing and punishment as a means of achieving justice</li> <li>• Integrates relevant examples such as legislation, cases, media, international instruments and documents</li> <li>• Presents a sustained, logical and cohesive answer to the question using relevant legal terminology and concepts</li> </ul>	13 - 15
<ul style="list-style-type: none"> <li>• Demonstrates a detailed understanding of sentencing and punishment</li> <li>• Makes a judgement (explicitly or implicitly) of the effectiveness of sentencing and punishment as a means of achieving justice</li> <li>• Uses relevant examples such as legislation, cases, media, international instruments and documents</li> <li>• Presents a logical and cohesive answer to the question using relevant legal terminology and concepts</li> </ul>	10 - 12
<ul style="list-style-type: none"> <li>• Demonstrates an understanding of sentencing and punishment</li> <li>• Attempts a limited judgement of the effectiveness of sentencing and punishment as a means of achieving justice</li> <li>• Makes some reference to examples such as legislation, cases, media, international instruments and documents</li> <li>• Presents a structured answer to the question using relevant legal terminology and concepts</li> </ul>	7 - 9
<ul style="list-style-type: none"> <li>• Demonstrates limited knowledge of sentencing and punishment</li> <li>• Makes general statements about the effectiveness of sentencing /and or punishment in achieving justice</li> <li>• Makes limited reference to examples such as legislation, cases, media, international instruments and documents</li> <li>• Uses some relevant legal terminology</li> </ul>	4 – 6
<ul style="list-style-type: none"> <li>• Writes in general terms about crime or sentencing or punishment</li> <li>• May include reference to legislation, cases, media, international instruments and documents</li> <li>• Uses legal terminology</li> </ul>	1 - 3

**Answer** could include: **General comments:** Read carefully the set question, look at the directive term & spend time on planning the written response. Some students need to also improve hand writing skills, improve essay style and make use of *distinct paragraphs* throughout their response. This question required reference to both appropriate legislation & cases to highlight the effectiveness of justice in dealing with sentencing & punishment. Quote cases & legislation correctly.

This question required an evaluation of the effectiveness of sentencing and punishment in achieving justice. In making an evaluation, give a balanced view look at factors that help ensure justice & factors that limit achievement of justice. Reference needs to be made especially to **cases, legislation**, media, international instruments, documents and statistics to support your judgement. It is important to also use appropriate legal terms/concepts throughout the response.

**Answers could include the following:** there are many areas of the syllabus that could be considered in this question – *statutory & judicial guidelines; purposes of punishment; role of victim in sentencing; appeals; types of penalties; diversionary programs; alternative methods of sentencing; post-sentencing considerations; young offenders*. Better answers considered 3 or 4 areas and evaluated where it has worked or not worked with justice. Quoted at a minimum legislation such as the *Crimes Act 1900 NSW & Crimes (Sentencing Procedures) Act 1999 NSW* with reference to cases, such as *R v Loveridge 2014(Thomas Kelly) NSW; R v Sam 2009 (Gloria); R v Laupama 2001 NSW; R v Jacobs 2013 NSW(murder of police officer); R v Milat 1996 NSW; McCartney v R 2009 NSW.....* Also better answers quoted amended legislation to highlight the effectiveness of achieving justice for individuals and society & commented on the difficulty in achieving justice for all.

### Section III – Options

#### Question 27 – Global Environmental Protection (25 marks)

Year 12 2016 HSC Trial Exam	
Criteria: Question 27(a)	Marks
<ul style="list-style-type: none"> <li>• Demonstrates extensive knowledge and understanding of Australia’s responses in relation to global environmental protection</li> <li>• Makes an informed judgement (explicitly or implicitly) about how effective Australia’s responses in relation to global environmental protection</li> <li>• Integrates relevant examples such as legislation such as legislation, cases, media, international instruments and documents</li> <li>• Presents a sustained, logical and cohesive answer to the question using relevant legal terminology and concepts</li> </ul>	21 - 25
<ul style="list-style-type: none"> <li>• Demonstrates a sound knowledge and understanding of Australia’s responses in relation to global environmental protection</li> <li>• Makes a sound judgement (explicitly or implicitly) about how effective Australia’s responses in relation to global environmental protection</li> <li>• Uses relevant examples such as legislation, cases, media, international instruments and documents</li> <li>• Presents a logical and cohesive answer to the question using relevant terminology and concepts</li> </ul>	16 - 20
<ul style="list-style-type: none"> <li>• Demonstrates some knowledge and understanding of Australia’s responses in relation to global environmental protection</li> <li>• Makes some judgement (explicitly or implicitly) about how effective Australia’s responses in relation to global environmental protection</li> <li>• Makes some reference to examples such as legislation, cases, media, international instruments and documents</li> <li>• Presents a structured answer to the question using relevant legal terminology and concepts</li> </ul>	11 - 15
<ul style="list-style-type: none"> <li>• Demonstrates limited knowledge and understanding of Australia’s responses in relation to global environmental protection</li> <li>• Makes general statements about global environmental law achieving protection, cases, media, international instruments and documents</li> <li>• Makes limited reference to examples such as legislation, cases, media, international instruments and documents</li> <li>• Uses some relevant legal terminology</li> </ul>	6 - 10
<ul style="list-style-type: none"> <li>• Writes in general terms about global environmental protection</li> <li>• May make limited reference to examples such as legislation, cases, media, international instruments and documents</li> <li>• Uses some legal terminology</li> </ul>	1 - 5

**Answer** could include: Only 7 students attempted this question. Most students produced a very reasonable response to this question. Better responses chose more relevant current cases, legislation and international instruments to address all aspects of the question. Read carefully the set question, look at the directive term & spend time planning the extended response. Some students need to also improve hand writing skills, improve essay style, make use of **distinct** paragraphs & proper nouns and correctly state and date the cases, conferences quoted, throughout the response. Adopt a **PEEL** approach for each paragraph in completing an extended response (**P- point, E – explain, E – example/a case & L – link back to the set question**). It is important to use relevant legal terms/concepts throughout the response. The answer required an ‘assessment or judgement based on value of the effectiveness of Australia’s responses in relation to global environmental protection. Most responses looked at Australia’s federal structure and Australia’s response to international initiatives from the syllabus & intertwined the global threats with reference to cases, legislation & international instruments.

**Answers may include the following:** Students should show a **clear** understanding of the term *global environment protection (definition) and Australia’s responses to GPE with links to the global threats (pollution, biodiversity, climate change...)* to the environment with reference to legal responses both internationally & domestically. It is important to recognise where Australia’s legal responses have been effective and ineffective with reference to cases, legislation, documents, and international instruments & media reports. A balanced view to the effectiveness of Australia’s legal responses is needed in this answer.

Important to explain the Australian Constitution 1900 & the power to legislate on the environment was only a residual power given to the states. Emphasise the limited role that the Federal Govt could play in GEP. Federal Govt. has however used other powers to protect the environment, such as use of external affairs & corporation powers for issues of national importance.

Quote as a minimum the main federal law, *Environment Protection & Biodiversity Conservation Act 1999* (Cth) & explain its role. Other legislation- Clean Energy Act 2011 (Cth); Clean Energy Legislation Act 2014 (Cth) .....

Refer to cases to highlight the effectiveness of Aust. response to GEP, *Commonwealth v Tasmania* 1983; *Murphyores v the Commonwealth* 1976; *EPA v Gardner* 1997; *Australia V Japan* 2014; refer to Bluefin tuna & Savannah cats.....

International instruments & Australia – *Montreal Protocol* 1987; *Kyoto Protocol* 1997; *CITIES* 1975; *UN Stockholm Convention on POPS* 2004; *Basel Convention* 1989; *Ramsar Convention* 1971.....

Refer to Environ green booklet, power point, textbook for detail on international instruments, important cases & legislation to use in your answer for the HSC.

**Question 27 – Global Environmental Protection (25 marks) cont.**

Year 12 2016 HSC Trial Exam	
Criteria: Question 27(b)	Marks
<ul style="list-style-type: none"> <li>• Demonstrates extensive knowledge and understanding of legal measures in protecting the global environment</li> <li>• Makes an informed judgement (explicitly or implicitly) on the effectiveness of the legal measures in protecting the global environment</li> <li>• Integrates TWO contemporary issues concerning the global environment</li> <li>• Integrates relevant examples such as legislation such as legislation, cases, media, international instruments and documents</li> <li>• Presents a sustained, logical and cohesive answer to the question using relevant legal terminology and concepts</li> </ul>	21 - 25
<ul style="list-style-type: none"> <li>• Demonstrates a sound knowledge and understanding of legal measures in protecting the global environment</li> <li>• Makes a sound judgement (explicitly or implicitly) on the effectiveness of the legal measures in protecting the global environment</li> <li>• Uses TWO contemporary issues concerning the global environment</li> <li>• Uses relevant examples such as legislation, cases, media, international instruments and documents</li> <li>• Presents a logical and cohesive answer to the question using relevant terminology and concepts</li> </ul>	16 - 20
<ul style="list-style-type: none"> <li>• Demonstrates some knowledge and understanding of legal measures in protecting the global environment</li> <li>• Makes some judgement (explicitly or implicitly) on the effectiveness of the legal measures in protecting the global environment</li> <li>• Makes some reference to TWO contemporary issues concerning the global environment</li> <li>• Makes some reference to examples such as legislation, cases, media, international instruments and documents</li> <li>• Presents a structured answer to the question using relevant legal terminology and concepts</li> </ul>	11 - 15
<ul style="list-style-type: none"> <li>• Demonstrates limited knowledge and understanding of legal measures in protecting the global environment</li> <li>• Makes general statements about the effectiveness of global environmental protection</li> <li>• Makes limited reference to examples such as legislation, cases, media, international instruments and documents</li> <li>• Uses some relevant legal terminology</li> </ul>	6 - 10
<ul style="list-style-type: none"> <li>• Writes in general terms about global environmental protection</li> <li>• May make limited reference to examples such as legislation, cases, media, international instruments and documents</li> <li>• Uses some legal terminology</li> </ul>	1 - 5

**Answer** could include: Majority of students attempted this question. Most students produced a very reasonable response to this question. Better responses chose more relevant current cases, legislation and international instruments to address all aspects of the question. Read carefully the set question, look at the directive term & spend time planning the extended response. Some students need to also improve hand writing skills, improve essay style, make use of **distinct** paragraphs & proper nouns and correctly state and date the cases, conferences quoted, throughout the response. Adopt a **PEEL** approach for each paragraph in completing an extended response (**P- point, E – explain, E – example/a case & L – link back to the set question**). It is important to use relevant legal terms/concepts throughout the response. The answer required an ‘assessment or judgement of the effectiveness of the legal measures to TWO contemporary issues global threats to the environment & barriers limiting co-ordinated international responses’. Some responses looked at TWO different global threats and the legal responses with reference to cases, legislation & international instruments while other responses intertwined global threats and Australia’s initiatives as TWO contemporary issues with legal measures together.

**Answers may include a discussion of the following:** Students should show a **clear** understanding of the term *global environment (definition) and the global threats (pollution, biodiversity, climate change...)* to the environment with reference to legal measures both internationally & domestically. It is important to recognise where the legal measures have been effective and ineffective with reference to cases, legislation,

documents, and international instruments & media reports. A balanced view to the effectiveness of the legal measures is needed in this answer. The law plays a very crucial role in the protection of the environment. There is a great variety of intern law relating to environmental protection. However the effectiveness of intern law is reduced by its voluntary nature, lack & difficulty of enforceability, state sovereignty, financial barriers, national interest, economic gain & community non-concern...., all acting as barriers limiting a coordinated international response. There is a need for a coordinated global holistic ESD approach to the environment.

However, there is conflicting standards & expectations within communities & nations, economic (employment financial gain, profit etc.) v's the global environment, there is always a trade-off, environ law can't reflect whole community desires e.g. proposed removal of carbon tax. There is also a difference between the developed world and the developing world response in dealing with environmental protection in terms of legislation & financial costs.

Everything in the global environment is Transboundary in nature; each nation must protect their environment while still regulating the impacts of development on other nations. The Trail Smelter Arbitration Case 1941 highlights the effectiveness of common law. The notion of state sovereignty means that intern law is non-binding lacks *enforceability*. Nations can exploit more than sustainable quantity of resources e.g. Japan & whaling 2014.

Conferences provide impetus for protection of the global environment & raise awareness of overexploitation of resources. Most international agreements are soft law *not enforceable*. Intern agreements must be ratified & codified into domestic legislation, hard law to have any true effect but at an intern level it often involves intense negotiation & compromise. However, many successful intern agreements have reduced human impact on the environment. Rio Declaration-27 Principles to guide nation states in environ behaviour, Agenda 21; Stockholm Conference, effective role of the Montreal Protocol 1989, Rotterdam Convention 1998.....

The reactive nature of environmental law also limits effectiveness. Laws need to be more proactive (use more injunctions) & not retrospective/reactive as often too late as damage is already done (more use of the concept/principle of remediation). Some environmental damage is irreversible e.g. loss of endangered species. Damage claims are far less effective as it implies damage has been done (Exxon Valdez, EPA v Gardner, the damage claim is reactive).

Intern law has introduced preventative measures e.g. CITES, UNCLOS. Diplomatic pressure or exposing a State to intern or national criticism can be effective especially psychological rubicon. However, there is a growing interdependence of nations especially in regard to addressing global issues e.g. climate change & role of UN. There needs to be an expectation that nations will adhere to or can be made to adhere to principles of intern environ law. There is a need to develop domestic laws that incorporate principles of international law. Domestic laws/hard law are more enforceable than international law.

Only states/nations have access to ICJ. A state may decline to appear before ICJ and this limits its effectiveness. Refer to nuclear test cases.

Refer to Environ green booklet, power point, textbook for detail on international instruments, important cases & legislation to use in your answers for the HSC.

### Section III – Options

#### Question 32 – World Order (25 marks)

Year 12 2016 HSC Trial Exam	
Criteria: Question 32(a)	Marks
<ul style="list-style-type: none"> <li>• Demonstrates extensive knowledge and understanding of global co-operation in achieving world order</li> <li>• Makes an informed judgement (explicitly or implicitly) about the success of global co-operation in achieving world order</li> <li>• Integrates relevant examples such as legislation such as legislation, cases, media, international instruments and documents</li> <li>• Presents a sustained, logical and cohesive answer to the question using relevant legal terminology and concepts</li> </ul>	21 - 25
<ul style="list-style-type: none"> <li>• Demonstrates a sound knowledge and understanding of global co-operation in achieving world order</li> <li>• Makes a sound judgement (explicitly or implicitly) about the success of the global co-operation in achieving world order</li> <li>• Uses relevant examples such as legislation, cases, media, international instruments and documents</li> <li>• Presents a logical and cohesive answer to the question using relevant terminology and concepts</li> </ul>	16 - 20
<ul style="list-style-type: none"> <li>• Demonstrates some knowledge and understanding of global co-operation in achieving world order</li> <li>• Makes some judgement (explicitly or implicitly) about the success of co-operation in achieving world order</li> <li>• Makes some reference to examples such as legislation, cases, media, international instruments and documents</li> <li>• Presents a structured answer to the question using relevant legal terminology and concepts</li> </ul>	11 - 15
<ul style="list-style-type: none"> <li>• Demonstrates limited knowledge and understanding of the success of global co-operation in achieving world order</li> <li>• Makes general statements about global co-operation achieving protection, cases, media, international instruments and documents</li> <li>• Makes limited reference to examples such as legislation, cases, media, international instruments and documents</li> <li>• Uses some relevant legal terminology</li> </ul>	6 - 10
<ul style="list-style-type: none"> <li>• Writes in general terms about global co-operation</li> <li>• May make limited reference to examples such as legislation, cases, media, international instruments and documents</li> <li>• Uses some legal terminology</li> </ul>	1 - 5

**Question 27 – World Order (25 marks) cont.**

<b>Year 12 2016 HSC Trial Exam</b>	
<b>Criteria: Question 32(b)</b>	<b>Marks</b>
<ul style="list-style-type: none"> <li>• Demonstrates extensive knowledge and understanding of the effectiveness of legal and non- legal measures in promoting and maintaining world order</li> <li>• Makes an informed judgement (explicitly or implicitly) on the effectiveness of the legal measures and non- legal measures in promoting and maintaining world order</li> <li>• Integrates TWO contemporary issues concerning world order</li> <li>• Integrates relevant examples such as legislation such as legislation, cases, media, international instruments and documents</li> <li>• Presents a sustained, logical and cohesive answer to the question using relevant legal terminology and concepts</li> </ul>	21 - 25
<ul style="list-style-type: none"> <li>• Demonstrates a sound knowledge and understanding of legal and non-legal measures in promoting and maintaining world order</li> <li>• Makes a sound judgement (explicitly or implicitly) on the effectiveness of legal and non-legal measures in promoting ad maintaining world order</li> <li>• Uses TWO contemporary issues concerning world order</li> <li>• Uses relevant examples such as legislation, cases, media, international instruments and documents</li> <li>• Presents a logical and cohesive answer to the question using relevant terminology and concepts</li> </ul>	16 - 20
<ul style="list-style-type: none"> <li>• Demonstrates some knowledge and understanding of legal and no-legal measures involved in promoting and maintaining world order</li> <li>• Makes some judgement (explicitly or implicitly) on the effectiveness of legal and non- legal means of promoting and maintaining world order</li> <li>• Makes some reference to TWO contemporary issues concerning world order</li> <li>• Makes some reference to examples such as legislation, cases, media, international instruments and documents</li> <li>• Presents a structured answer to the question using relevant legal terminology and concepts</li> </ul>	11 - 15
<ul style="list-style-type: none"> <li>• Demonstrates limited knowledge and understanding of legal and non -legal measures involved in promoting and maintaining world order</li> <li>• Makes general statements about the effectiveness of global environmental protection</li> <li>• Makes limited reference to examples such as legislation, cases, media, international instruments and documents</li> <li>• Uses some relevant legal terminology</li> </ul>	6 - 10
<ul style="list-style-type: none"> <li>• Writes in general terms about world order</li> <li>• May make limited reference to examples such as legislation, cases, media, international instruments and documents</li> <li>• Uses some legal terminology</li> </ul>	1 - 5