 Sample Assessment Tasks

Politics and Law

ATAR Year 11

**Acknowledgement of Country**

Kaya. The School Curriculum and Standards Authority (the Authority) acknowledges that our offices are on Whadjuk Noongar boodjar and that we deliver our services on the country of many traditional custodians and language groups throughout Western Australia. The Authority acknowledges the traditional custodians throughout Western Australia and their continuing connection to land, waters and community. We offer our respect to Elders past and present.

**Copyright**

© School Curriculum and Standards Authority, 2024

This document – apart from any third-party copyright material contained in it – may be freely copied, or communicated on an intranet, for non-commercial purposes in educational institutions, provided that the School Curriculum and Standards Authority (the Authority) is acknowledged as the copyright owner, and that the Authority’s moral rights are not infringed.

Copying or communication for any other purpose can be done only within the terms of the *Copyright Act 1968* or with prior written permission of the Authority. Copying or communication of any third-party copyright material can be done only within the terms of the *Copyright Act 1968* or with permission of the copyright owners.

Any content in this document that has been derived from the Australian Curriculum may be used under the terms of the [Creative Commons Attribution 4.0 International licence](https://creativecommons.org/licenses/by/4.0/).

**Disclaimer**

Any resources such as texts, websites and so on that may be referred to in this document are provided as examples of resources that teachers can use to support their learning programs. Their inclusion does not imply that they are mandatory or that they are the only resources relevant to the course. Teachers must exercise their professional judgement as to the appropriateness of any they may wish to use.

Sample assessment tasks

Politics and Law – ATAR Year 11

Task 9 – Unit 2

**Assessment type:** Investigation

**Conditions:** Part A – Investigation

 Two weeks

Students undertake an investigation and create summary notes. Students must submit summary notes as part of the complete investigation task at the completion of the in-class validation essay

 Part B – In-class validation essay

 To be written in 50 minutes

In class, under test conditions. Access to one page of summary notes from investigation and classwork permitted

**Task weighting:** 5% of the school mark for this pair of units

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Part A: Investigation (15 marks)

Research the electoral system used to elect the President of the United States of America and make notes to:

* briefly explain the history and rationale for the electoral system used
* explain the electoral process for electing the President of the United States of America, including the primaries, voting system/s used, and the election campaign
* explain the strengths and weaknesses of the Electoral College, including:
	+ how fair it is
	+ to what extent it contributes to or undermines democracy
	+ the extent to which it is representative
	+ refer to one recent Presidential Election

The following evidence of research to be submitted:

* Research notes:
	+ organised into a logical sequence
	+ including relevant information
	+ including relevant examples
	+ using appropriate terminology
* Bibliography:
	+ follows school’s protocols
	+ acknowledges the source of information within the notes
	+ includes a range of sources

Marking key for sample assessment task 9 — Unit 2

**Part A: Investigation**

|  |  |
| --- | --- |
| **Description** | **Marks** |
| **Research notes** |
| **Logical sequence** |
| Organises research notes into a logical sequence | 2 |
| Organises research notes with some evidence of order | 1 |
| **Subtotal** | **/2** |
| **Relevant information on the following:** |
| * the electoral process (including a brief history)
* the strengths of the system
* weaknesses of the system

**For each of the three areas of focus (3x3 marks)** |
| Provides detailed, relevant notes for the area of focus | 3 |
| Provides some relevant notes for the area of focus | 2 |
| Provides limited notes for the area of focus | 1 |
| **Subtotal** | **/9** |
| **Recent example of a Presidential election** |
| Makes detailed reference to a recent example of a Presidential election | 2 |
| Makes some reference to a recent example of a Presidential election | 1 |
| **Subtotal** | **/2** |
| **Bibliography** |
| Follows the school protocols in the construction of the bibliography | 1 |
| Includes a range of sources/information | 1 |
| **Subtotal** | **/2** |
| **Total** | **/15** |

Sample assessment tasks

Politics and Law – ATAR Year 11

Task 9 – Unit 2

**Assessment type:** Investigation

**Conditions:** Part A – Investigation

 Two weeks

Students undertake an investigation and create one page of summary notes. Students must submit summary notes as part of the complete investigation task at the completion of the in-class validation essay

 Part B – In-class validation essay

To be written in 50 minutes

In class, under test conditions. Access to one page of summary notes from investigation and classwork permitted

**Task weighting:** 5% of the school mark for this pair of units

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Part B: In-class validation essay (25 marks)

Instructions

Write an essay response to the following question.

Explain the electoral system (and processes) used to elect the President of the United States of America and assess whether this makes for a fair and effective electoral system. Refer to one recent Presidential election to support your assessment.

Marking key for sample assessment task 9 — Unit 2

|  |  |
| --- | --- |
| **Description** | **Marks** |
| **Explains relevant terms and outlines parameters of discussion** |
| Explains all relevant terms and outlines parameters of discussion | 5 |
| Explains some of the terms and outlines parameters of discussion | 4 |
| Indicates what will be addressed in the discussion  | 3 |
| Attempts to provide a focus for discussion  | 2 |
| Makes a general statement concerning the topic/claim  | 1 |
| **Subtotal** | **/5** |
| **Discussion of relevant issues including pertinent examples** |
| Discusses relevant issues, using a well-structured format and supportive examples in a cohesive, logical sequence and uses relevant political and legal terminology  | 9–10 |
| Discusses some relevant issues incorporating some examples in a cohesive, logical sequence and uses relevant political and legal terminology  | 7–8 |
| Provides limited discussion with limited examples in a logical sequence and uses relevant political and legal terminology  | 5–6 |
| Provides limited discussion of the issues with limited political and legal terminology  | 3–4 |
| Makes general statements concerning the topic  | 1–2 |
| **Subtotal** | **/10** |
| **Assessment**Makes a judgment as to whether the method used to elect a President in the US is a fair and effective electoral system, referring to one recent Presidential election |
| Assesses the claim using specific evidence which demonstrates a comprehensive understanding of the topic; explicitly links the response to the terminology of the question | 7 |
| Assesses the claim using appropriate evidence which demonstrates an understanding of the topic; attempts to explicitly link the response to the terminology of the question | 6 |
| Assesses the claim using some evidence which demonstrates some understanding of the topic; makes an attempt to link the response to the terminology of the question | 5 |
| Constructs a relevant but weak assessment; an implicit response to the terminology of the question | 4 |
| Constructs a weak assessment; limited use of the terminology of the question | 3 |
| Makes no assessment; attempts to link to terminology of the question | 2 |
| Makes no assessment; a statement only; little evidence the response is relevant to the terminology of the question | 1 |
| **Subtotal** | **/7** |
| **Conclusion** |
| Draws together the argument linking the evidence  | 3 |
| Summarises the argument  | 2 |
| Makes general/superficial statements  | 1 |
| **Subtotal** | **/3** |
| **Total** | **/25** |
| **Terms and parameters of discussion may include:*** democracy/democratic/democratic principles; elections; representation; voluntary voting/non-compulsory voting
* Presidential system; the Electoral College; Primaries/Primary System; Caucuses; Proportional System; gerrymandering
* Electors; swing states; disenfranchisement
* simple majority/winner takes all; delegates
* outline of the historical context of the creation/use of the Electoral College

Students should outline/signpost the themes contained in the essay.**Discussion*** The purpose of elections in a democratic system
* Explanation of the electoral system (and processes) used to elect a US President, including:
	+ US Primary System
		- System used to decide which two candidates will run for President; state votes and delegates
		- Strengths of primaries, e.g. encourages public participation; allows anyone to stand for nomination; media attention through primaries; etc.
		- Weaknesses of primaries, e.g. enormous cost to candidates prevents people from nominating; the primaries have very low voter turnouts and so candidate who wins primary might not have the best chance of winning the presidential race; etc.
* Once each party has a candidate, the focus becomes the campaign and the Electoral College.
	+ The Electoral College and how it works
		- Arguments for the Electoral College, e.g. intended to ensure the states with the biggest populations don’t overwhelm the smaller states in choosing the president; helps maintain a stable two-party system; can create/force political coalitions which reinforce political stability; etc.
		- Arguments against the Electoral College, e.g. danger of electing a President who only has minority support (popular support concentrated in a few key states); reinforces two-party system leaving many unrepresented; distribution of votes favours rural states; etc.

**Assessment**Students need to weigh the points for and against the Primary System and the use of the Electoral College and indicate the strength or weakness of these points in order to reach a conclusion.**Conclusion**Draws a conclusion as to whether or not the Primary System and the use of the Electoral College result is a fair and effective electoral system with reference to particular aspects of democracy and representation. |

Sample assessment task

Politics and Law – ATAR Year 11

Task 1 — Unit 1

**Assessment type:** Source analysis

**Conditions:** Time for the task: 40 minutes with 5 minutes reading time

 In class under test conditions

**Task weighting** 10% of the school mark for this pair of units

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Instructions

Teachers to select appropriate information and create a source for students to analyse. The source should be between 25 and 35 lines of text.

Suggested sources include:

Parliament of Australia (2024). *Info sheet 20 – The Australian system of* government, <https://www.aph.gov.au/About_Parliament/House_of_Representatives/Powers_practice_and_procedure/00_-_Infosheets/Infosheet_20_-_The_Australian_system_of_government>

Parliament of Australia (2024). *Work of Parliament,* <https://www.aph.gov.au/about_parliament/work_of_the_parliament#:~:text=Making%20and%20changing%20federal%20laws,the%20work%20of%20the%20government>.

Read the Source/s and answer all the questions that follow.

Question 1 (20 marks)

Suggested questions could include:

1. Define responsible government. (2 marks)

1. With reference to the source, outline, in your own words, **two** functions of the parliament. (4 marks)

1. Explain what the Westminster conventions of responsible parliamentary government are, and provide **two** examples of the conventions to support the answer. (6 marks)

1. (i) Define Australia’s federal system. (2 marks)

 (ii) Explain the division of powers within the Australian Constitution, using examples to support the answer. (6 marks)

Marking key for sample assessment task 1 — Unit 1

1. Define responsible government. (2 marks)

|  |  |
| --- | --- |
| **Description** | **Marks** |
| Defines responsible government | 2 |
| Makes a general statement/s about responsible government | 1 |
| **Total** | **/2** |
| Answers could include but are not limited to:* Responsible government is a key feature of Westminster government (United Kingdom system). It is where the Executive branch of the government must be formed from the parliament, and it is accountable to parliament at all times. For example, the parliament must authorise the spending of public money
* Parliament is an elected body and is accountable to the voters, so the Executive (not elected) also becomes accountable/responsible to voters.
 |

1. With reference to the source, outline, in your own words, **two** functions of parliament.
 (4 marks)

|  |  |
| --- | --- |
| **Description** | **Marks** |
| Identifies from the source two functions of parliamentOutlines in detail these functionsAnswer is in the student’s own words referring to the sourceUses political and legal terminology | 4 |
| Identifies from the source two functions of parliamentOutlines these functionsAnswer is mostly in the student’s own words making some reference to the sourceUses some political and legal terminology | 3 |
| Identifies from the source two functions of parliamentThe outline is limited to citing mainly from the source | 2 |
| Identifies from the source one function of parliamentorMakes a general statement about the functions of parliamentor Cites verbatim from the source | 1 |
| **Total** | **/4** |
| Answers could include:* creation of law/legislation
* control of the use of public money
* presentation of different views on issues.

Answers must come from the source and be in student’s own words. |

1. Explain what the Westminster conventions of responsible parliamentary government are, and provide **two** examples of the conventions to support the answer. (6 marks)

|  |  |
| --- | --- |
| **Description** | **Marks** |
| Explains in detail Westminster conventions of responsible parliamentary governmentUses two relevant examples to support the explanationUses political and legal terminology | 5–6 |
| Explains Westminster conventions of responsible parliamentary governmentUses at least one relevant example to support the explanationUses political and legal terminologyorDescribes Westminster conventions of responsible parliamentary governmentUses at least one relevant example to support the explanationUses some political and legal terminology | 3–4 |
| Describes Westminster conventions of responsible parliamentary governmentorProvides a relevant example of a Westminster convention of parliamentary governmentor Makes a general statement about Westminster conventions of responsible parliamentary government | 1–2 |
| **Total** | **/6** |
| Answers could include:* Westminster conventions of responsible government are unwritten constitutional procedures for running parliament or the accepted way of doing things in the Westminster parliament of the United Kingdom (UK) or of parliaments like Australia that follow the Westminster system.

Examples of conventions include:* Ministers are individually responsible to the parliament for actions taken under their authority (individual ministerial responsibility).
* Government is formed by the party with the most seats in the Lower House of Parliament.
* The opposition is formed by the party with the second largest number of seats in the Lower House of Parliament.
 |

1. (i) Define Australia’s federal system. (2 marks)

|  |  |
| --- | --- |
| **Description** | **Marks** |
| Defines Australia’s federal system | 2 |
| Makes a general statement/s about Australia’s federal system | 1 |
| **Total** | **/2** |
| Answers could include:* Australia’s federal system is comprised of one central government (Commonwealth Parliament of Australia) and six state (regional) governments
* each level of government has areas of responsibility.
 |

1. (ii) Explain the division of powers within the Australian Constitution, using examples to support the answer. (6 marks)

|  |  |
| --- | --- |
| **Description** | **Marks** |
| Explains the division of powers as set out by the Australian Constitution, including the three types of powersUses relevant examples of each type of power to support the answerUses political and legal terminology | 5–6 |
| Describes the division of powers, including the three types of powersProvides examples of each type of power to provide some support to the answer | 3–4 |
| Identifies one or two features of the division of powers in AustraliaorProvides one or two relevant examples for the types of powersorMakes a general statement about division of powers in Australia | 1–2 |
| **Total** | **/6** |
| Answers could include:* Under the Australian Constitution, powers to make laws for certain areas/issues are divided between the Commonwealth and state governments.
* There are three types of powers:
	+ Exclusive powers are held solely by the Commonwealth government and specified in Section 51. These are the areas that only the Commonwealth government can pass legislation on, e.g. defence, foreign affairs.
	+ Concurrent powers are shared by the Commonwealth and state governments, and also specified in Section 51, e.g. education, taxation.
	+ Residual – powers that the states held prior to Federation. These powers are not specified in the Constitution, e.g. hospitals, police.
 |

Sample assessment task

Politics and Law – ATAR Year 11

Task 8 — Unit 2

**Assessment type:** Essay

**Conditions:** Total marks: 25 marks

Time for the task: 50 minutes

 An unseen question, in class, under test conditions

**Task weighting**  10% of the school mark for this pair of units

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Electoral systems should be fair to electors and candidates and represent society’s diversity.

Assess the advantages and disadvantages of electoral systems in Australia and the extent to which Australia’s electoral systems can be considered fair. (25 marks)

Marking key for sample assessment task 8 — Unit 2

Electoral systems should be fair to electors and candidates and represent society’s diversity.

Assess the advantages and disadvantages of electoral systems in Australia and the extent to which Australia’s electoral systems can be considered fair. (25 marks)

|  |  |
| --- | --- |
| **Description** | **Marks** |
| **Explains relevant terms and outlines parameters of discussion** |
| Explains all relevant terms and outlines parameters of discussion | 5 |
| Explains some of the terms and outlines parameters of discussion  | 4 |
| Indicates what will be addressed in the discussion  | 3 |
| Attempts to provide a focus for discussion  | 2 |
| Makes a general statement concerning the topic/claim  | 1 |
| **Subtotal** | **/5** |
| **Discussion of relevant issues including pertinent examples**  |
| Discusses relevant issues, using a well-structured format and supportive examples in a cohesive, logical sequence and uses relevant political and legal terminology  | 9–10 |
| Discusses some relevant issues incorporating some examples in a cohesive, logical sequence and uses relevant political and legal terminology  | 7–8 |
| Provides a limited discussion with limited examples in a logical sequence and uses relevant political and legal terminology  | 5–6 |
| Provides a limited discussion of the issues with limited political and legal terminology  | 3–4 |
| Makes general statements concerning the topic  | 1–2 |
| **Subtotal** | **/10** |
| **Assessment**Makes a judgment as to whether Australia’s electoral systems can be considered fair |
| Assesses the claim using specific evidence which demonstrates a comprehensive understanding of the topic  | 7 |
| Assesses the claim using appropriate evidence which demonstrates an understanding of the topic  | 6 |
| Assesses the claim using some evidence which demonstrates some understanding of the topic  | 5 |
| Constructs a relevant but weak evaluation/assessment/analysis  | 4 |
| Constructs a weak evaluation/assessment/analysis  | 3 |
| Provides limited evaluation/assessment/analysis  | 2 |
| Makes general statements concerning the claim/topic | 1 |
| **Subtotal** | **/7** |
| **Conclusion** |
| Draws together the argument linking the evidence  | 3 |
| Summarises the argument  | 2 |
| Makes general/superficial statements  | 1 |
| **Subtotal** | **/3** |
| **Total** | **/25** |
| **Terms and parameters of discussion may include:*** elements of a fair electoral system – representation, accountability, stability of government
* discussion of the different electoral systems used in Australia (for each House): first past the post, preferential voting (House of Representatives), proportional voting and quotas (Senate); single and multi-member electorates
* representation
* government, minor parties, independents, micro parties, types of representation, House of Representatives, Senate
* mandates and popular sovereignty
* vote wastage, vote splitting, primary votes, preference deals, majority/minority government, electoral compromise
* one vote, one value; malapportionment; impacts

**Discussion*** Advantages and disadvantages of each type of electoral system
* WA examples – 2021 or 2025 State Elections
* Federal examples – 2022 or 2025 Federal Elections – proliferation of independents and minor parties in both Houses
* Composition of House of Representatives/Senate and/or Legislative Assembly/Legislative Council in WA
* Impact of compulsory voting and the role of the Australian Electoral Commission (AEC) in achieving fairness in Australian elections

**Assessment*** Links to the principles of fairness/key principles of liberal democracy regarding electoral systems and assesses the extent to which Australia’s electoral systems are fair/achieve fairness principles and key liberal democracy principles using specific and relevant evidence
* Considers the implications of stable government since 2010 – minority governments and slim majority governments
* May suggest reforms

**Conclusion**Draws a conclusion as to the extent to which the Australian electoral system is fair, democratic and representative |

Sample assessment task

Politics and Law – ATAR Year 11

Task 3 — Unit 1

**Assessment type:** Short Answer

**Conditions:** Answer **three** out of **four** questions. Each question is worth 10 marks

 Total marks: 30 marks

 Time for the task: 45 minutes

 In class under test conditions

**Task weighting:** 10% of the school mark for this pair of units

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

There are **four** questions. You must answer **three** questions. Write your answers in the spaces provided.

Question 1 (10 marks)

1. Describe what is meant by statute law. (2 marks)

1. Outline **three** advantages of statute law. (3 marks)

1. Identify the Committee of the Whole’s role in the legislative process of the Commonwealth (Australia) or Western Australian Parliament and explain its importance. (5 marks)

Question 2 (10 marks)

1. Outline what is meant by the term court hierarchy. (2 marks)

1. Explain the difference between binding precedent and persuasive precedent. (3 marks)

1. Discuss **one** strength and **one** weakness of court-made law. (5 marks)

Question 3 (10 marks)

1. Outline the relationship between parliament and the courts. (2 marks)

1. Explain **two** reasons why there may be a need for a judge to interpret the law. (3 marks)

1. Discuss **two** strengths of the court hierarchy in the Western Australian or Commonwealth legal system. (5 marks)

Question 4 (10 marks)

1. Outline what is meant by the term delegated legislation. (2 marks)

1. Explain **two** differences between common law and civil law systems. (3 marks)

1. Discuss **one** advantage and **one** disadvantage of using delegated legislation in a democracy.
 (5 marks)

Marking key for sample assessment task 3 — Unit 1

Question 1 (10 marks)

1. Describe what is meant by statute law. (2 marks)

|  |  |
| --- | --- |
| **Description** | **Marks** |
| Describes what is meant by statute law | 2 |
| Makes a general statement about statute law | 1 |
| **Total** | **/2** |
| **Answer could include** |
| * an Act of Parliament/legislation made by parliament
* parliament is responsible for debating bills and creating legislation
 |

1. Outline **three** advantages of statute law. (3 marks)

|  |  |
| --- | --- |
| **Description** | **Marks** |
| Outlines three advantages of statute law | 3 |
| Outlines two advantages of statute law | 2 |
| Makes a general statement about statute law | 1 |
| **Total** | **/3** |
| **Advantages could include** |
| * Parliament is the supreme lawmaking body, and it has significant resources and expertise to ensure well-crafted laws.
* Parliament is a representative body: elected members represent most of the society, thus laws are reflective of the majority’s values.
* Issues before parliament, including legislation, are made public, which allows for public debate.
* The passage of a Bill process is extensive, which aims to ensure that society’s views are debated and represented clearly.
 |

1. Identify the Committee of the Whole’s role in the legislative process of the Commonwealth (Australia) or Western Australian Parliament and explain its importance (5 marks)

|  |  |
| --- | --- |
| **Description** | **Marks** |
| **Identification** |
| Identifies the Committee of the Whole’s role in the legislative process | 2 |
| Makes a general statement about the Committee of the Whole’s role in the legislative process | 1 |
| **Subtotal** | **/2** |
| **Explanation** |
| Explains the importance of the Committee of the Whole’s role during the legislative process  | 3 |
| Outlines the importance of the Committee of the Whole’s role during the legislative process  | 2 |
| Makes a general statement/s about the importance of the Committee of the Whole’s role during the legislative process | 1 |
| **Subtotal** | **/3** |
| **Total** | **/5** |
| **Answers could include** |
| * Committee of the Whole Senate (Commonwealth) or Legislative Council (WA Parliament) involves close scrutiny of the bill, clause by clause, by the members. The committee can call for public submissions. This is the stage when any amendments to the bill are raised. It is important that proposed legislation undergoes close scrutiny and that earlier input from interested parties and experts is taken into account to ensure there are no unintended consequences arising from the proposed legislation and the legislation does what it is supposed to do.
 |

Question 2 (10 marks)

1. Outline what is meant by the term court hierarchy. (2 marks)

|  |  |
| --- | --- |
| **Description** | **Marks** |
| Outlines what is meant by the term court hierarchy | 2 |
| Makes a general statement about court hierarchy | 1 |
| **Total** | **/2** |
| **Answers could include** |
| * Courts are in a ranked order from lowest to highest (inferior, intermediate and superior). The higher courts hear the more serious cases.
* The court hierarchy allows for a division of the workload, specialisation of courts and a system of appeals of decisions made in lower courts to the higher courts.
 |

1. Explain the difference between binding precedent and persuasive precedent. (3 marks)

|  |  |
| --- | --- |
| **Description** | **Marks** |
| Explains the difference between persuasive precedent and binding precedent | 3 |
| Outlines the difference between persuasive precedent and binding precedent | 2 |
| Makes a general statement about binding and/or persuasive precedent | 1 |
| **Total** | **/3** |
| **Answers could include** |
| * Binding – lower courts must follow precedent set in higher courts of the same court hierarchy if the cases are significantly similar.
* Persuasive – courts do not have to follow the precedent set by a lower court or a court at the same level or one outside the court hierarchy (e.g. state not federal court or an overseas court) but they may be influenced by this decision.
 |

1. Discuss **one** strength and **one** weakness of court-made law. (5 marks)

|  |  |
| --- | --- |
| **Description** | **Marks** |
| Discusses one strength and one weakness of court-made law | 5 |
| Outlines one strength and one weakness of court-made laworDiscusses one strength/weakness of court-made law and states one strength/weakness of court made lawOrDiscusses one strength or one weakness of court-made law | 3–4 |
| States one strength and/or one weakness of court-made law | 1–2 |
| **Total** | **/5** |
| Strengths include:* Law can be changed quickly once relevant case arises.
* Courts are free from political pressure and can make law regarding controversial matters without the fear of voter backlash.
* It provides flexibility – the law doesn’t become too rigid.
* It can fill gaps in law left by legislation by parliament.

Weaknesses include:* Courts need to wait for a new case to arise to make law.
* Judges often take a conservative approach and prefer to leave lawmaking to the parliament.
* Courts may be bound by outdated precedent, and this may lead to unjust rulings.
* Courts can only make law on the case before them.
 |

Question 3 (10 marks)

1. Outline the relationship between parliament and the courts. (2 marks)

|  |  |
| --- | --- |
| **Description** | **Marks** |
| Outlines the relationship between parliament and the courts | 2 |
| Makes a general statement about parliament and the courts | 1 |
| **Total** | **/2** |
| **Answer could include** |
| * Parliament is the supreme lawmaking authority through being elected by the people while judges are not.
* Courts can make common law to fill the gaps in the laws made by parliament, but parliament can pass a law that can override the common law made by courts.
* Parliament can incorporate common law principles within legislation, which is known as codification, or parliament can abolish common law principles that it disagrees with.
 |

1. Explain **two** reasons why there may be a need for a judge to interpret the law. (3 marks)

|  |  |
| --- | --- |
| **Description** | **Marks** |
| Explains two reasons why there may be a need for a judge to interpret the law | 3 |
| Explains a reason why there may be a need for a judge to interpret the laworStates two reasons why there may be a need for a judge to interpret the law | 2 |
| Makes general statement about why there may be a need for a judge to interpret the law | 1 |
| **Total** | **/3** |
| **Answers could include any two of the following** |
| * The Statute law may have issues in its drafting; there may be inconsistencies and contradictions in the law.
* There may be problems with the wording/definitions; a word can have several meanings, and a judge may need to specify a particular meaning for a word in the Act.
* The intention of the Act may not be clearly expressed; the meaning of words can change over time.
* There may be inconsistencies with other statutes.
* The Act may not include new technologies.
 |

1. Discuss **two** strengths of the court hierarchy in the Western Australian or Commonwealth legal system. (5 marks)

|  |  |
| --- | --- |
| **Description** | **Marks** |
| Discusses two strengths of the court hierarchy in the Western Australian or Commonwealth’s legal system | 5 |
| Outlines two strengths of the court hierarchy in the Western Australian or Commonwealth’s legal systemorDiscusses one strength of the court hierarchy in the Western Australian or Commonwealth’s legal system and states one strengthor Discusses one strength of the court hierarchy in the Western Australian or Commonwealth’s legal system | 3–4 |
| Makes a general statement about a strength of the court hierarchy in the Western Australian or Commonwealth’s legal system | 1–2 |
| **Total** | **/5** |
| **Answers could include any two of the following** |
| * Court hierarchies enable cases to be allocated according to their severity or financial costs.
* Court hierarchies enable courts to develop expertise in cases involving greater factual and legal complexity.
* Superior courts that hear appeals are staffed by the most experienced judges who are able to deal with the complex points of law.
* Specialist appeals courts are made unnecessary by the court hierarchy and system of appeals.
 |

Question 4 (10 marks)

1. Outline what is meant by the term delegated legislation. (2 marks)

|  |  |
| --- | --- |
| **Description** | **Marks** |
| Explains what is meant by the term delegated legislation | 2 |
| Makes a general statement about delegated legislation | 1 |
| **Total** | **/2** |
| **Answers could include** |
| * Also known as subordinate or subsidiary legislation. This is where the authority to make laws is given to a department or statutory authority; for example, the Water Corporation.
* Delegated (or subordinate or subsidiary) legislation refers to those laws made by persons or bodies to whom parliament has given/authorised lawmaking authority.
 |

1. Explain **two** differences between common law and civil law systems. (3 marks)

|  |  |
| --- | --- |
| **Description** | **Marks** |
| Explains two differences between common law and civil law systems | 3 |
| Explains one the difference between common law and civil law systems orOutlines two differences between common law and civil law systems | 2 |
| Makes a general statement about common law and civil law systems | 1 |
| **Total** | **/3** |
| **Answers could include** |
| * Common law systems apply the doctrine of precedent – when a court decides about a case, that decision becomes a part of the law of the country. Judges look to past cases and precedents to resolve a case. Whereas civil law systems do not have a system of precedent and as a result civil law systems are not bound by the decisions of courts at the same level or higher.
* Common law systems are adversarial in nature whereas civil law systems are inquisitorial in nature.
* In civil law systems, the judges may dominate the hearing to such an extent that lawyers are left with few questions to ask at all.
 |

1. Discuss **one** advantage and **one** disadvantage of using delegated legislation in a democracy.
 (5 marks)

|  |  |
| --- | --- |
| **Description** | **Marks** |
| Discusses one advantage and one disadvantage of using delegated legislation in a democracy | 5 |
| Outlines one advantage and one disadvantage of using delegated legislation in a democracy orDiscusses one advantage or disadvantage of using delegated legislation in a democracy and states one advantage or disadvantageorDiscusses one advantage or disadvantage of using delegated legislation in a democracy | 3–4 |
| Makes a general statement about using delegated legislation in a democracy | 1–2 |
| **Total** | **/5** |
| Advantages include:* Since parliament has limited time, minor issues can be dealt with using delegated legislation. Enables minor changes to statutes, e.g. variations in sentences, approval of motor vehicle changes.
* Experts with local knowledge are better placed to make the law. Members of Parliament (MPs) often lack detailed or technical knowledge.
* It can enable a quick response to new developments, e.g. terrorism. Allows for dealing with emergencies on behalf of society.
* It allows for flexibility. Withdrawal or amendment of delegated legislation is easier.

Disadvantages include:* Unelected officials are creating laws for the community. They are not accountable for the regulations made as they are not elected officials.
* Too many regulations make it hard for people to know the law (ignorance of the law is no defence). Sheer volume causes complexity – it is impossible for anyone to keep abreast of all delegated legislation.
* It can lead to additional workload for the courts regarding disputes about delegated legislation.
* It implies that parliament has insufficient time to scrutinise the issue. Parliament is not reviewing legislation properly.
 |

Resources list

Australian Electoral Commission (2024).

<https://www.aec.gov.au/>

BBC news (2024). *What is the Electoral college, and how does it work?*, (6 November, 2024)

<https://www.bbc.com/news/world-us-canada-53558176>

King, S. (2020). *Democracy and Justice: WACE Politics and Law ATAR Units 1 & 2 Revised Edition (2020)*. South Perth, Australia: Political and Legal Educators Association of Western Australia (Inc.)

National Archives (USA) (2024). *What is the Electoral College?*

<https://www.archives.gov/electoral-college/about>

Parliamentary Education Office (2019).

<https://peo.gov.au/>

Parliament of Australia (2024).

<https://www.aph.gov.au/>

Parliament of Western Australia (2024). <https://www.parliament.wa.gov.au/WebCMS/WebCMS.nsf/index>

Parliament of Western Australia (2024). *Teacher and student workbooks*

<https://www.parliament.wa.gov.au/WebCMS/webcms.nsf/content/visit-and-learn-educators-and-students-teacher-and-student-workbooks>

The Conversation *2024).US election: how does the electoral college voting system work? (5 November 2024)*

<https://theconversation.com/us-election-how-does-the-electoral-college-voting-system-work-242283>

The Law Society of Western Australia *(2024). Education Resources*

<https://lawsocietywa.asn.au/community/francis-burt-law-education-programme/educational-resources/>

USAgov (2024). *Electoral College*

<https://www.usa.gov/electoral-college>

USAgov (2024). *Voting and elections*

<https://www.usa.gov/election>