



Day 1 Session 5

Teaching Students to Evaluate The Effectiveness Of The Legal System

Themes Of Legal Studies

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

Justice, law and society

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

Continuity and change

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

Culture, values and ethics

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

Legal process and institutions

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

Conflict and cooperation

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

Effectiveness of the legal system

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

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

Brian Elliott - Moorebank High and Vicki Andrews - Mitchell High

What Does The Legal Studies Syllabus Tell Us About The Meaning Of Effectiveness?

The Following Statement is contained in All Focus Studies

Effectiveness of the Law

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

The key questions in each section of the syllabus also give us information about higher order thinking students must undertake.

Key Questions/Issues – Law And Justice

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

Key Questions/Issues – Human Rights

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

Key Questions/Issues - Crime

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

Key Questions/Issues - Consumers

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

Key Questions/Issues - Family

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

Questions From 2003 HSC

Section I

Assess the effectiveness of domestic and international legal measures in protecting human rights.

6

Section II – Crime

(c) With reference to Toney and/or Sam, assess the effectiveness of the legal system in dealing with international crime.

8

(d) ‘Criminal penalties always reflect community standards and expectations.’ Evaluate this statement.

10

Section III- Additional Focus Studies (Family)

(a) ‘Compliance with the law is necessary to achieve justice for all.’ Evaluate this statement in relation to issues of compliance and non-compliance for consumers.

25

OR

(b) Evaluate the effectiveness of the law relating to consumers in achieving justice for the individual and justice for society.

25

Marking Guidelines

Question 19 — Optional Focus Study 2 – Family

(b)

Outcomes assessed: H1.1, H3.1, H3.3, H3.4, H5.3

MARKING GUIDELINES

Criteria	Marks
<ul style="list-style-type: none"> • Makes a conclusive judgement about the effectiveness of the law based on specific criteria relating to the family in achieving justice for the individual • Makes a conclusive judgement about the effectiveness of the law based on specific criteria relating to the family in achieving justice for society • Integrates relevant legislation and/or cases and/or documents and/or treaties and/or media reports into the response • Presents a sustained, logical and well-structured answer using relevant legal terminology 	21–25
<ul style="list-style-type: none"> • Makes a judgement about the effectiveness of the law using some criteria relating to the family in achieving justice for the individual • Makes a judgement about the effectiveness of the law using some criteria relating to the family in achieving justice for society • Uses relevant legislation and/or cases and/or documents and/or treaties and/or media reports in the response • Presents a logical and well-structured answer using relevant legal terminology 	16–20
<ul style="list-style-type: none"> • Makes statements about the effectiveness of the law relating to the family in achieving justice for the individual • Makes statements about the effectiveness of the law relating to the family in achieving justice for society • Cites some relevant legislation and/or cases and/or documents and/or treaties and/or media reports in the response • Presents a structured answer using relevant legal terminology 	11–15
<p>Identifies legal matters relating to family members and the individual and justice AND/OR</p> <ul style="list-style-type: none"> • Identifies legal matters relating to family members and society and justice • Makes limited reference to legislation and/or cases and/or documents and/or treaties and/or media reports • Uses some appropriate legal information with limited examples 	6–10
<ul style="list-style-type: none"> • Makes a general statement about the law relating to the family • May make limited reference to legislation and/or cases and/or documents and/or treaties and/or media reports • Limited use of legal information/terms 	1–5

Bloom's Taxonomy of Learning Objectives

Evaluation	<p>Critical thinking which focuses upon valuing and making judgements based upon information. Behavioural verbs often linked with this level are: Assess, recommend, critique, evaluate, criticize, weigh, and value.</p> <p>Example: The student will critique a classroom teacher's questioning behaviour for critical thinking elements.</p>
Synthesis	<p>Critical thinking which focuses upon putting parts together to form a new and original whole. Behavioural verbs often linked with this level are: Invent, create, combine, hypothesize, plan, originate, add to, imagine, and forecast.</p> <p>Example: The student will create a lesson plan in which Bloom's Taxonomy of Learning Objectives are taught.</p>
Analysis	<p>Critical thinking which focuses upon parts and their functionality in the whole. Behavioural verbs often linked with this level are: Analyse, compare, categorize, take apart, differentiate, examine, subdivide, distinguish and contrast.</p> <p>Example: The student will distinguish which level of Bloom's Taxonomy of Learning Objectives is implied in a list of ten learning objectives.</p>
Application	<p>Focuses upon applying information according to a rule or principle in a specific situation. Behavioural verbs often linked with this level are: Solve, choose, interpret, make, put together, change, apply, produce, translate, and construct.</p> <p>Example: The student will construct six learning objectives, one from each level of Bloom's Taxonomy of Learning Objectives.</p>
Comprehension	<p>Focuses upon relating and organizing previously learned information. Behavioural verbs often linked with this level are: explain, relate, generalize, predict, summarize, paraphrase, restate, convert, and demonstrate.</p> <p>Example: The student will explain Bloom's Taxonomy of Learning Objectives in his or her own words.</p>
Knowledge	<p>Focuses upon the remembering and reciting of information. Behavioural verbs often linked with this level are: identify, list, label, name, recall, define, locate, recognize, match, and reproduce.</p> <p>Example: The student will list the six levels of Bloom's Taxonomy of Learning Objectives in ascending order.</p>

Strategies To Assist High Order Thinking In Your Classroom

Use More Divergent Questions and Less Convergent Questions

Convergent questions seek to ascertain basic knowledge and understanding. Divergent questions require students to process information creatively. Convergent questions tend to align with the first three levels of Blooms Taxonomy of Learning Objectives while divergent questions relate to the latter three levels

Avoid "Yes" and "No" Questions

Questions eliciting thoughtful wording and construction are most likely to produce higher-level thinking on the part of the student to the benefit of the classroom. Scenarios and questions calling for the learner to construct meaning and establish mental connections tend to insure critical thinking. Because critical thinking takes time, teachers should allow learners a few moments to formulate their answers.

Socratic Questioning

From the 4th Century, B.C. Socrates engendered critical thinking through thoughtful questioning. Socrates was adept at posing questions that challenged his learners' statements. Socratic questions stimulate interaction between the teacher and learner and challenge the learner to defend his or her cognitive position. Example: "You believe one should always be truthful. What if telling a falsehood would save another person's life? Is truth nobler than life?"

Give up One-at-a-time Questioning

Teachers who neglect cooperative engagement miss a valuable accountability tool and waste time. The average teacher tends to teach a concept, ask various individuals assessment type questions, and then provides corrective feedback to the individuals supposedly for the benefit of the class. Those not directly engaged in the discussion have a tendency to disengage. In a class of 20 learners this inevitably leads to the probable engagement of 1/20th of the class at one time. If learners are asked to share responses with one or more learners and then report, engagement reaches one hundred percent!

Personal Check-Up

Answer the following questions.

Are your teaching objectives, activities, and assessments are tied to higher-level behavioural verbs?

2. Do *all* learners have the opportunity to interact with you and others?

3. Do you allow time in your course for debating?

4. Do your learners have to use inductive and deductive strategies?

5. Do you find yourself using "shock" statements and questions to get learners' minds running?

If you could say "yes" to most of these questions, critical thinking is probably happening in your classroom.

Reference: Encouraging Achievement - Gifted Education Resources

<http://www.eddept.wa.edu.au/Gifttal/EAGER/Bloom%27s%20Dara%20Wakefield.html>

Pity the poor kids of loser dads

By Adele Horin

March 27, 2004

Deadbeat dads don't pay child support. They minimise their taxable income to cheat their kids. They throw in jobs to become "self-employed" to hide their real incomes. They live on the dole instead of getting a job. They'll do anything to reduce their earnings and thus their child support liabilities.

Deadbeat dads are full of hatred, vengeance and spite. They plunge their kids into poverty, or deny them middle-class comfort, just to punish their former partners. These men exist, for sure. You may know one who lives in middle-class suburbia, where tax minimisation is as ubiquitous as four-wheel drives - and perfectly legal.

It turns out, though, the villains are a small minority. The story of family breakdown, and who pays, is complicated. Most separated fathers pay little child support or none at all. But, according to new data, that's because they are broke. That's the message from the Child Support Agency, which has 90 per cent of Australia's separated parents on it books, and thus can claim to be representative.

Path-breaking research it has done indicates most separated dads are drawn from the ranks of the poor and low-paid. Better-off couples are more likely to stick together.

According to the authors, Jerry Silvey, of the Child Support Agency, and Bob Birrell, of Monash University, more than 40 per cent of the separated fathers in 2001 were unemployed, or in marginal jobs on incomes below \$15,600. Overall, almost 70 per cent of separated fathers earned less than \$32,000.

And most appear not to be fiddling the accounts, the researchers say, after tracking the men's tax records. The fathers aren't pretending to be struggling - they genuinely are.

Find this story hard to believe? Let's go along with it for the moment. Let's take off the middle-class blinkers and accept the data as further evidence of the

existence of "two Australias". Low-income Australian parents not only experience material deprivation. But they also suffer a higher rate of unstable relationships and family breakdown.

Let's ignore the mere 9.6 per cent of separated fathers registered with the agency who have incomes over \$52,000 and focus on the vast majority with incomes under \$32,000.

By this analysis, these dads aren't deadbeat - just two-time losers. These men have missed out on jobs, a share in Australia's prosperity and on stable family life.

They are part of Australia's growing underclass. Some of these fathers are the young seed-and-leave kind who move from one de facto relationship to the next; others are fathers trapped in long-term unemployment, or semi-employment; some are the marginalised blokes women kick out of the house soon after they've borne their children.

It is understandable that relationships buckle under financial strain. The divorce rate of low-income men is more than twice that of their better-off counterparts. On top of that, according to Birrell, divorce rates are rising among the low-income groups while stabilising among the better off.

This growing underclass of poorly paid men goes a long way to explain why so many separated fathers pay so little child support. But it might not be the whole story. Both women and men have pointed out to me other factors that might contribute.

For example, the new image of separated father as "loser" might be no more accurate than the old one of "deadbeat". The new research implies separated fathers are perpetually poor because they are hopeless cases, or economic casualties. But it could be some men don't find it worthwhile to work, or to increase their income, because working, or working harder,

makes them no better off after they have paid the required level of child support. They face very high marginal tax rates.

A (male) policy analyst argued to me that the child support formula was unfair and had a disincentive effect. (You pay 18 per cent on income over \$11,500 for one child.) It's the formula that is flawed, not the fathers, he said.

Indeed the agency's own figures show one in three separated fathers on incomes of \$31,000 to \$52,000 in 1997 had slipped into a lower income bracket after four years of paying child support. It might be due to deliberate income minimisation, job loss through depression, relocation or that these fathers figure the child support impost for full-time work is too high.

On the other hand, women told me the research doesn't adequately take into account the perfectly legal ways in which men can minimise their taxable income through self-employment, trusts, negative gearing and so on. And separated fathers who think it's not worthwhile to work, or to work hard, aren't acting like other fathers who want to give their kids the benefits of extra money. As well, with about 700,000 fathers registered with the agency, even a small proportion of middle-class deadbeats amounts to a significant number of blokes in four-wheel drives cheating on their kids.

The new research is unlikely to be the last word on child support. As tough as it is for many fathers, it is clear from the data that tens of thousands of children living with their mothers are in dire financial straits. The Federal Government should keep its focus on them. Whatever action it takes to help low-income fathers should not be at the expense of the children.

These kids need all the help they can get - from government benefits and parental earnings - to escape the bottom tier in the "two Australias".

This story was found at: <http://www.smh.com.au/articles/2004/03/26/1079939846222.html>

How can you use this article to promote evaluation of the effectiveness of the legal system?