

Legal Studies: Human Rights – HSC Questions/Study Sheet

2015 QUESTIONS

Define Environmental Rights. (2 marks)

Environmental rights are the rights to live with the full enjoyment of our environment, free from issues such as climate change and pollution. It is required so that all other human rights can be adequately exercised. These rights have been recognised in the 2012 Rio+20 Summit where a document on sustainability was developed. Almost 1500 treaties recognise this right.

Explain how ONE non-legal response assists in the protection of human rights. (5 marks)

The media is a non-legal response that assists in the protection and promotion of human rights. The media is a mechanism for raising global awareness on human rights injustices. It has the power to change public opinion and instigate law reform as it places pressure on government to change legislation. For example, the SBS 4 Corners documentary "Sex Slavery" created large-scale awareness of human trafficking in Australia and promoted the issue. Additionally, the abolition of the death penalty in Victoria 1975 was influenced by media campaigns. In this way, the media plays a crucial role in protecting and promoting human rights internationally and domestically.

Using an example, explain how Human Rights are incorporated into Australian Domestic Law?

Following the signing of an international treaty such as the International Covenant on Civil and Political Rights, human rights are incorporated into Australian domestic law through the ratification of legislation. Domestically, they are incorporated through statute law, common law, and the Constitution. Statute Law is the main way in which human rights are protected in Australia when the government enacts legislation through the ratification of international treaties e.g. the Racial Discrimination Act (NSW) 1997 was created following the signing of the Convention on the Elimination of all Forms of Racial Discrimination (1963). Common law has the ability to be interpreted and apply laws on Human Rights cases. An example of a common law right is the right to a fair trial. The Constitution also has express rights such as the right to vote and the right to the acquisition of property. It can also be incorporated when the High Court discovers implied rights in the Constitution such as the right to vote (Roach v Electoral Commission). In this way, human rights have been incorporated into Australian Law through referendums, common law interpretations and statute law legislations.

With Reference to ONE contemporary Human Rights issue, explain how issues of compliance and non-compliance affect the protection of human rights? (7 Marks)

Issues of compliance and non-compliance affect the protection of human rights in regards to human rights internationally. The principle of state sovereignty plays a considerable role in this issue because it allows countries to make their own decisions without outside interference. This can be extremely negative in terms of non-compliance as countries who are not enforcing international treaties that they have ratified can justify this non-compliance under state sovereignty. For example, 169 countries have ratified the *Palermo Protocol* but there is no way to ensure all of these countries are protecting the human right against trafficking because of state sovereignty. In contrast, compliance in the protection of human rights including human trafficking can be protected through the concept of state sovereignty. This principle allows countries to enact international treaties into domestic legislation, which therefore protect the human right against trafficking. For example, Australia ratified the *Palermo Protocol* into domestic legislation through the *Criminal Code* which makes trafficking and slavery in persons a crime, therefore protecting human rights.

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Mel Dixon, Kate Murphy, Amy Hughes

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