Developing legal issues

In Legal Studies, the investigation of legal issues is the focus for inquiry-based learning, providing students with opportunities to learn using real, relevant and authentic contexts. Inquiry-based learning is a process and a way of thinking employed when investigating legal issues. It is an effective strategy for:

- the development of higher-order thinking skills, including analysing, evaluating and justifying
- increasing student involvement and ownership of the investigation of legal issues and problems
- embedding effective teaching and learning principles in Legal Studies
- recognising and catering for difference, in both school location and student interests.

Legal issues could be used as a basis for developing units of work, individual student learning tasks, group learning tasks or assessment items. Legal issues (see Table 1) could be developed from topical, relevant issues through the use of:

- a key question or series of questions
- hypotheses to be tested
- a problem or problems to be solved.
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<th>Area of study</th>
<th>Focus question and statement</th>
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| **The legal system** | *How does the Australian legal system meet society’s needs?*  
The law is part of daily life. It establishes rights and responsibilities to regulate how individuals and groups behave in society.  
The law is constantly changing to reflect values within society. Informed and active citizens should understand and respect the law, reflect on laws and seek change to benefit society. | • How effectively does the court hierarchy impede or protect human rights?  
• How effectively does the court hierarchy assist the operation of justice?  
• Why are legal ages important in society?  
• The rights and responsibilities of individuals are dependent upon income or status.  
• The legal system protects the accused at the expense of the victim.  
• The Westminster system of government is not followed in Queensland.  
• The separation of powers does not exist in the Australian version of Westminster.  
• How effective is the separation of powers doctrine in preventing abuse of power?  
• Does the high court go too far in the interpretation of the Constitution?  
• Are juries effective? What influence do social media have on juries?  
• Who should be part of a jury? |
| **Human rights** | *Does the Australian legal system adequately protect and enforce individual rights?*  
The legal and political provision of individual rights creates responsibilities for individuals and society. Australian law attempts to balance the rights and responsibilities of the individual with the best interests of the greater community. | • Why should Australia have a Bill of Rights?  
• A person’s legal rights would be better catered for if a Bill of Rights were included in the Australian Constitution.  
• What reforms should be made to the Australian Constitution?  
• The Australian Government should protect the rights of all Australian citizens, even if they are held for a crime in another jurisdiction. |
| **Introduction to civil obligations** | *How do civil agreements and the laws of negligence impact on citizens in a society?*  
The law regulates private interactions between citizens in society, both planned (contract) and unplanned (negligence). The law imposes elements for a contract to be valid and for a negligence claim to be successful. Both the common law and statutory protection provide stakeholders with remedies. | • Agreements help the operation of a self-regulating social order.  
• Poor financial planning has legal ramifications.  
• How has society been impacted by the increase of litigation?  
• Statute law limits compensation rights of victims.  
• What is ‘reasonable foreseeability’? Has it gone too far?  
• What are exclusion clauses and what protection can they offer stakeholders?  
• To what extent has caveat emptor been replaced by caveat venditor?  
• Is the standard of proof in a civil case high enough?  
• Should people injured when committing crimes be entitled to civil remedies?  
• Volenti defence to negligence — is that acceptable?  
• The current negligence laws limit individual responsibility. |
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| **Criminal law**     | *To what extent does the criminal justice system successfully balance the rights of individuals with society’s need for order?*  
Criminal law attempts to balance the rights of individuals to freedom from interference with person or property, and society’s need for order. Procedural matters, the rights of citizens and powers of the state, specific offences and defences, and punishment and compensation are some of the ways society and the criminal justice system interact. | • Sentencing laws effectively reflect community attitudes and values.  
• How effectively do laws identifying victimless crimes perform a social function?  
• Does the adversary system provide for just outcomes?  
• Mandatory sentencing should be introduced in Queensland.  
• The defence of provocation is not acceptable in cases of murder.  
• How much should we factor customary law into western law?  
• Does the adversarial system provide a fair trial in a criminal context?  
• How does the criminal legal system cope with technology in the courtroom in ensuring a fair trial? |
| **Civil wrongs** (torts) and the law | *How do civil wrongs (torts) impact on citizens in society?*  
Society requires individuals to make reparations for harm inflicted carelessly or intentionally. A variety of torts seek to protect individual interests as a result of the acts or omissions of others. | • Australian’s current defamation laws give citizens appropriate freedom of speech.  
• Are there exceptions under the Civil Liability Act?  
• To what extent is the Civil Liability Act reducing the number of frivolous negligence claims?  
• How effectively does the concept of duty of care promote litigation?  
• Is there a balance between the rights and responsibilities of the individual and the community with respect to the law of torts and defamation?  
• Should ‘absolute privilege’ be granted to parliamentarians? |
| **Employment and the law** | *How does the legal system attempt to balance the rights and responsibilities of employer and employee?*  
The legal system attempts to balance the interests of employers and employees. Salaries, wages and conditions for employment are determined through an interaction between government policy, employers, employees and the community. | • What relevance or role do unions play in the workplace today?  
• Unfair dismissal laws fairly balance the rights of the employer and employee.  
• Is there a need for awards and minimum wages in the legal system?  
• Does the law favour the rights of the employee and employer?  
• Should the employee have the right to withdraw their labour?  
• To what extent has the Fair Work Act restored the balance between the employee, employer and the union?  
• Should Australian employers be able to employ temporary migrant workers over Australian workers? |
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<td>Environment and the law</td>
<td><em>Does the law effectively balance the needs of the environment with the economy and society?</em></td>
<td>• Is the law effective in protecting the environment? &lt;br&gt; • Should Australia meet international conventions for reducing greenhouse gases? &lt;br&gt; • To what extent is Australia’s federal system a hindrance to environmental stewardship? &lt;br&gt; • To what extent do Australia’s international obligations balance with state rights? &lt;br&gt; • Has Australia’s historically based agricultural economy impacted on modern-day environmental legislation issues?</td>
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<td>Family and the law</td>
<td><em>How does the law recognise and regulate family relationships?</em></td>
<td>• De facto relationships should have equal recognition with de jure relationships. &lt;br&gt; • Should the common law definition of marriage be altered? How and why? &lt;br&gt; • Are courts an effective means of resolving family disputes? &lt;br&gt; • Divorce is too easy. &lt;br&gt; • Parents should be held accountable for the actions of their children. &lt;br&gt; • Commercial surrogacy should be legalised in Australia. &lt;br&gt; • Who should have access to IVF in Australia? &lt;br&gt; • Should the Australian legal system recognise marriages legally entered into overseas? &lt;br&gt; • Women are favoured in family court disputes.</td>
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<td>Housing and the law</td>
<td><em>How does the law regulate buying, selling and renting of real property?</em></td>
<td>• Legal issues associated with schoolies week accommodation. &lt;br&gt; • Legislation is unfairly tilted towards tenants. &lt;br&gt; • The state should have the right to resume land for public benefit. &lt;br&gt; • Who should have the legal right to complete conveyancing? &lt;br&gt; • How does the law provide for shelter for all citizens? &lt;br&gt; • Is the ‘tenancy black list’ an effective means of protecting lessor rights?</td>
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| Indigenous Australians and the law | How effective is the legal system in achieving justice for Aboriginal and Torres Strait Islander peoples? | • To what extent should Indigenous people be tried in a specialised court?  
• There should be a broader range of rights for Indigenous people.  
• Australia’s court system should not recognise Indigenous customary law.  
• Government interventions remove the right of communities to self-determination.  
• Evaluate the effectiveness of the Murri court in dealing with Indigenous issues.  
• Is the Northern Territory intervention a breach of Indigenous human rights? |
| International law             | How effective is the legal system in promoting peace and resolving conflict within and between nation states? | • Does international law exist?  
• Is the UN a ‘toothless tiger’?  
• How does choice of laws apply to cases of child custody?  
• Are international treaties powerless to preventing countries from acting (e.g. whaling)?  
• Australian citizen rights in other countries. |
| Sport and the law             | What influence does the law have on sport?                                                                 | • Sporting values are being lost in the increasing commercialisation of sport.  
• Discipline should be limited to the individual sporting bodies.  
• What happens on the field should stay on the field.  
• To what extent should the law impact on sport?  
• Should society demand or expect a higher level of responsibility of actions from sporting identities than from other citizens?  
• To what extent should the law impinge on the sporting field?  
• Current systems of drug regulation are failing. |
| Technology and the law        | How does the law keep pace with technological developments?                                         | • How should the internet be regulated?  
• What is the role of the law in addressing emerging technological issues and enforcing rights?  
• Censorship — how far should it be controlled?  
• Social networking sites should be controlled.  
• How do social media impact on freedom of speech? |