

**PUBLIC LAW
MODEL EXAM**



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IRAC method of completing exams

- Issues** - Outline the issues that you are going to discuss.
- Rules** - Define the legal rules that are relevant to the question.
- Application** - Apply the legal rules to the facts of the question (this is the hard part!).
- Conclusion** - Tie things up, usually in the form of an advice to your hypothetical client.

Always use your reading time wisely to **PLAN YOUR ANSWER** before writing. This is of utmost importance as it will help you clarify your thoughts and ensure that you avoid following desperate exam strategies that unprepared students commonly resort to, such as:

- i) 'the kitchen sink' i.e. spilling all of your knowledge that is vaguely related to the topic onto the exam paper and hoping for the best.
- ii) 'the garden path' i.e. going off on an irrelevant tangent

Remember that the **APPLICATION IS THE MOST IMPORTANT SECTION** of your answer and should take up the bulk of your time. The actual conclusions you reach are often superfluous. Rather, your marker will be most interested in *how you arrived* at your conclusion.

Question One

Discuss AV Dicey's three meanings of the doctrine of the Rule of Law and how this applies today under New Zealand's constitutional structure.

In your answer:

- refer to relevant case law;
- indicate how the powers of the courts under judicial review promotes the meaning of the rule of law; and

Question Two

It is difficult to define the concept of human rights as they may be viewed differently depending on social, economic, cultural and various other factors. Context is important. It was stated by Brennan J in *Ferhardy v Brown* (1985) that "an attempt to define human rights and fundamental freedoms exhaustively is bound to fail...religious, cultural and political systems would attribute differing contents to the notions of freedom and dignity..."¹

The Human Rights Act was introduced under the Race Relations Act 1971 and the Human Rights Commission Act 1977.

Question Three

In 2009 Carl Badweathers lawyer Andy McDowall successfully defended a murder charge using the defence of provocation. His success has sparked a number of heated debates within society and in the house over whether the defence of provocation should

¹ Brennan J, *Ferhardy v Brown* (1985) 159 CLR 70 in Blackshield & Williams, *Australian constitutional Law & Theory: Commentary & Materials* (Federation Press, 2006), 1187.

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be maintained under New Zealand law. Anna Worker is an MP for the 'Friends of the Environment' party (the FEP) which took the view against the defence of provocation. In one particularly heated debate Anna described Carls lawyer Andy as a 'blithering idiot, the fact that he even put provocation forward as a defence in this case shows that he is morally incompetent and has no ethical backbone...' She was eventually silenced by the speaker.

Anna was confronted on the steps of the house by media who challenged her statements. She says 'sure I was silenced by the speaker, but I still stand by what I said.' She says nothing else and leaves.

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