

Philosophy & Reason 2019 v1.2

IA3: Sample assessment instrument

Extended response — analytical essay (25%)

This sample has been compiled by the QCAA to assist and support teachers in planning and developing assessment instruments for individual school settings.

Student name

Student number

Teacher

Issued

Due date

Marking summary

Criterion	Marks allocated	Provisional marks
Defining, using and explaining	8	
Interpreting and analysing	7	
Organising, synthesising and evaluating	7	
Creating and communicating	3	
Overall	25	

Conditions

Technique	Extended response — analytical essay
Unit	Unit 4: Social and political philosophy
Topic/s	Topic 1: Rights
Duration	Approximately 15 hours of the time allocation for Unit 4
Mode/length	Written: 1500–2000 words
Individual/group	Individual

Context

A generally agreed upon right is the right to feel safe as we go about our daily business — excluding people whose job it is to be in harm's way at times, such as police and firefighters. However, these people also have the right to be as safe as possible in the course of their work.

The issue then arises that some people in Australia, as in other countries such as the United States of America, believe that personal gun ownership is one way to optimise personal safety. However, others feel that widespread gun ownership within society contributes to individuals feeling unsafe, and hence infringes on the rights of all to feel safe.

Task

To what extent is an individual's right to personal safety able to be upheld through government control of personal gun ownership in Australia? Present your response in the form of an analytical essay that draws on the provided stimulus material, as well as your knowledge and understanding of social and political philosophy.

To complete this task, you must:

- use terminology related to rights, social and political philosophy, and logical reasoning
- explain, interpret and analyse philosophical concepts, principles, theories and arguments relevant to the issue
- construct philosophical arguments related to the issue using ideas and information on rights
- evaluate philosophical theories and views to justify claims and arguments related to the issue
- ensure that the provided stimulus material is used within your response
- adhere to the genre conventions of an analytical essay, including language and referencing conventions.

Checkpoints

- (at approximately 3 of 15 hours) — initial planning check
- (at approximately 7 of 15 hours) — second progress check
- (at approximately 12 of 15 hours) — draft due
- (at approximately 15 of 15 hours) — final submission due

Authentication strategies

- The teacher will provide class time for task completion.
- Students will provide documentation of their progress at indicated checkpoints.
- The teacher will collect and annotate one draft.
- The teacher will conduct interviews or consultations with each student as they develop the response.
- Students will use plagiarism-detection software at submission of the response.
- Students must acknowledge all sources.

Instrument-specific marking guide (IA3): Extended response — analytical essay (25%)

Criterion: Defining, using and explaining

Assessment objectives

1. define and use terminology relating to rights in order to demonstrate an understanding of meaning
2. explain concepts, methods, principles and theories relating to rights

The student work has the following characteristics:	Marks
<ul style="list-style-type: none"> • astute understanding of meaning demonstrated by employing the terminology of rights • consistent and appropriate use of terminology relating to rights • detailed descriptions and explanations of concepts, methods, principles and theories relating to rights that are correct in all key aspects. 	7–8
<ul style="list-style-type: none"> • substantial understanding of meaning demonstrated by employing the terminology of rights • generally appropriate use of terminology relating to rights • detailed descriptions and explanations of concepts, methods, principles and theories relating to rights that are correct in most key aspects. 	5–6
<ul style="list-style-type: none"> • basic understanding of meaning demonstrated by employing the terminology of rights • use of terminology relating to rights • descriptions and explanations of concepts and principles relating to rights are evident, but with some inaccuracies or omissions. 	3–4
<ul style="list-style-type: none"> • use of the terminology of rights is evident, but not sufficient • identifies some concepts and/or principles relating to rights • significant inaccuracies in descriptions and explanations of concepts and/or principles relating to rights are evident throughout the response. 	1–2
<ul style="list-style-type: none"> • does not satisfy any of the descriptors above. 	0

Criterion: Interpreting and analysing

Assessment objectives

3. interpret and analyse arguments, ideas and information relating to rights

The student work has the following characteristics:	Marks
<ul style="list-style-type: none">• detailed and informed interpretation of significant ideas and information relating to rights• detailed and accurate deconstruction of relevant arguments relating to rights• determination of relevant and significant relationships within and between ideas, arguments and theories on rights.	6–7
<ul style="list-style-type: none">• interpretation of significant ideas and information relating to rights• considered deconstruction of relevant arguments relating to rights• determination of most relevant and significant relationships within and between ideas, arguments and theories on rights.	4–5
<ul style="list-style-type: none">• interpretation of ideas and information relating to rights• partial deconstruction of relevant arguments relating to rights• determination of some relationships within and between ideas, arguments and theories on rights.	2–3
<ul style="list-style-type: none">• simplistic interpretation of ideas and information relating to rights• ineffective deconstruction of arguments relating to rights• determination of superficial relationships within and between ideas, arguments or theories on rights throughout the response.	1
<ul style="list-style-type: none">• does not satisfy any of the descriptors above.	0

Criterion: Organising, synthesising and evaluating

Assessment objectives

- organise and synthesise ideas and information to understand, engage with and construct arguments relating to rights
- evaluate claims and arguments inherent in theories, views and ideas relating to rights

The student work has the following characteristics:	Marks
<ul style="list-style-type: none">coherent and thorough synthesis of ideas and information relating to rights in which all key aspects have been considered and resolvedinsightful and justified evaluation of philosophical theories and views relating to rights using well-chosen criteriaeffective, thoroughly justified arguments relating to rightsall relevant criteria used in evaluation of claims and arguments relating to rightsdiscerning use of stimulus material is evident.	6–7
<ul style="list-style-type: none">substantial synthesis of ideas and information relating to rights in which most key aspects have been considered and resolvedjustified evaluation of philosophical theories and views relating to rights using appropriate criteriaclearly structured and justified arguments relating to rightsmost significant criteria used in evaluation of claims and arguments regarding rightscompetent use of stimulus material is evident.	4–5
<ul style="list-style-type: none">partial synthesis of ideas and information relating to rights in which some key aspects have been considered and resolvedevaluation of philosophical theories and views relating to rights using appropriate criteriastructured arguments relating to rightssignificant criteria overlooked in evaluation of claims and arguments relating to rightsuse of stimulus material is evident, but not effective.	2–3
<ul style="list-style-type: none">superficial synthesis of ideas and information relating to rightssuperficial evaluation of philosophical theories and views relating to rightsunstructured arguments relating to rightsunclear and/or simplistic criteria chosen for evaluation of claims and arguments relating to rightsstimulus material is not used or its use is irrelevant.	1
<ul style="list-style-type: none">does not satisfy any of the descriptors above.	0

Criterion: Creating and communicating

Assessment objective

6. create an extended response (analytical essay) that communicates ideas and arguments using an understanding of rights.

The student work has the following characteristics:	Marks
<ul style="list-style-type: none">• succinct, with ideas and arguments related to the central thesis conveyed logically• genre and recognised referencing conventions are consistently adhered to• minimal errors in spelling, grammar, punctuation and referencing.	3
<ul style="list-style-type: none">• conveys ideas and arguments that are related to the central thesis• genre and recognised referencing conventions are generally adhered to• some errors in spelling, grammar, punctuation and referencing.	2
<ul style="list-style-type: none">• conveys ideas and/or arguments that are not related to the central thesis• significant errors in genre and/or referencing conventions• frequent errors in spelling, grammar and punctuation impede communication of ideas and arguments.	1
<ul style="list-style-type: none">• does not satisfy any of the descriptors above.	0

Stimulus

Source 1: Bentham on rights

Bentham's views on rights are, perhaps, best known through the attacks on the concept of "natural rights" that appear throughout his work. These criticisms are especially developed in his *Anarchical Fallacies* (a polemical attack on the declarations of rights issued in France during the French Revolution), written between 1791 and 1795 but not published until 1816, in French. Bentham's criticisms here are rooted in his understanding of the nature of law. Rights are created by the law, and law is simply a command of the sovereign. The existence of law and rights, therefore, requires government. Rights are also usually (though not necessarily) correlative with duties determined by the law and, as in Hobbes, are either those which the law explicitly gives us or those within a legal system where the law is silent. The view that there could be rights not based on sovereign command and which pre-exist the establishment of government is rejected.

According to Bentham, then, the term "natural right" is a "perversion of language". It is "ambiguous", "sentimental" and "figurative" and it has anarchical consequences. At best, such a "right" may tell us what we ought to do; it cannot serve as a legal restriction on what we can or cannot do. The term "natural right" is ambiguous, Bentham says, because it suggests that there are general rights — that is, rights over no specific object — so that one would have a claim on whatever one chooses. The effect of exercising such a universal, natural "right" would be to extinguish the right altogether, since "what is every man's right is no man's right". No legal system could function with such a broad conception of rights. Thus, there cannot be any general rights in the sense suggested by the French declarations.

Moreover, the notion of natural rights is figurative. Properly speaking, there are no rights anterior to government. The assumption of the existence of such rights, Bentham says, seems to be derived from the theory of the social contract. Here, individuals form a society and choose a government through the alienation of certain of their rights. But such a doctrine is not only unhistorical, according to Bentham, it does not even serve as a useful fiction to explain the origin of political authority. Governments arise by habit or by force, and for contracts (and, specifically, some original contract) to bind, there must already be a government in place to enforce them.

Finally, the idea of a natural right is "anarchical". Such a right, Bentham claims, entails a freedom from all restraint and, in particular, from all legal restraint. Since a natural right would be anterior to law, it could not be limited by law, and (since human beings are motivated by self-interest) if everyone had such freedom, the result would be pure anarchy. To have a right in any meaningful sense entails that others cannot legitimately interfere with one's rights, and this implies that rights must be capable of enforcement. Such restriction, as noted earlier, is the province of the law.

Bentham concludes, therefore, that the term "natural rights" is "simple nonsense: natural and imprescriptible rights, rhetorical nonsense, — nonsense upon stilts". Rights — what Bentham calls "real" rights — are fundamentally legal rights. All rights must be legal and specific (that is, having both a specific object and subject). They ought to be made because of their conduciveness to "the general mass of felicity", and correlatively, when their abolition would be to the advantage of society, rights ought to be abolished. So far as rights exist in law, they are protected; outside of law, they are at best "reasons for wishing there were such things as rights". While Bentham's essays against natural rights are largely polemical, many of his objections continue to be influential in contemporary political philosophy.

Nevertheless, Bentham did not dismiss talk of rights altogether. There are some services that are essential to the happiness of human beings and that cannot be left to others to fulfill as they see fit, and so these individuals must be compelled, on pain of punishment, to fulfill them. They must, in other words, respect the rights of others. Thus, although Bentham was generally suspicious of the concept of rights, he does allow that the term is useful, and in such work as *A General View*

of a *Complete Code of Laws*, he enumerates a large number of rights. While the meaning he assigns to these rights is largely stipulative rather than descriptive, they clearly reflect principles defended throughout his work.

There has been some debate over the extent to which the rights that Bentham defends are based on or reducible to duties or obligations, whether he can consistently maintain that such duties or obligations are based on the principle of utility, and whether the existence of what Bentham calls “permissive rights” — rights one has where the law is silent — is consistent with his general utilitarian view. This latter point has been discussed at length by H.L.A. Hart (1973) and David Lyons (1969).

From: Sweet, W n.d., ‘Jeremy Bentham (1748–1832): Rights’, *Internet Encyclopedia of Philosophy*, www.iep.utm.edu/bentham/#SH5b. Used in accordance with website copyright notice www.iep.utm.edu/home/copyright

Source 2: What would count as natural rights?

In conversation, people use the word ‘natural’ in many different contexts: natural as meaning handed down from God (theological); natural as meaning as existed for pre-societal humans (anthropological); natural as meaning in keeping with human nature or those characteristics typical of humans (psychological); and natural as meaning as exists in nature (universal). However, in each of these contexts, natural was intended to mean the opposite of ‘specific to a particular culture’ — ‘natural’ implies universal or independent from culture.

In the theological context, natural rights are defined by the obligations that God passes down to man. In an example from the Bible, the ‘natural’ right to life is established by God’s commandment, “Thou shall not kill.” For example, Locke’s right to property is based on the theological assumptions that (1) God “gave the world in common to all mankind” and (2) individuals are under an obligation to respect the rights of others because they are all God’s works.

The idea of a ‘natural’ right provided by a God, an entity, by definition, outside of nature, is inconsistent. Theological beliefs are also identifiable with specific cultures (e.g., a Christian culture, Buddhist Culture, or Aztec Culture). Each of these cultures had and has very specific and different views about human rights. Because rights defined on theological terms are provided from outside nature and are culturally specific, it seems inappropriate to label rights derived using theology as natural.

In the anthropological context, a natural right would imply those obligations that ancient humans, in a primitive existence long past, took upon themselves on behalf of their fellows. Hobbes, Locke, Rousseau and other philosophers, have used the pre-societal condition, not to analyse the moral existence of Neolithic man, but to suggest how humans might have behaved if they had existed in a state without a specific culture. In this sense, there is nothing very ‘natural’ about the anthropological context at all, since no humans exist outside of a specific culture. And as humans, and man’s closest genetic relatives, the upper primates evolved and exist today as social animals, there likely never was a time during man’s evolution when man did not exist as a social animal.

Occasionally, we do read of weird cases of children raised without socialisation, for example by wolves or by abusive parents. However, the fact that the children in these cases rarely fit into society afterwards demonstrates that this way is not ‘natural’. While there are also those who voluntarily forgo a social existence (e.g. monks, pioneers, ...) this way of life does seem very untypical. As Aristotle in the *Politics* states, ‘he...who has no need for the state because he is sufficient for himself must be either a beast or a god.’ Further, rights can only be defined with respect to society and cannot exist in a pre-societal condition. In the pre-societal context, the idea of ‘natural’ rights is not meaningful.

The psychological context defines 'natural' as based on 'human nature'. The idea of human nature is difficult to grasp. To many, human nature is defined by the way humans might act in the pre-societal context described above. To me, this seems neither natural or useful. I think that it is more useful to consider human nature as the typical psychological behaviour of humans across specific cultures. Unfortunately, attempts to define human behaviour as being for good or for evil or as generous or selfish are gross oversimplifications of very complex and very diverse behaviour.

Using this definition of human nature, natural rights would be understood as the typical rights that humans grant each other across all societies and cultures. Natural rights are those rights in 'common' to human societies. One problem with this approach is that there are likely no-rights that are in common to all societies. It is easy to think of societies that have denied universal rights to life, liberty, and property (e.g. any slave society). Further, the idea of natural rights as common rights seems to very strongly imply that natural rights are not different or more special than cultural rights (the opposition of natural rights).

The universal context defines 'nature' as the entire physical universe. Everything that exists, exists in nature. All rights that we respected in the past, currently, or at any time in the future will be respected in the state of nature. Thus, all rights are 'natural' rights. Unfortunately, while this definition may be logical it doesn't capture the meaning of 'natural' that is important in the specialness of 'natural rights'. It does, however, demonstrate the difficulties of reasoning out things that are natural.

From: Chudnow, A 1994, 'Natural rights', *Philosophy Now*, vol. 10, pp. 22–24, https://philosophynow.org/issues/10/Natural_Rights. Used with permission.

Source 3

Freedom is not empowerment [...] Anybody can grab a gun and be empowered.

From: O'Rourke, PJ n.d., 'P.J. O'Rourke, Quotes, Quotable Quote', *Goodreads*, www.goodreads.com/quotes/37028-freedom-is-not-empowerment-empowerment-is-what-the-serbs-have.

Source 4

This source has been redacted due to copyright restrictions. Reference is made to the issue of weapon ownership in the United States and its implications in Warren, E 2014, *A Fighting Chance*, Metropolitan Books, New York, p. 237.

Source 5

God may have made men, but Samuel Colt* made them equal.

*Samuel Colt was an American gun manufacturer who patented a revolver mechanism for guns.

From: Harcourt, BE (ed.) 2003, *Guns, Crime, and Punishment in America*, NYU Press, p. 5.



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