

To what extent does the criminal trial process reflect the moral and ethical standards of society?

15 marks

### Possible Plan

#### Introduction

- Briefly introduce the criminal trial process.
- State the importance of moral and ethical standards in society.
- Present a thesis statement addressing the extent to which the criminal trial process reflects these standards.

#### Overview of the Criminal Trial Process

- Outline key stages: investigation, charge, trial, verdict, and sentencing.
- Mention relevant legislation guiding the process (e.g., Criminal Procedure Act 1986 (NSW)).

#### Moral and Ethical Standards in Society

- Define moral and ethical standards.
- Discuss societal expectations of fairness, justice, and human rights.

#### Reflection of Moral and Ethical Standards in the Criminal Trial Process

- Fair trial principles: presumption of innocence, right to legal representation (e.g., *Dietrich v The Queen*).
- Protection of human rights: use of international instruments (e.g., International Covenant on Civil and Political Rights).
- Media influence on public perception and ethical considerations (e.g., high-profile cases).

#### Limitations and Criticisms

- Instances where the trial process may fall short (e.g., bias, wrongful convictions).
- Critique of the adversarial system and its impact on justice.

#### Conclusion

- Summarise key points.
- Restate the extent to which the criminal trial process reflects societal moral and ethical standards.
- Conclude with an informed judgement.

### Marking Criteria

#### 13-15 marks

- Demonstrates extensive knowledge of the criminal trial process
- Makes an informed judgement about the extent to which the criminal trial process reflects the moral and ethical standards of society
- Integrates relevant examples such as legislation, cases, media, international instruments and documents
- Presents a sustained, logical and cohesive response to the question using relevant legal terminology and concepts

#### 10-12 marks

- Demonstrates substantial knowledge of the criminal trial process
- Makes a sound judgement about the extent to which the criminal trial process reflects the moral and ethical standards of society
- Uses relevant examples such as legislation, cases, media, international instruments and documents
- Presents a logical and cohesive response to the question using relevant legal terminology and concepts

#### 7-9 marks

- Demonstrates some knowledge of the criminal trial process
- Makes a judgement about the extent to which the criminal trial process reflects the moral and ethical standards of society
- Makes reference to examples such as legislation, cases, media, international instruments and documents
- Presents a structured response to the question using relevant legal terminology and concepts

**Adversarial system:** A legal system where two advocates represent their parties' positions before an impartial judge or jury.

**Bias:** Prejudice in favour of or against one thing, person, or group compared with another, usually considered unfair.

**Fair trial principles:** Legal standards ensuring justice, including presumption of innocence and right to legal representation.

**Human rights:** Fundamental rights and freedoms entitled to all individuals, often protected by international instruments and national laws.

**International Covenant on Civil and Political Rights (ICCPR):** A key international treaty ensuring civil and political rights for individuals worldwide.

**Presumption of innocence:** The principle that one is considered innocent unless proven guilty beyond a reasonable doubt.

**Societal expectations:** Collective beliefs and standards that society holds regarding fairness, justice, and ethical behaviour.

**Wrongful convictions:** Instances where innocent individuals are found guilty, highlighting flaws in the criminal justice system.

### HSC Marker Feedback

In better responses, students were able to:

- demonstrate a clear understanding of the elements within the criminal trial process, for example, charge negotiation, the provision of legal aid, the role of juries and the use of defences
- provide an integrated series of judgements on the extent to which parts of the criminal trial process reflect moral and ethical standards of society
- present a determination on 'extent' by qualifying how reforms, such as the partial defence of extreme provocation, reflect society's moral and ethical standards
- demonstrate how factors such as fairness, equality and upholding the presumption of innocence provide a measure of moral and ethical standards.

Areas for students to improve include:

- ensuring the response focuses on the relevant areas of the syllabus addressed in the question, and understanding where the trial process starts and finishes
- choosing areas of content that allow in-depth exploration of the syllabus theme of moral and ethical standards in the context of the criminal trial process
- writing with integrated connections to the relevant content areas rather than at the end of each paragraph just stating that moral and ethical standards have been or not been reflected.

**Useful Case Studies****R v. Chamberlain (1982)****Outline**

- The case involved Lindy Chamberlain, who was accused of murdering her nine-week-old daughter, Azaria, during a family camping trip at Uluru in 1980.
- Lindy Chamberlain claimed that a dingo had taken her baby, but she was charged with murder based on forensic evidence.
- The case went through several trials and appeals, leading to Lindy Chamberlain's conviction in 1982, which was later overturned in 1988 after new evidence emerged.

**Determination**

- The initial trial relied heavily on forensic evidence, which was later found to be flawed and unreliable.
- Public opinion and media portrayal played significant roles in shaping the perceptions of guilt and innocence, reflecting societal biases.
- The case was eventually resolved with a full exoneration and compensation for the wrongful conviction, highlighting the importance of thorough and unbiased investigation.

**Importance**

- The case underscores the potential for miscarriages of justice within the criminal trial process, particularly when influenced by media and public opinion.
- It highlights the need for continuous review and improvement of forensic science and its application in the legal system.
- The Chamberlain case serves as a reminder of the importance of adhering to moral and ethical standards, such as the presumption of innocence and the right to a fair trial, to prevent wrongful convictions.

**R v. Wood (2012)****Outline**

- Gordon Wood was accused of murdering his girlfriend, Caroline Byrne, who was found dead at the base of The Gap, a cliff in Sydney, in 1995.
- Wood was charged in 2006 based on circumstantial evidence, including the alleged ability to throw Byrne off the cliff.
- He was convicted in 2008 but later acquitted in 2012 after the Court of Criminal Appeal found significant issues with the evidence presented at trial.

**Determination**

- The prosecution's case relied heavily on expert testimony regarding the physics of Byrne's fall, which was later discredited.
- The appeal revealed that the trial had included flawed expert evidence and that the jury may have been misled.
- Wood was acquitted, and the case highlighted the importance of reliable and accurate expert testimony in ensuring a fair trial.

**Importance**

- The Wood case emphasises the risks associated with relying on circumstantial and expert evidence without thorough validation.
- It underscores the necessity of stringent standards for expert testimony and the potential consequences of judicial errors.
- The case illustrates the need for the criminal justice system to uphold moral and ethical standards, such as the right to a fair trial and the presumption of innocence, to prevent miscarriages of justice.