

## HSC Legal Studies

### R v Skaf Activity 2 – Walking Debate

**Activity purpose:** to create conditions for debate and thinking regarding the case in the context of rule of law principles and the Themes and Challenges.

**Learning Intention:** to apply R v Skaf to the Crime Themes and Challenges and for students to consider effectiveness/ ineffectiveness in the context of rule of law principles.

**Success criteria:** Students are able to articulate why they believe the legal system has been effective/ ineffective with regard the topic themes and challenges, applying R v Skaf to effectively justify their position.

#### Instructions

1. Students need to pre-read the Skaf Case Notes (particularly if Activity 1 was not completed).
2. The teacher will allocate different sides of the room for effective (the green corner) or ineffective (the red corner). 6 pieces of butchers paper (or A3 paper) should be on a desk in each corner, each labelled with one of the Themes and Challenges so they are all there.
3. The teacher will then read statements related to the themes and challenges and ask students to decide if the legal system has been effective or ineffective (do not specify victims, offenders or society).
4. Students will then need to move to the corner of their choosing (the green corner or the red corner).
5. They are then given a few minutes to write why they chose effective or ineffective on the piece of paper below the relevant Theme and Challenge.
6. Teacher will then ask people from each corner to discuss why they chose what they did.
7. This process to be repeated with each statement.

#### Crime Themes and Challenges

##### The role of discretion in the criminal justice system

- The original sentence upheld the principle of totality.
- Aggravating factors and objective seriousness should be the primary consideration of sentencing.
- The crimes committed by the Skaf brothers were worse than murder and should have been punished as such.

##### Issues of compliance and non-compliance in regard to criminal law

- Extreme sentences encourage compliance in the community.
- Parole conditions provide a safe transition for offenders back into the community and uphold the rights of the offender, victim and society.
- The jury should be allowed to complete their own research to help them make a decision faster.
- Extreme sentencing allows the legal system time to achieve all of the sentencing principles.



### The extent to which law reflects moral and ethical standards

- The case of R v Skaf demonstrates the legal system's ability to be responsive to changing community expectations.
- The Criminal Court of Appeal's decision in R v Skaf was reflective of society's moral and ethical standards.

### The role of law reform in the criminal justice system

- The case of R v Skaf created legal reforms that have been effective in upholding the rights of the victim and offender.
- Law reforms created should have a test that requires the interests of victims, offenders and society are equally balanced and should not be passed if they are not.

### The extent to which the law balances the rights of victims, offenders and society

- The final outcomes in the Skaf case adequately balanced the rights of victims, offenders and society.
- Post sentencing considerations allow the opportunity for the rights of offenders to be recognised by legal processes.

### The effectiveness of legal and non-legal measures in achieving justice

- Controlling the coverage of cases by media is crucial to the achievement of a just outcome.
- The legal system effectively achieved justice for the victim, offender and society in R v Skaf.
- Without media coverage, it is not possible for a fair trial to be conducted as transparency is a key element of our democratic and legal processes.