Tutorial Letter 101/3/2018

Historical Foundations of South African Law

HFL1501

Semesters 1 and 2

Department of Jurisprudence

IMPORTANT INFORMATION

This tutorial letter contains important information about this module. **The assignments are also contained in this tutorial letter.**

BARCODE

Define tomorrow.

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CONTENTS

1   INTRODUCTION

Dear Student

Welcome to the module Historical Foundations of South African Law (HFL1501), presented by the Department of Jurisprudence. This is the first year that this module is presented and it forms part of the updated 2018 LLB curriculum at Unisa. We are pleased to welcome you to this module and hope that you will find it both interesting and rewarding. We will do our best to make your study of this module enjoyable and worthwhile. You will be well on your way to success if you start early in the semester and work through the study material (Tutorial Letter 501) several times.

The most important information you need to be aware of right from the start is that *this module does not have a conventional venue-based examination, but rather a portfolio examination*. **This means that you will not prepare for a two-hour written exam, but that you will complete a portfolio examination (which is similar to an assignment) in your own time.** You will be completing this portfolio at home and without the assistance of anyone else.

Submitting this portfolio <u>late</u> will be viewed similar to not attending the examination and you will be regarded as being absent from the exam.

In this tutorial letter, you will find the assignments for both semesters, as well as the instructions for the preparation and submission of the assignments.

The Department of Despatch should supply you with the following study material for this module:

- Tutorial Letter 501, which contains most of the content of the study material
- Tutorial Letters 101 and 301
- Tutorial letter 102, which will contain the portfolio-examination questions
- Additional tutorial letters (such as the 201, containing feedback on the assignments)

Note: Some of this study material may not be available when you register. Study material that is not available when you register, will be posted to you as soon as possible, but is also **available on myUnisa.**

Tutorial Letter 101: This tutorial letter contains important information about **administrative arrangements,** as well as the **assignments** for this module. We urge you to read it carefully and to keep it at hand when you are working through the study material, completing the assignments, preparing for the examination and addressing questions to your lecturers.

Tutorial Letter 301 (for all LLB students): Please read Tutorial Letter 301 in combination with Tutorial Letter 101 as it provides you with important **general information** on studying at UNISA and, specifically, within the College of Law. It also contains a complete exposition of the College of Law's prescribed referencing style. That tutorial letter is prepared and distributed by the office of the Director of the School of Law; all queries about this letter should be directed to him.

The *Studies @ Unisa* **brochure** will also be posted to you, but is available for downloading from the main myUnisa website on the landing page, before you login to your myUnisa account (http://www.unisa.ac.za/sites/myunisa/default/Study-@-Unisa). That document contains important information on administrative matters related to your studies. Please read it carefully.

myUnisa: Remember that myUnisa provides you with additional opportunities to participate in activities and discussions relevant to this module. It also makes it easy to view the status and results of your assignments. For more information on making use of myUnisa for purposes of this module, please also read paragraph 5.3 below. However, you must claim your Unisa login to be able to submit assignments, gain access to the library functions and various learning resources, download study material, chat online to fellow students and the lecturers about your studies and the challenges you encounter, and participate in online discussion forums. Instructions for how to claim your Unisa login, can be found on the myUnisa homepage. Please go to http://www.unisa.ac.za/sites/myunisa/default/.

We hope that you will enjoy this module and wish you all the best! Please remember that there is no such thing as a silly question and you are always welcome to contact your lecturers when you have a problem with the material covered in the study material.

2   PURPOSE AND OUTCOMES

2.1   Purpose

The purpose of this module is to provide students with an outline of the origins of the South African legal system, focussing on the indigenous African, Western and human-rights traditions. It addresses the contribution made by the liberation movements in problematising apartheid policies and laws in shaping South African law. Aspects of transformative constitutionalism are addressed.

The module gives an overview of the civil-law foundations of the law of property and obligations; and the influence of the Constitution on its development. Students who complete this module will be able to illustrate the importance of the continuous development of South African law in line with the values of the Constitution.

2.2   Outcomes

Upon the completion of this module you should be able to:

- demonstrate a clear understanding of the legal principles of the historical origins of South African law;
- display a contextualised understanding of the liberation movement and its contribution to the development of South African law;
- explain the historical foundations and basic principles of the law of property and obligations as guided by the transformative values of the Constitution; and
- illustrate the necessity of the continuous development of South African law in line with the principles of transformative constitutionalism.

3   LECTURERS AND CONTACT DETAILS

3.1   Lecturers

The module leader responsible for this module is Ms Andrea Bauling.

All **written enquiries about the contents of this module**, in other words enquiries that are not of a purely administrative nature, should be directed to:

The Module Leader (HFL1501)
Department of Jurisprudence

PO Box 392
UNISA
0003

It is, however, much quicker, easier and more reliable to reach your lecturers via *email*.

Your lecturers for this module are:

Ms Andrea Bauling   **Module leader**

Tel: (012) 433 9518
Student cell: 060 606 2439
email: baulia@unisa.ac.za
Office: UNISA Brooklyn Campus
                           337 Veale Street, Brooklyn 0181
                           Department of Jurisprudence
                           Room 2-13

Prof Gardiol van Niekerk
Student cell: 0663454749
email: vniekgj@unisa.ac.za
Office: UNISA Brooklyn Campus
                           337 Veale Street, Brooklyn 0181
                           Department of Jurisprudence
                           Room 2-26

Ms Liezl Wildenboer
Tel: (012) 433 9498
email: wildel@unisa.ac.za
Office: UNISA Brooklyn Campus
                           337 Veale Street, Brooklyn 0181
                           Department of Jurisprudence
                           Room 2-28

Feel welcome to visit our offices to discuss any queries or problems. However, please **make an appointment** to ensure that we are able to assist you. For telephonic enquiries, please have your study material at hand when you contact us about the contents of the module.

Please note that the **core business hours** of the University are between **09:00 and 13:00** on weekdays. It is best to try to reach lecturers telephonically during this time. **The most convenient and reliable way to communicate with lecturers is via email.** We will get back to you as soon as possible and aim to address all queries within 48 hours, as per the University's policy.

Please note that we do not respond to emails, nor do we answer our student cell phones, **over weekends**. You may contact lecturers on student cell phones only between 08:00 and 16:00 on weekdays. This is non-negotiable.

PLEASE NOTE: Lecturers **CANNOT assist you with general administrative matters,** including those pertaining to registration, submission of assignments, examination dates/venues or examination results. Such matters should be addressed to the relevant administrative department(s). Please see the *Studies @ Unisa* brochure in this regard. Please make use of the following contact details for general enquiries:

Application and registration enquiries: Study-info@unisa.ac.za
Assignment enquiries: assign@unisa.ac.za
Examination enquiries: exam@unisa.ac.za
Sick or aegrotat exam enquiries: aegrotats@unisa.ac.za
Study material enquiries: despatch@unisa.ac.za
Student account enquiries: finan@unisa.ac.za
Assistance with myUnisa: myUnisaHelp@unisa.ac.za
Assistance with myLife email accounts: myLifeHelp@unisa.ac.za
General enquiries regarding the College of Law: jus@unisa.ac.za

3.2   Department

This module is presented by the Department of Jurisprudence in the College of Law.

Please note that the Department of Jurisprudence is *not* situated on the Muckleneuk (Main) Campus of Unisa.
We are situated at the **UNISA Brooklyn Campus**.

3.3   University

General Unisa contact details may be found in the *Studies @ Unisa* brochure, which you should have received upon registration. You can also download this brochure from the myUnisa homepage at http://www.unisa.ac.za/sites/myunisa/default/. Remember to use your student number when you contact the University.

4   RESOURCES

4.1   Prescribed books

There is no prescribed textbook for HFL1501. This means that you do not have to buy any additional academic textbooks for HFL1501 and that you only need Tutorial Letter 501 and all other tutorial letters for this module. You will, however, also need to **acquire a copy of the Constitution of the Republic of South Africa, 1996**.[1] You may download an electronic copy of the Constitution either from the Unisa library website, from this module's myUnisa page (under the link for "Additional Resources") or from the Department of Justice and Constitutional Development's website. Hardcopies are available at the Unisa library, as well as from specialist booksellers.

It is very important to understand that you will *not* be able to pass this module if you do not work through the entire Tutorial Letter 501. **You have to understand the contents of Tut letter 501**

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[1]   Hereinafter referred to as "the Constitution".

as an integrated whole. Each part of the contents of the study material directly relates to the other parts. In the portfolio examination you will be expected to illustrate your ability to integrate all the information in the study material into logical and informed arguments and answers.

4.2   Recommended books

There are no recommended books for this module.

4.3   Electronic reserves (e-reserves)

There is no prescribed additional reading or e-reserves for this module.

4.4   Library services and resources information

For brief information in this regard, go to www.unisa.ac.za/brochures/studies. For detailed information, go to http://www.unisa.ac.za/library. For research support and services of personal librarians, click on "Research support".

The library has compiled a number of library guides regarding:

- finding recommended reading in the print collection and e-reserves – http://libguides.unisa.ac.za/request/undergrad
- requesting material – http://libguides.unisa.ac.za/request/request
- postgraduate information services – http://libguides.unisa.ac.za/request/postgrad
- finding, obtaining and using library resources and tools to assist in doing research – http://libguides.unisa.ac.za/Research_Skills
- how to contact the library/finding us on social media/frequently asked questions – http://libguides.unisa.ac.za/ask

Please remember that you do not have to find, or study from, any additional sources or books for this module. When completing the assignments and the portfolio examination, you need not make use of any additional sources. You only have to refer to Tut Letter 501 and the Constitution when completing the assessments.

5   STUDENT SUPPORT SERVICES

Please consult the *Studies @ Unisa* brochure for information regarding student-support services.

5.1   Discussion classes

There will be **no** discussion classes presented by the lecturers for the module HFL1501 during 2018. However, you are always welcome to phone or email your lecturers if you have any questions. The best way to access detailed explanations of key areas of the contents of the study material is to access the myUnisa page for the module and to read the discussions and comments in the "Discussions" tab.

5.2   Tutorial classes

There are currently no face-to-face tutors available for this module. Please consult the publication *Studies @ Unisa* for more information on tutorial classes in your region. Please also

note that the lecturers cannot assist you with information in this regard. Please contact your nearest regional campus.

5.3 myUnisa

As indicated above, myUnisa is an extremely useful resource. The myUnisa learning management system is Unisa's online campus that will help you to communicate with your lecturers, other students and the administrative departments of Unisa. All you have to do is to register on myUnisa – please note that your lecturers cannot assist you with this process. Please consult the *Studies @ Unisa* brochure in this regard.

To access these functions, go to the main Unisa website at www.unisa.ac.za, and then click on the "MYUNISA" link. This should take you to the myUnisa website. If you log into the myUnisa page for the first time, click on the link "**Claim UNISA login**" and follow the instructions.

Please note that the lecturers for this module are active on the myUnisa discussion forums (click on the link "Discussions"). Important information is communicated via announcements and complex topics from the study material are explained in the discussions. You are also welcome to post there any questions that you may have on the content of the 501 tutorial letter, the assignments or the portfolio examination.

Please take note of the following important tools available on myUnisa:

- **The discussion forums:** In this module the main purpose of the forums is to address students' content-specific enquiries. This means that the lecturers offer virtual discussions and use these to explain complex aspects of the work to students. Students are encouraged to post questions on the work and these are then answered and discussed online. This forum may also be used to contact your fellow students and to form virtual study groups. All the students registered for a particular semester will be able to view and participate in the discussions. These discussions may be accessed at any time during the semester and no time restrictions apply to posting questions or comments. You do not have to be online at a specific time to join in the conversation. Ideally, we suggest that you stay up to date with any arrangements or discussions by accessing the HFL1501 myUnisa site at least once a week in accordance with your own personal schedule. Please get involved online, we look forward to meeting you there!

- **FAQs (frequently-asked questions):** Here your lecturers post frequently-asked questions and answers relevant to this module. It is advisable to go through these questions *BEFORE* contacting your lecturers. Important administrative information is provided here, including general information on the assignments and the portfolio examination.

- **Announcements:** From time to time your lecturers will post important announcements regarding new developments or administrative arrangements. We urge you to keep up to date with any announcements by regularly accessing this forum.

- **Additional resources:** Here we will upload crucial documents that will guide you and enhance your study experience in this module.

8

5.4   E-tutors

Please note that e-tutors are available to students of the module HFL1501.

Online tutorials are conducted by qualified e-tutors who are appointed by Unisa. These tutorials are offered free of charge. To be able to participate in these tutorials, you need a computer or smart device with access to the internet. If you live close to a Unisa regional centre or a Telecentre contracted by Unisa, please feel free to visit any of these to access the internet. E-tutorials take place on myUnisa. To get the most out of online tutoring, you need to participate in the online discussions that the e-tutor will be facilitating. The e-tutors will assist you with content-related enquiries and with general enquiries regarding the assignments and the portfolio examination. You are not allowed to contact your e-tutor telephonically, per email or via standard mail. The e-tutors are appointed when the registration period for a particular semester has closed and you will be notified by the University once you have been allocated an e-tutor. Any further updates or other important information regarding group allocations or the e-tutors in general will be posted by the lecturers on the announcements forum on this module's myUnisa website.

You will therefore automatically be allocated an e-tutor once the groups have been created. Once grouped, you will have access to your e-tutor group via an additional tab on myUnisa.
If you are registered for the first semester, the tab will look like this:

HFL1501-18-S1-18E

The first part of this tab title refers to the module code; the second and third parts refer to the year and the semester for which you have registered; and the last part, indicated by the letter E, refers to the number of the e-tutor group (in this example, group 18E) that you have been allocated to. Keep in mind that your group could have any number between 1 and 25 and will probably not be 18; your tab will therefore reflect the number of your e-tutor group.

If you are registered for the second semester, the tab will look like this:

HFL1501-18-S2-4E

This tab indicates the HFL1501 e-tutor group 4E for the second semester of 2018.

If you do not see such a tab on your myUnisa page after grouping has been finalised, click on the tab "More Sites" for a full list of tabs available to you.

Keep in mind that your e-tutors communicate regularly with the lecturers. This means that they are able to convey to you all the important information on the content and administration of this module. However, students are encouraged to also make use of the general myUnisa discussion forum to communicate with their fellow students and the lecturers (see paragraph 5.3 above). Please treat your e-tutor with respect; failure to do so could lead to disciplinary action against you. Remember, your e-tutor is there to assist you and to guide you through the

module; however, you are still ultimately responsible for passing this module. **This means that you have to work hard and to start preparing in advance for the portfolio examination.**

5.5   Student *@mylife* email account

It is important to take note that your official student *mylife* email account is the University's **PRIMARY MODE OF COMMUNICATION** with students. Important information will always be communicated to students via email. In order to access you Unisa student-email account, please go to the myUnisa homepage and follow the link to **"mylife e-mail".** Please make sure that your inbox is never full to capacity. If your inbox is full, your messages cannot be delivered and you may miss out on important information.

5.6   Students with special needs

Please see the following website in this regard:

The *Advocacy and Resource Centre for Students with Disabilities*
http://www.unisa.ac.za/Default.asp?Cmd=ViewContent&ContentID=16599

6   STUDY PLAN

For information and suggestions regarding general time-management and planning skills, please consult the *Studies @ Unisa* brochure.

This module is easy to master with hard work. Plan ahead and make sure to continuously work through Tutorial Letter 501 throughout the semester. This module cannot be "crammed" a few days before the due date for the portfolio exam.

We strongly urge you to make use of the weekly schedule when working through the study material. The weekly schedule is available online under "Additional Resources"; please access and download it there. The purpose of the weekly schedule is to help you to plan your studies for the semester. It has been structured to allow you sufficient time to work through the study material and also includes time set aside for revision. The e-tutors also make use of the weekly schedule in the respective groups; this ensures that all the students are more or less working at the same pace.

7   PRACTICAL WORK AND WORK-INTEGRATED LEARNING

There are no practical sessions or assessments for this module.

8   ASSESSMENT

8.1   Assessment plan

How the assessment system works: Only students who submit the compulsory assignment (assignment 01) *before or on the date of submission*, will be admitted to the examination, regardless of the mark obtained for the assignment. If you do not submit assignment 01, you will not be admitted to the examination. This also means that if you do not submit assignment 01, you can submit the portfolio examination, **but it will not be marked**. **Both assignments 01**

and 02 will be taken into account for your year mark. Your year mark constitutes 20% of your final mark.

How will this work in practice?

- Your **YEAR MARK** counts **20%** (Assignment 01 counts 10% and Assignment 02 counts 10%) of your final mark.
- Your **EXAMINATION MARK** counts **80%** of your final mark.
- Your **FINAL MARK** for the module will thus be calculated as follows: **20% (year mark) + 80% (examination mark) = 100% (final mark)**.

Take note

You need to obtain **at least 40% in the portfolio examination** before your year mark will be taken into account. This means that if you obtain a mark of 39% or lower for the portfolio examination, your year mark will not count towards your final mark, even if your year mark is 95%!

8.2 Assignment numbers

8.2.1 General assignment numbers

You must submit one compulsory assignment (Assignment 01) for this module. In addition, we strongly recommend that you also submit Assignment 02. Both assignments contribute towards your year mark (10% each). Keep in mind that if you are registered for the _first_ semester (January to June), you must do the _first_ **semester's assignments and portfolio;** and if you are registered for the _second_ semester (July to December), you must do the _second_ **semester's assignments and portfolio**. If you submit the incorrect assignment or portfolio, your assignment will not be marked and a mark of zero (0%) will be recorded for that assignment or portfolio.

8.2.2 Unique assignment numbers

In addition to the general assignment number 01 or 02, each assignment has a unique number. These unique numbers appear on the assignments in Addendum A below. Please ensure that the correct unique number is clearly indicated on each assignment that you submit. If you submit your assignments online, please be sure to submit your assignment to the correlating (correct) unique number. **If you submit another module's assignment for this module, you will be awarded a mark of zero (0%).** When submitting online, please read the instructions carefully and make sure that you submit the correct assignment (with the correct unique number) to the correct module.

8.3 Assignment due dates

Please note that _no assignments will be accepted_ after the relevant due dates.

Also, please note that your lecturers **cannot** grant any extension for the late submission of assignments. Please adhere to the due dates. This means that you should take into account the submission dates for Assignments 01 and 02 when planning your study schedule.

If you wish to submit an assignment online, please submit it **a few days** _before_ the due date.

If you try to submit the assignment at 23:55 on the due date, the system *will* be overloaded and you *will not* be able to submit in time. Unisa has hundreds of thousands of students who all make use of the myUnisa portal to submit their assignments. At times so many students try to access it simultaneously, that it becomes impossible to upload assignments. For this reason, rather submit a few days BEFORE the due date; this will also give you time to make sure that you uploaded the correct document in the correct format and that it is accessible. Remember that you can always resubmit your assignment until the due date (also see below for more on the "Resubmit" option).

The closing dates for the submission of assignments 01 and 02 are:

● **First semester**

Assignment 01: 3 April 2018 (unique number: 685647)
Assignment 02: 16 April 2018 (unique number: 739129)

● **Second semester**

Assignment 01: 27 August 2018 (unique number: 614473)
Assignment 02: 10 September 2018 (unique number: 614027)

8.4 Submission of assignments

The following information is extremely important.
Please read this very carefully:

Multiple-choice assignments (assignment 01) may be completed in pencil on mark-reading sheets and submitted via post or courier, or may be dropped in a Unisa assignment box. These assignments may also be submitted electronically via myUnisa, or by using the Unisa App for smartphones. If you submit electronically, please follow the instructions carefully. Note that no academic-honesty declaration has to be submitted with a multiple-choice assignment.

You may submit written assignments (assignment 02) via post, courier or electronically by means of myUnisa. For instructions on the format of written assignments and portfolio examinations, please see the *Studies @ Unisa* brochure.

We strongly recommend that you submit your assignments online via myUnisa. This method is the safest and quickest option and will ensure that your assignments arrive on time. Note that assignments may not be submitted via fax or email.

For detailed information on assignments, please refer to the *Studies @ Unisa* brochure that you received upon registration.

Please take note of the following important information:

- If you submit an incorrect assignment (either an assignment intended for another semester or another module), you will be awarded a mark of ZERO (0%) for the assignment.
- If you submit a multiple-choice assignment in any format other than that prescribed by the University (in this regard see your *Studies @ Unisa* brochure), you will be awarded a mark of ZERO (0%) for the assignment.
- If you submit an assignment electronically via myUnisa and the file format of the document submitted is corrupted or cannot be opened, you will be awarded a mark of ZERO (0%) for the assignment. Once your document is uploaded, please open it and make sure that you have submitted the correct document, that it indeed opens and that your answers are legible. **You** are responsible for checking that you have submitted the correct document. If you notice that you have submitted the incorrect document, please click on "RESUBMIT" to cancel your existing submission and submit the corrected document.

To submit an assignment via myUnisa:

- Go to myUnisa.

- Login with your student number and password.

- Click on "Assessment Info" in the menu on the left-hand side of the screen.

- Select the correct module.

- Click on the assignment number you wish to submit.

- Follow the instructions.

- Make sure that you submit the correct document (that is, the correct assignment for the correct module).

Please note that a written assignment (Assignment 02) submitted electronically should be a single pdf-format document. Please combine all the pages into one pdf document to ensure that all the pages are marked. We will only mark the pages we receive – make sure that you submit a complete document.

IMPORTANT:

Once you have uploaded a document as your assignment, please click on the document, open it and confirm that you have submitted the correct document. Please also confirm that the document you have uploaded opens normally and is legible. If a corrupt file is submitted you will be awarded a mark of ZERO (0%).

The "RESUBMIT" option on myUnisa

Once you have successfully submitted an assignment on myUnisa, a "Resubmit" link becomes available. However, just because the myUnisa system gives you the option to resubmit, does not mean that you **have** to make use of it. If you are unhappy with what you have submitted, you are welcome to cancel your submission and resubmit. But you do not have to do this. This option is only there for when you have made a mistake. If you have submitted the correct document, please ignore this link.

8.5   The assignments

IMPORTANT:

Assignment 01 is a compulsory assignment and must be submitted to gain access to the portfolio examination. Therefore, if you do not submit assignment 01, your portfolio examination will not be marked.

If you are registered for the first semester (January to June 2018), you must submit your Assignment 01 on or before 3 April 2018.
If you are registered for the second semester (July to November 2018), you must submit Assignment 01 on or before 27 August 2018.

Your lecturers **do not have the authority** to grant extension for submission of assignments. These dates are set by the University and may not be changed. If you do not submit the first assignment on time, you will have to repeat the module.

Assignment 01 is a compulsory multiple-choice assignment. **Assignment 02** is a written assignment.

Commentary and feedback on both these assignments will be sent to all students in the form of a 201 tutorial letter. That tutorial letter will be sent via post by the Department of Despatch, but it will also be available electronically on myUnisa under the link "**Official Study Material**". The

201 tutorial letter will only be made available online after the due dates for submission have passed.

As soon as you have received Tutorial Letter 201, please compare your answers to our feedback. Doing the assignments and then carefully studying the commentaries on them, constitute an important part of your learning and should help you to better prepare for the portfolio examination.

If you feel that errors have been made in the marking of your written assignment (assignment 02), please follow these instructions before contacting your lecturers:

Compare your answers to the 201 tutorial letter and identify where mistakes have been made. Then email one of your lecturers a **MARKED COPY** of your assignment and state your query. You can save your electronically-marked assignment by downloading it from myUnisa. Alternatively, if you have submitted via post, you will have to wait for it to return in the post, after which you can then scan it and save it in pdf format. We will not look at your assignment or remark it if we do not receive your marked assignment. In this regard we follow the Unisa Assessment Policy strictly and no exceptions will be made. If you complain about a mark, please indicate which question you are referring to and why you feel you deserve more marks.

8.6 Other assessment methods

There are no other assessment methods for this module.

8.7 The portfolio examination

This module's summative assessment (final examination) takes on the form of a written portfolio, which students complete at home.
No written venue-based exam is, therefore, completed in this module.

8.7.1 What is a portfolio?

As indicated, you will not write a conventional venue-based examination. Your summative assessment will be in the form of a portfolio. This means that you will not prepare for a two-hour written exam, but that you will complete a portfolio examination, which is similar to an assignment. You will complete this portfolio at home, and without the assistance of anyone else.

This type of assessment (non-venue-based assessment) replaces formal examinations in this module. The non-venue-based assessment is referred to as a portfolio and takes the form of an open-book examination. It represents the final assessment in this module. For this reason, the same rules and policies that apply to venue-based examinations, also apply to the portfolio. Therefore, please do not contact any of the lecturers for assistance regarding the completion of this assessment.

A. Instructions for submitting your portfolio via the myUnisa platform

The due date for the first-semester portfolio examination:	**21 May 2018**
The unique number is:	**875834**
The due date for the second-semester portfolio examination:	**22 October 2018**
The unique number is:	**541425**

Portfolios may only be submitted online; lecturers cannot and will not accept portfolios submitted via email, fax or in any other format. The myUnisa system will **close** at *MIDNIGHT* **(00:00) on the due date.** You may submit your portfolio answers only during the period allowed by the myUnisa system. **After midnight on the due date, the system will close and you will no longer be able to submit your answers**.

<u>Important:</u> Please do not wait until the last minute to submit. The system may be down and you will fail your examination if you are unable to submit on time.

NO LATE SUBMISSIONS WILL BE ACCEPTED since this assessment counts as your examination for this module. No exceptions will be made in this regard. **We advise you to submit your examination answers as early as possible.**

You must submit your examination answers as a single document in <u>PDF-format.</u> The document may not be submitted with security restrictions under the "protect document/secured" option. Security restrictions interfere with the electronic marking program used and prevent the electronic marking of assignments. Also, please do not include an electronic signature in the document as this also affects the ability to mark it online. Do not submit a "read-only" document, as this does not allow us to make any changes to the document, meaning we cannot mark it. If a document is submitted in the incorrect format and cannot be accessed or opened by the lecturers, you will be awarded 0% for the portfolio.

Please submit your portfolio in the following way:

Type your answers to the questions in a Microsoft Word document and save this document as a PDF document. You may also write out your answers by hand on any lined paper and scan these pages to create a PDF document. You do NOT have to retype or rewrite the questions. Please make sure that you number your answers correctly.

As you <u>may only submit one document</u>, you must ensure that everything you want us to assess is included in the ONE document that you submit. **No additional files will be accepted either via myUnisa or email. This includes the academic-honesty declaration!** If you choose to resubmit your portfolio before the due date, please note that <u>a second submission automatically replaces the first submission on the system. (Please read paragraph 8.4 above that deals with the "Resubmit" option.)</u>

Please keep a copy of your portfolio. Also, FOLLOW ALL THE STEPS REQUIRED FOR SUBMISSION. If you fail to do so, the system will show that you did not submit the portfolio assignment, and your examination result will read "absent from examination". **Your lecturers cannot assist you with any technical problems you may experience during the online**

submission process. You have to make sure to submit on time, since you are the student and you are responsible for your own learning and assessments.

To summarise:
You will be viewed as absent from the examination / receive a mark of 0% / be penalised in the following circumstances:
- if you do not submit your portfolio before the due date;
- if you do not submit the correct document;
- if you do not submit the complete document;
- if you do not submit online via myUnisa;
- if you do not submit your portfolio in PDF format;
- if the file format of your portfolio cannot open, is a secured document, or is a read-only file; or
- if you plagiarised, copied from the study material, or copied from a fellow student.

Remember that it is the student's responsibility to ensure that he/she submits the correct and complete document in the correct file format before the due date.

All queries regarding problems with myUnisa must be addressed to the Assignment Department or the ICT Department and **NOT** to the lecturers. We cannot provide any technical assistance. Please address all complaints and requests for assistance to assign@unisa.ac.za or MyUnisaHelp@unisa.ac.za.

B.   Required information

Each page of your portfolio must contain your full name(s), student number, module code and unique number.

Please also sign, complete and attach your academic-honesty declaration (available in Addendum C below) at the end of your portfolio. It is also acceptable to provide your ID number or passport number instead of your signature. Please note that you will lose marks if your answers indicate copying, plagiarism or collaboration with other parties. Also, if plagiarism is suspected, your portfolio could be referred for an investigation, which could lead to possible disciplinary proceedings against you.

C.   Format of the portfolio

Tutorial Letter 102 will be sent out early in the semester and will also be available on the HFL1501 myUnisa site under "Official Study Material". It contains not only the questions for the portfolio examination, but also detailed information on the requirements for the portfolio, as well as instructions on how to submit the portfolio online via myUnisa. As soon as the tutorial letter becomes available, students will be notified via email. Please check your mylife email account and the HFL1501 Announcements forum regularly to stay up to date.

The portfolio counts ONE HUNDRED (100) marks.

The portfolio consists of three different sections, each one focussing on a different part of the study material. Before you attempt to answer the questions, you must familiarise yourself with the contents of Tutorial Letter 501 as some questions may require of you to refer to various learning units from different parts of in the study material.

8.7.2 Examination date

This module is offered in a semester period of fifteen weeks. This means that if you are registered for the first semester, you will write the portfolio examination in May/June 2018; the supplementary examination will be written in October/November 2018. If you are registered for the second semester, you will write the portfolio examination in October/November 2018; the supplementary examination will be written in May/June 2019. **No other dates will be scheduled for supplementary examinations.**

Students who registered for HFL1501 in the **first semester** should submit their portfolio examination **ON OR BEFORE 21 May 2018**. Absolutely **no exceptions** will be made in this regard.

Students who registered for HFL1501 in the **second semester** should submit their portfolio examination **ON OR BEFORE 22 October 2018**. Absolutely **no exceptions** will be made in this regard.

8.7.3 The scope of the portfolio examination

All tutorial letters must be studied *in their entirety* before you attempt the portfolio. No part of the study material should be ignored during your preparation for the portfolio. You must see all content of Tutorial Letter 501 as an integrated whole. This means that you must be aware that content from one part of the study material is related to contents from another part. Some portfolio questions will have to be answered by referring to the contents from more than one learning unit or by referring to more than one part of the study material.

8.7.4 The format of the portfolio examination

You will write and submit a portfolio examination that counts *100 marks*.

You must study Tutorial Letter 501 carefully and keep in mind that the assignments and our feedback on them form part of the study material for this module. Our feedback on the assignments will greatly assist you in preparing for the portfolio examination.

The composition of the portfolio examination is as follows:

Part 1: **The origins of South African law (20 marks)**
Part 2: **Historical foundations of property law and obligations (40 marks)**
Part 3: **The role of the Constitution in South African legal development (35 marks)**
Rubric: **Technical aspects (5 marks)**

                                                                  TOTAL: 100 marks

9   IN CLOSING

We trust that you will enjoy this module. Please remember that you are welcome to contact us should you have any questions relating to the content of this module. We wish you success with your studies.

Kind regards

Ms A BAULING
Prof G VAN NIEKERK
Ms L WILDENBOER

10 ADDENDUM A

10.1 Assignments for the *FIRST* semester

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FIRST SEMESTER: ASSIGNMENT 01
CLOSING DATE: 3 April 2018
UNIQUE NUMBER: 685647

Assignment 1 assesses your understanding of
PART 1 of Tutorial Letter 501 (The origins of South African law)

</div>

Instructions for submission:

*Before attempting to submit any assignment for this module, please read the important information in paragraphs 8.2 to 8.4 (pages 11-14) above. Failure to comply with any of these instructions could result in a mark or **ZERO (0%)** for this assignment.*

This is a multiple-choice assignment and consists of 20 questions. It may be submitted in one of three ways:

- It may be submitted online/electronically via myUnisa. Follow the instructions under the "Assessment Info" tab of your myUnisa page.
- It may be submitted online/electronically via the Unisa App for smart phones. Please follow the instructions provided carefully.
- It may be completed on a mark-reading sheet and posted to the University. This completed mark-reading sheet may also be dropped in an assignment box at a Unisa campus or regional centre. You must remember to fill in your student number, as well as the correct unique number on the mark-reading sheet before submitting it.

NO other form of submission is allowed for multiple-choice assignments. Note that assignments may NOT be submitted by fax or email.

Question 1

Which one of the following statements is <u>correct</u>?

(1) South Africa has a codified legal system.
(2) The South African legal system relies only on the Constitution of the Republic of South Africa, 1996.
(3) The sources of South African law include legislation, case law, common law and indigenous African law.
(4) South African law is built on a single legal tradition.

Question 2

Which one of the following is an example of an external legal-historical event in South African law?

(1)   The recognition of the right not to be unfairly dismissed.
(2)   The promulgation of the Labour Relations Act 66 of 1995.
(3)   The judgement of the Constitutional Court in *S v Makwanyane & another* 1995 (3) SA 391 (CC).
(4)   The establishment of trade unions.

Question 3

South Africa has a hybrid legal system, because it reveals characteristic features of the following legal traditions:

(1)   African, civil-law and human-rights traditions
(2)   African, civil-law and common-law traditions
(3)   Universal, Roman-Dutch and African traditions
(4)   Indigenous, Islamic and English traditions

Question 4

The First British Occupation of South Africa took place in 1795. During which century did this event occur?

(1)   Fifteenth century
(2)   Sixteenth century
(3)   Seventeenth century
(4)   Eighteenth century

Question 5

Determine the correct chronological <u>order</u> in which the following developments and events in the field of Islamic legal history took place. Which development or event occurred most <u>recently</u>?

(1)   In *Daniels v Campbell* the Constitutional Court holds that the natural interpretation of the word "spouse" in certain legislation must include partners in monogamous Muslim marriages.
(2)   In *Hassam v Jacobs* the Constitutional Court declares certain provisions of the Intestate Succession Act constitutionally invalid, because it excludes widows in polygynous marriages from the benefits of the Act.
(3)   In *Amod v Multilateral Motor Vehicle Accidents Fund* the Supreme Court of Appeal recognises a Muslim widow's claim for loss of support, following the unlawful death of her husband.
(4)   In *Ismail v Ismail* the Appellate Division finds potentially polygynous Muslim marriages immoral and against accepted customs and usages.

Question 6

Which one of the following statements regarding the Roman Empire is <u>incorrect</u>?

(1) Justinian was the emperor of the Western Roman Empire.
(2) The Western Roman Empire was invaded by Germanic tribes and fell in AD 476.
(3) Byzantium was the capital of the Eastern Roman Empire.
(4) The law of the Eastern Roman Empire was influenced by Greek culture and did not influence the legal systems of Western Europe after AD 565.

Question 7

The law of the Twelve Tables was important for various reasons. Which one of the following reasons is <u>incorrect</u>?

(1) It marked the division between the rules of law and the rules of religion.
(2) It lessened the patricians' exclusive control over the law.
(3) It eliminated inconsistencies in the vast mass of imperial laws.
(4) It marked the beginnings of legal science.

Question 8

Which one of the following medieval law schools was the first to study Roman law on a scientific basis in Western Europe?

(1) The glossators
(2) The *ultramontani*
(3) The commentators
(4) The French humanists

Question 9

Which one of the following statements regarding the application and study of canon law during the middle ages is <u>correct</u>?

(1) The *Decretum Gratiani* was the most comprehensive collection of classical canon law.
(2) The glossators, who were mostly clerics and held doctorates in both canon law and Roman law, laid down rules for the reception of canon law into secular law.
(3) Canon law is one of the common denominators in the European *ius commune*.
(4) The Roman Catholic Church refused to apply the law contained in the *Corpus Iuris Civilis*, because it was considered as secular law.

Question 10

Which one of the following medieval law schools also studied Roman law as it applied in practice?

(1)   The French humanists
(2)   The *usus modernus pandectarum*
(3)   The historical school
(4)   The glossators

Question 11

Which one of the following statements gives the <u>most correct</u> description of Roman-Dutch law in a narrow sense?

(1)   It is the law of the province of Holland.
(2)   It is the law of the province of Holland as it existed during the 17th and 18th centuries, and includes the European *ius commune*.
(3)   It is Roman law received in the province of Holland, as amended by the customary law and legislation of Holland in the 17th and 18th centuries.
(4)   It is the law of all seven Dutch provinces as it existed during the 17th and 18th centuries.

Question 12

Which one of the following was NOT a source of law at the Cape during the period of Dutch rule (1652–1795)?

(1)   Indigenous African law
(2)   Legislation
(3)   Judicial decisions
(4)   The old writers on Roman-Dutch law

Question 13

In the South African legal system, which court remained the highest court of appeal from 1828 until 1950?

(1)   The Appellate Division
(2)   The *Raad van Justitie*
(3)   The Constitutional Court
(4)   The Privy Council

Question 14

Which event took place on 21 March 1960 that had a profound influence on the course of South African history?

(1)   Khoi labourers and slaves rebelled against their employers/owners.

(2)   Mahatma Gandhi led a passive-resistance campaign in the Indian community in the Transvaal.
(3)   The Sharpeville massacre took place.
(4)   The Women's March against pass laws took place.

Question 15

Which one of the following liberation activists pleaded for the recognition of traditional leadership in 1952?

(1)   Chief Albert Luthuli
(2)   Bishop Desmond Tutu
(3)   Oliver Tambo
(4)   Nelson Mandela

Question 16

Which one of the following statements regarding the Freedom Charter is incorrect?

(1)   It is considered to be one of the first documents to lay the foundation for a democratic and constitutional state in South Africa.
(2)   Its principles underlie the Constitution of the Republic of South Africa, 1996.
(3)   It articulated democratic principles inspired by the Universal Declaration of Human Rights.
(4)   It was the first document in the history of South African law that referred to individual human rights.

Question 17

Which one of the following statements is incorrect?

(1)   After the Sharpeville massacre, sanctions were introduced to isolate South Africa diplomatically and economically.
(2)   The United Nations discussed South Africa's racial policies for the first time when the National Party assumed power.
(3)   Sanctions against South Africa provided nations with the forum to show their opposition to apartheid legislation and racial segregation.
(4)   Following Oliver Tambo's first appearance before the UN in 1963, the ANC and the PAC were heard in the main committees of the UN National Assembly and in the Security Council.

Question 18

Read the following two statements to determine whether each one is true or false:

(a)   The Black Consciousness movement filled the vacuum left by the detention and banning of political activists after the Sharpeville massacre.
(b)   Human rights became part of South African law only after the fall of apartheid.

Choose your answer from one of the following options:

(1)   Both statements are false.
(2)   Statement (a) is true, but statement (b) is false.
(3)   Statement (b) is true, but statement (a) is false.
(4)   Both statements are true.

Question 19

Which one of the following statements regarding the origins and development of human rights is incorrect?

(1)   The idea of human rights is of purely Western origin and forms part of the civil-law heritage.
(2)   The natural-law theory in Western legal philosophy had an important role in the development of the idea of fundamental, natural rights.
(3)   In *S v Makwanyane*, the Constitutional Court held that the Constitution and the Bill of Rights are deeply rooted in the values of the South African community as evidenced in *ubuntu*.
(4)   The natural-law philosophy and the idea of natural, inalienable rights form part of our Roman-Dutch legal heritage.

Question 20

Which one of the following statements is incorrect with regard to human rights in the 1854 Constitution of the Orange Free State?

(1)   The Constitution was strongly influenced by the American Constitution.
(2)   The Constitution guaranteed a number of fundamental human rights, such as equality before the law and the right to free association.
(3)   The Constitution recognised the independence of the judiciary and granted the courts full testing capacity.
(4)   The Constitution laid down procedural rules for the promulgation of legislation.

TOTAL: [20]

**Assignment 02 assesses your understanding of PART 2 of Tutorial Letter 501
(Historical foundations of property law and obligations)**

IMPORTANT: HOW TO SUBMIT THIS ASSIGNMENT

*Before attempting to submit any assignment for this module, please read the important information in paragraphs 8.2 to 8.4 (pages 11-14) above. Failure to comply with any of these instructions could result in a mark or **ZERO (0%)** for this assignment.*

There are several ways in which you may submit this assignment:

1. The ***preferred*** mode of submission of assignments is <u>electronically via myUnisa</u>. Assignments submitted electronically should be sent in ***pdf format***. This means that you must either type out your answers and convert the file into a pdf document, or scan hand-written or typed answers in order to create a pdf file. If you choose to scan in a document, this pdf submission should consist of **ONE document** – do not scan in and submit each page of your assignment separately. Please make sure that electronically submitted assignments consist of one complete document, containing all the pages you wish to submit. We suggest that students get in the habit of submitting assignments online, since there are modules in the LLB degree that insist on electronic submission. So start practicing now. If you choose to submit online, **do not wait** until the last day before the deadline. Plan ahead and submit in time.

2. You may write or type out the answers and post your assignment to: Assignments (HFL1501), Unisa, PO Box 392, Pretoria 0003. This is not encouraged, since assignments sometimes go missing in the mail.

3. You may make use of the courier service that operates as an affiliate (partner) of Unisa. Assignments may be dropped off at this partner. Please see the *Studies @ Unisa* brochure for more information in this regard.

4. You may drop your assignment in an Assignment Box on a Unisa campus or at a regional centre near you. Unfortunately this is not a reliable way to submit your assignments either, as processing of the assignments is sometimes delayed.

PLEASE remember to include your **name and student number**, as well as the **module code**, **assignment number** and **unique number** on your assignment submission. Please also complete and include a signed academic-honesty declaration (available in Addendum C below). Note that assignments may ***NOT*** be submitted via fax or email.
For more information see your *Studies @ Unisa* brochure.
Errors made in the submission of assignments (resulting in your assignment never reaching us) may mean that a mark of ZERO (0%) is awarded to you.

QUESTION 1: Learning unit 1

1.1   What is the correct way to refer to the South African Constitution currently in force?   (1)

1.2 Explain, *in your own words*, what it means when we say that the Constitution is the "supreme law" of South Africa. (1)

[2]

QUESTION 2: Learning unit 2

2.1 Provide one example of a legal subject. (1)

2.2 Provide one example of a legal object. (1)

2.3 What is the **effect** of the *nemo plus iuris* rule? (2)

2.4 Why do you think the Constitution protects the rights of unlawful occupiers of land? Consider relevant historical factors and applicable fundamental rights in your answer. (3)

[7]

QUESTION 3: Learning unit 3

3.1 Study the following scenarios carefully and answer the questions that follow:

　3.1.1 Sarah sells her horse to Tebogo. She tells him that the horse is four years old, while the horse is, in fact, eight years old.

(a) Which factor in this transaction may influence consensus between Sarah and Tebogo? (1)
(b) What influence does this factor have on the validity of the agreement between Sarah and Tebogo? (1)

　3.1.2 Fatima and Razia conclude a contract. Fatima is under the impression that she is selling her car to Razia, but Razia thinks that she is hiring Fatima's car.

(a) Which factor in this transaction may influence consensus between Fatima and Razia? (1)
(b) What influence does this factor have on the validity of the agreement between Fatima and Razia? (1)

3.2 Indicate whether the following agreement contains a resolutive term, a resolutive condition, a suspensive term or a suspensive condition:

Joseph agrees to lend his van to Sibusiso until Friday next week. (1)

3.3 Do you think good faith should be a requirement for a valid legal contract in South Africa? Provide reasons for your answer. (2)

[7]

QUESTION 4: Learning unit 4

4.1 The original *lex Aquilia* did not achieve its intended purpose. Why do you think this was the case? (1)

4.2 What is a *soliatum*? (1)

4.3 What do you think was the most influential legal development that resulted from the case of *Loureiro and others v iMvula Quality Protection (Pty) Ltd* [2014] ZACC 4? Give reasons for your answer. (2)

[4]

Please complete and include the academic-honesty declaration.

TOTAL: [20]

ACADEMIC-HONESTY DECLARATION

Declaration

1. I understand what academic dishonesty entails and am aware of Unisa's policies in this regard.

2. I declare that this assignment is my own, original work. Where I have used someone else's work I have indicated this by using the prescribed style of referencing. Every contribution to, and quotation in, this assignment from the work or works of other people has been referenced according to this style.

3. I have not allowed, and will not allow, anyone to copy my work with the intention of passing it off as his or her own work.

4. I did not make use of another student's work and submitted it as my own.

NAME:

SIGNATURE / ID NUMBER/ PASSPORT NUMBER:

STUDENT NUMBER:

DATE:

10.2 Assignments for the *SECOND* semester

<u>**SECOND SEMESTER: ASSIGNMENT 01**</u>
CLOSING DATE: 27 August 2018
UNIQUE NUMBER: 614473

Assignment 01 assesses your understanding of
PART 1 of Tutorial Letter 501 (The origins of South African law)

Instructions for submission

*Before attempting to submit any assignment for this module, please read the important information in paragraphs 8.2 to 8.4 (pages 11-14) above. Failure to comply with any of these instructions could result in a mark or **ZERO (0%)** for this assignment.*

This is a multiple-choice assignment and consists of 20 questions. It may be submitted in one of three ways:

- It may be submitted online/electronically via myUnisa. Follow the instructions under the "Assessment Info" tab of your myUnisa page.
- It may be submitted online/electronically via the Unisa App for smart phones. Please follow the instructions provided carefully.
- It may be completed on a mark-reading sheet and posted to the University. This completed mark-reading sheet may also be dropped in an assignment box at a Unisa campus or regional centre. You must remember to fill in your student number, as well as the correct unique number on the mark-reading sheet before submitting it.

NO other form of submission is allowed for multiple-choice assignments. Note that assignments may NOT be submitted via fax or email.

Question 1

Which one of the following statements is <u>correct</u>?

(1) The South African common law consists of only Roman-Dutch law.
(2) The South African common law consists of Roman-Dutch law and indigenous African law.
(3) The South African common law consists of Roman-Dutch law, influenced by English law and indigenous African law.
(4) The South African common law consists of Roman-Dutch law, influenced by English law and adapted over the centuries by local legislation and judicial precedent.

Question 2

Which one of the following is an example of an internal legal-historical event in South African law?

(1) The implementation of the policy of apartheid.

(2) The promulgation of the Group Areas Act 41 of 1950.
(3) The Sharpeville massacre of 21 March 1960.
(4) The establishment of the PAC in 1959.

Question 3

Which one of the following terms best describes the willing adoption of a legal system by a community which already has an existing legal system?

(1) Transplantation
(2) Imposition
(3) Reception
(4) Codification

Question 4

The Sharpeville massacre took place on 21 March 1960. During which century did this event occur?

(1) Eighteenth century
(2) Nineteenth century
(3) Twentieth century
(4) Twenty-first century

Question 5

Which one of the following statements is <u>correct</u> with regard to the recognition and application of indigenous African law from the 1990s onwards?

(1) The Constitution recognises the application of indigenous law, subject only to existing legislation that deals with it.
(2) The equality clause has no effect on the application of indigenous law.
(3) A code of Zulu law, the first code of indigenous law, is adopted.
(4) The application of indigenous law is subject to a repugnancy clause.

Question 6

Which one of the following statements regarding the ancient Greek philosophers and legal system is <u>incorrect</u>?

(1) The content and structure of ancient Greek law greatly influenced the South African legal system.
(2) The ancient Greeks' ideal of a scientific and rational legal system greatly influenced the Western legal tradition.
(3) Greek philosophers, such as Plato and Aristotle, wrote much on the purpose of the law, the ideal society and the nature of justice.
(4) The roots of critical thinking in the Western tradition originated in ancient Greece.

Question 7

Which one of the following statements regarding the office of the *praetor* during Roman times is correct?

(1)   The office of the *praetor peregrinus* was created during the Principate.
(2)   The *praetor peregrinus* applied the *ius civile*.
(3)   The *praetor* heard legal disputes and made findings on the facts of the cases.
(4)   The *praetor urbanus* developed the *ius honorarium*.

Question 8

During which period in the development of Roman law did a Statute of Citation determine that only the works of the "Five Great" jurists would in future be seen as authoritative?

(1)   period of early Roman law
(2)   pre-classical period
(3)   classical period
(4)   post-classical period

Question 9

Which one of the following statements regarding the functions of the Roman jurists during the Principate is incorrect?

(1)   They advised the *praetor* on legal matters.
(2)   The jurists assisted their clients in court in the same way as legal representatives still do today.
(3)   Their writing greatly contributed to the development of Roman law.
(4)   The jurists applied existing legal rules to cases for which these rules had not been intended originally.

Question 10

Which one of the following statements regarding the influence of canon law on the South African legal system is incorrect?

(1)   In *AB & another v Minister of Social Development*, the Constitutional Court held that canon-law rules have no relevance to South African law today.
(2)   Canon law is more flexible than Roman law and it therefore tempered the severity of Roman law.
(3)   The principle of *pacta sunt servanda* is a canon-law rule that is still part of South African law today.
(4)   Canon law was brought to South Africa as part of Roman-Dutch law.

Question 11

Which one of the following Roman-Dutch jurists is known as one of the most outstanding jurists of all time and wrote the first comprehensive work on public international law?

(1) Hugo de Groot
(2) Simon van Leeuwen
(3) Johannes Voet
(4) Dionysius van der Keessel

Question 12

Which statement regarding the application of the interpretation of Roman-Dutch law is <u>correct</u>?

(1) In *Du Plessis v Strauss* the Supreme Court of Appeal decided in favour of the broad interpretation of Roman-Dutch law.
(2) In *Du Plessis v Strauss* the Supreme Court of Appeal held that the historical context of Roman-Dutch law can be ignored.
(3) In *Du Plessis v Strauss* the Supreme Court of Appeal indicated that Roman-Dutch law should be viewed against the backdrop of the *ius commune*.
(4) In *Du Plessis v Strauss* the Supreme Court of Appeal held that the writings of jurists from the other Dutch provinces played no role in the development of the law of Holland.

Question 13

Which one of the following documents expressly stipulated that English law would replace Roman-Dutch law as the applicable legal system at the Cape after 1795?

(1) The Articles of Capitulation
(2) The First Charter of Justice
(3) The Second Charter of Justice
(4) None of the above

Question 14

Which one of the following statements regarding the effect of the Sharpeville massacre is <u>incorrect</u>?

(1) It resulted in worldwide condemnation of apartheid.
(2) It resulted in the end of apartheid.
(3) It resulted in African states severing diplomatic ties with, and implementing economic sanctions against, South Africa.
(4) It put in motion the abolition of pass laws.

Question 15

Which important document, issued in Lusaka in 1988, would later have a significant influence on the Constitution of the Republic of South Africa, 1996?

(1)   The Bill of Rights
(2)   The Freedom Charter
(3)   The ANC's *Constitutional Guidelines for a Democratic South Africa*
(4)   The Universal Declaration of Human Rights

Question 16

Read the following two statements to determine whether each one is <u>true or false</u>:

(a)   The demand for the recognition of individual human rights in South Africa emerged when the Freedom Charter was adopted in Kliptown in 1955.
(b)   The apartheid government regarded the Freedom Charter as a threat to the state and charged those involved with its drafting, with high treason.

      <u>Choose your answer from one of the following options</u>:

(1)   Both statements are false.
(2)   Statement (a) is true, but statement (b) is false.
(3)   Statement (b) is true, but statement (a) is false.
(4)   Both statements are true.

Question 17

Which one of the following statements regarding the liberation movement is <u>incorrect</u>?

(1)   The liberation movement questioned the application of the *Magna Carta*.
(2)   The liberation movement questioned the limited recognition of indigenous law and institutions.
(3)   The liberation movement questioned the legitimacy of apartheid legislation.
(4)   The liberation movement questioned the application of Roman-Dutch law as the foundation of the South African common law.

Question 18

Which one of the following statements is <u>incorrect</u>?

(1)   Like the South African Constitution, the Freedom Charter called for equality before the law and equal access to education.
(2)   Nelson Mandela admired the independence of the British and American judiciaries.
(3)   The Black Consciousness movement emerged when the liberation struggle virtually came to a halt after the Sharpeville massacre.
(4)   The purist-pollutionist debate related to the position of Roman-Dutch law, English law and indigenous law in the South African legal system.

Question 19

In which case did the court find legislation that removed so-called coloured voters from the voters' roll, to be null and void, because the procedure for the adoption of legislation prescribed in the Constitution had not been followed?

(1) *S v Makwanyane*
(2) *Harris v Minister of the Interior*
(3) *Le Roux and others v Dey*
(4) *Hassam v Jacobs*

Question 20

In its report, the Truth and Reconciliation Commission found that our courts' inability to take a stand against the onslaught of apartheid legislation was due to various factors. Which one of the following was NOT listed as a factor?:

(1) The doctrine of parliamentary sovereignty
(2) Legal positivism
(3) The application of Roman-Dutch law
(4) The principle that judges could only administer justice and not create it

TOTAL: [20]

SECOND SEMESTER: ASSIGNMENT 02
CLOSING DATE: 10 September 2018
UNIQUE NUMBER: 614027

**Assignment 02 assesses your understanding of PART 2 of Tutorial Letter 501
(Historical foundations of property law and obligations)**

IMPORTANT: HOW TO SUBMIT THIS ASSIGNMENT

Before attempting to submit any assignment for this module, please read the important information in paragraphs 8.2 to 8.4 (pages 11-14) above. Failure to comply with any of these instructions could result in a mark or ZERO (0%) for this assignment.

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2. You may write or type out the answers and post your assignment to: Assignments (HFL1501), Unisa, PO Box 392, Pretoria 0003. This is not encouraged, since assignments sometimes go missing in the mail.

3. You may make use of the courier service that operates as an affiliate (partner) of Unisa. Assignments may be dropped off at this partner. Please see the *Studies @ Unisa* brochure for more information in this regard.

4. You may drop your assignment in an Assignment Box on a Unisa campus or at a regional centre near you. Unfortunately this is not a reliable way to submit your assignments either, as processing of the assignments is sometimes delayed.

PLEASE remember to include your **name and student number**, as well as the **module code**, **assignment number** and **unique number** on your assignment submission. Please also complete and include a signed academic-honesty declaration (available in Addendum C below). Note that assignments may **NOT** be submitted via fax or email.
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Errors made in the submission of assignments (resulting in your assignment never reaching us) may mean that a mark of ZERO (0%) is awarded to you.

QUESTION 1: Learning unit 1

1.1   What is the correct way to refer to the Interim Constitution of South Africa?   (1)

1.2   How does transformative constitutionalism suggest that we transform South African society?   (1)

[2]

QUESTION 2: Learning unit 2

2.1   Provide one example of each of the following classifications of things:

  2.1.1   A moveable thing (*res mobiles*)   (1)
  2.1.2   A thing in commerce (*res in commercium*)   (1)

2.2   What is a real right?   (2)

2.3   Do you think the South African legal system has done enough to address the Constitutional imperative to redistribute land in this country? Provide reasons for your answer and base your answer in the law as explained in learning unit 2. (Purely politically inspired answers will not receive marks.)   (3)

[7]

QUESTION 3: Learning unit 3

3.1   What is the difference between a void and a voidable contract?   (2)

3.2   Study the following scenario carefully and answer the questions that follow:

In 2017, Tumi, a farmer, buys a horse from Sello who works as an investment banker. After the horse has been delivered and the purchase price has been paid, it is discovered that the horse has foot-and-mouth disease and that it needs to be put down. At the time of the conclusion of the contract, neither Tumi, nor Sello knew about the disease.

  3.2.1   Which legal principle from the law on purchase and sale will allow Tumi to claim back the purchase price from Sello?   (1)

  3.2.2   Which legal remedy, originating in Roman law, will Tumi have at her disposal to claim back the purchase price from Sello?   (1)

  3.2.3   Does this contract of purchase and sale qualify as a consumer agreement (transaction) in terms of the Consumer Protection Act 68 of 2008? Provide reasons for your answer.   (2)

3.3 Which fundamental rights, entrenched in the Constitution, are generally the most relevant to the law of contract? (1)

[7]

QUESTION 4: Learning unit 4

4.1 How do crimes committed under Roman law and crimes committed under South African law differ in their classification? (2)

4.2 Explain "vicarious liability" *in your own words*. (2)

[4]

Please complete and include the academic-honesty declaration.

TOTAL: [20]

ACADEMIC-HONESTY DECLARATION

Declaration

1. I understand what academic dishonesty entails and am aware of Unisa's policies in this regard.

2. I declare that this assignment is my own, original work. Where I have used someone else's work I have indicated this by using the prescribed style of referencing. Every contribution to, and quotation in, this assignment from the work or works of other people has been referenced according to this style.

3. I have not allowed, and will not allow, anyone to copy my work with the intention of passing it off as his or her own work.

4. I did not make use of another student's work and submitted it as my own.

NAME:

SIGNATURE / ID NUMBER / PASSPORT NUMBER:

STUDENT NUMBER:

DATE:

PLAGIARISM POLICY OF THE COLLEGE OF LAW

The College of Law is committed to the Unisa ideal of research that is based on integrity, quality and rigour. All work must meet the ideal of academic integrity. Academic integrity can be defined as the meaningful and concerted effort to ensure honesty, trust, fairness, respect and responsibility in research. All research at CLAW, whether a first-year assignment or a doctoral thesis, should be guided by this ideal.

The opposite of academic integrity is academic dishonesty. In line with Unisa's policies, the following activities are forms of academic dishonesty:

- **Copying/cut-and-paste/patch-writing**: This type of dishonesty involves just copying someone else's work either word-for-word or changing it slightly without indicating that it is copied by, for example, putting it in inverted commas or brackets.

- **Absence of references**: This involves using someone else's ideas, thoughts, insights or data without acknowledging that they are not your own.

- **Cheating/falsifying information**: This is the manufacturing of data which does not exist or leaving out contradictory evidence, also sometimes called cherry-picking.

- **Padding**: This refers to the practice of referring to sources that were not consulted, but which makes the footnotes and/or bibliography seem more impressive.

- **Too many quotes**: This form of dishonesty is one where more than 15% of the work consists of quotes.

- **Incorrect referencing**: Incorrect referencing shows a lack of rigour and of disciplinary expertise.

- **Helping someone cheat**: This might range from the innocuous (allowing someone to copy from you) to the more severe (providing someone with the means to cheat). It is the reason why students are not allowed to hand in the same assignment, even if they worked in a group.

ADDENDUM C

ACADEMIC-HONESTY DECLARATION

Declaration

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