

COLLEGE OF LAW

DEPARTMENT OF CONSTITUTIONAL, INTERNATIONAL AND INDIGENOUS LAW

FUNDAMENTAL RIGHTS (FUR201F)

Tutorial Letter 101/3/2008

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Order form for *Effective study* booklet (you do not have to buy this book)

Dear Student

1. A WORD OF WELCOME

We take pleasure in welcoming you to the module in Fundamental Rights, one of the compulsory modules for the LLB degree. We hope that you will find this module interesting and rewarding. We will do everything we can to help you make a success of this year's studies. You will be well on your way to success if you start studying early in the year.

This tutorial letter contains important information on this module. We urge you to read it carefully and to keep it at hand when working through the tutorial material, preparing for the examination and addressing questions to your lecturers. This tutorial letter also provides all the information you need about the prescribed tutorial material and how to obtain it. Study this information carefully and make sure that you obtain the prescribed material as soon as possible.

The amount of work involved in this module is the same as (if not more than) that in any other law module, and you should not underestimate its nature, scope and contents.

As you will realise in due course, this is one of the most important legal subjects: since South Africa became a constitutional state in the full sense of the word (with the commencement of the interim Constitution of 1993, and its successor, the current Constitution of 1996) the issue of fundamental rights and their constitutional protection has taken a central position in our law. There is no branch of the law that is not affected by the Constitution as the supreme law of the land to which all other laws must conform. The Bill of Rights, which forms the core of this module, is part of that Constitution. The protection of fundamental rights that it provides for has an impact on every sphere of the law.

The module in Fundamental Rights is furthermore inextricably linked to four other compulsory modules offered by the department, namely Interpretation of Statutes, Constitutional Law, Administrative Law and General Principles of Public International Law.

Finally, we include in this tutorial letter certain general and administrative information about this module. Study this section of the letter carefully.

Right from the start we would like to point out that **you must read all the tutorial letters** you receive during the semester **immediately and carefully** - they always contain important and, sometimes, urgent information.

NOTE THE FOLLOWING!!

Fundamental Rights is a **compulsory module** for the four-year LLB degree. All modules consist of a **two-hour examination paper**. This module is a semester module, and examinations will be held in May/June 2008 and October/November 2008.

We would like to warn you: **it is your OWN responsibility to ensure that you have studied the study material in good time and thoroughly**. In other words, the module consists largely of self-study activities and exercises.

2. WHAT DO WE AIM TO ACHIEVE WITH THIS MODULE?

Just a few words to explain what we aim to achieve with this module, and what we expect from you. First of all, we hope to give you a sound theoretical knowledge of the principles on which the law governing fundamental rights (sometimes also called human rights law) is based. Though we cannot hope to turn you into experts in the course of one module, we require you to understand the basic principles on which the protection of fundamental rights is based in South African law, and secondly, to be able to apply your theoretical knowledge to practical problems.

Essentially, then, this is a **practical** subject which is based on certain **theoretical principles**. You will notice that a good deal of emphasis is placed on identifying the issues in problem cases, and then applying the law to them. We think that this practical ('hands-on') nature of the module makes it more 'real', and therefore more interesting.

What you will need to derive real benefit from this module are reading and comprehension skills, logical thought and accurate written expression. We realise that for many of you English is not a first, or even a second language, and are sympathetic to the problems you experience. All students should concentrate on improving their language skills; the better your use of language, the better you will fare in all your law courses, since language is the most important tool of any lawyer.

3. COMMUNICATION WITH YOUR LECTURERS

All queries that are not of a purely administrative nature **but are about the contents of this module** should be addressed to us. Have your tutorial material with you when you contact us by telephone.

We CANNOT assist you with queries pertaining to:

- examination dates
- applications for re-marks or aegrotat examinations
- whether your assignment was received by the University or not
- issuing of study material or if you did not receive all your study material
- your marks for the assignments

In these cases you must contact the UCC (UNISA CONTACT CENTRE). Your query will then be channelled to the respective departments.

Calls (RSA only) : 0861 670 4111
International calls : +27 11 670 9000
Fax number : (012) 429 4150/ + 27 12 429 4150
E-mail: study-info@unisa.ac.za

Also consult the brochure *Unisa: Services and procedures* in this regard.

The contact details of your lecturer are as follows:

LECTURER	Ms Inge Harms	Ms Nomthandazo Ntlama
Telephone	(012) 429 8447	(012) 429 8510
Fax	(012) 429 8587	(012) 429 8587
E-mail	harmsi@unisa.ac.za	ntlamn@unisa.ac.za
Mail	The Lecturer (FUR201-F) Department of Constitutional, International and Indigenous Law PO Box 392 UNISA 0003	The Lecturer (FUR201-F) Department of Constitutional, International and Indigenous Law PO Box 392 UNISA 0003
Office	7-72 Cas van Vuuren building Unisa Main Campus Muckleneuk Ridge PRETORIA	7-18 Cas van Vuuren building Unisa Main Campus Muckleneuk Ridge PRETORIA

NOTE: Letters to lecturers may not be enclosed with or inserted into assignments.

Phone calls made to us when we are not available will be forwarded to an answering machine. You can therefore leave voicemail messages for your lecturers at any time of the day or night. We will reply as soon as possible.

You are welcome to visit us to discuss any queries about or problems with the module. However, **please make an appointment beforehand**, otherwise you run the risk of the lecturer not being available to see you.

4. COMMUNICATION WITH THE UNIVERSITY ADMINISTRATION

Address all queries on **administrative matters** to:

The Registrar (Academic)
PO Box 392
UNISA
0003

Administrative matters include, but are not limited to:

1. examination dates
2. queries regarding whether assignments were received
3. queries regarding marks
4. non-receipt of your study material
5. applications for re-marks or permission to write aegrotat examinations

Telephone enquiries about administrative matters should be addressed to the sections that deal with those specific matters. Consult the brochure *Unisa: Services and procedures* in this regard. Take specific note of the contact details of the Unisa Contact Centre listed above.

If you have access to the Internet, you can also contact the University on the myUnisa facility <http://www.unisa.ac.za> and follow the links.

NOTE!

The above telephone numbers are for general enquiries. If the telephone rings continuously, PLEASE do not hang up; your call is automatically placed in a 'call chain'. As soon as a member of the particular department/section becomes available, your call will be answered.

- ✎ You may enclose more than one letter in the same envelope. However, do not write to more than one department in one letter - this will cause delays. Write a separate letter to each department and mark each letter clearly: "For attention:" and then indicate the relevant department's name, for example, Assignments, Despatch or Examination Section.

DO NOT UNDER ANY CIRCUMSTANCES SUBMIT MORE THAN ONE ASSIGNMENT IN THE SAME DOCKET.

- ✎ When writing to the University, always give your student number, the name of the module and the module code at the beginning of the letter.
- ✎ Remember to have your student number ready whenever you phone the University.
- ✎ Include your address and telephone number in your letter if you want a reply.

5. STUDENT SUPPORT SERVICES

5.1 STUDENT COUNSELLING

A study skills book entitled *Effective study* is published by the Bureau for Counselling, Career and Academic Development (BCCAD). It is available in English and can be obtained from **Unisa Press (see details below)**. The publication deals with a variety of topics which are applicable to specific periods during the semester or year. It also contains a screening questionnaire, which will indicate to you in which areas you may expect problems and on which areas you should focus. Students experience various problems that may affect their academic achievements. These problems include the lack of study skills (students don't know how to summarise, how to make the contents of the learning material their own, or how to read, write or argue accurately, clearly, logically and critically), the huge difference between education at high school and at a tertiary institution, the little contact between lecturer and student, and lack of experience in writing exams. Some of these problems are experienced by all students tackling tertiary education; others are unique to distance education.

To gain maximum advantage from the guidelines given in the publication, it is suggested that you work through the book at the beginning of your studies. After this initial overview, you can consult the sections selectively as your needs emerge. The publication can be used repeatedly by both beginner and experienced students, as it was not only written for students with study problems. Successful students can also use the guidelines to improve their academic performance.

The BCCAD also has several student support services to help you improve your study skills. You can obtain advice and guidance on study methods, and memory development programmes are also available. You can find contact details for the BCCAD in the *Unisa: Services and procedures* booklet. If you have access to the Internet, you can email the Bureau at counselling@unisa.ac.za.

Title: Van Schoor, WA, Mill, EM, & Potgieter, D. 2001. *Effective study*. Pretoria: Unisa Press.

You can **order the booklet from Unisa Press**. Only prepaid orders will be accepted. The order form appears in the *Unisa: Services and procedures* booklet and also at the end of this tutorial letter.

If you want to buy a copy over the counter you can visit the Sales Section of **Unisa Press, Department of Despatch, 2nd floor, Cas van Vuuren Building** on the main campus.

Price R30

For telephone enquiries: (012) 429-3515
Fax: (012) 429-3449
E-mail: unisa-press@unisa.ac.za

5.2 TUTOR SUPPORT PROGRAMME AT LEARNING CENTRES

Unisa learning centres have been established at various locations where students may study, have access to library services and obtain general as well as academic support in the form of tutorial support services offered in selected LLB modules. Tutorials given by tutors appointed and trained by the University are presented in this module, depending on student demand and the availability of tutors at the various learning centres. The aim is to assist you to become independent, autonomous learners. These classes are usually on a Saturday and you can attend classes for three modules at a nominal fee of R100 per semester.

If you are interested, contact the relevant learning centre directly for more information:

Centre	Telephone number
Gauteng Florida Johannesburg Pretoria Sunnyside (Thutong)	(011) 417 2658 (012) 352 4047 (012) 484 1190
KwaZulu-Natal Durban Pietermaritzburg Stanger	(031) 335 1749 (033) 394 3668/9 (031) 335 1749
Cape East London Port Elizabeth Umtata Parow Wellington George Lusikisiki	(043) 743 9246 (041) 363 6800 (047) 531 5002/6 (021) 936 4122/3/9 (021) 873 1181 (021) 936 4122/3/9 (021) 936 4122/3/9
Midlands Bloemfontein Kimberley Mafikeng Rustenburg Kroonstad	(051) 430 4353 (053) 832 6391 (018) 381 6617 (014) 565 7080 (056) 213 2053
Other regions Polokwane Shingwedzi Techniven Nelspruit	(015) 290 3417/9 (015) 290 3417/9 (015) 290 3417/9 (013) 755 2476

If you wish to obtain more information about learning centres and tutorial support services, consult *Unisa: Services and procedures* and direct enquiries to the Department of Student Support.

6. TUTORIAL MATERIAL

6.1 INVENTORY

Upon registration, you will receive an **INVENTORY FOR THE CURRENT SEMESTER**, which lists the items available from the Department of Despatch in Pretoria or the regional offices at the time of registration. Students who register at a regional office will receive the rest of their available study material by registered post from Pretoria.

Check the tutorial matter you have received against the inventory. You should have received all the items specified in the inventory unless there is an express statement to the contrary (e.g. "out of stock"). If any item is missing, follow the instructions on the back of the inventory without delay.

NOTE: Your lecturers cannot help you with missing tutorial material.
Please contact the Department of Despatch.

More details are contained in *Unisa: Services and procedures*.

6.2 TUTORIAL MATERIAL

6.2.1 Prescribed textbook

The prescribed textbook is by Iain Currie and Johan de Waal *The Bill of Rights handbook*, 5th ed, published in 2005 by Juta. It costs approximately R300 and should be obtainable from all student booksellers. The new guide refers to the new textbook.

If you experience any problems in getting hold of the textbook, contact the following Juta booksellers and branch offices:

PRETORIA (HATFIELD)

☎ (012) 362 5799

e-mail: ptabooks@juta.co.za

CAPE TOWN

☎ (021) 686 2094

e-mail: ctbooks@juta.co.za

BELLVILLE

☎ (021) 948 7700

e-mail: bbbooks@juta.co.za

PAROW

☎ (021) 930 6202

e-mail: pabooks@juta.co.za

JOHANNESBURG

☎ (011) 333 5140

e-mail: jhbooks@juta.co.za

RANDBURG

☎ (011) 886 8595

e-mail: rbgbooks@juta.co.za

DURBAN

☎ (031) 3371819

e-mail: dbnbooks@juta.co.za

UMTATA

☎ (047) 531 4966

POLOKWANE

☎ (015) 295 9246

KIMBERLEY

☎ (0531) 711135

ZIMBABWE (HARARE)

☎ (int + area code) 72-4597

PORT ELIZABETH

☎ (041) 484 4577

Should you encounter problems obtaining books from the official booksellers, contact the Registrar (Academic) as soon as possible. See *Unisa: Services and procedures* for more information.

6.2.2 Constitution of the Republic of South Africa, 1996

You will undoubtedly need a copy of the 1996 Constitution. (You will also need it for Constitutional Law (CSL202J), Administrative Law (ADL201M) and Interpretation of Statutes (IOS2016).) The Constitution, and in particular the Bill of Rights (Chapter 2), is the primary source of law governing fundamental rights.

You may order a copy of the Constitution from:

The Government Printer, Publication Section
Private Bag X85
PRETORIA
0001
Tel.: (012) 334 4508/09/10/11
Fax: (012) 323 9574

The price is R5 (including VAT and postage). Although this copy does not contain any of the amendments to the Constitution, it is sufficient for our purposes. You can also order a more updated version of the Constitution from the Government Printer for R45 (including VAT and postage).

You may also use the pocket edition of the Constitution, which was issued free of charge at post offices some years back or download the Constitution from the Constitutional Court website at www.constitutionalcourt.org.za.

6.2.3 Tutorial Letter 101

The tutorial letter which you are reading contains important information about the tutorial matter, the prescribed textbook, assignments, as well as general administrative information.

6.2.4 One study guide for Fundamental Rights (FUR201F)

The study guide consists of exercises, questions and activities which will lead you through the prescribed textbook. These are aimed at helping you assess your progress and level of knowledge and understanding of the content of the module in Fundamental Rights.

6.2.5 Further tutorial letters

In addition to Tutorial Letter 101, you will receive one or more tutorial letters during the course of the semester which will contain:

- ✎ the dates and the assignment for the discussion classes to be held during the semester
- ✎ comments on the previous examination which will provide you with comprehensive information on the preparation for and the writing of examinations
- ✎ comments on the assignments

It is also possible that additional tutorial letters will be sent out should the need arise, for example to inform you about important new developments in the subject.

These tutorial letters will not necessarily be available upon registration, but will be posted to you as soon as they are available.

NOTE: Tutorial letters are part of your tutorial material for assignment and examination purposes.

Read and reread each tutorial letter; keep it for reference purposes, and read it again.

Those of you who have access to the Internet can view the study guides and tutorial letters for the modules for which you are registered on the myUnisa facility.

6.2.6 Prescribed cases

It is **COMPULSORY** that you study the cases listed below. You must study the cases as they appear in the prescribed textbook and study guide. This will help you to gain greater insight into the relevant principles and their application.

We appreciate that it is impossible to study all the cases cited in the study guide and textbook in the time at your disposal. A selection has therefore been made of the most important decisions. Some of the cases included in the list below are leading ones; others may contain an informative discussion, a succinct statement of principles, or a set of facts which neatly illustrates such principles. We offer you merely a small selection, however, and you would be well advised to read as many additional cases as possible, not only for the reasons set out above, but also to become adept at swiftly reading through and appraising a case, something which will be of inestimable value to you in practice later on. It is also advisable that you try to read the relevant cases in the law reports as they appear each month: this will enable you to keep abreast of the latest developments in the field of law that you are studying.

For the purposes of this module you need to **study the prescribed cases only as they appear in the prescribed textbook**. You are **NOT** required to order these cases from the library.

List of prescribed cases

Study unit 1

Introduction to the Constitution and the Bill of Rights

Ex parte Chairperson of the Constitutional Assembly: in re Certification of the Constitution of the Republic of South Africa 1996 (First certification judgment) 1996 (4) SA 744 (CC)
Certification of the Amended Text of the Constitution of the Republic of South Africa (Second certification judgment) 1997 (2) SA 97 (CC)
South African Association of Personal Injury Lawyers v Heath 2001 (1) SA 883 (CC)
Executive Council of Western Cape Legislature v President of the Republic of South Africa 1995 (4) SA 877 (CC)
Soobramoney v Minister of Health (Kwazulu-Natal) 1998 (1) SA 765 (CC)
Pharmaceutical Manufacturers Association of SA: In re Ex parte President of the Republic of South Africa 2000 (2) SA 674 (CC)
Minister of Health v Treatment Action Campaign (2) 2002 (5) SA 721 (CC)

Study unit 2

Structure of the Bill of Rights Litigation

Ferreira v Levin NO 1996 (1) SA 984 (CC)

Study unit 3

Application

Du Plessis v De Klerk 1996 (3) SA 850 (CC)
Pharmaceutical Manufacturers Association of SA: In re Ex parte President of the Republic of South Africa 2000 (2) SA 674 (CC)
Khumalo v Holomisa 2002 (5) SA 401 (CC)
Carmichele v Minister of Safety and Security 2001 (4) SA 938 (CC)
Ex parte Chairperson of the Constitutional Assembly: in re Certification of the Constitution of the Republic of South Africa 1996 (First certification judgment) 1996 (4) SA 744 (CC)
De Lille v Speaker of the National Assembly 1998 (3) SA 430 (C)
President of the Republic of South Africa v South African Rugby Football Union 2000 (1) SA 1 (CC) (SARFU III)

President of the Republic of South Africa v Hugo 1997 (4) SA 1 (CC)
Govender v Minister of Safety and Security 2001 (4) SA 273 (SCA)
Daniels v Campbell NO 2004 (5) SA 331 (CC)
Ex parte Minister of Safety and Security: in re S v Walters 2002 (4) SA 613 (CC)
Afrox Healthcare Bpk v Strydom 2002 (6) SA 21 (SCA)
National Coalition for Gay and Lesbian Equality v Minister of Justice 1999 (1) SA 6 (CC)
Bhe v Magistrate, Khayelitsha 2005 (1) BCLR 1 (CC)
S v Mhlungu 1995 (3) SA 867 (CC)

Study unit 4

Locus standi

Ferreira v Levin NO 1996 (1) SA 984 (CC)
Lawyers for Human Rights v Minister of Home Affairs 2004 (4) SA 125 (CC)

Study unit 5

Jurisdiction in Bill of Rights Litigation

Pharmaceutical Manufacturers Association of SA: In re Ex parte President of the Republic of South Africa 2000 (2) SA 674 (CC)
S v Boesak 2001 (1) SA 912 (CC)

Study unit 6

Interpretation of the Bill of Rights

S v Zuma 1995 (2) SA 642 (CC)
S v Makwanyane 1995 (3) SA 391 (CC)
S v Mhlungu 1995 (3) SA 391 (CC)
Brink v Kitshoff NO 1996 (4) SA 197 (CC)
Ferreira v Levin NO 196 (1) SA 984 (CC)
Ex parte Gauteng Provincial Legislature: in re Dispute Concerning the Constitutionality of Certain provisions of the Gauteng School Education Policy Bill 83 of 1995 1996 (3) SA 165 (CC) (*Gauteng School education Bill case*)
Soobramoney v Minister of Health (Kwa-Zulu Natal) 1998 (1) SA 765 (CC)

Study unit 7

Limitation of rights

S v Makwanyane 1995 (3) SA 391 (CC)
President of RSA v Hugo 1997 (4) SA 1 (CC)
August v Electoral Commission 1999 (3) SA 1 (CC)
Dawood v Minister of Home Affairs 2000 (3) SA 936 (CC)
Minister of Home Affairs v National Institute for Crime Prevention and Re-integration of Offenders (NICRO) 2004 (5) BCLR 445 (CC)
S v Bhulwana 1996 (1) SA 388 (CC)
National Coalition for Gay and Lesbian Equality v Minister of Justice 1999 (1) SA 6 (CC)
S v Mamabolo (E TV, Business Day and the Freedom of Expression Institute Intervening) 2001 (5) BCLR 449 (CC)
S v Manamela (Director-General of Justice Intervening) 2000 (5) BCLR 491 (CC)

Study unit 8

Remedies

Fose v Minister of Safety and Security 1997 (3) SA 786 (CC)
Sanderson v Attorney-General, Eastern Cape 1998 (2) SA 38 (CC)
JT Publishing v Minister of safety and security 1997 (3) SA 514 (CC)
President of the RSA v Hugo 1997 (4) SA 1 (CC)
Rail Commuters' Action Group v Transnet Ltd t/a Metrorail 2005 (2) SA 359 (CC)
Minister of Health v Treatment Action Campaign (2) 2002 (5) SA 721 (CC)
Mistry v Interim National Medical and Dental Council of South Africa 1998 (4) SA 1127 (CC)
National Coalition for Gay and Lesbian Equality v Minister of Justice 1999 (1) SA 6 (CC)
Executive Council of Western Cape Legislature v President of the Republic of South Africa 1995 (4) SA 877 (CC)
S v Niemand 2002 (1) SA 21 (CC)
S v Manamela 2000 (3) SA 1 (CC)
Dawood v Minister of Home Affairs 2000 (3) SA 936 (CC)
Coetzee v Minister of Safety and Security 2003 (3) SA 368 (LC)
Coetzee v Government of the Republic of South Africa 1995 (4) SA 631 (CC)
Ferreira v Levin NO 1996 (1) SA 984 (CC)
Case v Minister of Safety and Security 1996 (3) SA 617 (CC)
National Coalition for Gay and Lesbian Equality v Minister of Home Affairs 2000 (2) SA 1 (CC)
Hoffmann v South African Airways 2001 (1) SA 1 (CC)
City Council of Pretoria v Walker 1998 (2) SA 363 (CC)
President of the Republic of South Africa v United Democratic Movement 2003 (1) SA 472 (CC)
Carmichele v Minister of Safety and Security (Centre for Applied Legal Studies Intervening) 2001 (4) SA 938 (CC)
Permanent Secretary, Department of Welfare, Eastern Cape v Ngxuzza 2001 (2) SA 609 (E)

Study unit 9

Equality

Prinsloo v Van der Linde 1997 (6) BCLR 759 (CC)
Pretoria City Council v Walker 1998 (3) BCLR 257 (CC)
Fraser v Children's Court Pretoria North 1997 (2) BCLR 155 (CC)
National Coalition for Gay and Lesbian Equality v Minister of Home Affairs 2000 (2) SA 1 (CC)
Beukes v Krugersdorp Transitional Local Council 1996 (3) SA 467 (W)
Harksen v Lane NO 1998 (1) SA 300 (CC)
Larbi-Odam v MEC for Education 1998 (1) SA 745 (CC)
Public Servants' Association of South Africa v Minister of Justice 1997 (5) BCLR 577 (T)
Motala v University of Natal 1995 (3) BCLR 374 (D)

Study Unit 10

Human dignity

S v Makwanyane 1995 (3) SA 391 (CC)
National Coalition for Gay and Lesbian Equality v Minister of Justice 1999 (1) SA 6 (CC)
S v Tcoelib 1996 (7) BCLR 996 (NmS)

Dawood v Minister of Home Affairs 2000 (1) SA 997 (C)
Dawood v Minister of Home Affairs 2000 (3) SA 936 (CC)
Booyesen v Minister of Home Affairs 2001 (4) SA 485 (CC)
Bhe v Magistrate, Khayelitsha 2005 (1) BCLR 1 (CC)

Study unit 11

Socio-economic rights

In re Certification of the Constitution of the Republic of South Africa Constitution Act, 1996 1996 (10) BCLR 1253 (CC)
Soobramoney v Minister of Health, Kwa-Zulu Natal 1998 (1) SA 756 (CC)
Government of the Republic of South Africa v Grootboom 2001 (11) BCLR 1169 (CC)
Minister of Health and Others v Treatment Action Campaign and Others (2) 2002 (10) BCLR 1075 (CC)
Ross v South Peninsula Municipality 2000 (1) SA 589 (C)
Brisley v Drotosky 2002 (4) SA 1 (SCA)

7. ASSIGNMENTS

7.1 Introductory remarks

At registration you received a general letter from the Office of the Director of the Law School dealing with, among other things, the new tuition model and the compulsory assignments. We assume that you have read it carefully and are familiar with the contents of this letter. It is an important letter and we want to bring it to your attention again.

FUR201F is a semester module. In terms of a decision of Senate and the College of Law all students must submit at least one compulsory assignment per semester module (there are two compulsory assignments per semester for FUR201F). One of the reasons for this is that a student is required to provide proof that he or she 'actively studied' before writing the examination.

7.2 Plagiarism

Plagiarism is the use of words, ideas and thoughts of another person, giving the impression that they are your own. Plagiarism is a form of theft that manifests itself in various dishonest academic activities.

The *Disciplinary Code for Students* (2004) is supplied to all students on registration. You are advised to study the Code, especially sections 2.1.13 and 2.1.14 (2004 3-4). Please also read the University's *Policy on Copyright Infringement and Plagiarism*.

7.3 Compulsory assignments

Three assignments have been set for each semester: **two compulsory** assignments and a self-assessment assignment. The self-assessment assignment is a voluntary assignment which does not count towards your final mark or admission to the examination. **You should therefore not submit the self-assessment assignment to the University.**

The **TWO compulsory assignments must, however, be submitted.**

7.4 How the system works

7.4.1 *The compulsory assignments and the yearmark*

The compulsory assignments will count 10% towards a student's final mark for the module.

How will this work? We will explain by way of an example: Your final mark for the module will be a combination of your mark for the assignment and your exam mark. Say you receive a mark of 70% for your assignment: 10% of 70 is 7. You will therefore carry forward 7 marks toward your final mark. If you are awarded a mark of, say, 48% in the examination, this will count 90% of the final mark: 90% of 48 is 43,2 = 43. Your mark will therefore be calculated as follows: 7 (assignment) + 43 (exam mark) = 50 (final mark). The examination paper still counts 100 marks, but because the exam mark contributes only 90% towards the final mark, a student who failed to submit the assignment (or who obtained 0% for the assignment) will have to obtain at least 55% in the examination to pass the module (90% of 55 is 49.5 = 50).

7.4.2 *The compulsory assignments and admission to the examination*

All students who submit the compulsory assignments in time (on or before the due date) will be admitted to the examination, regardless of the marks obtained for the assignments. In other words, a student who submitted the compulsory assignments but obtained 0% will be allowed to sit for the examination. That student will not, however, have a yearmark. Students who do not submit the compulsory assignments on or before the due date **will not gain admission to the examination.**

7.5 Due dates

7.5.1 *Semester one*

The **due date** for the submission of **BOTH** the compulsory assignments is:

21 MARCH 2008

NO EXTENSIONS WILL BE GRANTED.

7.5.2 *Semester two*

The **due date** for the submission of **BOTH** the compulsory assignments is:

22 AUGUST 2008

NO EXTENSIONS WILL BE GRANTED.

Proof of active study regarding registered students must be submitted by the University to the Department of Education before a specific date, and consequently **no** extension of due dates for the assignments is possible.

Moreover, you will also not be permitted to submit assignments after the due date because comments on the assignments will be mailed to you on or before the due date to enable you to study them for examination purposes. Obviously, if an extension is granted then certain students would be able to copy their answers from the comments.

7.6 Feedback on the assignments

Feedback on the assignments is contained in a tutorial letter to enable all students registered for this module to benefit from it.

7.7 Assignment instructions

- (1) Your answer must be properly structured, with appropriate headings and subheadings. An assignment without headings will be negatively assessed.
- (2) The answer must be coherent, based on sound legal arguments substantiated and supported by reference to relevant authority (legislation, case law, articles by legal writers and so on).
- (3) Language must be clear and grammatically and stylistically correct.
- (4) If at all possible, the assignment should be typed, in at least 1,5 spacing. If you are not able to submit a typed answer, you may submit a NEAT AND LEGIBLE handwritten answer.
- (5) The answer to assignment 2 should not exceed 1 000 words (\pm three typed pages).
- (6) Students often find it rewarding to work in a group when preparing an assignment. Unisa encourages you to work together. However, note that you must give your **own interpretation** of what you have learnt in the group. **Identical assignments** by different members of a group are **not acceptable**. Work copied directly from the prescribed book (or any other source) is also unacceptable and constitutes plagiarism, which is an offence.

If we notice that your work has been copied from any source or is simply a paraphrase of someone else's work, **no marks** will be awarded and you may even be denied admission to the examination; this rule also applies to work that has been partially copied or paraphrased. In addition to that, disciplinary action will be taken against you by the University authorities.

For your convenience the assignments are attached to this tutorial letter.

Annexure 1 contains both the compulsory assignments and the self-assessment assignment for the **FIRST SEMESTER**. **Annexure 2** contains both the compulsory assignments and the self-assessment assignment for the **SECOND SEMESTER**. Complete the assignments as indicated, on the mark-reading sheet enclosed, make sure you have filled in the assignments' unique number and enclose the assignments in the official assignment cover and mail it to the **Assignment Section** in the Unisa assignment envelope.

Your assignment may also be submitted electronically. Follow the myUnisa instructions. **Under no circumstances must you send your assignment directly to your lecturers.**

UNDER NO CIRCUMSTANCES MAY YOU PUT MORE THAN ONE ASSIGNMENT IN THE SAME ASSIGNMENT COVER.

- ✎ It is wise to **make a copy of the assignment** before submitting it, in case it gets lost in the post.

7.8 General approach to essay or problem-type questions in assignments and the examination

To answer essay or problem-type questions in assignments satisfactorily, you must work through the prescribed tutorial material carefully. The following basic guidelines may be of help:

- ✎ Students normally complain that they find it difficult to rewrite the **tutorial material in their own words**. Unfortunately you have to get used to this, because you will not have your tutorial material with you during the examination. However, there are three easy steps to assist you in answering essay or problem-type questions:
- **Study** the relevant tutorial material until you understand it. While you are reading the particular section or chapter, make notes or lists of the key words and concepts.
 - Put away your tutorial material and try to **summarise** that particular section in your own words by **using your notes** and list of key words.
 - Use the tutorial material to **finalise** your summary with **references to case law** and other relevant authority.
- ✎ To answer these types of questions satisfactorily, you are expected to consult your study guide, prescribed textbook(s), prescribed cases and tutorial letters. Carefully read the questions, determine what they pertain to, and then use only the relevant information in your tutorial material to answer the questions put to you.
- ✎ When citing textbooks, cases, articles and so forth as authority in your answer, note the following:
- Case law must be cited in full when used for the first time in the text (e.g. *Kanhym Bpk v Oudtshoorn Munisipaliteit* 1990 (3) SA 252 (C)); thereafter an abbreviated reference is sufficient (e.g. *Kanhym supra*). Criminal cases may simply be referred to by the name of the accused (e.g. *Mokgethi* 1990 (1) SA 32 (A)).
 - Prescribed textbooks may be referred to in your answer by merely giving the author's name and the page number (e.g. Snyman 20).
 - Articles are referred to by citing the author's name, the journal (or its accepted abbreviation like *SALJ* for *South African Law Journal*) and the page number (e.g. Whiting 1986 *SALJ* 38).
 - The full bibliographical details are supplied in a bibliography at the end of your assignment (e.g. Snyman CR *Criminal Law* (1995) Butterworths; Whiting R "joining in" 1986 *SALJ* 38).

- **Do not refer to sources you have not personally consulted.**
- Note that it is not necessary to provide **full** references in the examination.
- ✎ **Quotations** from case law and other sources must be kept to a minimum. All quotations must be **accurate** and **acknowledged** fully.
- ✎ **Names of cases and Latin expressions** must either be underlined or typed in italics.
- ✎ **Neatness** is essential. **Plan** your answers in advance. For essay or problem-type questions you should do a number of **rough drafts** before you write the final answer.
- ✎ Use paragraphs with **subheadings** where applicable (refer to your prescribed textbook(s) for examples).
- ✎ We restrict the length of assignment answers to teach you to write concise and logical legal arguments. It is very easy to write a long, rambling answer encompassing everything which could possibly have a connection with the problem, but such an answer does not earn good marks. You must learn to summarise your tutorial material so that you can answer a question in a factually correct, concise and logical manner. This will also teach you to give similar answers in an examination.

8. CONCLUSION

Remember that we are here to help you – don't sit and struggle all by yourself when you can just pick up a phone or send an e-mail message or write a letter. All we ask is that you make an effort to master the material before approaching us, and that you formulate your problem beforehand. It is very difficult to help a student who tells you: "I don't understand anything" or "I'm struggling with the whole course".

We hope that you will find the module interesting and stimulating and we wish you success in your studies.

Polina Diagnekova, Nomthandazo Ntlama and Inge Harms

ANNEXURE 1
FIRST SEMESTER: COMPULSORY ASSIGNMENTS

Due date for BOTH assignments: 21 MARCH 2008
NO EXTENSIONS WILL BE GRANTED

FIRST COMPULSORY ASSIGNMENT

1. Your unique number is: **624026**
2. This number **must** appear on your mark-reading sheet cover.

Instructions

1. Your answer must be completed on a Unisa mark-reading sheet.
2. Only one of the statements is correct. You must therefore mark only one of the squares for each question. If you mark more than one square for a specific question, you will receive no mark for that particular answer to that question.
3. Bear in mind that some of the statements in a given question might be partially correct. However, you must select the one which is most accurate.

Marking of the assignment

1. Each answer carries 2 marks.
2. No mark will be awarded for an incorrect answer.
3. No mark will be awarded for an unanswered question.
4. The assignment is not marked negatively, that is, marks will not be deducted for incorrect answers.

QUESTIONS

1. Direct application of the Bill of Rights refers to the interpretation of legislation, the development of the common law or customary law.
(1) True.
(2) False. (2)
2. In terms of section 7(2) of the Constitution, natural and juristic persons are bound to act in accordance with the provisions of the Bill of Rights.
(1) True.
(2) False. (2)
3. The Happy Sunday's Liquor Store can trade on Sundays as they are protected by section 15 of the Constitution, which provides the right to freedom of religion.
(1) True.
(2) False. (2)

4. The Constitutional Court favours a narrow approach to standing as opposed to the broad approach.
 (1) True.
 (2) False. (2)
5. During the procedural stage of Bill of Rights litigation the court must consider whether the applicant's right has been violated.
 (1) True.
 (2) False. (2)
- [10]**

SECOND COMPULSORY ASSIGNMENT

- NOTE:**
1. This assignment is based on chapters 1 to 4 of the textbook.
 2. **DO NOT** hand in this assignment in the same assignment cover as the first assignment.
 3. **DO NOT** staple the two assignments together.
 4. Clearly indicate on the assignment cover of this assignment that it is **ASSIGNMENT 2.**

QUESTIONS

1. Explain what amounts to an 'organ of state' for purposes of section 8(1) of the Bill of Rights. (5)
 2. Discuss whether and to what extent a juristic person can rely on the protection of the Bill of Rights. For instance, can *Noseweek*, an independent newspaper, invoke the right to life and the right to freedom of expression? (5)
- [10]**

SELF-ASSESSMENT ASSIGNMENT

DO NOT SUBMIT THIS ASSIGNMENT

Mbala Babu is a learner at a state high school in Tshwane. He is expelled from school because he is black, does not attend any Christian church and is a Rastafarian. Mbala alleges that his exclusion from the school is unconstitutional.

1. Is the high school bound by the Bill of Rights? In your answer, refer to the relevant provisions of the Constitution. (5)
 2. Does the school's conduct amount to an infringement of the right to equality and non-discrimination? Discuss with reference to the test laid down in *Harksen v Lane NO*. (15)
- [20]**

ANNEXURE 2
SECOND SEMESTER: COMPULSORY ASSIGNMENTS

Due date for BOTH assignments: 22 AUGUST 2008
NO EXTENSIONS WILL BE GRANTED

FIRST COMPULSORY ASSIGNMENT

1. Your unique number is: **624040**
2. This number **must** appear on your mark-reading sheet cover.

Instructions

1. Your answer must be completed on a Unisa mark-reading sheet.
2. Only one of the statements is correct. You must therefore mark only one of the squares for each question. If you mark more than one square for a specific question, you will receive no mark for that particular answer to that question.
3. Bear in mind that some of the statements in a given question might be partially correct. However, you must select the one which is most accurate.

Marking of the assignment

1. Each answer carries 2 marks.
2. No mark will be awarded for an incorrect answer.
3. No mark will be awarded for an unanswered question.
4. The assignment is not marked negatively, that is, marks will not be deducted for incorrect answers.

QUESTIONS

1. Direct application of the Bill of Rights refers to the interpretation of legislation, the development of the common law or customary law.
(1) False
(2) True. (2)
2. In terms of section 7(2) of the Constitution, natural and juristic persons are bound to act in accordance with the provisions of the Bill of Rights.
(1) False
(2) True. (2)
3. The Happy Sunday's Liquor Store can trade on Sundays as they are protected by section 15 of the Constitution, which provides the right to freedom of religion.
(1) False
(2) True. (2)

4. The Constitutional Court favours a narrow approach to standing as opposed to the broad approach.
 (1) False
 (2) True. (2)
5. During the procedural stage of Bill of Rights litigation the court must consider whether the applicant's right has been violated.
 (1) False
 (2) True. (2)
- [10]**

SECOND COMPULSORY ASSIGNMENT

- NOTE:**
- 1 This assignment is based on chapters 1 to 4 of the textbook.
 2. **DO NOT** hand in this assignment in the same assignment cover as the first assignment.
 3. **DO NOT** staple the two assignments together.
 4. Clearly indicate on the assignment cover of this assignment that it is **ASSIGNMENT 2.**

QUESTIONS

1. Explain what amounts to an 'organ of state' for purposes of section 8(1) of the Bill of Rights. (5)
 2. Discuss whether and to what extent a juristic person can rely on the protection of the Bill of Rights. For instance, can *Noseweek*, an independent newspaper, invoke the right to life and the right to freedom of expression? (5)
- [10]**

SELF-ASSESSMENT ASSIGNMENT

DO NOT SUBMIT THIS ASSIGNMENT

Mbala Babu is a learner at a state high school in Tshwane. He is expelled from school because he is black, does not attend any Christian church and is a Rastafarian. Mbala alleges that his exclusion from the school is unconstitutional.

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 2. Does the school's conduct amount to an infringement of the right to equality and non-discrimination? Discuss with reference to the test laid down in *Harksen v Lane NO.* (15)
- [20]**

TO: The Business Section, Unisa Press
PO Box 392
UNISA
0003
FAX NO: (012) 429-3449/ REFERENCE TEL NOS: (012) 429-3515 / (012) 429-3695

Please send me the following Unisa publication: **EFFECTIVE STUDY (REVISED) (R) (ITEM NO 7169)**

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..... Postal code:.....

PAYMENT OPTIONS: Choose between the following 6 options (indicate with an "x")

1a) Direct Payment for **South African students: Banking details** as follows: ABSA, Sunnyside;
Type of Account: Cheque; **Name of Account:** UNISA; **Account no.:** 4048746711
For reference please indicate your student no and the allocation no 1000682023 on the deposit slip and fax deposit slip to (012) 429-3449. See example:

3	6	0	5	8	4	3		1	0	0	0	6	8	2	0	2	3
---	---	---	---	---	---	---	--	---	---	---	---	---	---	---	---	---	---

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- 2) Cheque for R _____, made payable to Unisa, is attached
- 3) Postal order for R _____, made payable to Unisa, is attached
- 4) Debit my credit card, (Only Visa/Mastercard) No _____

Card holder's surname & initials _____ Signature _____
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6	12	18	24
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