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VIR GEBRUIK DEUR EKSAKENOPSIENER

Subject / Vak

Number of paper / Vraestelnommer

Date of examination / Datum van eksamen

Examination centre / Eksamensentrum

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1. A candidate who without authority takes into the examination venue any book document or object which could assist him in the examination, and does not hand over such material to the invigilator before the official commencement of the examination will be guilty of infringing the University's examination regulations and will be liable to punishment as determined by Council.

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WAARSKUWING

1. 'n Kandidaat wat sonder magtiging enige boek, dokument of voorwerp wat hom in die eksamen behulp sal kan wees, in die eksamenlokaal inbring of neem, is ongesteld aan die onregelmatig materiaal aan die opsioner te oorhandig voordat die eksamen amptelik in aanvang neem slegs slegs as voorbehoud van die Universiteit se eksamenregulasies en hom blootstel aan straf slegs deur die Raad van die Universiteit bepaal mag word.

2. Kladwerk mag slegs op die eksamenvraestel gedaan word en moet as sodanig aangeduid word.

3. Geen aantekeninge mag op enige liggaamsdeel byvoorbeeld die hande of op enige kledingstuk aangebring word nie.

4. 'n Bladsyvraestel is die uitsluiting van die Universiteit en onder geen omstandighede mag 'n kandidaat on betrou of uit die eksamenlokaal neem nie.

NB VOLTOOI ASSEBLYF DIE BIJWONINGSREGISTER OP DIE AGTERBLAD, SKEUR AF EN OORHANDIG AAN DIE OPSIENER
INTRODUCTION TO LAW

This paper consists of 17 pages plus instructions for completion of a mark-reading sheet

INSTRUCTIONS

1. Answer ALL the questions
2. Read the questions VERY CAREFULLY before answering them
3. MARKS may be DEDUCTED for POOR USE OF LANGUAGE
4. Use a BLUE or a BLACK PEN when you answer the questions of SECTION A on the EXAMINATION PAPER. PLEASE DO NOT USE A PENCIL WHEN ANSWERING THIS SECTION.
5. Use an HB PENCIL when you answer the questions of SECTION B on the MARK-READING SHEET PLEASE DO NOT USE A PEN WHEN COMPLETING THE MARK-READING SHEET.

THIS PAPER CONSISTS OF TWO SECTIONS

SECTION A  COMPULSORY  70 MARKS
Your answers to the questions in this section must be written directly on the examination paper.

SECTION B  COMPULSORY  30 MARKS
This section consists of 15 multiple-choice questions which must be answered on the mark-reading sheet provided. Each question counts TWO marks. The unique number to be filled in on the mark-reading sheet is 473798

[TURN OVER]
SECTION A

Answer ALL the questions. Your answers to the questions in this section must be written DIRECTLY on the examination paper in the space provided.

QUESTION 1

(a) Describe the term "norm". Also name four normative systems that comply with the description of the term "norm". (3)

(b) Distinguish between formal justice and substantive justice. (3)
(c) According to South African private law a legal subject can be the bearer of four types of rights. Name these four types of rights as well as their corresponding objects (4)

1

2

3

4

(d) To which legal family does the South African legal system belong? Give reasons for your answer (5)

[15]

QUESTION 2

(a) Read the following scenario and answer the questions that follow

Chari and Charlotte Charles have been married for the past 25 years. During these years they have lived in luxury and have never even thought about what would happen to their possessions if they are not around anymore. On their way to Cape Town for their annual holiday they both died in a car accident. Their three children are now very eager to hear what will happen to their parents' possessions.
(i) Which main division of South African law will be applicable to this scenario? Give a reason for your answer


(ii) Which division of your answer in (i) will be applicable? Explain what this division deals with


(iii) Which subdivision of your answer in (ii) will be applicable? Give reasons for your answer


[TURN OVER]
(iv) Which form of the subdivision in (iii) will be applicable to our scenario? Give a reason for your answer (2)

(b) Read the following scenario and answer the questions that follow

Mr and Mrs Clark have been married for the past ten years. Two years ago Mr Clark, who is a well-known businessman in the community, began an extra-marital relationship with his neighbour's wife. When Mrs Clark found out about her husband's adultery a year later, she decided to divorce him. She approaches you for legal advice and asks you to explain to her which sources of law you will use in the divorce case against Mr Clark.

(i) Name the source of South African law that you will have to consult first when you start preparing Mrs Clark's case (1)

(ii) You explain to Mrs Clark that a distinction is made between two kinds of sources of law in South African law. To which kind of sources of law does your answer in (i) belong? (1)

(c) Write a short paragraph on African indigenous law as a source of South African law (3)

[TURN OVER]
QUESTION 3

(a) Read the following scenario and answer the questions that follow

Johan and Yonela are in an interracial relationship. One day a conservative and corrupt policeman, Mr Chabede, walks up to the couple and tells them that they are "immoral and second class citizens". He tells them that he has the power to arrest them and that he will do exactly that unless they each pay him R300.

(i) Identify and discuss in detail the kind of fundamental rights that will protect Johan and Yonela in this situation. (5)
(ii) What type of application of the Bill of Rights is applicable in this scenario? (1)

(iii) Mr Chabede argues that fundamental rights may be limited and that his conduct amounts to a justifiable limitation of Johan and Yonela's rights. How will a court determine whether a limitation of a fundamental right is justifiable? (4)
(b) Melissa and Rudene have been in a same-sex relationship for the past six years. They want to get married, but are not sure whether gay people are allowed to marry. You are Melissa and Rudene’s lawyer and they come to you for advice. Keeping the influence of the Constitution in mind, explain to Melissa and Rudene what their legal position is and what different options they have at their disposal regarding their union.

[5]

[15]

QUESTION 4

(a) Read the following scenario and answer the questions that follow.

The neighbour of Sipho Ngobeni, Ken Klapman, is having a loud party late one Monday night. When Sipho asks Ken to turn down the music, Ken becomes angry and hits Sipho with a bottle. Sipho suffers a deep cut to his head. He is admitted to hospital where he receives treatment for his injuries. Sipho wants to institute a case against Ken for the hospital costs but does not know whether he should approach an attorney or an advocate for legal advice. He approaches you, a first-year law student at Unisa, and asks some questions.

[TURN OVER]
(i) What kind of case might arise from the treatment of Sipho’s injuries? Give a reason for your answer (2)

(ii) Whom will Sipho have to approach for legal advice in this case – an attorney or an advocate? (1)

(iii) Sipho does not understand the difference between an attorney and an advocate. Explain to him what the differences are with reference to academic and professional requirements, their functions, their right of appearance in the courts and their membership of professional bodies (4)
(iv) Who will be the parties in this case?

(v) What will the onus of proof be in this case and on which party will it rest?

(b) Explain the difference between an appeal and a review
QUESTION 5

Complete the following sentences by writing the correct word/words in the space provided (After the spaces we indicate in brackets the number of words which you have to insert)

5.1 A ______________________ (one word) is an example of a real right which entitles the holder of the right to use a road through the land of another person (1)

5.2 ________________________________ (two words) rights relate to creations of the human mind (1)

5.3 The ________________________________ (two words) relating to insolvency and company law was received at the Cape in the 19th century (1)

5.4 There are three ways in which obligations arise, namely ______________________ (one word), ______________________ (one word) and ________________________________ (two words) (3)

5.5 The attendance of an accused in the Magistrate’s Court can be secured by means of ______________________ (one word), a notice issued by a ________________________________ (two words) and a ______________________ (one word) issued by the clerk of the Court (3)
5.6 In criminal matters the type of offence and the ___________________________ (one word) determines a court's jurisdiction

(1)

[10]

TOTAL: SECTION A* [70]

[TURN OVER]
SECTION B

This section consists of 15 multiple-choice questions. You must choose ONE statement as your answer for each question and then mark it on the mark-reading sheet. Each question counts TWO marks. In this section you must mark your answers with an HB PENCIL on the MARK-READING SHEET provided. PLEASE READ THE INSTRUCTIONS on the mark-reading sheet carefully before you fill in your answers. The following unique number must be filled in on the mark-reading sheet: 473798

QUESTION 1

Which of the following is not a characteristic of the law?

(1) The law governs human conduct
(2) The law functions through political institutions
(3) The law is enforced by state organs
(4) The law must be obeyed by the whole society

QUESTION 2

Formal law refers to

(1) The rules that determine how court cases are decided
(2) Legislation that governs human conduct
(3) The part of the law that determines the meaning of legal rules
(4) The part of the law that deals with the relationship between individuals

QUESTION 3

Which one of the following countries' legal systems falls within the common-law legal family?

(1) Germany
(2) The Netherlands
(3) Belgium
(4) Australia

[TURN OVER]
QUESTION 4
Which of the following statements pertaining to the connection between law and right is incorrect?

(1) The law balances the interests of individuals
(2) The law dictates what the content of a right is
(3) The content of a right is limited
(4) A right refers to a moral principle

QUESTION 5
What did the reception of Roman law in the Netherlands cause?

(1) The creation of a common Western legal tradition
(2) The creation of a common European legal tradition
(3) The creation of the Roman-Dutch law
(4) The creation of the Dutch law

QUESTION 6
The following legal disciplines fall within public law

(1) private international law, administrative law, criminal law
(2) mercantile law, constitutional law, law of obligations
(3) family law, law of succession, law of patrimony
(4) international law, law of procedure, criminal law

QUESTION 7
Consider the following two statements

(a) Constitutional law is concerned with the institution and organisation of the state as well as the governing of state powers
(b) Constitutional law controls the administration of the state in general, but in particular the state's relationships with citizens

Which option is correct?

(1) (a) and (b) are correct
(2) (a) and (b) are incorrect
(3) (a) is correct, (b) is incorrect
(4) (a) is incorrect, (b) is correct

[TURN OVER]
QUESTION 8

Consider the following case reference and complete the sentence by choosing the correct option.

In the case of *Naude and Another v Fraser* 1998 (4) SA 539 (SCA) 1998 refers to the year in which the

1. case was decided
2. case commenced
3. case was reported
4. case was postponed

QUESTION 9

The Constitution has set up a number of state institutions to support our democracy. Which of the following is not such an institution?

1. The South African Revenue Service
2. The Commission for Gender Equality
3. The Electoral Commission
4. The Auditor-General

QUESTION 10

In which chapter of the Constitution will you find the Bill of Rights?

1. Chapter 1
2. Chapter 2
3. Chapter 3
4. None of the above

QUESTION 11

Certain rights contained in the Bill of Rights are non-derogable. Which of the following rights is protected in its entirety?

1. Right to equality
2. Right to human dignity
3. Right to freedom and security of the person
4. Right to property

[TURN OVER]
QUESTION 12

In which section of the Constitution will you find the limitation clause?

(1) Section 9  
(2) Section 13  
(3) Section 26  
(4) None of the above

QUESTION 13

Mr Ngcobo reads through his grandson's study guide for Introduction to Law. He comes across the factors that determine a court's jurisdiction in a case. He asks his grandson what these factors would be in a civil case.

The correct answer is

(1) The court's competence to hear the case  
(2) The nature of the court proceedings  
(3) The type of offence and the sentence  
(4) The nature of relief and the amount claimed

QUESTION 14

The opposing parties in a criminal case can possibly be known as the

(1) plaintiff and accused  
(2) applicant and defendant  
(3) appellant and respondent  
(4) state and defendant

[TURN OVER]
QUESTION 15

Jennifer was involved in a car accident and sustained serious injuries. She wants to institute a claim of R2 million against the driver of the other car. Which court will she approach with her case?

(1) Magistrate’s Court
(2) High Court
(3) Supreme Court of Appeal
(4) Constitutional Court

TOTAL SECTION B  15 x 2 = [30]

TOTAL [100]
MARK READING SHEET INSTRUCTIONS

Your mark reading sheet is marked by computer and should therefore be filled in thoroughly and correctly.

USE ONLY AN HB PENCIL TO COMPLETE YOUR MARK READING SHEET

PLEASE DO NOT FOLD OR DAMAGE YOUR MARK READING SHEET

Consult the illustration of a mark reading sheet on the reverse of this page and follow the instructions step by step when working on your sheet.

Instruction numbers 1 to 10 refer to spaces on your mark reading sheet which you should fill in as follows:

1. Write your paper code in these eight squares, for instance:

   \[
   \begin{array}{ccccccc}
   P & S & Y & 1 & 0 & 0 & - \ X
   \end{array}
   \]

2. The paper number pertains only to first-level courses consisting of two papers. Write 0 1 for the first paper and 0 2 for the second. If only one paper, then leave blank.

3. Fill in your initials and surname.

4. Fill in the date of the examination.

5. Fill in the name of the examination centre.

6. Write the digits of your student number HORIZONTALLY (from left to right). Begin by filling in the first digit of your student number in the first square on the left, then fill in the other digits, each one in a separate square.

7. In each vertical column mark the digit that corresponds to the digit in your student number as follows.

8. Write your unique paper number HORIZONTALLY.

   NB: Your unique paper number appears at the top of your examination paper and consists only of digits (e.g. 403326).

9. In each vertical column mark the digit that corresponds to the digit number in your unique paper number as follows.

10. Question numbers 1 to 140 indicate corresponding question numbers in your examination paper. The five spaces with digits 1 to 5 next to each question number indicate an alternative answer to each question. The spaces of which the number correspond to the answer you have chosen for each question and should be marked as follows.

   ♦ For official use by the invigilator. Do not fill in any information here.
Fill-in/MCQ

Examination period

Student number
Surname
First Names
Subject
Code of paper - Number of paper
Centre Date

This is to certify that I have read the rules governing the examinations as set out on the inside cover of this examination answer book and in the examination instructions. That the information supplied by me in this answer book is correct and valid. I undertake to adhere to the procedures, rules and regulations of the University of South Africa as published in the official brochures.

Signature of candidate

ID Number

Signature of invigilator

UNISA invigilator's personnel number

NOTE Not a valid document if not completed by the invigilator

Batch No 28092015MCQ

Fill-in/MCQ

Examination period

Student number
Surname
First Names
Subject
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Signature of candidate

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