# ILW1501
## SECOND PAPER
### MAY/JUNE 2018

**INTRODUCTION TO LAW**

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### WARNING

1. A candidate who without authorisation 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.

2. Rough work may be done only on the examination question paper and must be labelled as such.

3. No notes may be made on any part of the body, such as the hands, or on any garment.

4. This page/paper is the property of the University and under no circumstances may the candidate retain it or take it out of the examination venue.

NB PLEASE COMPLETE THE ATTENDANCE REGISTER ON THE BACK PAGE, TEAR OFF AND HAND TO THE INVIGILATOR.
ILW1501
SECOND PAPER

Introduction to Law

Duration 2 Hours 100 Marks

EXAMINERS
FIRST PROF M P SNYMAN
SECOND MRS A JACOBS

Closed book examination

This examination question paper remains the property of the University of South Africa and may not be removed from the examination venue.

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 498888
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) **Name** four characteristics of the law (4)

1

____________________________________________________________________

2

____________________________________________________________________

3

____________________________________________________________________

4

____________________________________________________________________

(b) Rudene and Melissa are in a same-sex relationship. They live in an exclusive neighbourhood in Pretoria. The residents of this neighbourhood are very conservative. Whenever the couple walks down the street holding hands, neighbours make insulting remarks about them.

**Name** and **describe** the normative system that you can identify from this scenario (2)

____________________________________________________________________

____________________________________________________________________

____________________________________________________________________

____________________________________________________________________

____________________________________________________________________

____________________________________________________________________

[TURN OVER]
(c) What is the **connection** between "law" and "right"?

(3)

(d) **Name** the most important characteristic of the civil-law legal family. **Also name** one legal system grouped within this legal family.

(2)

(e) **Explain** why the South African legal system is classified as a hybrid legal system.

(4)

[15]

[TURN OVER]
QUESTION 2

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

Karel entered into an agreement with New Visions Kitchens to renovate their kitchen. They agreed that New Visions Kitchens would replace their old stove with a new Easycook stove. The new stove would have a two-year guarantee. Karel and Martie could not wait to try out the new stove and invited their best friends for dinner. To their utter disappointment and anger, the oven failed before the meal was cooked. They had to go to a restaurant for dinner instead. The following day Karel’s brother, who repairs electrical appliances, took a look at the stove and told him that it was not a new stove. When Karel phoned New Visions Kitchens, they refused to speak to him. To make matters worse, it appeared that New Visions Kitchens had destroyed a fish pond with exclusive species of fish in Karel’s garden by dumping some of the building rubble in it.

(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? Give a reason for your answer

(iii) Which subdivision of your answer in (ii) will be applicable? Give a reason for your answer
(iv) Name two further subdivisions of your answer in (iii) that will be applicable to our scenario?

(b) Read the following scenario and answer the question that follows

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.

Name two sources of South African law that you will use to provide Mrs Clark with legal advice

1. 
2. 

(c) Indicate whether custom is an authoritative or persuasive source of the law and name the requirements that a custom has to fulfil in order to be recognised as a legal rule.

[TURN OVER]
QUESTION 3

(a) A number of special features have been built into the Constitution of 1996 to ensure the success of our democracy. One of these features is the **supremacy of the Constitution**. Discuss this feature.

(b) David Berman applies for a post as engineer at a large construction company, Oxtron. It is a well-known fact that all the directors of Oxtron are Catholic. On his application form, David mentions that he is Jewish. When he hands in his application at the office of Oxtron, the receptionist informs him that only Catholics can apply for the post and because David is Jewish, his application will not be considered.
(i) Which fundamental right has been infringed in this scenario? Give a reason for your answer

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

(ii) Fundamental rights in the Bill of Rights can be applied in two ways. Which way is applicable to this scenario? Give a reason for your answer

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

(c) What is the purpose of section 36 of the Constitution?

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________
(d) Discuss the influence of the Constitution on criminal law by specifically focusing on the position of the death penalty in South African law. Refer to relevant case law in your discussion.

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[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 alleges that Ken started the fight, but Ken denies this. Sipho decides to lay a charge of assault against Ken. Both appear in the magistrate's court. After judgement has been delivered, Ken feels that he has been wronged since he has not been given the opportunity to present his own case.
(i) **Name** the kind of case that might arise from the charge of assault. **Give a reason** for your answer. (2)

(ii) What is the **purpose of the kind of case** that you identified in (i)? (1)

(iii) **Name** the parties who will be involved in this case. (2)

(iv) **Name** three ways in which the offender's attendance can be secured in court. (3)

1

2

3

(v) Who will the **presiding officer** in this court be? (1)
(vi) Name two factors that will determine the court's jurisdiction in this case (2)

1

2

(vii) What will the onus of proof be in this case and on which party will it rest? (2)

(viii) Does the law provide Ken with any remedy since he has not been given the opportunity to present his own case? Give a reason for your answer (2)

[15]

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)

[TURN OVER]
51 ___________________________ (two words) is that part of the law that determines the content and meaning of the different legal rules.

52 The right to your good name is an example of a ___________________________ (two words).

53 The Dutch legal system is an example of the ___________________________ (two words) legal family.

54 ___________________________ (two words) deals with the relationship between the state and the citizen.

55 The purpose of an act is set out in the ___________________________ (two words) of a an act.

56 The law of a country which is not contained in legislation is called ___________________________ (two words).

57 The application of the Bill of Rights between individuals and/or private institutions is known as the ___________________________ (one word) application of the Bill of Rights.

[TURN OVER]
5.8 The branch of the state that applies and carries out law is known as the __________________________ (one word) authority of the state (1)

5.9 In a __________________________ case (one word) the jurisdiction of the court may be determined by the nature of the relief claimed (1)

5.10 A __________________________ (two words) is responsible for keeping order in a magistrate's court (1)

TOTAL: SECTION A: [70]
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: 498888.

QUESTION 1

George buys a house from David for R500 000. They enter into an agreement of sale according to which the house becomes George’s property on payment of the amount agreed upon. What is David’s right to payment called?

(1) personality right
(2) personal right
(3) real right
(4) intellectual property right

QUESTION 2

Which one of the following is an example of a real right?

(1) copyright
(2) a servitude
(3) a right to a good name
(4) a contractual obligation

QUESTION 3

The following legal disciplines fall within private law.

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

Some of the areas of law fall within both public law and private law? Which area is the odd one out?

(1) conflict of laws
(2) labour law
(3) mercantile law
(4) law of contract

QUESTION 5

The fact that South African law is not codified means that

(1) the Constitution is the only authoritative source of law
(2) the law is only found in one authoritative source of law
(3) the law is not found in only one authoritative source of law
(4) the codifications of foreign legal systems must be consulted

QUESTION 6

The principle in South African law which determines that lower courts are bound by the decisions of higher courts is known as the principle of

(1) ratio decidendi
(2) hierarchy of courts
(3) judicial precedent
(4) separation of powers

QUESTION 7

The Minister of Environmental Affairs and Tourism refuses to grant the fishermen of Saldanha Bay licenses to use their 4x4 vehicles on the beach. Which branch of the state's power is applicable in this case?

(1) parliament
(2) legislative authority
(3) executive authority
(4) judicial authority
QUESTION 8

Which fundamental right is the odd one out?

(1) the right to freedom and security of the person
(2) the right to human dignity
(3) the right to education
(4) the right to freedom of expression

QUESTION 9

Read the following scenario and indicate the correct statement.

Parliament has published a Bill in which it states that fishermen in the Cape will no longer be allowed to sell the fish that they have caught on the beach. The fishermen are very upset and regard this as an infringement on their right to freedom of trade. The fishermen hold a march and hand a petition to the Minister of Trade and Industry. During the march some of the fishermen carry the knives that they use to clean the fish. One of the fishermen cuts open a policeman’s arm with his knife. The policeman sets his police dog loose on the man.

(1) The fishermen have an unqualified right to assemble, demonstrate and petition
(2) The right to freedom of trade is an absolute right that may not be limited
(3) The fishermen may be armed to defend themselves against the police
(4) The fishermen must be unarmed

QUESTION 10

Read the following scenario and indicate the correct statement.

After a series of bomb explosions in restaurants and other public venues for which Action Freedom Africa has claimed responsibility, a state of emergency is declared by parliament. One of the members of Action Freedom Africa is caught in a roadblock and is detained in terms of the emergency regulations. He is tortured to extract information from him and told that, in terms of the emergency regulations, he had no rights at all. He eventually revealed the names and whereabouts of several of his comrades. One of these comrades approaches Jane Mothibe, who is a member of The Concerned Lawyers Association, to inquire about the rights of people detained during a state of emergency. Jane advises him that

(1) even during a state of emergency a person may not be tortured
(2) during a state of emergency the right to life is temporarily suspended
(3) detainees may be tortured if they refuse to answer questions
(4) the Bill of Rights is suspended entirely during a state of emergency
QUESTION 11

Who receives the evidence collected by the investigating officer and then decides whether the suspect should be charged in a magistrate's court?

(1) a public prosecutor  
(2) a state advocate  
(3) a judge or a magistrate  
(4) a defence advocate

QUESTION 12

The opposing parties in a civil case can possibly be known as

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

QUESTION 13

Attorneys are regarded as general legal practitioners and perform a wide variety of functions. Which one of the following does not fall within the scope of their functions?

(1) advising and representing clients in court  
(2) transferring of property from one person to another  
(3) serving summonses to appear in court  
(4) drafting of legal documents for example a will

QUESTION 14

John Smith was rewarded a claim of R500 000 by the High Court against Peter Nel. Peter caused a motor car accident in which John sustained severe injuries. Peter is not satisfied with the ruling of the court, because he is of the opinion that the accident was not his fault.

Which court can Peter approach next?

(1) Constitutional Court  
(2) Magistrate's Court  
(3) Supreme Court of Appeal  
(4) None of the above courts

[TURN OVER]
QUESTION 15

Consider the following two remarks

(a) The Constitutional Court can hear appeals on any matter from the High Courts
(b) The Supreme Court of Appeal can hear appeals on all matters from the High Courts, except constitutional matters

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

TOTAL: SECTION B: $15 \times 2 = [30]$
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:
   
   ![Paper Code Example]

2. The paper number pertains only to first-level courses consisting of two papers. Write 01 for the first paper and 02 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.