INTRODUCTION TO LAW
ILW1501

Semester 1

Feedback on Assignment 02

Department of Jurisprudence
1 FEEDBACK ON ASSIGNMENT 02

Detailed feedback on each question of Assignment 02 follows. Please compare your answers to the answers in the feedback in order to see where you have made your mistakes. Remember, this assignment is based on the entire Study Guide for ILW1501.

Question 1

Option (1) is correct. The different types of normative systems correspond in the sense that all these systems govern human behaviour.

[See Study Unit 1, pp 14-16.]

Question 2

Option (3) is correct. In modern law, a legal object can be anything that is of economic value to people.

[See Study Unit 2, p 23.]

Question 3

Options (1), (2) and (3) are all factors that contributed to the reception of English law at the time of the British occupation in the Cape during 1806-1910.

Option (4) which refers to plaeasent, is not such a factor. During the time of the Dutch settlement at the Cape, the lives of the people were governed by legislation or plaeasent.

Thus, option (4) is incorrect and therefore the option that you had to choose.

[See Study Unit 3, pp 37-38.]

Question 4

Options (1), (2) and (3) are incorrect, since these are not examples of common-law countries.

Option (4) is correct. America and England are examples of countries belonging to the common-law family.

[See Study Unit 4, p 44.]
Question 5

Statements (a) and (b) are incorrect. When a judge quotes a similar case or makes an incidental remark, this is known as obiter dicta (singular: obiter dictum) which literally means “remarks made in passing”. Obiter dicta do not create a precedent and are not binding, but they can at times have persuasive force.

Statements (c) and (d) are correct. When the judge gives his/her reasons for the decision, he/she sets out the relevant legal rules relating to the dispute. These legal rules create a precedent and will bind other courts dealing with the same kind of disputes. This part of the court’s decision is the ratio decidendi which literally means “the reason(s) for the decision”.

Since statements (c) and (d) are the correct answers relating to the meaning of ratio decidendi, you had to choose option (2).

[See Study Unit 6, p 79.]

Question 6

Option (4) is correct. Since this case is being heard in the Supreme Court of Appeal, the parties to the case are called the appellant and the respondent. As Molefe’s name appears first, Molefe is the appellant in this case. This means that he/she brought an application to appeal the decision of the previous court (court a quo). Mahaeng is the respondent in this case because his/her name appears second. He/she will therefore have to respond (answer) to the appeal brought by Molefe. As such, Mahaeng is the respondent in this case.

[See Study Unit 6, p 84.]

Question 7

Option (4) is clearly correct. The fundamental right that has been infringed in this scenario is the right to human dignity.

[See Study Unit 8, pp 144-145.]

Question 8

Option (3) is clearly correct. The powers of the state are separated and divided into three sections (branches), namely the legislative authority (that makes laws), the executive authority (that applies and carries out laws) and the judicial authority (that decides legal disputes). The police belong to the executive authority as they apply and carry out laws.

[See Study Unit 7, pp 135-136.]
Question 9

Options (1), (3) and (4) are incorrect.

Option (1) is incorrect, since the fundamental rights contained within the Bill of Rights may be limited if the criteria in section 36 are met.

[See Study Unit 9, p 164.]

Option (3) is incorrect, since fundamental rights may be in direct conflict (competition) with one another. In such an instance a court will have to make a decision by balancing the competing rights by means of the criteria set out in section 36.

[See Study Unit 9, pp 164.]

Option (4) is incorrect, since the right to human dignity is a non-derogable right which is protected in its entirety.

[See Study Unit 8, p 159.]

Option (2) is correct and thus the option that you had to choose. Some of the rights in the Bill of Rights are limited because of the way in which they are formulated (described). Section 9, which deals with the right to equality, is such an example. The word “unfair” before “discrimination” tells us that the right to equality is limited, because only unfair discrimination will be considered as unconstitutional.

[See Study Unit 9, p 163.]

Question 10

Option (1) is correct. A state prosecutor, an attorney and a magistrate are all players in a criminal case in the magistrate’s court.

Options (2), (3) and (4) are incorrect, since these are not all role players specifically in a criminal case in the magistrate’s court.

[See Study Unit 12, pp 211-212.]

TOTAL: [10]