

## LAW FACULTY (COURSE DESCRIPTIONS)

### Senior Lecturer & Dean

R Krüger, BA(Hons), LLB(Potch), PGDHE,  
PhD(Rhodes)

### Professor & Deputy Dean

LO Juma, LLB(Nairobi), Dip.  
Law(Kenya),LLM(Pennsylvania), MA(Notre  
Dame), LLD(Fort Hare)

### Associate Professor

J Campbell, BA, LLB(UCT), LLM(Rhodes)  
GB Glover, BA, LLB, PhD(Rhodes)  
E Nwauche, LLB, LLM(Nigeria)

### Senior Lecturers

GE Davies, BA, LLB(Rhodes)  
SEH Driver, BA, LLB(Rhodes), LLM(UNISA),  
PGDHE(Rhodes)  
HJ Kruuse, BA, LLB, LLM, PGDHE(Rhodes)  
PGDHE(Rhodes)  
G Muller, LLB, LLD(Stell)  
L Niesing, LLB(Stell)  
B Padayachi, BA(UNISA), LLB(Natal)  
CA Renaud, BA(Hons), LLB(Rhodes), LLM(Stell)  
EH van Coller, LLB, LLM(UFS), LLM(Utrecht),  
PGDHE(Rhodes), LLD(UJ)

### Lecturers

AHA Haller-Barker, BSc(Hons), MSc, LLB,  
PGDHE(Rhodes)  
VJ Heideman, BA(Hons), LLB(Rhodes),  
LLM(Cantab)  
T Marumo, BA,LLB(Rhodes), Postgrad Cert:  
Prospecting & Mining Law(Wits)

### Professor Emeritus

RB Mqoke, BJuris, LLB(Fort Hare), LLM(Rhodes),  
LLD(Fort Hare)

### Research Associate

CJC McConnachie, BA,LLB(Rhodes), BCL,  
MPhil, DPhil(Oxon)

### Visiting Professors

D Koyana (Prof), BA(Rhodes), Dip Juris(SA),  
LLB(UNISA), LLM(Fort Hare), LLD(UNISA),  
LLD(UP)  
CM Plasket, BA, LLB, LLM(Natal), PhD(Rhodes)  
WH Trengove, SC, BCom, LLB(Pret)

### Visiting Fellow

M Boqwana, BA, LLB(Rhodes)

### Director, Law Clinic and Associate Professor

JW Bodenstein, BA(Stell), LLB, LLM(UKZN)

### Clinical Legal Education Attorney

J Hillier, BA, LLB(Rhodes)

### Manager: Administration

A Comley

### Faculty Librarian

Vacant

### Librarian

S Gule BTech LIS(UNISA)

### Bachelor of Laws

The Faculty of Law offers all the courses required for the LLB degree, and in addition offers courses for degree curricula in other faculties.

Legal Theory is a three-year major subject in the BA, BCom, BSc, BBusSci and BSocSc curricula. It involves study of key fields of South African public and private law, and forms an important stepping-stone towards the LLB degree.

Legal Theory is allowed as a credit for degrees in the Faculties of Humanities, Commerce and Science. Credits in Legal Theory courses exempt a candidate from the equivalent papers in the LLB curriculum.

### Legal Theory 1 (two semester courses, two degree credits)

Paper 1: Foundations of Law.

See the course structure set out below.

Paper 2: Introduction to Law.

See the course structure set out below.

### Legal Theory 2 (four semester courses, two degree credits)

Paper 1: Legal Interpretation.

See the course structure set out below.

Paper 2: Constitutional Law A.

See the course structure set out below.

Paper 3: Constitutional Law B.

See the course structure set out below.

Paper 4: Law of Persons.

See the course structure set out below.

### Legal Theory 3 (six semester courses, two degree credits)

Paper 1: Law of Contract A.

See the course structure set out below.

Paper 2: Law of Persons.

See the course structure set out below.

Paper 3: Law of Property A.

See the course structure set out below.

Paper 4: Law of Contract B.

See the course structure set out below.

Paper 5: Law of Life Partnerships.

See the course structure set out below.  
 Paper 6: Law of Property B.  
 See the course structure set out below.

**Administrative Law**

**(one year-course; one three-hour paper (50%), class work (50%), November examination)**

Background and introduction to administrative law; the sources of administrative law, the constitutional right to just administrative action; introduction and overview of the Promotion of Administrative Justice Act (PAJA); administrative action in terms of PAJA; judicial review of administrative action and the requirements of lawfulness, reasonableness and procedural fairness, the right to written reasons; procedural issues and remedies.

**Alternative Dispute Resolution**

**(one semester course: one two-hour paper (50%), practical examination (20%), journal (20%), coursework (10%), November examination)**

Negotiation and mediation theory and the development of practical skills; arbitration legislation, and rules and enforcement.

**Civil Procedure A**

**(one semester course: one two-hour paper (70%), class work (30%), June examination)**

Courts with civil jurisdiction; Locus Standi; Action Proceedings from letter of demand to trial in both the High Court and the Magistrates' Court including commonly utilized interlocutory applications such as Summary Judgment, Exceptions and Applications to Strike Out.

**Civil Procedure B**

**(one semester course: one two-hour paper (70%), class work (30%), June examination)**

Applications in both the High Court and the Magistrates' Court; Applications relating to Insolvency and related matters for example Sequestration, Voluntary Surrender, Rehabilitation and Liquidation of Companies; Other Specific Applications, for example, Interdicts, Anton Piller Orders, Matrimonial Matters (Rule 43) and Curatorship;; Provisional Sentence; Appeals, Reviews and Rescission of Judgment; Costs; and Enforcement of Judgments and Administration Orders.

**Commercial Law 1**

**(two semester courses: COL 101 and COL 102)**

**COL101 (One three-hour paper (70%), class work (30%), June examination)**

Introduction to the nature of law; general principles of the law of contract, including special contracts; the administration of deceased estates; the law of insolvency.

**COL102 (One three-hour paper (70%), class work(30%), November examination)**

Introduction to business entities; company law and corporate governance; financial markets and black economic empowerment.A credit in or a valid DP certificate for COL101 is required for entry into COL102.

**Commercial Law 2**

**(two semester courses: COL 201 and COL202)**

**COL201 (two two-hour papers (70%), class work (30%), June examination)**

Paper 1: Labour Law; real and personal security; banking law and payment instruments.

Paper 2: Intellectual property and franchising; credit agreements and consumer protection; commercial crimes.

**COL 202 (two two-hour papers (70%), class work (30%), November examination)**

Paper 1: Special contracts: sale, lease and carriage.

Paper 2: Insurance; competition law; business ethics; alternative dispute resolution.

**Company Law A**

**(one semester course: one two-hour paper (70%), class work (30%), June examination)**

The nature, formation, dissolution and functional aspects of Companies and Close Corporations from a legislative, case law and practical perspective.

**Company Law B**

**(one semester course: one two-hour paper (70%), class work (30%), November examination)**

The winding-up of companies; the law relating to mergers and acquisitions of companies; securities regulations, initial public offerings and private placements; legislation and rules governing black economic empowerment; and an introduction to corporate governance.

**Competition Law**

**(one semester course: one two-hour paper (70%), class work (30%), June examination)**

The objects of, and rationale for, competition law; a brief history of the regulation of competition; restrictive horizontal practices: legislation and cases; restrictive vertical practices: legislation and cases; the abuse of dominance: legislation and cases; institutions, procedures and remedies.

**Constitutional Law A**

**(one semester course: one two-hour paper (70%), class work (30%), June examination)**

Sources of constitutional law, key constitutional concepts in context of major constitutional models and a detailed analysis of the structures of government created by the Constitution of the Republic of South Africa, 1996.

**Constitutional Law B**

**(one semester course: one two-hour paper (70%), class work (30%), November examination)**

The protection of human rights in a constitutional state, judicially and extra-judicially, with an emphasis on the former; application and interpretation of the Bill of Rights; consideration of selected rights protected in the Bill of Rights (chapter 2 of the Constitution of the Republic of South Africa, 1996).

**Constitutional Litigation**

**(one semester course: one two-hour paper (60%), class work (40%), November examination)**

Litigating under the Constitution, the rules of the Constitutional Court; constitutional remedies; consideration of selected constitutional law topics at advanced level.

**Criminal Law A**

**(one semester course: one two hour paper (70%), class work (30%), June examination)**

Introductory concepts and definitions; fundamental values, functions and objectives underlying criminal justice; general principles of criminal liability including: conduct, unlawfulness, causation, capacity and fault; defences; forms of participation in criminal activities; liability for inchoate crimes.

**Criminal Law B**

**(one semester course: one two-hour paper (70%), class work (30%), November examination)**

Selected common-law and statutory crimes.

**Criminal Procedure A**

**(one semester course: one two-hour paper (70%), class work (30%), June examination)**

Structure of the courts; jurisdiction; search procedure; arrest; summonses; written notice; bail; indictments and charge sheets; essentials of a valid charge; defects etc. cured by evidence; amendments of charges; pleas of guilty and not guilty; conduct of criminal trials; verdict and sentence; automatic review and right of appeal.

**Criminal Procedure B**

**(one semester course: one two-hour paper (70%), class work (30%), June examination)**

Who prosecutes; private prosecutions; stopping and withdrawal of prosecutions; prosecutions to be brought within reasonable time; search and seizure; legal representation; disclosure by prosecution; indictments in High Court; exemptions, exceptions, provisos; duplication of convictions; further particulars; autrefois convict and autrefois acquit; plea and sentence agreements; prosecution of corporations; appeals; taking of evidence under s205 of Criminal Procedure Act 51 of 1977; inquests; extradition; asset forfeiture.

**Environmental Law**

**(one semester course: one two-hour paper (70%), class work (30%), June examination)**

Scope and definition of environmental law; legal norms and standards underpinning environmental management; sources and history; overview of international environmental law; the Constitution and environmental legislation; administration and enforcement; environmental management tools; selected topics: natural resources and conservation management.

**Ethics and Professional Responsibility**

**(one semester course: one two-hour paper (60%), class work 40%), November examination)**

The study of different approaches to ethical decision-making in the legal context; the purpose and function of ethics in the legal profession; the sources and content of legal ethical rules, including regulation of the profession; the kinds of ethical dilemmas which lawyers and judges face, and issues relating to professional negligence.

**Foundations of Law**

**(one semester course: one three-hour paper (70%), class work (30%), June examination)**

Part A: Roman law; sources of law (common law, legislation, judicial precedent, custom, indigenous law, and the Constitution)

Part B: The structure of the courts; dispute resolution methods; the legal profession; elementary outline of criminal procedure; elementary outline of civil procedure.

**International Human Rights and Humanitarian Law**

**(one semester course: one two-hour paper (60%) class work (40%), June examination)**

History and nature of international human rights law; selected human rights in international law; enforcement of international human rights law standards; international humanitarian law.

**International Trade Law**

**(one semester course: one two-hour paper (70%), class work (30%), June examination)**

The origin and evolution of international trade; general concepts and principles; the United Nations Convention on the International Sale of Goods; the Carriage of Goods by Sea Act, and the common law relating to charter parties; the law of the World Trade Organization.

**Introduction to Conveyancing**

**(one semester course: one two-hour paper (70%), class work (30%), November examination)**

An introduction to the practice and procedure of the Deeds Registries Office.

**Introduction to Law**

**(one semester course: one three-hour paper (70%), class work (30%), November examination)**

Part A: Nature of law; law and justice; rights and duties; introduction to the legal systems of the world  
Part B: Divisions of law: criminal law; contract; delict.

**IsiXhosa**

**(one semester course: assessment of practical work (100%, second semester) (Students will not be eligible for supplementary or aegrotat examinations.)**

A discipline-specific introduction to isiXhosa language and culture. Communication skills

developed and cultural knowledge imparted essential in lawyer-client interactions.

**Jurisprudence**

**(one semester course: one two-hour paper (60%) class work (40%), November examination)**

An introduction to the major schools of legal philosophy (with reference to South African legal philosophers who align themselves with these schools) and an overview of the core jurisprudential debates that have preoccupied legal philosophers from ancient to modern times.

**Labour Law**

**(one semester course: one two-hour paper (70%), class work (30%), June examination)**

The legal framework for the regulation of labour relations in South Africa in context; basic conditions of employment; individual labour law – contracts, transfer, dismissal and unfair labour practices and dispute resolution; employment equity, collective labour law – freedom of association, organisational rights, collective bargaining and its regulation, industrial action.

**Law of Agency, Insurance and Credit Agreements (one semester course: one two-hour paper (70%), class work (30%), November examination)**

Agency: Agency power and authority; the rights and duties of principals and agents; the relationships between principals and agents and third parties. Insurance: sources; essential elements; insurable interest; duty of disclosure; warranties; risk; loss; subrogation; over-insurance; under-insurance. Credit Agreements: a review of the National Credit Act.

**Law of Banking and Payments**

**(one semester course: one two-hour paper (70%), class work (30%), June examination)**

The law of negotiable instruments and cheques; the law relating to credit cards and electronic financial transactions; the law of documentary credits; exchange control regulations; an introduction to the Financial Intelligence Centre Act of 2001; measures for the detection and prevention of money laundering; an overview of banking regulation and the role of the Reserve Bank.

**Law of Contract A**

**(one semester course: one two-hour paper (70%), class work (30%), June examination)**

The historical antecedents of South African contract law; theories of contracts; the essentials of a valid contract, including capacity, consensus (offer, acceptance, mistake, misrepresentation, duress, undue influence), legality (statutory, common law, the influence of the Constitution), possibility of performance and formalities.

#### **Law of Contract B**

**(one semester course: one two hour paper (70%), class work (30%), November examination)**

Types of contractual terms, interpretation of contracts; rectification; alteration of contractual obligations; cession; suretyship; performance; breach; remedies.

#### **Law of Copyright and Trade Marks**

**(one semester course: one two-hour paper, (70%), class work (30%), June examination)**

Registration of trade marks; transactions involving trade marks; infringement of trade marks; domain names and the internet; requirements for the subsistence of copyright; transactions involving copyright; infringement of copyright; copyright and the internet; and counterfeit goods.

#### **The Law of Delict**

**(one year-course; one three-hour paper (50%); class work (50%) November examination)**

General Principles and elements of delictual liability in terms of the *actio legis Aquiliae*, the action for pain and suffering and the *actio iniuriarum*; forms of strict liability in terms of common law; liability imposed by statute (Road Accident Fund Act, Compensation for Occupational Injuries and Diseases Act, Consumer Protection Act); prescription of claims; delictual remedies and quantification of damages.

#### **Law of Evidence A**

**(one semester course: one two hour paper (70%), class work (30%), November examination)**

Introductory terminology; the course of the trial; burden and standard of proof; judicial notice; opinion evidence; documentary; real and machine-generated evidence.

#### **Law of Evidence B**

**(one semester course: one two hour paper (70%), class work (30%), November examination)**

Informal admissions; confessions; formal admissions;

private privilege; state privilege; hearsay; previous consistent statements; similar fact evidence; entrapment; unconstitutionally obtained evidence.

#### **Law of Life Partnerships**

**(one semester course: one two-hour paper (70%), class work (30%), November examination)**

Evolution of the traditional concept of family and marriage; influence of the Constitution and international law; legal status of religious marriages; development of the law with respect to same-sex life partnerships and domestic partnerships; engagement; legal requirements for a valid marriage; void and voidable marriages; consequences of marriage in and out of community of property; antenuptial contracts; calculation of accrual; divorce and maintenance; changing trends in family law evident in recent Constitutional Court decisions.

#### **Law of Partnerships and Trusts**

**(one semester course: one two-hour paper (70%), class work (30%), November examination)**

The nature, formation, dissolution and functional aspects of sole proprietorships, co-operatives, partnerships and trusts from a legislative, case law and practical perspective.

#### **Law of Patents, Designs and Geographical Indications**

**(one semester course: one two-hour paper (70%), class work (30%), November examination)**

Nature and contents of patents; patentable subject matter and exclusions; patent ownership and exploitation; patent application procedure; infringement of patents; scope of design monopoly; design ownership; exploitation and procedure; infringements of designs; protection of geographical indications; legal regulation of geographical indications; geographical indications and dispute settlement.

#### **Law of Persons**

**(one semester course: one two hour paper (70%), class work (30%), June/November examination)**

General concept of legal personality: how it begins and ends and the rights and duties associated with it. Legal principles that affect legal status: domicile, age, mental illness, prodigality, change of sex. Protection of children in terms of the Children's Act 38 of 2005.

**Law of Property A**

**(one semester course: one two-hour paper (70%), class work (30%), June examination)**

Meaning, function and scope of property law; definition, characteristics and classification of things; distinction between real and personal rights; general principles, limitation, and acquisition and protection of ownership.

**Law of Property B**

**(one semester course: one two hour paper (70%), class work (30%), November examination)**

Possession; servitudes (definition and classification; creation, termination and enforcement); and real security (mortgage, pledge, notarial bonds, tacit hypothecs, lien).

**Law of Sale and Lease**

**(one semester course: one two-hour paper (70%), class work (30%), June examination)**

Sale: the essential elements; passing of ownership; risk and benefit; conditional sales; residual obligations of the seller and remedies of the buyer; residual obligations of the buyer; sales affected by statute.

Lease: essential elements; types of leases; the rights and duties of lessors and lessees; the impact of the Constitution and various statutory enactments on leases; renewal; termination; lessee's rights in regard to improvements.

**Law of Succession and Administration of Estates (one semester course: one two-hour paper (70%), class work (30%), November examination)**

The scope of succession; intestate succession; executing wills; the contents of wills; collation; succession by contract; and administration of deceased estates including deceased insolvent estates.

**Law of Tax and Estate Planning**

**(one semester course: one two-hour paper (70%), class work (30%), November examination)**

Selected material provisions of the Income Tax Act No. 58 of 1962, including the "gross income definition", allowable trade deductions, and certain special deductions; general and specific anti-avoidance provisions; use of trusts in estate planning; introductory fundamental principles of capital gains tax; introductory fundamental provisions of the Value-Added Tax Act No. 89 of 1991; donations tax.

**Legal Accounting**

**(one semester course: one two- hour paper, (70%), class work (30%), June examination)**

The general principles of accounting with special emphasis on Trust Accounts.

**Legal Interpretation**

**(one semester course: one two-hour paper (70%), class work (30%), June examination)**

Statutory Interpretation: Nature and classification of enacted law in South Africa; overview of theories of statutory interpretation; interpretive methods; impact of the Constitution on statutory interpretation. Precedent and Adjudication: Legal method and legal reasoning; analysis of court judgments (with emphasis on ratio decidendi and obiter dictum).

**Legal Pluralism**

**(one semester course: one two-hour paper (70%), classwork (30%), June/November examination)**

Meaning and challenges of legal pluralism; origins and evolution of legal pluralism in South Africa; history and application of customary law in the legal system; the bill of rights and customary/religious normative systems; marriage laws in comparative perspective (African customary, Hindu, Muslim and Jewish normative systems); settlement of disputes in plural legal settings; and selected topics on legal pluralism.

**Legal Practice**

**(one semester course: assessment of practical work (100%), first or second semester) (Students will not be eligible for supplementary or aegrotat examinations.)**

File and case management, consultation, interviewing, communication, and drafting skills. The emphasis is on the practical application of the law through prescribed work at the Law Clinic, practical exercises and assignments, the aim of which is to draw together and apply the legal knowledge acquired in academic studies.

**Legal Skills**

**(one semester course: assessment of practical work (100%), first semester, carrying over into beginning of second semester) (Students will not be eligible for supplementary or aegrotat examinations.)**

Research skills, including electronic resources; regulation of the legal environment; writing skills;

numeracy skills; applied logic and critical reasoning; and structure and delivery of legal argument, including heads of argument and mooting.

**Public International Law**

**(one semester course: one two-hour paper (70%), class work (30%), June examination)**

Sources; international and municipal law; international personality; territory; jurisdiction; law of the sea; state responsibility; human rights; treaties; use of force; international institutions.

**The Law of Obligations in a Global Context**

**(one semester course: one two-hour paper (70%), class work (30%), June examination)**

Introduction to comparative private law; contract law in a global and comparative context; the rise of consumer protection; the law of unjustified enrichment; and alternative perspectives on the law of obligations.

**Research Paper**

**(two semester courses: assessed at the end of the year)**

*(Students will not be eligible for supplementary or aegrotat examinations)*

LLB candidates are permitted to complete a research essay in a topic of their choice, subject to the availability of a suitable supervisor and the approval of the Dean. The paper will count for two elective credits. Students will be asked to indicate their intention to undertake this elective in the fourth term of their penultimate year of study. The detailed essay on the approved topic must be submitted by the end of the third week of the fourth term of the final year.

**International Moot Competition (one semester course; assessed at the end of the year)**

(Students will not be eligible for supplementary or aegrotat examinations)

Students who have participated in the African Human Rights Moot Court Competition, or any other international mooting competition, are permitted with the approval of the Dean to present the work done for this competition, as well as an analysis of their experiences of being involved in such a competition, in coherent written form for examination in accordance with the requirements laid down by the Faculty. A candidate may obtain only one elective credit for participation in a moot competition, irrespective of the number of times a candidate participates.