

RHODES UNIVERSITY



COMMERCIAL LAW 102

**GENERAL AND TUTORIAL INFORMATION
SHEET**

2011

1. LEARNING OBJECTIVES

1.1 Critical Outcomes

The Commercial Law 1 course is designed so that the students should be able to achieve the following outcomes:

- To *communicate* legal issues verbally and in writing in the correct manner;
- To *communicate* effectively in class debate and class assignments;
- To *identify, analyse, extract* and *apply* legal principles to a simple set of facts;
- To *classify* factual situations according to the various branches of the law studied;
- To *identify* and *solve* basic practical legal problems;
- To *organise* and *manage* themselves and their work load;
- To *distinguish* the nature of rights and duties and provide an elementary explanation to a lay person;
- To *cope* with a more detailed study of commercial law; and
- To *use* technology in legal research

2. CONTENT OF COURSE

Commercial law 102 will cover the following areas of law:

- Sole proprietorship, partnership, joint ventures, close corporations, trusts and co-operatives.
- Companies, local governance and BEE.
- Labour law.

Commercial Law 102:

- **Sole proprietorship, partnership, joint ventures, close corporations, trusts and co-operatives** – approx. 12 lectures (Mr Francis Khayundi)
- **Companies, local governance and BEE** – approx. 16 lectures (Mr Thomas Miller)
- **Labour Law** – approx. 20 lectures (Ms Sharlene Ramlall)

3. LECTURE TIMES AND VENUES

Please note that the following lecture slots have been allocated to Commercial Law 1 in the timetable and that tutorials in other subjects should not be scheduled for these times.

The following times are allocated to the course: Please note that due to the large size of the class, the **SAME LECTURE IS REPEATED ON THE SAME DAY** at the time indicated – i.e. you **must attend ONE** of the lecturers every day, except Thursday.

MONDAY	7:45 - 8:30 (1) Barrat 2	or 12:20 -13:05 (6) Barrat 2
TUESDAY	08:40 - 09:25 (2) Barrat 2	or 12:20 -13:05 (6) Barrat 2
WEDNESDAY	9:35 – 10:20 (3) Barrat 2	or 12:20 -13:05 (6) Barrat 2
FRIDAY	11:25 – 12:10 (5) Barrat 2	or 12:20 -13:05 (6) Barrat 2

4. THE TUTORIAL SYSTEM

NB NB NB!!!

PLEASE NOTE that you stay in the SAME tutorial group you were allocated to for Col101. If you now have a clash with times, PLEASE report it to the Graduate assistants WITHIN the first week, so that they can allocate you to another tutorial group. The tutorial lists are on **RUConnected at Commercial Law 102**, there is no enrolment key.

Any queries as to tutorial groups must be addressed by e-mail to the Graduate Assistants:

Gugu Ncube g07n3296@campus.ru.ac.za

Melissa Bowins g07b0073@campus.ru.ac.za

- a) Students will normally be required to prepare work for discussion in their tutorials. Such work will be indicated to students by the respective lecturers of each section. **Note:** Being absent from lectures and hence not knowing what work is required for tutorials is obviously unacceptable.
- b) It is a DP requirement to attend ALL tutorials and to submit any prescribed work for a given tutorial. Should you not comply with these requirements, you may not be allowed to write the Commercial Law 1 examinations. **Students should note that leaving town early for, and arriving back late from, the university vacations is not an acceptable reason for missing a tutorial, lecture or tests or for submitting work late.**
- c) You are required to attend the tutorial group you have been allocated to.

- d) The tutors will keep a register and a student who, without a valid excuse misses a tutorial may be refused a DP certificate. If a tutorial has been missed, the student must furnish the tutor with a copy of the leave of absence (LOA), while the original leave of absence form should be handed to the Law Secretary. **IMPORTANT:** If you are granted a LOA, it is your responsibility to attend another tutorial in the same cycle. You must email the Graduate assistants to indicate to them which tutorial you normally attend (for which a LOA has been granted) and the details of the make-up tutorial you have attended.

TUTORS:

1. **Gugu Ncube** - g07n3296@campus.ru.ac.za
(Graduate assistant)
2. **Melissa Bowins** - g07b0073@campus.ru.ac.za
(Graduate assistant)
3. Christi-Anne Haworth - g07h3076@campus.ru.ac.za
4. Noxolo Shange – g08s1466@campus.ru.ac.za
5. Jacques de Villiers - g07d0803@campus.ru.ac.za
6. Matseliso Taka - g08t2640@campus.ru.ac.za
7. Popo Mfubu - g07m0925@campus.ru.ac.za
8. Wesley Verwij - g10v4312@campus.ru.ac.za
9. Christopher Quinn - g07q0362@campus.ru.ac.za
10. Tamlyn Wells - g07w0694@campus.ru.ac.za
11. Catherine Hannington - g08h2041@campus.ru.ac.za
12. Farai Faifi - g08f6214@campus.ru.ac.za
13. Victor Mafuku - g09m7143@campus.ru.ac.za
14. Tiiso Makakane - g07m4601@campus.ru.ac.za

TUTORIAL TIMES:

Tutorials have been scheduled for the following weeks:

	TOPIC	Date per group
<u>TUT 1</u> (1 – 3 August)	<ul style="list-style-type: none">• Welcome & introduction• Assignment 1 – referencing• Exercise 1	Mo 1 August Tue 2 July Wed 3 July
<u>TUT 2</u> (15 – 17 August)	<ul style="list-style-type: none">• Exercise 2• Assignment 1 discussion	Mo 15 August Tue 16 August Wed 17 August
<u>TUT 3</u> (29-31 August)	<ul style="list-style-type: none">• Feedback on Assignment 1• Test reminder/prep• Exercise 3	Mo 29 August Tue 30 August Wed 31 August
<u>TUT 4</u> (5-7 September)	<ul style="list-style-type: none">• Test prep• Exercise 4	Mo 5 September Tue 6 September Wed 7 September
<u>TUT 5</u> (26-28 September)	<ul style="list-style-type: none">• Test Preparation• Assignment 2 discussion• Exercise 5	Mo 26 September Tue 27 September Wed 28 September
<u>TUT 6</u> (10-12 October)	<ul style="list-style-type: none">• Assignment 2 feedback• Assignment 3 discussion	Mo 10 October Tue 11 October Wed 12 October
<u>TUT 7</u> (4-6 October)	<ul style="list-style-type: none">• Exercise 6	Mo 4 October Tue 5 October Wed 6 October
<u>TUT 8</u> (17-19 October)	<ul style="list-style-type: none">• Checking of all marks for calculation of class marks.• Assignment 3 feedback.• Examination discussion.	Mo 17 October Tue 18 October Wed 19 October

TUTORIAL VENUES:

Mondays:

<u>Period</u>	<u>Num Venues</u>	<u>1</u>	<u>2</u>	<u>3</u>
7 (14:15)	3	Barrat 3	Zoo Minor	Zoo 216
8 (15:10)	3	Barrat 3	Zoo Minor	Zoo 216
9 (16:05)	3	Barrat 3	Zoo Minor	Zoo 216

Tuesdays:

<u>Period</u>	<u>Num Venues</u>	<u>1</u>	<u>2</u>	<u>3</u>
7 (14:15)	3	Geology C11	Man 329	Phy Lower
8 (15:10)	3	Geology C11	Man 329	Phy Lower
9 (16:05)	3	Geology C11	Man 329	Phy Lower

Wednesdays:

<u>Period</u>	<u>Num Venues</u>	<u>1</u>	<u>2</u>	<u>3</u>
7 (14:15)	3	Arts Minor	Barrat 3	Geology C11
8 (15:10)	3	Arts Minor	Barrat 3	Geology C11
9 (16:05)	3	Arts Minor	Barrat 3	Geology C11

5. COURSE MARK



The 5 pieces of work assessed during the semester (**2 tests and 3 assignments**) will each count 6% towards your total course mark of 30%. The examination for Commercial Law 102 will therefore be worth 70% of the final mark for each semester course. Marked assignments and tests will be handed back to you in your tutorials, where you will also receive feedback.

6. ASSIGNMENTS



There will be 3 assignments for Commercial Law 102. These assignments will be marked by your tutor and moderated by the lecturer concerned. The **due dates** thereof will be **STRICTLY ENFORCED**. Absolutely no informal extensions will be granted by a tutor, graduate assistant, lecturer or course co-ordinator for submission of work. Failure to submit an assignment may lead to the loss of your DP and will result in a mark of zero for that assignment.

If a LOA is granted for an assignment, students are still required to submit the assignment within one week after the period for which the LOA has been granted. Failure to do so will result in a student being awarded a mark of zero for the assignment.

NB: Assignments, which must be typed, must be timeously place in the relevant **tutor's box** outside the Law Library with the following information on the cover page:

- The assignment topic
- Your full name and student number
- The tutorial group number (example: Group 6B)
- Your tutors name

NO ASSIGNMENT or LATE ASSIGNMENT = 0

In addition you must attach the Rhodes Law Faculty cover page which can be accessed through the Rhodes computer network.

DUE DATES:

Assignment 1 (Partnerships)

Friday 19 August 2011

17:00

Assignment 2 (Company Law)

Friday 30 September 2011

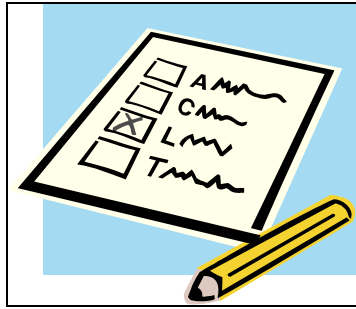
17:00

Assignment 3 (Labour Law)

Friday 14 October 2011

17:00

7. TESTS



Two tests will be written this semester. These will take a multiple-choice format with negative marking or such format decided on by the lecturer concerned and discussed in class, they will also include written answers. Writing of tests is compulsory unless a leave of absence certificate has been granted. Should a leave of absence be granted, the test will not be considered when a students' 30% course mark is calculated, but the course- and exam mark will be adjusted accordingly. **Note: NO MAKE-UP TESTS WILL BE SET FOR STUDENTS WHO MISS TESTS FOR ANY REASON.** In order not to disturb fellow students, students will not be allowed to hand in their tests early (i.e. you will have to stay in the hall for the duration of the test).

TEST DATES: Commercial Law 102:

TEST 1

Date: TUESDAY 6 September 2011
Venue: Barrat Lecture Theatre 1 + 2
Time: 19:00

TEST 2

Date: THURSDAY 6 October 2011
Venue: Barrat Lecture Theatre 1 + 2
Time: 19:00

8. EXAMINATIONS



There will be a three-hour examination for Commercial Law 101 in June. This will cover the work done in the first semester and will count as a write-off course. A prerequisite for entry into Comm Law 102 is a credit or mark of above 35% for Comm Law 101. There will be a three-hour examination for Commercial Law 102 in November.

- A pass in Commercial Law 1 counts as a credit towards a B Com, B Bus Sci, B Soc Sci and B Sc degrees.
- Comm Law 101 and 102 are separate courses and a pass in either gives a student a half credit towards a degree. A credit in either course is not contingent upon passing the other. However, one must pass both courses, or obtain an aggregate (ACR) for Commercial Law 1, in order to proceed to Commercial Law 2.
- **A student will obtain a credit for Commercial Law 1 according to the following rules:**
- A credit will be given if a candidate has passed both courses irrespective of the year of examination in which they were passed.
- An aggregated credit (ACR) will be given if the candidate has an aggregated mark of at least 50% for both courses and has obtained at least 45% in the course failed.
- A non-continuing credit (NCR) will be given if the candidate has an aggregated mark of at least 50% for both courses and has obtained between 40% and 45% in the course failed.
- Aggregation may take place only in respect of examinations written in the same academic year.

- In the Faculty of Commerce an NCR may be given for Commercial Law 1 if a student has obtained a credit in both Legal Theory 1 and Legal Theory 2. (Rule C.6). This rule does not apply to the students registered in the Faculty of Humanities.
- A student who passes Commercial Law 1 with at least 60% may be admitted to Legal Theory 2 provided that the student registers concurrently for Foundations of Law, obtains a credit in Foundations of Law, and attends and performs satisfactorily in all the tutorials in Introduction to Law. In these circumstances a student will be exempted from obtaining a credit for Introduction to Law in the LLB degree.

SUPPLEMENTARY / REWRITE EXAMINATIONS

- Students in COL 101 may rewrite the subject in November, provided that they obtain at least 35% in the June examination. In such cases the mark obtained in November shall be the final result for that course, except in those instances in which a student has an ACR or and NCR and wished to obtain a credit in the course failed. No further supplementary examinations will be written in February.
- Students in Commercial Law 102 may be granted a February supplementary examinations provided that they obtain at least 40% in the November examination, and provided that they otherwise qualify for a supplementary examination in the Faculty in which they have been registered.
- Students who have obtained an NCR may rewrite the subject at a subsequent examination session in order to obtain a continuing credit provided that no special examination will be set for this purpose.
- **Comm Law 1 NCR's will not be at risk when students rewrite the supplementary examination in February. So if they do worse, the NCR credit stands. The supplementary mark supersedes the first exam mark in all cases except where a student has an NCR or ACR.**

9. DP CERTIFICATE



According to the University Calendar, in order to be admitted to an examination, a student

- a) must have satisfactorily attended the class meetings for the course under examination, and
 - b) must have satisfactorily performed the work of the class.
- (General rule)

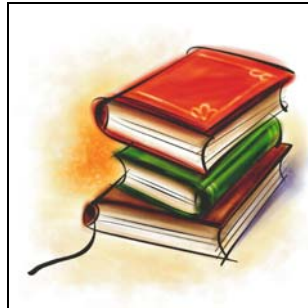
The general provision applicable, except where otherwise stated, is that:

- **Tutorial attendance is compulsory.**
- **Students are required to do all work of the class. The written work includes the tutorial assignments, essays and tests scheduled during the year.**

Commercial Law students MUST comply with the DP requirements in respect of each component of the course.

These requirements will be applied strictly. Students wishing to apply for leave of absence for compassionate reasons; for health reasons (which must be supported by a medical certificate); and for any other compelling reason, must apply for such. Application forms can be obtained from the Law Faculty Secretary and returned to her for consideration by the Deputy Dean. It is your obligation to check whether an LOA has been granted to you for the missing of a lecture, tutorial, test or late submission of an assignment.

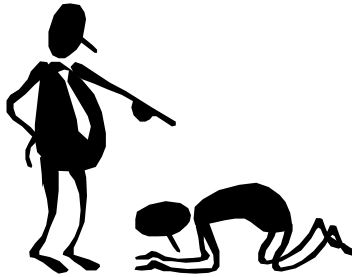
10. LIBRARY



Commercial Law students have the use of the main and the Law library and a lecturer may, from time to time, put material on short loan in the main or Law library. Due to the large numbers of the Commercial Law 1 class, any such material will ordinarily be placed at the main university library.

THE PRESCRIBED TEXTBOOK IS: GUIDE TO BUSINESS LAW.

11. WARNING



Plagiarism and cheating of any form in assignments, tests, exams, etc. is strictly prohibited. Anyone found to have committed any of the foregoing acts will be charged under the University Disciplinary Code.

12. CONTACT DETAILS

Should you wish to contact the Commercial Law 1 course co-ordinator, you may do so via e-mail:

l.sittig@ru.ac.za

Problems of an administrative nature should first be directed by email to one of the graduate assistants. The graduate assistants will attempt to answer your query and if they are unable to do so, will refer the query to the course co-ordinators. Queries regarding the CONTENT of the course should be directed to the relevant lecturer who teaches that section. The course co-ordinator does NOT keep copies of various handouts / modules taught by other lectures, so please ensure that you consult with the relevant lecturer.

Lecturers' email addresses:

f.khayundi@ru.ac.za

t.miller@ru.ac.za

s.ramlall@ru.ac.za

***Best wishes for the year and we hope that you will find
Commercial Law 102 enjoyable and rewarding!***

TUTORIAL GUIDE

EXERCISES

The purpose of these exercises is to facilitate student learning by going through these short questions with the tutor during the tutorial.

Exercise 1 (Mon 1 - Wed 3 August)

1. Discuss the essential elements of a valid partnership.
2. Discuss the factors a businessperson would consider in deciding whether to enter into a commercial arrangement by way of partnership or joint venture.

Exercise 2 (Mon 15 – Wed 17 August)

1. Outline the requirements of a valid founding statement.
2. Compare a close corporation with a company.
3. Discuss forms and types of co-operatives.

Exercise 3 (Mon 29 – Wed 31 August)

1. Discuss the process of voluntary winding up.
2. Distinguish between a profit company and a not for profit company.

Exercise 4 (Mon 5 – Wed 7 September)

1. Distinguish between a chairperson and the chief executive officer of a corporation.
2. Discuss the mechanisms to enforce compliance with the King Report.

Exercise 5 (Mon 26 – Wed 28 September)

1. Discuss government regulation of BEE.
2. Discuss the tests to determine whether someone is an employee or independent contractor.

Exercise 6 (Mon 4 – Wed 6 October)

1. Discuss unfair dismissals.
2. Discuss what is meant by a bargaining council and how it is meant to operate.

ASSIGNMENTS

- Assignments must be handed in before the 17:00 deadline, or they will receive 0%.
- Assignments must be handed in to the relevant tutor's pigeon hole in the Law Faculty.
- If you have a valid LOA for an assignment, then alternative arrangements **must** be made with the tutor for a later hand in date, which cannot be more than a week after the original deadline.
- Assignments must be typed, Times New Roman/Arial font must be used, the line spacing must be 1.5, the margins must be justified and the pages must be numbered. A word count must be included.
- Referencing is required and must be done so according to the faculty rules. Each assignment must have a faculty cover page attached and signed, failure to attach the cover page will result in 0%, failure to sign the cover page will result in minus 10%.

Marking Criteria

- Each assignment is out of 20 marks.
- 5 marks are for structure and referencing.
- 10 marks are for the content of the assignment (research, cases, application of the law).
- 5 marks are for the overall impression of the assignment (writing style, understanding shown, structure of the argument).

Assignment 1 (Friday 19 August 17:00)

1000 MINIMUM WORD COUNT – 1200 MAXIMUM WORD COUNT

Juju and Bongani formed a partnership to prospect for and acquire rights to Platinum. In terms of the partnership agreement Juju was directed to prospect on certain piece of land on behalf of the partnership. While doing so he discovered Platinum on a neighbouring farm. Without informing Bongani, he obtained rights to the Platinum on this neighbouring farm. With the aid of case law, discuss the duty breached by Juju. **(20 MARKS)**

Assignment 2 (Friday 30 September 17:00)

1000 MINIMUM WORD COUNT – 1200 MAXIMUM WORD COUNT

With reference to applicable case law, discuss the scope and importance of the Turquand rule. **(20 MARKS)**

Assignment 3 (Friday 14 October 17:00)

1000 MINIMUM WORD COUNT – 1200 MAXIMUM WORD COUNT

Discuss fully the operation of the Employment Equity Act 55 of 1998 in South Africa. In your answer, you are required to refer to relevant case law and legislation where appropriate. **(20 MARKS)**

LEGAL RESOURCES FOR COMMERCIAL LAW

Open up the Rhodes Library webpage at www.ru.ac.za/library

- Select “Resources”
- Select “Databases”
- Click on “Alphabetical”

This will take you to the Research Databases alphabetical list, where you can access:

- LexisNexis
- Sabinet Legal Products
- and others.

LexisNexis

1. On the alphabetical list, click on “L”. LexisNexis is at the top of the “L” list. Click on the purple text in the yellow bar, this will take you to the LexisNexis website. On the database, look at the list on the left hand side. **NB the USER MANUAL.** You can browse the Law Reports, or look at some of the publications, e.g National and Regional Legislation.
2. To search for cases, click on “Choose Search Forms” at the top of the screen. Focus Search enables you to search within a category e.g. Law Reports, while “Advanced Search” is used for subject searches. For help, click on the “Hints”, which give additional information about your search area.

Sabinet Legal Products (SLP)

1. Return to the Research Databases and click on “S” for Sabinet Legal Products. On SLP, click on the “on campus access” link, and this will open the SLP database. Here you have the option of searching over all the legal products, or selecting only one of them.

NOTE THAT THE LINKS ON THE LEFT GIVE EXTRA INFORMATION ABOUT THE PRODUCTS

2. For example, to search for Acts, click on “SA Statutes” then put in the act title in the search box and select “Title” from the drop down menu. Click “Search”.

PLEASE CLICK “EXIT” WHEN YOU ARE FINISHED WITH YOUR SEARCH.

How to find books and other material on the Online Catalogue (OPAC)

Open up the Rhodes Library webpage at www.ru.ac.za/library

→ Click on “**Catalogue**”

This is where you are able to search the RU library catalogue.

Guided Search options:

- Keyword (this searches across author, title, subject)
- Title
- Author
- Subject
- Author and Title
- Journal Title
- Series Title
- Advanced Search

Search by Collection:

- Cory Library Catalogue
- International Library of African Music Catalogue
- Electronic Books
- Electronic Short Loan
- RU Theses
- Videos/DVDs by Title

REFERENCING A LEGAL ESSAY

When you write a legal essay, it is important for you to acknowledge the sources from which you obtained your information. Whenever you discuss information that you obtained from another source (regardless of whether or not you are quoting directly from that source), you should include a footnote that indicates where you found your information. In addition, your essay should include a bibliography which lists all of the textbooks, journal articles and Internet sites that you used.

Below is a brief guide to the referencing technique followed in the Law Faculty.

Referencing Textbooks:

When referencing textbooks, the following information should be supplied:

Footnotes – Author's initials and surname (if the book has a number of authors, cite the main author and write *et al* after his/her name), title of book (in italics), edition, year of publication (in brackets), page at which the information was found.

E.g. - AJ Kerr *General Principles of the Law of Contract* 6ed (2002) 456.
- WJ Hosten *et al Introduction to South African Law and Legal Theory* 2ed (1995) 368.

Bibliography – Author's initials and surname, title of book (in italics), edition, year of publication (in brackets) publisher, place of publication.

E.g. – AJ Kerr *General Principles of the Law of Contract* 6ed (2002) Butterworths: Durban.
- WJ Hosten *et al Introduction to South African Law and Legal Theory* 2ed (1995) Butterworths: Durban.

→ Note: the bibliography style differs from the style used for in-text referencing in that, in the bibliography, the pages at which information was found are not cited and the publisher and place of publication are added.

Referencing Journal Articles:

When referencing journal articles, the following information should be supplied:

Footnotes - Author's initials and surname, title of the article (in quotation marks), year (in brackets), volume, title of the journal (in italics), page where article starts, page where information was obtained.

E.g. – DB Hutchison "Negligent Statements: Why the Reluctance to Impose Liability?" (1978) 95 SALJ 515 at 517-520.

→ Note: It is standard practice to abbreviate the names of well-known journals. For example:

SALJ – *South African Law Journal*

THRHR – *Tydskrif vir Hedendaagse Romeins-Hollandse Reg*

SAJHR – *South African Journal on Human Rights*

Bibliography - The author's initials and surname, title of the article (in quotation marks), year (in brackets), volume, title of the journal (in italics), page where article starts.

E.g. DB Hutchison "Negligent Statements: Why the Reluctance to Impose Liability?" (1978) 95 *SALJ* 515.

→ Note: the bibliography style differs from the style used for in-text referencing in that, in the bibliography, the pages at which the information was found are not cited.

Referencing Information from the Internet:

When Internet sources are cited, the same style of referencing is used for both in-text referencing and the bibliography. The following information should be included:

Author's initials and surname, title of the article/page (in quotation marks), web-site where the information was found, date on which you accessed the information (in brackets).

E.g. P Frankel "Is Trade Good or Bad for the Environment?" <http://papers.nber.org/papers/w9201.pdf> (accessed 23 November 2006).

Referencing Cases:

When you refer to a case in your essay, you should write the name of the case in *italics* and should include the following information in a footnote:

The year in which the case was reported, the volume of the law reports in which it was reported (in brackets), the set of law reports in which it was reported, the page of the law reports at which the judgment begins, the court which gave the judgment (in brackets).

E.g. A decision of the Natal Provincial Division, which was reported in the second volume of the 1967 South African Law Reports, beginning at page 456 would be cited as follows: 1967 (2) SA 456 (N).

Referencing Statutes:

When you refer to an Act of Parliament in your essay, you should provide both the number of the Act, and the year of the Act in a footnote.

E.g. The Magistrates' Court Act is Act number 32, passed in 1944. If you referred to this Act in the text of your essay, you would thus include a footnote which stated: Act 32 of 1944.

→ Note: neither cases, nor statutes should be cited in your bibliography.



RHODES UNIVERSITY
Where leaders learn

FACULTY OF LAW

Name:

Student no:

Subject:

Lecturer/Tutor:

Due Date:

Assignment topic:

DECLARATION

1. I know that “plagiarism” means using another person’s work and ideas without acknowledgement, and pretending that it is one’s own. I know that plagiarism not only includes verbatim copying, but also the extensive (albeit paraphrased) use of another person’s ideas without acknowledgement. I know that plagiarism covers this sort of use of material found in court judgments, textbooks, journal articles AND on the Internet.
2. I am aware of the University and the Law Faculty’s policies on plagiarism as set out in the Faculty’s *Survival Guide*.
3. I acknowledge and understand that plagiarism is wrong, and that it constitutes academic theft.
4. I understand that my research must be accurately referenced. I have followed the rules and conventions concerning referencing as set out in the Law Faculty’s *Survival Guide*.
5. This assignment is my own work, or the unique work of a group, if a group assignment.
6. I have not allowed, nor will I in the future allow, anyone to copy my work with the intention of passing it off as his or her own work. I also accept that submitting identical work to someone else (a syndicate essay) constitutes a form of plagiarism.

Signed.....

Date: