



## FACULTY OF LAW HANDBOOK 2019

RULES, REGULATIONS AND ACADEMIC INFORMATION



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# CONTENTS

<b>CONTENTS</b>	<b>1</b>
<b>WELCOME</b>	<b>4</b>
<b>SECTION A: FACULTY VISION, MISSION AND GOALS</b>	
<b>VISION AND MISSION</b>	<b>5</b>
<b>GOALS</b>	<b>5</b>
<b>SECTION B: THE FACULTY AND ITS STAFF</b>	
<b>ACADEMIC STAFF</b>	<b>8</b>
<b>ADMINISTRATIVE STAFF</b>	<b>14</b>
<b>LAW CLINIC</b>	<b>15</b>
<b>LAW CLINIC STAFF</b>	<b>16</b>
<b>THE LAW LIBRARY</b>	<b>17</b>
LIBRARY STAFF	17
RHODES MAIN LIBRARY	17
ALASTAIR KERR LAW LIBRARY	17
FACILITIES	18
OPENING HOURS	18
RULES & REGULATIONS	19
HOW TO FIND MATERIAL	19
WHERE TO FIND LAW REPORTS	20
WHERE TO FIND LEGISLATION AND REFERENCE WORKS	20
<b>THE RHODES UNIVERSITY LAW SOCIETY</b>	<b>21</b>
<b>THE BLACK LAWYERS' ASSOCIATION</b>	<b>22</b>
<b>LEGAL ACTIVISM SOCIETY</b>	<b>23</b>

## **SECTION C: ACADEMIC PROGRAMMES**

<b>POSTGRADUATE STUDIES: LLM AND PhD</b>	24
<b>UNDERGRADUATE STUDIES: LLB</b>	25
<b>EXAMPLES OF SOME CURRICULA</b>	26
THE FIVE-YEAR STREAM	26
THE FOUR-YEAR LLB STREAM	28
THE THREE-YEAR LLB STREAM	29
<b>LEGAL THEORY</b>	30
COURSE CO-ORDINATORS	30
LEGAL THEORY 1	30
LEGAL THEORY 2	32
LEGAL THEORY 3	34
<b>COMMERCIAL LAW</b>	35
COURSE CO-ORDINATORS	35
COMMERCIAL LAW 1	36
COMMERCIAL LAW 2	37
<b>TUTORIALS AND ACADEMIC DEVELOPMENT</b>	39
<b>INTERNATIONAL EXCHANGE PROGRAMMES</b>	40

## **SECTION D: ADMINISTRATIVE ISSUES**

<b>ESSAYS, ASSIGNMENTS AND OTHER COURSE WORK</b>	41
<b>CALCULATION OF COURSE RECORDS</b>	43
<b>DP REQUIREMENTS AND LEAVE OF ABSENCE</b>	44
<b>EXAMINATIONS</b>	48
JUNE AND NOVEMBER EXAMINATIONS	48
SUPPLEMENTARY EXAMINATIONS	48
AEGROTAT EXAMINATIONS	48

REWRITE EXAMINATIONS	49
ORAL EXAMINATIONS	49
RE-COUNTS AND RE-MARKS	50
<b>PROCESSING EXAMINATION RESULTS</b>	52
<b>LLB RESEARCH ESSAY GUIDELINES AND ASSESSMENT CRITERIA</b>	55
 <b>SECTION E: PROBLEM-SOLVING, REFERENCING AND PLAGIARISM</b>	
<b>PROBLEM-SOLVING GUIDE</b>	58
<b>LAW FACULTY REFERENCING GUIDE</b>	66
<b>PLAGIARISM</b>	76
 <b>SECTION F: BURSARIES, AWARDS AND PRIZES</b>	
<b>CRITERIA FOR ACADEMIC AWARDS</b>	83
DEAN'S LIST	83
LLB WITH DISTINCTION	83
AWARD OF COLOURS	83
AWARD OF HONOURS	83
<b>PRIZES, SCHOLARSHIPS AND BURSARIES</b>	84
LEGAL THEORY 1	84
LEGAL THEORY 2	84
LEGAL THEORY 3	85
SECOND-YEAR LLB	86
PENULTIMATE YEAR LLB	87
FINAL YEAR LLB	90
TOMMY DATE CHONG AWARD	92
ROB AND TRISH MIDGLEY PRIZE	92
MASTER'S DEGREE SCHOLARSHIPS	92
DOCTORAL DEGREE SCHOLARSHIPS	92

# WELCOME

Every new academic year brings new opportunities for every student and staff member, and 2019 will be no different. We look forward to share a journey of academic and intellectual growth with you. As a faculty (and department), we are committed to upholding the Constitution of the Republic of South Africa, 1996. We take our guidance for teaching and learning, research, community engagement and for our administrative tasks from the Constitution. We strive to reflect the constitutional commitment to 'establish a society based on democratic values, social justice and fundamental human rights'; a society in which the rule of law triumphs over arbitrary decision-making and irrational exercise of power.

The *Faculty of Law Handbook: Rules, Regulations and Academic Information*. This booklet outlines the essential academic rules and regulations of the Faculty. It further provides you with important academic information, including information pertaining to referencing and problem-solving, core to your academic work. Use the *Handbook* every time you prepare for assessment, and familiarise yourself with the rules that apply. Let the *Handbook* accompany you throughout your legal studies. Academic success is the result of hard work and taking responsibility for your own learning. Academic staff and tutors serve as guides in your learning process, but ultimately your commitment and hard work determine your success or not.

Do not hesitate to contact me if you have any enquiries about the Faculty, its rules and operations – [r.kruger@ru.ac.za](mailto:r.kruger@ru.ac.za)

All the best for the 2019 academic year.

**R Krüger**  
**Dean: Faculty of Law**

# SECTION A: FACULTY VISION, MISSION AND GOALS

## 1 VISION AND MISSION

The Faculty's **vision** is to be an academic centre that is respected nationally and internationally for its excellent teaching and research, and which seeks to play a productive role in the development of the Eastern Cape and Southern Africa.

In pursuit of its vision the Faculty's **mission** is to produce high-quality graduates who are capable of becoming leaders in legal practice, commerce, industry, politics or academia. Its aim is to conduct sound teaching and research and to promote community engagement. The Faculty is committed to the values entrenched in the Constitution of the Republic of South Africa and aims to promote justice, inclusivity and equity in our staff and students, so enabling them to become responsible, productive and ethical members of society.

## 2 GOALS

### 2.1 General benchmarks

- To appreciate that we are professionals, who are required to show dedication, responsibility and commitment to our vocation.
- To nurture and develop pride in the Faculty amongst staff and students.
- To provide a professional, efficient and effective service.
- To work together as a team that is dedicated to the Faculty's Vision and Mission statement.
- To be aware of our social and ethical responsibilities as educators, researchers and members of the community.

In furthering the above, our more **specific goals** are:

#### 2.1.1 Policy

- To be aware of policy at the Faculty, University and National level, and to accept the need to comply with such policies. In particular:
- To comply with the University's Policies on Teaching and Learning, Community Engagement and Research.
- To appreciate the need for diversity and equity, and actively to pursue opportunities for ensuring that our Faculty reflects national demographics.
- To encourage student participation in Faculty decision-making.

#### 2.1.2 Teaching and Learning

- To encourage a spirit of enquiry and intellectual curiosity amongst students.
- To be enthusiastic, and to care about our students and student learning.
- To ensure a professional approach to teaching and learning. In particular:
  - 1 To exhibit expertise and be up-to-date in our fields of teaching.
  - 2 To be prepared and organised teachers.
  - 3 To be reflective and reflexive practitioners.
  - 4 To provide clear course outcomes and clear expectations in coherent and comprehensive course outlines.

- 5 To be competent assessors, who provide clearly-articulated assessment criteria in accordance with course outcomes, who return tests and assignments within reasonable periods (normally no longer than two weeks from submission), and who give meaningful feedback to students regarding their progress.
- 6 To conduct regular course evaluations.
- 7 To encourage our student to take responsibility for their own learning.

### **2.1.3 Research**

- To develop and promote a research culture amongst staff and students.
- To value the importance of research output.
- To publish regularly, and to attend conferences and deliver conference papers regularly.
- To encourage collaborative research, and research that is responsive to the community.
- To enhance the research ability of students, especially at postgraduate level.

### **2.1.4 Community Engagement**

- To develop an environment in which community engagement is encouraged and valued.
- To promote voluntary participation by staff and students in community engagement activities that utilise legal knowledge and skills to the benefit of the broader community.
- To provide service learning opportunities for every LLB student.
- To provide institutional support to the Law Clinic in its access to justice and community education work
- To integrate community engagement initiatives in teaching and learning, and research.

### **2.1.5 Administration**

- To provide an efficient and effective administrative service in all spheres of Faculty activity.

## **2.2 A student-centred Faculty**

The main focus of the Law Faculty is undergraduate teaching and learning, and the Faculty concentrates on providing high quality basic formative legal education. A Legal Theory major is offered in the Faculties of Humanities, Commerce and Science, and Commercial Law courses are offered in the Commerce Faculty. The Faculty's primary degree is the LLB, but this is also complemented by research LLM and PhD degrees.

Our students are central to the activities and purpose of the Faculty, enhanced by its small size. Law students in every year of study are encouraged to make the most of the opportunities available to them, including:

- encouraging interaction with academic staff;
- using the Law Library to full advantage;
- serving the local community through community engagement;
- participating in extra-mural academic activities and social functions;



- making themselves available for student leadership with consequent development of interpersonal skills; and
- improvement of oral skills through moots, mock trials and client counselling.
- accessing university services aimed at ensuring students' well-being.

# **SECTION B: THE FACULTY AND ITS STAFF**

## **ACADEMIC STAFF**

### **1 DEAN & ASSOCIATE PROFESSOR**

**Professor Rosaan Krüger BA (Hons), LLB (Potch), PGCHE, PhD (Rhodes)**

Attorney of the High Court of South Africa

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Rosaan Krüger teaches Constitutional Law, Constitutional Litigation and an introductory component of Foundations of Law.

Her research for her PhD (awarded in 2009) considered the application of the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 at the level of the magistrates' courts with specific reference to complaints of racism. She continues her work on discrimination law and its impact on social change. Rosaan's other research interests include constitutional law theory and constitutional litigation. Her publications include a variety of mainly public law topics. She supervises LLM and PhD candidates her areas of expertise.

Prof Krüger was appointed at Rhodes University in 2001 as a lecturer, promoted to senior lecturer in 2010 and to associate professor in 2016. Her term as dean of the Faculty commenced in July 2014.

### **2 DEPUTY DEAN & PROFESSOR**

**Professor Laurence Juma LLB (Nrb), LLM (Penn), MA (Notre Dame), LLD (UFH)**

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Professor Juma teaches Public International Law, Property Law and International Human Rights and Humanitarian Law. He is the co-ordinator of post graduate studies and external moot programmes of the faculty, and Hall Warden for Postgraduate Residences. He is a member of Network of University Teachers of International Humanitarian Law in Southern Africa and Indian Ocean Region and serves in the editorial board of the African Yearbook on International Humanitarian Law. He has also served as an expert panellist for the United Nations Working Group on the Use of Mercenaries as a Means of Violating and Impeding the Exercise of Rights of Peoples to Self-Determination. Prof Juma is currently working on a joint project of Rhodes and Utrecht Universities on international criminal justice, especially the role of ICC in Africa. He has published widely in the fields of human rights, conflict studies, as well as general public international law.

### 3 ASSOCIATE PROFESSORS

**Professor A J Bester, BJuris, LLB (UPE); LLM (RAU); JD Equivalency Certification (NCA, Ottawa, Canada)**

Senior Advocate of the High Court of South Africa

Barrister, Solicitor & Notary Public, British Columbia, Canada; Member, Law Society of British Columbia, Canada

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Bert has practised law in South Africa for over three decades, initially as an attorney and notary public and thereafter as an advocate, with four years of full-time practice as a barrister in British Columbia. Over the last two decades his litigation practice and research interest focussed primarily on all aspects of intellectual property law, and to a lesser extent on contract, franchising, insurance and labour law. Bert has well over 100 career judgements reported in various case law reports, including specialist reports. He was recommended as Senior Consultus by the Johannesburg Bar Association in 2008, and his Letters Patent were signed in 2009, by then President Kgalema Motlanthe. He has on several occasions served as Acting Judge in the Gauteng Division of the High Court, Johannesburg, and as arbitrator in over 20 commercial arbitrations. Bert will in the first semester, 2019, teach Law of Contract, Civil Procedure, Research Skills and Legal/Critical Reasoning.

**Professor J Campbell BA, LLB (UCT), LLM (Rhodes)**

Attorney of the High Court of South Africa and Director of the Law Clinic

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Jonathan Campbell has been a practising attorney for 23 years, 18 of which have been spent as Director of the Rhodes University Law Clinic. At the Law Clinic he developed the Clinical Legal Education Program to become an integral, compulsory component of the LLB degree, with two volunteer programmes for Legal Theory 2 students and final year LLB students. The Law Clinic provides free legal services within and beyond Grahamstown, with an outreach program to some 40 paralegal advice offices and their communities throughout the Eastern Cape. From January 2009 until June 2014 he was Dean of the Faculty of Law. His fields of research interest include legal education, consumer law, and practical skills (e.g. consultation, case management and drafting skills, negotiation and mediation).

**Professor G B Glover BA, LLB, PhD (Rhodes)**

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#### *ON ACADEMIC LEAVE IN 2019*

Graham Glover teaches courses in Contract, Sale & Lease, Agency, Insurance and Credit Agreements, and he also teaches part of Legal Skills. He received his PhD degree in 2004 for a thesis entitled *The Doctrine of Duress in the Law of Contract and Unjustified Enrichment in South Africa*. Prof Glover's research interests are mainly in the field of contract law: he has published more than 20 journal articles and book chapters in this area of law. He is the co-author of the *LAWSA* sections on "Sale" and "Lease". In late 2014 he published the fourth edition of *Kerr's The Law of Sale and Lease* and, and he is now contracted to produce the next edition of *Kerr's The Law of Agency*. In 2006 he compiled

and edited the book, *Essays in Honour of AJ Kerr*, a festschrift honouring Professor Kerr's outstanding contribution to legal academia in South Africa. He also contributes the chapter on Divorce to the *Family Law Service*. He is the Managing Editor of the *South African Law Journal*.

**Professor E H van Coller LLB, LLM (UFS), LLM (Utrecht), PGDHE(Rhodes), LLD (UJ)**

Advocate of the High Court of South Africa

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Helena van Coller is the course co-ordinator for Commercial Law 1 and she also teaches Administrative Law to final year LLB-students. She also supervises postgraduate students in her area of expertise. She joined the Faculty in July 2005. She obtained her LLB and LLM degrees (both with distinction) from the University of the Free State and an LLM (with distinction) from the University of Utrecht. She lectured part-time at the University of the Free State and supervised students from the Governance Programme, after obtaining a Master's degree in Governance and Political Transformation from UFS in 2008. She was admitted as an advocate in 2004. She submitted her LLD (in Administrative Law) at the end of 2011 and graduated in 2012.

## **5 SENIOR LECTURERS**

**Mrs G E Davies BA, LLB (Rhodes)**

Attorney and Conveyancer of the High Court of South Africa

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Liz Davies teaches Legal Theory 1 and Commercial Law 1 courses, as well as the Introduction to Conveyancing elective. She is also the Faculty's Academic Development specialist. In this capacity, she co-ordinates and supervises the specialised tutorial and academic development programmes that are offered to all first-year law students. Mrs Davies introduced the highly-successful Supplemental Instruction programme in the Faculty, the first faculty at Rhodes to offer such a programme. She is also actively involved in the Faculty and University's staff development programme. Mrs Davies's research interests lie in the field of professional staff development and academic development and support.

**Mrs S E H Driver BA, LLB, PGDHE (Rhodes), LLM (Unisa)**

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Sarah Driver teaches courses the Law of Succession and Administration of Estates, the Law of Copyright and Trade Marks as part of the final year curriculum and Criminal Law and Legal Writing and Applied Logic and Critical Reasoning components of Legal Skills to penultimate year LLB students.

**Mrs Helen Kruise BA, LLB, LLM, PGDHE (Rhodes)**

Attorney of the High Court of South Africa

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Helen Kruise lectures in the Law of Life Partnerships, Legal Skills (the legal environment), Jurisprudence and Legal Ethics & Professional Responsibility.

Helen's research interests lie in family law (specifically in the field of customary marriages), children's rights and legal ethics. Her experience includes articles in East London at the firm Bate, Chubb and Dickson; two years in legal services at the London Borough of Brent; and teaching in the Department of Private Law, University of Cape Town as well as the Department of Public Law and Jurisprudence, University of the Western Cape. In the last year she has published in the fields of legal ethics and marital rape, while she reads towards her PhD. She is also an editor of the *South African Law Journal*.

**Ms B P Padayachi BA (UNISA), LLB (Natal)**

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Brahmi Padayachi joined the Rhodes Law Faculty in October 2011. Mrs Padayachi teaches Criminal Procedure A and B, and the Law of Evidence A and B as part of the LLB curriculum.

She came to Rhodes from being an acting Magistrate in the Child Justice, Domestic Violence and Maintenance Court. From 2004, she has held various positions as an Assessor in the Cape High Court and the Land Claims Court of South Africa; Director of Restorative Justice in the Policy Unit: Vulnerable Groups, in the National office of the Department of Justice and Constitutional Development (DOJCD) and is an internationally accredited Civil Mediator (ADR-UK). She lectured from 1990 to 2004 in the Law Faculty at the University of the Western Cape and Durban University of Technology.

Her research experience at LLM level includes Constitutional Law, Law and Medical Practice, Trial Advocacy and Legal Education component in a law teaching LLM which was run jointly by the Faculties of Law and Education at the University of Natal.

Her particular areas of interest are Restorative Justice, Court-based Mediation and Collaborative Law Approaches to Best Practice Dispute Resolution in Applied Family Law, with a special focus on the best interests of the child. She is a member of a *pro bono* team of lecturers that teaches Restorative mediation to National Directorate Public Prosecutors from across the country for Justice College.

**Adv C A Renaud BA (Hons), LLB (Rhodes), LLM (Stell), MCIArb**

Advocate of the High Court of South Africa

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Craig Renaud teaches courses in company law, civil procedure, competition law, trust law and commercial arbitration. He formerly practised as a member of the Eastern Cape Bar, and he continues to practise at the Bar on a part-time basis. He is a member of the Chartered Institute of Arbitrators.

**Adv S Rahim BJuris (UPE), LLB (NMMU), LLM: Corporate Law (UNISA)**

Advocate of the High Court of South Africa

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Shuaib Rahim lectures the Law of Property (A and B) and Banking and Payment Instruments. He joined Rhodes University from the Nelson Mandela Metropolitan University in July of 2016 where he lectured Insolvency and Company Law and coordinated the Commercial Law Module for BCom students. He is actively involved in Community Engagement and Civil Society Projects with a focus in Sustainability, Ethics and Corporate

Governance. Since his employment at Rhodes, he has been appointed as the Independent Electoral Board Impartial Officer for Rhodes University SRC Elections; to the NEDLAC Communal Property Association Amendment Bill Task Team as well as the NTEU Executive at Rhodes.

## **6 LECTURERS**

### **Mr P Jabavu NDip (WSU) BTech: Journalism (TUT) LLB (WITS)**

Email: [p.jabavu@ru.ac.za](mailto:p.jabavu@ru.ac.za)

Phumelele joined the faculty in 2015. He teaches Legal Interpretation, Law of Delict and Commercial Law. He also coordinates Legal Theory 2.

### **Mr N Mzolo BA, LLB, LLM (UKZN)**

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Mr Mzolo Nkosinathi is an aspiring academic and Human Rights Lawyer in the field of Public Law. His areas of interests are human rights, constitutional and administrative law. He is a former Disciplinary Committee member (Chairperson and Prosecutor) for South African Football Association (SAFA) - UMgungundlovu Region. He has taught in the areas of Public Law; Interpretation of statutes and Labour Law at the Varsity College (Westville Campus) and Constitutional Law, Human Rights, Aspects and Foundations to law at the University of Kwa-Zulu Natal as a Graduate Teaching Assistant.

Mr Mzolo's LLM thesis is entitled: *The rule of law, principle of legality and the test for rationality: A critical analysis of the South African jurisprudence in the light of separation of powers.*

### **Ms N Mashinini LLB, LLM (UP)**

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Nomalanga holds the degrees LLB and LLM (Mercantile Law) both from the University of Pretoria. She lectures Law of Persons, Company Law and Commercial Law. She joined the Rhodes Faculty of Law in October 2017 after serving in the Department of Mercantile Law at the University of Pretoria. Her main interests lie in the fields Information and Communications Technology Law, Intellectual Property Law and Competition Law.

### **Ms Y Ndamase LLB (cum laude) (UFH), LLM (UCT)**

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Ms Ndamase obtained her LLB degree with distinction from the University of Fort Hare and an LLM from the University of Cape Town. She served at the Centre for Law & Society at UCT and at the Supreme Court of Appeal as a law researcher. She joined the Rhodes Faculty of Law in January 2019. Her research interests are on competition law, corporate governance, and Trade Marks Law.

**Mr. S Bergover LLB (UKZN)**

Attorney of the High Court of South Africa

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Mr Shaun Bergover is a human rights lawyer and aspiring academic who joined the Rhodes Law Clinic in July 2017 as an attorney and later joined the law faculty as a lecturer in September 2018. He co-teaches Legal Practice and Civil Procedure A. He has an LLB and is nearing completion of an LLM (both UKZN). He completed his articles at the Legal Resources Centre in Durban with a focus on land, housing and gender rights.

In addition, he has a range of work experience in prior years including working as an English Teacher in South Korea and stints at Ethekewini Municipality and NBC Holdings.

## **7 PART-TIME LECTURERS**

**Dr A Pinchuck MSc (Rhodes), PhD (Wits)**

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Andrew Pinchuck studied at Rhodes from 1996 to 2001 obtaining a Masters degree in Mathematics. He subsequently spent one year working as a Teaching Assistant for the Mathematics department before moving to London, where he worked in a number of jobs outside of academia, including being a Laboratory Engineer for Epoch Labs. From 2005 to 2008, he worked as a senior tutor in the School of Mathematics teaching mainly Engineering Mathematics. He obtained his PhD in 2011.

**Mr R Poole B Com, PG Dip Acc, M Com (Taxation) (Rhodes) MTP (SA)**

Email: [r.poole@ru.ac.za](mailto:r.poole@ru.ac.za)

Richard is a senior lecturer in Taxation Studies in the Department of Accounting and has been a career academic since 2000. Richard completed his MCom in Taxation at Rhodes in 2013 and is currently contemplating Doctoral studies. Richard is a registered Master Tax Practitioner with the South African Institute of Tax Practitioners (SAIT) and is a Past Regional President of the South African Accounting Association (SAAA - Eastern Cape). Richard presents the elective in Law of Tax and Estate Planning at final year LLB level.

**Mr M Sam BSc(Hons)(Fort Hare), MA (Rhodes)**

Email: [m.sam@ru.ac.za](mailto:m.sam@ru.ac.za)

Msindisi lectures the IsiXhosa elective to our final year students.

**Ms C van Schalkwyk BA, LLB, LLM (Stell)**

Email: [cecile@lrc.org.za](mailto:cecile@lrc.org.za)

Cecile van Schalkwyk is an attorney at the Legal Resources Centre in Grahamstown. She teaches Civil Procedure A and students in this course will benefit from her experience from legal practice.

**Mrs A Wagenaar B Com (Rhodes), AGA**

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Anita Wagenaar is a lecturer in the Department of Accounting. She completed her articles with Fisher Hoffman Sithole in Grahamstown and teaches the Legal Accounting elective to LLB students.

**Ms S Joseph BCom (Stell), LLB (Rhodes)**

Email: [s.jospeh@ru.ac.za](mailto:s.jospeh@ru.ac.za)

Silke Joseph completed a BCom degree in Economics and Financial Management at Stellenbosch University before going on to teach for a few years in South Korea and the Sultanate of Oman. She completed her LLB at the end of 2018 and joins the Faculty for the first semester to teach the Commercial Law 101 course.

## **ADMINISTRATIVE STAFF**

### **1 FACULTY ADMINISTRATOR:**

**Manager: Administration– Mrs AA Comley**

Email: [a.comley@ru.ac.za](mailto:a.comley@ru.ac.za)

Andrea Comley is the Manager: Administration for the Law Faculty and is responsible for all the Faculty's administration and accounts. She manages the Administrative office of the Faculty of Law, supporting the academic work of the Faculty. This includes ensuring the provision of an administrative, secretarial and front-line service for the Faculty. She has a National Diploma in Service Management (Regenesys Management Pty. Ltd).

### **2 SECRETARIAL STAFF:**

**Office Administrator – Mr C Gill BA (Rhodes)**

Email: [c.gill@ru.ac.za](mailto:c.gill@ru.ac.za)

Chad is the Office Administrator, and provides a public relations and front line service to all students, visitors, visiting lecturers & academic enquiries. He mainly supports the Administration Manager of Law in providing administrative, secretarial and financial services to the staff of the Law Faculty. He has a BA degree (Rhodes University), as well as a Certificate in Office Administration (Rhodes University).

**Secretary – Ms F Mwellie**

Email: [f.mwellie@ru.ac.za](mailto:f.mwellie@ru.ac.za)

Fezeka is the Secretary at the Law Faculty. She is the first port of call for all student enquiries and to receive visitors to the Faculty. She has a National Diploma in Secretarial & Computer Skills (Damelin Management School), and a Certificate in Public Management (East London Technical College).



## **LAW CLINIC**

The Rhodes University Law Clinic is the laboratory of the Faculty and one of the leading clinics in the country. The Clinic provides free legal services to indigent people while playing a vital role in providing students with hands-on practical experience.

Apart from free legal services to indigent people, the Clinic also conducts an extensive community outreach programme via its Advice Office Programme. The programme provides training and on-site back-up legal services to approximately 40 paralegal advice offices throughout the Eastern Cape Province. The Clinic further runs a community education programme, involving provision of workshops, the production of pamphlets and posters, the publication of articles in Grocotts newspaper, and talk shows on Radio Grahamstown, all on topical legal issues with which the Clinic's clients struggle.

The Clinic operates as an attorney's office, staffed by 8 legal practitioners, 5 support staff and approximately 90 senior law students who work on a weekly basis in the Clinic. All LLB students are involved in the Clinic through the compulsory Legal Practice course in their penultimate year of study. This course focuses on practical legal skills development. Students are inducted into legal practice by learning consultation and communication skills, file and case management, drafting and advocacy skills. We believe that this experience contributes to our students' marketability when they search for employment.

A letter confirming attendance is given to all students who work at the Clinic. There is also a financial award which is presented to the most dedicated student at the Law Clinic.

In addition, the Law Clinic offers two volunteer programmes for isiXhosa-speaking Legal Theory 2 students at reception (screening and interpreting for clients) and final year LLB students (mentoring of penultimate LLBs in their work with clients). Vacation internships are also offered to students who have completed the Legal Practice course (to do case work) and to Legal Theory students to work at reception.

## **LAW CLINIC STAFF: 2019**

**Associate Professor Jonathan Campbell: BA LLB (UCT) LLM (Rhodes)**  
Director and Attorney

**Mr Ryan McDonald: BA Hons (Stell), LLB (UCT)**  
Attorney

**Mr Shaun Bergover: LLB (UKZN)**  
Attorney

**Ms Sipesihle Mguga: BA (UCT), LLB (Unisa)**  
Attorney

**Mr Ndumiso Khumalo: LLB (UniZulu)**  
Attorney

**Ms Siziphiwe Yuse: LLB (UWC)**  
Candidate attorney

**Ms Amanda Mngomezulu BA LLB (Rhodes)**  
Candidate attorney

**Ms Zandile Njoli: LLB (NMMU)**  
Candidate attorney

**Mr Terwin de Vos: BA (Rhodes)**  
Clinic Administrator

**Ms Zukiswa Gotyana**  
Senior Secretary

**Ms Zikhona Nyikilana**  
Receptionist

**Ms Hazel Dibela**  
Projects Assistant

**Mrs Jeni Hughes: (TED pre-school Teaching Diploma)**  
Part-time bookkeeper

**Ms Vuyokazi Ntamo**  
Cleaner

# THE LAW LIBRARY

The Alastair Kerr Law Library is a branch library within the Rhodes University Library Services, and falls under the Faculty Liaison Services (Commerce & Law). The Principal Faculty Librarian, Mrs Jill Otto, is based in the Main Library.

## 1 LAW LIBRARY STAFF

**Faculty Librarian – Ms Sindiswa Gule: ND-LIS (PE Tech) B Tech LIS (UNISA)**

Email: [s.gule@ru.ac.za](mailto:s.gule@ru.ac.za)

Tel: 046 603 8434

**Faculty Librarian** is responsible for the day-to-day management of the Alastair Kerr Law Library. Special focus is placed on providing a number of services designed to optimally meet the needs of the primary user group, usually students & staff of the Law Faculty: the provision of high level subject information services; collection development and management in support of teaching, learning and especially research in the Faculty; the education of students and staff in the principles and techniques of effective information retrieval; and the delivery of regular & ongoing liaison activities.

**Library Assistant – Mr Andile Mncwabe: ND-LIS (DUT)**

E-mail: [a.mncwabe@ru.ac.za](mailto:a.mncwabe@ru.ac.za)

Tel: 046 603 8434

As the Faculty Library Assistant, Andile is there to make life much easier by assisting students, staff and community members with their queries. He is responsible for directing users of the Law Library to the information they require, also assisting them in retrieving the information they need on a daily basis, which could be physical or electronic resources.

## 2 ALASTAIR KERR LAW LIBRARY

The Law Library is situated on the ground floor of the main building of Lincoln House. The library collection comprises an extensive collection of South African legal sources, and some foreign and international law materials.

A thirty-station computer laboratory provides access to the internet and major electronic resources, as well as the library's electronic catalogue and word processing programs. Printers, photocopying and scanning facilities are available in the library.

The Library is equipped with numerous study cubicles. The PPS Wing of the Library is a comfortable, quiet area, with individual study carrels as well as three group study areas.

## 3 RHODES MAIN LIBRARY

The Main Library is situated in the middle of campus and provides a comfortable study area for all students. Copies of short loan material for law students are kept in this library to ensure access after 20h00.

All first year students must attend an orientation course at the main library. Legal Theory 1 also needs to attend scheduled tutorial workshops at the Law Library, which is part of their compulsory course work.

## **4 FACILITIES**

### **4.1 Computer Laboratory**

Users must be registered library users. Access to the computer lab is restricted to law students only, and LLB law students will get priority access during peak times. All general rules apply in the computer lab.

### **4.2 Electronic resources**

Catalogue for library material (OPAC) on the RU library webpage.

For online legal resources, see the Law Subject Guide at <http://ru.za.libguides.com/legalresources>

### **4.3 Photocopiers, printers and scanners**

Facilities are available for student use. Please note that money can only be loaded onto student cards at the Main Library and Eden Grove. Restricted use during peak times is 5 minutes per person.

## **5 OPENING HOURS**

### **5.1 During term**

Monday to Thursday: 08h30-17h00 (library staff);  
17h00-20h00(student assistant)

Friday: 08h30-17h00 (library staff)

Saturday: 10h00-13h00; 14h00-17h00 (student assistant)

Sundays & Public Holidays  
(excl Easter weekend – closed): 10h00-13h00; 14h00-17h00

### **5.2 During swot week and exams**

Monday to Thursday: 08h30-17h00 (library staff);  
17h00-22h00 (student assistant)

Friday: 08h30-17h00 (library staff);  
17h00-19h00 (student assistant)

Saturday: 10h00-13h00; 14h00-19h00 (student assistant)

Sundays & Public Holidays: 10h00-13h00; 14h00-20h00 (student assistant)

### **5.3 During vacations**

Monday to Friday: 08h30-13h00; 14h00-17h00 (library staff)  
Closed at weekends, Easter and University Christmas shutdown period

## **6 RULES & REGULATIONS**

- All library users must be registered at the Main Library circulation desk.
- Student cards must be produced in order to borrow a book. Library staff may request ID or other identification documents.
- Access to the Library is restricted to official opening hours, while a registered library assistant is on duty.
- Bags and briefcases may not be taken into the study areas.
- Cell phones must be on silence before entering the library.
- No food and beverages are allowed in the library.
- No smoking is permitted in the library.
- LLB students will have priority access to computers in the computer lab at peak times.
- The Law Faculty Administrative staff has priority access to the photocopiers.

## **7 HOW TO FIND MATERIAL**

Library items are divided into specific categories or collections and shelved together. Determine in which collection the item is held, and then locate the collection.

### **7.1 Short Loan Collection**

Short loan is a reserved collection of books, journals and notes set aside by the lecturers, and housed in the office behind the loans desk. This ensures that essential reading is available to all students. The main texts are also kept on short loan in the Main Library.

Students should check the OPAC for the Call number and ask the Library Assistant to fetch the item for you. Only two items may be taken at a time for one hour only. Students may take Short Loan books out on overnight loan EXCEPT those students registered for first year LLB/Legal Theory 1 and Commercial Law 1. Fines for late returns are R2.00 per hour or part of an hour.

Anyone who owes an unpaid fine will not be able to make use of the Short Loan facilities.

Short Loan items can be reserved at the loans desk.

### **7.2 Book Collection**

Books on law and related subjects are housed in the law library. The books are arranged in disciplines/subjects according to the Dewey Classification System. All books from 1985 are catalogued according to author/title on the Rhodes OPAC System, which can be accessed online. The student needs to search the OPAC to see if the book is available, make a note of the Call (Dewey) number, and then locate it on the shelves.

Books on the open shelves may not be taken out by first year students. Other students may take books out by prior arrangement with the librarian.

### **7.3 Periodical Collection**

The library holds print copies of South African journals and some foreign journals. These collections are separate and both arranged alphabetically.

Through the library, students have access to many electronic resources, including digital journal repositories.

### **7.4 Collections of primary legal resources (legislation and law reports) and reference works**

The South African Law Reports (SALR, 4 sets in the Library) and All South Africa Law Reports (All SA) are the most important law reports. Various other South African law reports on specific legal areas are also published. The law reports can also be accessed electronically through Jutastat, LexisNexis and on the SAFLII website.

The Law Library also houses English, American, Canadian and a few other international sets of law reports. Legislation includes statutes and gazettes. Reference works include encyclopaedias e.g. Law of South Africa (LAWSA) and legal dictionaries. Many of these can also be accessed electronically.

For detailed information about the databases available (including databases for periodicals, legislation and law reports), see <http://ru.za.libguides.com/legalresources>

## THE RHODES UNIVERSITY LAW SOCIETY

The Rhodes University Law Society or “Law Soc” is an elected body that caters for students’ interests and needs, providing opportunities such as the annual Law Market Day and organising social events. Representatives attend Faculty Board meetings, represent the society’s members in committees, and provide an invaluable link between staff and students. Socially, Law Soc is responsible for organising the Faculty’s Annual Ball, as well as other social events.

The committee members for 2019 are:

<b>President:</b>	Sibusiso Ngwila
<b>Vice-President:</b>	Jeremy de Beer
<b>Secretary:</b>	Keanen-Troy Johnson
<b>Treasurer:</b>	Ayanda Dube
<b>Public Relations Officer:</b>	Kristy Bassingthwaighte
<b>Social Awareness Officer:</b>	Ashley Bristow
<b>Moot Club Chair:</b>	Tshwanelo Mabelane
<b>In Camera Editors:</b>	Clarize Coertze and Gisele Mans

## **THE BLACK LAWYERS' ASSOCIATION (RU STUDENT CHAPTER)**

The Black Lawyers Association is a Student Chapter of the Association that was established at Rhodes in 2015. The Chapter runs under the SRC rules and in terms of the Black Lawyers Association Constitution. Representatives attend Faculty Board Meetings and act as a link between the faculty and students, as well as the National Association in which it runs under.

The committee members for 2019 are:

<b>Chairperson:</b>	Manqoba Gasa
<b>Deputy Chairperson:</b>	Tonthozo Saukila
<b>Secretary-General:</b>	Paulina Nkosi
<b>Deputy Secretary:</b>	Tswelopele Ramokoka
<b>Treasurer:</b>	Hloni Singo
<b>Public Relations and Media Officer:</b>	Vuyani Ndzishe
<b>Spokesperson:</b>	Sacree Kabeya
<b>Community Engagement Officer:</b>	Thatoeagago Mosikare
<b>Projects Manager:</b>	Lesego Mpofu



## THE LEGAL ACTIVISM (NTUTHUKO) SOCIETY

The Constitution of the Republic of South Africa, 1996, has revolutionised South Africa. However, its aspirations ring hollow while people remain uninformed of their rights and are unable to seize what the Constitution pledges. The Eastern Cape is a particularly impoverished province in which many people are uneducated about the law. Grahamstown is no exception, and many people fall prey to illegal schemes or are simply unaware of the many benefits and protections that the law provides them.

In response to these realities, Rhodes Legal Activism Society was established as a student society and began operating in March of 2007 with funding from membership fees, the Law Faculty and Norton Rose Fulbright (Deneys Reitz, as it was then known). The society aims to create an awareness of the law and its implications in the community; to educate the members of the community about their legal rights and responsibilities and undertakes to determine the major legal problems in the community, the causes thereof and seeks to find solutions to these problems. Its vision is to achieve these goals by working with members of the Grahamstown East Community who are better situated to identify the existing problems in the community and to facilitate communication between members of Ntuthuko and the community it serves.

The society is currently running workshops on the following areas of law: Environmental Law, Labour Law, Rape & Domestic Violence, HIV & AIDS, Wills & Estates, Microlending and Constitutional Law.

The committee members for 2019 are:

<b>Chairperson:</b>	David Jackson
<b>Deputy Chairperson:</b>	Washington Mtaringe
<b>Secretary:</b>	
<b>Community engagement officer:</b>	
<b>Public Relations officer:</b>	
<b>Projects Coordinator:</b>	
<b>Treasurer:</b>	Noel Makoni

## SECTION C: ACADEMIC PROGRAMMES

The Faculty offers three degrees, namely the LLB, LLM and PhD degrees. Undergraduate students are encouraged to broaden their education by following a five-year route to obtaining the LLB degree. This entails obtaining two degrees – either a BA, BSocSci, BCom or BSc degree, and thereafter an LLB degree. Students who do law as part of a degree offered in another faculty will do either Legal Theory or Commercial Law.

Legal Theory is a major subject in the Faculties of Humanities, Commerce and Science. A student who passes all its component parts of the Legal Theory will be able to complete the LLB degree in two years thereafter with exemption granted for law courses passed as part of the Legal Theory major.

Commercial Law is designed specifically for commerce students and does not provide credits for the LLB degree. All commerce students must obtain a credit in Commercial Law 1, and Commercial Law is also offered at the second-year level for students who have a credit for Commercial Law 1. Commercial Law 1 is also an optional course in the Bachelor of Social Science degree.

### POSTGRADUATE STUDIES: LLM AND PhD

Postgraduate studies in law will suit candidates who are interested in pursuing a career in academia, or candidates who wish to gain specialist knowledge in a particular field of law to provide them with a competitive advantage in the labour market.

The Faculty offers the degrees of Master of Laws (LLM) and Doctor of Philosophy **by full thesis only**, on a full-time or part-time basis. The registration for the LLM normally extends over a period of two years, and part-time registration at least over two years. The minimum period of registration for a PhD is three years. Some candidates are able to complete their research in shorter periods, in which event they can apply to have the thesis accepted prior to the normal submission date.

**Please note** that the Faculty does not offer any postgraduate coursework programmes at present.

The General Rules applicable to Master's and PhD students can be found in the University's calendar (Rules G.50ff) at the following link:

<http://www.ru.ac.za/rhodes/diaryanddates/>

Enquiries about the postgraduate programme may be addressed to Prof Rosaan Krüger (Dean of Law), or Prof Laurence Juma (PostGrad Studies Coordinator and Deputy Dean).

## UNDERGRADUATE STUDIES: LLB

The LLB degree is the minimum academic qualification for practising law in South Africa. At Rhodes, there are different routes to obtaining the LLB degree, namely the five-year two-degree route, the four-year single-degree route and the three-year route which follows a bachelor's degree without law subjects.

Only in exceptional circumstances will students who enter university for the first time register in the Faculty of Law at Rhodes in their first year of study. In their first year, all prospective LLB students register for a general degree in another faculty (Humanities, Science or Commerce) where they do some non-law courses as well as two law courses (Foundations of Law and Introduction to Law, the component courses of Legal Theory 1). Students may select courses from a wide range of subjects offered in the various faculties, and different subject combinations to suit the interests of students are possible. Under the 2019 Rules, students decide only after their first year (and after obtaining sufficient information to make an informed decision) which route to follow. This enables students who discover in their first year that they are not suited to a career in law to change their study direction without forfeiting a year of study.

***The Faculty's resources are limited and students' academic results play an important role when applications for admission into the LLB are considered. Entry into the LLB is not guaranteed.***

### **1 A five-year combined Law and Humanities OR Law and Commerce OR Law and Science LLB stream**

Students enter this stream with the intention of following a programme in Law and Humanities OR Law and Commerce OR Law and Science, leading to a BA/BSocSci or BCom or BSc and thereafter a two-year LLB. The objective of a broad-based education is achieved in this stream by including courses which ensure that students have a thorough grasp of at least one discipline outside Law. Students register for a BA, BSocSci, BCom, or BSc in their first year of study and continue with that degree with Legal Theory as a major subject.

Having obtained the first degree, students then apply for admission to the LLB degree programme, to be completed over two years. To complete the degree over two years, one must have obtained sufficient law credits in the first degree, which is usually the case if one has majored in Legal Theory.

Normally, candidates who obtained at least 60% in their Legal Theory major will be admitted to the LLB, depending on resources. Academically deserving candidates who hold degrees from other universities may apply for admission to this programme by applying to the university for admission and by indicating the LLB as preference. The Dean of Law has the discretion to admit internal and external candidates who do not meet the academic requirements, on good cause shown, and subject to availability of Faculty resources.

Preference will be given to those candidates who obtained their first degree at Rhodes University, majoring in Legal Theory.

## 2 A four-year LLB stream

In their first year of university study students will be required to register in any one of the Faculties of Humanities, Science or Commerce, according to their subject choices. After their first year of study, those who meet the academic criteria may choose between following a five-year (e.g., BA or BCom LLB) curriculum, or a four-year LLB curriculum. Those who do not meet the academic criteria must follow the five-year combined route.

Candidates who do not have a degree may be admitted to the second year of study for the LLB degree, provided that they have passed both the law courses offered in their first year of study (Foundations of Law and Introduction to Law) with an average of 65% as well as have obtained an overall average of 65% for three non-law courses studied in that year. (Students who do not meet these criteria must follow the five-year route.) Admission into this route is restricted and subject to availability of places.

## 3 A three-year LLB for graduate students

Students enter this stream after having completed a Bachelor's degree without law subjects, or with insufficient law credits. They may be admitted to the second year of study for the LLB degree, provided that they obtained 60% for their major subjects, and subject to the availability of resources. Where a candidate has not met this requirement, the Dean of Law has the discretion to admit that person, on good cause shown and subject to availability of Faculty resources.

# EXAMPLES OF SOME CURRICULA

## 1 THE FIVE-YEAR STREAM

**(BA, B Com, BSc, etc, with a major in Legal Theory (3 years) to be followed by a 2-year LLB)**

This curriculum exempts one from the first two years of the LLB degree. The LLB curriculum following this degree will therefore be the same as that for the Penultimate and Final years of the LLB curriculum.

### 1.1 The curriculum in the first degree (BA, BCom, BSc, etc):

FIRST YEAR	SECOND YEAR	THIRD YEAR
<b>Any three non-law courses</b>	<b>One non-law course</b> at second-year level; <b>Two non-law courses</b> at first-year level or second-year level.	<b>One non-law course</b> at third-year level
Legal Theory 1, consisting of:  <u>First Semester:</u> Foundations of Law  <u>Second Semester:</u> Introduction to Law	Legal Theory 2, consisting of:  <u>First Semester:</u> Legal Interpretation Constitutional Law A  <u>Second Semester:</u> Constitutional Law B Law of Persons	Legal Theory 3, consisting of:  <u>First Semester:</u> Law of Contract A Law of Property A Law of Life Partnerships  <u>Second Semester:</u> Law of Contract B Legal Pluralism Law of Property B

## 1.2 The curriculum in the second degree (LLB):

PENULTIMATE YEAR	FINAL YEAR
<b>First Semester:</b> Civil Procedure A Company Law A Criminal Law A Criminal Procedure A Jurisprudence Law of Sale and Lease Legal Skills Legal Practice (either 1 <sup>st</sup> or 2 <sup>nd</sup> sem.)	<b>First Semester:</b> Administrative Law (first half) Civil Procedure B Criminal Procedure B Labour Law Law of Delict (first half) <b>2 Electives</b> from the first semester list <i>(subject to note 3 below)</i>
<b>Second Semester:</b> Company Law B Criminal Law B Law of Agency, Insurance and Credit Agreements Law of Evidence A Law of Partnerships and Trusts Public International Law Legal Practice (either 1 <sup>st</sup> or 2 <sup>nd</sup> sem.) <b>1 Elective</b> from the 2 <sup>nd</sup> semester list <i>(subject to note 2 below)</i>	<b>Second Semester:</b> Administrative Law (second half) Ethics and Professional Responsibility Law of Evidence B Law of Delict (second half) Law of Succession and Administration of Estates <b>2 Electives</b> from the second semester list <i>(subject to note 3 below)</i>

## 1.3 List of electives that could be taken in the Final Year of Study:

First Semester	Second Semester	Both Semesters
Alternative Dispute Resolution Copyright and Trade Marks International Trade Law Law of Banking and Payments Legal Accounting  <i>Not on offer in 2018:</i> International Human Rights and Humanitarian Law	Competition Law Constitutional Litigation Introduction to Conveyancing IsiXhosa for Law Law of Tax and Estate Planning Environmental Law  <i>Not on offer in 2018:</i> The Law of Obligations in a Global Context Law of Patents, Designs and Geographical Indications	Research Paper (two semester credits)  International Moot Competition (one semester credit)

## **Notes:**

1. All electives will not necessarily be offered every year. The availability of options will depend upon teaching arrangements in the Faculty of Law. For the same reason electives may be taught in different semesters. Some electives have a restricted number of students.
2. Penultimate LLB students who have either:
  - (i) achieved an average of at least 65% in their June examinations; or
  - (ii) passed eight courses in their June examinationsmay register for an elective course in the second semester of the penultimate year.
3. Students who have been placed on the Dean's list in their penultimate year of study may choose to register for three electives in one semester and one elective in the other semester (rather than the usual two electives in each semester).

## **2 THE FOUR-YEAR LLB STREAM**

<b>FIRST YEAR BA/B Com/BSc</b>	<b>SECOND YEAR</b>	<b>PENULTIMATE YEAR</b>	<b>FINAL YEAR</b>
Three non-law courses	One non-law course at second-year level		
<b>First Semester</b>  Foundations of Law	<b>First Semester</b>  Constitutional Law A Legal Interpretation Law of Contract A Law of Property A Law of Life Partnerships	<b>First Semester</b>  Civil Procedure A Company Law A Criminal Law A Criminal Procedure A Jurisprudence Law of Sale and Lease Legal Skills Legal Practice (either 1 <sup>st</sup> or 2 <sup>nd</sup> sem.)	<b>First Semester</b>  Administrative Law (first half) Civil Procedure B Criminal Procedure B Labour Law Law of Delict (first half)  <b>2 Electives</b> from the first semester list ( <i>subject to note 3 above</i> )
<b>Second Semester</b>  Introduction to Law	<b>Second Semester</b>  Constitutional Law B Law of Contract B Law of Persons Law of Property B Legal Pluralism	<b>Second Semester</b>  Company Law B Criminal Law B Law of Agency, Insurance & Credit Agreements Law of Evidence A Law of Partnerships and Trusts Public International Law Legal Practice (either 1 <sup>st</sup> or 2 <sup>nd</sup> sem.) <b>1 Elective</b> from the 2 <sup>nd</sup> semester list ( <i>subject to note 2 above</i> )	<b>Second Semester</b>  Administrative Law (second half) Ethics and Professional Responsibility Law of Evidence B Law of Delict(second half) Law of Succession and Administration of Estates <b>2 Electives</b> from the second semester list ( <i>subject to note 3 above</i> )

### 3 THE THREE-YEAR LLB STREAM (For graduate students, following a degree with no or insufficient law courses)

This route is for students who have a degree but either have no law credits at all, or insufficient law credits to qualify for the two-year option.

FIRST YEAR	PENULTIMATE YEAR	FINAL YEAR
<b>First Semester</b>  Foundations of Law Constitutional Law A Legal Interpretation Law of Contract A Law of Life Partnerships Law of Property A	<b>First Semester:</b>  Civil Procedure A Company Law A Criminal Law A Criminal Procedure A Jurisprudence Law of Sale and Lease Legal Skills Legal Practice (either 1 <sup>st</sup> or 2 <sup>nd</sup> sem.)	<b>First Semester:</b>  Administrative Law (first half) Civil Procedure B Criminal Procedure B Labour Law Law of Delict (first half)  <b>2 Electives</b> from the first semester list <i>(subject to note 3 above)</i>
<b>Second Semester</b>  Introduction to Law Constitutional Law B Law of Contract B Law of Persons Law of Property B Legal Pluralism	<b>Second Semester:</b>  Company Law B Criminal Law B Public International Law Law of Agency, Insurance and Credit Agreements Law of Evidence A Law of Partnerships and Trusts Legal Practice (either 1 <sup>st</sup> or 2 <sup>nd</sup> sem.) <b>1 Elective</b> from the 2 <sup>nd</sup> semester list <i>(subject to note 2 above)</i>	<b>Second Semester:</b>  Administrative Law (second half) Ethics and Professional Responsibility Law of Evidence B Law of Delict (second half) Law of Succession and Administration of Estates  <b>2 Electives</b> from the second semester list <i>(subject to note 3 above)</i>

Details of the degree structure, the requirements for the LLB degree and the content of the various courses can be found in the Faculty of Law section of the University Calendar. This information is also available on the Faculty Website:

<http://www.ru.ac.za/law/curricula>

# LEGAL THEORY

## 1 COURSE CO-ORDINATORS

Where a course has more than one lecturer, a course co-ordinator is appointed to oversee and administer the course. While you should still approach the lecturers for specific issues arising from their lectures, you should approach the course co-ordinator in respect of administrative matters, issues that concern the structure of the course as a whole, or with any issue that you cannot take to the lecturer. If you do not obtain satisfaction from the course co-ordinator, then please see the Dean or Deputy Dean.

The course co-ordinators for 2019 are:

Legal Theory 1:	Mrs L Davies
Legal Theory 2:	Mr P Jabavu
Legal Theory 3:	Adv S Rahim

## 2 LEGAL THEORY 1

Legal Theory 1 consists of Foundations of Law and Introduction to Law.

### 2.1 Entry level

Other than having been admitted to university, there are no special requirements for entry into Foundations of Law.

A prerequisite for entry into Introduction to Law is either (i) a credit for Foundations of Law or (ii) a valid DP certificate and a mark of at least 35% for Foundations of Law.

### 2.2 Credits

A pass in Legal Theory 1 counts as a credit towards BA, BCom, B SocSci, BJourn and BSc degrees.

Foundations of Law and Introduction to Law 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. In order to qualify for admission to LLB at second-year level one must obtain an aggregated mark of at least 65% and obtained an aggregate result of 65% for his/her non-law courses. To proceed to Legal Theory 2 one must have passed both courses, or have obtained an aggregated credit (ACR) for Legal Theory 1.

A student will obtain a credit for Legal Theory 1 according to the following rules:

- A credit (CR) will be given if a candidate has passed both Foundations of Law and Introduction to Law irrespective of the year or 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 Foundations of Law and Introduction to Law (i.e. 100 or more out of 200), provided that the candidate has obtained at least 30% in the course failed.
- A non-continuing credit (NCR) will be given if the candidate has an aggregated mark of at least 50% for Foundations of Law and Introduction to Law (i.e. 100 or more out



of 200), provided that the candidate has sat the examination for the course failed with a mark of 29% or less.

- Normally aggregation may take place only in respect of examinations written in the same academic year. (Note: for this purpose, a supplementary or aegrotat examination in January/February of the following calendar year counts as an examination in the previous year.) Aggregation across years is only allowed in exceptional circumstances, for example, for purposes of graduation.
- After the completion of the November examinations, the Dean of Law may recommend to the Deans of Humanities, Commerce and Science that a student with an overall aggregation average of 49% be raised to 50% to enable the student to pass with an ACR or to qualify for a supplementary examination in terms of paragraph 2.4 below. Overall aggregation averages below 49% (i.e. less than 98 out of 200) will **NOT** be rounded up to 50% for this purpose.

A student will obtain credit towards an LLB degree for Foundations of Law or for Introduction to Law only if the courses are passed independently. An aggregated mark does not upgrade a result where a course has been failed.

### **2.3 Rewrite examinations**

Students in Foundations of Law may be granted rewrite examinations, to be written in January/February, provided that they obtain at least 35% in their first examination in June.

The mark obtained in the rewrite examination is recorded as the final mark for aggregation purposes if the student's aggregate result improves (i.e. F to NCR/ACR/CR, NCR to ACR/CR, or ACR to CR) or stays the same, and the second aggregate result will then apply. Conversely, the mark obtained in the first examination is recorded as the final mark for aggregation purposes if the student's aggregate result is worse after the supplementary examination (i.e. ACR to NCR/F, or NCR to F), and the original aggregate result will stand.

Students who have passed Legal Theory 1 and who achieve a result of 40% or more for a component semester course failed may rewrite the course failed, either in January/February or during a subsequent examination session in order to obtain an LLB credit, provided that no special examination will be set for this purpose. This is provided for in by Rule G.20.1.4. Only students in registered for Legal Theory 2 and 3 may write exams in terms of this rule and must register for the component course in terms of this rule at the beginning of the academic year in which they intend to write the examination for the course. The coursework component will not be included in calculating the final result.

### **2.4 Supplementary examinations**

Students in Introduction to Law may be granted supplementary examinations, to be written in January/February, provided that they obtain at least 40% in their first examination, and provided that they otherwise qualify for a supplementary examination in the Faculty in which they have been registered. The Law Faculty will also recommend that a supplementary examination be granted to students who obtain a mark of below 40% in a component course, provided that their aggregate mark for Legal Theory 1 is 50% or above.

The mark obtained in the supplementary examination is recorded as the final mark for aggregation purposes if the student's aggregate result improves (i.e. F to NCR/ACR/CR, NCR to ACR/CR, or ACR to CR) or stays the same, and the second aggregate result will then apply. Conversely, the mark obtained in the first examination is recorded as the final

mark for aggregation purposes if the student's aggregate result is worse after the supplementary examination (i.e. ACR to NCR/F, or NCR to F), and the original aggregate result will stand.

### **3 LEGAL THEORY 2**

Legal Theory 2 consists of Legal Interpretation, Constitutional Law A, Constitutional Law B and Law of Persons.

#### **3.1 Entry level**

The standard entry level for this course is a continuing pass in Legal Theory 1, i.e. a credit or aggregated credit (ACR).

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 and obtains a credit in Foundations of Law. In these circumstances a student will be exempted from obtaining a credit for Introduction to Law for LLB degree purposes

Some exposure to Constitutional Law is a prerequisite for entry into Constitutional Law B: accordingly, the prerequisite for entry into Constitutional Law B is normally either a credit or a valid DP certificate for Constitutional Law A.

#### **3.2 Credits**

A pass in Legal Theory 2 counts as a credit towards BA, BCom, B SocSci, BJourn and BSc degrees.

Legal Interpretation, Constitutional Law A, Constitutional Law B and Law of Persons are separate papers that count towards the Legal Theory 2 result. Each course counts as a separate LLB credit.

In the Commerce Faculty an NCR in Commercial Law 1 may be given if a student has passed both Legal Theory 1 and Legal Theory 2 (Rule C.6). This rule does not apply to students registered in the Faculty of Humanities.

A student will obtain a credit for Legal Theory 2 according to the following rules:

- A credit (CR) will be given if a candidate has passed all the courses, irrespective of the year or 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 all the component courses (i.e. 200 or more out of 400), provided that the candidate has obtained at least 30% in the course or courses failed.
- A non-continuing credit (NCR) will be given if the candidate has an aggregated mark of at least 50% for all the component courses (i.e. 200 or more out of 400), provided that the candidate has sat the examination(s) for the course(s) failed with 29% or less.
- Normally aggregation may take place only in respect of examinations written in the same academic year. (Note: for this purpose a supplementary or aegrotat examination in January/February of the following calendar year counts as an examination in the previous year.)

- A non-continuing credit (NCR) may be given to candidates who aggregate across years for degree purposes.
- After the completion of the November examinations, the Dean of Law may recommend to the Deans of Humanities, Commerce and Science that a student with an overall aggregation average of 49% be raised to 50% to enable the student to pass with an ACR or to qualify for a supplementary examination in terms of paragraph 3.3 below. Overall aggregation averages below 49% (i.e. less than 196 out of 400) will **NOT** be rounded up to 50% for this purpose.

A student will obtain credit towards an LLB degree for any of the constituent courses only if the course is passed independently. An aggregated mark does not upgrade a result where a course has been failed.

### **3.3 Supplementary examinations**

Students who fail courses comprising Legal Theory 2 may be granted supplementary examinations, to be written in January/February, provided that they obtain a mark of at least 40% for such courses, and provided further that they otherwise qualify for a supplementary examination in the Faculty in which they have been registered. The Law Faculty will also recommend that a supplementary examination be granted to students who obtain a mark of below 40% in a component course, provided that their aggregate mark for Legal Theory 2 is 50% or above.

The mark obtained in the second (supplementary) examination is recorded as the final mark for aggregation purposes if the student's aggregate result improves (i.e. F to NCR/ACR/CR, NCR to ACR/CR, or ACR to CR) or stays the same, and the second aggregate result will then apply. Conversely, the mark obtained in the first examination is recorded as the final mark for aggregation purposes if the student's aggregate result is worse after the supplementary examination (i.e. ACR to NCR/F, or NCR to F), and the original aggregate result will stand.

### **3.4 Rewrite examinations**

Students who have passed Legal Theory 2 and who achieve a result of 40% or more for the component semester course(s) failed may rewrite the course(s) failed, either in January/February of the next year in order to obtain an LLB credit, provided that no special examination will be set for this purpose. This is provided for in by Rule G.20.1.4. Only students in registered for Legal Theory 3 may write exams in terms of this rule and must register for the component course in terms of this rule at the beginning of the academic year in which they intend to write the examination for the course. The coursework component will not be included in calculating the final result.

## 4 LEGAL THEORY 3

Legal Theory 3 consists of Law of Life Partnerships, Law of Property A, Law of Property B, Law of Contract A, Law of Contract B and Legal Pluralism.

### 4.1 Entry level

The entry level for this course is a continuing pass in Legal Theory 2.

### 4.2 Credits

A pass in Legal Theory 3 counts as a credit towards BA, BCom, BSoc Sci, BJourn and BSc degrees.

Law of Persons, Law of Life Partnerships, Law of Property A, Law of Property B, Law of Contract A and Law of Contract B are separate papers that count towards the Legal Theory 3 result. Each course counts as a separate LLB credit, however.

A prerequisite for entry into Law of Life Partnerships is normally either a credit or a valid DP certificate for the Law of Persons.

A prerequisite for entry into Law of Property B is normally either a credit or a valid DP certificate for the Law of Property A.

A prerequisite for entry into Law of Contract B is normally either a credit or a valid DP certificate for the Law of Contract A.

A student may obtain a credit for Legal Theory 3 according to the following rules:

- A credit (CR) will be given if a candidate has passed all the courses, irrespective of the year or 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 all the component courses (i.e. 300 or more out of 600), provided that the candidate has obtained at least 30% in the course or courses failed.
- Normally aggregation may take place only in respect of examinations written in the same academic year. (Note: for this purpose, a supplementary or aegrotat examination in January/February of the following calendar year counts as an examination in the previous year.)
- Aggregation across years will only be permitted for degree purposes.
- After the completion of the November examinations, the Dean of Law may recommend to the Deans of Humanities, Commerce and Science that a student with an overall aggregation average of 49% be raised to 50% to enable the student to pass with an ACR or to qualify for a supplementary examination in terms of paragraph 4.3 below. Overall aggregation averages below 49% (i.e. less than 294 out of 600) will **NOT** be rounded up to 50% for this purpose.

A student will obtain credit towards an LLB degree for any of the constituent courses only if the course is passed independently. An aggregated mark does not upgrade a result where a course has been failed.

### **4.3 Supplementary examinations**

Students who fail courses comprising Legal Theory 3 may be granted supplementary examinations, to be written in January/February, provided that they obtain a mark of at least 40% for such courses, and provided further that they otherwise qualify for a supplementary examination in the Faculty in which they have been registered. The Law Faculty will also recommend that a supplementary examination be granted to students who obtain a mark of below 40% in a component course, provided that their aggregate mark for Legal Theory 3 is 50% or above.

The mark obtained in the second (supplementary) examination is recorded as the final mark for aggregation purposes if the student's aggregate result improves (i.e. F to ACR, F to CR, or ACR to CR) or stays the same, and the second aggregate result will then apply. Conversely, the mark obtained in the first examination is recorded as the final mark for aggregation purposes if the student's aggregate result is worse after the supplementary examination (i.e. ACR to F), and the original aggregate result will stand.

### **4.4 Rewrite examinations**

There are no rewrite examinations for Legal Theory 3 component courses for LLB purposes. Students who have gained entry into the LLB but who carry Legal Theory component course(s), must register for the course(s) they had previously failed and may apply for an extended DP in terms of the rules set out in this Handbook. Such registration remains subject to the ordinary rules governing the LLB. Students not registered for the LLB who wish to improve their performance incompetent courses of Legal Theory 3 for which they have previously been registered, may do so in terms of Rule G.20.1.4 provided that they meet the requirements stipulated in that rule.

## **COMMERCIAL LAW**

### **1 COURSE CO-ORDINATORS**

Where a course has more than one lecturer, a course co-ordinator is appointed to oversee and administer the course. While you should still approach the lecturers for specific issues arising from their lectures, you should approach the course co-ordinator in respect of administrative matters, issues that concern the structure of the course as whole, or with any issue that you cannot take to the lecturer. If you do not obtain a satisfactory resolution of your query from the course co-ordinator, then please see the Dean or Deputy Dean.

The course co-ordinators for 2019 are:

Commercial Law 101 & 102:	Prof H van Coller
Commercial Law 201 & 202	Ms N Mashinini

## **2 COMMERCIAL LAW 1**

Commercial Law 1 consists of two one-credit courses, COL 101 and COL 102.

COL 101 Introduction to law; the law of contract, including special contracts; the administration of deceased estates; the law of insolvency.

COL 102 Introduction to business entities; company law; corporate governance; black economic empowerment.

### **2.1 Entry Level**

Other than having been admitted to university, there are no special requirements for entry into COL 101.

A prerequisite for entry into COL 102 is a credit or a mark of above 35% for COL 101.

### **2.2 Credits**

A pass in Commercial Law 1 counts as a credit towards BCom, BSocSci and BSc degrees.

COL 101 and COL 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 credit (ACR) for Commercial Law 1, in order to proceed to Commercial Law 2.

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 and obtains a credit in Foundations of Law. In these circumstances a student will be exempted from obtaining a credit for Introduction to Law in the LLB degree.

A student will obtain a credit for Commercial Law 1 according to the following rules:

- A credit (CR) will be given if a candidate has passed both courses irrespective of the year or 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 44% in the course failed.
- Aggregation for students registered in the Faculty of Commerce may take place only in respect of examinations written in the same academic year. This normally also applies in respect of Commercial Law 1 students registered in the Humanities Faculty. (Note: for this purpose, a supplementary or aegrotat examination in January/February of the following calendar year counts as an examination in the previous 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 students registered in the Faculty of Humanities.
- After the completion of the November examinations, the Dean of Law may recommend to the Deans of Humanities, Commerce and Science that a student with an overall aggregation average of 49% be raised to 50% to enable the student to

pass with an ACR or NCR. Overall aggregation averages below 49% (i.e. less than 98 out of 200) will **NOT** be rounded up to 50% for this purpose.

## **2.3 Rewrite and Supplementary Examinations**

Students in COL 101 may rewrite the subject in November, provided that they obtain at least 35% in the June examination. No further supplementary examinations will be written in January/February.

The mark obtained in the second (rewrite) examination is recorded as the final mark for aggregation purposes if the student's aggregate result improves (i.e. F to NCR/ACR/CR, NCR to ACR/CR, or ACR to CR) or stays the same, and the second aggregate result will then apply. Conversely, the mark obtained in the first examination is recorded as the final mark for aggregation purposes if the student's aggregate result is worse after the supplementary examination (i.e. ACR to NCR/F, or NCR to F), and the original aggregate result will stand.

Students in COL 102 may be granted a January/February supplementary examination, 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. In such instances, the original aggregate will stand, even if the result achieved in the supplementary examination is worse than that achieved in the original examination, and would ordinarily cause the candidate to fail on aggregate.

A supplementary examination will also be granted to students who obtain a mark of below 40% in a component course, provided that their aggregate mark for Commercial Law 1 is 50% or above.

Students who have obtained an NCR credit 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. In such an instance, the initial NCR result would not be placed in jeopardy.

## **3 COMMERCIAL LAW 2**

Commercial Law 201 consists of:

- 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.

Commercial Law 202 consists of:

- Paper 1: Special contracts: Sale, Lease and Carriage
- Paper 2: Insurance; Competition law; Business Ethics; Alternative dispute resolution.

### **3.1 Entry level**

The entry level for COL 201 and/or COL 202 is a continuing pass in Commercial Law 1 (i.e. a credit or aggregated credit (ACR)).

### 3.2 Credits

A pass in Commercial Law 201 and/or Commercial Law 202 counts as a credit towards the BCom, B SocSci and B Sc degrees.

COL 201 and COL 202 are separate courses each of which gives a student a half semester credit towards a degree. A half credit in one course is not contingent upon passing the other course.

A student will obtain a credit for Commercial Law 2 according to the following rules:

- A credit will be given if a student has passed both courses irrespective of the year of examination in which they were passed.
- An aggregated credit (ACR) will be given if a student has an aggregated mark of at least 50% for both courses (i.e. COL 201 and COL 202) and has obtained at least 45% in the course failed.
- Aggregation may only take place in respect of examinations written in the same academic year.
- After the completion of the November examinations, the Dean of Law may recommend to the Deans of Humanities, Commerce and Science that a student with an overall aggregation average of 49% be raised to 50% to enable the student to pass with an ACR or NCR. Overall aggregation averages below 49% (i.e. less than 98 out of 200) will **NOT** be rounded up to 50% for this purpose.

### 3.3 Supplementary examinations

Students in COL 201 and COL 202 may be granted a January/February supplementary examination, provided that they obtain at least 40% in the June/November examination, and provided that they otherwise qualify for a supplementary examination in the Faculty in which they have been registered.



# TUTORIALS AND ACADEMIC DEVELOPMENT

The Law Faculty at Rhodes offers all students an integrated academic development programme aimed at bridging the gap between school and university and assisting students in realising their full academic potential. The programme takes three forms:

## 1 TUTORIALS

All students who register for Legal Theory 1, Legal Theory 2 and Commercial Law 1 are required to attend tutorial sessions, in addition to the lecture programme. Attendance at Tutorials is compulsory (a DP requirement) and forms an integral component of the Legal Theory 1, Legal Theory 2 and Commercial Law 1 courses.

The tutorial programme is aimed at the development of research and writing skills and basic computer literacy. In so far as the Legal Theory 1 programme is concerned, there is also emphasis on the development of oral skills and writing skills.

For Legal Theory 3 there are weekly tutorials which are voluntary and which are designed to supplement and provide extra support for the lecture programme.

## 2 SUPPLEMENTAL INSTRUCTION

Supplemental Instruction (SI) is a free, voluntary, student-driven programme designed to support courses that have a reputation for being academically demanding. SI is offered to students registered for Legal Theory 1.

SI enables students to master course content while developing effective learning and study strategies. SI is for all students, and statistics show that students who regularly attend SI sessions tend to get better results than those who do not.

## 3 ACADEMIC DEVELOPMENT

The ADP programme is an academic support programme designed for Legal Theory 1 students to assist them to realise their full academic potential and to assist with the academic transition from school to university. During the course of the first semester, the programme takes the form of voluntary group tutorial sessions and/or individual consultations with an Academic development Specialist Lecturer. In the second semester, attendance of academic development tutorials is compulsory for all students who failed Foundations of Law in the first semester with 35% to 45%. For these students, attendance of ADP tutorials is a DP requirement.

**Additionally**, students are encouraged to discuss their academic concerns with the lecturers concerned. The relatively small class sizes at Rhodes makes individual attention possible. Appointments can be scheduled via email.

# **INTERNATIONAL EXCHANGE PROGRAMMES**

The Faculty of Law believes that there is great value in exchange programmes. There are currently two exchange programmes in place, one with Leicester University and the other with Utrecht University. Bearing in mind the need for reciprocity, no further exchange programmes are envisaged at present. However, students are free to make their own arrangements outside the formal exchange programme structures and should discuss the recognition of courses to be done elsewhere with the Deputy Dean.

## **1 EXCHANGE PROGRAMMES GENERALLY**

Credits obtained at other universities, including some law credits, could be counted towards your Rhodes LLB degree or towards Legal Theory 1, 2 and 3. Credits that count towards Legal Theory 1, 2 and 3 do not automatically count towards LLB. A separate application must be made for the purpose of LLB credits being granted. This separate application may be made at the same time as the application for credits towards Legal Theory 1, 2 and 3. For more details, contact Ms Helen Pienaar at the International Office or visit: <http://www.ru.ac.za/international/>

## **2 LEICESTER EXCHANGE PROGRAMME**

The Leicester exchange programme is designed specifically for law students who follow the five-year route and are willing to add an additional honours year to their studies and gain international experience in the process.

In terms of an agreement between Rhodes University and the University of Leicester, senior law students from Rhodes, having paid Rhodes fees, may attend courses at the University of Leicester and receive credits towards their Rhodes LLB degrees. Rhodes hosts Leicester students in return. The exchange programme enables successful candidates from both universities to study in an international academic environment.

There are a number of ways in which this could be done, but the preferred option is to spend six months at Leicester as part of an Honours programme and then to return to Rhodes to continue with the LLB degree. See the Deputy Dean for details. You can also obtain further information at: <http://www.ru.ac.za/international/>

## **3 UTRECHT EXCHANGE PROGRAMME**

The Faculty has a staff and student exchange agreement with the Faculty of Law at Utrecht University in the Netherlands. The system is similar to the Leicester programme described above.

The Utrecht programme offers a second option – a short-term exchange for three months from November to February. Students will be able to obtain some LLB credits in this way. (The Utrecht courses run over a three-month period, whereas our equivalents are taken over six months.)

See the Deputy Dean and the International Office for details.

## SECTION D: ADMINISTRATIVE ISSUES

### ESSAYS, ASSIGNMENTS AND OTHER COURSE WORK

#### 1. ASSIGNMENT COVER PAGE

The Law Faculty has a cover page that must be utilised when essays and assignments are submitted. Work submitted without this cover page will not be marked. It can be accessed as follows using the following link:

<http://www.ru.ac.za/law/studying/>

You will see from the Essay Cover that the following information must appear on the cover page: Student number, Subject, Lecturer/Tutor, Due Date and the Assignment Topic.

In addition you have to sign the following declaration:

- I know that “plagiarism” means using another person’s work and ideas without proper 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 proper acknowledgement. I know that plagiarism covers this sort of use of material found in court judgments, textbooks, journal articles AND on the Internet.
- I am aware of the University and the Law Faculty’s policies on plagiarism as set out in the Faculty’s *Handbook*.
- I acknowledge and understand that plagiarism is wrong, and that it constitutes academic theft.
- 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 *Handbook*. I accept that merely putting a reference next to the copied words of others is not sufficient to avoid a charge of plagiarism, and that I understand the writing conventions applicable to using direct quotes and quotation marks.
- This assignment is my own work, or the unique work of a group, if a group assignment.
- 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.

***The plagiarism and referencing information is set out in Section E below.***

## 2. PENALTIES FOR LATE SUBMISSION OF WORK

### 2.1 Assignments

Assignments are due on the date and at the time stipulated by the lecturer for the course. Late assignments shall be subject to a penalty of 20% per day, or part of a day.

*For example: an assignment is due at 8am on 18 February 2019.*

- *Student A submits his/her assignment at 8.30am on that date. S/he would have received 75% for the assignment had s/he submitted on time, but because it was submitted after 8am on the due date, but less than 24 hours after the due date, student A will instead receive 55% for the assignment on his/her course record.*
- *Student B submits his/her assignment for the same course at 4pm on 19 February 2019, and would have received 57% for the assignment if it had been submitted on time. In these circumstances, s/he will receive 17% for the assignment on his/her course record.*

Please note: these penalties will be strictly enforced. Assignments that arrive only a few minutes after the time at which they are due are liable to receive the 20% penalty. It is therefore in your interests to manage your time effectively and not to leave your printing until the last minute.

Only an LOA which is valid for the due date of the assignment will negate the penalty for late submission. Where a student has a valid LOA for the due date of the assignment, that student's assignment shall be due 24 hours following the expiration of the LOA. Late submission after this date shall be subject to the 20% per day penalty as outlined above.

### 2.2 Tests

Attendance at class tests is compulsory for DP purposes. A make-up test in the form of either a written test or an oral (to be decided by the lecturer concerned) will be offered to students who miss the scheduled test with a valid LOA. **No other students will be permitted to do a make-up test.**

Students who have a valid LOA for the make-up test will not be granted a further make-up test; rather, the test will no longer count towards the calculation of the course record for that course, and the course record will be based only upon the other course work normally assessed for the purpose of the course record. Accordingly, the exam mark of the student will count more i.e. If the test counted 10% of the course mark of 30%, the exam will then count 80% instead of 70%.

## CALCULATION OF COURSE RECORDS

The course record mark is incorporated into the calculation of the final result. Test and assignment marks are used to calculate course record marks. A student wishing to challenge a course record mark as incorrect must do so by the first Friday of the first and third terms in respect of the November and June examinations respectively.

Administrative Law (Year course)	Course record (50%)
Alternative Dispute Resolution	Course record (10%)
	Journal (20%)
	Practical exam (20%)
Civil Procedure A	Course record (30%)
Civil Procedure B	Course record (30%)
Commercial Law 101	Course record (30%)
Commercial Law 102	Course record (30%)
Commercial Law 201	Course record (30%)
Commercial Law 202	Course record (30%)
Company Law A	Course record (30%)
Company Law B	Course record (30%)
Competition Law	Course record (30%)
Constitutional Law A	Course record (30%)
Constitutional Law B	Course record (30%)
Constitutional Litigation	Course record (40%)
Copyright and Trade Marks	Course record (30%)
Criminal Law A	Course record (30%)
Criminal Law B	Course record (30%)
Criminal Procedure A	Course record (30%)
Criminal Procedure B	Course record (30%)
Environmental Law	Course record (30%)
Ethics and Professional Responsibility	Course record (40%)
Foundations of Law	Course record (30%)
International Human Rights and Humanitarian Law	Course record (40%)
International Trade Law	Course record (30%)
Introduction to Conveyancing	Course record (30%)
Introduction to Law	Course record (30%)
IsiXhosa	Practical component (100%)
Jurisprudence	Course record (40%)
Labour Law	Course record (30%)
Law of Agency and Insurance	Course record (30%)
Law of Banking and Payments	Course record (30%)
Law of Contract A	Course record (30%)
Law of Contract B	Course record (30%)
Law of Delict (Year course)	Course record (50%)
Law of Evidence A	Course record (30%)
Law of Evidence B	Course record (30%)
Law of Life Partnerships	Course record (30%)
Law of Partnerships and Trusts	Course record (30%)
Law of Patents, Designs and Geographical Indications	Course record (30%)
Law of Persons	Course record (30%)
Law of Property A	Course record (30%)

Law of Property B	Course record (30%)
Law of Sale and Lease	Course record (30%)
Law of Succession and Administration of Estates	Course record (30%)
Law of Tax and Estate Planning	Course record (30%)
Legal Accounting	Course record (30%)
Legal Interpretation	Course record (30%)
Legal Pluralism	Course record (30%)
Legal Practice	Practical component (100%)
Legal Skills	Practical component (100%)
Public International Law	Course record (30%)
The Law of Obligations in a Global Context	Course record (30%)
Research Paper	Research Paper (100%)
International Moot Competition	Portfolio (100%)

## DP REQUIREMENTS AND LEAVE OF ABSENCE

### 1 DP REQUIREMENTS

#### 1.1 Introduction

A Duly Performed (DP) certificate is the certification that a student has met the minimum attendance and work requirements for a particular course. A student whose DP has been refused for a particular course will normally not be allowed to write the examination in that course. In effect, a DP certificate constitutes permission to write the examination (see G.19).

In the Law Faculty/Department, a designated member of the academic staff administers DPs. This person is obliged to administer the DP system in terms of the rules. This means checking applications for Leave of Absences and approving/rejecting these applications on the basis of the application and evidence in support of the application provided.

Every year there are students who plead in vain to this staff member for their DP certificates not to be removed, despite the fact that they have clearly not met the DP requirements. This staff member does not have the authority to grant indulgences for non-compliance with the rules. Make sure that you comply with the DP rules in respect of lecture attendance, submission of class work, and writing the test, as these are set out in the course material and explained in class. Failure to comply with the course requirements may result in a DP being refused.

The Law Faculty will not send out additional warnings to students who are at risk of losing their DPs. Individual lecturers may choose to warn students before taking DPs away, but lecturers are under no obligation to do this since the rules for courses are published in advance and known to students. Students who fail to comply with the rules are at risk of having their DPs refused, and carry the onus of meeting the course requirements or applying for a Leave of Absence in relation to lecture attendance or submission of work. Note that an LOA does not exempt a student from doing the work of the class (see 2 below).

Where a student has failed to comply with the DP requirements for his/her course, s/he will be informed via ROSS and email that his/her DP for a particular course was refused. The notification will call upon the student to make submissions as to why his/her DP should not

be refused (i.e. it will give the student an opportunity to appeal the DP refusal). In order to exercise this right of appeal, the student must make written submissions to the Faculty DP Appeals Committee (which is EXCO sitting without student representatives). The appeal

letter must be submitted to the Faculty within the timeframe specified in the notice. The submission should illustrate that the student has indeed complied with the DP rules, and proof must be provided of such compliance. The letter may further provide information deemed relevant by the student for consideration by the Committee when making the decision as to whether to reinstate the DP or not. The decision of this Committee is final. No further appeals lie against this decision.

Examinations may not be written without a DP certificate, and where a student writes an exam without having a valid DP, the exam will not be marked, and thus the student will not receive results for that course.

## **1.2 Extended DPs**

Students who do not return to the University may apply for an extension of their DP certificates for a period of one year. This will allow the student to write the examination without having to earn a new DP certificate. Candidates in this position will stand or fall by their performance in the examinations (i.e. the exam counts 100%). Normally an extended DP is only granted in the year immediately following the year in which the original DP was granted.

Normally a returning student will not be granted an extended DP. Only in exceptional instances, e.g. unavoidable timetable clashes, will extended DPs be considered for returning students. Where an extended DP is granted to a returning student, that student must complete the work of the class (i.e. write the test and submit the assignment) for the course.

Commercial Law 1, Legal Theory 1 and 2 students on extended DP must write the scheduled class tests for the respective courses. Students on extended DP need not attend tutorials. Commercial Law 1 and Legal Theory 2 students need not submit tutorial assignments. Legal Theory 1 students are required to submit tutorial assignments which are assessed for marks, but they need not complete the formative written tasks, such as tutorial worksheets. Legal Theory 2 students on extended DP are further required to submit the class assignments for the relevant course(s). Failure to write the tests and submit the assignments as outlined above, will result in the refusal of the DP.

A DP certificate for a particular course may not be extended more than once.

*Note: One cannot get an extended DP in a case where a DP has been refused the previous year.*

## **1.3 Faculty requirements**

Attending lectures and tutorials is regarded as an inherent part of law courses. In the same way that students must obtain a minimum number of marks in an exam, they must attend a minimum number of lectures. Save in exceptional circumstances, students who are absent from lectures more frequently than allowed will not be awarded DP certificates, regardless of whether LOAs are obtained. For example, if a student is absent from 18 lectures for a particular semester course (normally there are 26 lectures per semester course) and s/he

obtains LOAs for 13 of the 18 lectures missed, s/he has not satisfactorily attended class, despite having obtained LOAs for the majority of lectures missed. See below for the acceptable threshold in law courses.

Students are strongly advised not to miss lectures unless they have no choice (as a result of, for example, illness) but to do so. Circumstances (for example, illness) may later force a student to be absent for good reason, and yet, the student may lose his/her DP certificate on account of having missed more than the permitted maximum number.

LOAs are particularly relevant in the case of tutorials/lectures/tests that are missed and essays that are late.

The **general DP Requirements applicable in the Faculty of Law**, except where otherwise stated, are that:

- Attendance at lectures is **compulsory** in all **Legal Theory** and **LLB** courses. A student may miss no more than 6 (six) lectures per semester course.
- A double lecture in any course is regarded as 2 (two) lectures.
- Students are required to do **all** the work of the class. The written work includes tests, tutorial assignments and essays scheduled during the year.

In respect of **Legal Practice** a student may not miss more than 3 (three) lectures per semester course, unless properly excused. In respect of **Alternative Dispute Resolution** 100% attendance is required, unless properly excused. In respect of **Foundations of Law** and **Introduction to Law** the general Faculty DP requirements, set out above, apply.

**Commercial Law 1 and 2** students are not required to attend lectures for DP purposes.

- Students are required to do all the work of the class. The written work includes tutorial assignments (Commercial Law 1 only), essays and tests scheduled during the year.
- Tutorial attendance is compulsory.

Students in **Legal Theory 1, 2 and 3** and **Commercial Law 1 and 2** must comply with the DP requirements in respect of each component of the course as set out in the course material.

All students in their **Final Year** of study must **participate satisfactorily in at least one moot for that year**. Students who in the opinion of the adjudicator(s) did not perform satisfactorily will be required to participate in additional moots until the proper level of performance has been reached. For penultimate year students Moots are part of the Legal Skills course.

These requirements will be applied strictly and the onus is on each student to ensure that s/he signs the class register.

## **2 LEAVE OF ABSENCE (LOA)**

The University has a uniform LOA policy which can be found on the University website:

<http://www.ru.ac.za/media/rhodesuniversity/content/institutionalplanning/documents/Leave%20of%20Absence%20Policy%20for%20Students.pdf>



The Faculty policy set out hereunder supplements that general policy.

If you miss a lecture or tutorial for good reason, you may apply for a leave of absence (LOA). Application forms can be obtained from the secretaries in the Administration Office or on the website.

<http://www.ru.ac.za/media/rhodesuniversity/content/law/documents/LOA%201st%20Semester%202018.pdf>

<http://www.ru.ac.za/media/rhodesuniversity/content/law/documents/LOA%202nd%20Semester%202018.pdf>

Grounds for granting leave of absence (LOA) as per the University current policy are as follows: “absence from class meetings, for whatever reason, must count against a student’s entitlement to a DP Certificate and, except in cases of leave of absence granted for approved sporting or cultural commitments, illness or on compassionate grounds, there should be no concession in this regard.”

**NB: LOA applications must be fully completed as per the instructions on the LOA form, with a copy of supporting documentation attached. Incomplete applications will be rejected.**

**NB: LOA applications must be submitted within five (5) days, excluding Saturdays, Sundays and public holidays. Late LOA applications will not be considered.**

Work missed through absence at any time, for any reason, is the responsibility of the individual student. Formal “Leave of Absence” does not remove this responsibility.

Students must consult the DP policy to determine which rules apply to them.

It is vital for students to retain proof of reasons for absence for each lecture missed (medical certificates, sports administration letters, letters from parents concerning weddings, funerals, etc). Such proof will enhance the chances of students being able to show exceptional circumstances.

The Secretarial and Administrative staff do not guarantee granting of leave of absence. The granting of leave of absence depends solely on the compliance with the rules for application and evidence provided.

# **EXAMINATIONS**

## **1 JUNE AND NOVEMBER EXAMINATIONS**

The standard method of assessment for the majority of the courses in the Faculty is a two-hour written examination at the end of the semester in which the subject is taught. The mark in this examination normally contributes 70% towards the final mark for the course, but there are exceptions to this (see the section “Calculation of Course Records” above).

## **2 SUPPLEMENTARY EXAMINATIONS**

Students who fail courses in the June and/or November examinations may qualify for a supplementary examination in some instances. Normally a supplementary examination will not be granted to a candidate who has obtained a result of less than 40% (Rule L.11.1). Exceptions will be made in the following circumstances only:

- (a) Where a student has failed one course only; or
- (b) Where a student has failed more than one course and a supplementary examination would provide an opportunity for that student to meet the requirements for the degree.

Maximum number of supplementary examinations: 4 semester courses or their equivalent (L.11.2).

In order to qualify for supplementary examinations students must have passed at least 4 semester courses in the academic year (L. 11.2). This rule does not cover the situation of students who have nearly completed their studies but for a few outstanding courses.

Supplementary examinations will not be granted to persons who are excluded from the University on academic grounds.

Further, supplementary examinations are not available for Legal Practice and Legal Skills (Rule L.11.3).

## **3 AEGROTAT EXAMINATIONS**

An aegrotat is a certification that one obtains if one is unable to attend an examination because of genuine ill-health, or for some other serious reason, such as the death of a member of one's family. The aegrotat then allows one to write another (equivalent) examination later, known as an aegrotat examination. Applications to sit such examinations must be made in writing and before the examination to the Registrar's Division and must be supported by doctor's certificates or other proof that the request is genuine and well-founded. Aegrotat examinations are not available for Legal Practice and Legal Skills (Rule L.11.3)

Final Year students granted an aegrotat examination will be given the option of completing the aegrotat examination by way of an oral examination in December.

#### **4 RE-WRITE EXAMINATIONS (Legal Theory 1 and Commercial Law 1 only)**

If a student fails a first-year semester course in the June examination, s/he may be granted an opportunity to rewrite the examination at a later stage. This is not a supplementary examination, where the improved result is recorded simply as a pass, irrespective of the mark obtained. In a rewrite examination, the classification of the result will reflect the actual mark.

Students in Foundations of Law may be granted rewrite examinations, to be written in August provided that they obtain at least 35% in their first examination in June. The mark obtained in the second examination is recorded as the final mark, except in those instances in which a student has an ACR or an NCR and wishes to obtain a credit in the course failed.

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 an NCR and wishes to obtain a credit in the course failed. No further supplementary examinations will be written in January/February.

#### **5 ORAL EXAMINATIONS FOR LAST OUTSTANDING CREDITS (Final Year LLB students only)**

Rule L.13 provides for oral examinations in the Faculty of Law. The procedure applies to Final Year LLB students only. Its purpose is to allow students to complete their LLB degrees in the November examination session so as to enable them to enter the job market at the beginning of January and to prevent them from suffering economic and other disadvantages. An oral examination will be granted only in respect of courses that are outstanding for completion of the degree. Oral examinations will not be granted for additional courses taken for non-degree purposes.

Final Year students who fail a course and meet the requirements set out below, will be informed that they may submit themselves for an oral examination in that course on a specific date, which will be before the last Faculty Board meeting of the year. The oral examination will be a special examination to determine whether the student's examination mark in that course (obtained either in June or in November) should be adjusted to 50%. It is not a supplementary examination: it forms part of the original examination. A student may elect not to attend the oral examination, in which event the mark obtained in the written examination stands.

Either the final mark or the internal examiner's mark (whichever is available) will be used to determine whether a student qualifies for an oral examination. To qualify a student must not have failed more than two semester courses or their equivalent and must have obtained a mark of at least 35% in the course/s concerned. The only exception to this rule may arise where a mark lower than 35% is directly attributable to a student's misreading of an examination question. In such event, the Dean of Law may, after consultation with the Deputy Dean and the lecturer involved, permit a student to take an oral examination.

Notification of orals will take place soon after the last examination is written, but at least two days before the oral examination. All orals will be conducted on the same day, even if a student has more than one oral.

Normally a panel consisting of three persons will conduct the oral examination. The panel will consist of the Dean (or Deputy Dean), who will chair the panel, the internal examiner(s) for the course and an external examiner. If for any reason the panel cannot be constituted as above, the Dean will designate a suitable alternate. A decision to adjust the original mark must be unanimous.

The only function of the panel is to determine whether the examination mark should be adjusted to 50%. It cannot substitute a higher mark. If it decides that the student's mark ought not to be adjusted, then the written examination mark will remain. Candidates should be assessed on their performance in the oral examination only: the mark in the written examination should not be considered in assessing whether the student is worthy of a pass mark. If the candidate passes the oral, then s/he passes the course with a mark of 50%.

A student who fails the oral examination fails the June/November examination. However, s/he may still qualify for a supplementary examination, according to Faculty rules.

The following procedure will apply:

At the end of the November examination period students who qualify for an oral will be notified that they may present themselves for an oral in a particular course. The date for the oral examinations will have been set already, but students must be given at least two days' notice. Students will be informed by means of a notice on the Faculty notice board. The onus will be on students to acquaint themselves with its contents.

Notice will normally be given on the strength of the final mark, but if that is not available, on the internal mark. Where only internal results are available, the scripts will still be sent to the external examiner in the ordinary course. If the external changes the internal mark, the usual rules for adjusting the mark will apply. If the student passes the written examination, then the need for an oral disappears and a failed oral will not affect the written examination result; if a student who passed on the internal mark fails, then s/he will be entitled to an oral examination, provided that the external result is available in time. In the event of the external result not being received in time, then, if a student requests an oral examination, it may be held at a later date which is suitable to all parties.

Final Year students granted an aegrotat examination(s) will be given the option of completing all aegrotat examinations granted by way of an oral examination(s) in December.

Oral examinations are not available for Legal Accounting, or in Legal Practice and Legal Skills in which no examinations are written.

## **6 RE-SCRUTINY OF SCRIPTS**

The University rules do not allow for remarking of examination scripts. A student may apply for re-scrutiny (to check that all questions have been marked and to check addition of marks) of his or her script in accordance with Rule G.27 and G.28 of the Calendar.

Students may also apply to obtain a copy of his or her examination script in accordance with Rule G. 28.2, upon payment of the prescribed fee.

## **7 DISCUSSION OF EXAMINATION SCRIPTS**

A student wishing to discuss an examination script with a lecturer in order to obtain feedback on his/her examination to learn from the examination must do in terms of Rule G.28 of the Calendar.

# PROCESSING EXAMINATION RESULTS

## 1 EXAMINATION RESULTS

The Dean may raise a candidate's mark by one per cent prior to the results being recorded in the following instances: 29%, 34%, 39%, 44%, 49%, 59%, 69% and 74% (*Faculty policy*).

Where the Dean has not raised a candidate's marks, Faculty may raise the candidate's classification on the grounds of overall performance in the following instances:

- (a) 49% to 50% if the candidate's average for the other subjects is above 55%;
- (b) 48% to 50% if the candidate's average for the other subjects is above 58%.

## 2 TO PROCEED TO THE FOLLOWING YEAR

2 <sup>nd</sup> to Penultimate Year:	Must pass all courses except 3 semester credits or their equivalent.
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Penultimate to Final Year:	Must pass all courses except 4 semester credits or their equivalent.
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## 3 TO GRADUATE

Must pass all compulsory courses and 4 electives.

If a maximum of 4 semester courses or their equivalent are outstanding, the candidate:

- (a) may be granted extended DPs for such courses; or
- (b) may register for substantially similar courses at another university (Rule L.12).

## **4 ACADEMIC PROBATION**

### **4.1 Situation A**

If registered for 14 semester courses or more: Probation if the candidate fails/DNW (Did not write) more than six courses.

If registered for 10-13 semester courses: Probation if the candidate fails/DNW more than five courses.

If registered for 6-9 semester courses: Probation if the candidate fails/DNW more than 3 courses.

If registered for 5 semester courses or fewer: Probation if the candidate fails/DNW more than half of the courses.

*Terms of probation: To pass at least 75% of all courses for which the candidate has been registered in the June examination of the following academic year, provided that the candidate does not fall foul of the exclusion criteria.*

### **4.2 Situation B**

A candidate will be placed on probation if s/he has a DNW/DPR (DP refused) in two or more courses.

*Terms of probation: To obtain a DP and write every course for which s/he is registered in the following academic year.*

### **4.3 Situation C**

A candidate will receive a warning if s/he is in danger of exclusion on the ground of effluxion of time.

*Terms of probation: To obtain sufficient credits in the following academic year to complete the degree in the prescribed maximum time allowed.*

### **4.4 The effect of the passing of supplementary exams on probation**

In the event that a candidate should pass a sufficient number of courses in the supplementary examinations following the year in question, academic probation will be lifted.

### **4.5 The effect of failure to fulfil the terms of probation**

Failure to fulfil the terms of probation will result in summary exclusion.

## **5 EXCLUSION**

### **5.1 Four-year programme**

A candidate will be excluded if s/he fails 75% or more of the courses for which s/he has been registered in that academic year, irrespective of the number of credits thus far obtained towards the degree. This rule does not apply to students who have nearly completed their degrees but for a few courses that they are repeating.

If the candidate fails less than 75% of the courses for which s/he has been registered in that academic year, the following consideration applies: Is it possible for the candidate to complete the entire LLB degree programme within a six-year period from date of first registration? If not, then the candidate will be excluded (i.e., maximum of 6 years in total, including any years registered for another degree, irrespective of the order of registration).

### **5.2 Five-year programme, i.e. a two-year LLB after an initial degree**

A candidate will be excluded if s/he fails 75% or more of the courses for which s/he has been registered in that academic year, irrespective of the number of credits thus far obtained towards the degree. This rule does not apply to students who have nearly completed their degrees but for a few courses that they are repeating.

If the candidate fails less than 75% of the courses for which s/he has been registered in that academic year, the following consideration applies: Is it possible for the candidate to complete the entire LLB degree programme within a four-year period? If not, then the candidate will be excluded (i.e., maximum of first degree plus 4 LLB years, irrespective of the order of registration).

### **5.3 Six-year programme, i.e. a three-year LLB after an initial degree**

A candidate will be excluded if s/he fails 75% or more of the courses for which s/he has been registered in that academic year, irrespective of the number of credits thus far obtained towards the degree. This rule does not apply to students who have nearly completed their degrees but for a few courses that they are repeating.

If the candidate fails less than 75% of the courses for which s/he has been registered in that academic year, the following consideration applies: Is it possible for the candidate to complete the entire LLB degree programme within a five-year period? If not, then the candidate will be excluded (i.e., maximum of first degree plus 5 LLB years, irrespective of the order of registration).

### **5.4 Where candidates change from one degree programme to another**

A candidate will be excluded if s/he fails 75% or more of the courses for which s/he has been registered in that academic year, irrespective of the number of credits thus far obtained towards the degree.

If the candidate fails less than 75% of the courses for which s/he has been registered in that academic year, the following consideration applies: Is it possible for the candidate to complete the entire LLB degree programme within seven years from the candidate's initial registration? If not, then the candidate will be excluded.



# LLB RESEARCH ESSAY GUIDELINES AND ASSESSMENT CRITERIA

## 1 GUIDELINES

Final Year LLB Candidates are permitted to complete a research essay in a topic of their choice, subject to the availability of a Supervisor and the approval of the Dean. The Research Essay elective counts for **two** of their elective half courses. The essay should be analytical, rather than merely expository. **Students who register for the Research Essay as one of their electives must note that they will under no circumstances qualify for supplementary or aegrotat examinations, nor for oral examinations.**

Because of the high academic standards expected of the work, and the lack of availability of supplementary and oral examinations for this elective, only students who have an average of over 60% in Penultimate year will normally be considered for registration. The Dean will consider relaxing this guideline only in exceptional circumstances, and on good cause shown.

Please note the following guidelines:

- These guidelines refer specifically to writing up a researched paper as an elective. For those who may be in a position to write up their moot court experiences as a research paper in terms of Faculty Rule L.6, there are separate guidelines which may be obtained from the Research Essay Co-ordinator.
- The length of the essay shall be approximately 10 000 – 12 000 words (or approximately 40 pages), including footnotes.
- The essay is expected to be of a standard fit for publication in an academic law journal. The general Faculty Guidelines with regard to preparation, referencing and plagiarism will apply to the essay.
- The schedule for completion of the essay shall be as follows:
  - (a) The proposed topic should be discussed with the prospective Supervisor by the middle of October in the year preceding registration (ie when the student is still in his or her Penultimate year of study). A prospective candidate will be required to complete a pre-registration form (to be signed by the prospective supervisor) and which will have to be submitted to the Research Essay Co-ordinator by the middle of October, to facilitate the registration process. The Research Essay Co-ordinator will make these forms available to interested candidates. The student will be required to make progress on the work during the course of the long Christmas vacation. In the light of the fact that the elective counts for two semester credits, students who have not indicated their intention to register for a research paper by mid-October will normally not be able to register for this elective in their final year.
  - (b) The student should, at the beginning of the final year, officially register for the elective (provided that the student still wishes to do the elective), and should inform the Supervisor that the registration has been confirmed. The progress made over the vacation should be discussed with the Supervisor.
  - (c) A short written proposal (at least 2–3 pages long), approved by the Supervisor, should be submitted to the Research Essay Co-ordinator **by the end of the second week after registration**. The proposal should include a provisional title,

and should describe the nature of the research problem to be investigated and the provisional goals of the research.

- (d) Candidates shall meet with their supervisors on a regular basis, but at least once a month. The Research Essay Co-ordinator shall, in addition, be entitled to call *ad hoc* meetings of all candidates for the purpose of discussing issues relating to research and research methodology, and to assess the candidates' progress.
- (e) **At the end of the first and second terms**, candidates must submit, via their Supervisors, updates on the progress they have made with their research. Should the Research Co-ordinator consider such progress to be unsatisfactory, he or she shall place the matter before the Dean, who may, after considering any representations from the candidate and the supervisor, withdraw the candidate's DP certificate.
- (f) **Students will be required to present their work-in-progress orally, in seminar form, in the second week of the third term.** The seminars will be arranged by the Research Essay Co-ordinator, and are a DP requirement. Any interested persons will be entitled to attend the seminar, and to contribute to any discussion about the paper. The idea is not for the candidate to produce a "perfect" paper. Rather, the candidate can use this as an opportunity to test his or her work thus far, and to raise points of difficulty for discussion and comment. The seminar is designed to aid the candidate's research progress.
- (g) A complete written draft of the essay shall be submitted to the Supervisor **by the last Friday of the third term.**
- (h) The supervisor shall review the draft and return it by the end of the first week of the fourth term. If, in the opinion of the Supervisor, any revision is necessary, the candidate shall be given a further fourteen days to attend to any matters raised by the Supervisor.
- (i) The candidate shall submit the completed essay to the Supervisor **by the third Friday of the 4th term.**
- (j) Save in exceptional circumstances no extension of any of the time limits will be entertained.

- The Research Essay shall be submitted on A4 paper and the lines one-and-a-half spaced, with footnotes, according to the Faculty's referencing style.
- The candidate must submit his/her research essay electronically to the supervisor and the Faculty Manager: Administration on the due date. The Faculty will bear the costs of printing a hard copy of the essay should the internal (and external) examiner require a hard copy. The marked copy (electronic or hard copy) will constitute the "exam script" to be retained by the Faculty for record purposes. A copy of the research essay will be made available on the University Research Repository. The comments with regard to assessment made by the supervisor and external examiner will be made available to the student after the exam results have been released, upon request of the student.
- As far as the assessment of the Research Essay is concerned, the final mark will normally be based on content and quality of the essay alone, according to specific assessment criteria that have been developed by the Faculty. These are available from the Research Essay Co-ordinator. Like any examination, each research essay will be examined by an external examiner. In addition, the supervisor may call on the candidate to defend the essay orally, if he or she so decides.

## **2 CREDIT FOR PARTICIPATION IN INTERNATIONAL MOOT COMPETITIONS**

Those students who represent Rhodes at an international moot competition are also able to choose to write up the experience for one elective credit in portfolio form. See rule L6.1 of the Faculty's rules, which may be found in the University Calendar. A candidate may obtain only one elective credit for participating in a moot competition, irrespective of the number of times a candidate participates in such competitions. Since this option is only open to a very small number of students each year, all the details are not set out in this Handbook. The Deputy Dean or Moot Co-ordinator can be approached for the necessary details.

# SECTION E: PROBLEM-SOLVING, REFERENCING AND PLAGIARISM

## PROBLEM-SOLVING FOR LAW STUDENTS

### INTRODUCTION

*What is a “problem”?*

Problem questions are frequently used in teaching law and generally follow the format of asking students to discuss the legal consequences of a particular set of facts – often in the style of advising one or more of the parties as to their legal position on the basis of what has happened. Problem questions exercise, and test, a student’s ability to identify what the problem is about, to demonstrate their understanding of the legal principles in an area of the law, to apply principles to new facts and to present an answer logically and clearly.

*Why are “problems” a common feature of assessment in law?*

Any student studying law will regularly be assessed by means of having to solve problems. The reason is simple: this is what lawyers do every single day! No client is ever going to walk into your office one day and ask you: “Please will you write an essay for me on ...” or “Please will you give me the correct answers to this set of multiple choice answers on ...”. Instead, the client will provide you with an (often garbled) version of some event that has occurred, and the client will want to know what his or her legal position is. The lawyer will have to work out what the problem is, and then give the client some sort of legal solution.

Since problem-solving is the life-blood of being a lawyer, it only makes sense that law students must be trained in the general process of problem solving, and that they are assessed on their ability to solve problems. It is authentic preparation for real life.

Would you be able to be a good tennis player or guitar player simply by reading a theoretical book on the topic? Obviously not! The process requires years of involvement, practice and experience. A lawyer’s skills are no different. Your time at University is your opportunity not only to learn about the “rules of the game” (the law) in theory, but to hone and practise the *skills* of lawyering, the most important of which is the ability to answer problems.

*The purpose of this document*

The purpose of this document is to provide some basic guidelines as to the process which should be followed by a student answering a problem question. It must be emphasised that these guidelines must not be interpreted as some rigid formula – they are intended only as a guide, to help you to develop your own problem-solving techniques. Solving a human problem is not the same as solving a quadratic equation in mathematics.

These guidelines, while useful starting points, are no substitute for experience of answering problems yourselves: ie by practising, practising, practising.

## **GUIDELINES TO PROBLEM-SOLVING**

Note that these guidelines apply both to research tasks and tests/exams: the way in which they will apply will just be slightly different from one context to the other.

### **The three pillars of problem solving**

At Rhodes, we identify THREE phases of the problem-solving process:

READING

PLANNING

WRITING

### **PHASE ONE: THE READING PROCESS**

#### *1. Read the question carefully*

This may seem obvious, but it is surprising how many students do not do it, particularly in the pressure of an examination or test. If you only “skim-read” the question, you run the risk of either missing crucial facts or latching onto some key-word, but without understanding its context. This will distort the problem analysis, and often results in you giving an inappropriate answer.

So: read the question slowly and with attention. You pick up most of the factual nuances of the question when you read it the first time, and you should note these as you are reading. Try not to be too critical when you read the question — read for information rather than trying to work out what all the legal issues are. Your goal in undertaking the first reading should be “Do I have a good grasp of the facts?”

#### *2. Read the question again!*

This may also seem obvious, but again, very few people do this. Make it an essential step in the process, and you will never, ever regret it. Once again, read the question slowly and with attention. But because you are familiar with the facts from the first reading, you need to start thinking about what the question is asking you to do. On your second read, you thus need to start looking at the question critically. You may find it helpful to use a highlighter or some other marking device to assist you in undertaking the second reading process. The second read is about gradually starting to formulate a strategy for unpacking and answering the question.

### **PHASE TWO: ALWAYS PLAN YOUR ANSWER**

Never start writing until you have thought out your answer. All too often, the student launches feverishly into writing and then realises half way through that he or she is on the wrong track, or, towards the end of the answer, contradicts an assertion made at the outset. You simply cannot afford to waste time like this in an examination.

Time spent on planning is never wasted. Once you have worked out your plan you will in most cases also have worked out your answer. Your only remaining task will be to write it out adding the necessary detailed elaboration.

### 1. *Where and how to plan?*

You are encouraged to plan on a separate piece of paper, or on a separate page of an answer book, should you have been provided with one. In so far as “how to plan” is concerned, that is really up to personal preference. Some people prefer a linear method; others use spider diagrams; others use short lists. Some use more thorough plans, and others need merely to establish a skeleton for themselves. The more you practise, the more you will find a method that suits you.

### 2. *The “easing-in” phase: preliminary planning questions*

At this stage, there are certain preliminary questions that you should be asking and considering:

#### (a) Who are the parties, and which one is my client?

This is important both to understand the factual matrix and to confirm that you know which of the parties is seeking your advice.

TIP: Draw a diagram or picture of the parties, and how they connect up. A pictorial representation allows both hemispheres of the brain to be involved in the process of trying to break down and understand the problem, as opposed to the “logical/reasoning” side of the brain alone. Two hemispheres are better than one!

#### (b) Which facts appear to be material, and which, not?

When someone draws up a problem question, some facts are simply there to make the story more readable or understandable, and others are legally *material* or significant. So, you need to distinguish the former from the latter. For example: if, in the facts of the problem, you are told a child is eight years old, you would ask: “Why have I been told this? What is the legal significance of this fact in the context of the question?” Sometimes it may be material, and sometimes, not.

#### (c) Which general area of law is being implicated by these facts?

In general courses (eg Intro to Law), this is a very important question, as the question could be referring to any one of a number of areas of law you have been taught. But even where your course is dedicated to a specific area of law (eg the Law of Evidence) that area has some form of general structure to promote its organisation and understanding. At this stage, you should be asking yourself: “Which general area is this problem about?”

### **Setting up your desktop**

The process of working out what general area of law the question is about is really encouraging you to “set up your computer’s desktop”. Many students seem to go into a test or examination with the weight of all the information they have learnt on their minds. This can result in a sense of brain-overload or mental paralysis, as all you can think about is a swirling mass of tiny bits of information. Avoid this, and instead

let your brain systematise what you have learnt in the fashion of the Windows desktop on your computer. Imagine the general areas of your course as icons on your desktop. As soon as you know the general one that you need to open, mentally click on that; and so on and so on until you find the window with the specific information you need on it. This is how the brain actually organises the information you have learnt, and is how Bill Gates developed the idea for Windows!

### 3. *Identify and define the issues*

Once you have determined the general area relevant to the question, you need to determine the *precise* legal issue that is raised by the problem. This may require preliminary research or, to continue the metaphor of the box above, this involves you “clicking on” the relevant icons in your brain until you get to the specific area of law to which the problem refers. It is often a good idea to formulate your issue in the form of a question: eg “Is the contract voidable for undue influence, and if so, what remedies does my client have?” The calibre of your answer (and indeed whether you answer the question correctly at all) depends on a precise appreciation of the legal issue(s) to which the question gives rise. You will invariably score more marks if you show a clear understanding of what the legal issues are than if you indulge in vague generalisations which suggest, for example, that you realise the question has “something to do with” the creation of a legitimate contract.

#### **How does one identify the issue?**

It is difficult to give tips as to how to go about identifying the issue. It is a complex process of analysis that depends on numerous factors, including your research/preparation skills, your knowledge of the law, your comprehension skills, your skills of reasoning and analysis, and your experience. But two complementary factors need to be in place. First, you need to know your law. But secondly, you need to understand those legal rules and principles you have studied. Those students who try to study by “learning things off by heart” like parrots are generally bad problem solvers. For them, information is like a list of telephone numbers in a telephone book – mere information, but no more. So, to enhance your ability to solve problems, you should always be asking, when you are reading/learning: “Do I understand this legal rule/principle?” and “Can I imagine how it would work in its application?”

TIP 1: When reading and learning, try to imagine a problem scenario of your own, to allow you to “see” how the rule or principle might apply to it. In that way, you create your own basic problem to solve, and you will soon see if you understand the issues raised by that specific area of law.

TIP 2: One of the easiest ways to comply with Tip 1 is to see the rule/principle operate through the cases we ask you to read! We don’t give you cases to read just to appear nasty or because we want to ruin your fun. Cases serve a critical purpose, as each case is an example of a judicial officer having to solve a problem about a specific legal issue on a given set of facts.

#### 4. *Identify the appropriate law and authorities*

Knowing your relevant sources of law, and the law they articulate, is going to be very important, as in any answer you will have to do some planning about which legal rules and principles you need to explain, and provide authority for where these rules/principles come from. To some extent, the process of identifying case and statute law relevant to the question overlaps with the previous step. To crystallise the issue(s) posed by the question it is necessary to know not only what authorities bear on the specific problem but also precisely in what way they do so. Again, in a research assignment this process requires research, but in a test or exam you will have to rely on your knowledge.

At this point, many students will be tempted just to write out a string of authorities (either statutes or cases) or a string of elements that they know fall under that area of law. That might be a helpful start, but you can't stop there! If you do stop there, it is likely that your written answer will end up looking the same: just a string of undifferentiated cases or a list of legal rules.

So: you need to do some planning about how you are going to *use* these authorities, or which one of the elements or rules is the one upon which you are going to have to focus because it is the nub of the problem in your case. Due to constraints of either time or the specificity of the question, you will not be able to write down absolutely everything you know about each and every aspect of the law or authority remotely relevant to the issue under discussion.

You will have to be *selective and discerning*. Which are the most appropriate legal elements or authorities for this particular problem? If statute law applies, which parts, and how should it be explained? If case law, how much of the case should you use in your explanation? All these questions depend on the nature of the problem and the time available, but in your planning you have to consider carefully which of these authorities are relevant and appropriate, and how much detail you ought to go into when discussing them.

#### **Some tips about planning for your statement of law and authorities**

1. Think of the selection process in the following way: imagine that you have been invited away for the weekend, and you know you only have a small bag in which to pack clothes suitable for the nature and purpose of your weekend trip, be it to the mountains, the sea etc. You have to stand in front of your wardrobe and cupboards and make some careful and important choices, because you simply cannot take every item of clothing you have. Selecting which law you are going to describe, which authorities you are going to cite to support your legal statements, and then planning how to use them is a very similar exercise. You have to think and plan ahead.
2. Always caution yourself that you are going to be using an authority to explain a legal rule or principle, and NOT to tell a story. This is especially true of case law. You should be planning to use the facts of a case only for illustrative purposes, if this is necessary to guide your argument. In so far as case law is concerned, you should be thinking about the following questions: what were the reasons for the court coming to its decision? What legal rules or principles did the court rely on in coming to its conclusion, and how did it apply those? In turn, how will I use that to reason out a solution to my set of facts?
3. How much you use of an authority depends on how relevant it is to the problem. If you have a problem that is very similar to an authority you have



studied, then you will probably have to plan to explore that authority in some depth, including some of its facts. However, if your question is a general one, covering a whole lot of legal factors or elements, then your use of authority is likely to hone in on the principle or rule articulated by the authority, and the name of the authority will simply back that up. This becomes easier with experience.

#### 5. *Apply the law and authorities to the facts*

Once you have, in your planning phase, identified the legal issues which arise on the facts, and have identified the relevant law and authorities to which you will refer in your answer, the next step is to think about how the law is going to apply to the facts. This is a critical phase of your planning process, because this is really where you start answering the question! Surprisingly, many students do not take this vital step when answering problem questions. They offer textbook-like dissertations, perhaps give a list of cases, and leave their examiners to draw their own inferences about what the answer might be. To do this is obviously not to answer the question at all.

Instead, you must consider how the law/authorities apply to the facts that you have been given. In simple terms, on these facts, on which side of the line does your client fall (guilty/not guilty; liable/not liable etc) and why? This requires you to adopt a *reasoning process*. How best can you use the law and authorities available to you in order to develop an argument that indicates quite clearly where your client stands. Sometimes this may simply be a matter of exploring a number of elemental requirements, and showing where they are satisfied, or are deficient. Other times, it will be a more complicated process, especially where there could be a number of possible arguments. But the key at this stage is planning how you are going to get to your ultimate conclusion, and what that conclusion is likely to be.

Do not think there will always be one absolute answer to the problem. Once again, law is not like maths: there may be numerous ways of solving the problem, and which use any of the authorities you might know. Think about real life: if there was always an absolute, perfect answer, why would anyone ever litigate?

#### **Building an argument**

Planning and building an argument is very similar to constructing a building. Do you have the right materials? Do you have a good foundation? Does everything fit together seamlessly, layer by layer? Does it all culminate in a tidy finished product? Think about it by analogy again. Would you start building a house by building the roof first? Would you jump around from level to level indiscriminately, or would you build one level after another in sequence? Again, building an argument is a similar exercise.

## PHASE THREE: WRITE OUT YOUR ANSWER

To re-cap: only once you have done good planning are you in a position to start writing your answer. Those who start writing straight away tend to produce bad answers, and get bad marks. However, those who have planned carefully will now simply be in a position to write out the answer in a largely seamless fashion. Most of the hard work will have been done in the planning phase!

### *1. How to start your written answer*

In writing an answer, clarity, conciseness and good organisation are all important. First impressions are significant. A bad, sloppy or vague start to an answer is indicative of a lack of planning, or someone who is confused or unsure what to say.

So: You are encouraged to start your answer with something like:

“The issue in this question is whether ....”

If you do this, you immediately begin in a focused fashion. It is also a good test of how effective your planning phase has been. You cannot go any further than the word “whether” unless you have actually gone and done your planning properly, since you will have nothing further to say!

#### **DO NOT:**

- Start your written answer by re-writing the facts. This is a complete waste of time, and you will get no marks at all for this. In fact, you simply make your marker irritable.
- Start your answer with a conclusion, or use words like, “it is obvious that ...” or “it is clear that ...”. This means you are starting your construction of the house with the roof, to go back to the last analogy. It generally ends in disaster because you start arranging your thought backwards, or assume things because they seem self-evident to you, because you have already revealed your view. It also often leads to contradiction: half way through your answer, you change your mind, and then it all makes no sense at the end.

### *2. The “argument” phase: articulating your law and application*

Cut to the chase and answer the question by explaining your argument!

Once again, this depends on good planning. If your plan is in place, it just means setting it down in clear language. You now need to go about explaining your law and authorities, and showing how these apply to the facts of your case. Once again, your focus is on building an argument. You want to set everything out in such a fashion that you lead your reader by the hand and take that reader with you every step of the way – so that ultimately he or she cannot but agree with what you have said. Your skills in the use of language are very important here, and are an important part of how you will be assessed. All the tips that are set out in the section on planning need to be applied here with respect to use of case law or statutory material.

### **In setting down your argument DO NOT:**

- Try to state all the law in the abstract first, and then try to apply it to the facts under a separate heading. First, this results in a disjointed answer that tends to be repetitive, because all the law tends to be explained twice: once to show you know it, and twice to join it up to the facts. Secondly, it leads to people trying to write down absolutely everything they know, rather than being selective and building an argument. Finally, it leads to assumptions, or no application at all: people think that just because they have stated the law, the application is obvious – when that is the real test of skill, where the real big marks come from! The best answers integrate the statement of a principle, the reference to an authority, and an application to the facts, and then move on to the next relevant issue.
- Tell stories! For the same reasons as indicated in the planning section, your task is not to tell stories from the case law, but to explain rules and principles, and how they apply to a given set of facts. I repeat the guidelines with regard to case law in particular that were set out earlier: what were the reasons for the court coming to its decision? What legal rules or principles did the court rely on in coming to its conclusion, and how did it apply those? In turn, how will I use that to reason out a solution to my set of facts?
- Ramble or waffle. Stick to your plan. If you are told to drive from Grahamstown to Port Elizabeth, would you go via Cape Town? No! So don't do this sort of thing in an answer by going on tangents, getting distracted, or writing down irrelevant information just for the sake of filling space.

### *3. The conclusion phase*

At the end you will need to conclude your answer by advising your client what his or her legal position is, and what remedies or recourse he or she might have in law. This is very important – if you don't do this, the rest of your answer will have little value. This is the crux of your answer: it must explain to the client simply and clearly what the legal consequences are, on the basis of your analysis of law and fact.

### *4. The checking phase*

Wherever possible, try to check your answer, to see if it makes sense, needs correction, or is deficient in any way. This may be more difficult in a test or an exam, but can still be valuable in that sort of pressurised environment. Too often one sees a student finish an answer, close the answer book, and stare into space. Upon marking the script, one finds many silly errors that could easily have been fixed.

Where the checking process is most significant is where your problem-solving task is a research task like an assignment. Many of your research assignments will be problem-solving tasks. Here, checking is critical, as there is much less tolerance for sloppy mistakes than in an exam situation. It is not good practice to be printing out your answer a minute before the deadline. It is critical to give yourself good time for checking, and even re-drafting, of answers to such problem questions.

Good luck, and keep practising!

# LAW FACULTY REFERENCING GUIDE

## 1 INTRODUCTION

Please note that the approach to academic referencing in the Law Faculty is different from what one finds in other academic disciplines. If uncertain about what to do, please look at the examples given in this guide.

As far as layout is concerned, please follow the style that is used in this referencing guide. **Please note that the margins are justified**, both in the text and the footnotes.<sup>1</sup>

## 2 REFERENCING IN THE TEXT

### 2.1 Structural approaches to referencing within an essay

#### 2.1.1 Footnotes

Footnotes are made by placing a number in superscript next to the relevant word in the body of the text, and where applicable, after a full stop or comma, eg ,<sup>10</sup> or.<sup>10</sup> not <sup>10</sup>, or<sup>10</sup>. A corresponding number appears at the bottom of the page and the reference is inserted after the number, at the bottom of the page. **Remember: a full stop must appear at the end of each footnote and the footnote must be justified.** *This is the Faculty's preferred referencing method.*

#### 2.1.2 Endnotes

Endnotes are similar to footnotes, except that the reference corresponding to the number appears on a separate page at the end of the text. **Remember: a full stop must appear at the end of each endnote.**

#### 2.1.3 Brackets

One may include each reference in brackets, within the body of the text, at the appropriate point. This is acceptable, but it can clutter the essay and make it difficult to read. *We do not recommend this method.*

### 2.2 Basic issues of style and punctuation

#### 2.2.1 Quotations

Quotation marks are used where you quote the direct words of other authors, and indicate that the passage you have quoted is not your own words. Double quotation marks should be used (" "). Single quotation marks should only be used inside a quotation, where the original author has in turn quoted a passage. Quotations should correspond exactly with the original. Any changes or insertions should be indicated by using square brackets [ ]. Quotations that are three lines or longer in length should be separated from the text by being indented, and placed in a separate paragraph. Footnote numbers should come at the end of the quotation, after the quotation marks. For example:

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<sup>1</sup> The only time that a footnote need not be justified is when a long Internet reference is used. Note further that the font size of the footnotes differs from that of the main text.

Fagan said the following:

“[I]f a parliamentarian acts without wrongfulness, it cannot therefore be because he acts reasonably, but must be because there is a reason for the courts to refrain from imposing liability upon him, notwithstanding the unreasonableness of his conduct. The reason, as others say, is ‘one of policy’.”<sup>1</sup>

Note that the quotation marks in this instance come after the full stop (.). The quotation marks should be placed before the full stop (") only when the quotation forms part of the sentence, eg: The reason, as others say, is "one of policy".

If some text in a quotation is left out then three dots must be inserted in lieu of the missing text, eg "... because there is a reason ... to refrain from imposing liability...." Note the spacing on either side of the dots, and note also that a full stop is added to the dots at the end. So **don't** do this: "...because there is a reason...to refrain from imposing liability..."

### 2.2.2 "Foreign" words and expressions

Words and expressions in Latin, or in any language other than English, should be italicised, eg: *culpa*, *bona fides*, *Grundnorm*, *ikhazi*.

### 2.2.3 Capitalisation

Proper nouns and titles of books or journals must be correctly capitalised, eg: *The Law of Contract in South Africa*; *Die Onregmatige Daad in die Suid-Afrikaanse Reg*; Judge President; Chief Justice. Headings may either be capitalised (eg: "Basic Issues of Style and Punctuation") or set out, as in this referencing guide, without capitalisation. Choose a method and apply it consistently throughout the essay.

### 2.2.4 Abbreviations

Standard abbreviations should be used, eg: section (s); sections (ss); subsection (subsec); regulation (reg); regulations (regs); paragraph (para); paragraphs (paras); second edition (2 ed); Judge (J); Acting Judge (AJ); Chief Justice (CJ); chapter (ch); compare (cf); following (ff). Note that full stops are not used, ie **not** para. or A.J.

### 2.2.5 Page numbers

"Page" "p" or "pp" should not precede page references. In references to cases, Acts, textbooks and journals, consecutive page numbers should be referenced fully, eg: 165-169, **not** 165-9 or 165-69 or pp165-169.

## 2.3 What to include in a reference

### 2.3.1 Textbooks

2.3.1.1 When an author's work is cited for the **first time**, the following information must be supplied in full: Author's initials and surname *Title of Book* edition (date of publication) page where the information was found. No "at" or "p" or "pp" or

“page” is required. For example: AJ Kerr *General Principles of the Law of Contract* 6 ed (2002) 456.<sup>2</sup>

Note:<sup>3</sup>

- (a) If a book is in its first edition, one not need to say so – it will be implied.
- (b) Where there are two authors cite both, eg: JC van der Walt and JR Midgley *Principles of Delict* 3 ed (2005) para 46. Do not use “*et al*” (which means “and others”) in such instances, ie do **not** cite this work as “Van der Walt *et al*”.
- (c) Where a work has several co-authors list the **main** author (usually the first author named on the spine) and write *et al* after his/her name.<sup>4</sup>
- (d) Some works are compiled by a general editor, but comprise chapters or volumes written by different authors. The classic example would be the *LAWSA* collection. In such an instance, use the following format: Author’s initials Surname of the particular author consulted “Title of the chapter or volume of the book” in editor’s initials editor’s surname (ed) *Title of book/series* Volume of series [if applicable] (year of publication) and the paragraph containing the information. For example: RH Christie “Contract” in WA Joubert (ed) *LAWSA* Vol 5(1) (1994) para 123.

2.3.1.2 When one refers to a textbook for the **second, or a subsequent time**, there is no need to rewrite all the information contained in the first reference. In such instances, write the author’s surname, an **abbreviated title of the work** (remember, it must be italicised!), and the precise page or paragraph at which the information was obtained. For example: Kerr *Contract* 471; Van der Merwe *et al Contract* 345; Christie *LAWSA* Vol 5(1) para 23.

## 2.3.2 Journal articles

2.3.2.1 When a journal article is referred to for the **first time**, provide the following information: Author’s initials and surname “title of the article” year *Title of journal* page where article starts, followed by the exact page from where the information was obtained. No “p” or “pp” or “page” is required. For example: E Fagan “The Longest Erratum Note in History” (1996) 12 *SAJHR* 79 at 81-83.

Note:

- (a) Journal titles always appear in *italics*.
- (b) Article titles always appear in quotation marks (“ ”); they are **NOT** underlined or italicised.

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<sup>2</sup> Note that there are no full stops after the initials, ie AJ Kerr, not A.J. Kerr.

<sup>3</sup> Note that the numbering below has changed to (a), (b), etc. Do not continue with numbers beyond four digits: 2.3.1.1 is the limit in this instance.

<sup>4</sup> The full list of names must be cited in the bibliography.

(c) Where there is a volume and a year number, the year is placed in brackets, followed by the journal number, eg: (2002) 119 *SALJ* 79. In cases where there is no volume listed on the spine, cite only the year, eg: 1995 *Acta Juridica* 66.

(d) 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*

*TSAR* – *Tydskrif vir die Suid-Afrikaanse Reg*

*CILSA* – *Comparative and International Law Journal of Southern Africa*

A more detailed list of abbreviations is reproduced below.<sup>5</sup>

(e) Some journals are **never** abbreviated, eg the *Acta Juridica* journal, or *Speculum Juris*.

(f) The word “at” should be inserted between the reference to the initial page of the article and the actual page where the information is found, eg, as in the above example: 79 at 81-83.<sup>6</sup>

2.3.2.2 An abbreviated reference is used when an article is referred to for **a second or subsequent time**. Cite the surname of the author, the date and *abbreviated name of the publication (in italics)*, and the precise page from whence the information was obtained. For example: Fagan 1996 *SAJHR* 84.

Note:

(a) In this instance there is no need to cite the initial page, nor to use the word “at”.

(b) Do not use the words “*op cit*” or “*loc cit*”, or similar terms. The word “*ibid*” is used only when reference is made to the exact page in the footnote immediately above.

### 2.3.3 Citation of cases

2.3.3.1 The Faculty’s preferred option is the *SALJ* style of citation –1967 (2) SA 456 (N); 1996 (3) All SA 345 (T); [1999] 11 BCLR 777 (D)<sup>7</sup> – but whichever style is adopted, be consistent throughout the essay. If there is a reported citation, this

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<sup>5</sup> See para 4.

<sup>6</sup> This is the only instance in which the word “at” is inserted, the reason being to avoid confusion by separating the numbers.

<sup>7</sup> As a general rule of thumb, Butterworths reports (except for the Constitutional Law Reports) have square brackets around the year [1995] and Juta reports have round brackets around the volume. For example: Butterworths Constitutional Law Reports = 2004 (2) BCLR 102 (CC); The All South Africa Law Reports = [2004] 2 All SA 155 (W); Butterworths Labour Law Reports = [2004] 2 BLLR 155 (LAC); Butterworths Arbitration Awards = [2004] 2 BALR 155 (CCMA); Judgments On-line = [2004] JOL 3437 (D); Butterworths Human Rights Cases = [2004] 2 BHRC 155 (Ch); South African Law Reports = 2004 (2) SA 155 (C); South African Constitutional Law Reports = 2004 (2) SACLR 155 (C); South African Labour Law Reports = 2004 (2) SALLR 155 (C); South African Tax Cases = 68 SATC 155.

should be used in preference to a neutral (or SAFLII) citation (eg [2013] ZASCA 34). The SAFLII website does contain any law report citations there may be for a case you find with a neutral citation, so it is not difficult to source the official law report citation, if one exists. Use neutral citations only if there is no law report citation. See the list of abbreviations for SAFLII references in 6 below.

- 2.3.3.2 The names of the reports are not italicised, ie BCLR **not** *BCLR*.
- 2.3.3.3 Specific page references should **not** be preceded by an “at”: 1978 (3) SA 234 (A) 237D-G.
- 2.3.3.4 If paragraphs are referred to, simply say “para 34”: 1999 (2) SA 199 (CC) para 34.
- 2.3.3.5 When a case is referred to for the first time **in the text**, give it its full title in *italics* (eg *James v John*). The words “and Another”, or “and Others” in the title of the case should be omitted. The full citation, excluding the title, should then appear in a footnote. For example: The leading case is *Anglo Carpets (Pty) Ltd v Snyman*.<sup>8</sup>
- 2.3.3.6 When a case is referred to for a **second or subsequent** time, simply give the title or abbreviated title of the case, and the precise place from whence the information was obtained. There is no need to use the words “*supra*” or “*op cit*” in such instances. For example: In *Anglo Carpets v Snyman*<sup>9</sup> Coleman J also said...
- 2.3.3.7 Where a case is not mentioned in the main text, include all the relevant information (case title and case citation) in the footnote. Again, there is no need to use the words “*supra*” or “*op cit*”. For example: A number of authorities support this proposition.<sup>10</sup>
- 2.3.4 *Citation of statutes, bills, law reform commission reports, regulations and Rules of Court*
  - 2.3.4.1 Acts of Parliament are referred to by their name, number and year. The title of the Act<sup>11</sup> must **not** be italicised, eg: Magistrates’ Courts Act 32 of 1944 or Criminal Procedure Act 51 of 1977.
  - 2.3.4.2 When an Act is mentioned for the **first** time, give it its full title, and cite the number and year in the footnote. For example: According to s 23(b) of the Magistrates’ Courts Act,<sup>12</sup> applications must be in writing.... Note that the Constitution is cited as “The Constitution of the Republic of South Africa, 1996”. (Since 2005 it is incorrect to refer to the Constitution as “Act 108 of 1996”: see the Citation of Constitutional Laws Act 5 of 2005.)
  - 2.3.4.3 For every subsequent reference, simply give the name of the Act, without any further detail. There is no need to refer to the number and year again. References

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<sup>8</sup> 1978 (3) SA 582 (T) 589J.

<sup>9</sup> 590B. Note that although the case name is italicised in the main text, the footnote number in the main text is not italicised.

<sup>10</sup> See *Jones v Sithole* 2000 (4) SA 234 (SCA) para 25; *Anglo Carpets v Snyman* 590B.

<sup>11</sup> Note that the word is capitalised: “Act” not “act”.

<sup>12</sup> Act 32 of 1944.



can be confined to the relevant section (s) or sub-section (subsec) under discussion. For example: Later, the Magistrates' Courts Act<sup>13</sup> also provides that...

- 2.3.4.4 Bills before Parliament which have not yet been passed into law as Acts are referred to in a similar fashion to Acts; ie by name, number and year. The convention is to refer to the Bill in the format of the following example: The Rhodes University (Private) Bill B-09 of 2008.
- 2.4.4.5 Reports of the Law Reform Commission should be cited by number of project, title of project; page. For example: South African Law Reform Commission Project 190: *Report on Gun Control in Rural Areas* 45. If the document is not the final Report, but is a Working Paper or a Discussion Paper, replace "Report" with either "Working Paper" or "Discussion Paper" in the title. No author needs to be named or identified.
- 2.3.4.6 A set of regulations is cited as follows: name of set of regulations, notice type, notice number, *Government Gazette* number and date of the notice's publication. For example: Labour Relations Regulations, GN R1442, *Government Gazette* 25515, 10 October 2003.
- 2.3.4.7 Where Rules of Court are referred to, state the set of rules, the Act under which they were published and the rule number. For example: Rule 7 of the Uniform Rules of Court, Supreme Court Act 59 of 1959.

### 2.3.5 Referencing information from the Internet

The Internet<sup>14</sup> is a research tool just like a textbook or a journal and **one is expected to reference Internet material**.<sup>15</sup> Author's initials and surname<sup>16</sup> "Title of the article or page" the web-site where the information was found [accessed on a certain date]. For example JY Mokgoro "*Ubuntu* and the Law in South Africa" (1998) 1 *Potchefstroom Electronic Law Journal* <http://www.puk.ac.za/fakulteite/regte/per/issue98v1.html> (accessed 20 November 2006) or P Frankel and R Rose "Is Trade Good or Bad for the Environment?" <http://papers.nber.org/papers/w9201.pdf> (accessed 23 November 2006). Subsequent references need simply refer to Mokgoro "*Ubuntu*" or Frankel and Rose "Is Trade Good or Bad for the Environment?"

Please note that it is not acceptable to simply refer to the database from which you got your information; eg "MyLexisNexis" or "Hein-on-line". A proper reference to the appropriate source (whether it was a book, journal article, case, statute or regulation) that you found IN that database must be given. You should give the standard textual reference or citation cases where you have read something from a database of cases or journals, and not a webpage reference.

### 2.3.6 Theses

Provide the author's surname, the *Title of the thesis (in italics)*, and then, in brackets, the type of thesis, the institution, and the date. Thereafter give the page from whence the

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<sup>13</sup> s 31(1).

<sup>14</sup> The word is capitalised: "Internet", not "internet".

<sup>15</sup> Most contraventions of the University's plagiarism policy involve Internet sources, so please ensure that both the Faculty Reference Guide and the Faculty Plagiarism Policy are adhered to.

<sup>16</sup> Where the author is not mentioned, refer to the author as "Anonymous".

information came. For example: WH Jansen *The Undisclosed Principal* (LLD thesis, RAU, 1997) 34. In subsequent references, simply say: Jansen *The Undisclosed Principal* 35.

### 2.3.7 Old authorities (Roman and Roman-Dutch law)

Consult 1985 *THRHR* 125 for the correct citations when old authorities such as Voet, Grotius, Van Leeuwen, Van der Linden etc are used. The *Digest* is generally referred to by its abbreviated title, plus the specific reference, eg: *D* 4.2.2.

### 2.3.8 Newspaper articles

Newspaper articles are generally referred to by the title of article, *title of newspaper (in italics)*, date and page number (if available). For example: "Death Penalty Given the Boot"

*Sunday Times* 12 April 1995. If the newspaper was sourced from the Internet, this should be reflected. For example: "Death Penalty Given the Boot" *Sunday Times* 12 April 1995 <http://www.suntimes.co.za/articles/1241995.html> (accessed 16 July 2005).

## 3 THE BIBLIOGRAPHY

### 3.1 Introduction

Every piece of written work **must** contain a bibliography. A bibliography is a list of **all** the works consulted for the essay or assignment and appears, separately, at the back of the essay. Every work consulted must appear in the bibliography – those referred to in the main body of the essay and also any other books consulted, even if not cited in the essay.

### 3.2 General requirements

The bibliography should contain all the textual sources to which referred in compiling the essay. This means textbooks, treatises and monographs, journal articles, Internet sources and newspaper articles. A **Table of Cases** and a **Table of Statutes** should **not be included** in the bibliography. It is sufficient to cite them in the text of the essay. All works must be listed in **alphabetical order** according to authors' surnames,<sup>17</sup> under the following headings:

#### 3.2.1 Books

Author's name or initials (depending what is reflected in the book)<sup>18</sup> Author's surname *Full Title (in italics)* edition (year of publication) publisher: place of publication. For example: RW Lee *The Elements of Roman Law* 4 ed (1956) Sweet and Maxwell: London; RH Christie "Contract" in WA Joubert (ed) *LAWSA* Vol 5(1) (1994) Butterworths: Durban.

Multiple authors are cited as they appear in the book, not alphabetically. For example: S van der Merwe, LF van Huyssteen, MFB Reineke, GF Lubbe and JG Lotz *Contract General Principles* 2 ed (2003) Juta: Cape Town.<sup>19</sup> Note that the bibliography style differs from the

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<sup>17</sup> See fn 4.

<sup>18</sup> This differs from the way in which an author is cited in the main text and footnotes.

<sup>19</sup> Note that full stops are not used after initials. One may, however, separate the initials with a space, if one prefers.

citation method in the text.<sup>20</sup> In the bibliography, all the authors are cited, with their initials, and the publisher and the place of publication are added.

### 3.2.2 *Journal articles*

Author's initials Author's surname "Full title of the article" year of publication of the journal (in brackets) volume of the journal *Title of the journal [in italics]* starting page number of the article. For example: JR Harker "The *Mandement van Spolie* in Private and Public Law" (1988) 105 SALJ 186. Note that the bibliography style differs from the citation method in the text.<sup>21</sup> In the bibliography, all the authors are cited, with their initials.

### 3.2.3 *Internet sources, theses, old authorities and newspaper articles*

The same referencing style as that used in the text should be adopted.<sup>22</sup> If available, the initials of the author should be inserted in the bibliographical entry, for the sake of consistency with other entries.

## 4 ABBREVIATIONS

AD	Appellate Division Reports
AN	Administrator's Notice
All SA	The All South African Law Reports
BALR	Butterworths Arbitration Law Reports
BCLR	Butterworths Constitutional Law Reports
BIP	Burrell's Intellectual Property Law Reports
BLLR	Butterworths Labour Law Reports
BN	Board Notice
BP	Burrell's Patent Law Reports
CC	Constitutional Court
CCC	Canadian Criminal Cases
CCMA	Commission for Conciliation, Mediation and Arbitration
CTR	Cape Times Reports (SA)
CILSA	Comparative and International Law Journal of Southern Africa
CL,SA	Current Law
CP	Court of the Commissioner of Patents
CPD	Cape of Good Hope Provincial Division Reports
De Jure	De Jure
DR	De Rebus
E	Decision of the Eastern Cape Provincial Division
EA	East African Reports
EDC	Eastern Districts Court Reports
EDL	Eastern Districts Local Division Reports (SA)
FC	Decision of the Rhodesian Federal Court
GW	Decision of the Griqualand West Local Division
GenN	General Notice
HC	High Court
HSRC	Human Sciences Research Council

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<sup>20</sup> See para 2.3.1.

<sup>21</sup> See para 2.3.2.

<sup>22</sup> See paras 2.3.5, 2.3.6, 2.3.7 and 2.3.8.

HRCLJ	Human Rights and Constitutional Law Journal of Southern Africa
ILJ	The Industrial Law Journal
IMSSA	Independent Mediation and Arbitration Society of Southern Africa
ITC	Income Tax Cases
ITR	Income Tax Reporter
JBL	Juta's Business Law
JJS	Journal for Judicial Science
LAWSA	The Law of South Africa
LAC	Labour Appeal Court
LC	Labour Court
LCC	Land Claims Court
LHR	Lawyers for Human Rights
LRA	Labour Relations Act 28 of 1956/ Labour Relations Act 66 of 1995
MB	Modern Business Law
MN	Municipal Notice
ON	Official Notice
P	Private arbitration
PAB	Publications Appeal Board Reports
PH	Prentice Hall
PN	Provincial Notice
PrN	Premier's Notice
Proc	Proclamation
SA	South Africa Law Reports
SACC/SASK	South African Journal of Criminal Law and Criminology
SACJ	South Africa Journal of Criminal Justice
SACR	South African Criminal Law Reports
SAJHR	South African Journal of Human Rights
SALJ	South African Law Journal
SAPL	South African Public Law
SATC	South African Tax Cases
SC	Decision of the Supreme Court or Cape Supreme Court Reports (SA)
SCA	Supreme Court of Appeal
SECLD	Decision of the South Eastern Cape Local Division
Stell LR	Stellenbosch Law Review
SWA	South West Africa Reports or decision of the South West Africa Supreme Court
TH	Transvaal High Court Reports
TPD	Transvaal Provincial Division Reports
TS	Transvaal Supreme Court Reports
THRHR	Tydskrif vir Hedendaagse Romeins-Hollandse Reg
TJO	The Judicial Officer
TM	The Magistrate
TSAR	Tydskrif vir die Suid-Afrikaanse Reg (Journal of South African Law)
W	Decision of the Witwatersrand Local Division or Weekblad van het Recht (The Netherlands)
WLD	Witwatersrand Local Division Reports
ZHC	Zimbabwe High Court
ZSC	Zimbabwe Supreme Court

## 5 COURT NAMES AND ABBREVIATIONS

All court decisions reported and decided before February 2009 will continue to be referred to by the abbreviations as indicated above. On 23 February 2009, the Re-Naming of High Courts Act 30 of 2008 came into force. This has resulted in the names and abbreviations of all the High Court changing. Decisions handed down or reported after that date will be referred to by the following names and abbreviations:

<b>Name of court</b> (former name in brackets)	<b>Abbreviation</b> (former abbreviation in brackets)
<b>Eastern Cape High Court, Bhisho</b> (Ciskei High Court)	<b>ECB</b> (Ck)
<b>Eastern Cape High Court, Grahamstown</b> (Eastern Cape Provincial Division)	<b>ECG</b> (E)
<b>Eastern Cape High Court, Mthatha</b> (Transkei High Court)	<b>ECM</b> (Tk)
<b>Eastern Cape High Court, Port Elizabeth</b> (South Eastern Cape Local Division)	<b>ECP</b> (SE)
<b>Free State High Court, Bloemfontein</b> (Orange Free State Provincial Division)	<b>FB</b> (O)
<b>KwaZulu-Natal High Court, Durban</b> (Durban and Coast Local Division)	<b>KZD</b> (D)
<b>KwaZulu-Natal High Court, Pietermaritzburg</b> (Natal Provincial Division)	<b>KZP</b> (N)
<b>Limpopo High Court, Thohoyandou</b> (Venda High Court)	<b>LT</b> (V)
<b>North Gauteng High Court, Pretoria</b> (Transvaal Provincial Division)	<b>GNP</b> (T) <b>GP</b> [2014 ff]
<b>North West High Court, Mafikeng</b> (Bophuthatswana High Court)	<b>NWM</b> (B)
<b>Northern Cape High Court, Kimberley</b> (Northern Cape Provincial Division)	<b>NCK</b> (NC)
<b>South Gauteng High Court, Johannesburg</b> (Witwatersrand Local Division)	<b>GSJ</b> (W) <b>GJ</b> [2014 ff]
<b>Western Cape High Court, Cape Town</b> (Cape Provincial Division)	<b>WCC</b> (C)

## 6 SAFLII ABBREVIATIONS

Researchers increasingly refer to court decisions by means of neutral citations, which become available at [www.saflii.org](http://www.saflii.org) before the case is reported in published law reports. The court abbreviations for the SAFLII neutral citations are as follows:

<b>Name of court</b>	<b>SAFLII abbreviation</b>
<b>Constitutional Court</b>	<b>ZACC</b>
<b>Supreme Court of Appeal</b>	<b>ZASCA</b>
<b>Eastern Cape High Court, Bhisho</b>	<b>ZAECBHC</b>
<b>Eastern Cape High Court, Grahamstown</b>	<b>ZAECGHC</b>
<b>Eastern Cape High Court, Mthatha</b>	<b>ZAECMHC</b>
<b>Eastern Cape High Court, Port Elizabeth</b>	<b>ZAECPEHC</b>
<b>Free State High Court, Bloemfontein</b>	<b>ZAFSHC</b>
<b>KwaZulu-Natal High Court, Durban</b>	<b>ZAKZDHC</b>
<b>KwaZulu-Natal High Court, Pietermaritzburg</b>	<b>ZAKZPHC</b>
<b>Limpopo High Court, Thohoyandou</b>	<b>ZALMPHC</b>
<b>North Gauteng High Court, Pretoria</b>	<b>ZAGPPHC</b>
<b>North West High Court, Mafikeng</b>	<b>ZANWHC</b>
<b>Northern Cape High Court, Kimberley</b>	<b>ZANCHC</b>
<b>South Gauteng High Court, Johannesburg</b>	<b>ZAGPJHC</b>
<b>Western Cape High Court, Cape Town</b>	<b>ZAWCHC</b>
<b>Competition Appeal Court</b>	<b>ZACAC</b>
<b>Electoral Court</b>	<b>ZAEC</b>
<b>Equality Court</b>	<b>ZAECQ</b>
<b>Labour Appeal Court</b>	<b>ZALAC</b>
<b>Land Claims Court</b>	<b>ZALCC</b>

# PLAGIARISM

The University's policy on plagiarism can be found at <http://www.ru.ac.za/rhodes/governance/rupolicies/>

## 1 EXTRACTS FROM THE UNIVERSITY POLICY ON PLAGIARISM

### 1.1 Definition

*Plagiarism*, in an academic, university context, may be defined as taking and using the ideas, writings, works or inventions of another, from any textual or internet-based source, as if they were one's own. This definition covers a wide range of misdemeanours such as: using the direct words of another without using quotation marks (even if the passage is referenced); the unacknowledged copying of a sentence or two of text; copying more extensive blocks of text; the syndication of a single piece of work by more than one student (unless the assignment task is a legitimate group assignment); the borrowing and using of another person's assignment (with or without their knowledge and permission); stealing an entire essay from another student or from the Internet; or infringing copyright. For the purposes of this policy, the intention, negligence or innocence of the student is not relevant to the finding as to whether plagiarism, as a fact, has occurred. However, the state of mind of the student will be highly significant in determining how to deal with the case as far as taking remedial action or imposing a penalty is concerned.

### 1.2 Departmental responsibilities

An educational reality is that many of the current generation of students are not familiar with the academic conventions that lecturers expect of the work that students submit for assessment. This includes presentation conventions, referencing conventions and the duty not to plagiarise the works of others.

Departments need to acknowledge the importance of their own role in students' acquisition of academic discourse and are responsible for taking active steps to provide students with an explanation as to why, as well as how, sources may be used and cited in building academic knowledge. It must be recognised that these standards need to be taught to students and that students from all educational backgrounds may need time to become familiar with them. In addition, because the nature of referencing and plagiarism may be context specific, individual Departments are responsible for ensuring that students fully understand the nature of legitimate academic practice, of what constitutes a illegitimate practice, and the potential consequences of such conduct, in that particular discipline.

In this regard, departments should ensure that:

- The departmental handbook includes general information about the nature of plagiarism, references to the University's policy on plagiarism, and indicates that plagiarism is considered to be a serious academic transgression.
- The departmental handbook informs students as to how material from such sources as books, articles, the Internet and the work of other students, may and may not be used in the preparation of assignments. Departments are encouraged to refer students and staff to the very useful guide to information literacy to be found on the Library website at <http://www.ru.ac.za/static/library/infolit/>.
- Such information is referred to in the course material provided to students.

- Dedicated training is undertaken in the formal procedures to be followed in the acknowledgement and citation of the source of material. It is not enough to expect students simply to read and to understand a lengthy and complicated handout or handbook. Such training could occur either in lectures or during the regular tutorial programme or in specialised sessions designed for this purpose.
- Such training should not simply occur at the first year level, but must be reinforced at second and third year level, and also at the postgraduate level. Since students enter Rhodes at all academic levels, it cannot be taken for granted that such students will have received equivalent training, or will have experienced the usual first-year training that most departments offer.
- Students are alerted to the nature of plagiarism, are informed that it constitutes a serious offence, and are informed about the disciplinary procedures that are in place for dealing with suspected cases.
- Where it is appropriate (usually where a student is new to the university, or does not understand plagiarism), cases of plagiarism are dealt with sensitively and by means of counselling and education, rather than simply by imposing sanctions.
- Guidelines as to the extent of the loss of marks and other penalties for plagiarism (where such are appropriate) are published by departments and are made available to the students in the departmental handbook. Such guidelines should be in accordance with the grid in Annexure D of the Senate Policy.
- Students include an appropriate declaration in work that they submit indicating that it is their own work. (For a generic template that may be adapted by departments to suit their specific needs, see Annexure B of the Senate Policy.)

### **1.3 Disciplinary procedures**

The various procedures applicable to dealing with suspected cases of plagiarism are as follows:

There are three graded categories of plagiarism – categories A, B and C. Where a member of staff is unsure (a) whether plagiarism has been committed at all, or (b) into which category a case of suspected plagiarism might fall, that staff member should consult the Head of Department (or his nominee) for assistance. It must be remembered that many assessors of student work are students themselves, and/or may be inexperienced and unsure of what plagiarism is, and how it should be dealt with.

#### **Category A offences**

Category A offences constitute first time, minor infringements, and are usually handled by the staff member who detects the offence. However, in circumstances where the assessor is a student tutor or demonstrator, it may be appropriate for the matter to be dealt with by the lecturer in charge of the course, or the course co-ordinator, to provide the necessary authority. In cases where the student is new to the University, and/or if it is apparent that the student has committed such plagiarism because of a lack of understanding of what is required, the student should usually be counselled by the staff member concerned: the problem should be explained, the correct practice should be encouraged, and the student should be warned of the serious consequences of committing plagiarism again. This practice would reflect the importance of our educative role as far as plagiarism is concerned. In some cases it might be appropriate to ask the student to re-do the work to demonstrate that he or she has learnt from the experience. Additionally, if it is appropriate, a mark penalty could be imposed. If a penalty is imposed, the relevant staff member should

indicate the amount of the penalty and the reasons for this penalty on the assignment or assessment form.

If a student wishes to challenge the finding and the penalty for a category A offence, the student is entitled to appeal to the Head of Department, who must refer the matter to the Departmental Plagiarism Committee for a hearing. (For the procedures to be followed at the hearing, see below.) The student should be informed that the Departmental Plagiarism Committee will hear the matter afresh, and is entitled, in the event of finding that plagiarism has been committed, to impose its own penalty, which may be more onerous than that imposed by the lecturer.

### Category B offences

Category B offences relate to repeated offences of a minor nature, or to relatively minor offences at a more senior academic level than first year, or to first time, more serious offences, where the offence would not attract a penalty of more than the loss of a DP certificate. Where a member of staff is uncertain as to whether an alleged case of plagiarism constitutes a category A or B offence, this matter should be discussed with the Head of Department, and a decision should be taken that is consistent with previous practice in the department. In large departments, Heads of Department may delegate this role to a senior member of staff.

If a category B offence is detected, the matter must be referred to the Head of Department or nominee, who must refer the matter to a Departmental Plagiarism Committee for a hearing.

### Category C offences

These refer to extremely serious offences. See the Senate Policy for details.

## **2. Examples of Plagiarism**

The University's Policy on Plagiarism provides some general examples of forms of plagiarism, which any student may consult for guidance. What follows below are examples pertinent to law students, of what should and should not be done.

Original Source: Hahlo and Kahn *The South African Legal System and Its Background* (1968) 350-351.

"In Roman times, the law of succession in the modern sense did not yet exist. The more intimate personal belongings of the deceased – his sword, shield, clothes and jewels – were burnt or buried with the body. Everything else passed to the eldest son, who as the new head of the family, stepped into the deceased's shoes as regards rights and liabilities."

Student 1 (Mr DP Removed) Foundations of Law Essay, 2009

In Roman times, the law of succession in the modern sense did not yet exist. The more intimate personal belongings of the deceased – his sword, shield, clothes and jewels – were burnt or buried with the body. Everything else passed to the eldest son, who as the new head of the family, stepped into the deceased's shoes as regards rights and liabilities.



*Comment:* The passage is copied, word-for-word, from the original source, without acknowledgment. This is the classic example of plagiarism. If a student believes a passage is so elegantly written that it cannot be improved, the student is entitled to use it,

provided it is placed in quotation marks and the author is correctly cited. However, such quotations (particularly lengthy ones such as this) should be used very sparingly.

**Question:** What happens if you put a correct reference at the end of this sentence above, but fail to put the words in quotation marks. Is this acceptable, or not?

**Answer:** NO, it is NOT acceptable just to copy someone's words, as above, and then put a reference at the end, if you have not put the words you have borrowed in quotation marks. The reference will not rescue you. Wherever you use the direct words of others, quotation marks must be used to indicate that the words are in fact the work of others. The reference is not enough, as you would be suggesting that the mere idea alone (not the specific words) come from someone else – which, in this situation, would clearly be untrue. See 4.5 below.

Student 2 (Ms Lazy Writer) Foundations of Law Essay, 2010

In Roman ages, the law of succession in its developed sense did not yet exist. The personal belongings of the dead man – for example, sword, shield, clothing, jewels – were burnt or buried with the body. All other property passed to the eldest son, who, as the new head of the family, stepped into the dead man's shoes as regards rights and liabilities.

*Comment:* Apart from a few cosmetic changes of words and punctuation, the passage, in content and structure, is clearly taken wholesale from the original source. **This remains an example of plagiarism, although not as bad as that of Student 1.** If a student wishes to use lengthy direct extracts from the original, again, the direct extracts should be placed in quotation marks, and the author must be correctly cited. It is preferable, of course, to put the material in one's own words.

Student 3 (Ms Diligent Achiever) Foundations of Law Essay, 2008

During the classical period of Roman Law, the law of succession with which we are familiar today in South Africa had not yet evolved. As Hahlo and Kahn (*The South African Legal System and its Background* (1968) 350-351) point out, the approach adopted by the Romans was far more simple – a system of primogeniture prevailed, whereby all the deceased person's property was handed down to the eldest son, and the son took upon himself all the assets, powers, rights and duties of his father. It was only the deceased's highly personal belongings, such as, for example, his sword, that would be buried in the grave, or burnt on the funeral pyre, and would accompany the deceased on his journey to the underworld.

*Comment:* Almost nothing remains of the original text – the work is entirely recast in the student's own words, and additional information is added. However, the student clearly used Hahlo and Kahn's book as a research resource, and has therefore acknowledged the source of her information in the text, to show what her source was. This would be an example of how an essay should be produced.

### **3 The Law Faculty Plagiarism Committee**

The Deputy Dean will be responsible for referring category B cases, and category A cases where the student requests a hearing, to a hearing within the Faculty. The Senate Policy requires that the investigation and hearing of the case must be completed within 15 days of the matter being reported. At the first administrative meeting of the year, the Faculty shall appoint a Plagiarism Panel, comprising four members of the academic staff (excluding the Dean and Deputy Dean). Each case shall be heard by a Plagiarism Committee comprising two of the members of this Panel. The Deputy Dean shall appoint the members of the Committee for each case of alleged plagiarism, and shall also determine which member of the panel will chair the hearing. The Deputy Dean should choose the Panel and the Chair on a rotational basis. A staff member who detects and reports the case of plagiarism may not sit on the Committee selected to deal with that particular offence. In the event that there are insufficient members of the Panel available to hear a particular case, the Deputy Dean shall appoint other member(s) of staff as temporary Panel member(s).

The Deputy Dean should inform the Faculty Administrator that a matter has been referred to a hearing, and who the Chair for the particular case is to be.

The Committee will hear plagiarism cases in terms of the guidelines laid down in the University Policy. The Chair of the Committee, once appointed, has the following responsibilities:

#### **Before the hearing, the Chair must:**

- arrange a hearing date and time in consultation with the staff member who reported the matter initially, and the student(s);
- formally notify the student(s) in question in writing of the allegation(s) and the date, time and place of the hearing;
- ensure that the student(s) are placed in possession of the necessary documentation, such as copies of the allegedly plagiarised work;
- ensure that the Faculty Administrator receives copies of the correspondence and the documentation to be provided to the student(s), for the Faculty's records.

The Chair of the Committee is entitled to the assistance of the Administrative Staff for the purposes of having correspondence drawn up or documentation photocopied. The Chair may also request the Administrative Staff to contact the students, to collect correspondence and documentation, and to sign for such correspondence and documentation.

#### **At the time of the hearing, the Chair must:**

- chair the hearing of the Committee into the matter, in accordance with the procedures set down in the University's Plagiarism Policy, and the rules of natural justice;
- inform the student of the findings made by the Committee.

### **After the hearing, the Chair must:**

- write up the finding **within two days** of the hearing being concluded. The finding must be forwarded to the Faculty Administrator;
- produce an edited version of the findings, which is to be posted on noticeboards, to ensure that no sensitive or personal information is made public.

### *Responsibilities of the Faculty Administrator*

The Faculty Administrator shall:

- format and date the original version of the finding, place it under a Faculty letterhead, have the document signed by the members of the Committee, and thereafter send it to the student(s) concerned;
- provide the Deputy Dean with a copy of the finding;
- provide the lecturer who reported the case with a copy of the finding;
- place a copy of the finding together with the earlier documentation in the Faculty's file, as a record of proceedings;
- maintain an adequate filing system for record-keeping purposes;
- publish the edited findings on notice boards, for the information of the student body;
- send a copy of the finding to Academic Administration for capturing on the Protea system.

In cases where the plagiarism falls into category C, the Deputy Dean, in consultation with the Dean, must refer the matter to the Senate Standing Committee on Plagiarism, through the office of the Dean of Teaching and Learning.

### **3.1 Law Faculty Guidelines on the Consequences of Plagiarism**

The Senate Policy adopts certain guidelines with respect to plagiarism cases. The Law Faculty adopts these as its guidelines. These guidelines will generally be followed unless there are clear indications that the application thereof will lead to injustice on the particular facts of the case, in which case the Committee has the discretion to depart from these guidelines.

It is not possible to replicate the entire grid of guidelines here. Please see Annexure D of the Senate Policy. The Guidelines will be published on the notice boards in the Law Faculty for the information of students, as well as on the Faculty website, the Jackal server and on RUConnected.

### **3.2 Copy and Paste Assignments: A reminder**

"Copy and paste" assignments are NOT acceptable. Copy and paste assignments can occur in one of three ways:

1. The student copies the words of others, without any referencing, to suggest the work is his or her own. This is classic plagiarism, and will be firmly dealt with.
2. The second form of copy and paste essays occurs where the student (to a greater or lesser degree) has simply cobbled together a whole lot of referenced, but copied passages of others as the content of their assignment, but has not used quotation

marks to indicate what has been copied from another source. This does amount to plagiarism. This sort of conduct is unacceptable because the essay is (in significant parts, or entirely) not the student's own work, but suggests in a misleading way that it is. A mere reference next to the copied words of others does not entitle a student to copy another person's words. Quotation marks must be used where the direct words of others are used in an essay.

3. The third type of copy and paste essay is where the essay is simply comprised of an excessive number of passages that have been correctly quoted and referenced. This would not amount to plagiarism, but would still not be acceptable. The Essay must reflect the student's own understanding of the issue, in the student's own words. Lecturers cannot mark the words of others – they wish to see the student's own understanding of the material. Please use direct quotes sparingly.

# SECTION F: BURSARIES, AWARDS AND PRIZES

## CRITERIA FOR ACADEMIC AWARDS

### 1 DEAN'S LIST

LLB students who have produced above-average academic performances will receive recognition for their efforts by being placed on "The Dean's List". No financial awards attach to this honour, but students will be presented with an appropriate certificate.

The criterion for placement is:

- 65% average in all the subjects taken in any one year of the LLB registration, provided that the student has results in at least 12 semester courses, or the equivalent, in that year. A candidate who has obtained an average of 64.5% or above will be regarded as having met the 65% standard.

### 2 LLB WITH DISTINCTION

- Class 1 in 12 semester courses or their equivalent for which a candidate was registered in the penultimate and final years of study; and
- An aggregate of at least 70% in all courses for which the candidates had been registered in the penultimate and final years of study. For the purposes of calculating the aggregate, the percentage of a full course shall carry double the weight of that of a semester course. A candidate who has obtained an average of 69.5% will be regarded as having met the 70% standard.

### 3 AWARD OF COLOURS

- For an award of **Half Colours** a candidate must have obtained first class passes in at least 6 semester courses or their equivalent in either the penultimate year of study or first class passes in at least 6 semester courses or their equivalent in the final year of study; and obtained an aggregate of at least 70% in all the courses in the academic year for which the candidate had been registered. A candidate who has obtained an average of 69.5% or above will be regarded as having met the 70% standard.
- For an award **Colours** a candidate must have been awarded the LLB degree with distinction.

### 4 AWARD OF HONOURS

- For an award of **Honours** a candidate must have been awarded the degree of LLB with distinction and have obtained an aggregate of at least 75% in all the penultimate and final year courses for which the candidate had been registered. A candidate who has obtained an average of 74.5% or above will be regarded as having met the 75% standard.

# PRIZES, SCHOLARSHIPS AND BURSARIES

## 1 LEGAL THEORY 1

### 1.1 Baker and McKenzie Prize

Value: R10 000

Duration: 2019

The object of the prize is to reward black South African students for academic excellence. The Baker and McKenzie Prize will be awarded to the black South African first-year student majoring in Legal Theory who obtains the highest academic results, irrespective of the degree for which s/he is registered.

Students who already hold an undergraduate degree, or who are not in their first year of registration at a university, are ineligible for this Prize.

The selection process:

- The prizes are to be awarded by the Dean and Deputy Dean of Law in December of each year as soon as possible after the final faculty board meetings.
- The prizes are made subject to the condition that the winner registers for a course of study towards the completion of a law curriculum at Rhodes University within one year of the year which the winner receives the prize.

## 2 LEGAL THEORY 2

### 2.1 Baker and McKenzie Prize

Value: R10 000

Duration: 2019

The object of the prize is to reward black South African students for academic excellence. The Baker and McKenzie Prize will be awarded to the black South African student registered for Legal Theory 2 who obtains the highest academic results, irrespective of the degree for which s/he is registered. The award will only be made to a student who achieved an average of 70% or above in the courses comprising Legal Theory 2.

Students who already hold an undergraduate degree or who are registered for the LLB are ineligible for this Prize.

The selection process:

- The prizes are to be awarded by the Dean and Deputy Dean of Law in December of each year as soon as possible after the final faculty board meetings.
- The prizes are made subject to the condition that the winner registers for a course of study towards the completion of a law curriculum at Rhodes University within one year of the year which the winner receives the prize.

## **2.2 Adams and Adams Prize**

Value: R3500

Awarded to the student with the best aggregated results across Legal Theory 1 (first year) and Legal Theory 2 (second year).

## **2.3 Cliffe Dekker Hofmeyr Prize**

Value: R5 000

Awarded to the best student in Legal Theory 2.

## **3 LEGAL THEORY 3**

### **3.1 Alastair Kerr Prize**

Value: R750

Awarded to the best student, whether in Legal Theory 3 or LLB2, in the Law of Contract.

### **3.2 Baker and McKenzie Prize**

Value: R10 000

Duration: 2019

The object of the prize is to reward black South African students for academic excellence. The Baker and McKenzie Prize will be awarded to the black South African registered for Legal Theory 3 Theory who obtains the highest academic results, irrespective of the degree for which s/he is registered. The award will only be made to a student who achieved an average of 70% or above in the courses comprising Legal Theory 3.

Students who already hold an undergraduate degree or who are registered for the LLB, are ineligible for this Prize.

The selection process:

- The prizes are to be awarded by the Dean and Deputy Dean of Law in December of each year as soon as possible after the final faculty board meetings.
- The prizes are made subject to the condition that the winner registers for a course of study towards the completion of a law curriculum at Rhodes University within one year of the year which the winner receives the prize.

### **3.3 Spilkin Prize**

Value: R500

Awarded to the best student in Legal Theory 3, provided there is a student of sufficient merit.

## **4 SECOND YEAR LLB**

### **4.1 Alastair Kerr Prize**

Value: R750

Awarded to the best student, whether in Legal Theory 3 or LLB2, in the Law of Contract: see para 3.1, *supra*.

### **4.2 Law Alumni Bursary**

Value: R5 000

The purpose of the bursary or bursaries is to assist needy students who are either registered or accepted for the LLB degree. The money can be allocated to returning students or to first-time entry students. The number of bursaries and the size of the award shall be determined by the Financial Aid Sub-Committee. Re-awards may be made.

The criteria for the award/s are:

- Recipients shall be either registered or accepted to register for the LLB degree.
- Proven financial need.
- A satisfactory academic record.

### **4.3 Midgley Bursaries**

The Executive Committee of Rhodes University's Faculty of Law is able to award a number of bursaries (known as the "Midgley Bursaries") as a result of an annual donation by Professor Rob Midgley (former Dean of Law) and Mrs Trish Midgley.

The purpose of the bursaries is to assist needy students who are either accepted for, or registered for, the LLB degree.

The bursaries are available to all LLB students except those who are in their first year at university, and are registered for the equivalent of an LLBA or 1 year.

Bursary applications are to be made through the University's Financial Aid Office in the Registrar's Division, which office will administer the bursaries. Applications close on the same annual date as the applications for all law-related bursaries and scholarships.

Preference will be given to students who are not in a position to meet their own costs. Access to other sources of funding does not preclude eligibility, but income from other sources, eg bursaries or prizes (but not loans), will be taken into account in determining financial need.

Academic merit is not the deciding factor, except that students who are unable to complete their LLB studies within one year of the regulation time are ineligible for an award.

The bursaries allocated from the funds available need not be of equal amounts, and may vary according to the student's financial need. A bursary is awarded for one year only. Re-award of bursaries is possible, but not guaranteed. Students will have to re-apply



every year and the application will be considered afresh against the stipulated criteria and the needs of others in the pool of applicants in that particular year.

## **5 PENULTIMATE YEAR LLB**

### **5.1 Lexis Nexis Book Prize**

Value: (Variable)

Internal book prize for Moot winner(s) in the Penultimate Year.

### **5.2 Frances, Arnold and Esmé Clarke Bursaries**

Value: Variable, depending upon need

The bursaries are available to all LLB students in their Penultimate and Final Years at Rhodes University, except that students who already hold a Master's degree are ineligible.

Preference will be given to students who are not in a position to meet their own costs. Access to other sources of funding does not preclude eligibility, but income from other sources, e.g. bursaries or prizes (but not loans), will be taken into account in determining financial need.

Academic merit is not a deciding factor, except that students who are unable to complete their LLB studies within one year of the regulation time are ineligible for an award.

A bursary is awarded for one year only. Re-award of bursaries is possible, but not guaranteed. Students will have to re-apply every year and the application will be considered afresh against the stipulated criteria and the needs of others in the pool of applicants in that particular year.

Bursary applications are to be made through the University's Financial Aid Office in the Registrar's Division. Applications close on 30 November in respect of bursaries to be awarded in the following year.

### **5.3 Midgley Bursaries**

The Executive Committee of Rhodes University's Faculty of Law is able to award a number of bursaries (known as the "Midgley Bursaries") as a result of an annual donation by Professor Rob Midgley (former Dean of Law) and Mrs Trish Midgley.

The purpose of the bursaries is to assist needy students who are either accepted for, or registered for, the LLB degree.

The bursaries are available to all LLB students except those who are in their first year at university, and are registered for the equivalent of an LLBA or 1 year.

Bursary applications are to be made through the University's Financial Aid Office in the Registrar's Division, which office will administer the bursaries. Applications close on the same annual date as the applications for all law-related bursaries and scholarships.

Preference will be given to students who are not in a position to meet their own costs. Access to other sources of funding does not preclude eligibility, but income from other sources, eg bursaries or prizes (but not loans), will be taken into account in determining financial need.

Academic merit is not the deciding factor, except that students who are unable to complete their LLB studies within one year of the regulation time are ineligible for an award.

The bursaries allocated from the funds available need not be of equal amounts, and may vary according to the student's financial need. A bursary is awarded for one year only. Re-award of bursaries is possible, but not guaranteed. Students will have to re-apply every year and the application will be considered afresh against the stipulated criteria and the needs of others in the pool of applicants in that particular year.

#### **5.4 Fred Cooper Prize**

Value: R500

Awarded to the best LLB student in Company Law.

#### **5.5 Grant and Marjorie McKerron Scholarship**

Value: R1 000

A one-year grant awarded to the best penultimate student who, in the subsequent year, registers for the final year of study. Awarded in February after registration.

#### **5.6 Joe Levy Scholarship**

Value: R10 000

Awarded on the recommendation of the "Faculty Executive Committee" of Law to a student entering the first graduate year of study in the Faculty of Law, that is, the preliminary year (or penultimate year if the student has obtained exemption from a sufficient number of courses on account of credits obtained in his/her first degree). Graduates from other universities are also eligible for this award. Academic ability is the main criteria. The Scholarship may be withheld in any year if the Committee feels that there is no candidate of sufficient merit.

#### **5.7 Judge Phillip Schock Foundation Bursary**

Value: R45 000

Awarded, on application, to a student in the penultimate year of study. While academic merit is important, financial need is emphasised. Posters advertising the scholarship will be distributed during registration.

### **5.8 Law Alumni Bursary**

Value: R5 000

The purpose of the bursary or bursaries is to assist needy students who are either registered or accepted for the LLB degree. The money can be allocated to returning students or to first-time entry students. The number of bursaries and the size of the award shall be determined by the Financial Aid Sub-Committee. Re-awards may be made.

The criteria for the award/s are:

- Recipients shall be either registered or accepted to register for the LLB degree.
- Proven financial need.
- A satisfactory academic record.

### **5.9 Baker and McKenzie Prize**

Value: R10 000 each

Duration: 2019

The object of the prize is to reward black South African students for academic excellence. The Baker and McKenzie Prize will be awarded to the best black South African LLB student in his/her penultimate year of study.

The Prize will not be awarded if candidates are not sufficiently meritorious.

The selection process:

- The prizes are to be awarded by the Dean and Deputy Dean of Law in December of each year as soon as possible after the final faculty board meetings.
- The prizes are made subject to the condition that the winner registers for a course of study towards the completion of a law curriculum at Rhodes University within one year of the year which the winner receives the prize.

### **5.10 Shirley Ritchie Prize**

Value: R1 000

The prize is normally awarded to the female student entering the final LLB year with the best aggregate result in the penultimate year of study. In the event of that student being the top student in the class, the prize is awarded to the female student who obtained the next-best aggregate result.

### **5.11 Bowman Gilfillan Prize**

Value: R5000

The prize is awarded to the best penultimate year student in Corporate Law for the best aggregated result for Company Law A, Company Law B and Law of Partnerships and Trust.

### **5.12 Phatshoane Henney Inc Prize**

Value: R3 500

Duration: 2018-2020

Awarded to the best LLB student in Legal Skills.

## **6 FINAL YEAR LLB**

### **6.1 Brian Peckham Memorial Prize**

Value: R1 000

Awarded on the recommendation of the Faculty Executive Committee to the best student in Environmental Law.

### **6.2 Lexis Nexis Book Prize**

Value: (Variable)

Internal book prize for Moot winner(s) in the Final Year.

### **6.3 ENS (Edward Nathan Sonnenbergs Inc) Africa Prize**

**Value:** R3000-00

**Duration:** 2019 to 2021

Awarded to the best LLB student in Labour Law.

### **6.4 Frances, Arnold and Esmé Clarke Bursaries**

Value: Variable, depending upon need

A number of bursaries are available to all LLB students in their Penultimate and Final Years at Rhodes University. Students who already hold a Master's degree are ineligible.

Preference will be given to students who are not in a position to meet their study costs. Access to other sources of funding does not preclude eligibility, but income from other sources, e.g. bursaries or prizes (but not loans), will be taken into account in determining financial need.

Academic merit is not a deciding factor, except that students who are unable to complete their LLB studies within one year of the regulation time are ineligible for an award.

A bursary is awarded for one year only. Re-award of bursaries is possible, but not guaranteed. Students will have to re-apply every year and the application will be considered afresh against the stipulated criteria and the needs of others in the pool of applicants in that particular year.

Bursary applications are to be made through the University's Financial Aid Office in the Registrar's Division. Applications close on 30 November in respect of bursaries to be awarded in the following year.

### **6.5 Midgley Bursaries**

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Academic merit is not the deciding factor, except that students who are unable to complete their LLB studies within one year of the regulation time are ineligible for an award.

The bursaries allocated from the funds available need not be of equal amounts, and may vary according to the student's financial need. A bursary is awarded for one year only. Re-award of bursaries is possible, but not guaranteed. Students will have to re-apply every year and the application will be considered afresh against the stipulated criteria and the needs of others in the pool of applicants in that particular year.

#### **6.6 Judge Phillip Schock Prize**

Value: R20 000

Awarded on the recommendation of the Faculty Executive Committee of Law to the student obtaining the highest mark in the final year of LLB study.

#### **6.7 Juta Law Prize**

Value: (Variable)

Awarded annually by Juta and Company Ltd, on the recommendation of the Faculty Executive Committee of Law, to the best final year LLB student, taking into account the whole academic record for the degree.

#### **6.8 Law Alumni Bursary**

Value: R5 000

The purpose of the bursary or bursaries is to assist needy students who are either registered or accepted for the LLB degree. The money can be allocated to returning students or to first-time entry students. The number of bursaries and the size of the award shall be determined by the Financial Aid Sub-Committee. Re-awards may be made.

The criteria for the award/s are:

- Recipients shall be either registered or accepted to register for the LLB degree.
- Proven financial need.
- A satisfactory academic record.

#### **6.9 Mtshali and Sukha Prize**

Value: R3 000-00

Duration: 2016 to 2020

Awarded to the best LLB student in Legal Ethics and Professional Responsibility.

#### **6.10 R G McKerron Memorial Prize**

Value: R500

Awarded to the best student in the Law of Delict.

#### **6.11 Spoor & Fisher Prize**

Value: R2 500

For Intellectual Property Law: the best aggregated result for Law of Copyright and Trademarks.

#### **6.12 Phatshoane Henney Incorporated medals**

Awarded to students who obtain their LLB degrees with distinction.

### **7 TOMMY DATE CHONG AWARD**

Value: R500

This award is given to the student who makes the greatest contribution to the Law Clinic in their penultimate and final years of study at the University. The award is named after

Tommy Date Chong, a student with a keen interest in the Law Clinic who was sadly killed in a car accident in the late 1980's. The award is thus made to the student who shows the greatest commitment to the law clinic and passion for its work.

### **8 ROB AND TRISH MIDGLEY PRIZE**

Value: R500

Awarded to the student who has contributed substantially towards a holistic educational experience for law students at Rhodes University.

### **9 MASTER'S DEGREE SCHOLARSHIPS**

Value: R5 000 for 1st year of Master's

Awarded for excellence in the honours degree examinations for study towards a full-time masters degree at Rhodes University in the discipline for which the award is given. A distinction in the honours level examination is a prerequisite. Students who have completed four-year degrees will also be considered for these awards. Law (LLB) and Pharmacy graduates, who obtain their degrees with distinction, will be considered.

### **10 DOCTORAL DEGREE SCHOLARSHIPS**

R5 000 for 1st year of PhD

Awarded for excellence in the Master's degree examinations for study towards a full-time PhD degree at Rhodes University in the discipline for which the award is given. A distinction in the Master's level examination is a prerequisite.