



RHODES UNIVERSITY
Where leaders learn

LEGAL THEORY 1

2022

FOUNDATIONS OF LAW AND INTRODUCTION TO LAW

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1. INTRODUCTION

Welcome to **Legal Theory 1 (LT1)**. This main subject has two components, each constituting a stand-alone course. The courses are *Foundations of Law* (taught in the first semester) and *Introduction to the Study of Law* (taught in the second semester). The information in this outline has been compiled to assist you in knowing what to expect in your LT1 courses. Please read it carefully to understand and appreciate the contents. If you have a query on the administrative aspect of the LT1 courses, contact the course coordinators. If the query concerns the content of the course, contact the relevant lecturer.

1.1. Overview

LT1 is a major subject in the BA, B SocSci, BCom, B BusSci and BSc curricula. It involves the study of key fields of the South African legal system in the realm of public and private law, and thus forms an important stepping stone towards the LLB degree. LT1 is recognised as a credit for degrees in the Faculties of Humanities, Commerce and Science. The credits in LT1 courses exempt a candidate from the equivalent courses in the LLB curricula. Please refer to the Rhodes University Calendar for more information.

1.2. Credit value and NQF Level

Legal Theory 1, the two courses combined, carries 30 NQF credits. This implies that the student must spend a total of at least 300 notional hours to master the learning outcomes of the two courses successfully. Foundations of Law in the first semester is offered at NQF level 5 and Introduction to Law in the second semester is offered at NQF level 6.

Students must be able to manage their own learning and take full responsibility for their own learning in an independent manner and must also be able to work with other students.

1.3. Assumptions of prior learning

- The student must have met the entrance requirements for the university and be able to communicate in written and spoken English at an NQF level 4 standard.
- The student must also be able to work and/or study independently and be capable of working in groups.
- The student must have basic computer literacy skills, especially under the current COVID-19 circumstances where teaching-and-learning is partly online.

2. GENERAL LEARNING OUTCOMES

Upon the successful completion of the LT1 courses, the students should be able to:

- Recognise and discuss modern sources of law;
- Extract principles from law reports and other source materials;
- Understand various means of alternative dispute resolution mechanisms (ADR);
- Provide an overview of the structure of the courts and the procedures observed in courts;
- Provide insights into the nature and function of law;
- Provide an overview of the various systems of law around the world;
- Understand the hybrid nature of the South African legal system;
- Introduce students to the basic principles of a human rights regime;
- Provide a brief overview of the law of contract, delict (wrongs) and criminal law;
- Introduce students to the nature of legal reasoning.

2.1. Critical outcomes

Students will be able to:

- a) identify and solve problems
- b) work in a team
- c) organise and manage themselves
- d) collect, analyse and evaluate information
- e) communicate effectively
- f) recognise problem solving contexts
- g) participate as a responsible citizen
- h) explore education and career opportunities

2.2. Specific intended outcomes

The Legal Theory 1 course is designed so that students successfully completing this course should be able to achieve the following outcomes:

FOUNDATIONS OF LAW A & B (taught in the first semester)

- Identify and discuss the sources of the modern South African legal system;
- Describe and use the conventions of legal communication.
- Outline and explain the different forms of dispute resolution in South African law;
- Describe and explain the structure and officers of the South African courts;
- Provide an outline of criminal and civil procedure in South Africa.

INTRODUCTION TO LAW (taught in the second semester)

- Describe and explain the nature and purpose of law;
- Understand legal concepts and terminology;
- Describe the nature and purpose of rights and duties in law;
- Provide an outline of some of the legal systems of the world; and
- Describe the divisions of law;
- Provide an outline of selected branches of public and private law (criminal law, contract and delict or law of wrongs); and
- Demonstrate an ability to apply legal principles and case law to selected factual situations.

3. TEACHING METHODS

Lectures will be delivered using a combination of teaching styles using practical questions and real-life cases and examples as a basis for explaining concepts. PowerPoint slides, lecture recordings, case studies and supplementary reading materials will be uploaded onto RUconnected. Students should access these materials for LT1 courses (**Foundations of Law** in the first semester and **Introduction to Law** in the second semester). These sites are the primary points of contact and distribution of information.

Students are expected to assume full responsibility for their learning by reading before accessing the recorded lectures ahead of the lecture and consolidating their own study notes afterwards. The ability of the student to learn and assimilate knowledge at the end of the course will depend on the effort they put into the course.

4. COURSE/MODULE CONTENT

4.1 Foundations of Law (1st Semester)

The course content of this module comprises of the following sections:

- **Foundations of Law A:** *Sources of South African law* (taught by Mr Harnett & Profs Kruger and Kruuse);
- **Foundations of Law B:** *Court Structures & Forms of Alternative Dispute Resolutions* (taught by Ms Mguga); *Outline of Criminal and Civil Procedure* (taught by Adv Somandi).

4.2 Introduction to Law (2nd Semester)

- An introduction to the nature and purpose of law
- An introduction to the nature and purpose of rights and duties
- An outline of the legal systems of the world
- Divisions of law and an outline of selected branches of public and private law [criminal law, contract, delict (civil wrongs)]

5. RESOURCES

NB: Students are strongly encouraged to make use of the Law library and the main library wherever possible for research in their assignments and tests.

Sustained reading is essential in a course of this type. It is recommended that students buy either of the first two textbooks. The books that follow are highly recommended:

- *D Kleyn and F Viljoen Beginners Guide for Law Students* 5th ed (2018) Juta & Co: Kenwyn
- T Humby *et al* (ed) *Introduction to Law and Legal Skills in South Africa* (2012) Oxford University Press: Cape Town **[there should be a 2nd edition in 2022 TBA]**
- HR Hahlo and E Kahn *The South African Legal System and its Background* (1985 reprint) Juta & Co: Kenwyn
- L Meintjes – Van der Walt *et al* (eds) *Introduction to South African Law: Fresh Perspectives* 3rd ed (2019) Pearson: Cape Town
- WJ Hosten *et al* (eds) *Introduction to South African Law and Legal Theory* 2nd ed (1995) Butterworths: Durban

Prescribed readings are listed in the course outline.

Students will be provided with a copy of the Constitution of the Republic of South Africa at their first tutorial. These copies have been provided by the Department of Justice and Constitutional Development.

6. STUDENT ASSESSMENT

6.1 Foundations of Law

Outcomes (On successful completion of this course you will be able to)	Assessment Criteria (What evidence must a student provide to show that they are competent?) The student must be able to:
Explain the sources of the modern South African legal system.	Identify and discuss the different sources of LA law and their relative importance.
Outline and explain the different forms of dispute resolution in South African law. 1. Alternative Dispute Resolution 2. Litigation: Structure and officers of the Courts	Distinguish between the different forms of dispute resolution. Explain in relation to each of the forms of dispute resolution, what structures and officers are involved. See Foundations Handout for details.
Outline and explain the basic steps in civil and criminal litigation	Identify a particular factual situation as criminal or civil matter and decide the appropriate forum and procedure for obtaining a remedy or enforcing a right.
Describe and use the conventions of legal communication to access and communicate information.	<ul style="list-style-type: none"> • Access reference works and cases in the law library and online • Extract the appropriate legal rules from source material • Read a case, extract and apply the principles contained in it • Write a case-note at an elementary level • Communicate legal issues verbally and in writing in the correct manner • Reference correctly and accurately according to basic referencing principles.

6.2 Introduction to Law

Outcomes	Assessment Criteria
On successful completion of this course you will be able to:	(What evidence must a student provide to show that they are competent?) The student must be able to:
Describe and explain the nature and purpose of law.	Identify, analyse, extract and apply basic legal principles to a simple set of facts.
Understand legal concepts and terminology.	Use of appropriate legal language to demonstrate conceptual understanding.
Describe the nature and purpose of rights and duties in law.	Distinguish the nature of rights and duties and provide an elementary explanation to a lay person.
Demonstrate an understanding of the importance of comparative legal studies and be able to discuss and compare the major legal systems of the world.	Undertake a basic comparative analysis and apply basic comparative methods.
Describe the divisions of law.	Classify and distinguish private and public law
Provide an outline of selected branches of public and private law (criminal law, contract and delict).	Classify factual situations according to the various branches of the law and to distinguish between a crime, a delict and a contract. Decide the appropriate forum and procedure for obtaining a remedy or enforcing a right.
Demonstrate an ability to apply legal principles and case law to selected factual situations.	Apply the applicable law to the relevant facts and provide appropriate legal remedy.

7. EXAMINATIONS

Examinations are compulsory.

- One three-hour exam paper will be written in June/July and the paper will be divided into section A and B dealing with Foundations of Law A and B respectively.
- One three-hour paper for Introduction to Law, will be written in November and the paper will be divided into two equal sections ie. section A and section B.
- 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 (ie. 100 or more out of 200) and has obtained at least 35% in the course failed.
- To achieve an NCR a student must (i) have an aggregated mark of at least 50% for both component courses and (ii) must sit the examination for every component course (ie. 100 or more out of 200).
- 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.)
- 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 or to qualify for a supplementary examination. Overall aggregation averages below 49% (ie. less than 98 out of 200) will NOT be rounded up to 50% for this purpose.

If students wish to challenge the marks of the course work component, it must be done by the first Friday of the first and third terms in respect of June and November exams respectively.

Students who wish to be admitted to LLB 2 (the four-year LLB) must have at least 65% in LT1 as well as an overall average of 65% for three non-law courses studied in that year. Students who do not meet these criteria may apply to follow the five-year route on the completion of their first degree.

For further information regarding supplementary examinations, please refer to the Faculty of Law Handbook.

8. TESTS AND ASSIGNMENTS

There will be FOUR tests during the year ie. two per semester course. The test dates are as follows:

- **Foundations of Law A: 14 March**
- **Foundations of Law B: 3 May**

- **Introduction to Law A: 11 August**
- **Introduction to Law B: 20 September**

There will be FOUR assignments/tutorial tasks during the year ie. two per semester course. The hand in dates for the first semester are as follows:

- **Foundations of Law A: 12 April (assignment)**
- **Foundations of Law B: 13 May (tutorial assignment)**

- **Introduction to Law A: TBA**
- **Introduction to Law B: TBA**

Students must check the RUconnected course sites regularly so they do not miss this important information.

The first test will be in an online MCQ format while further tests – TBA.

Tests are compulsory and should be taken seriously. Tests assist borderline students and consolidate knowledge, making it easier to learn for the examinations. The marks for the four tests together with the tutorial assignment marks count towards a student's class record. The class record constitutes 30% of the final mark.

9. EVALUATION

The courses will be evaluated at regular intervals by way of student evaluations, teaching evaluations and peer evaluations of the staff lecturing the course conducted by other Law Faculty members and by external examiners/moderator's comments and reports on examination papers and the students' scripts.

10. TUTORIALS

The class will be divided into groups for tutorial purposes. Each group will be allocated a tutor. No permanent change of group may be made without the approval of the course coordinators. Should a student miss a scheduled tutorial this must be made up with the permission of the GAs. Where students make up a tutorial, the onus is on the student to ensure his/her attendance is noted at the tutorial attended. The tutorial programme will commence **in week 3**. Do not report for any tutorials before being told to do so.

YOU ARE REQUIRED TO ATTEND 100% OF YOUR TUTORIALS UNLESS YOU HAVE A VALID LEAVE OF ABSENCE. IF YOU FAIL TO ATTEND AND DO NOT HAVE A VALID LOA, YOUR DP MAY BE REMOVED.

NOTE: Plagiarism, cheating or assisting a student in any test, tutorial assignment, essay or examination will result in disciplinary action being taken by the University against the student concerned.

You are welcome to ask your tutor or the GAs if you have any issue.

11. THE LAW LIBRARY

Only students who are registered as library users will be allowed to borrow books from the library. Student cards must be produced in order to borrow a book. As a general rule, books may not be taken away from the library by Legal Theory 1 students.

If you are unsure about anything in the library, ask the person on duty.

SHORT LOAN is a reserved collection of textbooks and recommended books, by the lecturers. This ensures that essential reading material is available to students. You need your student card in order to take out items from the Short Loan section.

The process of short loan is as follows:

- Ask the library assistant to fetch the item for you.
- A maximum of 2 items may be taken at a time.
- A book or notes may be taken for an hour only.
- Items in high demand may be time-restricted, as specified by the Librarian.

Students who owe unpaid fines will not be permitted to make use of any Short Loan material. **Any queries on Law Library can be directed to Ms Sindiswa Gule to the Law Librarian: s.gule@ru.ac.za**

12. DP CERTIFICATES (*DULY PERFORMED CERTIFICATES*)

The RU General Regulations read *inter alia* as follows:

“Subject to any exceptions approved by Senate, a student shall not be admitted to an examination in any course unless the Head of the Department concerned has certified that the student has satisfactorily attended the class meetings for the course under examination and has satisfactorily performed the work of the class.”

The “work of the class” is a broad term including lectures, tests, tutorial attendance, tutorial assignments, written-work assigned by the tutors. Any other assignments or work prescribed by a lecturer in Legal Theory 1 will also fall under this definition.

Students in Legal Theory 1 must comply with the DP requirements in respect of each component of the course.

END OF COURSE OUTLINE