

FOR SUBMISSION
DUE BY 7 FEBRUARY 2022 AT 17:00

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|------------------------|----------|
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| GROUP: | 3B |

Instructions:

- Please answer the following questions by means of any of the following methods:
 - Fill in your answers on this document (electronically) and save in Word/PDF;
 - Fill in your answers on a separate piece of paper (by hand) and scan it in/take a photo.
- Please submit it through attaching your attempt to the link on the BER 210 ClickUp page, under the content area “Tutorial Submission Links”, through clicking/tapping on the link “TUTORIAL 1: SUBMISSION LINK”.
- Then attach your attempt by clicking/tapping on “Browse Local Files”:

ASSIGNMENT SUBMISSION

Text Submission

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- When finished click on “Submit”:

*When finished, make sure to click **Submit**.**Optionally, click **Save as Draft** to save changes and continue working later, or click **Cancel** to quit without saving changes. You are previewing the assignment - your submission will not be saved.*

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Questions:

1. Match the words or phrases in Column A with the best corresponding words or phrases in Column B. Eg 1.B

| COLUMN A | COLUMN B |
|--|---|
| 1. Parties to criminal case | A. Court decisions |
| 2. Category of subjective rights | B. Ownership |
| 3. Most absolute real right | C. Personality rights |
| 4. <i>Stare decisis</i> (judicial precedent) | D. State v X |
| 5. Civil jurisdiction of a district magistrate court | E. R200 000-00 |
| 6. Acts of Parliament | F. R20 000-00 |
| 7. South African source of law | G. Constitutional Court |
| 8. Legal subject example | H. The court's decision creates a precedent |
| 9. Jurisdiction of small claims court | I. National legislation |
| 10. Highest court in South Africa | J. Juristic person |

(10)

1.D 2.C 3.B 4.H 5.E 6.I 7.A 8.J 9.F 10.G

2. Mafeje wants to sell his car to Archie for R45 000. Explain to Archie what kind of legal right he will be obtaining the moment he becomes owner of the car. **(2)**
 He will obtain real rights of ownership of the car.

3. Mary (M) and Stan (S) enter into a written agreement which stipulates that M will deliver 20 diamonds to S for an amount of R2 000 000-00. During the transportation M hides the diamonds in a breadbasket, M stops at the farmer's market and forgets to close the car door - two goats eat the diamonds. It later also transpires that the diamonds were uncut and no certificates could be obtained for any of the diamonds.

- 3.1** List the 5 requirements necessary for a valid contract. **(2.5)**

1-Consensus 2-Contractual Capacity 3-Legality 4-Physical Possibility 5-Formalities

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3.2 Based on the given facts discuss whether the below requirements have been met.

- Consensus
- Legality
- Physical possibility

(5.5)

- Consensus: Yes, both parties intentions match
- Legality: No, the diamonds were uncut and the appropriate certificates for them weren't obtained by Mary
- Physical possibility- No, Mary did not have appropriate transport equipment to safely transport the diamond (e.g., a locked safe), hence they were lost during the transportation

4. Sam (S) borrowed a sum of R10 000 from Peter (P) in terms of a contractual agreement between the parties. P (cedent) donates the R10 000 to Martha (M) by ceding his right to claim the R10 000 from S, to M (cessionary).

4.1 Does P have to enter into a further contract with M (taking into consideration the contract he entered into with S)? **(2)**

Yes, they will have to enter a contract of cession

4.2 Explain what would happen if S, unaware of the cession, performs in terms of the contract. **(2)**

In this scenario, M would not be able to claim the R10 000 from S as per the cessionary contract and would have to instead claim it from P as the personal right of P had not been ceded.

5. You attended a housewarming over the weekend and when your new neighbours heard you are studying Business Law they approached you for advice. Your neighbour was arrested by the police for internet fraud, and she is currently out on bail. She wants to know what the difference between criminal matters and civil matters are. Explain the key differences. **(4)**

| Civil | State |
|---|---|
| 2 parties litigate to resolve dispute | State prosecutes legal subject for a criminal offence |
| Burden of proof: Balance of probability | Burden of proof: state has to prove beyond reasonable doubt |

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| Parties: 1- Plaintiff vs defendant 2- Applicant vs respondent | Parties: State vs accused |
| Decision: Grant or dismiss claim | Decision: Guilty + criminal sentence |

6. Nelson received an ordinance from the City of Tshwane Council informing him of the increase of his monthly taxes. Explain to Nelson the difference between Parliament, Provincial legislation and subordinate legislative bodies and indicate in which category the Council Ordinance will be. **(6)**

Answer: Parliament Legislation- have the legislative authority in the national sphere of government, hence they have the power to pass new laws, amend existing laws or repeal old laws.

Provincial Legislation- exercise similar authority as Parliament Legislation, only that they are confined to doing so in the provincial sphere i.e., their own province.

Subordinate Legislation- pass their legislative authority in the form of passing by-laws in accordance with the Provincial and Parliament Legislation within their respective municipalities.

The category of council ordinance in this scenario is subordinate legislation as comes from the local council of the City of Tshwane.

END