

CLA1501

1. The South African Legal System

Law is a social science.

South African Law is not codified; recorded in one comprehensive piece of legislation.

Origin:

- Indigenous legal systems applied at the southernmost tip of Africa before 1652.
- Jan van Riebeeck arrives in Cape Town in 1652 and the adoption of Roman-Dutch law as a legal system to the Cape.

1.1 A SHORT HISTORY OF THE LAW

- Unlike most European continental legal systems, SA law is not codified:
 - It is drawn from various authoritative sources
 - Such as statutes (legislation) and decided cases
 - Occasionally also Roman and Roman-Dutch law.

Roman Law

- 735BC to AD658
- The *Law of the Twelve Tables of 449BC* were the cornerstone of the future development of Roman Law
- Attempts to codify the law led to the *Corpus Iuris Civilis (body or civil law)* which is still the primary authoritative source of Roman Law.

Roman-Dutch Law

- Roman Law was revised in the Netherlands during the 15th and 16th centuries and became mixed with the existing Dutch customary law.
- Some great Roman-Dutch Jurists:
 - Hugo de Groot "Father of Roman-Dutch Law"
 - Johannes Voet
 - Dionysius Godefridus van der Keessel
 - Johannes van der Linden

English Law

- After 1814, English Law began to seep into the existing Roman-Dutch system:
 - A jury was introduced
 - New legislation e.g. criminal often drew on English law
 - A number of statutes in existence today are squarely based on English legislation e.g. Bills of Exchange Act.

1.2 SOURCES OF LAW IN SOUTH AFRICA

- Some are authoritative: courts are bound by authoritative sources
- Others have merely persuasive authority: serves to convince a court to apply or interpret a rule in a particular way.

Corpus Iuris Civilis: codification of Roman law that is a primary authoritative source on which South African courts draw when reverting to Roman Law to solve a legal problem.

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Learning Commercial Law Wayne Barnes, Paula Franzese, Kevin Tu, David Epstein, 2022-06-07 This book for a Uniform Commercial Code survey course makes key concepts from the UCC clear and understandable and presents the material in a format that encourages students to take the course and teachers to teach it The book is designed for coverage in a 2 or 3 hour survey course and covers the most significant provisions of Uniform Commercial Code Article 2 Sales Article 9 Secured Transactions and Articles 3 and 4 Payment Systems The start of each chapter highlights key learning objectives to allow students to fully master the material Salient provisions of the Code have been selected and excerpted along with cogent textual explanations and examples that bring the provisions to life and realistic problems that test the students understanding and provide the starting point for class discussion The text is designed to give a high level overview of critical

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