

**UNIVERSITY OF SWAZILAND**

**FACULTY OF SOCIAL SCIENCE**

**DEPARTMENT OF LAW**

**EXAMINATION PAPER MAY 2006**

<b>TITLE OF PAPER</b>	<b>:</b>	<b>ROMAN LAW</b>
<b>COURSE CODE</b>	<b>:</b>	<b>L102</b>
<b>TIME ALLOWED</b>	<b>:</b>	<b>3 HOURS</b>
<b>MARKS ALLOCATED</b>	<b>:</b>	<b>100 MARKS</b>
<b>INSTRUCTIONS</b>	<b>:</b>	<b>ANSWER <u>FIVE</u> QUESTIONS. ANSWER AT LEAST <u>ONE</u> QUESTION FROM EACH SECTION.</b>

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**SECTION A: HISTORY, LAW OF PERSONS AND LAW OF SUCCESSION  
FROM THIS SECTION YOU MUST ANSWER AT LEAST ONE QUESTION**

**QUESTION 1**

- (a) Discuss the role of the Praetor in the development of Roman law. (10)
- (b) What do the following concepts mean?
- (i) *patria potestas* (2)
- (ii) *infans* (1)
- (iii) *status* (2)
- (c) Briefly discuss the legitimate portion (*legitimatio portio*). (5)
- [20]

**QUESTION 2**

- (a) Write a short composition on the codification work of Justinian (527-565). (10)
- (b) Name the characteristics of a will. (4)
- (c) Distinguish the different types of procedure recognised in Roman law. (6)
- [20]

**SECTION B: LAW OF PROPERTY  
FROM THIS SECTION YOU MUST ANSWER AT LEAST ONE QUESTION**

**QUESTION 3**

- (a) Give an example of each of the following:
- (i) *res Mancipi*
- (ii) *res nec Mancipi*
- (iii) movable thing
- (iv) incorporeal thing
- (v) claim (5)
- (b) Discuss Roman law ownership with reference to its nature, its inviolability and its

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- entitlements. (10)  
 (c) Define appropriation. (5)  
 [20]

#### QUESTION 4

- (a) Write short notes on the distinction between contract and conveyance. (5)  
 (b) Explain the operation of delivery with the long hand (*traditio longa manu*) and illustrate this by way of an example. (5)  
 (c) Q and R have an agreement with S in terms of which he can use the road (servitude of right of way) free of charge for as long as he lives. S dies and his wife wishes to use the road. Q and R refuse. Briefly advise S's wife. (2)  
 (d) Discuss the operation of land servitudes. Illustrate your discussion with an appropriate example. (8)  
 [20]

**SECTION C: LAW OF OBLIGATIONS**  
**FROM THIS SECTION YOU MUST ANSWER AT LEAST ONE QUESTION**

#### QUESTION 5

Briefly explain the following concepts:

- (a) cession (5)  
 (b) *emptio spei* (sale of an expectation) and *emptio rei speratae* (sale of an expected thing) (5)  
 (c) *iniuria* (2)  
 (d) *negotiorum gestio* (3)  
 (e) law of delict and law of delicts (5)  
 [20]

#### QUESTION 6

- (a) Distinguish between unilateral and bilateral contracts. (5)  
 (b) Briefly discuss the following aspects of the Roman law of sale:

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- (i) passing of title (5)
  - (ii) passing of risk (5)
  - (c) Define mandate. (5)
- [20]**

**QUESTION 7**

- (a) Briefly discuss the following aspects of the Roman law of sale:
    - (i) warranty against eviction (5)
    - (ii) warranty against latent defects (5)
  - (b) Discuss the proceedings which could be instituted against a thief in Roman law. (10)
- [20]**

**TOTAL: 100 MARKS**