

**UNIVERSITY OF SWAZILAND**  
**FACULTY OF SOCIAL SCIENCE**  
**DEPARTMENT OF LAW**  
**EXAMINATION PAPER MAY 2008**

**TITLE OF PAPER** : **ROMAN LAW**

**COURSE CODE** : **L102**

**TIME ALLOWED** : **3 HOURS**

**MARKS ALLOCATED** : **100 MARKS**

**INSTRUCTIONS** : **ANSWER ANY FIVE QUESTIONS**

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**QUESTION 1**

- (a) Write a short composition on the codification work of Justinian (527-565). (10)
  - (b) Fully discuss the different types of procedure recognised in Roman law. (10)
- [20]

**QUESTION 2**

What do the following concepts mean?

- (a) status (2)
  - (b) agnatic relationship (3)
  - (c) intestate (2)
  - (d) emancipation (2)
  - (e) *impuber* (1)
  - (f) *infans* (1)
  - (g) *pupillus* (pupil) (1)
  - (h) Write short notes on the position of the *pater familias* in Roman law. (5)
  - (i) Mention the three factors which influenced a person's status in Roman law. (3)
- [20]

**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 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]

**QUESTION 5**

- (a) Briefly explain the following concepts: (5)  
(i) cession (5)  
(ii) *emptio spei* (sale of an expectation) and *emptio rei speratae* (sale of an expected thing) (5)  
(iii) *iniuria* (2)  
(iv) unjust enrichment (3)  
(v) law of delict and law of delicts (5)  
[20]

**QUESTION 6**

- (a) Discuss the essential elements of Aquilian liability in Roman law and refer to a modern case in which these principles were applied. (10)  
(b) What does noxal surrender mean? (2)  
(c) What action could be used against an owner whose animal caused damage to another person? (1)  
(d) Briefly define vicarious liability. (2)  
(e) Briefly define strict liability. (2)  
(f) Briefly define *negotiorum gestio*. (3)  
[20]

**QUESTION 7**

- (a) Discuss the proceedings which could be instituted against a thief in Roman law. (10)  
(b) Define universal succession. (5)  
(c) How did Roman law rectify the disadvantages of universal succession? (5)  
[20]

**TOTAL 100 marks**