

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW

EXAMINATION PAPER DECEMBER 2009
(MAIN)

TITLE OF PAPER : **ROMAN LAW**

COURSE CODE : **L102**

TIME ALLOWED : **3 HOURS**

MARKS ALLOCATED : **100 MARKS**

INSTRUCTIONS : **ANSWER QUESTIONS ONE WHICH IS COMPULSORY, AND ANY THREE (3) QUESTIONS OF YOUR CHOICE.**

THIS PAPER IS NOT TO BE OPENED UNTIL PERMISSION HAS BEEN GRANTED BY THE PROCTOR.

[TURN OVER]

QUESTION 1

- [a] Discuss the "*Amistad Case*" highlighting its significance to the relevant field of Roman Law. 10]
- [b] Bricks Ntathe, is a renowned afro-pop music artist, as well as being a top-drawer fashion model. For his silhouette, he has his long trusted Barber, Sparks to thank. One day, while Bricks was having his trade-mark Mohawk hairstyle trimmed, he notices Sparks sweep, pick up and put his hair into his (Spark's) waist-bag. Brick's quizzes Sparks about this, and the latter responds by saying that "ah, my-chynal Ya know that a man has to fortify some time." Bricks laughs and cautions Sparks by saying that - "you live by the voodoo, you die by the voodoo!" (In all the 10 years of hair-cutting friendship previous to this incident, Bricks had never cared about the disposal of his hair). Meanwhile, Sparks had been advised by his diviner to take Bricks's hair and weave it into his dreadlocks with a certain oil concoction for him to have good fortune. Additionally, this would also help heal his scalp cancer.

Drawing on relevant principles of the Roman law of things and classification therein, determine the prospects of a suit by Bricks against Sparks for the latter's conduct.

[15]
25 MARKS

QUESTION 2

Critically discuss "the struggle between the orders" as well as how aspects of this struggle were resolved.

25 MARKS

QUESTION 3

- [a] Write a short composition on the characteristics of Justinian's codified work. [15]
- [b] Name four functions of the *Veteres*. [4]

[c] Distinguish between the two schools of thought that emerged during the Classical period. [6]

25 MARKS

QUESTION 4

[a] Explain and give an example of each of the following:

(i) *res mancipi*

[ii] *res alicuius*

[iii] fungible thing

[iv] incorporeal thing

[v] complex thing [5]

[b] Compare and contrast the Roman secular and in *manus* marriages. [10]

[c] Explain the Roman Law of neighbours, carefully highlighting five instances of restrictions with regard to property rights. [10]

25 MARKS

QUESTION 5

[a] Write an account of the position of a *de jure* and *de facto* slave under Roman law. [15]

[b] Contrast the Roman *de jure* slave with any modern equivalent. [5]

[c] Define and explain mandate. [5]

25 Marks