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**UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW**

**EXAMINATION PAPER 2010
(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

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- [a] Sputnik, a married former wealthy Roman centurion and slave died intestate at the ripe old age of 86. His marriage to Beatrice had yielded no children. He was up to the time of his death, active and intelligent, but not well educated. He had acquired much of his vast property from his capture while in Roman empirical service acquiring relics from the sea and the spoils of war. At the time of his death he had been cohabiting for two years with a beautiful Egyptian slave, Nefertiti, whom he had repeatedly said could have all his wealth upon his death which was in her possession. Out of this union, there were four girls only. One of the daughters had at the time of Sputnik' death married a Roman merchant and they had three male children.

Beatrice has since approached the Praetor to enforce her rights to inherit from the vast estate of Sputnik. The Praetor has approached you as an eminent Jurist to write a legal opinion determining her prospects of success. Drawing on relevant principles of the roman law of family, succession and things advise the Praetor. [15]

- [b] The year is 531 AD, and Sputnik Visigoth has lost his beloved wife, Priscilla Visigoth, whom he had purchased (at a discount) at a slave auction five years earlier. So besotted was Sputnik to his deceased wife that, at night one day, he decided not to bury her but to immortalize her by keeping her remains in an airless body contraption under his house.

Is the besotted Visigoth entitled to do this? Who owns the corpse and what are the Roman law implications? [10]

[25 MARKS]

QUESTION 2

- [a] Critically discuss "the struggle between the orders" as well as how aspects of this struggle were resolved. [20]

- [b] What, in your opinion, is the fallacy associated with attempts to resolve the inequalities [5]

[25 MARKS]

QUESTION 3

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- [a] Write a short composition on the characteristics of Justinian's codified work. [15]
[b] Critically explain the passing of ownership under Roman law. [4]
[c] Distinguish between contracts *litteris* and *verbis*. [6]

[25 MARKS]

QUESTION 4

- [a] Explain and give an example of each of the following:
 (i) *res mancipi*
 (ii) *accessio*
 (iii) fungible thing
 (iv) incorporeal thing
 (v) complex thing [5]
[b] Compare and contrast the work of the Glossators and the Commentators. [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] Critically explain the effect of the *patria potestas* on marriage. [15]
[b] Contrast the Roman *de jure* slave with any modern equivalent. [5]
[c] Define and explain the *rei vindicatio*. [5]

[25 Marks]

QUESTION 6

- [a] Briefly discuss the following aspects of the Roman Law of sale:
 (i) warranty against eviction [5]
 (ii) warranty against latent defects [5]
[c] Define a personal AND real servitude [7]
[d] Discuss guardianship and state the differences between a tutor and a curator. [8]

[25 Marks]