

UNIVERSITY OF COLOMBO
FACULTY OF LAW

BACHELOR OF LAWS EXAMINATION, YEAR 1 – 2018

ROMAN LAW

(THREE HOURS)

Total No. of Questions: 07

Answer **FIVE** questions only and no more.

(Candidates will be penalized for illegible handwriting.)

1. 'Justinian's main achievement in law was to consolidate rather than to innovate.'

Do you agree? Give reasons for your answer, with reference to Justinian's compilations of the law.

2. Lucretia, married Albus *sine manu* (without manus) and had a son, Antonius. Albus died of a fever when Antonius was ten years old. Two years later Lucretia married *cum manu* (with manus) Balbus, who was *sui iuris*. They had a son Brutus and a daughter Claudia. Lucretia and Balbus ran a successful bakery and a wine shop. Balbus also owned several shops which he rented to others. Antonius too lived with them. When Balbus died, Brutus was seventeen and Claudia, sixteen. Within three months of Balbus's death Lucretia learned that all her male ancestors had died. Lucretia and her children decided to run a restaurant. Claudia also now planned to marry *sine manu*.

Comment on the *familia* status of Lucretia and her children, and their capacity to hold property. Support your answer with legal principles.

3. Trajan, a wealthy merchant, was also a famous artist and poet. While on holiday at his friend Pollux's plantation, Trajan wrote a poem on a parchment and painted a picture on a tablet. The parchment and tablet belonged to Pollux. When he returned to Rome, Trajan brought with him the parchment and tablet. During Trajan's absence, his son Julius received for storage in Trajan's warehouse, Lucius's wine and wheat, and Felix's wine and wheat. Julius stored both lots of wine together in one big barrel and both lots of wheat together in one big pile, saying 'wine is wine and wheat is wheat'. Marcus, the *usufructuarius* of Trajan's three acre apple orchard, died before the fruits were gathered. Remus, a stranger, came into the apple orchard and gathered the fruits on one acre. Sabinus, Marcus's heir, informed Trajan that he will come next week to harvest the apples and to vindicate the fruits taken by Remus. Pollux wrote to Trajan asking for the parchment and tablet.

Advise Trajan on his legal position in the above circumstances, stating applicable legal principles and reasons.

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4. a) 'Hiring resembles purchase and sale and is established by the same rules of law.'

Examine the validity of the above proposition with illustrations,

- b) X handed over to Y for a period of one month, ten slaves to be used as trainers for the taming of lions. Y was the owner of a circus that held public performances for entertainment. Y agreed to pay 150 *solidi* for each slave returned without injuries at the end of the period, and 1500 *solidi* for each slave who died or was injured in the training exercises. Y assigned some hazardous excavation work to five of the slaves who, Y knew, had no special skill or competence in this kind of work. Five slaves were injured during the process of excavation work. Three of the other slaves were killed while attempting to train the lions. The remaining two slaves were returned safe and sound to X on the due date.

Identify the legal implications arising in the above situation and advise the parties as to their legal rights and liabilities.

5. a) Capito accosted the Roman Senator Sempronius and his wife Calpurnia near the entrance to the theatre and called her a woman of loose morals. Sempronius struck Capito in the face shouting 'Thus I show my contempt for your worthless father.' Capito's left eye was seriously wounded in the scuffle. As a result of the administering of a wrong drug by the medical practitioner who attended to Capito's wounded eye, Capito lost his sight in the eye. Capito was the main singer of the pop group 'Three Brothers' whose performances were in high demand in Rome.

Advise the parties as to their rights and liabilities.

- b) Explain whether the concept '*atrox injuria*' has any relevance to the above factual situation.

6. a) Marcus had two sons, Seius and Aulus in his *potestas*, and an emancipated son Zeno. Marcus made a will on his deathbed in which he stated 'Let Seius be my heir, if he marries Portia, daughter of Tribonius within one year of my death. If Seius does not marry Portia within the stipulated period after my death, let Aulus be my heir.' Marcus died and Seius married Portia within two months after the death of Marcus.

Discuss the validity of Marcus's will. Would your answer be different if Seius did not marry Portia? State your reasoning.

- b) i) Under what circumstances could a plaint against an unduteous will (*querella inofficiosi testamenti*) be brought?
ii) Explain the legal effects of such a plaint.

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7. a) 'A slave had neither rights nor duties in law.'

Do you agree? Give reasons and legal principles in support of your answer.

- b) Casca went on a two week holiday. Immediately after his departure his slave, Petrus spent five hours drinking Casca's wine. Petrus then wore Casca's best clothes and stood on Casca's balcony singing rude songs about politicians and throwing dirty water on people passing below. When Casca's neighbor, Paulus objected to the rude songs Petrus threw two buckets of dirty water over him. Paulus's best cloak was badly stained and its dye also ran. In the evening Petrus walked the streets tickling passers-by with a long feather. Festus jumped aside to avoid being tickled. He slipped and fell and broke his leg. On the way to hospital Festus lost his false teeth.

Assess Casca's and Petrus's liability in the above circumstances, with reference to applicable legal principles.