

# Compulsory Past Papers

LL.B. I



# GH AQDA STUDENTI TAL-LIĠI

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2020/2021

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## ABOUT GhSL

Għaqda Studenti Tal-Ligi (The Malta Law Students' Society) is a faculty-based, non-profit organisation at the University of Malta that represents all law students within the Faculty of Laws.

The organisation plays a pivotal role in law students' academic and social life at the University of Malta. The organisation has also been responsible for publishing the prestigious *Id-Dritt*, and the *GhSL Online Law Journal*.

Moreover, GhSL boasts its own Thesis Library, located at the GhSL office in the Faculty of Laws. Additionally, GhSL is the only law organisation responsible for the distribution of authoritative law notes and past papers.

For further queries on this set of notes, as well as any other, please feel free to contact our **Resources Officer** at [resources@ghsl.org](mailto:resources@ghsl.org).



## Advice from an Alumna

By Dr Priscilla Mifsud Parker

The law course is a long journey, but one that, if well-travelled, will lead to beautiful destinations. In an industry which is today attracting many young individuals looking to develop their career in law, it is important to stay ON the beaten track and remain focused. It may go without saying that it is of great importance for all students to attain good academic grades, to be dedicated to their work, as well as to be determined in this highly-competitive industry in order to fulfil their dream of becoming lawyers one day. However what is crucial is that as students and later on as professionals we are innovative by being sensitive to the changes around us. These changes might be political, economic, environmental, socio-cultural or others; what is for sure is that they all have an impact on the profession of a lawyer. We are members of a dynamic profession which is very sensitive to its surroundings. The type and 'genre' of advice which is required from us is all affected by what is being experienced by the receivers of this advice.

Work experience is considered as a vital part of the staple diet of any prospective lawyer in order to put into practice and refine the knowledge gained from the theoretical reality of the lecture halls and lawbooks into the skills required for a successful career in law. An internship will not only show future recruiters that you have a genuine interest in pursuing a career in this sector, but that you have the practical knowledge and skills to succeed in your role.

Here are some personal suggestions that I feel helped me during my journey:

### 1. *Being Ambitious*

A powerful trait in any competitive industry, ambition will help you in your law course, in your career as a lawyer, as well as in your life. Whilst the law course can be quite intimidating and challenging, an ambitious individual who is dedicated to learning new things has the potential to understand and realize long-term goals. Do not view the journey as one whole insurmountable mountain but focus on the next small goal and once achieved move on to the next and goal by goal you will reach your final target point.

In this respect, gaining valuable work experience through an internship is an important step taken by an ambitious young lawyer who wants to attain certain skillsets, and remain a step ahead of his/her peers. By being inquisitive, analytical and humble enough to accept guidance and mentoring one is guaranteed a fruitful experience in a law firm. It is also not only a means to start focusing on the direction of your career and to build upon your chosen path, but will undoubtedly expose you to the international world. This is crucial, as most of the traditional legal sectors have been intertwined with new areas of legislation and all these together now present much more opportunity for intra-jurisdictional work.

### 2. *Networking*

By engaging with counterparty students abroad and in international fora one gains an insight into another reality and is exposed to different cultures, ways of communicating and is able to bridge



the differences between parties to a mundane discussion which will eventually become a transaction or a major project in professional life.

### *3. Organisational Skills*

Organisation is key in any industry. Good organisation skills always stand out to a recruiter when considering potential applicants. Such skills can be obtained by gaining experience either through organising one's own work, study plan, student events or cultural/philanthropic events.

Going hand-in-hand with this, is having a study plan. By planning your studies ahead, one will have a sufficient amount of time to meet all the demands, while also being able to participate in productive outside activities. Reviewing notes or case briefs before class can also help you follow and participate in class discussions better, whilst following case-law allows you to apply them for specific situations. In view of the amount of material involved summarising and carving out the most crucial points is essential to then build your argument in papers.

### *4. Taking your own class notes*

It is always important to take down your own notes as laws are always evolving and passed-down notes would provide the context but are not ideally used for the detail. Researching the particular topic and comparing Malta's law with that of other jurisdiction gives one a completely different outlook and commenting on these variances in an exam paper, dissertation or assignment would distinguish one student from another. Not to be overlooked are also the consultation papers, commentaries and other official public documents that are issued by local authorities from time to time on different areas of law and industry. Being abreast of what is happening in industry will help putting the particular law or regulation in context.

### *5. Participation*

Participation is a main element of the learning process. Being actively involved during seminars and lectures and participating in legal debate sessions, mock trial competitions and moot courts are essential in order to improve your persuasive and presentation skills. If you find this very difficult (all of us have different characters and traits), then try to focus on participation in other events which will expose you to public speaking starting off in smaller groups in a more familiar environment and trying out new experiences and larger audiences as you go along.

### *6. Practice is the key to success*

This leads us to our next point – practice. Attaining good grades is undoubtedly an important part of the law course, however, in themselves, they are not enough to show that you have substantial material to succeed. Working within a law firm introduces you to the world of work, and allows you to gain specific industry-related skills which one will only ever be able to learn in a workplace setting.

Work experience can provide you with valuable insight which will help you decide what your career aspirations are and in which areas you would like to further delve into.



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## **FIRST YEAR LAW COMPULSORY UNITS PAST PAPERS**

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1. Constitutional Law
2. Principle of Criminal Law
3. Philosophy of Law
4. Introduction to Law
5. Roman Law
6. Basic Notions of Commercial Law
7. Introduction to EU Law

If you require any further information, have any suggestions or find any mistakes in this publication, do not hesitate to contact us on [resources@ghsl.org](mailto:resources@ghsl.org)



First Year Law  
Compulsory Units Past Papers

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# CONSTITUTIONAL LAW

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UNIVERSITY OF MALTA  
FACULTY OF LAWS  
JUNE 1997 SESSION OF EXAMINATIONS  
B.A. IN LEGAL & HUMANISTIC STUDIES - I YEAR

PUBLIC LAW

9th June, 1997

9.00 - 12 Noon

Answer any THREE questions of which at least ONE from those marked with an asterisk.

- \* 1. To what extent, if at all, is the Maltese Parliament sovereign in the Maltese Constitution?
  2. Discuss the relevance of electoral systems to the functioning of Government.
  3. The Rule of Law today is a much broader concept than that defined by DICEY. Discuss.
  4. The quasi presidential powers of the Prime Minister derive from their conventional nature. Discuss.
  - \* 5. Outline the importance of the notion of fair hearing to the Constitutional System.
  - \* 6.
    - a. Describe the jurisdiction of the Maltese Constitutional Court.
    - b. What remedies are available to a person in Malta if he feels that his fundamental human rights have been violated.
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UNIVERSITY OF MALTA  
FACULTY OF LAWS

B.A. in Legal and Humanistic Studies Course - I Year

PUBLIC LAW

12<sup>th</sup> September 1997  
9.00 - 12 Noon

Answer any THREE of the following:

1. To what extent is the doctrine of the separation of powers relevant to a study of the functions of the organs of Government under the Maltese Constitution.
  2. The President of Malta is the guardian of its Constitution. Discuss.
  3. Describe and discuss the manner in which constitutional change can be brought about.
  4. Describe the legal mechanisms through which independence in Malta was achieved. What, in your opinion, is the legal significance of independence.
  5. The rights to freedom of expression and peaceful assembly are not absolute rights but may be restricted in the public interest. Discuss.
  6. The Prime Minister is the keystone of the Cabinet arch. Discuss.
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UNIVERSITY OF MALTA  
FACULTY OF LAWS  
BA LEGAL AND HUMANISTIC STUDIES - I YEAR  
SEPTEMBER EXAMS 1997/1998 - RESIT SESSION

PUBLIC LAW

Tuesday 15<sup>th</sup> September 1998

9.00 am - 12.00 Noon

Answer THREE questions, one of which from those marked with an asterisk. Answers may be in English or Maltese.

- \*1. To what extent is the Doctrine of the Separation of Powers a fundamental characteristic of the Maltese Constitution and of the Constitution of the United States of America.
2. (a) Illustrate the extent to which the sources of the Constitution of Malta are all important independently of whether they are legally enforceable or not  
  
(b) Describe the constitutional steps whereby Malta became:
  - (i) A sovereign independent State;
  - (ii) A republic.
- \*3. "The Prime Minister is more powerful than any other minister and than most combinations of ministers, but less powerful than the cabinet collectively." To what extent, if at all, is this statement a correct description of the cabinet form of government.

... /2

\*4. (a) To what extent is the Maltese Parliament sovereign under a more sovereign constitution?

(b) Indicate who may institute proceedings and the remedies available in cases relating to:

- (i) the infringement of fundamental human rights;
- (ii) the challenge of the constitutional validity of a law on matters other than human rights;
- (iii) corrupt practices during general elections.

5. "Freedom of Expression, assembly and association are not absolute rights". Discuss with particular reference to Maltese decided cases.

6. "The proper functioning of the Maltese Constitution is safeguarded by a number of Commissions and authorities." Discuss the correctness or otherwise of this statement.

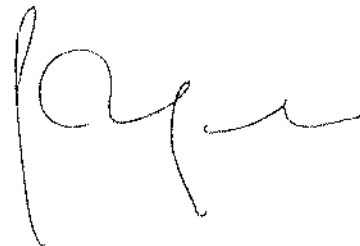
UNIVERSITY OF MALTA  
FACULTY OF LAWS  
JUNE 1999 EXAMINATION SESSION  
B.A. LEGAL & HUMANISTIC STUDIES - I YEAR  
PUBLIC LAW

Friday, 11<sup>th</sup> June 1999

9.00 am to 12 noon

*Answer THREE questions one of which from those marked with an asterisk. Answers may be in English or Maltese.*

1. To what extent and in what manner is the Maltese Parliament a sovereign Parliament?
- \* 2. The modern understanding of the Rule of Law is basically different from Dicey's conception of this doctrine. Discuss.
- \* 3. In what manner does the Maltese Constitution safeguard a regular, proper and democratic electoral process.
4. 'When, as is usually the case, the Prime Minister has a parliamentary majority behind him, his political power will be the envy of dictators.' Discuss.
- \* 5. Explain, with reference to Maltese decided cases, the extent of and restrictions to the freedom of expression, assembly and association.
6. Explain fully the Police powers of arrest in Malta. Does the current law adequately guarantee the personal liberty of the individual?



UNIVERSITY OF MALTA  
FACULTY OF LAWS  
SEPTEMBER 1999 SESSION OF EXAMINATIONS  
B.A. LEGAL AND HUMANISTIC STUDIES – 1 YEAR  
PUBLIC LAW

DATE: 20<sup>th</sup> SEPTEMBER 1999

TIME: 9.00a.m. – 12noon

Three questions to be answered. At least one from those marked with an asterisk.

- \*1. Ministerial responsibility, both collective and individual, in large part involves conflicts of interest between the government on the one hand and Parliament on the other hand. To what extent does the statement accurately describe the checks and balances that exist between the executive and Parliament?
2. Describe the jurisdiction of the Constitutional Court of Malta.
- \*3. Define the nature of Constitutional Conventions? To what extent is it correct to say that the Prime Minister is a 'creature of convention'?
4. Illustrate briefly the manner in which the Constitution of Malta safeguards three of the following fields of public administration:
  - (i) The Electoral process;
  - (ii) The Public Finance;
  - (iii) Broadcasting;
  - (iv) The Public Service.
5. The President of Malta enjoys a residual discretion when dissolving Parliament. Discuss.
- \*6. To what extent are fundamental human rights fundamental and human.

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
BA LEGAL AND HUMANISTIC STUDIES- I YEAR  
JUNE EXAMS 1999/2000

PUBLIC LAW

Monday 12<sup>th</sup> June 2000

9.00am - 12.00 noon

Answer THREE questions, one of which from those marked with an asterisk. Answers may be in English or Maltese

- \*1. *"The Maltese constitution comprises the main features of the British constitution, though certainly not all"*. Discuss.
- \*2. *"Hardly anyone today will make out a case for the proposition that the Prime Minister is merely primus inter pares, the first among equals."*(De Smith). Explain and discuss, giving reasons why you agree or disagree with this statement.
3. *"Constitutional conventions make the legal constitution work and keep it in touch with the growth of ideas"*. Explain the meaning of this statement.
- \*4. To what extent is the right to a fair trial the most fundamental of all the rights contained in Chapter IV of the Constitution of Malta? Illustrate your answer by reference to Maltese decided cases.
5. *"The office of the President of Malta is purely ceremonial and all real powers are vested in the government of the day."* To what extent is this statement correct in the light of our constitutional provisions?
6. (a) Describe the legal procedure followed for the state of Malta to become (i) independent and (ii) a republic.  
(b) How does the Constitution guarantee that the result of a general election reflects the true will of the electorate?

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
BA LEGAL AND HUMANISTIC STUDIES- I YEAR  
SEPTEMBER EXAMS 1999/2000

PUBLIC LAW

Tuesday 12<sup>th</sup> September 2000

9.00am - 12.00 noon

Answer THREE questions, one of which from those marked with an asterisk. Answers may be in English or Maltese.

- \*1. *"All those who have framed written constitutions contemplate them as forming the fundamental and paramount law of the nation"*(Marbury vs Madison 1803). Explain this statement.
2. Compare and contrast the application of the doctrine of separation of powers in the Maltese and U.S. Constitutions.
3. To what extent does Maltese law protect (a) the right to property and (b) the right to privacy of one's own home?
- \*4. Analyse the strengths and weaknesses of the office of Prime Minister in a parliamentary system. To what extent would you agree with the statement that Cabinet Government has been substituted by a Prime Ministerial one?
5. (a) Describe the jurisdiction of the Maltese Constitutional Court.(60% of marks)  
(b) Explain the main features of the 1921 Constitution and why it is considered as an important milestone in Malta's constitutional history .(40% of marks)
- \*6. (a) Explain the doctrine of collective and individual Ministerial responsibility.(70% of marks)  
(b) To what extent does the Maltese Constitution protect the independence and impartiality of the judiciary?(30% of marks)

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
BA LEGAL AND HUMANISTIC STUDIES - I YEAR

JUNE EXAMS 2000/2001

PUBLIC LAW

MONDAY 18<sup>TH</sup> JUNE 2001

9.15am - 12.15pm

Answer THREE questions, one of which must be from those marked with an asterisk. Answers may be in English or Maltese.

- \*1. "The principle of parliamentary sovereignty, together with what (Dicey) called conventions, enables powers to be exercised by government and specify how it is to be exercised. The Rule of Law however disables government from abusing its power" (Jowell). To what extent is this statement applicable to Malta?
- \*2. "When, as is usually the case, the Prime Minister has a parliamentary majority behind him, his political power will be the envy of dictators" (Brazier). Discuss.
3. Outline the general and specific requirements of fairness embedded in article 39 of the Constitution. Illustrate your answer with reference to Maltese decided cases.
4.
  - a) To what extent if at all has Malta adopted the majoritarian system in its electoral process?
  - b) Describe the constitutional process through which Malta acquired Independence.
- \*5. In your considered opinion, would you consider the President of Malta as the guardian of the Constitution?
6.
  - a) Mention and illustrate the jurisdiction of the Constitutional Court of Malta.
  - b) To what extent would you consider the European Court of Human Rights in Strasbourg to be the final appeal stage of the Maltese judicial process?



UNIVERSITY OF MALTA  
FACULTY OF LAWS  
JUNE 2002 SESSION  
B.A., LEGAL AND HUMANISTIC STUDIES I YEAR  
PUBLIC LAW

DATE: MONDAY 17<sup>TH</sup> JUNE 2002

TIME: 9am to 12 noon

ANSWER ANY THREE QUESTIONS ONE OF WHICH FROM THOSE MARKED WITH AN ASTERISK.

ANSWERS MAY BE IN MALTESE OR ENGLISH

- \*1) Illustrate the manner in which the Rule of Law features in the Constitution of Malta.
- 2)(a) Mention and illustrate the jurisdiction of the Constitutional Court of Malta. (60% of question's mark)  
(b) Explain the judicial remedies available under Maltese law against an infringement of a person's Fundamental Human Rights. (40% of question's marks)
- \*3) The Prime Minister enjoys powerful political tools, such as that of dissolution of Parliament, which are subject only to the institutional restraints of Parliament and the President of Malta. Discuss.
- \*4) "It is necessary to devise systems that provide for accountability, yet at the same time do not curtail a judge's obligation to rule honestly and according to law." Illustrate the extent to which the Maltese constitutional system safeguards the independence of the judiciary.
- 5) The Constitution itself provides for 'corrective' mechanisms to safeguard the proper functioning of the democratic process. Indicate and explain the constitutional mechanisms:
  - (a) To ensure majority rule at the General Elections;
  - (b) To ensure the composition of the Constitutional Court at all times.
- 6) Discuss with reference to decided cases the constitutional protection of the Freedom of Expression. To what extent may this freedom be restricted at law.

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
SEPTEMBER 2002 SESSION  
B.A., LEGAL AND HUMANISTIC STUDIES I YEAR  
PUBLIC LAW

DATE: WEDNESDAY 11<sup>th</sup> SEPTEMBER 2002.

TIME: 9am to 12 noon.

ANSWER ANY THREE QUESTIONS ONE OF WHICH FROM THOSE MARKED WITH AN ASTERISK.  
ANSWERS MAY BE IN MALTESE OR ENGLISH.

- \*1) Which of the sources of constitutional law have contributed most in the development of the Maltese Constitution. Illustrate your answer.
- 2) All constitutions belong to two main categories, presidential and parliamentary, with variations within each category. To what extent, if at all, would you agree with this statement?
- \*3) The doctrines of the Separation of Powers and the Rule of Law are inseparable, and indispensable in guaranteeing a democratic system. Discuss.
- \*4) "The idea that the Prime Minister is *primus inter pares* is wrong. The Prime minister is not *pares*. He is way above that. Like Caesar, he bestrides his world like a colossus" (Senior Whitehall figure shortly after the end of the Balkans War, 1999). Discuss.
- 5) Describe the extent to which Maltese human rights law safeguards the right to property and privacy of one's own home. Act 37.
- 6) (a) How does the Constitution of Malta guarantee that free elections are held which reflect the will of the electorate? (60% of the marks).  
(b) Describe the constitutional process by means of which Malta became a Republic. (40% of the marks.)

UNIVERSITY OF MALTA  
B.A. LEGAL AND HUMANISTIC STUDIES I YEARS  
FACULTY OF LAWS  
PUBLIC LAW

Thursday, 12<sup>th</sup> June, 2003

9.00a.m. – 12.00noon

ANSWER ANY THREE QUESTIONS, AT LEAST ONE OF WHICH FROM  
THOSE MARKED WITH AN ASTERISK.  
ANSWERS MAY BE IN MALTESE OR ENGLISH

\*1. Once a law has been passed by the British Parliament and has received the Royal Assent, no question of its validity can arise in British Courts, because Parliament is supreme and sovereign. To what extent is this statement applicable to the Constitution of Malta.

\*2. Explain the notion of 'statutory permissible derogations' with reference to the freedom of expression, assembly and association as guaranteed in the Constitution of Malta.

3. Describe the role played by the Electoral Commission and the Constitutional Court in ensuring that the Maltese electoral system "shall be free of illegal or corrupt practices and foreign interference"

\*4. To what extent is the choice of a Prime Minister and a Leader of the Opposition truly a function of the Head of State. Discuss in relation to general constitutional theory

5. To what extent would you agree that the separation of powers is applied more in the Constitution of the United States than in the Constitution of Malta.

6a) Illustrate the manner in which the constitution itself defines and describes the State of Malta. (50%)

6b) Describe the remedy provided in the Constitution in case the Constitutional Court is not composed. (50%)

UNIVERSITY OF MALTA  
B.A. LEGAL AND HUMANISTIC STUDIES I YEARS  
FACULTY OF LAWS  
SEPTEMBER SESSION 2003  
PUBLIC LAW

THURSDAY 11<sup>TH</sup> SEPTEMBER 2003

9.00 A.M. – 12.00 NOON

ANSWER ANY THREE OF THE FOLLOWING QUESTIONS, AT LEAST ONE FROM THOSE MARKED WITH AN ASTERISK. ANSWERS MAY BE IN MALTESE OR ENGLISH.

1. (A) Describe the main features and characteristics of the Constitution of Malta (70%)  
(B) How were the 1974 Maltese constitutional amendments introduced without the need of a qualified majority? (30%).
- \*2. To what extent would you consider the Rule of Law as the “respect for the supreme value of the human personality”.
- \*3. “The relative positions of the Prime Minister and the Cabinet are variable depending on personalities, not only that of the Prime Minister but also those of his colleagues” (O.Hood Philips & Jackson). Discuss.
- \*4. Outline the rights of the criminal suspect and those of a person charged with a criminal offence under the Constitution of Malta.
5. The legislative function of Parliament is its most obvious but not its sole or most important function. Discuss bringing to light those functions of Parliament which are not legislative in nature.
6. (A) Describe the jurisdiction of the Constitutional Court of Malta. (60%)  
(B) To what extent is the Constitutional Court of Malta the highest court of the country? (40%)

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.B. 1 YEAR  
MAY/JUNE SESSION 2004

CONSTITUTIONAL LAW

TUESDAY, 8<sup>TH</sup> JUNE, 2004

9.00a.m – 12.00noon

ANSWER ANY THREE OF THE FOLLOWING QUESTIONS, AT LEAST ONE FROM THOSE MARKED WITH AN ASTERISK. ANSWERS MAY BE IN MALTESE OR ENGLISH

- 1.\* Describe the important provisions which a constitution has to include to ensure the observance of the Rule of Law.
- 2.\* Compare the constitutional position of the Prime Minister of Malta with that of the President of the United States of America.
3. How are: i) the right to property (50%), and ii) the privacy of one's own home (50%) safeguarded and protected in Maltese Human Rights Law?
- 4.\* Illustrate how the Constitution of Malta creates an independent Judiciary which protects the supremacy of the Constitution over Parliament.
5. To what extent is parliament the only law-making body in Malta?
6. a) How does the Constitution of Malta guarantee that free elections are held which reflect the will of the electorate (60% of the marks)  
b) Describe the constitutional process by means of which the Constitutional Court of Malta is at any time composed (40% of the marks).

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.B. I YEAR  
MAY/JUNE SPECIAL SESSION 2004

CONSTITUTIONAL LAW

MONDAY, 21<sup>ST</sup> JUNE, 2004

9.00a.m. – 12.00noon

ANSWER ANY THREE OF THE FOLLOWING QUESTIONS, AT LEAST ONE FROM THOSE MARKED WITH AN ASTERISK. ANSWERS MAY BE IN MALTESE OR ENGLISH.

1. \*To what extent does the doctrine of the Separation of Powers still exist in the Constitution of Malta?
2. No right is absolute. Discuss with particular reference to the Fundamental Human Rights of Freedom of Expression and of Peaceful Assembly. (50% of the marks each).
3. \*The Prime Minister of Malta is a creature of the 'conventions of the Constitution'. Discuss.
4. \*To what extent do the powers and functions of the President of Malta make him a guardian of the Constitution?
5. Illustrate the jurisdiction of the Constitutional Court of Malta.
6. Illustrate the Constitutional provisions on any two of the following (50% of the marks each):
  - a) The neutrality of Malta;
  - b) The Public Service Commission;
  - c) The Broadcasting Authority;
  - d) The Electoral Commission;

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.B. I YEAR  
SEPTEMBER SESSION 2004

CONSTITUTIONAL LAW

SATURDAY, 11<sup>TH</sup> SEPTEMBER, 2004

9.00a.m – 12.00noon

ANSWER ANY THREE OF THE FOLLOWING QUESTIONS, AT LEAST ONE FROM THOSE MARKED WITH AN ASTERISK. ANSWERS MAY BE IN MALTESE OR ENGLISH.

1. "Unwritten constitutions are in practice flexible but written constitutions are not necessarily rigid." (O. Hood Philips and Jackson) To what extent, in your considered opinion, is the Constitution of Malta both rigid and supreme.
- 2.\* Mention and illustrate the circumstances in which the President of Malta may exercise the presidential prerogatives in his own deliberate judgement.
- 3.\* The Doctrine of the Separation of Powers to-day exists only in the independence of the judiciary from the Executive and Parliament. Discuss.
4. Illustrate the remedies provided for a breach of a person's Fundamental Human Rights under  
(a) Constitution of Malta (50% of the marks)  
and  
(b) the European Convention Acts – Chapters 319 Laws of Malta (50% of the marks)
5. "The right to a fair hearing, being a procedural right, is as important as any substantive right guaranteed by the Maltese Constitution". Discuss.
- 6.\* "The Prime Minister enjoys enormous power; but never more than that of a Cabinet united against him". Discuss.

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.B. I YEAR  
MAY/JUNE 2006 SESSION 2006

*Constitutional Law*

THURSDAY, 8<sup>th</sup> JUNE, 2006

9.15a.m. – 12.30p.m.

Instructions to Candidates: You have 15 minutes in which you have to read the examination paper.

ANSWER ANY THREE OF THE FOLLOWING QUESTIONS, AT LEAST ONE FROM THOSE MARKED WITH AN ASTERISK. ANSWERS MAY BE IN MALTESE OR ENGLISH

1. To what extent, if at all, is the Diceynian formulation of the Rule of Law outdated when compared to the modern understanding of the Doctrine.
- 2.\* The practical limitations to Parliament's legislative function represent a serious dilution of its sovereignty. Discuss
- 3.\* 'The Office of the Prime Minister in Malta is coming closer than ever before to that of the Executive President in the United States.' Discuss with the Constitutional validity of this statement.
- 4.\* The Constitutional Court is the king pin of the Separation of Powers in Malta. Discuss taking into consideration the Jurisdiction, powers and independence of the Constitutional Court of Malta.
5. Mention and illustrate the Maltese Constitutional situation of the following:
  - a) The Constitutional mechanisms ensuring majority rule at a General Election
  - b) The composition and functions of the Electoral Commission
  - c) The 'corrupt practices' and the remedies they give rise to at law during or after a General Election
6. 'The right to a fair hearing, even though a procedural right, permeates the entire human rights law texture'. Discuss with particular reference to Maltese decided cases.



UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.B. I YEARS

PBL1010 - CONSTITUTIONAL LAW

TUESDAY, 12TH JUNE 2007

9.15AM - 12.15PM

ANSWER ANY THREE OF THE FOLLOWING QUESTIONS, AT  
LEAST ONE FROM THOSE MARKED WITH AN ASTERISK.  
ANSWERS MAY BE IN MALTESE OR ENGLISH

\* ① The liberty enjoyed by citizens of a State is directly measurable by the degree of authority enjoyed by the Courts in actions undertaken by the citizen against the State. Illustrate the validity or otherwise of this statement.

② "Freedom of expression, assembly and association are the corner stone of any democracy." Discuss

\* ③ "The office of the Prime Minister has barely any legal parameters hedging it. The extent of its powers depends purely on the whims of the holder of such office." Discuss

4. (a) Describe the Jurisdiction of the Constitutional Court of Malta (50%)

(b) Describe the function of the Commission for the Administration of Justice in the procedures for the removal of a Judge (50%)

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5. Describe the Constitutional procedures set in motion, where at a General Election a party:

(a) Obtains a relative majority of the first preference votes at the first count; (25%)

(b) Obtains an absolute majority of the first preference votes at the first count; (25%)

(c) No party obtains an absolute majority of the seats in Parliament after all the votes are counted at the last count; (25%)

(d) After two years from the General Elections loses the absolute majority it had in the House of Representatives. (25%)

\* 6. Since the amendments to article 6 of the Constitution of Malta in December 1974, there is nothing which Parliament cannot do with a two thirds majority of all of its members. To what extent, if at all, is this statement a correct evaluation of the Sovereignty of Parliament in Malta?

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LLB I YEAR (2006/7)

SEPTEMBER RESIT SESSION

EXAMINATION: PBL1010 - Constitutional Law

DATE: Tuesday, 4<sup>th</sup> September 2007

TIME: 9.15-12.15

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ANSWER ANY THREE OF THE FOLLOWING QUESTIONS, AT LEAST ONE FROM THOSE MARKED WITH AN ASTERISK. ANSWERS MAY BE IN MALTESE OR ENGLISH.

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1. \*Illustrate the manner in which the Constitution of Malta applies the doctrine of the Rule of Law.
2. \*The President of Malta must always act on the advice of the Prime Minister. Illustrate the extent to which this statement correctly describes the constitutional relationship between the two constitutional figures.
- 3a. Mention and illustrate all the remedies available to an individual in a judicial action based on Fundamental Human Rights. (50%)
- b. MENTION the complete Parliamentary procedure which a Bill must undergo before becoming an enforceable Act of Parliament. (50%)
4. Distinguish the constitutional meanings of the following:
  - a. Actio popularis and actio personalis. (25%)
  - b. Human Rights provisions contained in Chapter 2 and those contained in Chapter 4 of the Constitution of Malta (25%)
  - c. An absolute majority, a simple majority and a two thirds majority of Parliament (25%)
  - d. The majoritarian electoral system and the proportional representation electoral system (25%)
5. \*The Sovereignty of Parliament is a legal concept riddled by numerous practical limitations rendering it often meaningless. Discuss
6. Outline the general and specific requirements of fairness embedded in article 39 of the Constitution of Malta. Illustrate with reference to the Maltese decided cases.

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LLB I YEAR (2007/8)  
MAY/JUNE 2008 SESSION OF EXAMINATIONS

EXAMINATION: PBL1010 - Constitutional Law

DATE: Monday, 9<sup>th</sup> June 2008

TIME: 9.15a.m. - 12.15p.m.

ANSWER ANY THREE (3) QUESTIONS. AT LEAST ONE (1) SHOULD BE FROM THOSE MARKED WITH AN ASTERISK (\*). ANSWERS MAY BE IN MALTESE OR ENGLISH.

- 1\* 'We believe in a rule of law which reflects and protects without fear or favour in the rights and liberties of every citizen and protects the setting in which the human spirit can develop in freedom and diversity'. Illustrate the extent to which, in your considered opinion, the Constitution of Malta implements the notion of the Rule of Law.
- 2\* Article 65 of the Constitution of Malta empowers Parliament to 'make laws for the peace, order and good government of Malta'. Discuss with reference to the sources of Maltese constitutional law, the extent to which Parliament is the only body empowered 'to make laws' for Malta.
- 3\* 'The convention of ministerial responsibility is perhaps the most important non-legal rule within [the British] constitution'. Discuss with particular reference to the constitutional position as obtaining in Maltese Constitutional law.
4. The Constitutional Court of Malta is the true guardian of the supremacy of the Constitution. Illustrate the correctness of this statement by making reference to: the jurisdiction, composition and jurisprudence of the Constitutional Court of Malta.
5. a) Explain the mechanisms which the Constitution of Malta provides for the observance of principle of proportional representation in the following situations after a general election: (60%)
  - A party obtaining the absolute majority of all of the first preference votes;
  - A party obtaining the relative majority of all of the first preference votes;
  - A party obtaining the minority of all of the first preference votes.b) The composition and functions of the electoral commission. (40%)
6. The three freedoms of expression, assembly and association, though necessary in a democratic society, must contain restrictions and limitations. Discuss.

UNIVERSITY OF MALTA

FACULTY OF LAWS

LL.B. 1 YEAR

SEPTEMBER 2008 SESSION

FRIDAY 12<sup>TH</sup> SEPTEMBER, 2008

9.15AM – 12.15PM

ANSWER ANY THREE (3) QUESTIONS. AT LEAST ONE (1) SHOULD BE FROM THOSE MARKED WITH AN ASTERISK (\*). ANSWERS MAY BE IN MALTESE OR ENGLISH.

- 1.\* The doctrine of the separation of powers has lost most of its significance in modern constitutional practice except where the independence of the judiciary is concerned. Discuss
2. "The right to a fair hearing holds a prominent place in a democratic society and there can be no justification for interpreting it restrictively." Discuss with reference to Maltese and European case-law.
- 3.\* The increase in the Prime Minister's powers over the years has transformed our system of Government into a presidential one". Discuss
- 4.\* "The legislative supremacy of Parliament means that there is no legal limit to the extent to which Parliament can abridge or abolish rights that in other countries may be regarded as fundamental" (O.Hood Phillips and Jackson) . Illustrate the extent to which this statement is applicable to the constitutional situation as obtaining in Malta.
5. (a) mention and explain the situations in which the Constitutional Court of Malta may intervene in cases involving corrupt practices; (50%)  
(b) illustrate the judicial remedies available to an individual in obtaining a remedy for a breach of fundamental human rights in Malta. (50%)
6. Illustrate the characteristics which according to the Constitution of Malta make the Maltese State:
  - a) a unitary State
  - b) a Republic
  - c) a neutral State
  - d) a State which observes human rights

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.B. Year I (2008/9)  
JUNE 2009 SESSION EXAMINATIONS

EXAMINATION: PBL1010 - CONSTITUTIONAL LAW  
DATE: MONDAY, 15<sup>TH</sup> JUNE 2009  
TIME: 9.15 a.m.-12.15 p.m.

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ANSWER ANY THREE (3) QUESTIONS. AT LEAST ONE(1) SHOULD BE  
FROM THOSE MARKED WITH AN ASTERISK (\*). ANSWERS MAY BE IN  
ENGLISH OR MALTESE

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- 1\*. The Constitution "is not solely made up of norms which are law in the sense that they are judicially enforceable; it is an amalgam of principles, symbols, conventions and norms which all together make up the living constitution of the State."(Professor Ian Refalo). Discuss.
  
2. "s-subartikolu 5 ta' l-artikolu 76 jaghti setghat kbar ta' garanzija kostituzzjonali, kontra kull abbuz possibli min-naha ta' l-Ezekuttiv.."(Sub section 5 of section 76 grants large powers of constitutional guarantee against any possible abuse on the part of the executive)-President Emeritus Dr. Ugo Mifsud Bonnici-II-Manwal tal-President tar-Repubblika. By assessing the various situations in which the President may act in his deliberate judgement discuss the extent to which you would consider the President of Malta a guardian of the Constitution of Malta.
  
- 3\*. President Emeritus Prof. Guido De Marco opines that "a cabinet made up of a field marshal and a number of sergeant majors" would "give the premiership a standing far removed from the concept of primus inter pares." (The Politics of Persuasion). Discuss the extent to which the statement expresses more of a constitutional desideratum than a political reality.
  
4. Mention and briefly illustrate the corrective mechanisms contemplated by Maltese law to ensure that an electoral result at a general election be proportional. Indicate if and in which general elections were the said mechanisms made use of to prevent a perverse result from occurring.

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UNIVERSITY OF MALTA  
FACULTY OF LAWS  
SEPTEMBER SESSION 2009  
LL.B. I

PBL1010 – CONSTITUTIONAL LAW

TUESDAY 1<sup>ST</sup> SEPTEMBER, 2009

9.15AM – 12.15PM

Answer any THREE questions of the following:

1. There is not and never has been a strict separation of powers in the English Constitution in the sense that legislative, executive and judicial powers are assigned respectively to different organs, nor have checks and balances between them been devised as a result of theoretical analysis. Discuss with particular reference to the separation of powers as obtaining in the Constitution of Malta.
2. Mention the sources of constitutional law and illustrate each source by giving relevant examples of how each is applied in Maltese Constitutional Law.
3. Illustrate the constitutional differences between a Presidential system of Government and a Prime ministerial one.
4. Mention and describe the main functions of the Maltese Parliament.
5. Illustrate the Constitutional significance of the following:
  - a. the 2007 electoral corrective mechanism;
  - b. the Commission for the Administration of Justice;
  - c. The Constitutional judgment *Mintoff vs Borg Olivier* of the year 1970.
6. The fundamental freedoms of expression, assembly and association are not absolute and can be restricted in the public interest and for the protection of the rights of others. Discuss with particular reference to Maltese decided cases.

UNIVERSITY OF MALTA

FACULTY OF LAWS

LLB I YEAR (2009/0)

MAY/JUNE 2010 EXAMINATIONS

EXAMINATION: PBL1010 - Constitutional Law

DATE: Friday, 18th June 2010

TIME: 8.00a.m. - 11.00a.m.

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ANSWER ANY THREE (3) QUESTIONS. YOU HAVE TO CHOOSE  
ONE QUESTION FROM THOSE MARKED WITH AN ASTERISK \*\*

ALL QUESTIONS CARRY EQUAL MARKS.

- \*1. The Constitution of Malta is not the only source of Maltese Constitutional Law. Discuss in the light of the sources of Maltese constitutional law.
  2. Which, in your opinion, is the more distinctive function of Parliament? Explain briefly the reasons for your choice.
  - \*3. Democracy reduces itself merely to the periodic holding of free elections. Discuss.
  4. Enumerate and discuss briefly those functions which the President of the Republic exercises according to his own deliberate judgement, that is without taking advice.
  5. Describe the jurisdiction and composition of the Constitutional Court in Malta.
  - \*6. No fundamental human right would be adequately protected without guaranteeing the right to a fair hearing. Discuss.
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UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LLB I YEAR

PBL1010 – CONSTITUTIONAL LAW

SATURDAY, 11<sup>TH</sup> SEPTEMBER 2010

9.15AM – 12.15PM

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ANSWER ANY THREE (3) QUESTIONS. YOU HAVE TO CHOOSE ONE QUESTION FROM THOSE MARKED WITH AN ASTERISK (\*).

ALL QUESTIONS CARRY EQUAL MARKS.

\*1. The separation of powers is the practical application of the theories expounded by the Rule of Law. Discuss with reference to the Constitution of Malta.

2. The first preference vote has to-day acquired a national importance far wider than its function at the district level. Discuss in the context of the "majority amendments" to the Maltese electoral system.

3. The Prime Minister of Malta is "a creature of convention." Discuss the correctness of this statement.

\*4. To what extent would you consider the Parliament of Malta less sovereign than the Constitution?

5. Illustrate the extent to which the amendments of 1974 have strengthened the judiciary?

\*6. Freedom of expression is not absolute but has its restrictions and limitations. Discuss the above statement by reference to the case law of the European Court of Human Rights and the Constitution of Malta.

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
DEPARTMENT OF PUBLIC LAW  
LL.B. I YEAR (2010-2011)  
MAY/JUNE 2011 EXAMINATION

EXAMINATION: PBL 1010 – Constitutional Law  
DATE: Tuesday, 21<sup>st</sup> June 2011  
TIME: 11.45 a.m. – 2.45 p.m.

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ANSWER THREE (3) QUESTIONS. YOU HAVE TO CHOOSE ONE QUESTION FROM THOSE MARKED WITH AN ASTERISK '\*\*'

ALL QUESTIONS CARRY EQUAL MARKS. EVERY PART OF QUESTION 2 CARRIES EQUAL MARKS

1. What are the salient features of the Constitution of Malta?
- \* 2. What does the Constitution of Malta provide in respect of any THREE of the following:
  - (a) the Employment Commission
  - (b) the Electoral Commission
  - (c) the Public Service Commission
  - (d) the Commission for the Administration of Justice
  - (e) the Broadcasting Authority
3. What are the sources of Maltese Constitutional Law?
- \* 4. 'The President of Malta is a figurehead.' To what extent, if at all, are you willing to endorse this statement?
5. Freedom <sup>of</sup> expression is not absolute. Discuss.
- \* 6. 'The doctrine of separation of powers is applied in Malta in a very rigid manner.' Do you agree with such statement?

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UNIVERSITY OF MALTA  
FACULTY OF LAWS  
DEPARTMENT OF PUBLIC LAW  
LL.B. I YEAR (2010-2011)  
SEPTEMBER 2011 EXAMINATION

EXAMINATION: PBL 1010 -- Constitutional Law  
DATE: Thursday, 1<sup>st</sup> September 2011  
TIME: 9.15 a.m. - 12.15 p.m.

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ANSWER THREE (3) QUESTIONS. YOU HAVE TO CHOOSE ONE QUESTION FROM THOSE MARKED WITH AN ASTERISK '\*\*'

ALL QUESTIONS CARRY EQUAL MARKS.

1. 'Malta is a neutral state actively pursuing peace, security and social progress among all nations by adhering to a policy of non-alignment and refusing to participate in any military alliance.' (Article 1(3) of the Constitution of Malta) Discuss.
- \* 2. How are the members of the Public Service Commission appointed and removed? What are the functions of the said Commission in terms of the Constitution of Malta and subsidiary legislation made thereunder?
3. Discuss the provisions of article 34 of the Constitution of Malta dealing with the protection of from arbitrary arrest or detention and relevant case law.
- \* 4. The Constitution of Malta establishes a Constitutional Court. How is it composed? What jurisdiction does the Constitution ascribe to this Court? Discuss three cases decided by this Court.
5. 'The Constitution of Malta is the supreme law.' To what extent are you willing to endorse this statement?
- \* 6. How are the Speaker and Deputy Speaker of the House of Representatives appointed and removed? What are their constitutional functions? Discuss one ruling delivered by the Speaker.

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LLB I YEAR (2011/2)  
MAY/JUNE 2012 SESSION OF EXAMINATION

EXAMINATION: PBL1010 – Constitutional Law  
DATE: Thursday, 21<sup>st</sup> June 2012  
TIME: 8.00 – 11.00 A.M.

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ANSWER THREE (3) QUESTIONS. YOU HAVE TO CHOOSE AT LEAST ONE QUESTION FROM THOSE MARKED WITH AN ASTERISK (\*).

ALL QUESTIONS CARRY EQUAL MARKS. EVERY PART OF QUESTION 5 CARRIES EQUAL MARKS.

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- \*1. All roads in the Constitution lead to the Prime Minister. Discuss the accuracy or otherwise of this statement.
  - \*2. Art. 39 of the Constitution (right to a fair hearing) is the corner stone of Chapter IV of the Constitution of Malta. Discuss.
  - \*3. The separation of powers in Malta depends on the judiciary and Parliament keeping each other within the parameters of the Constitution. Discuss the extent to which the statement is a true reflection of the constitutional situation in Malta.
  4. The decisions of the European Court of Human Rights in Strasbourg have become an important source of law in Malta. Discuss this statement by making reference to landmark decisions of the European Court of Human Rights and illustrate why in your considered opinion they had an important impact on Maltese constitutional and human rights law.
  5. Illustrate the workings of the corrective mechanisms contained in article 52 of the Constitution of Malta available whenever at a General Election:
    - a. A party obtains in the aggregate the absolute majority of all the valid first preference votes but does not win the absolute majority of the seats in the House of Representatives;
    - b. A party which obtains in the aggregate the relative majority of all the valid first preference votes but does not win the absolute majority of the seats in the House of Representatives, in a two-party Parliament;
    - c. A party which obtains in the aggregate the relative majority of all the valid first preference votes but does not win the absolute majority of the seats in the House of representatives, in a Parliament in which candidates of only four parties are represented.
  6. Mention three characteristics which the Constitution of Malta adopts to describe the State of Malta and indicate how the Constitution defines and describes each of the characteristics chosen by you.
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UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.B. I YEAR  
PBL1010 – CONSTITUTIONAL LAW

FRIDAY 7<sup>TH</sup> SEPTEMBER, 2012      9.15 A.M. – 12.15 P.M.

ANSWER THREE (3) QUESTIONS. YOU HAVE TO CHOOSE AT  
LEAST ONE QUESTION FROM THOSE MARKED WITH AN  
ASTERISK (\*).

ALL QUESTIONS CARRY EQUAL MARKS. EVERY PART OF  
QUESTION 5 CARRIES EQUAL MARKS.

- \* 1. “In effect the real wielder of power is the Cabinet, composed of the Prime Minister and the other Ministers, and described by the Constitution as having ‘the general direction and control of the government’; and in modern practice (both in the United Kingdom and other constitutions) more particularly the Prime Minister, who has been described as the keystone of the Cabinet arch”. (Professor J.J. Cremona).  
Discuss the statement and illustrate its applicability with particular reference to the Constitutional position obtaining in Malta.
2. “Freedom of expression and association are not absolute rights in our Constitution”. Discuss with particular reference to Maltese decided cases.
- \*3. Illustrate the manner in which the principles of the Rule of Law feature in the Constitution of Malta.
4. Describe the constitutional provisions which guarantee free and fair elections, and an electoral result which reflects the will of the people.
- \*5. (a) In which cases does the Constitution of Malta allow the President to act according to his own deliberate judgment;  
(b) Describe the jurisdiction of the Constitutional Court of Malta.

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.B. HONS. I YEARS (2012/13)  
MAY/JUNE 2013 SESSION OF EXAMINATIONS  
PBL1010 – CONSTITUTIONAL LAW

FRIDAY 21<sup>ST</sup> JUNE, 2013

9.15AM – 12.15 PM

**ANSWER THREE (3) QUESTIONS. YOU HAVE TO CHOOSE AT LEAST ONE QUESTION FROM THOSE MARKED WITH AN ASTERISK (\*)**

All questions carry equal marks. Every part of question 2 carries equal marks.

1. \*In modern constitutional practice, the obligation of the State to observe the Doctrine of the Rule of Law has been effectively replaced by the obligation on the part of the State to safeguard constitutionally the Fundamental Rights and Freedoms of the individual.  
Discuss the statement by making particular reference to the constitutional situation obtaining in Maltese constitutional law.
2. (a) Illustrate and explain the safeguards contained in the Constitution of Malta to ensure that, after a General Election, the final allocation of seats by the Electoral Commission to those political parties with candidates elected to the House of Representatives, respects, the right of the “Minority Party” to a proportionate number of seats to the votes obtained. (50% of the marks)  
(b) Mention and illustrate how the powers and the composition of the Commission for the Administration of Justice are the ultimate guarantee of the independence of a member of the judiciary facing a motion before Parliament for removal from office. (50% of the marks)
3. \*The Constitution of Malta only recognises the collective ministerial responsibility to Parliament but fails to recognise the individual ministerial responsibility to Parliament. Discuss the extent to which, if at all, this statement is a true and correct reflection of the provisions of the Constitution of Malta and of Malta’s parliamentary practice.

4. \*The supremacy of any Constitution is what the judiciary makes it out to be. Discuss
5. Illustrate by making reference to leading cases of the European Court of Human Rights of Strasbourg how the frontiers of Human Rights go beyond the national boundaries or even, perhaps, the boundaries of Europe.

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.B. HONS. 1<sup>ST</sup> YEAR  
SEPTEMBER 2013  
PBL1010 – CONSTITUTIONAL LAW

WEDNESDAY, 4<sup>TH</sup> SEPTEMBER 2013

9.15AM – 12.15PM

ANSWER THREE (3) QUESTIONS. YOU HAVE TO CHOOSE AT LEAST ONE QUESTION FROM THOSE MARKED WITH AN ASTERISK (\*).

ALL QUESTIONS HAVE EQUAL MARKS.

1. \* Mention and describe the sources of Constitutional Law. Illustrate your answer by providing for each source discussed examples applicable to Maltese Constitutional Law.
2. \* The Constitution of Malta empowers and safeguards the Constitutional Court so that it will be an effective guardian of the Constitution's supremacy. Discuss.
3. \* To what extent, if at all, would you agree that the Prime Minister and the President of Malta are both 'creatures of convention'?
4. How have the European Court of Human Rights' decisions been implemented by the Maltese Constitutional Court? Discuss this statement in the light of the case law of the Constitutional Court.
5. The Constitution of Malta extends the protections given to members of the judiciary, to safeguard their independence, to other authorities considered essential for the proper constitutional functioning of the State. Discuss the correctness of this statement by mentioning such authorities and describing the constitutional protection afforded to each one of them.



UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.B. HONS YEAR I  
PBL1015 – CONSTITUTIONAL LAW

Monday 23<sup>rd</sup> June, 2014

9.15am – 12.15pm

**ANSWER THREE QUESTIONS OF WHICH AT LEAST ONE QUESTION FROM THOSE MARKED WITH AN ASTERISK (\*) ALL QUESTIONS AND SUB-SECTIONS CARRY EQUAL MARKS.**

1. \*The leading cases of *Mintoff vs. Borg Olivier*, Constitutional Court, 1971, have sealed the dominance of Constitutional supremacy over Parliamentary supremacy. Discuss.
2. \*The difference between the constitutional doctrines of collective and individual ministerial responsibility centres around what the Prime Minister makes of them. To what extent is this statement an accurate reflection of contemporary Maltese constitutional practice?
3. \*The correct balance between the constitutional independence of the Judiciary and their accountability to Society depends on a harmonious interaction between Parliament and the Commission for the Administration of Justice.

Examine the validity of this statement in the light of the powers and composition of the Commission for the Administration of Justice within Malta's constitutional set-up.

4. "Article 10 of the European Convention on Human Rights protects the right to exercise freedom of expression. However, this freedom is not without restrictions." Explain this statement by:
  - (a) setting out the right to freedom of expression by reference to pertinent case law of the European Court of Human Rights;

(b) discussing the restrictions imposed upon freedom of expression by reference to pertinent case law of the European Court of Human Rights;

(c) referring in detail to the application of freedom of expression to the facts of the case in any ONE of the following three cases on freedom of expression decided by the European Court of Human Rights where Malta was the respondent State, namely:

(i) Lombardo and Others v. Malta (24 April 2007), or

(ii) Aquilina and Others (14 June 2001), or

(iii) John Anthony Mizzi v. Malta (22 November 2011).

Only one case has to be discussed in detail from sub-paragraphs (i), (ii) and (iii) of paragraph (c.)

5. Illustrate how the relevant constitutional corrective mechanisms contemplated by the Constitution of Malta and the General Elections Act were utilised in each of the following General Elections to provide the final composition of their relative House of Representatives:

a) The General Elections of 1987;

b) The General Elections of 1996;

c) The General Elections of 2008;

d) The General Elections of 2013.

6. The Constitution of Malta provides that the President of Malta acts on the advice of the Prime Minister. There exist instances in which the President of Malta needs act on the advice of another constitutional authority or on her own deliberate judgment.

Mention and describe one instance in which the Constitution provides that the President has to act on the advice of another authority, other than the Prime Minister, and the situations in which the President may act in her own deliberate judgment.

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LLB HONS 1st YEAR

**EXAMINATION: PBL1015 – Constitutional Law**

**DATE: Tuesday 9<sup>th</sup> September 2014**

**TIME: 09.15AM – 12.15PM**

*Answer three questions of which at least one from those marked with an asterisk  
All questions and parts thereof carry equal marks*

1. Article One of the Constitution of Malta describes the State of Malta as a sovereign Republic enjoying a neutral status. Describe: (a) The constitutional process through which Malta acquired independence from Great Britain; (b) the constitutional process through which Malta became a Republic; and (c) the constitutional meaning of Malta's neutral status.
2. Mention and illustrate the constitutional stages and requirements a Bill requires to become effective law. Your answer needs to include any specific requirements applicable to a Bill amending the Constitution of Malta.
3. \*The Office of the Prime Minister of Malta has over the past fifty years become in practice quasi-Presidential in nature. Discuss.
4. Discuss the legislative development of human rights in Malta from the Declaration of Rights of the Inhabitants of the Islands of Malta and Gozo till the latest amendments in 2014.
5. \*Mention and illustrate the jurisdiction of the Constitutional Court of Malta and the measures adopted by the Constitution of Malta to safeguard the independence and proper functioning of the Constitutional Court.
6. \*The Rule of Law is a ruler which measures the democratic nature of a state's legal system. To what extent would you subscribe to the above description of the doctrine of the Rule of Law as applied to Maltese constitutional law?

UNIVERSITY OF MALTA

FACULTY OF LAWS

LL.B. HONS. 1<sup>ST</sup> YEAR

MAY/JUNE 2015 EXAMINATIONS

EXAMINATION: PBL1015 – CONSTITUTIONS/LAW

DATE: MONDAY 1<sup>ST</sup> JUNE, 2015

READING TIME: 11.30AM to 11.35AM      DURATION OF EXAMINATION: 11.35AM to 2.35PM

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INSTRUCTIONS TO STUDENTS:

ANSWER ANY THREE QUESTIONS OF WHICH AT LEAST ONE QUESTION FROM THE QUESTIONS MARKED BY AN ASTERISK

All questions carry equal marks.

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1. \*The outcome of an electoral result according to the Proportional Representation System through the Single Transferable Vote depends on the result of the last count, whilst the outcome of an electoral result according to the 'corrective mechanism' depends on the result of the first count. Discuss the statement in the light of Malta's constitutional and electoral rules and practices.
2. \*After independence, no dissolution of Parliament took place in Malta as a direct result of a 'Vote of No Confidence' in the Prime Minister as contemplated by article 76 of the Constitution of Malta.  
Discuss the correctness of the statement by referring to the relevant conventions and rules of the Constitution of Malta as applied by the Maltese institutions in particular those involving the 1998 and 2013 dissolutions of Parliament.

3. \*On a careful reading of the relevant jurisprudence, in addition to the provisions found in the Constitution of Malta outlining the jurisdiction of the Constitutional Court of Malta and those of Chapter 319 of the Laws of Malta, to what extent would you consider that ultimately the true guardian of the Constitution of Malta is the Maltese Constitutional Court but the true guardian of Fundamental Human Rights in Malta is the European Court of Human Rights of the Council of Europe in Strasbourg?
4. To what extent is the right to property guaranteed under Maltese Constitutional law?
5. Describe the measures found in the Constitution of Malta to ensure :
  - (i) The neutral status of the State of Malta; (34%);
  - (ii) The rigid nature of the Constitution of Malta (33%);
  - (iii) The Electoral boundaries of the Island of Gozo (33%).
6. The modern notion of the Doctrine of the Rule of Law renders itself to many interpretations but without this Doctrine a true democratic understanding of the Constitution of Malta becomes practically impossible. Discuss.

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.B. HONS. 1<sup>st</sup> YEAR  
MAY/JUNE 2016 EXAMINATIONS

EXAMINATION: PBL1015 CONSTITUTIONAL LAW

DATE: 13<sup>th</sup> JUNE 2016

READING TIME: 10.00AM TO 10.05AM

DURATION OF EXAM: 10.05AM TO 1.05PM

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INSTRUCTIONS TO STUDENTS:

ANSWER ANY THREE QUESTIONS OF WHICH AT LEAST ONE QUESTION FROM THE QUESTIONS MARKED BY AN ASTERISK.  
ALL QUESTIONS CARRY EQUAL MARKS.

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1. \*"A number of autochthonous (that is, home-grown) constitutional practices have emerged since Malta attained independence."( Prof. David.J. Attard, *The Maltese Legal System, Vol. II, Constitutional and Human Rights Law, Part A*, page 99). Discuss. Illustrate your answer with examples of constitutional conventions found in Maltese constitutional law.
2. By making reference to the General Elections in Malta which brought into operation the so-called electoral 'corrective mechanisms', describe how the Constitution of Malta has ensured that the balance between the parties in Parliament reflected the will of the electorate.
3. \*By comparing and contrasting the constitutional powers of the Prime Minister of Malta and of the President of the United States of America discuss the extent to which, if at all, the powers of the Prime Minister have become presidential.
4. \*The Rule of Law is meaningless unless the judiciary is constitutionally independent from the Executive and Parliament. Discuss with particular attention to the understanding of the Rule of Law within the Maltese Constitution.
5. Court decisions are considered to be an important source of Maltese constitutional Law. Illustrate the validity of this statement with reference to

three judgements which in your considered analysis have proven to be a source of Maltese constitutional law. ( Each case selected carries equal marks)

6. To what extent is the right to property guaranteed under the Maltese human rights law. Illustrate your answer with reference to decided cases of the Maltese Constitutional Court and the European Court of Human Rights.

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.B. HONS. 1<sup>st</sup> YEAR  
SEPTEMBER 2016 EXAMINATIONS

PBL1015 CONSTITUTIONAL LAW

DATE: Monday, 5th September 2016

READING TIME: 8.30AM TO 8.35AM

DURATION OF EXAM: 8.35AM TO 11.35AM

ANSWER ANY THREE QUESTIONS OF WHICH AT LEAST ONE QUESTION FROM THE QUESTIONS MARKED BY AN ASTERISK.

ALL QUESTIONS CARRY EQUAL MARKS.

1. Discuss and illustrate the sources of Maltese Constitutional Law.
2. \*Outline the extent to which the right to a fair hearing is guaranteed under Maltese human rights law, illustrating your answer with references to judgments of the Maltese Constitutional Court and the European Court of Human Rights.
3. \*Briefly outline the powers of the Prime Minister under the Constitution of Malta, underlining those factors which may restrict and circumscribe such powers.
4. \*The Doctrine of the Separation of Powers under modern Constitutional practice has lost most of its meaning. Discuss
5. Mention and illustrate the constitutional situations in which the President of Malta may act in her own deliberate judgment.
6. To what extent, if at all, would you consider the Maltese electoral system to have evolved into a hybrid constitutional system marrying the majoritarian and proportional representational electoral systems?



UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.B. HONS. 1<sup>ST</sup> YEAR  
JUNE 2017 EXAMINATIONS

PBL1015 CONSTITUTIONAL LAW

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DATE: Tuesday 20<sup>th</sup> June 2017

EXAMINATION TIME: 10.00am TO 1.05pm

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ANSWER ANY THREE QUESTIONS INCLUDING AT LEAST ONE QUESTION FROM THOSE MARKED WITH AN ASTERISK (\*).

ALL QUESTIONS CARRY EQUAL MARKS.

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- 1.\* "The concept of the Rule of Law is a politico-legal concept. It expresses the desire that the state operates within a legal framework, one which guarantees the rights of the individual, the independence of the judiciary and the free expression of the electorate". *Borg Tonio, A Commentary on the Constitution of Malta, Kite, 2016, p.22*. Discuss, with particular reference to the manner in which the Rule of Law manifests itself within the Constitution of Malta.
  
2. To what extent is the right to property guaranteed in Maltese Constitutional Law. Illustrate your answer by referring to jurisprudence.
  
- 3.\* In Maltese parliamentary democracy, a prime minister has powers comparable to those of an executive president. Discuss.

4. At a general election in Malta in which 310,655 valid votes were cast:

a) Party X wins 170,976 first preference votes and elects 37 seats to the House of Representatives;

b) Party Y wins 135,696 first preference votes and elects 28 seats to the House of Representatives;

c) Only candidates from Parties X and Y were elected to Parliament

d) After the corrective mechanism, Party X remains with 37 seats whilst Party Y has its parliamentary group increased by the Electoral Commission to 30 seats.

Illustrate the relevant constitutional reasoning explaining the Corrective Mechanism solution as described in (d) to the electoral circumstances in (a), (b) and (c) above.

5. "One of the most fundamental functions of the constitution of any state is to identify the sources of its law"- The Supreme Court of Britain in *R (on the application of Miller and another v. Secretary of State for exiting the European Union)* decided 24 January 2017. In discussing the sources of Maltese constitutional law, illustrate how in your considered opinion the constitutional law of Malta describes European Union law as a source of law in Malta.

6.\* The Constitution of Malta guarantees the independence of the judiciary in restricting the discretion of the Executive in the appointment and removal of members of the judiciary. Discuss the validity of this statement in the context of the relevant provisions of Maltese constitutional Law.

**UNIVERSITY OF MALTA  
FACULTY OF LAWS**

**PBL 1015 CONSTITUTIONAL LAW**

Date: Thursday 7<sup>th</sup> September 2017

Duration of Examination: 8.30am to 11.35am

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**INSTRUCTIONS TO STUDENTS:**

**ANSWER THREE (3) QUESTIONS FROM THE FOLLOWING OF WHICH AT LEAST ONE QUESTION FROM THOSE MARKED WITH AN ASTERISK**

**ALL QUESTIONS CARRY EQUAL MARKS.**

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1. \*The doctrine of the Separation of Powers has in modern Constitutional law practice a greater meaning in Presidential constitutional models than in Parliamentary systems based on the Westminster model. Discuss by comparing and contrasting at least one Presidential constitution and one Parliamentary constitution.
2. Discuss the extent to which, if at all, the so-called 'Republic' amendments to the Constitution of Malta enacted by Parliament through Acts LVII and LVIII of 1974 modified the protections to the supremacy of the Constitution of Malta originally introduced in the 1964 'Independence' Constitution of Malta.
3. \*Maltese constitutional law allows the President of Malta to act in her own deliberate judgement primarily so that the President of Malta ensures that Malta has at all times a functioning Cabinet together with a Prime Minister who enjoys the confidence of the House of Representatives. Discuss the

statement in the light of the powers and functions of the President as contained in Maltese constitutional law.

4. The Constitution of Malta limits the ordinary legislative function of Parliament by imposing qualified majorities which must be observed for Parliament to amend the Constitution. Discuss the extent to which you agree to this statement by illustrating the ordinary legislative process of Parliament and the qualified majorities mentioned in the Constitution of Malta.
5. The Constitution of Malta describes the State of Malta as a neutral State. Illustrate the manner in which the Constitution defines the nature of Malta's neutral status. In your answer describe whether, in your considered opinion, it remains relevant within the contemporary context.
6. \* "The right to a fair hearing is indeed the most fundamental human rights enshrined in Chapter IV of the Constitution of Malta and the European Convention on Human Rights". Discuss this statement by reference to the jurisprudence of the Maltese Courts and of the European Court of Human Rights.

**University of Malta**  
**Faculty of Laws**  
**May/June 2018 Examinations**

**PBL1015 – Constitutional Law**

Friday 1<sup>st</sup> June 2018

Duration of examination: 8:30am – 11:35am

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**INSTRUCTION TO STUDENTS:**

**Answer any three questions with at least one marked with the asterisk (\*). All questions carry 33 marks, with one mark awarded on an *ex gratia* basis.**

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1. \*The existence of the Rule of Law in Malta centres around the observance by the State, in an equal manner, of the fundamental human rights provisions found in Chapter 2 and Chapter 4 of the Constitution of Malta. Discuss.
2. Explain, with reference to cases decided by the Maltese Courts and the European Court of Human Rights, the protection of the right to property in Malta.
3. \*"The post war epoch has seen the final transformation of Cabinet Government into Prime Ministerial Government" (Crossman). Discuss the extent to which the statement reflects realistically the constitutional position obtaining in Malta.
4. The President of the Republic of Italy declared that the Presidency is not limited to simply recording decisions taken by the other organs of the State. To what extent, if at all, do the powers and prerogatives granted to the President of the Republic of Malta by the Constitution and constitutional conventions make the presidency simply a recorder of decisions taken by the other organs of the State?
5. \*Mention and illustrate the protections, given to both the 'majority party' and the 'minority party', by the so-called 'corrective mechanism' contained in article 52 of the Constitution of Malta.
6. Describe, by making reference to leading cases in Maltese constitutional jurisprudence, the manner in which court judgements have proven to be an important source of constitutional law in Malta.

Date: Friday 7<sup>th</sup> September 2018

Duration of Examination: 8:30am – 11:35am

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**INSTRUCTIONS TO STUDENTS:**

ANSWER THREE (3) QUESTIONS FROM THE FOLLOWING OF WHICH AT LEAST ONE QUESTION FROM THOSE MARKED WITH AN ASTERISK (\*)

ALL QUESTIONS CARRY EQUAL MARKS.

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1. \* The sources of Maltese constitutional law are not all 'home grown'. Discuss the statement by giving examples from each source of constitutional law.
2. To what extent, if at all, does The President of Malta enjoy legislative, judicial and executive functions? Illustrate your answer by commenting on each function.
3. \* Parliament in Malta is sovereign but under a more sovereign Constitution. Discuss
4. \* The constitutional strength of the Prime Minister derives principally from rules of political practices considered as binding by those to whom they apply but which are not enforced in a court of law. Discuss.
5. Illustrate in detail the role played by the judiciary in the constitutional processes of appointment and removal of members of the judiciary in Malta.
6. Describe and explain the right of a fair hearing in Malta. Illustrate your answer with reference to decided cases.

University of Malta  
Faculty of Laws

June 2019 Examination Session

PBL1015 CONSTITUTIONAL LAW

Date: Monday 3rd June 2019

Duration of Examination: 1:00PM - 4:05PM

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**INSTRUCTIONS TO STUDENTS:**

Answer **ANY THREE (3)** questions with **at least ONE (1)** marked with the **asterisk (\*)**, including the respective sub questions. ALL questions carry 33 marks, with one mark awarded on an ex gratia basis.

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1. \*Compare and contrast the systems of Separation of Power in a federal state and a unitary state. Discuss with particular reference to the Constitutions of Malta, the United States of America and the regional division of power in Italy.
2. The Constitution of Malta provides for a flexible composition of the House of Representatives depending on the outcome of the workings of the Proportional Representation through the Single Transferable vote on the one hand, coupled by those of the 'Corrective Mechanism' on the other hand. Discuss.
3. \*The most recent constitutional events in the United Kingdom demonstrate that in the Westminster model the pre-eminence of the Prime Minister is directly proportional to the support enjoyed within the Cabinet and Parliament. Discuss the extent to which the statement reflects correctly the constitutional situation obtaining in Malta.
4. Describe the right to a fair hearing in Malta. Illustrate your answer with reference to local and European case law.
5. The powers of the President of Malta are merely ceremonial. Discuss with particular reference to the prerogatives of the President of Malta.
6. \*Answer the following:
  - (a) Explain the jurisdiction of the Constitutional Court of Malta (23 marks);  
**AND**
  - (b) Describe the iter of a Bill through the different stages before the House of Representatives of Malta (10 marks)

University of Malta  
Faculty of Laws

September 2019 Examination Session

**PBL1015 CONSTITUTIONAL LAW**

Date: Friday 6th September 2019

Duration of Examination: 8:30AM - 11:35AM

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**INSTRUCTIONS TO STUDENTS:**

Answer **ANY THREE (3)** questions with at least **ONE (1)** marked with the asterisk (\*), including the respective sub questions. ALL questions carry 33 marks, with one mark awarded on an ex gratia basis.

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1. \* The Maltese Parliament is supreme within the parameters of a more supreme Constitution." Discuss with particular reference to the manner in which Maltese Courts have defined the relationship between 'the supremacies' of the Constitution and of Parliament.
2. \* "Although the Constitution does not expressly refer to the doctrine of the Rule of law, it is embedded within it." (Professor K. Aquilina). Discuss.
3. Describe the guarantees in favour of free and fair elections under Maltese Constitutional Law.
4. In Malta the constitutional protection of the independence and impartiality of the judiciary goes beyond the method of appointment and the removal of the judiciary. Discuss
5. "It is said that freedom of assembly and association constitute a cornerstone of any democracy." Discuss this statement with particular reference to local and ECHR case law.
6. \* The Prime Minister has in reality acquired 'quasi-Presidential' political and constitutional powers which go beyond the definition of 'first among equals'. Discuss the extent to which the statement defines accurately the constitutional situation in Malta.





L-Università  
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**FACULTY OF LAWS  
DEPARTMENT OF PUBLIC LAW  
JUNE/JULY 2020 EXAMINATION SESSION**

**PBL1015 CONSTITUTIONAL LAW**

**Monday 15<sup>th</sup> June 2020**

**Examination time: 08:30 – 11:30 + 60 extra minutes for uploading/downloading.**

In case of difficulty during the examination (issues with exam paper, electricity power cut, internet connection, etc), you may contact the Faculty of Laws on the following:

**Telephone : 2340 3251; 2340 3752**

**Email: [laws@um.edu.mt](mailto:laws@um.edu.mt)**

***Please note that for immediate feedback it is best to communicate using telephone. Use email only if there are circumstances when the use of telephone is not possible.***

Keep your mobile phone handy since important communications during the examination may be communicated by the University through SMS.

You may be subject to an additional oral examination to safeguard against plagiarism, collusion or other misdemeanours.

You may not obtain or seek to obtain advantage in an examination, or give or endeavour to give assistance to other students. Students who are found guilty of a breach of the University Assessment Regulations are liable to disciplinary action which may result in the examination being cancelled and other consequences.

By sitting for this examination, you declare that you are aware of the provisions of the regulations regarding conduct during examinations and you pledge to observe them.

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**INSTRUCTIONS TO STUDENTS:**

Choose ANY **TWO (2)** of the following **FOUR (4)** questions. All Questions carry equal marks. Within each question, you must answer both parts (i.e. you **cannot** pick and choose between parts of questions)

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1. Answer **BOTH** of the below:

(a) In some areas, the Constitution of Malta affords better protection to the individual than the European Convention on Human Rights. In other cases, it is just the opposite. Discuss. (35 marks)

(b) "Constitutional Conventions give flesh to the dry bones of the law". Discuss. (15 marks)

2. By comparing and contrasting the executive and legislative organs of the State in the US and Malta, analyse the different manners in which each interprets the doctrine of the Separation of Powers. (50 marks)

3. Answer **BOTH** of the below:

(a) Malta has in effect not one but two electoral systems. Analyse critically this statement by analysing Malta's constitutional and electoral experience. (35 marks)

(b) Explain how a bill becomes an Act of Parliament in Malta. (15 marks)

4. Answer **BOTH** of the below:

(a) According to the conventions of the Constitution, while Prime Ministers possess enormous powers, they must be exercised in such a manner that ensures Cabinet and parliamentary support. Discuss. (35 marks)

(b) Describe the iter of a human rights action before the Maltese courts and the European Court of Human Rights. (15 marks)



L-Università  
ta' Malta

FACULTY OF LAWS  
DEPARTMENT OF PUBLIC LAW  
SEPTEMBER 2020 EXAMINATION SESSION

**PBL1015 CONSTITUTIONAL LAW**

**Tuesday 15<sup>th</sup> September 2020**

**Examination time: 08:30 – 11:30 + 60 extra minutes for uploading/downloading.**

In case of difficulty during the examination (issues with exam paper, electricity power cut, internet connection, etc), you may contact the Faculty of Laws on the following:

**Telephone : 2340 3251; 2340 3752**

**Email: [laws@um.edu.mt](mailto:laws@um.edu.mt)**

***Please note that for immediate feedback it is best to communicate using telephone. Use email only if there are circumstances when the use of telephone is not possible.***

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By sitting for this examination, you declare that you are aware of the provisions of the regulations regarding conduct during examinations and you pledge to observe them.

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### INSTRUCTIONS TO STUDENTS:

Choose ANY **TWO (2)** of the following **FOUR (4)** questions. All Questions carry equal marks.

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1. Answer **BOTH** of the below:

(a) Human Rights, more than Proportional Representation or the Corrective mechanism, determined the final result at the 2013 General Elections. Discuss the correctness or otherwise of this statement in the light of the judgements of the Constitutional Court of Malta. (35 marks)

(b) *"The rule of law is an exceedingly elusive notion giving rise to a rampant divergence of understanding."* Professor Brian Tamanaha. Discuss in the light of the contemporary notions on the Rule of Law. (15 marks)

2. Answer **BOTH** of the below:

(a) Contrary to the Doctrine of collective ministerial responsibility, it is said that the Doctrine of individual ministerial responsibility does not form part of Maltese Constitutional law or practice. In discussing the validity or otherwise of the statement, explain, compare and contrast the doctrines of individual and collective ministerial responsibility. (35 marks)

(b) Explain and illustrate by making reference to the judgements of the Maltese constitutional Court, the effect which a final decision of nullity by the Constitutional Court of Malta has on the effectiveness *erga omnes* of that decision. (15 marks)

3. Answer **BOTH** of the below:

(a) The Maltese Constitution and the European Convention on Human Rights treat the right to property in a different manner. Quoting local and European jurisprudence, analyse this statement. (35 marks)

(b) The Constitution of Malta limits the power of the majority in Parliament by providing for a qualified majority in the decision making powers of the House of Representatives. Discuss and illustrate your answer by quoting chapter and verse from the relevant parts of the Constitution of Malta. (15 marks)

4. *“Starting from the coming into force of the Independence Constitution, the constitutional development of Malta has been rich, varied and sometimes contradictory”*. Discuss the validity of this statement by selecting three ‘landmark’ constitutional amendments to the Constitution of Malta and illustrating the constitutional importance each has had in the development or otherwise of the constitutional law of Malta. (50 marks)

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First Year Law  
Compulsory Units Past Papers

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# Principles of CRIMINAL LAW

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If you require any further information, have any suggestions or find any mistakes in this publication, do not hesitate to contact us on [resources@ghsl.org](mailto:resources@ghsl.org)

UNIVERSITY OF MALTA  
Faculty of Laws

May/June 2005 Examinations

LL.B. I YEAR

CRIMINAL LAW

28 May, 2005

9.15a.m to 12.15p.m.

Answer a total of THREE questions: one question from each section and one other question from either Section I or from Section II. Answers may be in English or in Maltese.

Use a separate booklet for each question.

SECTION I

1. (a) Discuss how will and understanding are the building blocks with which the general theory of criminal intent in Maltese law is constructed. Furthermore, explain the relevance of motive, premeditation and good faith in this context. (80%)  
  
(b) Distinguish between real and personal circumstances and explain whether they are communicable to other accomplices in a crime. (20%)
2. (a) Explain in detail the different theories that have been put forward at international law to justify the exercise of jurisdiction by states over criminal offences. How, if at all, do these theories find application in section 5 of the Criminal Code. (80%)  
  
(b) Distinguish briefly the notion of justification from the notion of excuse under our law giving an example of each. (20%)
3. Write short notes on three of the following:
  - (a) *actus reus*
  - (b) the rules of double criminality and speciality in extradition
  - (c) continuing offences
  - (d) the defence of young age

P.T.O...../

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4. "The operation of enacted law is not automatic. It has to take effect through interpretation, for, in order that the appropriate legal rule may be applied, it is necessary that the law shall be properly construed and interpreted." (Mamo). Discuss briefly the different approaches to the interpretation of laws and explain those special rules which are applicable to the interpretation of the criminal laws.

## SECTION II

5. Explain in detail the circumstances in which self-defence may be successfully pleaded as a defence against a criminal charge under our law.
6. (a) Carefully explain the general theory of complicity in criminal offences according to our Criminal Code. (80%)
- (b) Why is it that you cannot have a punishable "attempted complicity" but you can have "complicity in an attempted offence". (20%)
7. (a) Explain the general defence of intoxication under our law. (80%)
- (b) Examine concisely the manner in which a person convicted of an offence may become a recidivist under our law and the circumstances when recidivism aggravates the punishment to be awarded. (20%)
8. (a) What are the conditions required for the application of a suspension of a sentence of imprisonment (suspended sentence)? What are the effects of a suspended sentence of imprisonment? (80%)
- (b) Briefly examine the manner in which a minor (person under 18 years of age) can be held criminally responsible for an offence under our law. (20%)



UNIVERSITY OF MALTA  
Faculty of Laws

SEPTEMBER 2005 SESSION EXAMINATIONS

LL.B. I YEAR

CRIMINAL LAW

1<sup>st</sup> September, 2005

9.15 a.m to 12.30 p.m.

Answer a total of THREE questions: one question from each section and one other question from either Section I or from Section II. Answers may be in English or in Maltese.

Use a separate booklet for each question.

SECTION I

1. (a) "Whosoever, through imprudence, carelessness unskilfulness in his art or profession, or non-observance of regulations, causes the death of any person, shall, on conviction, be liable to imprisonment for a term not exceeding four years or to a fine (*multa*) not exceeding five thousand lire" (article 225, Cap. 9).  
Discuss the elements of *culpa* as a ground for criminal responsibility within the framework of the general theory of criminal intent, and then distinguish between the "subjective" and the "objective" theories of negligence in the light of the above provision. (80%)  
  
(b) Explain the personal principle of jurisdiction. (20%)
2. (a) Explain the different forms that the material element of an offence (*actus reus*) can take giving a short account of the importance of the concept of causation in this context. (80%)  
  
(b) Is motive relevant for the purpose of establishing criminal intent? (20%)
3. Write short notes on three of the following:
  - (a) political offences and extradition
  - (b) the territorial principle of jurisdiction
  - (c) Carrara's definition of a criminal offence
  - (d) personal circumstances and complicity

P.T.O...../

4. (a) Explain in detail the problems that arise as a result of changes in the criminal law in the course of time and the rules that are applied to resolve them. (80%)
- (b) Briefly distinguish between excuse and justification giving at least one example of each. (20%)

## SECTION II

5. (a) Carefully examine the requirements of a punishable conspiracy under our law (article 48A of the Criminal Code). (30%)
- (b) Briefly explain the different legal consequences of the distinction between crimes and contraventions. (20%)
6. (a) Explain the general defence of insanity under our law. (80%)
- (b) Can ignorance of the law amount to a defence under Maltese criminal law? (20%)
7. (a) What is an attempted offence? Carefully explain the theories that have been devised which may help to identify a punishable attempt under our law. (80%)
- (b) Can a legal person be held criminally responsible? (20%)
8. (a) When can an order for the suspension of the execution of a sentence of imprisonment (suspended sentence) be awarded to a person convicted and what conditions may be imposed in such an order. (80%)
- (b) Briefly distinguish between a formal offence and a material offence. (20%)

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.B. I YEAR  
MAY/JUNE SESSION 2006

CRIMINAL LAW

MONDAY 29<sup>TH</sup> MAY, 2006

9.15am – 12.30pm

Answer a total of THREE questions: one question from each section and one other question from either Section I or from Section II. Answers may be in English or in Maltese.

Use a separate booklet for each question.

SECTION I

1. (a) Discuss the different forms that the material element of a criminal offence may take and explain the meaning and relevance of causation in this context. (80%)  
  
(b) Briefly examine the instances when young age (minority) may be pleaded successfully as a defence to a criminal charge under our law. (20%)
2. (a) Discuss the merits of the Subjective and Objective theories concerning the basis of criminal liability for negligence while examining the relationship between the notion of *culpa* and the words "imprudence, carelessness, unskilfulness in his art or profession, or non-observance of regulations" (S. 225 of the Criminal Code). (80%)  
  
(b) Briefly explain the manner in which a person convicted of an offence may become a recidivist under our law and the circumstances where recidivism aggravates the punishment to be awarded. (20%)
3. Comment on any two of the following:
  - (a) the distinction between instantaneous and continuing offences;
  - (b) territorial jurisdiction;
  - (c) corporate criminal liability;
  - (d) extensive, restrictive and declaratory interpretation.

P.T.O...../

4. "The operation of enacted law is not automatic. It has to take effect through interpretation, for, in order that the appropriate legal rule may be applied, it is necessary that the law shall be properly construed and interpreted." (Mamo). Discuss briefly the different approaches to the interpretation of laws and explain those special rules which are applicable to the interpretation of the criminal laws.

## SECTION II

5. Explain in detail the circumstances in which self-defence may be successfully pleaded as a defence against a criminal charge under our law.
6. (a) Carefully explain the general theory of complicity in criminal offences according to our Criminal Code. (80%)
- (b) Why is it that you cannot have a punishable "attempted complicity" but you can have "complicity in an attempted offence". (20%)
7. (a) Explain the general defence of intoxication under our law. (80%)
- (b) Examine concisely the manner in which a person convicted of an offence may become a recidivist under our law and the circumstances when recidivism aggravates the punishment to be awarded. (20%)
8. (a) What are the conditions required for the application of a suspension of a sentence of imprisonment (suspended sentence)? What are the effects of a suspended sentence of imprisonment? (80%)
- (b) Briefly examine the manner in which a minor (person under 18 years of age) can be held criminally responsible for an offence under our law. (20%)

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.B. I YEAR  
~~MAY/JUNE SESSION 2006~~  
SEPTEMBER

CRIMINAL LAW

THURSDAY 7<sup>TH</sup> SEPTEMBER, 2006

9.15am – 12.30pm

Answer a total of THREE questions: one question from each section and one other question from either Section I or from Section II. Answers may be in English or in Maltese.

Use a separate booklet for each question.

SECTION I

1. (a) Carefully discuss the applicability or otherwise of an amendment to a law of a criminal nature to offences committed prior to the coming into force of such amendment. (80%)  
(b) Briefly examine how a person convicted of an offence may become a recidivist under our law and the circumstances when recidivism aggravates the punishment to be awarded. (20%)
2. (a) Discuss the role played by the elements of "foresight" and "foreseeability" in the general theory of criminal intent as understood in Maltese criminal law analysing in detail the different forms that the mental element required for criminal responsibility may take. (80%)  
(b) Explain why you cannot have a punishable attempted complicity but you can have complicity in an attempted offence. (20%)
3. Comment on any **two** of the following:
  - (a) crimes and contraventions;
  - (b) formal and material offences and the relevance of causation in this regard;
  - (c) the rules of double criminality, speciality and ne bis in idem in extradition;
  - (d) *actus reus*.

P.T.O...../

4. Explain in detail the different theories that have been put forward at international law to justify the exercise of jurisdiction by states over criminal offences. How, if at all, do these theories find application in section 5 of the Criminal Code.

## SECTION II

5. (a) Examine the elements required under our law for a punishable attempt. In particular carefully distinguish between preparatory acts from acts deemed to be the commencement of execution of an offence. (80%)
- (b) May a legal or moral person be found responsible for a criminal offence? Discuss briefly. (20%)
6. (a) In what circumstances may insanity be successfully pleaded as a defence to a criminal charge under our law. (80%)
- (b) Briefly distinguish between absolute political offences and relative political offences within the context of extradition law. (20%)
7. (a) Explain in detail the instances and circumstances in which self-defence may be successfully pleaded as a defence to a criminal charge under our law. (80%)
- (b) Discuss "extensive interpretation" and "restrictive interpretation". (20%)
8. (a) Analyse the elements required under our law for a punishable conspiracy. (80%)
- (b) Briefly discuss the circumstances in which an order for the suspension of the execution of a sentence of imprisonment (suspended sentence) may be awarded under our law and explain the effect of such an award. (20%)

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.B. I YEAR  
MAY/JUNE SESSION 2007

CRIMINAL LAW

THURSDAY 31<sup>ST</sup> MAY, 2007

10.30 am – 1.30 pm

Answer a total of THREE questions: one question from each section and one other question from either Section I or from Section II. Answers may be in English or in Maltese.

Use a separate booklet for each question.

SECTION I

1. (a) Carefully analyse the ingredients of *mens rea* and explain the relevance, if any, of motive and good faith in relation to *mens rea* in Maltese criminal law. (80%)  
  
(b) Distinguish between formal and material offences. (20%)
  
2. Write short notes on two of the following:  
 (a) Political offence exception in extradition;  
 (b) individual and corporate criminal liability;  
 (c) *actus reus*;  
 (d) the “enumerative” and the “eliminative” methods for the determination of extraditable offences.
  
3.  (a) Examine the different approaches to the interpretation of laws and explain those special rules which are applicable to the interpretation of criminal laws. (80%)  
  
(b) Why is it that you cannot have a punishable “attempted complicity” but you can have “complicity in an attempted offence”? (20%)
  
4.  (a) Explain the rules that are applicable within the context of the limitations by time on the operation of criminal law highlighting the relevance of the Interpretation Act, 1975 in this regard. (80%)  
  
(b) Distinguish briefly between “real” and “personal” circumstances and discuss briefly whether such circumstances are communicable to other persons participating in the crime. (20%)

Explain in detail the different theories that have been put forward at international law to justify the exercise of jurisdiction by states over criminal offences. How, if at all, do these theories find application in section 5 of the Criminal Code. }

## SECTION II

5. (a) Examine the elements required under our law for a punishable attempt. In particular carefully distinguish between preparatory acts from acts deemed to be the commencement of execution of an offence. (80%) (E)
- (b) May a legal or moral person be found responsible for a criminal offence? Discuss briefly. (20%)
6. (a) In what circumstances may insanity be successfully pleaded as a defence to a criminal charge under our law. (80%)
- (b) Briefly distinguish between absolute political offences and relative political offences within the context of extradition law. (20%) *purely*
7. (a) Explain in detail the instances and circumstances in which self-defence may be successfully pleaded as a defence to a criminal charge under our law. (80%)
- (b) Discuss "extensive interpretation" and "restrictive interpretation". (20%)
8. (a) Analyse the elements required under our law for a punishable conspiracy. (80%) 48A
- (b) Briefly discuss the circumstances in which an order for the suspension of the execution of a sentence of imprisonment (suspended sentence) may be awarded under our law and explain the effect of such an award. (20%)



UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.B. I YEAR  
SEPTEMBER SESSION 2007

CRIMINAL LAW

6<sup>th</sup> SEPTEMBER, 2007

9.15am to 12.15pm

Answer a total of THREE questions: one question from each section and one other question from either Section I or from Section II. Answers may be in English or in Maltese.

Use a separate booklet for each question.

SECTION I

1. (a) Discuss the different forms that the material element of a criminal offence may take and explain the meaning and relevance of causation in this context (80%).  
(b) Briefly examine the manner in which a minor (person under 18 years of age) can be held criminally responsible for an offence under our law. (20%)
2. Write short notes on two of the following:
  - (a) Extensive and restrictive interpretation;
  - (b) The criminal liability of corporations;
  - (c) Carrara's definition of a criminal offence;
  - (d) Personal circumstances and complicity.
3. (a) "In order to appreciate the meaning of the term (*mens rea*) it is necessary to distinguish between a number of different possible mental attitudes which a man may have with respect to the *actus reus* of the crime in question" (Smith & Hogan). Discuss while explaining in detail the elements of the formal condition for criminal responsibility (criminal intent) under Maltese law. (80%)  
(b) Why is it that you cannot have a punishable "attempted complicity" but you can have "complicity in an attempted offence" which is punishable? (20%)
4. (a) Explain the difference between the legal consequences resulting from the commission of a crime and those resulting from the commission of a contravention and describe the tests that are generally proposed to help one determine whether an offence is a crime or a contravention. (80%)  
(b) Explain the self-preservation theory of jurisdiction. (20%)

## SECTION II

5. (a) In what circumstances can insanity be successfully pleaded as a defence to a criminal charge under our law? (80%)

(b) Briefly discuss the distinction between instantaneous and continuing offences. (20%)

6. (a) Carefully examine the constitutive elements required for a punishable conspiracy under section 48A of the Criminal Code (Chapter 9 of the Laws of Malta). (80%)

(b) Explain the active nationality principle and the passive nationality principle within the context of the exercise of jurisdiction by the criminal code. (20%)

7. (a) Which are the essential elements required to successfully plead legitimate self-defence under our law? (80%)

(b) Briefly explain the conditions required for the application of a suspension of execution of imprisonment (suspended sentence) and discuss briefly the effects of a suspended sentence of imprisonment. (20%)

8. (a) ~~Examine the various theories governing attempts under our law. Carefully distinguish acts of preparation from acts of execution.~~ (80%)

(b) What conditions must be fulfilled so that a mistake of fact can be successfully pleaded in defence to a criminal charge? (20%)

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.B. I YEAR  
MAY/JUNE 2008

CRIMINAL LAW

WEDNESDAY 11<sup>TH</sup> JUNE 2008

9.15am – 12.15pm

Answer a total of THREE questions: one question from each section and one other question from either Section I or Section II. Answers may be in English or in Maltese.

Use a separate booklet for each question.

SECTION I

1. (a) "...criminal liability should be imposed only on persons who are sufficiently aware of what they are doing, and of the consequences it might have, that they can fairly be said to have *chosen* the behaviour and its consequences." (Andrew Ashworth: Principles of Criminal Law)  
Explain how this statement is reflected in the constituent elements of the different forms of criminal intent in Maltese criminal law and distinguish between criminal intent, motive, premeditation and good faith. (80%)  
  
(b) Examine briefly the defence of young age under our law. (20%)
2. (a) "A conviction for a crime gives rise to certain legal consequences which are different from those which arise from a conviction for a contravention" Discuss, mentioning and explaining briefly the tests that have been proposed to distinguish crimes from contraventions. (80%)  
  
(b) Explain briefly what is an impossible attempt and comment on whether such an attempt is punishable under our law. (20%)
3. "It is still true to say that the exercise of penal jurisdiction remains fundamentally territorial in character but in the course of time important inroads have been made by the personal and other internationally recognised grounds for the exercise of jurisdiction." Discuss this statement in relation to article 5 of the Criminal Code.

/..... P.T.O.

4. Write short notes on three of the following:

- (a) formal and material offences ✓
- (b) the rules of double criminality and speciality in extradition ✓
- (c) continuing offences ✓
- (d) mistake of fact and mistake of law

SECTION II

5. (a) Carefully explain the elements essential to constitute a conspiracy to commit an offence in terms of article 48A of the Criminal Code. In particular, is any form of agreement to commit a crime sufficient to constitute a punishable conspiracy under Maltese law? (80%)

(b) Is extensive interpretation admissible in the interpretation of criminal laws? Give reasons. (20%)

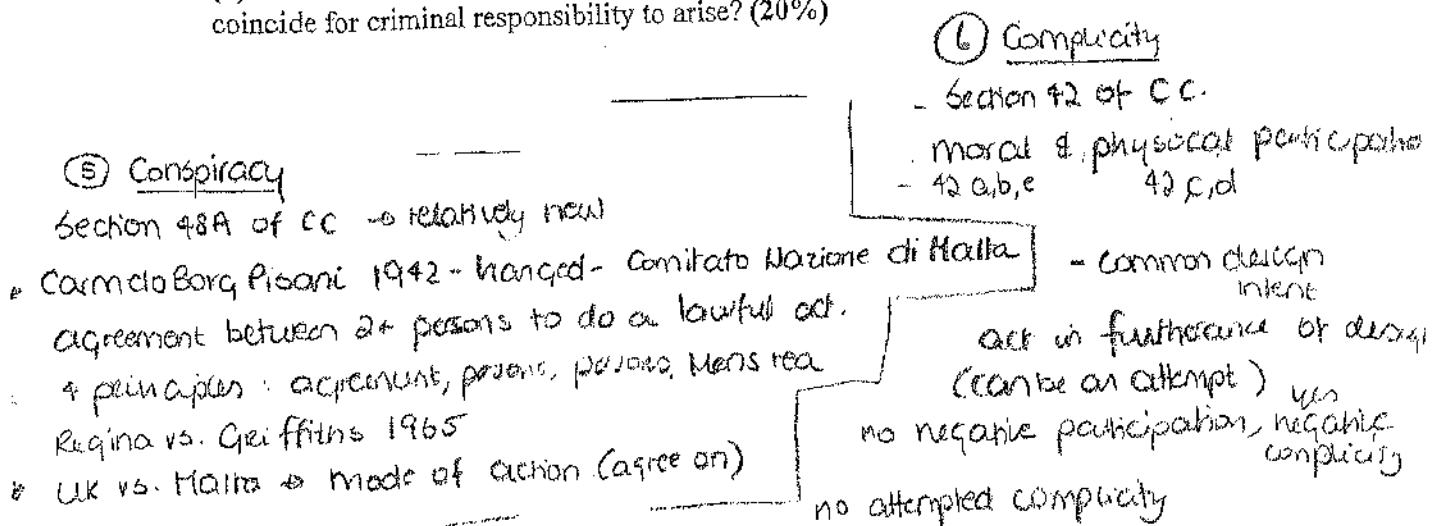
6. (a) Explain fully the general theory of complicity in criminal offences according to our Criminal Code. (80%)

(b) Comment briefly on whether a legal person may be held criminally responsible for a criminal offence pointing out any recent legislative amendments in this area. (20%)

7. Carefully examine the difference between justifiable homicide and excusable homicide under the Criminal Code. Briefly discuss all the instances when wilful homicide is deemed to be justifiable and the instances when wilful homicide is deemed excusable under our law.

8. (a) Examine in detail the circumstances in which insanity can be successfully pleaded as a defence to a criminal charge under our law. (80%)

(b) To what extent, if at all, is it true to say that the *actus reus* and *mens rea* must coincide for criminal responsibility to arise? (20%)



UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.B. I YEAR  
SEPTEMBER 2008

CRIMINAL LAW – CRL 1010

WEDNESDAY 10<sup>th</sup> SEPTEMBER 2008

9.15am – 12.15pm

Answer a total of THREE questions: one question from each section and one other question from either Section I or Section II. Answers may be in English or in Maltese.

Use a separate booklet for each question.

SECTION I

1. (a) Explain the elements of will and understanding as the essential ingredients of criminal intent under Maltese law highlighting the role played by foresight and foreseeability in the different manifestations of *mens rea*. (80%)  
  
(b) Briefly distinguish between real and personal circumstances in complicity indicating which of these are communicable. (20%)
2. Write short notes on three of the following:
  - (a) *actus reus*
  - (b) crimes and contraventions
  - (c) the McNaughten rules and the defence of insanity in Maltese criminal law
  - (d) corporate criminal liability
3. "A number of theories concerning jurisdiction are reflected, perhaps imperfectly, in article 5 of the Maltese Criminal Code". Comment, identifying the theories in question and explaining in detail the circumstances in which the Maltese courts can exercise jurisdiction over persons committing criminal offences.
4. (a) The punitive nature of the criminal law requires special rules to regulate its interpretation. Illustrate and elucidate. (80%)  
  
(b) Briefly examine the elements of criminal responsibility and punishment in cases of acts committed in excess of self-defence under Maltese criminal law (Art. 337(d) Criminal Code). (20%)

**SECTION II**

5. (a) Examine in detail the manner in which intoxication can be successfully pleaded as a defence to a criminal charge under our law. (80%)
- (b) Briefly explain the distinction between material and formal offences. (20%)
6. (a) Carefully explain the instances when you can have a punishable attempt under our law. In particular distinguish acts of preparation from acts constituting the commencement of execution of an offence. (80%)
- (b) Comment briefly on Carrara's definition of a criminal offence. (20%)
7. (a) What is complicity? Carefully distinguish between the various modes of participation which render a person an accomplice under our law and discuss the responsibility of each accomplice according to Maltese law. (80%)
- (b) Discuss briefly the relevance, if any, of motive in relation to criminal intent. (20%)
8. Distinguish justifiable from excusable wilful homicide and explain in full the circumstances which give give rise to these offences.
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UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.B. I YEAR  
MAY/JUNE 2009

CRL1010 - CRIMINAL LAW

WEDNESDAY 27<sup>th</sup> MAY 2009

11.45am – 2.45pm

Answer a total of THREE questions: one question from each section and one other question from either Section I or Section II. Answers may be in English or in Maltese.

Use a separate booklet for each question.

SECTION I

1. (a) Explain in detail *dolus* and *culpa* as grounds of criminal responsibility under our law and distinguish these notions from that of *casus*. Comment briefly on the expression “imprudence, carelessness, unskilfulness in his art or profession, or non-observance of regulations” (S. 225 of the Criminal Code). (80%)  
  
(b) Briefly examine the rules governing recidivism (relapse) under Maltese law and the manner in which recidivism may affect punishment. (20%)
2. (a) Discuss the problems which arise as a consequence of the limitations by time on the operation of the criminal law and identify the solutions applicable. What is the relevance of the Interpretation Act, 1975 in this regard. (80%)  
  
(b) Briefly examine the manner in which a minor (person under 18 years of age) can be held criminally responsible for an offence under our law. (20%)
3. (a) Describe in detail the course of extradition proceedings in Malta explaining what formal requirements have to be complied with at every stage of the process. (80%)  
  
(b) When may an order for the suspension of the execution of a sentence of imprisonment (suspended sentence) be awarded to a person convicted and what conditions may be imposed in such an order? (20%)

...../P.T.O.

4. Comment on two of the following:

- (a) crimes and contraventions
- (b) continuing offences
- (c) corporate criminal liability
- (d) *actus reus* and causation

## SECTION II

5. (a) Carefully explain the instances when you can have a punishable attempt under our law. In particular distinguish acts of preparation from acts constituting the commencement of execution of an offence. (80%)

(b) Distinguish between material and formal offences. (20%)

6. (a) Examine carefully the requirements to successfully plead justifiable homicide or bodily harm under our law. Explain the difference between justifiable and excusable homicide or bodily harm under our law. (80%)

(b) Differentiate briefly between extensive, restrictive and declaratory interpretation of the Criminal Law. (20%)

7. (a) Carefully analyse the element of common design in the notion of complicity and whether at law this common design is always essential to establish complicity in Maltese Criminal Law (80%)

(b) What is meant by “double criminality” and the “rule of speciality” in extradition proceedings in Malta. (20%)

8. (a) Carefully explain the elements essential to constitute the offence of conspiracy in terms of Article 48A of our Criminal Code. In particular, is any form of agreement to commit a crime sufficient to constitute a punishable conspiracy under Maltese law. (80%)

(b) Explain what you understand by “personal jurisdiction” and to what extent, if at all, this constitutes a ground for the exercise of jurisdiction by the criminal courts in Malta. (20%)



UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.B. I YEAR  
SEPTEMBER 2009  
CRL 1010-CRIMINAL LAW

FRIDAY 4<sup>th</sup> SEPTEMBER 2009

9.15am – 12.15pm

Answer a total of THREE questions: one question from each section and one other question from either Section I or Section II. Answers may be in English or in Maltese.

SECTION I

1. "*Mens Rea* is the (not entirely happy) umbrella term used by most criminal law scholars to refer to a range of practical attitudes or states of mind on the defendant's part, which form part of the definition of many offences" (Nicola Lacey).  
Explain how *Mens Rea* is understood in Maltese Criminal Law and the relevance of motive, good faith and premeditation in this context.
2. (a) "A number of theories concerning jurisdiction are reflected, perhaps imperfectly, in article 5 of the Maltese Criminal Code". Comment, identifying the theories in question and explaining in detail the circumstances in which the Maltese courts can exercise jurisdiction over persons committing criminal offences. (80%)  
  
(b) Can ignorance of the law amount to a defence under Maltese criminal law? (20%)
3. (a) "The operation of enacted law is not automatic. It has to take effect through interpretation..." (Mamo)  
Explain declaratory, extensive and restrictive interpretation making any considerations of particular relevance to the interpretation of penal legislation. (80%)  
  
(b) Briefly distinguish between real and personal circumstances in complicity indicating which of these are communicable. (20%)
4. Comment on any two of the following:
  - (a) the distinction between instantaneous and continuing offences;
  - (b) the defence of young age;
  - (c) political offences and extradition;
  - (d) limitations by time on the operation of the criminal law.

P.T.O.....

## SECTION II

5. (a) Discuss fully the order suspending the execution of a sentence of imprisonment (suspended sentence) explaining in detail the applicable conditions. (80%)
- (b) Comment briefly on corporate criminal liability. (20%)
6. (a) Analyse fully the general theory of complicity in criminal offences according to our Criminal Code and explain the relevance of the element of "common design" in this regard. (80%).
- (b) May a "state of affairs" constitute the actus reus of a criminal offence? Give examples (20%).
7. (a) Is intoxication a defence to a criminal charge? What is the essential distinguishing feature between intoxication and insanity. (80%)
- (b) Explain recidivism (relapse) and its consequences in so far as punishment is concerned. (20%)
8. Explain the notion of "excuse" in the Criminal Law and analyse in detail all the instances which constitute an "excuse" in terms of the Maltese Criminal Code.

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.B. I YEAR  
JUNE 2010

CRIMINAL LAW

TUESDAY 8<sup>th</sup> JUNE 2010

11.45am – 2.45pm

Answer IN ENGLISH a total of THREE questions: one question from each section and one other question from either Section I or Section II.

SECTION I

1. Comment on two of the following:

- (a) continuing offences
- (b) the defence of mistake of fact
- (c) extensive and restrictive interpretation
- (d) the rules of speciality and double criminality in extradition (100%)

2. The elements of will and understanding are the two essential ingredients which pervade the structure of criminal intent for the purpose of criminal responsibility in Maltese criminal law. Explain while commenting on the relevance, if any, of motive, premeditation and good faith in this context. (100%)

3. (a) In the light of the various jurisdictional principles recognised at International Law, examine the circumstances under article 5 of the Criminal Code in which the Maltese courts can exercise jurisdiction over persons committing criminal offences. (80%)

(b) Briefly discuss the order suspending the execution of a sentence and the conditions which may be imposed in it. (20%)

4. (a) Highlight the different legal consequences of the distinction of offences into crimes and contraventions (80%).

(b) Comment briefly on the elements of criminal responsibility and punishment in cases of acts committed in excess of self-defence. (20%)

/P.T.O

## SECTION II

5. (a) When can insanity be successfully pleaded as a defence to a criminal charge under Maltese law. (80%)
- (b) May a legal person be found criminally responsible for a criminal offence. (20%)
6. (a) Examine the various theories governing attempts under our law and distinguish acts of preparation from acts of execution. (80%)
- (b) Explain the classification of offences into formal and material and the relevance of the classification to attempts. (20%)
7. (a) Examine carefully the defence of young age under Maltese law. To what extent can the courts in Malta bind over parents or legal guardians for offences committed by minor children. (80%)
- (b) Briefly comment on the rationale underlying the distinction between literal and logical interpretation. (20%)
8. (a) What is complicity? Carefully distinguish between the various modes of participation of offenders in complicity under our law. Discuss also the criminal responsibility of each offender in complicity according to Maltese law. (80%)
- (b) Comment briefly on Carrara's definition of a criminal offence. (20%)
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UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.B. I YEAR  
SEPTEMBER 2010

CRIMINAL LAW

THURSDAY 2<sup>nd</sup> SEPTEMBER 2010

1.00 pm – 4.00 pm

Answer IN ENGLISH a total of THREE questions: one question from each section and one other question from either Section I or Section II.

SECTION I

1. Comment on two of the following:

- (a) the distinction of offences into crimes and contraventions
- (b) complicity and common design
- (c) formal (conduct) and material (result) offences
- (d) the political offence exception in extradition (100%)

2. (a) Explain in detail the general theory of criminal intent under our law distinguishing between *dolus* and *culpa* and between *culpa* and *casus*. Comment briefly on the expression “imprudence, carelessness, unskilfulness in his art or profession, or non-observance of regulations” (S. 225 of the Criminal Code). (80%)

(b) Distinguish briefly the notion of justification from the notion of excuse under our law. (20%)

3. “The operation of enacted law is not automatic. It has to take effect through interpretation...” (Mamo)  
This statement is true of all enacted law but the punitive nature of the criminal law requires special rules to regulate its interpretation. Illustrate and elucidate.

(b) Examine briefly the defence of young age under our law. (20%)

4. (a) Carefully discuss the rules which regulate the applicability or otherwise of an amendment to a law of a criminal nature to offences committed prior to the coming into force of such amendment. (80%)

(b) Discuss “real” and “personal” circumstances and briefly examine whether these circumstances are communicable to other accomplices in the crime. (20%)

SECTION II

5. (a) Carefully examine the requirements of a punishable conspiracy under our law (article 48A of the Criminal Code) (80%)
- (b) Explain jurisdiction on the basis of the "territoriality" principle. (20%)
6. (a) What is an attempted offence? Carefully explain the requirements and related theories for a punishable attempt under our law (article ~~42~~ of the Criminal Code). (80%)  
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- (b) Is motive relevant for the purpose of establishing criminal intent? (20%)
7. (a) When can an order for the suspension of the execution of a sentence of imprisonment (suspended sentence) be awarded to a person convicted and what conditions may be imposed in such an order? (80%)
- (b) "For the purpose of criminal liability the *actus reus* and *mens rea* must coincide". Explain briefly how this principle is applied with respect to material (result) crimes. (20%)
8. (a) Discuss the general defence of insanity under our law. (80%)
- (b) Explain the implications of the statement "ignorance of the law is no excuse" and the extent that it can be said to be true. (20%)
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UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.B. I YEAR  
JUNE 2011

CRIMINAL LAW

WEDESDAY 8 JUNE 2011

11.45am – 2.45pm

Answer IN ENGLISH a total of THREE questions: one question from each section and one other question from either Section I or Section II.

SECTION I

1. (a) Will and understanding are the building blocks with which the general theory of criminal intent in Maltese law is constructed. Discuss and explain the relevance of motive, premeditation and good faith in this context. (80%)  
  
(b) Distinguish between “mistake of fact” and “mistake of law” and briefly explain whether the two can constitute a defence to a criminal charge. (20%)
2. (a) Explain in detail the different theories that have been put forward at international law to justify the exercise of jurisdiction by states over criminal offences. How, if at all, do these theories find application in article 5 of the Criminal Code. (80%)  
  
(b) Briefly examine the manner in which a minor (person under 18 years of age) can be held criminally responsible for an offence under our law. (20%)
3. Write short notes on **three** of the following:
  - (a) corporate criminal liability
  - (b) the rules of double criminality and speciality in extradition
  - (c) continuing offences
  - (d) suspension of execution of a sentence of imprisonment (suspended sentence) (100%)
4. (a) Explain in detail the problems that arise as a result of changes in the criminal law in the course of time and the rules that are applied to resolve them. (80%)  
  
(b) Briefly distinguish between excuse and justification giving at least one example of each. (20%)

P.T.O...../

## SECTION II

5. (a) Carefully examine the instances when you can successfully plead self-defence under Maltese Law (Articles 223, 224 of the Criminal Code) (80%)
- (b) Briefly explain the different legal consequences of the distinction between crimes and contraventions. (20%)
6. (a) Examine in detail the notion of complicity under our law. In particular discuss the manner in which a person can become an accomplice in a crime and what is the responsibility of the accomplice. (80%)
- (b) Comment briefly on Carrara's definition of a criminal offence. (20%)
7. (a) What is an attempted offence? Carefully explain the requirements and theories for a punishable attempt under ~~our~~ law (Article ~~42~~ of the Criminal Code)? (80%) *our 41*
- (b) To what extent, if at all, is it true to say that the *actus reus* and *mens rea* must coincide for criminal responsibility to arise? (20%)
8. (a) When can insanity be successfully pleaded as a defence to a criminal charge under Maltese law. (80%)
- (b) Briefly distinguish between a formal offence (conduct crime) and a material offence (result crime). (20%)



UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.B. I YEAR  
SEPTEMBER SESSION 2011

CRI1010 - CRIMINAL LAW

DAY 9<sup>TH</sup> SEPTEMBER, 2011

9.15AM - 12.15PM

Answer a total of THREE questions: one question from each section and one question from either Section I or from Section II.

SECTION I

1. (a) Discuss the different forms that the material element of a criminal offence may take and explain the meaning and relevance of causation in this context (80%).  
(b) Briefly examine the manner in which a minor (person under 18 years of age) can be held criminally responsible for an offence under our law. (20%)
2. Write short notes on two of the following:
  - (a) Extensive and restrictive interpretation;
  - (b) The criminal liability of corporations;
  - (c) Carrara's definition of a criminal offence;
  - (d) Personal circumstances and complicity.
3. (a) "In order to appreciate the meaning of the term (*mens rea*) it is necessary to distinguish between a number of different possible mental attitudes which a man may have with respect to the *actus reus* of the crime in question" (Smith & Hogan). Discuss while explaining in detail the elements of the formal condition for criminal responsibility (criminal intent) under Maltese law. (80%)  
(b) Why is it that you cannot have a punishable "attempted complicity" but you can have "complicity in an attempted offence" which is punishable? (20%)
4. (a) Explain the difference between the legal consequences resulting from the commission of a crime and those resulting from the commission of a contravention and describe the tests that are generally proposed to help one determine whether an offence is a crime or a contravention. (80%)  
(b) Explain the self-preservation theory of jurisdiction. (20%)

## SECTION II

5. (a) In what circumstances can intoxication be successfully pleaded as a defence to a criminal charge under our law? (80%)
- (b) Distinguish briefly the notion of justification from the notion of excuse under our law. (20%)
6. (a) Carefully examine the element of common design in the notion of complicity and whether in fact this common design is always essential to establish complicity in Maltese Criminal Law. (80%)
- (b) Briefly examine the rules governing recidivism (relapse) under Maltese law and the manner in which recidivism may affect punishment. (20%)
7. (a) When can an order for the suspension of the execution of a sentence of imprisonment (suspended sentence) be awarded to a person convicted and what conditions may be imposed in such an order? (80%)
- (b) To what extent, if at all, is motive relevant in the determination of criminal responsibility? (20%)
8. (a) What constitutes an "excuse" under our law? Carefully examine the instances when you can successfully plead an "excuse" in Maltese criminal law. (80%)
- (b) Briefly explain the "enumerative" and the "eliminative" methods for the determination of extraditable offences. (20%)

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.B. I YEAR  
MAY/JUNE SESSION 2012

CRL1010 – PRINCIPLES OF CRIMINAL LAW

TUESDAY 12<sup>th</sup> JUNE, 2012

11.45am – 2.45pm

Answer a total of THREE questions: one question from each section and one other question from either Section I or from Section II.

SECTION I

1. (a) "Will and understanding are the basic constituent elements of the general theory of criminal intent." Discuss, and explain the relevance of motive, premeditation and good faith in this context. (80%)  
  
(b) Explain "personal jurisdiction" and how, if at all, is this ground of jurisdiction reflected in article 5 of the Criminal Code? (20%)
  
2. (a) Explain in detail the different theories that have been put forward at international law to justify the exercise of jurisdiction by states over criminal offences. How, if at all, do these theories find application in section 5 of the Criminal Code. (80%)  
  
(b) Can a legal person be held criminally responsible? (20%)
  
3. (a) Jurists in support of the subjective theory distinguish between different kinds of interpretation. What are these types of interpretation? (80%)  
  
Distinguish "direct intent" and "positive indirect intent". (20%)
  
4. (a) Carrara defined a criminal offence as "*The violation of the law of a State promulgated for the protection of the safety of the subjects by an external act of man, whether of omission or of commission, for which the agent is morally responsible.*" Do you agree that this definition adequately covers the notion of a criminal offence? Discuss with particular attention to the elements of this definition. (80%)  
  
(b) Distinguish briefly between "real" and "personal" circumstances and discuss briefly whether such circumstances are communicable to other persons participating in the crime. (20%)

## SECTION II

5. (a) In what circumstances can intoxication be successfully pleaded as a defence to a criminal charge under our law? (80%)
- (b) Explain "personal jurisdiction" and how, if at all, is this ground of jurisdiction reflected in article 5 of the Criminal Code? (20%).
6. (a) Carefully examine the constitutive elements required to establish complicity under our law. Discuss the manner in which a person may become an accomplice under our law section 42 of the Criminal Code (Chapter 9 of the Laws of Malta). (80%)
- (b) Distinguish "direct intent" and "positive indirect intent". (20%)
7. (a) Carefully examine the constitutive elements required for a punishable conspiracy under section 48A of the Criminal Code (Chapter 9 of the Laws of Malta). (80%)
- (b) Briefly explain the conditions required for the application of a suspension of execution of imprisonment (suspended sentence) and discuss briefly the effects of a suspended sentence of imprisonment. (20%)
8. (a) Carefully examine the defence of "young age" in our law. (80%)
- (b) Briefly distinguish between absolute political offences and relative political offences within the context of extradition law. (20%)

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.B. I YEAR  
SEPTEMBER SESSION 2012

CRL1010 - PRINCIPLES OF CRIMINAL LAW

MONDAY 10<sup>th</sup> SEPTEMBER, 2012

9:15am - 12:15pm

Answer a total of THREE questions: one question from each section and one other question from either Section I or from Section II.

Section I

1. (a) Discuss the different forms that the material element of a criminal offence may take and explain the meaning and relevance of causation in this context (80%).  
  
(b) Discuss briefly the distinction between "mistake of fact" and "mistake of law" and in particular whether they can be pleaded as a defence to a criminal charge (20%).
2. Write short notes on any two of the following:
  - (a) The distinction between the notion of justification and that of excuse (50%);
  - (b) The self-preservation theory of jurisdiction (50%);
  - (c) Why is it that you cannot have a punishable "attempted complicity" but you can have "complicity in an attempted offence" (50%).
3. (a) Explain the difference between the legal consequences resulting from the commission of a crime and those resulting from the commission of a contravention and describe the tests that are generally proposed to help one determine whether an offence is a crime or a contravention. (80%)  
  
(b) Briefly discuss the circumstances in which an order for the suspension of execution of a sentence of imprisonment (suspended sentence) may be awarded under our law. What is the effect of such an award? (20%)
4. (a) "In order to appreciate the meaning of the term (*mens rea*) it is necessary to distinguish between a number of different possible mental attitudes which a man may have with respect to the *actus reus* of the crime in question" (Smith & Hogan). Discuss in detail the elements of the formal condition for criminal responsibility (criminal intent) under Maltese law. (80%)  
  
(b) What is an impossible attempt? Is an impossible attempt punishable under our law? (20%)

## Section II

5. (a) In what circumstances can insanity be successfully pleaded as a defence to a criminal charge under our law? (80%)  
  
(b) To what extent, if at all, is motive relevant in the determination of criminal responsibility? (20%)
  
6. (a) Explain in detail the circumstances in which self-defence may be successfully pleaded as a defence to a criminal charge under our law (80%).  
  
(b) Briefly explain the “enumerative” and the “eliminative” methods for the determination of extraditable offences. (20%)
  
7. (a) Carefully explain the elements required under our law for a punishable conspiracy under section 48A of the Criminal Code (80%).  
  
(b) Briefly discuss the political offence exception in extradition (20%).
  
8. (a) Examine the elements required to constitute a punishable attempt under our law. In particular carefully distinguish “preparatory acts” from acts deemed to be the “commencement of execution” of an offence (80%).  
  
(b) Briefly examine the differences between instantaneous offences, continuous offences and continuing offences (20%).

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.B. I YEAR  
JUNE SESSION 2013

CRL1010 – PRINCIPLES OF CRIMINAL LAW

WEDNESDAY 5<sup>th</sup> JUNE, 2013

11:45AM - 2:45PM

Answer a total of THREE questions: one question from each section and one other question from either Section I or from Section II.

Section I

1. (a) "The extent to which the elements of will and understanding are manifested in relation to the material act and the act's circumstances and consequences distinguish one state of mind from the other for the purpose of criminal intent". Discuss while explaining the relevance of motive, premeditation and good faith in this context (80%).  
  
(b) Why is it that you cannot have a punishable "attempted complicity" but you can have "complicity in an attempted offence". (20%).
  
2. (a) Explain the grounds upon which the Maltese criminal courts may exercise jurisdiction over criminal offences identifying the relevant jurisdictional principle at international law in each case. (80%).  
  
(b) Briefly examine the circumstances in which an order for the suspension of execution of a sentence of imprisonment (suspended sentence) may be awarded under our law. (20%)
  
3. (a) Describe the various stages of the extradition procedure under the Extradition Act, Cap. 276 of the Laws of Malta. (80%).  
  
(b) When can young age be pleaded as a defence to a criminal charge under Maltese law. Explain briefly. (20%)

## Section II

4. (a) Carefully distinguish the notion of justification from that of excuse under our law. Discuss in detail the requirements at law to successfully plead a defence of justification (sections 223 and 224 of the Criminal Code). (80%).  
  
(b) Discuss briefly corporate criminal liability in Maltese criminal law. (20%).
  
5. (a) Explain in detail the circumstances in which insanity may be successfully pleaded as a defence to a criminal charge under our law (80%).  
  
(b) Explain the Personal Theory of Jurisdiction. (20%).
  
6. (a) Carefully examine when conspiracy is punishable under our law (section 48A of the Criminal Code). (80%)  
  
(b) "To give rise to criminal responsibility the *actus reus* and the *mens rea* must coincide", comment briefly. (20%).



UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.B. I HONS.  
SEPTEMBER SESSION 2013  
CRL1010 – PRINCIPLES OF CRIMINAL LAW

MONDAY 9<sup>TH</sup> SEPTEMBER 2013

9.15A.M. – 10.15A.M.

Answer a total of THREE questions: one question from each section and one other question from either Section I or from Section II.

Section I

1. (a) "... *criminal liability should be imposed only on persons who are sufficiently aware of what they are doing, and of the consequences it might have, that they can fairly be said to have chosen the behavior and its consequences.*" (Andrew Ashworth: Principles of Criminal Law).  
Explain how this statement is reflected in the constituent elements of the different forms of criminal intent in Maltese criminal law and distinguish between criminal intent, motive, premeditation and good faith. (80%).  
  
(b) Briefly examine the circumstances in which an order for the suspension of execution of a sentence of imprisonment (suspended sentence) may be awarded under our law. (20%).
2. (a) Explain the rules on double criminality, speciality, *ne bis in idem*, nationality and death penalty in Maltese extradition law. (80%).  
  
(b) Briefly distinguish mistake of fact and mistake of law under our law. Can any of these be successfully pleaded as a defence to a criminal charge? (20%)
3. (a) "*A number of theories concerning jurisdiction are reflected, perhaps imperfectly, in article 5 of the Maltese Criminal Code*". Comment, identifying the theories in question and explaining in detail the circumstances in which the Maltese courts can exercise jurisdiction over persons committing criminal offences (80%).  
  
(b) Briefly discuss the element of "voluntary desistance" in an attempt to commit an offence under our law. (20%)

## Section II

4. (a) What is an attempted offence? Carefully explain the requirements and theories for a punishable attempt under our law (section 41 of the Criminal Code)? (80%).  
  
(b) Explain the "Universal Theory" of jurisdiction. (20%).
  
5. (a) Explain in what manner young age can constitute a defence to a criminal charge under our law (80%).  
  
(b) Comment on the issue of a provisional arrest warrant in Maltese extradition law (20%).
  
6. (a) Discuss the general theory of complicity in criminal offences and carefully examine the instances of complicity contemplated in our Criminal Code (Section 42 of the Criminal Code) (80%)  
  
(b) Can a legal person be convicted of a criminal offence. (20%).

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.B. HONS. I YEAR  
CRL1010 – PRINCIPLES OF CRIMINAL LAW

MONDAY 16<sup>TH</sup> JUNE, 2014

9.15AM – 12.15PM

Answer a total of THREE questions: one question from each section and one other question from either Section I or from Section II.

Section I

1. (a) Explain how different degrees of will and understanding in relation to the material act and the consequences of that act result in different forms and degrees of criminal intent. Distinguish specific intent from generic intent. (80%).  
  
(b) Briefly discuss the element of “voluntary desistance” in an attempt to commit an offence under our law. (20%)
  
2. Write short notes on any three of the following: (100%) *(Every part carries equal marks)*
  - (a) Crimes and contraventions
  - (b) Continuing offences
  - (c) Formal and material offences
  - (d) Corporate criminal liability
  
3. (a) Discuss the grounds for the exercise of jurisdiction by the Maltese courts identifying and briefly explaining the jurisdictional theories underlying those grounds. (80%)  
  
(b) Briefly discuss the circumstances in which an order for the suspension of execution of a sentence of imprisonment (suspended sentence) may be awarded under our law. What is the effect of such an award? (20%)

Section II

4. (a) In what circumstances can insanity be successfully pleaded as a defence to a criminal charge under our law? (80%)  
  
(b) What is an impossible attempt? Is an impossible attempt punishable under our law? (20%)

5. (a) Examine the elements required to constitute a punishable attempt under our law. In particular carefully distinguish "preparatory acts" from acts deemed to be the "commencement of execution" of an offence (80%).
- (b) Discuss the composition of a valid criminal provision of law. Carefully discuss each element. (20%)
6. (a) Carefully explain the elements required under our law for a punishable conspiracy under section 48A of the Criminal Code (80%).
- (b) Why is it that you cannot have a punishable "attempted complicity" but you can have "complicity in an attempted offence" which is punishable? (20%)

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LLB HONS 1<sup>ST</sup> YEAR  
SEPTEMBER SESSION 2014

CRL 1010 – PRINCIPLES OF CRIMINAL LAW

TUESDAY 2nd September, 2014

9.15am - 12.15pm

Answer a total of THREE questions: one question from each section and one other question from either Section I or from Section II.

SECTION I

1. (a) *“Will and understanding are the basic constituent elements of the general theory of criminal intent”*. Discuss and explain the relevance of motive, premeditation and good faith in this context. (80%);  
  
(b) Briefly explain the conditions required for the application of a suspension of execution of imprisonment (suspended sentence) and discuss briefly the effects of a suspended sentence of imprisonment (20%).
2. Carrara defined a criminal offence as *“The violation of the law of a State promulgated for the protection of the safety of the subjects by an external act of man, whether of omission or of commission, for which the agent is morally responsible”*. Do you think that this definition adequately covers the notion of a criminal offence? Discuss with particular attention to the elements of this definition. (100%)
3. (a) Carefully distinguish the notion of justification from that of excuse under our law. Discuss in detail the requirements at law to successfully plead a defence of justification (Articles 223 and 224 of the Criminal Code); (80%)  
  
(b) *“To give rise to criminal responsibility, the actus reus and the mens rea must coincide”*. Comment briefly on this statement (20%).

SECTION II

4. Write short notes on any three of the following (100%):-
  - i. The difference between continuing, continuous and instantaneous offences;
  - ii. “Direct Intent” and “Positive Indirect Intent”;
  - iii. The elements required for Intoxication as a ground of criminal defence;
  - iv. The notion of Corporate Criminal Liability;

5. (a) *“The Subjective Theory of interpretation places more focus on the user rather than the law”*. Is this statement correct? Discuss the elements of the Subjective Theory of Interpretation. (80%)
- (b) Explain “personal jurisdiction” and how, if at all, is this a ground of jurisdiction reflected in article 5 of the Criminal Code (20%)
6. (a) When is a person deemed to be an accomplice in a crime under Article 42 of the Criminal Code? (80%)
- (b) Briefly describe the notion of Recidivism under Article 49 and 50 of the Criminal Code. (20%)

----- THE END -----

**UNIVERSITY OF MALTA**  
**FACULTY OF LAWS**  
**LL.B. HONS. 1<sup>ST</sup> YEAR**

**CRL1010 – PRINCIPLES OF CRIMINAL LAW**

**DATE:** TUESDAY 9<sup>TH</sup> JUNE 2015

**TIME:** READING TIME: 8:30AM – 8:35AM

EXAMINATION TIME: 8:35AM – 11:35AM

Answer a total of THREE questions: one question from each section and one other question from either Section I or from Section II.

Section I

1. (a) “In order to appreciate the meaning of the term (*mens rea*) it is necessary to distinguish between a number of different possible mental attitudes which a man may have with respect to the *actus reus* of the crime in question” (Smith & Hogan). Discuss in detail the elements of the formal condition for criminal responsibility (criminal intent) under Maltese law. (80%)  
  
(b) Briefly discuss the circumstances in which an order for the suspension of execution of a sentence of imprisonment (suspended sentence) may be awarded under our law. What is the effect of such a punishment? (20%)
  
2. (a) Explain the grounds upon which the Maltese criminal courts may exercise jurisdiction over criminal offences identifying the relevant jurisdictional principle at international law in each case (80%)  
  
(b) Briefly examine why is it that you cannot have a punishable “attempted complicity” but you can have “complicity in an attempted offence” (20%).
  
3. (a) Examine the different approaches to the interpretation of laws and explain those special rules which are applicable to the interpretation of criminal laws. (80%)  
  
(b) Briefly distinguish between “material” and “personal” circumstances in complicity and identify which of these circumstances are communicable to the other participants in the offence (20%)

## Section II

4. (a) In what circumstances can insanity be successfully pleaded as a defence to a criminal charge under our law? (80%)  
  
(b) To what extent, if at all, is motive relevant in the determination of criminal responsibility? (20%)
  
5. (a) Carefully examine the manner in which you may become an accomplice to an offence under Maltese law. Identify the various forms in which an accomplice can participate in the commission of an offence under Maltese law (80%).  
  
(b) Briefly examine the differences between instantaneous offences, continuous offences and continuing offences (20%).
  
6. (a) Examine the elements required to constitute a punishable attempt under our law. In particular carefully distinguish "preparatory acts" from acts deemed to be the "commencement of execution" of an offence (80%).  
  
(b) Can a legal person be convicted of a criminal offence? Briefly examine the notion of criminal corporate liability under Maltese law. (20%).



UNIVERSITY OF MALTA  
FACULTY OF LAWS  
SEPTEMBER 2015 SUPPLEMENTARY SESSION OF EXAMINATIONS

EXAMINATION: CRL1010 - CRIMINAL LAW  
COURSE: LL.B. HONS. 1<sup>ST</sup> YEAR  
DATE: Wednesday 9<sup>th</sup> September 2015  
TIME: Reading time: 08.30 am -- 08.35 am  
Duration of examination: 08.35am -- 11.35am

Answer a total of THREE questions: one from each section and one other question from either Section I or from Section II.

Section I

1. (a) What is an attempted offence? Carefully explain the requirements and theories for a punishable attempt under our law (Article 41 of the Criminal Code)? (80%)  
(b) Explain the concept of corporate criminal liability as found under our law (20%)
  
2. (a) Will and understanding are the building blocks with which the general theory of criminal intent in Maltese law is constructed. Discuss, and explain the relevance of motive, premeditation and good faith in this context. (80%)  
(b) Briefly distinguish between "absolute" political offences and "relative" political offences within the context of extradition law. (20%)
  
3. (a) Criminal law may be limited by time. What are the principles underpinning the limitations by time, making reference to the Courts' interpretation of Article 27 of the Criminal Code? (80%);  
(b) "For the purpose of criminal liability the *actus reus* and *mens rea* must coincide". How is this principle applied with respect to material (result) crimes.(20%)

## Section II

4. (a) Explain the meaning and implications of (i) the rule of speciality; (ii) the rule of double criminality and (iii) the *ne bis in idem* rule in extradition law highlighting any special features of Maltese law on extradition. (80%)

(b) Briefly examine the circumstances in which a sentence for the suspension of execution of a sentence of imprisonment (suspended sentence) can be awarded in our law (Article 28A of the Criminal Code). (20%)

5. (a) Carefully analyse the elements required for the successful plea of the defence of intoxication as found in Article 34(2) of the Criminal Code. (80%)

(b) Discuss briefly the defence of young age. (20%)

6. (a) Carefully examine the constitutive elements of the offence of conspiracy under our law (Article 48A of the Criminal Code). In particular, when do you have a punishable conspiracy? (80%);

(b) Distinguish between "*direct intent*" and "*positive indirect intent*".(20%)

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UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.B. HONS. I YEAR  
MAY/JUNE 2016 EXAMINATIONS

CRL1010 – PRINCIPLES OF CRIMINAL LAW

DATE: MONDAY 6<sup>TH</sup> JUNE 2016  
READING TIME: 10:00AM – 10:05AM  
DURATION OF EXAM: 10:05AM – 1:05PM

Answer a total of THREE questions: one question from each section and one other question from either Section I or from Section II.

Each answer has to be answered on a separate script.

Section I

1. (a) "...criminal liability should be imposed only on persons who are sufficiently aware of what they are doing, and of the consequences it might have, that they can fairly be said to have *chosen* the behaviour and its consequences." (Andrew Ashworth: Principles of Criminal Law)  
Explain criminal intent under Maltese criminal law and the significance of motive, premeditation and good faith in this context (80%).
- (b) Briefly examine why is it that you cannot have a punishable "attempted complicity" but you can have "complicity in an attempted offence" (20%).
2. In relation to Maltese extradition law comment on:
  - (a) extraditable offences (25%)
  - (b) the rule of speciality (25%)
  - (c) offences subject to the death penalty (25%)
  - (d) nationality (25%)
3. (a) Analyse the grounds under article 5 of the Criminal Code on which the Maltese courts can exercise jurisdiction over persons committing criminal offences while identifying and explaining briefly the jurisdictional principles involved. (80%)

(b) Briefly discuss the circumstances in which an order for the suspension of execution of a sentence of imprisonment (suspended sentence) may be awarded under our law. What is the effect of such a punishment? (20%)

## Section II

4. (a) In what circumstances can intoxication be successfully pleaded as a defence to a criminal charge under our law? (80%)
- (b) Briefly explain the required details common to all extradition requests and the additional special requirements depending on the nature of the request (20%)
5. (a) Examine the elements required to constitute a punishable attempt under our law. In particular carefully distinguish “preparatory acts” from acts deemed to be the “commencement of execution” of an offence (80%).
- (b) Explain “imprudence, carelessness, unskilfulness in (his) art or profession, or non-observance of regulations” in relation to involuntary offences (20%)
6. (a) Carefully examine the legal requirements for the offence of conspiracy under Maltese law (Section 48A of the Criminal Code) (80%).
- (b) Explain corporate criminal liability under our law (20%).

**UNIVERSITY OF MALTA**  
**FACULTY OF LAWS**  
**LL.B. HONS. I YEAR**  
**SEPTEMBER 2016 EXAMINATIONS**

**CRL1010 – PRINCIPLES OF CRIMINAL LAW**

**DATE: FRIDAY 2<sup>ND</sup> SEPTEMBER 2016**  
**READING TIME: 8:30AM – 8:35AM**  
**DURATION OF EXAM: 8:35AM – 11:35AM**

Answer a total of THREE questions: one question from each section and one other question from either Section I or from Section II.

**Section I**

1. (a) "In order to appreciate the meaning of the term (*mens rea*) it is necessary to distinguish between a number of different possible mental attitudes which a man may have with respect to the *actus reus* of the crime in question" (*Smith & Hogan*). Discuss in detail the elements of the formal condition for criminal responsibility (criminal intent) under Maltese law. (80%)  
  
(b) Briefly examine why is it that you cannot have a punishable "attempted complicity" but you can have "complicity in an attempted offence" (20%).
  
2. (a) "A number of theories concerning jurisdiction are reflected, perhaps imperfectly, in article 5 of the Maltese Criminal Code". Comment, identifying the theories in question and explaining in detail the circumstances in which the Maltese courts can exercise jurisdiction over persons committing criminal offences (80%)  
  
(b) Briefly discuss the circumstances in which an order for the suspension of execution of a sentence of imprisonment (suspended sentence) may be awarded under our law. What is the effect of such a punishment? (20%)
  
3. (a) Examine the different approaches to the interpretation of laws and explain those special rules which are applicable to the interpretation of criminal laws. (80%)  
  
(b) Briefly discuss the element of "voluntary desistance" in an attempt to commit an offence under our law. (20%)

## Section II

4. (a) In what circumstances can insanity be successfully pleaded as a defence to a criminal charge under our law? (80%)
- (b) Briefly examine the differences between instantaneous offences, continuous offences and continuing offences (20%)
5. (a) Carefully examine the manner in which you may become an accomplice to an offence under Maltese law. (20%)
- (b) Can a legal person be convicted of a criminal offence? Briefly examine the notion of criminal corporate liability under Maltese law. (20%).
6. (a) Examine the elements required to constitute a punishable attempt under our law. In particular carefully distinguish “preparatory acts” from acts deemed to be the “commencement of execution” of an offence (80%).
- (b) To what extent, if at all, is motive relevant in the determination of criminal responsibility? (20%).

UNIVERSITY OF MALTA

FACULTY OF LAWS

LL.B. HONS 1<sup>ST</sup> YEAR

JUNE 2017

CRL1010 - PRINCIPLES OF CRIMINAL LAW

Date: Monday 5<sup>th</sup> June 2017

Time of Examination: 10.00am-1.05pm

Answer a total of THREE questions: one question from each section and one other question from either Section I or from Section II.

Section I

1. (a) Explain the grounds upon which the Maltese criminal courts may exercise jurisdiction over criminal offences identifying the relevant jurisdictional principles at international law in each case. (80%)

(b) Briefly discuss the circumstances in which an order for the suspension of execution of a sentence of imprisonment (suspended sentence) may be awarded under our law. What is the effect of such a punishment? (20%)

2. (a) "... criminal liability should be imposed only on persons who are sufficiently aware of what they are doing, and of the consequences it might have, that they can fairly be said to have chosen the behavior and its consequences." (Andrew Ashworth: Principles of Criminal Law).

Explain how this statement is reflected in the constituent elements of the different forms of criminal intent in Maltese criminal law and distinguish between criminal intent, motive, premeditation and good faith. (80%).

(b) Briefly discuss the element of "voluntary desistance" in an attempt to commit an offence under our law. (20%)

3. (a) Examine the different approaches to the interpretation of laws and explain those special rules which are applicable to the interpretation of criminal laws. (80%)

(b) Article 338(z) of the Criminal Code establishes the offence of failing to pay maintenance due in terms of a court order or as bound by a contract. What are the elements of this offence and how is it different from other contraventions? (20%)

## Section II

4. (a) In what circumstances can intoxication be successfully pleaded as a defence to a criminal charge under our law? (80%)
- (b) To what extent, if at all, is motive relevant in the determination of criminal responsibility? (20%)
5. (a) Carefully explain the elements required under our law for a punishable conspiracy under section 48A of the Criminal Code. (80%)
- (b) Briefly examine the differences between instantaneous offences, continuous offences and continuing offences. (20%)
6. (a) Examine the elements required to constitute a punishable attempt under our law. In particular carefully distinguish "preparatory acts" from acts deemed to be the "commencement of execution" of an offence. (80%)
- (b) Can a legal person be convicted of a criminal offence? Briefly examine the notion of criminal corporate liability under Maltese law. (20%)



University of Malta  
Faculty of Laws

Bachelor of Laws (Honours)

CRL1010 – Principles of Criminal Law

Wednesday 6<sup>th</sup> September 2017

Duration of Examination: 8.30am to 11.35am

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Answer a total of THREE questions: one from each section and one other question from either Section I or from Section II.

Section I

1. (a) Explain the rules on double criminality, speciality, *ne bis in idem*, nationality and death penalty in Maltese extradition law. (80%).  
  
(b) To what extent, if at all, is motive relevant in the determination of criminal responsibility? (20%).
  
2. (a) Discuss the general theory of complicity in criminal offences and carefully examine the instances of complicity contemplated in our Criminal Code (Section 42 of the Criminal Code) (80%)  
  
(b) Briefly distinguish between (a) "mistake of law" and (b) "mistake of fact". Do these mistakes (or any of them) offer a defence from a criminal charge? Discuss. (20%)
  
3. (a) In what circumstances can insanity be successfully pleaded as a defence to a criminal charge under our law? Discuss with reference to the applicable McNaughton Rules. (80%)  
  
(b) Can a legal person be convicted of a criminal offence? Briefly examine the notion of criminal corporate liability under Maltese law. (20%)

## Section II

4. (a) The eminent jurist Francesco Carrara defines a crime as “*The violation of the law of the State promulgated for the protection of the safety of the subjects by an external act of man, whether of omission or of commission, for which the agent is morally responsible*” (Lectures in Criminal Law, Prof. A. J. Mamo., pg.9). In your opinion, does this definition adequately define an offence? Discuss with detailed reference to all the elements of this definition. **(80%)**
- (b) Explain the “personal jurisdiction” and how, if at all, is this ground of jurisdiction reflected in article 5 of the Criminal Code. **(20%)**
5. (a) Carefully examine the defence of “young age” by making reference to the elements stipulated by the relevant Articles of the Criminal Code **(80%)**
- (b) Briefly discuss the element of “voluntary desistance” in an attempt to commit an offence under our law. **(20%)**
6. Write short notes on any **FOUR** of the following:-
- i. Formal and Material Offences; (25%)
  - ii. Instantaneous, Continuous and continuing offences; (25%)
  - iii. Crimes and Contraventions; (25%)
  - iv. The Latin maxim “*nullum crimen sine lege*”; (25%)
  - v. Recidivism; (25%)

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University of Malta  
Faculty of Laws

CRL1010 – PRINCIPLES OF CRIMINAL LAW

Date: MONDAY 28<sup>th</sup> May 2018

Duration of Examination: 1.00PM – 4.05 PM

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Answer a total of THREE questions: one question from each section and one other question from either Section A or from Section B

Section A

1. (a) "A number of theories concerning jurisdiction are reflected, perhaps imperfectly, in article 5 of the Maltese Criminal Code". Comment, identifying the theories in question and explaining in detail the circumstances in which the Maltese courts can exercise jurisdiction over persons committing criminal offences (80%)  
  
(b) Briefly examine why is it that you cannot have a punishable "attempted complicity" but you can have "complicity in an attempted offence" (20%).
  
2. (a) Examine the different approaches to the interpretation of laws and explain those special rules which are applicable to the interpretation of criminal laws. (80%)  
  
(b) Briefly discuss the circumstances in which an order for the suspension of execution of a sentence of imprisonment (suspended sentence) may be awarded under our law. What is the effect of such a punishment? (20%)
  
  
- 3 a) "In order to appreciate the meaning of the term (*mens rea*) it is necessary to distinguish between a number of different mental attitudes which a man may have with respect to the *actus reus* of the crime in question" ( Smith & Hogan ). Discuss in detail the elements of the formal condition for criminal responsibility ( criminal intent ) under Maltese law. (80%)  
  
b) Briefly discuss the element of "voluntary desistance" in an attempt to commit an offence under our law. ( 20% )

Section B

4. (a) Carefully examine the manner in which you may become an accomplice to an offence under Maltese law. Identify the various forms in which an accomplice can participate in the commission of an offence under Maltese law (80%).  
  
b) To what extent, if at all, is it true to say that the *actus reus* and *mens rea* must coincide. (20%)
  
5. (a) Examine the elements required to constitute a punishable attempt under our law. In particular carefully distinguish "preparatory acts" from acts deemed to be the "commencement of execution" of an offence (80%).  
  
b) Briefly examine the differences between instantaneous offences, continuous offences and continuing offences (20%)
  
6. (a) In what circumstances can insanity be successfully pleaded as a defence to a criminal charge under our law? (80%)  
  
b) Can a legal person be convicted of a criminal offence? Briefly examine the notion of criminal corporate liability under Maltese law. (20%).

University of Malta  
Faculty of Laws  
SEPTEMBER 2018 EXAMINATIONS

CRL1010 -- PRINCIPLES OF CRIMINAL LAW

Date: FRIDAY, 14<sup>TH</sup> SEPTEMBER 2018      Duration of Examination: 8.30 AM –11.35 AM

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Answer a total of THREE questions: one question from each Section and one other question from either Section 1 or from Section 11.

Section I

1. (a) "In order to appreciate the meaning of the term (*mens rea*) it is necessary to distinguish between a number of different possible mental attitudes which a man may have with respect to the *actus reus* of the crime in question" (*Smith & Hogan*). Discuss in detail the elements of the formal condition for criminal responsibility (criminal intent) under Maltese law. (80%)  
  
(b) Briefly discuss the circumstances in which an order for the suspension of execution of a sentence of imprisonment (suspended sentence) may be awarded under our law. What is the effect of such a punishment? (20%)
  
2. (a) "A number of theories concerning jurisdiction are reflected, perhaps imperfectly, in article 5 of the Maltese Criminal Code". Comment, identifying the theories in question and explaining in detail the circumstances in which the Maltese courts can exercise jurisdiction over persons committing criminal offences (80%)  
  
(b) Briefly examine why is it that you cannot have a punishable "attempted complicity" but you can have "complicity in an attempted offence" (20%).
  
3. (a) Discuss the definition of a criminal offence as given by the Italian jurist Francesco Carrara. Do you think that this definition adequately defines the constitutive elements of an offence? (80%)  
  
(b) Briefly discuss the instances, if, and when personal and material circumstances are communicable to other accomplices to a crime. (20%)

## Section II

4. (a) In what circumstances can insanity be successfully pleaded as a defence to a criminal charge under our law? (80%)  
  
(b) Can a legal person be convicted of a criminal offence? Briefly examine the notion of criminal corporate liability under Maltese law. (20%).
  
5. (a) Carefully examine the manner in which you may become an accomplice to an offence under Maltese law. Identify the various forms in which an accomplice can participate in the commission of an offence under Maltese law (80%).  
  
(b) Briefly examine the differences between instantaneous offences, continuous offences and continuing offences (20%)
  
6. (a) Examine the elements required to constitute a punishable attempt under our law. In particular carefully distinguish “preparatory acts” from acts deemed to be the “commencement of execution” of an offence (80%).  
  
(b) To what extent, if at all, is motive relevant in the determination of criminal responsibility? (20%).

**University of Malta  
Faculty of Laws**

**June 2019 Examination Session**

**CRL1010 PRINCIPLES OF CRIMINAL LAW**

**Date:** Monday 10th June 2019

**Duration of Examination:** 2:30pm – 5.35pm

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**INSTRUCTIONS TO STUDENTS:**

Answer a total of **THREE (3)** questions: **ONE (1)** question from each section and **ONE (1)** other question from either Section A or Section B.

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**SECTION A**

1. Answer the following:

- (a) Our Courts have adopted Carrara's theory of a criminal offence as the staple definition. Discuss the elements of this definition and do you think that it is an adequate definition? (80%)
- (b) Briefly define an "impossible attempt" under our law. Are you punishable for committing an "impossible attempt"? (20%)

2. Answer the following:

- (a) Comment on the rules of Speciality, Double Criminality and *Ne Bis in Idem* (Double Jeopardy) in Extradition. (80%)
- (b) Distinguish briefly between "real" and "personal" circumstances and discuss briefly whether such circumstances are communicable to other persons participating in the crime. (20%)

3. Answer the following:

- (a) Explain the rules that are applicable within the context of the limitations by time on the operation of criminal law highlighting the relevance of the Interpretation Act, 1975 in this regard. (80%)
- (b) Briefly explain the criminal responsibility of persons under fourteen (14) years of age and those under sixteen (16) years of age under our law. (Defence of young age in terms of sections 35 and 37 of the Criminal Code). (20%)

## SECTION B

4. Answer the following:

- (a) In what circumstances can insanity be successfully pleaded as a defence to a criminal charge under our law? (80%)
- (b) Article 3(1) of the Criminal Code states that "*Every offence gives rise to a criminal action and a civil action*". Briefly discuss this article highlighting where each action is tried. (20%)

5. Answer the following:

- (a) Carefully examine the constitutive elements required for a punishable conspiracy under section 48A of the Criminal Code (Chapter 9 of the Laws of Malta). (80%)
- (b) Briefly explain the Enumerative and the Eliminative methods for the determination of extraditable offences. (20%)

6. Answer the following:

- (a) Examine the various theories governing attempts under our law. Carefully distinguish acts of preparation from acts of execution. (80%)
- (b) *Actus non facit reum, nisi mens sit rea*. Explain in brief. (20%)



University of Malta  
Faculty of Laws

September 2019 Examination Session

CRL1010 PRINCIPLES OF CRIMINAL LAW

Date: Monday 2nd September 2019      Duration of Examination: 8:30AM – 11:35AM

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**INSTRUCTIONS TO STUDENTS:**

Answer a total of **THREE (3)** questions: **ONE (1)** question from each section and **ONE (1)** other question from either Section A or from Section B.

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**SECTION A**

1. Answer the following:
  - (a) Discuss the different forms that the material element of a criminal offence may take and explain the meaning and relevance of causation in this context. (80%)
  - (b) Distinguish briefly the notion of justification from the notion of excuse under our law. (20%)
  
2. Answer the following:
  - (a) Explain the difference between the legal consequences resulting from the commission of a crime and those resulting from the commission of a contravention and describe the tests that are generally proposed to help one determine whether an offence is a crime or a contravention. (80%)
  - (b) Why is it that you cannot have a punishable "attempted complicity" but you can have "complicity in an attempted offence"? (20%)
  
3. Answer the following:
  - (a) "In order to appreciate the meaning of the term (*mens rea*) it is necessary to distinguish between a number of different possible mental attitudes which a man may have with respect to the *actus reus* of the crime in question" (Smith & Hogan). Discuss in detail the elements of the formal condition for criminal responsibility (criminal intent) under Maltese law. (80%)
  - (b) Discuss briefly the distinction between "mistake of fact" and "mistake of law" and in particular whether they can be pleaded as a defence to a criminal charge. (20%)

## SECTION B

4. Answer the following:

- (a) Carefully examine the element of common design in the notion of complicity and whether in fact this common design is always essential to establish complicity in Maltese Criminal Law. (80%)
- (b) Briefly discuss the political offence exception in extradition. (20%)

5. Answer the following:

- (a) In what circumstances can insanity be successfully pleaded as a defence to a criminal charge under our law? (80%)
- (b) Briefly discuss the principles governing jurisdiction of the Maltese criminal courts under our law. (20%)

6. Answer the following:

- (a) Carefully explain the elements required under our law for a punishable conspiracy under section 48A of the Criminal Code. (80%)
- (b) Can a legal person be convicted of a criminal offence? Briefly examine the notion of criminal corporate liability under Maltese law. (20%)



FACULTY OF LAWS  
DEPARTMENT OF CRIMINAL LAW  
JUNE/JULY 2020 EXAMINATION SESSION

CRL1010 Principles of Criminal Law

Wednesday, 1<sup>st</sup> July 2020

Examination time: 8:30am – 11:30am + 60 extra minutes for uploading/downloading.

In case of difficulty during the examination (issues with exam paper, electricity power cut, internet connection, etc), you may contact the Faculty of Laws on the following:

Telephone : 2340 3251; 2340 3144

Email: [laws@um.edu.mt](mailto:laws@um.edu.mt)

***Please note that for immediate feedback it is best to communicate using telephone. Use email only if there are circumstances when the use of telephone is not possible.***

Keep your mobile phone handy since important communications during the examination may be communicated by the University through SMS.

You have the option to either type in your answers on a word document or write down your answers on an A4 sheet/s of paper.

Once you have completed the examination, you are to save your answers in pdf format or scan your handwritten answers using Adobe Scan app and Microsoft Office Lens app, and upload them within the time indicated for the examination. **The name you should assign to the file you are going to upload to the VLE dropbox should be the study-unit code.** The VLE will then rename the file automatically to also include your name and surname.

You have been allowed 60 minutes for downloading the examination paper and uploading your responses. **Make sure that you upload the correct document.** If you upload the wrong document, simply upload again and the system will overwrite the document originally submitted.

You may be subject to an additional oral examination to safeguard against plagiarism, collusion or other misdemeanours.

You may not obtain or seek to obtain advantage in an examination, or give or endeavour to give assistance to other students. Students who are found guilty of a breach of the University Assessment Regulations are liable to disciplinary action which may result in the examination being cancelled and other consequences.

By sitting for this examination, you declare that you are aware of the provisions of the regulations regarding conduct during examinations and you pledge to observe them.

## INSTRUCTIONS TO STUDENTS:

Answer a total of THREE questions: TWO questions from Section I AND ALL questions in Section II.

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### SECTION I (Total 60%)

*Answer any TWO questions*

1. Discuss in detail the formal element (*mens rea*) of criminal responsibility propounded by Francesco Carrara and applied under Maltese law (30 %).
2. Carefully analyse the grounds of jurisdiction established in section 5 of the Criminal Code highlighting the relative principles applicable in each case (30%).
3. Explain in detail:
  - a) the enumerative and the eliminative methods for the determination of extraditable offences (15%); **AND**
  - b) the political offence exception in extradition (15%).
4. What is a criminal offence? Carrara managed to find the necessary ingredients for such a definition. Carefully examine the elements of Carrara's definition of a criminal offence and compare these elements to the various theories proposed (30%).

### SECTION II (Total 40%)

5. Carefully read the following case-study and answer ALL the questions which follow:

*From investigations it transpired that on the 15th January 2020, and in the preceding months, A and B had agreed to commit a hold-up (aggravated theft) in a shop called "Bertu's", in Salmura Road, Zebbug.*

*A and B knowingly agreed that on the 18th February, 2020, they were going to commit the hold-up. A was to provide B a weapon (revolver without a licence) and a car to be used in the hold-up. B was to provide two (2) balaclavas to cover their faces. They also agreed that A was to drive the vehicle and wait outside the shop whereas B was to enter the shop, threaten the shopowner and steal the money and any valuables in the shop.*

*On the 18th February, 2020, at 17.30 hrs, A left his home with the vehicle and picked B. A and B went together to Zebbug in a car with the intent to commit this hold-up. When they arrived in front of the shop, B entered into the shop with a face mask and the weapon which A had given him. In the shop B found the shopowner. He threatened the shopowner and pointed the weapon to his*

face. The shopowner did not cooperate and B pulled the trigger of the revolver. B hit the shopowner slightly injuring him (slight bodily harm) in his left hand.

As a result of the shot being fired the shopowner posed no further resistance. B proceeded to steal all the money from the cash register and a laptop for a net worth of Eur 5,000.

B ran out of the shop and entered the vehicle. In the vehicle A was waiting for him and they drove off.

Both on the 15th January, 2020, and the 18th February, 2020, A is 19 years of age whereas B is 16 years old.

Answer **ALL** the following questions:

- a) Is there a punishable conspiracy? (5%)
- b) Is there a punishable attempt? (5%)
- c) If both A and B are to be held responsible for the crime, how are they responsible and in what manner can they be held responsible? (10%)
- d) B used the weapon and shot the shopowner. Is A responsible also for the slight injury to the shopowner? (5%)
- e) Does B's young age affect his responsibility? (5%)
- f) Does B's young age affect his punishment? (5%)
- g) Does B's young age affect A in any manner whatsoever? (5%)



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FACULTY OF LAWS  
DEPARTMENT OF CRIMINAL LAW  
SEPTEMBER 2020 EXAMINATION SESSION

CRL1010 Principles of Criminal Law

Thursday, 17<sup>th</sup> September 2020

**Examination time: 8:30AM – 11:30AM** + 60 extra minutes for uploading/downloading.

In case of difficulty during the examination (issues with exam paper, electricity power cut, internet connection, etc), you may contact the Faculty of Laws on the following:

**Telephone : 2340 3251; 2340 3688**

**Email: [laws@um.edu.mt](mailto:laws@um.edu.mt)**

***Please note that for immediate feedback it is best to communicate using telephone. Use email only if there are circumstances when the use of telephone is not possible.***

Keep your mobile phone handy since important communications during the examination may be communicated by the University through SMS.

You have the option to either type in your answers on a word document or write down your answers on an A4 sheet/s of paper.

Once you have completed the examination, you are to save your answers in pdf format or scan your handwritten answers using Adobe Scan app and Microsoft Office Lens app, and upload them within the time indicated for the examination. **The name you should assign to the file you are going to upload to the VLE dropbox should be the study-unit code.** The VLE will then rename the file automatically to also include your name and surname.

You have been allowed 60 minutes for downloading the examination paper and uploading your responses. **Make sure that you upload the correct document.** If you upload the wrong document, simply upload again and the system will overwrite the document originally submitted.

You may be subject to an additional oral examination to safeguard against plagiarism, collusion or other misdemeanours.

You may not obtain or seek to obtain advantage in an examination, or give or endeavour to give assistance to other students. Students who are found guilty of a breach of the University Assessment Regulations are liable to disciplinary action which may result in the examination being cancelled and other consequences.

By sitting for this examination, you declare that you are aware of the provisions of the regulations regarding conduct during examinations and you pledge to observe them.

**INSTRUCTIONS TO STUDENTS:**

Answer a **total of THREE (3) questions: TWO (2) questions from Section I AND ALL the questions in Section II**

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**SECTION I (Total 60%)**

Answer any **TWO (2)** questions

1. Describe in detail and discuss, with particular reference to case law, the rules of Speciality, Double Criminality and NeBis in Idem (Double Jeopardy) in extradition. (30 marks).
2. Examine the different approaches to the interpretation of laws and explain those special rules which are applicable to the interpretation of criminal laws. (30 marks).
3. Carefully analyse the definition of a criminal offence as given by Carrara. Do you believe that in today's reality this definition is still applicable? (30 marks)
4. Criminal responsibility is based on the Latin maxim *actus non facit reum nisi mens sit rea*. Discuss. (30 marks).

**SECTION II (Total 40%)**

5. Carefully read the following case-study and answer **ALL** the questions which follow:

*From investigations it transpired that on the 10th January 2020, at 20.00 in Saint Julians, A, was in a bar drinking. He had fought with his partner and had taken pain killers for an injury he had previously sustained. He drank heavily during the night.*

*A got into an argument with B. Things soon got out of hand. An altercation ensued. During the argument A broke a glass beer bottle and struck B with the broken glass bottle in B's neck. B was pronounced dead on the scene.*

*When interviewed A declared that he could not remember anything of the incident. He did remember that he drank a lot that night and also that he was on heavy pain killers.*

*Eyewitnesses on the scene released statements to the effect that A was drunk and was acting irrationally. He was very aggressive but also very uncoordinated in his movements. They also testified that during the altercation a third person, C, gave an empty glass bottle to A and was shouting at A to strike B with the bottle.*

Answer ALL the following questions:

- a) Is A responsible for the killing of B? (5 marks)
- b) Can A bring any legal defence forward to a charge of wilful homicide and explain why? (15 marks)
- c) Can A plead insanity at the time, given that he cannot recall any part of the incident? (5 marks)
- d) Is C responsible in any way for this crime. Explain how and why. (15 marks)





First Year Law  
Compulsory Units Past Papers

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# PHILOSOPHY of LAW

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If you require any further information, have any suggestions or find any mistakes in this publication, do not hesitate to contact us on [academic@ghsl.org](mailto:academic@ghsl.org)

**UNIVERSITY OF MALTA**  
**FACULTY OF LAWS**  
**LL.B. HONS. 1<sup>st</sup> YEAR**  
**JANUARY 2016 EXAMINATIONS**

**EXAMINATION: CVL 1024 – PHILOSOPHY OF LAW (60%)**

**DATE: Wednesday 20<sup>th</sup> January**

**READING TIME: 10.00AM to 10.05AM**

**DURATION OF EXAMINATION: 10.05AM to 12.05PM**

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**INSTRUCTIONS TO STUDENTS:**

**Choose any TWO (2) of the following questions. Each question is to be answered on a different script.  
Each question carries 50 marks.**

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1. Finnis's work is concerned with the concept of the Rule of Law and with what is required of a legal system for it to be "in good shape". Discuss with reference to his formulation of the basic goods and the requirements of practical reasonableness.
  
2. Outline the main elements of H.L.A. Hart's thesis on the separation between law and morals, and explain why and how legal theorists such as Fuller and Finnis have objected to it.
  
3. Illustrate how the law's authority and legitimacy, and its relation to the principles of justice and fairness, have featured among the major questions raised in the history of legal thought. Do so by referring to any classical and/or contemporary philosophers and legal theorists of your choice.
  
4. "The notion of juridical personality gradually evolved to enable humanity to act in unison, manipulate its surroundings, and determine who the subject of law is." Discuss this statement in the light of the various theories that evolved to justify and rationalize this notion.

**UNIVERSITY OF MALTA**  
**FACULTY OF LAWS**  
**LL.B. HONS. 1<sup>st</sup> YEAR**  
**SEPTEMBER 2016 EXAMINATIONS**

**EXAMINATION: CVL 1024 – PHILOSOPHY OF LAW (60%)**

**DATE: Monday 5<sup>th</sup> September**

**READING TIME: 8:30AM – 8:35AM**

**DURATION OF EXAMINATION: 8:35AM – 10:35AM**

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**INSTRUCTIONS TO STUDENTS:**

**Choose any TWO (2) of the following questions.**

**Each question carries 50 marks.**

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1. Discuss in detail the main aspects of the legal philosophy of any one of the following authors: Lon Fuller, H.L.A. Hart, John Finnis, or Ronald Dworkin.
  
2. The notion of juridical personality may be regarded as a ‘legal fiction’ that assigns to corporations certain rights, responsibilities, liabilities and privileges which are similar to those pertaining to natural persons.
  
3. Give an overview of the context leading to the rise of Legal Positivism and its subsequent crisis (especially in the aftermath of World War II), and discuss some key objections that have been raised against it.
  
4. Legal theorists have suggested different definitions of the Rule of Law, relating it to concepts such as authority, legitimacy and equality. What are the desirable qualities required for a legal order to qualify as a Rule of Law?

**University of Malta**  
**Faculty of Laws**  
**January 2018 Examinations**

**CVL1024 PHILOSOPHY OF LAW**

Thursday 18th January 2018

Duration of Examination: 4.00pm to 6.05pm

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**INSTRUCTIONS TO STUDENTS:**

Choose **ANY TWO (2)** of the following questions.

Answer each question on a separate booklet. Each question carries 50 marks.

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1. "'Rule of Law' is the term commonly attributed to that state of affairs in which a legal system is deemed to be legally in good shape." (John Finnis, *Natural law and Natural Rights*, 2<sup>nd</sup> ed., p. 270). Discuss.
  
2. In 'Positivism and the Separation of Law and Morals', H.L.A. Hart discusses legal positivism 'as part of the history of an idea' (p. 594). How did this idea develop over the centuries, and why did Hart feel the need to both defend and reconfigure legal positivism following World War II? In your answer, explain in detail his formulation of the 'separation thesis'.
  
3. "In jurisprudence, there is a name for a theory of law that undertakes to identify and debate, openly and critically, the moral principles and requirements which respond to deliberating persons' requests to be shown why a legal rule, validly enacted, is binding and authoritative for them, precisely as law: That name (for good and ill) is 'natural law theory'." (J. Finnis, 'On the Incoherence of Legal Positivism', p. 1610). Outline Finnis' main contributions to the revival of the natural law theory, and explain his main objections to legal positivism.
  
4. The notion of 'Juridical Personality' has proved essential in determining who the subject of law is. Discuss the main aims underlining the establishment and development of this notion.

**University of Malta**  
**Faculty of Laws**  
**September 2018 Examinations**

**CVL1024 - PHILOSOPHY OF LAW**

Monday 10<sup>th</sup> September 2018

Duration of Examination: 10.00AM – 12.05 PM

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**INSTRUCTIONS TO STUDENTS:**

Choose **ANY TWO (2)** of the following questions. Each question carries 50 marks.

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1. Outline the main principles of legal positivism with reference to the philosophy of H.L.A. Hart.
  
2. “The notion of juridical personality gradually evolved to enable humanity to act in unison, manipulate its surroundings, and determine who the subject of law is.” Discuss this statement in the light of the various theories on juridical personality.
  
3. Discuss in detail the main aspects of the legal philosophy of either Lon Fuller or Ronald Dworkin.
  
4. Finnis insists that for a legal system to be “in good shape”, it must reflect the basic tenets of the Rule of Law. Illustrate these basic tenets and discuss how they may be reflected in a legal system.

**University of Malta  
Faculty of Laws  
January/February 2019 Examination Session**

**CVL1024 PHILOSOPHY OF LAW**

**Date:** Thursday 24th January 2019

**Duration of Examination:** 2:30PM – 4:35PM

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**INSTRUCTIONS TO STUDENTS:**

Choose **ANY TWO (2)** of the following questions.

Answer each question on a separate booklet. Each question carries 50 marks.

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1. H.L.A. Hart placed the 'separation thesis' at the centre of legal positivism. Explain this thesis and explain how other legal theorists objected to it.
2. The "Pure Theory of Law" represents Kelsen's positivist outlook to law. Discuss the salient features thereof; also addressing any loopholes that may be observed.
3. How did legal philosophers such as Fuller and Finnis apply the classical natural law theory in the 20th century?
4. "The gradual development of the notion of juridical personality is mankind's response to the economic and administrative realities faced." Discuss and criticise the salient philosophical justifications that have been developed in order to realize this important juridical institute.

University of Malta  
Faculty of Laws

September 2019 Examination Session

**CVL1024 PHILOSOPHY OF LAW**

Date: Wednesday 4th September 2019

Duration of Examination: 10:00AM – 12:05PM

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**INSTRUCTIONS TO STUDENTS:**

Choose **ANY TWO (2)** of the following questions.

Answer each question on a separate booklet. Each question carries 50 marks.

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1. Discuss in detail the main aspects of the legal philosophy of either Lon Fuller or H.L.A. Hart.
2. "The name commonly given to the state of affairs in which a legal system is legally in good shape is 'the Rule of Law' ..." (J. Finnis, *Natural Law and Natural Rights*, 2nd ed., p. 270).  
Discuss the above quotation, outlining the various elements that are required to ensure that a legal system is truly in good shape.
3. In 20th century philosophy of law, the Natural Law Theory and Legal Positivism have often been regarded as being mutually exclusive. With reference to the philosophy of Ronald Dworkin, would you consider it possible to reconcile, at least partly, these two opposing general theories of law?
4. The notion of juridical personality reflects the evolution of humanity's necessity to cooperate in order to develop further. Briefly outline the historical and philosophical development of this notion.

University of Malta  
Faculty of Laws

January 2020 Examination Session

**CVL1024 PHILOSOPHY OF LAW**

**Date:** Thursday 16th January 2020

**Duration of Examination:** 11:30AM – 1:35PM

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**INSTRUCTIONS TO STUDENTS:**

Choose **ANY TWO (2)** of the following questions.

Answer each question on a separate booklet. Each question carries 50 marks.

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1. A legal system which upholds the rule of law is a system which may be said to be in good shape. Discuss the above statement, outlining the essential requisites for such a system to uphold the rule of law.
2. Outline H.L.A. Hart's 'separation thesis' and discuss the criticism levelled against it by either Lon Fuller or John Finnis.
3. Discuss in detail at least one aspect of Ronald Dworkin's philosophy of law. Would you agree that Dworkin attempts to reconcile, at least in part, legal positivism and the natural law tradition?
4. The structuralist and linguistic analyses expressed in Positive Law are two different avenues that help one develop an understanding of what law is. Give an outline of these separate outlooks and, while singling out which of the two, if any, you prefer, give reasons for your choice.



**University of Malta  
Faculty of Laws**

**September 2020 Examination Session**

**CVL1024 PHILOSOPHY OF LAW**

**Date:** Tuesday 1st September 2020

**Duration of Examination:** 8:30AM – 10:35AM

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**INSTRUCTIONS TO STUDENTS:**

Choose **ANY TWO (2)** of the following questions.

Answer each question on a separate booklet. Each question carries 50 marks.

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1. How did Aquinas' theory of law influence later natural law theorists such as Fuller and Finnis?
  
2. The notion of juridical personality gradually developed to fill in the lacunae which were developed as a result of the evolution of human activity and specialization. Discuss the above statement outlining the philosophy of law justifications therefor.
  
3. Why and how did H.L.A. Hart defend legal positivism against its critics after World War II?
  
4. The basic values are self-evidently a form of good with no hierarchy amongst them. Discuss the above statement in relation to the basic values as outlined by John Finnis.



First Year Law  
Compulsory Units Past Papers

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# INTRODUCTION TO LAW

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If you require any further information, have any suggestions or find any mistakes in this publication, do not hesitate to contact us on [academic@ghsl.org](mailto:academic@ghsl.org)

UNIVERSITY OF MALTA

FACULTY OF LAWS

BACHELOR OF LAWS (LL.B.) – 1<sup>ST</sup> YEAR

MCT 1001 - INTRODUCTION TO LAW

THURSDAY, 2<sup>ND</sup> FEBRUARY, 2012, 9.15 a.m. – 10.15 a.m.

EACH QUESTION BELOW CARRIES 100 MARKS OUT OF 100 MARKS

Write an essay on ONE of the following topics:

1. What do you understand by a literature review? What are its advantages and disadvantages? How would you include a literature review in any of your writings?
2. What makes a writing original? Illustrate your answer by providing examples.
3. Which are the stages which a bill has to follow to be enacted as law and become binding? What do you understand by primary and subsidiary legislation? Give examples of both types of legislation.
4. Discuss the provisions of the University Assessment Regulations, 2009 dealing with plagiarism. What is the distinction between plagiarism and collusion made in the University of Malta's Guidelines for students, academics, and Faculties/Institutes/Centres on 'Plagiarism and Collusion'?
5. Explain why the Maltese legal system is sometimes classified as a 'mixed' system. Do you agree with this classification? What according to you would be the implications for Maltese legal education of taking this 'mixed' status seriously?

UNIVERSITY OF MALTA

FACULTY OF LAWS

BACHELOR OF LAWS (HONOURS) (LL.B. (HONS.)) – 1<sup>ST</sup> YEAR

MCT 1002 - INTRODUCTION TO LAW

TUESDAY, 18<sup>th</sup> JUNE, 2013, 9.15 a.m. – 11.15 a.m.

EACH QUESTION BELOW CARRIES 50 MARKS OUT OF 100 MARKS

EACH STUDENT HAS TO ANSWER ONE QUESTION FROM SECTION A AND  
ONE QUESTION FROM SECTION B.

IN ALL, TWO QUESTIONS HAVE TO BE ANSWERED.

ALL QUESTIONS CARRY EQUAL MARKS

**SECTION A:**

Write an essay on ONE of the following topics:

1. A literature review comes in various forms and guises. Explain what do you understand by this term and explain how is a literature review incorporated in a dissertation?
2. Originality is considered to be the most important factor in one's work. What do you understand by the term "originality"?
3. Outline the stages for a bill to become law and distinguish between a "Green Paper" and a "White Paper".
4. Explain the legal provisions on plagiarism.
5. The Maltese mixed legal system has been divided into nine distinct phases. Discuss these phases.

**SECTION B:**

**Write an essay on ONE of the following topics:**

6. To what extent, if at all, does the regulation of resource management and the use of the environment effect our daily lives?
7. "On May 5th at 05:45 a man, apparently in his fifties, was found dead in Republic Street Valletta. He was discovered by an elderly couple who were going for the 06:00 mass. They immediately reported the discovery to the Police who alerted the Magistrate who was on duty. From investigations carried out by this Magistrate it transpired that this person was shot three times at very close range. The Magistrate concluded his investigations, identified a woman (his wife) as a prime suspect, and ordered the Commissioner of Police to arraign this woman in court on the charge of wilful homicide." Explain the procedures stipulated by Maltese Law regulating criminal proceedings that have to be instituted in this case from the moment of arraignment of this woman before the Court of Magistrates till the final and absolute judgment delivered by the Court of Criminal Appeal in her case.
8. How does Maltese law regulate the media?
9. How are the courts of civil jurisdiction organised? What is their respective competence?
10. Take any topic you have covered in your studies of Roman law and identify the rules, principles or doctrines which you find most interesting and relevant to discussions about modern law. Explain why this is so.
11. Discuss what factors induce States to obey International Law.

UNIVERSITY OF MALTA

FACULTY OF LAWS

BACHELOR OF LAWS (HONOURS) (LL.B. (HONS.)) – 1<sup>ST</sup> YEAR

MCT 1005 - INTRODUCTION TO LAW (80%)

MONDAY, 19 JANUARY 2015, 2.15 p.m. – 4.15 p.m.

EACH QUESTION BELOW CARRIES 50 MARKS OUT OF 100 MARKS

EACH STUDENT HAS TO ANSWER ONE QUESTION FROM SECTION A AND  
ONE QUESTION FROM SECTION B.

IN ALL, TWO QUESTIONS HAVE TO BE ANSWERED.

**SECTION A:**

Write an essay on **ONE** of the following topics:

1. Discuss what factors make the Maltese Legal System a Mixed Legal System. What do you understand by a 'mixed legal system'? Give examples to illustrate your answer.
2. A very serious offence in academia is plagiarism. What do you understand by plagiarism? How can it be avoided? What are the punishments contemplated in the University Assessment Regulations for plagiarism?
3. Which is the distinction between a Green Paper, a White Paper, a Bill and an Act of Parliament? Illustrate your answers by giving at least one example of each of the above documents.
4. Discuss the procedure by which a proposal becomes law.

**SECTION B:**

Write an essay on **ONE** of the following topics:

5. Discuss the sources of the civil law. Would you consider that there is any particular order of importance between the various sources?
6. Explain the notion of patrimony in civil law.
7. Consider the application of the rules of civil law in time.

**UNIVERSITY OF MALTA**  
**FACULTY OF LAWS**  
**LL.B. HONS. 1<sup>st</sup> YEAR**  
**JANUARY 2016 EXAMINATIONS**

**EXAMINATION: MCT 1005 - Introduction to Law (80%)**

**DATE: Thursday, 14<sup>th</sup> January 2016**

**READING TIME: 10.00 A.M. - 10.05A.M.**

**DURATION OF EXAMINATION: 10.05A.M. – 12.05 P.M.**

**EACH QUESTION BELOW CARRIES 50 MARKS OUT OF 100 MARKS**

**EACH STUDENT HAS TO ANSWER ONE QUESTION FROM SECTION A AND  
ONE QUESTION FROM SECTION B.**

**IN ALL, TWO QUESTIONS HAVE TO BE ANSWERED.**

**SECTION A:**

**Write an essay on ONE of the following topics:**

1. Plagiarism is considered to be a grave and serious academic offence against discipline. How is it regulated by the University of Malta?
2. The Maltese Legal System is not a pure legal system but made up of a diversity of legal systems. Explain.
3. How is law made and undone?

**SECTION B:**

**Write an essay on ONE of the following topics:**

4. Assess the sources of Civil Law.
5. Examine the meaning of patrimony in the Civil Law culture.
6. Consider the principally received methods of interpretation in the Civil Law tradition.

**UNIVERSITY OF MALTA**

**FACULTY OF LAWS**

**BACHELOR OF LAWS (HONOURS) (LL.B. (HONS.)) – 1<sup>ST</sup> YEAR**

**MCT 1005 - INTRODUCTION TO LAW (80%)**

**THURSDAY, 1 SEPTEMBER 2016,**

**Reading Time: 8.30 a.m. – 8.35 a.m.**

**Examination Time: 8.35 a.m. - 10.35 a.m.**

**EACH QUESTION BELOW CARRIES 50 MARKS OUT OF 100 MARKS  
SUB-QUESTIONS CARRY EQUAL MARKS**

**EACH STUDENT HAS TO ANSWER ONE QUESTION FROM SECTION A AND  
ONE QUESTION FROM SECTION B.**

**IN ALL, TWO QUESTIONS HAVE TO BE ANSWERED.**

**SECTION A:**

**Write an essay on ONE of the following topics:**

1. Explain the rules related to plagiarism.
2. Discuss the process through which a legislative proposal is turned into an Act of Parliament.
3. What is the distinction between primary legislation and subsidiary legislation? Give examples of both primary and subsidiary laws.

**SECTION B:**

**Write an essay on ONE of the following topics:**

4. In your view, is jurisprudence (court decisions) a separate, autonomous source of civil law?
5. Examine the application of civil law rules in time.
6. Consider the methods of interpretation generally known in civil law as:
  - (a) *A contrario*; and
  - (b) By analogy.



**UNIVERSITY OF MALTA  
FACULTY OF LAWS**

**Bachelor of Laws (LL.B.) Hons.**

**Intake 2016/2017**

**MCT 1005 - Introduction to Law (80%)**

**Monday, 4<sup>th</sup> September 2017      Duration of Examination: 10.00A.M. – 12.05 P.M.**

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**EACH QUESTION BELOW CARRIES 50 MARKS OUT OF 100 MARKS**

**EACH STUDENT HAS TO ANSWER ONE QUESTION FROM SECTION A AND  
ONE QUESTION FROM SECTION B.**

**IN ALL, TWO QUESTIONS HAVE TO BE ANSWERED.**

**SECTION A:**

Write an essay on ONE of the following topics:

1. Discuss the historical epochs which form the Maltese Legal System.
2. What has been the influence of Canon Law on the Maltese Legal System?
3. To what extent, if at all, do you subscribe to the statement that the Maltese Legal System is a 'mixed legal system'?

**SECTION B:**

Write an essay on ONE of the following topics:

4. How far would you consider (i) the Jurisprudence (ii) customary law and (iii) authoritative writings, as a direct source of civil law.
5. Discuss the meaning of patrimony in Maltese civil law.
6. 'In principle, civil laws should not find retroactive effect and application.' Comment on this statement.

**University of Malta**  
**Faculty of Laws**

**MCT1005 INTRODUCTION TO LAW (80%)**

Tuesday 30<sup>th</sup> January 2018

Duration of Examination: 11.30am to 1.35pm

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Each question below carries 50 marks out of 100 marks.

Each student has to answer one question from Section A and one question from Section B.

In all, TWO (2) questions have to be answered.

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**SECTION A:**

1. Which are the three principal legal systems which have influenced the Maltese Legal System and what has their influence been on Maltese Law?
2. What do you understand by a hierarchy of law? Explain how Maltese Law is hierarchical.
3. 'What genocide is to criminal law, plagiarism is to academia'. How is plagiarism regulated and how is it distinct from collusion and academic incompetence?

**SECTION B:**

4. Examine the sources of civil law in the Maltese legal system.
5. Consider the difficulties and solutions relative to the application of civil law in time.
6. Which are the principally received rules of interpretation in civil law?

**University of Malta**

**Faculty of Laws**

**MCT1005 Introduction to Law**

**Date: Thursday 6<sup>th</sup> September 2018      Duration of Examination: 8.30am-10.35am**

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**EACH QUESTION BELOW CARRIES 50 MARKS OUT OF 100 MARKS**

**EACH STUDENT HAS TO ANSWER ONE QUESTION FROM SECTION A AND  
ONE QUESTION FROM SECTION B.**

**IN ALL, TWO QUESTIONS HAVE TO BE ANSWERED.**

**SECTION A:**

1. Explain the typology of the Maltese mixed legal system.
2. Discuss the hierarchy of Maltese laws.
3. Write about the non-autochthonous law influences on the Maltese Legal System.

**SECTION B:**

4. To your view, does a hierarchy of sources exist in Maltese Civil Law?
5. Examine the meaning of patrimony in Civil Law.
6. 'Where language is clear and unambiguous, there is no room for interpretation'. Consider this statement in the light of the more important and widely-used rules of interpretation in Civil Law.

**University of Malta  
Faculty of Laws**

**January/February 2019 Examination Session**

**MCT1005 INTRODUCTION TO LAW**

**Date:** Tuesday 5<sup>th</sup> February 2019

**Duration of Examination:** 08:30AM-10:35AM

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**INSTRUCTIONS TO STUDENTS:**

Each question below carries 50 marks out of 100 marks.

Each student has to answer **one (1) question** from **Section A** and **one (1) question** from **Section B**.

In all, two (2) questions have to be answered.

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**SECTION A:**

1. Plagiarism is the worst form of student misbehaviour. Discuss.
  
2. Maltese Law is influenced by diverse legal systems. Explain.
  
3. Law is divided into primary and subsidiary legislation. Distinguish between the two and explain how primary legislation is enacted.

**SECTION B:**

4. Examine the sources of civil law.
  
5. Discuss the rules and difficulties relative to the application of civil law in time.
  
6. Which are the more important rules of interpretation in civil law?

University of Malta  
Faculty of Laws

September 2020 Examination Session

MCT1005 INTRODUCTION TO LAW

**Date:** Thursday 3rd September 2020      **Duration of Examination:** 8:30AM - 10:35AM

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**INSTRUCTIONS TO STUDENTS:**

Each question below carries equal marks.

Each student has to answer **ONE (1)** question from **Section A** and **ONE (1)** question from **Section B**.

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**Section A**

1. Discuss how primary and subsidiary legislation is made.
2. The Maltese legal system is a mixed legal system. Explain.
3. 'Plagiarism' is different from 'academic incompetence' and 'collusion'. Elaborate on the exact meaning of the three terms in single inverted commas.

**Section B**

4. Discuss the meaning, referring to contemporary developments, of patrimony.
5. Would you consider the Jurisprudence as a source of civil law?
6. Examine the manner whereby, a legal system addresses situations of:
  - (a) a lacuna; and
  - (b) an antinomy.



First Year Law  
Compulsory Units Past Papers

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# ROMAN LAW

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If you require any further information, have any suggestions or find any mistakes in this publication, do not hesitate to contact us on [academic@ghsl.org](mailto:academic@ghsl.org)

FOR OFFICIAL USE ONLY  
EXAMINATION NUMBER \_\_\_\_\_

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.B. - I YEAR  
FRIDAY 8<sup>TH</sup> JUNE 2007  
9.15 A.M. - 12.15 P.M.

ROMAN LAW

INDEX NO. \_\_\_\_\_ FOR OFFICIAL USE ONLY  
EXAMINATION NUMBER \_\_\_\_\_

NAME & SURNAME \_\_\_\_\_ ID CARD NO \_\_\_\_\_

LL. B. - I YEAR  
FRIDAY 8<sup>TH</sup> JUNE 2007  
9.15 A.M. - 12.15 P.M.

ROMAN LAW

## ROMAN LAW

June, 2007 Examination.

All questions carry four marks. Those set under the Law of Actions are optional.

### History of Roman Law.

1. Early in the Republic a new body came into existence called the Comitia Tributa. Explain. (4 marks)

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2. "The Senate by virtue of its authority as the motive power of the executive, passed resolutions called senatusconsulta". Explain. (4 marks)

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3. "The praetor could not, properly speaking, make law, because he had no legislative authority." Explain. (4 marks)

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4. Prior to the Codex Juris Civilis there had been other attempts at codification. Explain. (4 marks).

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History of Roman Law in Malta

5. The feudal system introduced by the Normans in Malta was favorable to Roman Law. Explain. (4 marks)

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6. Explain what the Code De Rohan was and whether it was a consolidation of Roman Law. (4 marks).

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The Law of Persons

7. "Slaves are born so or become so." Explain. (4 marks)

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8. What do we understand when we say that the parties to a marriage must be united according to law? (4 marks).

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9. Explain divorce under Roman Law. (4 marks)

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10. Explain the perpetua tutela mulierum. (4 marks).

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11. Explain the differences between Adrogatio and Adoptio. (4 Marks)

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The Law of Property

12. Define the following: a.Traditio ; b.Usucapio. (4 marks)

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13. 'Dominum' gave the owner three important rights. Define each of these rights and explain why they are known as rights 'in rem'. (4 marks)

14. Define 'usufructus' and indicate three duties of a usufructuary. (4 marks)

15. Indicate and explain briefly four ways how a servitude could be extinguished? (4 marks)

#### The Law of Succession

16. "The institution of an heir might only be either absolute or conditional." Explain. (4 marks)

17. Which were the essential elements of the querela inofficiosi testamenti prior to Justinian's changes? (4 marks)

18. Compare and contrast the Legatum per Damnationem to the Legatum per Vindicationem. (4 marks)

19. Explain briefly the changes made by the Praetor to intestate succession. (4 marks)

#### The Law of Obligations

20. The Senatus consultum macedonianum controlled loans of money to sons in power. Explain its effects. (4 marks)

21. Which are the duties of the parties in the real contract of pignus?  
(4 marks)

22. Explain the verbal contract of stipulatio. (4 marks)

23. It is said that in a contract of sale the thing must either be in existence or capable of existing. Explain. (4 marks)

24. Explain the duty to guarantee against eviction in sale. (4 marks)

25. Explain what we understand that in the delict of *damnum injuria datum* there must be an act which is wrongful and causes damages. (4 marks)

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The Law of Actions

26. Distinguish between proceedings *in jure* and proceedings in *judicio* under the formulary system. Indicate the function of the Magistrate and the function of the Judge in each stage of the proceedings. (4 marks).

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27. Define the actions *in rem* and actions *in personam*. (4 marks)

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28. Indicate in their proper order, the five main clauses of the formula (under the Formulary System) defining each clause briefly. (4 marks).

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EXAMINATION NUMBER \_\_\_\_\_

UNIVERSITY OF MALTA

FACULTY OF LAWS

LL.B. - I YEAR

WEDNESDAY, 4TH JUNE 2008

11.45AM - 2.45PM

ROMAN LAW

.....  
INDEX NO. \_\_\_\_\_ FOR OFFICIAL USE ONLY  
EXAMINATION NUMBER \_\_\_\_\_

NAME & SURNAME \_\_\_\_\_ ID CARD NO \_\_\_\_\_

LL. B. - I YEAR

WEDNESDAY, 4TH JUNE 2008

11.45AM - 2.45PM

ROMAN LAW

ROMAN LAW

June 2008 Examination

All questions carry four marks. Those set under the Law of Actions are optional. Candidates are required not to exceed the allotted space in their answers.

History of Roman Law

1. "The Law of the Twelve Tables is usually spoken of as a Code". Did it codify the whole law? – Comment.

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2. "The popular element of Government in Rome was the Comitia or Assembly of the People". Mention three (3) different kinds of Comitia that were created throughout its history, explaining any one of them.

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3. Justinian distinguishes between *Jus Scriptum* and *Jus Non Scriptum* – Explain giving examples of their sources.

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7. Mention the five requisites of a civil marriage under Roman Law giving a brief comment on any three of them.

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8. Define tutelage and curatorship outlining the essential differences between them.

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9. "Natural children could be legitimated and brought under the power of their father" – Comment indicating the ways in which this could be done.

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The Law of Property

10. What is meant by the phrase *jura in re aliena*? Give two examples of such rights, defining briefly each one.

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11. Define *emphyteusis*. Indicate two rights and three duties of the *emphyteuta*.

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12. Indicate and explain briefly five ways in which a servitude could be extinguished.

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13. Distinguish between *rights in rem* and *rights in personam*.

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The Law of Succession

14. "A testator had to be competent". Who could or could not make a will?

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15. Under Justinian legislation legacies were of four kinds-  
i) per vindicationem      ii) per damnationem  
iii) per sinendi modo      iv) per praeceptionem.  
Distinguish.

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16. What were the three principal requisites for the validity of a Roman will?

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24. What is meant by a) "*Arra poenitentialis*", b) "*actio redhibitoria*" and c) "*actio quanti minoris*"?

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**The Law of Actions** (Optional)

25. Differentiate between intercession (*intercessio*) and appellation (*appellatio*). Was there any right of appeal in civil actions during the Republic?

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26. Indicate and define the five main clauses of the Formula

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27. Distinguish between *praescriptio*, *exceptio* and *replicatio*. At which point were they introduced in the Formula?

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28. Distinguish between action *in rem* and actions in *personam*.

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UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.B. I  
MONDAY, 1<sup>ST</sup> SEPTEMBER 2008  
9.15AM – 12.15PM

ROMAN LAW

.....

NAME & SURNAME \_\_\_\_\_

ID CARD NO \_\_\_\_\_

LL. B. I  
MONDAY, 1<sup>ST</sup> SEPTEMBER 2008  
9.15AM – 12.15PM

ROMAN LAW

**Roman Law Examination. September 2008.**

Students must reply to all questions in the provided space and should not exceed it.

**History of Roman Law.**

1. Describe briefly the nature and role of the assemblies. (5 marks)

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2. Why was the Praetor Urbanus so important at roman law? (5 marks)

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3. Describe the Emperor's powers of edicta, decreta, mandata and rescripta. (5 marks)

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4. What do we understand by Custom under roman law? (5 marks)

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**Roman Law in Malta.**

5. Describe what we understand by the principle of the personality of the law as against the territoriality during and after the Norman period. (5 marks)

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6. What is the importance of the Code de Rohan? (5 marks)

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15/4/2010

## Law of Property

7. Define the following terms, giving examples: (5 marks)

- i) *res nullis*
- ii) *res mancipi* and *res nec mancipi*
- iii) *res sacrae*
- iv) *res quae usu consumuntur*

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8. Define: (5 marks)

- i) *tradition*
- ii) *occupatio*
- iii) *specificatio*
- iv) *accessio*

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9. Indicate two ways of acquiring ownership under *jus civile* giving a brief definition of each. (5 marks)

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10. Define the term "servitudes" and differentiate between the following: (5 marks)

- i) "*praedial*" and "personal" servitudes
- ii) "affirmative" and "negative" servitudes.

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## Law of Succession.

11. Explain what we understand when we say that a testamentary institution might be absolute or conditional? (5 marks)

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12. Explain what changes were made by Justinian to the *Querela inofficiosi testamenti*. (5 marks)

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13. Explain the *Legatum per Vindicationem*. (5 marks)

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14. Explain the order of succession in intestacy under the Twelve Tables. (5 marks)

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**The Law of Obligations.**

15. Explain the real contract of *mutuum*. (5 marks)

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16. Which are the duties of the seller in the consensual contract of sale? (5 marks)

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17. Explain what we understand by the verbal contract of *stipulatio*. (5 marks)

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18. Explain the contract of hire of services (*Locatio conductio operarum*). (5 marks)

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19. Which are the essential elements of the contract of mandate? (5 marks)

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**Roman Law Examination. June 2009**

Students must reply to all questions in the provided space and should not exceed it. Those set under the Law of Actions are optional.

**History of Roman Law.**

1. Describe briefly what we understand by the words. "The Senate by virtue of its authority passed Senatusconsulta" (4 marks)

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2. Explain what we understand when we say that the praetor urbanus could not, properly speaking, make law? (4 marks)

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3. Describe the Emperor's powers of edicta, decreta, mandata and rescripta. (4 marks)

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4. What forms of codification preceded the Codex Juris Civilis? (4 marks)

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**Roman Law in Malta.**

5. Describe in the light of Roman Law what we understand by the principle of the personality of the law as against the territoriality during and after the Norman period. (4 marks)

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6. What is the importance of the Code de Rohan? (4 marks)

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**Law of Persons.**

7. Was the Roman slave a thing or a person? (4 marks)

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8. A freedman's relation to his patron is summed up in three duties which were they? (4 marks)

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9. What do we mean when we say that the parties to marriage must be united according to law? (4 marks)

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10. Which were the various ways in which natural children could be legitimated? (4 marks)

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**Law of Property**

11. Indicate and explain briefly four ways how a servitude could be extinguished. (4 marks)

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12. Define 'usufructus'. Indicate three duties of a usufructuary. (4 marks)

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13. Define 'emphyteusis'. Indicate three grounds on account of which an emphyteutical grant could be forfeited. (4 marks)

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14. Distinguish between: i. Possessio and detentio and ii, res sanctae, res sacrae and res religiose . (4 marks)

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**Law of Succession**

15. Which are the three principal requisites for the validity of a roman will? (4 marks)

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16. Explain what we understand by 'Necessarii heredes' and the 'Sui et necessarii heredes'. (4 marks)

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17. Explain the Legatum per Damnationem . (4 marks)

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18. Explain what we understand by fideicommissa. (4 marks)

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**The Law of Obligations**

19. Explain the real contract of commodatum. (4 marks)

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20. Which are the duties of the buyer in the consensual contract of sale.? (4 marks)

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21. Explain what we understand by Arra in the consensual contract of sale. (4 marks)

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22. Explain the duties of the parties in the contract of Pignus . (4 marks)

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23. Which are the essential elements of the contract of mandate.? (4 marks)

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24. Explain what we understand by the gurantee against undisclosed defects in the consensual contract of sale. (4 marks)

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25. Define the consensual contract of partnership. (4 marks)

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**The law of Actions. (Optional).**

26. What is meant by proceedings in jure and in iudicio. What was the function of the magistrate and of the judge appointed to preside in each type of proceedings? (4 marks)

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27.. Indicate in their proper order, the five main clauses of the formula (under the formulary system) defining each clause briefly. (4 marks)

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28. Define the actions in rem and actions in personam. (4 marks)

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29. Explain briefly the role of the defendant during proceedings in jure under the formulary system. (4 marks)

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UNIVERSITY OF MALTA

FACULTY OF LAWS

LL.B. - I YEAR

WEDNESDAY 9<sup>TH</sup> SEPTEMBER, 2009

9.15 A.M. - 12.15 P.M.

CVL1020 - ROMAN LAW

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NAME & SURNAME \_\_\_\_\_ ID CARD NO \_\_\_\_\_

LL. B. - I YEAR

WEDNESDAY 9<sup>TH</sup> SEPTEMBER, 2009

9.15 A.M. - 12.15 P.M.

CVL1020 - ROMAN LAW

**Roman Law Examination. September 2009.**

Students must reply to all questions in the provided space and should not exceed it.  
Those set under the Law of Action are optional.

**History of Roman Law.**

1. Describe briefly the powers of the Comitia Curiata (4 marks)

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2. Explain what we understand when we say that "The Law of the Twelve Tables is usually spoken of as a code but it was far from being a codification of the whole law"? (4 marks)

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3. "Finally, in 426 the Emperors Theodosius II and Valentinian III attempted a comprehensive reform by the so-called Law of Citations" Explain . (4 marks)

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4. Can Custom be considered as part of the sources of Roman Law ? (4 marks)

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**Roman Law in Malta.**

5. To what extent if at all can one state that the Codex Juris Civilis was parcel of the maltese legal system . (4 marks)

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6. What is the importance of the Code de Rohan.? (4 marks)

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Law of Persons.

7. "Slaves are born so or become so; they become so either jure gentium, that is by being taken captive, or by civil law." Explain. (4 marks)

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8. "The status of slavery might be brought to an end by manumission" Explain. (4 marks)

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9. Explain in which manner Tutela came in existence. (4 marks)

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10. In which manner curators differed from tutors? (4 marks)

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Law of Property.

11. Define the following terms, giving examples i) res nullius, ii) res mancipi and res nec mancipi, iii) res quae usu consumatur. (4 marks)

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12. Define i) dominum, ii) jus utendi, iii) jus fruendi, iv) jus abutendi. (4 marks)

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13. Define 'emphyteusis'. Indicate the duties of the emphyteuta. (4 marks)

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14. Give three examples of 'jura in re aliena' (rights over another's property). (4 marks)

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**Law of Succession.**

15. Explain what we understand when we say "An heir or heirs must be duly instituted." (4 marks)

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16. Could women make a will ? (4 marks)

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17. Explain the Legatum per-Vindicationem . (4 marks)

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18. Explain the changes Justinian made to the Querela Inofficiosi Testamenti . (4 marks)

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**The Law of Obligations.**

19. Explain the real contract of Mutuum. (4 marks)

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20. Which are the duties of the parties in the real contract of Depositum? (4 marks)

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21. Explain the element of Price in the consensual contract of sale. (4 marks)

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22. Explain the duties of the Seller in the consensual contract of sale . (4 marks)

23. Which are the essential elements of the contract of Locatio Conductio Rei.? (4 marks)

24. Explain the essential elements of the contract of partnership Societas. (4 marks)

25. Which were the duties of the partners inter-se in the contract of partnership Societas. ( 4 marks)

**The law of Actions. (Optional).**

26. What is meant by proceedings in jure and in iudicio. What was the function of the magistrate and of the judge appointed to preside in each type of proceedings? (4 marks)

27. Distinguish between: i) 'civil' and 'pretorian' actions ii) 'actionis stricti juris' and 'bona fidei'. (4 marks)

28. Define : exception and replicatio. (4 marks)

29. Explain briefly the role of the defendant during proceedings in jure under the formulary system. (4 marks)

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OFFICE NO. \_\_\_\_\_  
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UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.B. I  
CVL1020 – ROMAN LAW

TUESDAY, 15<sup>TH</sup> JUNE 2010

11.45AM – 2.45PM

CVL1020 – ROMAN LAW

.....  
OFFICE NO. \_\_\_\_\_  
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NAME & SURNAME \_\_\_\_\_

ID CARD NO \_\_\_\_\_

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.B. I  
CVL1020 – ROMAN LAW

TUESDAY, 15<sup>TH</sup> JUNE 2010

11.45AM – 2.45PM

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.B. I  
MAY/JUNE 2010 EXAMINATION SESSION

CVL1020 – ROMAN LAW

TUESDAY 15<sup>TH</sup> JUNE, 2010

11.45AM – 2.45PM

Roman Law Examination. June 2010

Students must reply to all questions in the provided space, with the exception of the questions found in the Optional section (Law of Actions) and should not exceed the provided space. Students should also answer as many questions in the Optional Section as they feel able to

**HISTORY OF ROMAN LAW AND ROMAN LAW IN MALTA.**

1. What is meant by 'Responsa Prudentium'? (4 marks)

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2. The Law of the Twelve Tables is usually spoken of as a code. Explain what were the contents of these tables. (4 marks)

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3. Describe the Emperor's powers of edicta, decreta, mandata and rescripta. (4 marks)

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4. The quality of Socii given, (as Cicero testifies) to Maltese, must necessarily have entailed a certain degree of participation in the rights of roman citizenship. Explain. (4 marks)

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LAW OF PERSONS.

5. Which were the various ways in which natural children could be legitimated? (4 marks)

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6. Explain the duties of the curator. (4 marks)

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7. Explain which were the rights of masters over their slaves. (4 marks)

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8. Explain the duties and functions of tutors. (4 marks)

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9. What do we mean when we say that the parties to marriage must be united according to law? (4 marks)

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**LAW OF PROPERTY**

10. Define emphyteusis. Indicate two rights and three duties of the emphyteuta. (4 marks)

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11. What is meant by praedial servitudes? Name the two types of praedial servitudes and give an example of each. (4 marks)

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12. Indicate and explain briefly five ways in which a servitude could be extinguished. (4 marks)

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13. What is meant by dominium? Indicate and give a brief definition of the three important rights that were competent to the person having dominium. (4 marks)

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14. What is meant by usufructus ? Indicate three duties of the usufructuary. (4 marks)

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**LAW OF SUCCESSION**

15. Explain what are the principal requisites for the validity of a Roman will? (4 marks)

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16. Explain the difference between 'Necessarii heredes' and 'Extranei heredes'. (4 marks)

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17. Explain briefly who may make a will. Could women make a will under Roman law? (4 marks)

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18. What is meant by fideicommissa. (4 marks)

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19. Explain 'Legatum per Vindicationem'. (4 marks)

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#### LAW OF OBLIGATIONS

20. Explain the real contract of commodatum. (4 marks)

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21. Which are the duties of the pledgor (debtor) in the real contract of pledge Pignus? (4 marks)

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22. Which are the elements of the Quasi-Contract of 'negotiorum gestio'. (4 marks)

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23. Outline two examples of quasi-delicts (4 marks)

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24. Explain what we understand by Indebiti Solutio. (4 marks)

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25. What is understood by the 'guarantee against undisclosed defects' in the consensual contract of sale. (4 marks)

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**LAW OF ACTIONS (Optional)**

26. Explain briefly the role of the defendant during proceedings in jure under the Formulary system. (4 marks)

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27. Indicate and define the five main clauses of the Formula. (4 marks)

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28. What is meant by: vindex, proletarius and assiduus? Who could act as a vindex (i) for a proletarius; (ii) for an assiduus? (4 marks)

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29. Distinguish between actions in rem and actions in personam. (4 marks)

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UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.B. I  
CVL1020 – ROMAN LAW

WEDNESDAY, 15<sup>TH</sup> JUNE 2011

11.45AM – 2.45PM

CVL1020 – ROMAN LAW

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CVL1020 – ROMAN LAW

WEDNESDAY, 15<sup>TH</sup> JUNE 2011

11.45AM – 2.45PM

**Roman Law Examination -- June 2011**

Students must reply to all questions in the provided space, with the exception of questions 26, 27 and 28 which are found in the Optional section (Law of Actions) and should not exceed the provided space. Students should also answer as many questions in the Optional section (Law of Actions) as they feel able to. Every question carries four marks.

**History of Roman Law**

1. Can we say that the Law of the Twelve Tables codified the whole of Roman law?

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2. Explain what we understand when we say that the praetor urbanus could not properly speaking make law.

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3. Describe the Emperor's powers of edicta, decreta, mandata and rescripta.

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4. Describe and discuss the importance of the Institutes in Justinian's legislation.

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**Roman Law in Malta**

5. Describe the influence of roman law during the times of the Order of St John in these islands.

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6. After Sir Adriano Dingli's work did the presence of roman law disappear?

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**Law of Persons**

7. What rights did the master have over his slaves?

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8. Explain briefly the institute of divorce under roman law.

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9. Which were the legal consequences of adrogatio?

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10. Explain the duties and functions of the tutor.

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11. Discuss and explain the institute of curatorship.

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**Law of Property**

12. Explain 'in jure cessio'.

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13. Define 'usufructus'. Indicate three duties of the usufructuary.

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14. Define 'emphyteusis'. Indicate three grounds on account of which an emphyteutical grant could be forfeited.

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15. Distinguish between: i. 'possessio' and 'detentio' and ii. 'res sanctae', 'res sacrae' and res 'religiose'.

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### Law of Succession

16. Which were the three principal requisites for the validity of a roman will.

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17. Describe the querela inofficiosi testamenti prior to Justinian's changes.

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18. Compare and contrast the Legatum per Vindicationem to the Legatum per Damnationem.

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19. Explain the new order of succession in intestacy as established by Justinian.

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### Law of Obligations

20. Explain briefly the following (a) error in persona (b) error in negotio (c) error in corpore and (d) error in substantia.

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21. Explain the real contract of mutuum.

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22. Explain briefly the following (a) depositum sequestre and (b) depositum misarabile.

23. Explain the verbal contract of stipulation.

24. Describe the essential elements of the contract of sale.

25. Explain the duties of the buyer in the contract of sale.

#### Law of Actions

26. What was the role of the defendant during proceedings in jure in civil actions under the formulary system?

27. Indicate the order of the five main clauses in the formula, explaining each clause briefly.

28. What is meant by vindex, proletarius and assiduus and who could act as a vindex (i) for a proletarius and (ii) for an assiduus?

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WEDNESDAY, 7<sup>TH</sup> SEPTEMBER 2011

9.15AM – 12.15PM

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UNIVERSITY OF MALTA  
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CVL1020 – ROMAN LAW

WEDNESDAY, 7<sup>TH</sup> SEPTEMBER 2011

9.15AM – 12.15PM

Students must reply to all questions in the provided space, with the exception of questions 26, 27 and 28 which are found in the Optional section (Law of Actions) and should not exceed the provided space. Students should also answer as many questions in the Optional section (Law of Actions) as they feel able to.

History of Roman Law

1. Describe briefly the powers of the Comitia Curata. (4 marks)

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2. Why was the Praetor Urbanus so important at Roman law? (4 marks)

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3. "Finally, in 426 the Emperors Theodosius II and Valentinian III attempted a comprehensive reform by the so-called Law of Citations". Explain. (4 marks)

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4. Can Custom be considered as part of the sources of Roman law? (4 marks)

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Roman Law in Malta

5. To what extent, if at all, can one state that the Codex Juris Civilis was parcel of the Maltese legal system? (4 marks)

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6. What is the importance of the Code de Roban? (4 marks)

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7. "The status of slavery might be brought to an end by manumission". Explain. (4 marks)

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### The Law of Persons

8. There were various ways in which natural children might be legitimated and brought under the power of their father. Explain. (4 marks)

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9. As regards property, the son in power to the paterfamilias was originally in no better position than a slave. Explain. (4 marks)

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10. In which manner did curators differ from tutors? (4 marks)

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### Law of Property

11. What is meant by the following terms, in Roman law? (4 marks)

- i) res nullius
- ii) res mancipi

- iii) res nec mancipi
- iv) res quae usu.

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12. Give a brief definition of:

- i) praedial servitudes
- ii) personal servitudes
- iii) affirmative servitudes
- iv) negative servitudes. (4 marks)

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13. Define:

- i) traditio
- ii) traditio breve manu
- iii) traditio longa manu. (4 marks)

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14. Define:

- i) occupatio
- ii) specificatio. (4 marks)

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15. Give three examples of "jura in re aliena" (rights over another's property) and give the definition of one such right. (4 marks)

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Law of Succession

16. Explain what we understand when we say "An heir or heirs must be duly instituted". (4 marks)

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17. Explain the difference between necessarii heredes and the extranei heredes. (4 marks)

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18. Explain the Legatum per Vindicationem. (4 marks)

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19. Explain the changes Justinian made to the Querela Inofficiosi Testamenti. (4 marks)

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The Law of Obligations

20. Explain the real contract of commodatum. (4 marks)

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21. Which are the duties of the parties in the real contract of depositum? (4 marks)

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22. Which are the duties of the pledgor (debtor) in the real contract of pledge Pignus? (4 marks)

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23. Explain the element of the Price in the consensual contract of sale. (4 marks)

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24. Explain the duties of the Seller in the consensual contract of sale. (4 marks)

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25. Which are the duties of the parties in a contract of mandate? (4 marks)

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**Law of Actions (optional)**

26. Give a short definition of each of the following:-

- i) actions in rem
- ii) actions in personam. (4 marks)

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27. Explain briefly the principal difference between proceedings in jure and proceedings in iudicio under the formulary system. Indicate the function of the Magistrate and the function of the Judge in each stage of the proceedings. (4 marks)

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28. Define:-

- i) praescriptio
- ii) exceptio
- iii) replicatio. (4 marks)



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TUESDAY, 19<sup>TH</sup> JUNE 2012

11.45AM – 2.45PM

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UNIVERSITY OF MALTA  
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CVL1020 – ROMAN LAW

TUESDAY, 19<sup>TH</sup> JUNE 2012

11.45AM – 2.45PM

**Roman Law Examination - June 2012**

Students must reply to all questions in the provided space, with the exception of questions 26, 27 and 28 which are found in the Optional section (Law of Actions) and should not exceed the provided space. Students should also answer as many questions in the Optional section (Law of Actions) as they feel able to. Every question carries four marks.

A question in the Optional section, if answered correctly, will make good for any incorrect answer to Compulsory questions.

**Compulsory section**

**History of Roman Law**

1. Why are the Twelve Tables described as the first certain landmark of Roman Law?

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2. Describe the influence and powers of the Senate in the formation of law.

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3. Finally in 426AD the Emperors Theodosius II and Valentinian III attempted a comprehensive reform by the so-called Law of Citations. Explain.

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4. Explain custom under Roman Law.

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**Roman Law in Malta**

5. Explain how Roman Law remained part of our laws under the Norman period.

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6. Why was the Code de Rohan considered a remarkable achievement?

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**Law of Persons**

7. The status of slavery could be terminated by manumission. Explain?

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8. Parties to a marriage must be united according to law. Explain.

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9. Which were the legal consequences of adoptio?

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10. Explain how tutors were appointed.

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11. Discuss and explain the institute of curatorship.

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**Law of Property**

12. Define the following terms, giving examples: i) res nullius ; ii) res mancipi and res nec mancipi and iii) res quae usu consumuntur.

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13. Define 'usufructus'. Indicate three duties of the usufructuary.

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14. Define 'emphyteusis'. Indicate three grounds on account of which an emphyteutical grant could be forfeited.

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15. Indicate and explain briefly four ways how a servitude could be extinguished under Roman Law.

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#### Law of Succession

16. Which were the three principal requisites for the validity of a roman will.

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17. Describe the changes made to the querela inofficiosi testamenti by Justinian.

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18. Describe and explain the difference between necessarii heredes and the sui heredes.

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19. Explain the order of succession in intestacy as established by the Twelve Tables.

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**Law of Obligations**

20. Explain briefly the following (a) error in persona (b) error in negotio (c) error in corpore and (d) error in substantia.

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21. Explain the duties of the borrower in the real contract of commodatum.

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22. Explain briefly the duties of the pledgee (creditor) in the real contract of Pignus.

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23. What can be the subject matter of the consensual contract of sale.

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24. Describe the third element of the contract of sale, ie the price.

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25. Which are the duties of the seller in the contract of sale.

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**Optional section**

**Law of Actions**

26. "There was no systematised form of reference to legal precedent in Roman Law, however, Imperial rescripts were binding". Explain with reference to Justinian's Constitutions.

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27. Define actions in rem and actions in personam.

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28. What is meant by vindex, proletarius and assiduus and who could act as a vindex (i) for a proletarius and (ii) for an assiduus?

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FACULTY OF LAWS  
LL.B. I  
CVL1020 – ROMAN LAW

MONDAY, 3<sup>RD</sup> SEPTEMBER, 2012      9.15AM – 12.15PM

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UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.B. I  
CVL1020 – ROMAN LAW

MONDAY, 3<sup>RD</sup> SEPTEMBER, 2012      9.15AM – 12.15PM

Roman Law Examination. September 2012.

Students must reply to all questions in the provided space, with the exception of questions 26, 27, 28 and 29, which are found in the Optional Section (Law of Actions) and should not exceed the provided space. Students should also answer as many questions in the Optional section (Law of Actions) as they feel able to. Every question carries four marks.

A question in the Optional section, if answered correctly, will make good for an incorrect answer in the Compulsory section.

Compulsory section

History of Roman Law.

1. Describe briefly the powers of the Praetor. (4 marks)

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2. Explain what we understand when we say that "The Law of the Twelve Tables is usually spoken of as a code but it was far from being a codification of the whole law".? (4 marks)

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3. Describe briefly the responsa prudentium . (4 marks)

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4. What were the law making powers of the Emperor ? (4 marks)

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Roman Law in Malta.

5. To what extent if at all can one state that the Codex Juris Civilis can be considered part and parcel of the maltese legal system . (4 marks)

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6. What is the importance of the Code de Rohan? (4 marks)

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**Law of Persons.**

7. "Slaves are born so or become so; they become so either jure gentium, that is by being taken captive, or by civil law." Explain. (4 marks)

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8. Explain the effects of adrogatio. (4 marks)

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9. Explain in which manner Tutela came in existence. (4 marks)

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10. Which were the three modes through which persons born outside marriage could be legitimated? (4 marks)

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**Law of Property.**

11. Indicate and explain briefly four ways how a servitude could be extinguished. (4 marks)

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12. Define the difference between usufructus, usus and habitatio. (4 marks)

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13. Define emphyteusis'. Indicate three grounds on account of which an emphyteutical grant could be forfeited. (4 marks)

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14. Distinguish between: i. Possessio and detentio and ii, res sanctae, res sacrae and res religiose . (4 marks)

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#### Law of Succession.

15. Explain if a suspensive or resolutive condition could be inserted in a will. (4 marks)

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16. Could women make or enter into a will ?. (4 marks)

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17. Explain the Legatum per Vindicationem . (4 marks)

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18. Explain the changes Justinian made to the Querela Inofficiosi Testamenti . (4 marks)

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The Law of Obligations.

19. Explain the real contract of Commodatum. (4 marks)

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20. Explain briefly the three verbal contracts ? (4 marks)

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21. Explain Arra in the consensual contract of sale. (4 marks)

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22. Explain the duties of the parties in the contract of pignus . (4 marks)

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23. Which are the essential elements of the so called irregular deposits .? (4 marks)

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24. Explain the essential elements of the contract of sale. (4 marks)

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25. Which were the duties of the buyer in the contract of sale. ( 4 marks)

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Optional Section

The law of Actions. (Optional).

26. What is meant by proceedings in jure and in iudicio. What was the function of the magistrate and of the judge appointed to preside in each type of proceedings? (4 marks)

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27. Indicate in their proper order, the five main clauses of the formula (under the formulary system) defining each clause briefly. (4 marks)

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28. Define the actions in rem and actions in personam. (4 marks)

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29. Explain briefly the role of the defendant during proceedings in jure under the formulary system. (4 marks)

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First Year Law  
Compulsory Units Past Papers

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# Basic Notions of **COMMERCIAL LAW**

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If you require any further information, have any suggestions or find any mistakes in this publication, do not hesitate to contact us on [academic@ghsl.org](mailto:academic@ghsl.org)

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
JUNE SESSION EXAMINATIONS  
LL.B. – Year I ~~WONS~~

BASIC NOTIONS OF COMMERCIAL LAW (CML1001)

9<sup>th</sup> June 2014

1.00 p.m. – 3.00 p.m.

**IMPORTANT NOTES:**

1. Answer ONE question from PART I and ONE question from PART II
2. The question from Part I will carry sixty-five (65%) of the final mark and the question from Part II will carry thirty-five (35%) of the final mark
3. The (a) and (b) questions carry equal marks
4. Answer each question (including (a) and (b) questions) on a separate script

**PART I**

1. Under article 5(a) of the Commercial Code “any purchase of movable effects for the object of reselling or letting them, whether in their natural state or after being worked or manufactured” is an act of trade. Analyse and discuss.
2. What is required for a person to become a trader?
3. “Every act of a trader shall be deemed to be an act of trade, unless from the act itself it appears that it is extraneous to trade” (Article 7 of the Commercial Code). Analyse and discuss.

**PART II**

4. What, in your view, are the main distinguishing features between the three types of commercial partnerships recognised under Maltese law? Explain why you consider them so.
5. (a) “Although they appear to be quite basic and apparently simple, the concepts of the partnership name and partners’ contributions, in the context of partnerships *en nom collectif* and partnerships *en commandite*, involve various provisions aimed mainly at protecting third parties dealing with the respective partnership.” Discuss critically making specific reference to the relevant provisions in this respect contained in the Companies Act (Chapter 386, Laws of Malta).  
  
(b) Write short notes about what amounts to an oversea company for the purposes of the Companies Act (Chapter 386, Laws of Malta), giving at least one example. Please also indicate two of the main obligations that such companies face under the Act.

UNIVERSITY OF MALTA

FACULTY OF LAWS

SEPTEMBER SESSION EXAMINATIONS

LL.B. HONS 1<sup>ST</sup> YEAR

BASIC NOTIONS OF COMMERCIAL LAW (CML1001)

1<sup>st</sup> September 2014

9.15 – 11.15 a.m.

**IMPORTANT NOTES:**

1. Answer **ONE** question from **PART I** and **ONE** question from **PART II**
2. The question from **Part I** will carry sixty-five (65%) of the final mark and the question from **Part II** will carry thirty-five (35%) of the final mark
3. The (a) and (b) questions carry equal marks
4. Answer each question (including (a) and (b) questions) on a separate script

**PART I**

1. Compare and contrast objective acts of trade and subjective acts of trade.
2. 'The term "trader" means any person who, by profession, exercises acts of trade in his own name, and includes any commercial partnership' (Article 4 of the Commercial Code). Discuss.
3. What are the sources of commercial law? How do they interact with each other?

**PART II**

4. (a) What are the main common features of the three forms of commercial partnership? Describe any two of them.  
  
(b) Write brief notes that explain the salient features of a co-operative society and how it is regulated by law.
5. (a) Briefly outline the requisites for the valid formation of a commercial partnership.  
  
(b) Summarise the manner in which amendments to a deed of partnership and changes to partners are effected and put into force in a partnership *en nom collectif* and in a partnership *en commandite*

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.B. HONS. 1<sup>st</sup> YEAR  
MAY/JUNE 2015 EXAMINATIONS

EXAMINATION: CML1001 - BASIC NOTIONS OF COMMERCIAL LAW

DATE: 4th June 2015

READING TIME: 10.00AM to 10.05AM

DURATION OF EXAMINATION: 10.05AM to 12.05 PM

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INSTRUCTIONS TO STUDENTS:

1. Answer ONE question from PART I and ONE question from PART II;
  2. The question from Part I will carry sixty-five (65%) of the final mark and the question from Part II will carry thirty-five (35%) of the final mark. The (a) and (b) questions carry equal marks. The percentage mark allotted to each answer is indicated at the end of each question.
  3. Answer each question (including (a) and (b) questions) on a separate script.
- 

**PART I**

1. A person who purchases material (ex. wood) for the purposes of manufacturing and selling the manufactured articles (ex. furniture) is not carrying out an act of trade under article 5 of the Commercial Code (Cap. 13) unless the manufacturing activity constitutes an "undertaking" in terms of the said article 5. Discuss. (65%)
2. "The term "trader" means any person who, by profession, exercises acts of trade in his own name, and includes any commercial partnership." Discuss. (65%)
3. (a) Mark Mizzi, a trader, borrows EUR 5000 from a friend without any mention as to whether the purpose of the loan is for trade or for his own personal needs. Is the loan a subjective act of trade in terms of article 7 of the Commercial Code (Cap. 13). Give reasons for your answer. (32.5%)  
(b) What are the sources of commercial law? (32.5%)



## PART II

4 (a) Name and describe one common characteristic of the three kinds of commercial partnerships and one feature that distinguishes them from one another. (17.5%)

(b) "In the context of partnerships *en nom collectif* and partnerships *en commandite*, changes of partners involving transfers of partnership interests, expulsion of partners and death of partners are tightly regulated by the Companies Act". Discuss this statement, outlining the salient legal provisions in respect of the subject-matter of this statement. (17.5%)

5 (a) Examine two essential requisites for the valid formation of a commercial partnership. (17.5%)

(b) Describe briefly a few points of similarity between a limited liability company and a co-operative society, and a few instances where they differ. (17.5%)

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.B. HONS. 1<sup>st</sup> YEAR  
SEPTEMBER 2015 EXAMINATIONS

EXAMINATION: CML1001 - BASIC NOTIONS OF COMMERCIAL LAW

DATE: 4th September 2015, ~~FRIDAY~~

READING TIME: 08.30AM to 08.35AM      DURATION OF EXAMINATION: 08.35AM to 10.35 AM

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**INSTRUCTIONS TO STUDENTS:**

1. Answer ONE question from PART I and ONE question from PART II;
  2. The question from Part I will carry sixty five (65%) of the final mark and the question from Part II will carry thirty-five (35%) of the final mark. Any (a) and (b) questions carry equal marks. The percentage mark allotted to each answer is indicated at the end of each question.
  3. Answer each question (including (a) and (b) questions) on a separate script.
- 

**PART I**

1. Compare and contrast objective acts of trade and subjective acts of trade. (65%)
2. What does Maltese law require for a person to become a trader? (65%)
3. Write short notes on any TWO of the following:
  - (a) Usages of trade;
  - (b) Accessory acts of trade;
  - (c) Mixed acts of trade.(32.5% for each of the two answers for a total of 65%)

(continued)

## PART II

4. Give a brief historical outline of the development of the concept of a commercial partnership leading up to the three types of commercial partnerships recognised under Maltese law and describe what are their main common features and the major factors that differentiate one from the other two. (35%)
5. (a) "In both partnerships *en nom collectif* and partnerships *en commandite* the administration and representation of each partnership is vested in all circumstances in all partners severally." Discuss this statement critically, making reference to the appropriate provisions of the Companies Act, 1995 and distinguishing, where necessary, between the situation applicable in each type of partnership. (17.5%) and  
  
(b) Describe briefly the features of an overseas company and its main obligations under the Companies Act, 1995. (17.5%)

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.B. HONS. - YEAR I  
MAY/JUNE 2016 EXAMINATIONS

EXAMINATION: CML1001 - BASIC NOTIONS OF COMMERCIAL LAW

DATE: MONDAY 30 MAY 2016

READING TIME: 02.30 PM to 02.35 PM

DURATION OF EXAMINATION: 02.35 PM to 04.35 PM

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**INSTRUCTIONS TO STUDENTS:**

1. Answer ONE question from PART I and ONE question from PART II;
  2. The question from Part I will carry sixty-five (65%) of the final mark and the question from Part II will carry thirty-five (35%) of the final mark. The (a) and (b) questions carry equal marks. The percentage mark allotted to each answer is indicated at the end of each question.
  3. Answer each question (including (a) and (b) questions) on a separate script.
- 

**PART I**

1. Compare and contrast objective acts of trade and subjective acts of trade. (65%)
2. "The term "trader" means any person who, by profession, exercises acts of trade in his own name, and includes any commercial partnership." Discuss. (65%)
3. What are the sources of commercial law? How do they interact with each other? (65%)

**PART II**

4. Name and describe two common characteristics of the three kinds of commercial partnership and two factors that serve to differentiate one kind of commercial partnership from the other two kinds. (35%)

5. (a) "Although vested with a legal personality distinct from that of their partners, most of the Companies Act provisions dealing with partnerships *en nom collectif* and partnerships *en commandite*/limited partnerships actually regulate mainly the issue of partners' liability for partnership obligations." **Discuss this statement critically**, in the context of (and making due reference to) the salient legal provisions relative to the subject-matter of this statement; (17.5%)  
and

(b) Describe four salient features which relate to the regulation of oversea companies having a place of business in Malta in terms of the Companies Act. You may frame your answer in bullet point form. (17.5%)

**UNIVERSITY OF MALTA**  
**FACULTY OF LAWS**  
**LL.B. HONS. - YEAR I**  
**SEPTEMBER 2016 EXAMINATIONS**

**EXAMINATION: CML1001 - BASIC NOTIONS OF COMMERCIAL LAW**

**DATE: 6 September 2016**

**READING TIME: 08.30AM to 08.35AM**

**DURATION OF EXAMINATION: 08.35AM to 10.35AM**

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**INSTRUCTIONS TO STUDENTS:**

- 1. Answer ONE question from PART I and ONE question from PART II;**
  - 2. The question from Part I will carry sixty-five (65%) of the final mark and the question from Part II will carry thirty-five (35%) of the final mark. The (a) and (b) questions carry equal marks. The percentage mark allotted to each answer is indicated at the end of each question.**
  - 3. Answer each question (including (a) and (b) questions) on a separate script.**
- 

**PART I**

1. Under article 5 of the Commercial Code (Chapter 13, Laws of Malta) “any purchase of movable effects for the object of reselling or letting them, whether in their natural state or after being worked or manufactured” (paragraph a) is an act of trade and so is “any undertaking relating to ... manufacture ...” (paragraph g). Compare and contrast these two acts of trade. (65%)
2. What is required under Maltese commercial law for a person to become a trader? (65%)
3. A subjective act of trade depends on a presumption: “Every act of a trader shall be deemed to be an act of trade, unless from the act itself it appears that it is extraneous to trade” (article 7 of the Commercial Code – Chapter 13, Laws of Malta). Discuss the nature of the presumption. (65%)

## PART II

4. Explain each of the essential requisites for the valid formation of any type of commercial partnership that may be formed under Maltese law? (35%)
5. (a) Describe briefly how and why 'oversea companies' are regulated under the Companies Act, 1995 (Chapter 386, Laws of Malta); (17.5%) **and**  
(b) Describe briefly how Cooperative Societies are regulated under Maltese law. (17.5%)

**UNIVERSITY OF MALTA**  
**FACULTY OF LAWS**  
**LL.B. HONS. 1<sup>st</sup> Year (2016/17)**  
**JUNE 2017 EXAMINATIONS**

CML1001 – Basic Notions of Commercial Law

16th June 2017

10.00a.m. - 12.05p.m.

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**INSTRUCTIONS TO STUDENTS:**

1. Answer ONE question from PART I and ONE question from PART II;
  2. The question from Part I will carry sixty-five (65%) of the final mark and the question from Part II will carry thirty-five (35%) of the final mark. The (a) and (b) questions carry equal marks. The percentage mark allotted to each answer is indicated at the end of each question.
  3. Answer each question (including (a) and (b) questions) on a separate script.
- 

**PART I**

1. Objective acts of trade are acts of trade irrespective of the status of the person who carries out the acts, while subjective acts of trade presuppose that the person who carries out the acts is a trader. Discuss. (65%)
2. Under Maltese law what is required for a person to become a trader? (65%)
3. Write short notes on any TWO of the following:
  - (i) Usages of trade;
  - (ii) Accessory acts of trade;
  - (iii) The notion of 'undertaking' under article 5(g) of the Commercial Code.(65%)

**PART II**

4. The contribution of the partners or members and the view of profit to be shared among the partners or members are two essential requisites for the valid formation of a commercial partnership. Explain these two requisites in detail. (35%)
5. (a) "The main focus of the provisions regulating partnerships *en nom collectif* and those regulating partnerships *en commandite* in the Companies Act revolves around the



protection of creditors.” Discuss this statement critically in the context of (and making due reference to) the relevant salient legal provisions on the subject. (17.5%)

**And**

(b) Write short notes on the following TWO issues in terms of the relevant Maltese legislation:

(i) what are the main objectives of regulating oversea companies?

**and**

(ii) what are the main objectives of regulating cooperative societies?

(17.5%)

**University of Malta**  
**Faculty of Laws**

**CML1001 – Basic Notions of Commercial Law**

Wednesday 6<sup>th</sup> June 2018

Duration of Examination: 8.30AM – 10.35AM

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**INSTRUCTIONS TO STUDENTS:**

Answer **ONE** question from **PART I** and **ONE** question from **PART II**;

The question from **Part I** carries **sixty-five (65%)** of the final mark and the question from **Part II** carries **thirty-five (35%)** of the final mark. The (a) and (b) questions carry **equal marks**. The percentage mark allotted to each answer is indicated at the end of each question.

Answer each question (including (a) and (b) questions) on a separate script.

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**PART I**

1. “The notion of objective act of trade does not depend on the status of the person who carries out the act, while the notion of subjective act of trade presupposes that the person carrying out the act has the status of a trader.” Discuss. (65%)
2. The term "trader" means any person who, by profession, exercises acts of trade in his own name, and includes any commercial partnership. Discuss. (65%)
3. Article 3 of the Commercial Code lists the sources of commercial law. What are these sources? How do they interact with each other? (65%)

**PART II**

4. Review in detail the key common characteristics of, and differences between, the three types of commercial partnerships. (35%)
5. (a) “The requirement for commercial partnerships *en nom collectif* and *en commandite* to operate under a partnership name is a key characteristic of their distinct legal personality, and the Companies Act contains various provisions regulating the partnership name, thus

further emphasising the importance of this concept." Discuss this statement critically in the context of (and making due reference to) the relevant provisions of the Companies Act on the subject. (17.5%)

**AND**

(b) Describe what may qualify as an "established place of business" for the purposes of the provisions governing Oversea Companies in the Companies Act 1995. In your answer, please give a few examples. (17.5%)

**University of Malta**  
**Faculty of Laws**

**CML1001 Basic Notions of Commercial Law**

**Date:** Wednesday 12 September 2018

**Duration of Examination:** 8.30AM – 10.35AM

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**INSTRUCTIONS TO STUDENTS:**

1. Answer **ONE** question from **PART I** and **ONE** question from **PART II**;
  2. The question from **Part I** carries **sixty-five (65%)** of the final mark and the question from **Part II** carries **thirty-five (35%)** of the final mark. The **(a)** and **(b)** questions carry **equal marks**. The percentage mark allotted to each answer is indicated at the end of each question.
  3. Answer each question (including (a) and (b) questions) on a separate script.
- 

**PART I**

1. Compare and contrast objective acts of trade and subjective acts of trade. (65%)
2. What is required for a person to become a trader? (65%)
3. Under article 5(a) of the Commercial Code “any purchase of movable effects for the object of reselling or letting them, whether in their natural state or after being worked or manufactured” is an act of trade. Analyse and discuss. (65%)

**PART II**

4. Critically discuss the economic and legal rationale underpinning commercial partnerships. (35%)
5. (a) Article 52 of the Companies Act provides: "The provisions governing partnerships *en nom collectif* shall apply to partnerships *en commandite* or limited partnership except insofar as they are inconsistent with the provisions of this Part." In the light of this article, indicate and discuss the provisions which are specifically applicable to partnerships *en*

*commandite*/ limited partnerships, that is, those which are different from / inconsistent with those governing partnerships *en nom collectif*. (17.5%)

**AND**

(b) Briefly describe the various ways in which a cooperative society differs from a company. (17.5%)

**University of Malta  
Faculty of Laws**

**June 2019 Examination Session**

**CML1001 BASIC NOTIONS OF COMMERCIAL LAW**

**Date:** Saturday 1st June 2019

**Duration of Examination:** 11:30AM – 1:35PM

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**INSTRUCTIONS TO STUDENTS:**

Answer **ONE (1)** question from **Section A** and **ONE (1)** question from **Section B**.

The question from Section A carries **sixty-five (65%)** of the final mark.

The question from Section B carries **thirty-five (35%)** of the final mark.

Each question part [i.e., an (a) question and (b) question] carries equal marks.

Answer each question and each question part [(a) and (b)] on a separate script.

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**SECTION A**

1. Under article 5(a) of the Commercial Code (Chapter 13, Laws of Malta) “any purchase of movable effects for the object of reselling or letting them, whether in their natural state or after being worked or manufactured” is an act of trade. Analyse and discuss.
2. Discuss the manner in which a physical person differs from a commercial partnership in acquiring the status of a trader.
3. A subjective act of trade depends on a presumption, namely, that “[e]very act of a trader shall be deemed to be an act of trade, unless from the act itself it appears that it is extraneous to trade” (article 7 of the Commercial Code – Chapter 13, Laws of Malta). Discuss the nature of this presumption.

## SECTION B

4. Critically examine the economic and legal justifications underpinning the formation of commercial partnerships under Maltese law.
5. Answer BOTH question parts:
  - (a) "Many of the provisions governing partnerships en nom collectif (articles 7-50) in the Companies Act are aimed at creating a reasonable balance between the rights of the partnership and of the partners therein, and those of creditors and third parties dealing with the partnership." Discuss this statement critically in the context of, and making due reference to, the relevant provisions of the Companies Act to illustrate your line of reasoning. (17.5 marks)
  - (b) Discuss the notion of a "branch or a place of business" for the purposes of the rules governing oversea companies in the Companies Act, giving at least two brief examples. (17.5 marks)

University of Malta  
Faculty of Laws

September 2019 Examination Session

**CML1001 BASIC NOTIONS OF COMMERCIAL LAW**

**Date:** Saturday 14th September 2019    **Duration of Examination:** 8:30AM – 10:35AM

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**INSTRUCTIONS TO STUDENTS:**

Answer **ONE (1)** question from **Section A** and **ONE (1)** question from **Section B**.

The question from Section A carries **sixty-five percent (65%)** of the final mark.

The question from Section B carries **thirty-five percent (35%)** of the final mark.

Each question part carries equal marks.

Answer each question and each question part on a separate script.

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**Section A**

1. Compare and contrast objective acts of trade and subjective acts of trade.
2. "The term 'trader' means any person who, by profession, exercises acts of trade in his own name, and includes a commercial partnership". Discuss.
3. Write short notes on any **TWO (2)** of the following:
  - (a) Usages of trade (32.5 marks)
  - (b) Accessory acts of trade (32.5 marks)
  - (c) The notion of *Undertaking* in article 5(g) of the Commercial Code. (32.5 marks)

**Section B**

4. "A commercial partnerships is an association of persons carrying on business in common with a view to making a profit." Critically analyse this statement in the light of the developments that have taken place in the formation of commercial partnerships.





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FACULTY OF LAWS  
DEPARTMENT OF COMMERCIAL LAW  
JUNE/JULY 2020 EXAMINATION SESSION

CML1001 Basic Notions of Commercial Law

Tuesday, 9<sup>th</sup> June 2020

**Examination time: 08:30 – 10:30 + 60 extra minutes for uploading/downloading.**

In case of difficulty during the examination (issues with exam paper, electricity power cut, internet connection, etc), you may contact the Faculty of Laws on the following:

**Telephone : 2340 3251; 2340 3143**

**Email: [laws@um.edu.mt](mailto:laws@um.edu.mt)**

***Please note that for immediate feedback it is best to communicate using telephone. Use email only if there are circumstances when the use of telephone is not possible.***

Keep your mobile phone handy since important communications during the examination may be communicated by the University through SMS.

You have the option to either type in your answers on a word document or write down your answers on an A4 sheet/s of paper.

Once you have completed the examination, you are to save your answers in pdf format or scan your handwritten answers using Adobe Scan app and Microsoft Office Lens app, and upload them within the time indicated for the examination. **The name you should assign to the file you are going to upload to the VLE dropbox should be the study-unit code.** The VLE will then rename the file automatically to also include your name and surname.

You have been allowed 60 minutes for downloading the examination paper and uploading your responses. **Make sure that you upload the correct document.** If you upload the wrong document, simply upload again and the system will overwrite the document originally submitted.

You may be subject to an additional oral examination to safeguard against plagiarism, collusion or other misdemeanours.

You may not obtain or seek to obtain advantage in an examination, or give or endeavour to give assistance to other students. Students who are found guilty of a breach of the University Assessment Regulations are liable to disciplinary action which may result in the examination being cancelled and other consequences.

By sitting for this examination, you declare that you are aware of the provisions of the regulations regarding conduct during examinations and you pledge to observe them.

.....

## INSTRUCTIONS TO STUDENTS:

Answer **ONE (1)** question from **Section A** and **ONE (1)** question from **Section B**.

The question from Section A carries **sixty-five (65%)** of the final mark. The question from Section B carries **thirty-five (35%)** of the final mark.

Each question part carries equal marks.

The name you should assign to the files you are going to upload to the VLE drop-box should be the study-unit code and the question number, e.g. ABC1234 Exam Submission Q1, ABC1234 Exam Submission Q2. Please ensure that submissions are uploaded to the correct section of the VLE drop-box.

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### Section A

1. Compare and contrast an objective act of trade and a subjective act of trade.
2. What is required for a person to become a trader?
3. A person who purchases material (e.g. wood) for the purposes of manufacturing and selling the manufactured articles (e.g. furniture) is not carrying out an act of trade under article 5(a) of the Commercial Code (Chapter 13 of the Laws of Malta) but would be carrying out an act of trade under article 5(g) if the manufacturing activity constitutes an "undertaking" in terms of the said article 5(g). Discuss.

### Section B

4. How is the legal personality attributed to a commercial partnership created; **AND** what are its consequences?
5. Answer BOTH question parts:
  - (a) "The Maltese statutory provisions governing partnerships *en nom collectif* are ultimately aimed at achieving two key balances:
    - i. that between the partners' rights and obligations; and
    - ii. that between the partners' rights and those of creditors and the general public."

Discuss this statement critically, making appropriate references to the relevant provisions of the Companies Act.

- (b) What in your view are the advantages that companies have or appear to have over cooperative societies? Mention and briefly describe at least four, enumerating them appropriately.



First Year Law  
Compulsory Units Past Papers

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# INTRODUCTION TO EU LAW

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If you require any further information, have any suggestions or find any mistakes in this publication, do not hesitate to contact us on [academic@ghsl.org](mailto:academic@ghsl.org)

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
MAY/JUNE 2013 EXAMINATION  
LL.B. (II Yr)

ECL 2000 – Introduction to European Union Law

Tuesday 4<sup>th</sup> June 2013 09:15am -11:15am

Instructions to Candidates: Answer any TWO questions only. All questions carry equal marks.

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1. "It is noteworthy that the EEC existed from 1957 until 1985 without a single IGC, and that by the way of contrast since the SEA there was an almost continuous process of amendment".

Discuss with particular reference to the Maastricht, Amsterdam, and Nice Treaties.

2. The Treaty of Lisbon is essentially an amending Treaty; it amended the Treaty on European Union and the EC Treaty, renaming the later the Treaty on the Functioning of the EU (TFEU). To what extent if any, the Lisbon amendments are a reflection of the previously proposed Constitutional Treaty.

3. Is the Court of Justice of the European Union a Constitutional Court?

4. "Equating Union's institutions with familiar national institutions, or expecting them to evolve naturally towards those models, are deeply misconceived. The EU order is *sui generis*: and one of the features defining its unique character is the diffusion of executive powers. Just as the EU has no legislature, but a legislative process in which the different political institutions have different parts to play, so there is no identifiable executive".

Critically analyse the EU's evolving executive architecture.

END OF PAPER

UNIVERSITY OF MALTA

FACULTY OF LAWS

September 2013 EXAMINATION

LL.B. (II Yr)

ECL 2000 – Introduction to European Union Law

Tuesday 3<sup>rd</sup> September 2013 09:15am -11:15am

Instructions to Candidates: Answer any TWO questions only. All questions carry equal marks.

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1. Explain in detail the major changes to the European Treaties brought about by the Maastricht Treaty and then the Amsterdam Treaty.

2. Explain the main changes brought about by the Lisbon Treaty and discuss to what extent if any, the Lisbon amendments are a reflection of the previously proposed Constitutional Treaty.

3. 'The story of the European Parliament is one of gradual transformation from a relatively powerless Assembly under the 1952 ECSC Treaty to the considerably strengthened institution it is today'.

Discuss.

4. Explain in detail the difference in the composition, role and function between the COUNCIL governed by Article 16 TEU and the EUROPEAN COUNCIL governed by Article 15 TEU.

END OF PAPER

UNIVERSITY OF MALTA

FACULTY OF LAWS

MAY/JUNE 2014 EXAMINATION

LL.B (II Year)

ECL 2000 INTRODUCTION TO EUROPEAN UNION LAW

Monday 2<sup>nd</sup> June 2:15 pm – 4.15 pm

**Instructions to Candidates: Answer ANY TWO questions from the following four questions. All questions carry equal marks.**

1. Discuss the following statement:

“After the Lisbon Treaty, the Union legal order has the shape and content of a true ‘constitutional’ legal order.”

2. Discuss the following statement:

“The story of the evolution of the legal order of the Union is a story of an ever-changing mix of the supranational and the intergovernmental elements. This can be seen, for example, in the shift from the model of unanimous voting to qualified majority voting in the Council of Ministers while at the same time ‘compensating’ for this by keeping old intergovernmental features or introducing new ones.”

3. “The Maastricht Treaty was the second major revision of the Community Treaties. But in the words of Deirdre Curtin it introduced a ‘Europe of bits and pieces’ as far as the ‘legal order’ was concerned.”

Explain Deirdre Curtin’s analysis.

UNIVERSITY OF MALTA

FACULTY OF LAWS

SEPTEMBER 2014 EXAMINATION

LL.B (II Year)

ECL 2000 INTRODUCTION TO EUROPEAN UNION LAW

Wednesday 10<sup>th</sup> September 2014, 09.15am – 11.15am

**Instructions to Candidates:** Answer ANY TWO questions from the following four questions. All questions carry equal marks.

1. *Discuss* the following statement:

“The most constitutional/federal aspect of the European Union is precisely its Legal Order.”

2. “The so-called ‘three pillars’ of Union competence and activity put in place by the Maastricht Treaty have given way to a more ‘unified’ model with the Lisbon Treaty.” (Xuereb)

What main forms has this ‘heightened unification’ taken?

3. *Discuss* the following statement:

“What started as a project in economic co-operation gradually evolved into a constitutional project for a unified Europe, with law as the main tool for achieving this objective.”

4. Explain in clear and concise terms EACH of the following main features of the Union’s legal order:

- (a) The “ordinary legislative procedure”.
- (b) The concept of “subsidiarity”.
- (c) The “Treaty basis” of the European Union.
- (d) The concept of “membership” of the European Union.
- (e) The concept of “citizenship” of the European Union.

*(All parts of the question carry equal marks)*

*End of paper*



**University of Malta  
Faculty of Laws  
January/February 2019 Examination Session**

**ECL2000 INTRODUCTION TO EU LAW**

**Date:** Tuesday 29th January 2019

**Duration of Examination:** 08:30AM – 10:35AM

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**INSTRUCTIONS TO STUDENTS:**

Choose **TWO (2)** from the following questions. Each question carries the same marks.

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1. "The European Parliament is the most democratic institution of the EU, as its members are elected by direct universal suffrage of all citizens of the EU. Treaty after Treaty has progressively empowered this institution as a way to democratise the EU, transforming it from a mere consultative chamber into an important co-decision institution for most EU legislation and for the adoption of the EU budget. Among other powers and rights given to the Parliament, the appointment of the Commission requires its consent; and it has the authority to establish temporary committees of inquiry, to receive petitions from citizens, to elect the European Ombudsman, to put oral or written questions to the Commission and to the Council. Moreover, the Commission is responsible to the Parliament, which may vote on a motion of censure entailing the resignation of the Commission as a body". Discuss.
2. In the judgment of the German Federal Constitutional Court (GFCC) of 30 June 2009 concerning the Lisbon Treaty (BVerfG, 2 BvE 2/08), the EU was characterised as an 'association of sovereign national States'. Various writers have objected to the use of the term 'sovereign' on the basis that absolute constitutional sovereignty does not exist anymore in the constitutional orders of the Member States. The description of the nature of the European Union varies to a very large extent. There have been various integration theories attempting to describe the nature of the EU. However, it seems that there is no one theory which manages to bring all the elements of the nature of the EU under one umbrella term. Discuss by reference to integration theories and the essential elements constituting the nature of the European Union as a union of States.
3. The Commission may be described as a very complex institution in terms of its powers and functions. Four distinct powers/functions may be identified: (i) legislative initiator; (ii) executive; (iii) administrative, (iv) quasi-judicial. Discuss.
4. Discuss the concept of EU citizenship under EU law.

University of Malta  
Faculty of Laws

September 2019 Examination Session

**ECL 2000 INTRODUCTION TO EUROPEAN UNION LAW**

**Date:** Saturday 14th September, 2019    **Duration of Examination:** 8:30AM - 10:35AM

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**INSTRUCTIONS TO STUDENTS:**

Answer **TWO (2)** from the following questions. All questions carry equal marks.

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1. 'The European Union's institutional structure is unique: it combines the structural characteristics of traditional international organisations with features of states. Inter-governmental and supranational features exist in this system side by side and form a distinctive blend'. Discuss this statement with particular reference to the main decision makers in the Union, namely, the Council, the Commission and the Parliament.
2. The treaties amending the original Treaty of Rome (1957), the European Economic Community Treaty (EEC), have each in their own way contributed towards the development of the European Union as we know it today. Discuss the most salient contributions made by each amending treaty.
3. "The legal powers of the European Parliament have grown and grown ever since the coming into force of the EEC Treaty up to this day". Discuss this statement, highlighting the main developments that there have been in this regard. Reference should also be made to the relevant case law.
4. Discuss the concept of European Union citizenship as laid down in the EU Treaties and as discussed in the various case law of Court of Justice of the European Union.

University of Malta  
Faculty of Laws

January 2020 Examination Session

**ECL2000 INTRODUCTION TO EUROPEAN UNION LAW**

**Date:** Monday 20 January 2020

**Duration of Examination:** 2:30PM – 4:35PM

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**INSTRUCTIONS TO STUDENTS:**

Answer all two questions.

Each question carries equal marks.

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1. “The Community constitutes a new legal order of international law for the benefit of which the states have limited their sovereign rights, albeit within limited fields and the subjects of which comprise not only member states but also their nationals. Independently of the legislation of member states, Community law therefore not only imposes obligations on individuals but is also intended to confer upon them rights which become part of their legal heritage. These rights arise not only where they are expressly granted by the treaty, but also by reason of obligations which the treaty imposes in a clearly defined way upon individuals as well as upon the member states and upon the institutions of the Community.” (Case 26/62, *NV Algemene Transporten Expeditie Onderneming van Gend en Loos v Nederlandse Administratie der Belastingen* [1963] ECR 1.)

Discuss.

2. Describe the role and relevance of the European Commission and the Council of Ministers of the European Union.