



جامعة السلطان الشريف علي الإسلامية
UNIVERSITI ISLAM SULTAN SHARIF ALI
SULTAN SHARIF ALI ISLAMIC UNIVERSITY

Faculty of Shariah and Law
Semester II, 2016/2017 Academic Session

Final Examination Question Paper

Course Code : LB 4302

Course Name : Law of Evidence II

**Course Level : Bachelor of Laws (LL.B)& Bachelor of
Shariah Laws (BSL)**

Time : 3 hours

Reference allowed:

Evidence Act (Cap.108)

Note(s):

1. Answer Part I and any two (2) questions in Part II.
2. All answers, wherever relevant, must be supported by statutory provisions and case law.

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

PART I

(Compulsory Question)

Question 1 (30 marks)

Dayang Laila and Awang Yakob are legally married in 1960 in Kuala Belait. In 1961 Awang Yakob left to join a revolutionary group in Aceh, Indonesia, but told Dayang Laila that he would return in a year. In fact Dayang Laila did not hear from Awang Yakob again. In 1963 Dayang Laila received a letter from the group leader saying that Awang Yakob had been missing for 6 months following the operation against counter-revolutionaries. Dayang Laila heard no more and in 1972 Dayang Laila married Awang Ahad, an old man, in Bandung. In 1973 Dayang Laila gave birth to a pair of twins Dayang Lola and Dayang Loka and in 1975 to Dayang Loza. In 1995 Dayang Laila and Awang Ahad were killed instantly in a car crash. Shortly, before Awang Ahad was killed Awang Azhan told Dayang Loka that Dayang Laza could not be his child because he did not have intercourse with Dayang Laila for a year before her birth. At the funeral, Awang Yasrib, an old college friend of Dayang Laila and Awang Yakob, who had been out of touch for years, told Dayang Loka that he saw Awang Yakob in a cafe in Yokyakarta in 1971 but said that Awang Yakob disappeared before he could speak to him. Dayang Laila's will stated that if she died after Awang Ahad, her estate should be divided between her children and a charity for Aceh revolutionaries. Awang Ahad's will provides that all his property would be given to his "legitimate children". When Dayang Loka and Dayang Loza, perused through an old photograph in the attic depicting Awang Ahad and an unknown woman. On the back of the photograph was written the words "Wedding day, 29 March 1969".

Advise the parties as to the presumption of life, death, and legitimacy in relation to the facts stated above.

PART II

Question 1 (15 marks)

(a) With reference to the Evidence Act (Cap. 108) and decided cases, explain the meaning of “burden of proof” and “standard of proof”.

(7.5 marks)

(b) With reference to the Evidence Act (Cap.108) and decided cases, explain the qualification of witnesses.

(7.5 marks)

Question 2 (15 marks)

(a) With reference to the Evidence Act (Cap.108) and decided cases, state the essential requirements of corroborative evidence.

(5 marks)

(b) Discuss the following cases in respect of corroboration under sections 156 and 157 of the Evidence Act (Cap 108):

(1) *PP v Asing Anak Sabai @ Bonnie* [2005] BLR 115.

(5 marks)

(2) *Foong Boo Jang, Augustine v PP* [1989] BLR 197.

(5marks)

Question 3 (15 marks)

“Estoppel is not a rule of evidence. It is not a cause of action. It is a principle of justice and of equity. It comes to this when a man, by his words or conduct, has led another to believe in a particular state of affairs, he will not be allowed to go back on it when it would be unjust or inequitable for him to do so...”

[Per Choor Singh J in Industrial & Commercial Realty Co. Ltd., V Merchant Credit Pte Ltd [1980] 1 MLJ 208.]

- (i) Explain the general principle of Estoppel.
(5 marks)
- (ii) Explain briefly the legal principle “He who seeks equity must come with clean hands”.
(5 marks)
- (iii) State types of estoppel.
(5 marks)

Question 4 (15 marks)

Explain briefly the legal concept of the following terms:

- (a) “Res Judicata”

(7.5 marks)

(b) “Testes ponderantur, non numerantur”

(7.5 marks)

بالتوفيق والنجاح