



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

Faculty of Shariah and Law
Final Examination for the 2nd Semester
Academic Year 2008/2009

Course Code : SL 2401
Course Name : Introduction to Law
Course Level : Bachelor of Shariah
Time : 2 ½ HOURS

Note:

Answer three (3) of the following questions

(ASEAN Law Association. "Legal System in Brunei Darussalam" in *Legal Systems in ASEAN*. <http://www.aseanlawassociation.org/legal-brunei.html>. Chapter 2. "Sources of Law".)

(a) Explain the meaning of "legislation";

(3 marks)

(b) State the legislative process, from the pre-parliamentary stage until the legislation is published in the Government Gazette;

(7 marks)

(c) What is "subsidiary legislation", and who has the power to make it?

(5 marks)

(d) Explain the importance of subsidiary legislation in our legal system.

(5 marks)

Question 4 (20 marks)

(a) What is a "Constitution"? Explain the meaning of "unwritten constitution" and "written constitution".

(5 marks)

(b) Explain the meaning of "Convention". Give three examples of convention which is strictly followed in some Commonwealth countries, including Brunei Darussalam.

(5 marks)

(c) Discuss briefly the contents of the Constitution of Negara Brunei Darussalam.

(10 marks)

Question 5 (20 marks)

Answer only 1 (one) sub-question under Question 4, either (a) or (b).

- (a) (i) Discuss the theory of the “separation of powers” and the manner in which each organ of the government is separated or independent of each other. (10 marks)
- (ii) Explain “separation of powers” in the context of Negara Brunei Darussalam. (5 marks)
- (ii) “Rule of law” is the basis of a good and just government. What does “rule of law” mean? (5 marks)

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- (b) The system of criminal justice in Brunei Darussalam can be described as adversarial (not inquisitorial). This means each side (the prosecution or the defence) is responsible for putting its own case; for example, from the initial action taken by the police until the offender is sent to prison if he is found guilty.

Discuss the process of the criminal justice system in Brunei Darussalam.

(20 marks)

Question 6 (20 marks)

Answer only 1 (one) sub-question under Question 6, either (a) or (b).

- (a) “To constitute a valid contract”, according to the Malaysian High Court in *Sri Kajang Rock Products Sdn Bhd v Mayban Finance Bhd & Ors* [1992] 3 CLJ (Rep) 611, at page 614, “there must be separate and definite parties thereto; those parties must be in agreement, that is there must be a *consensus ad idem*; those parties must intend to create legal relations in the sense that the promises of each side are to be enforceable simply because they are contractual promises and the promises of each party must be supported by consideration.”

Discuss and illustrate the essentials required by law for the formation of an enforceable agreement.

(20 marks)

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- (b) Explain the legal requirements to establish “negligence” under the law of tort.

(20 marks)

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Question 1 (20 marks)

(a) Explain and illustrate the meaning of “law”. (5 marks)

(b) The formal features of law lie in its purpose. What are the purposes of law? (5 marks)

(c) Section 2 of the Application of Laws Act (Cap. 2) states:

“Subject to the provisions of this Act and save in so far as other provision has been or may hereafter be made by any written law in force in Brunei Darussalam, the common law of England and the doctrines of equity, together with statutes of general application, as administered or in force in England at the commencement of this Act, shall be in force in Brunei Darussalam: ...”

Explain the meaning of “common law” and “the doctrines of equity”.

(10 marks)

Question 2 (20 marks)

In order to describe law, scholars have divided or classified it under several categories. Explain the distinction between the following categories:

- (a) civil law and criminal law;
- (b) substantive law and procedural law;
- (c) private law and public law; and
- (d) international law and municipal law.

(5 marks each)

Question 3 (20 marks)

“Brunei Darussalam has in place a set of [A]cts compiled in volumes called “Laws of Brunei.” At present, there are [more than] 193 Acts in place which are in loose leaf form kept in ring binder volumes that consist of legislation that were passed prior to Independence Day and those that were enacted after it. ... We also have in place as part of the Laws of Brunei, a number of subsidiary legislation ... or other documents that has the force of law and annexed to their relevant parent Acts. Other government departments whose work is relevant to that particular legislation would usually prepare the drafts for subsidiary legislation.”