



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

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

Final Examination Question Paper

Course Code : LB 2303
Course Name : Criminal Law I
**Course Level : Higher National Diploma in Criminal
Justice System (HND)**
Time : 3 hours

Reference allowed:

Penal Code (Chap 22)

Notes:

1. Answer any **four** of the following questions.
2. All answers, wherever relevant, must be supported by statutory provisions and case law.

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QUESTION 1 (15 Marks)

(a) Explain **THREE** (3) sources of criminal law. Support your answer with examples.

(6 marks)

(b) Explain **FOUR** (4) purposes of criminal law. Support your answer with relevant case law.

(9 marks)

QUESTION 2 (15 Marks)

(a) Explain the concept of 'duty to act' as a form of an omission in the commission of a crime. Support your answer with relevant case law.

(6 marks)

(b) Explain the four levels of *Mens Rea* recognised in terms of the operation of criminal law. Support your answer with relevant case law.

(9 marks)

QUESTION 3 (15 Marks)

Zainal and Raihana are loving couple and have been married for 30 years. Zainal was so devoted to his wife and they always go for holidays together. One fine day

after coming back from Hong Kong as part of their holiday trip, Zainal went to the master bedroom and hit his wife with a hammer, causing grievous bodily harm to his wife who was deep asleep. At the time of committing the act, Zainal was suffering from arteriosclerosis (a condition which restricted the flow of blood to the brain) which caused temporary blackouts. After three weeks of investigation, Zainal was brought before the High Court in Bandar Seri Begawan and charged under section 322 of the Penal Code. Evidence adduced in court during the trial showed that Zainal was devoted to his wife, and could not remember picking up the hammer or attacking his wife on that fateful night.

Advise Zainal.

(15 marks)

QUESTION 4 (15 Marks)

Chong lived in Kampung Jerudong and was known to the villagers for being a drug addict. On several occasions, Chong had bragged about being above the law since the village-head as well as the police had failed to take action against him after several complaints have been made by the residents of Kampung Jerudong. One fine day, Chong decided to use the social media i.e. WeChat where she met Celia. Chong being a drug addict knew that he was carrying the HIV virus. Two weeks after chatting with Celia on WeChat, Chong decided to meet Celia for a cup of coffee at The Mall in Gadong. After having a cup of coffee together, Chong persuaded Celia to go to his place in Kampung Jerudong where they had unprotected consensual sex. Three month later, Celia went to a private clinic in Bunut as she was always down with flu and cough as well as terrible skin rash. At the clinic, after a blood test was carried out by Dr Kumar, he informed Celia that

she was HIV positive. Celia was devastated with the news and immediately contacted Chong accusing him of infecting her with HIV. Chong told Celia that it was a consensual sex and he never forced Celia to sleep with him.

Advise Celia.

(15 marks)

QUESTION 5 (15 Marks)

Zack and Zackery are Siamese twins. When the Siamese twins were born, their parents were in a dilemma as to their upbringing based on the medical opinion provided by two family doctors regarding the survival of both twins. According to the family doctors by the names of Dr. Brown and Dr. Ivan, both Zack and Zackery had their own vital organs, arms and legs. However, the weaker twin, Zack, had a poorly developed brain, an abnormal heart and virtually no lungs. He had only survived birth because a common artery enabled his brother to circulate oxygenated blood for both of them. An operation to separate the twins required the cutting of the common artery. Zack would die within minutes because his lungs and heart were not sufficient to pump blood through his body. The family doctors believed that Zackery had between a 94 to 99 per cent chance of surviving the separation and would have only limited disabilities and would be able to lead a relatively normal life. If the family doctors waited until Zack died naturally and then carried out an emergency separation operation, Zackery would only have a 36 per cent chance of survival. If no operation was performed, they were both likely to die within three to six months because Zackery's heart would eventually fail. After several rounds of discussions and consultations with the parents, the family doctors decided to carry out the operation instead of waiting for Zack to die a natural death.

Unfortunately, Zack died immediately after the operation but Zackery survived. Today, Zackery is a playful 12 year old boy. Next month Zackery will be celebrating his birthday.

What defence, if any, is available to Dr. Brown and Dr. Ivan? Support your answer with case law and relevant provisions of the Penal Code.

(15 marks)

QUESTION 6 (15 Marks)

Section 80 of the Brunei Penal Code (Cap. 22) provides that: “Nothing is an offence which is done by accident or misfortune and without any criminal intention or knowledge, in the doing of a lawful act in a lawful manner by lawful means, and with proper care and caution”.

Based on section 80 of the Brunei Penal Code above, discuss the operation of the defence of accident. Support your answer with relevant case law.

(15 marks)