



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

Faculty of Shariah and Law
Semester I, 2020/2021 Academic Session

Final Examination
Question Paper

Course Code : LS5304
Course Name : Criminal Procedure of the Shariah Court
Course Level : Bachelor's Degree
Time : 3 hours

Reference(s) allowed:
SYARIAH COURTS CRIMINAL PROCEDURE CODE ORDER 2018

Instructions:

1. Answer **four (4)** questions. **Question 1 is Compulsary.**
2. All answers, wherever relevant, must be supported by statutory provisions and case law.

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

QUESTION 1 (15 Marks) [COMPULSARY]

The Religious Enforcement Office received information regarding the collection of zakat without authority at No. 123, Taman Zimbabwe, Negara Brunei Darussalam. The Officers raided the house at about 12.30 a.m., 10th June 2017. They entered the premises, conducted a search, and seized each of BND\$80,00.00, three receipt books, five phones, and ten laptops. The Enforcement Officers also arrested 10 people, both men and women who were Muslim, and who at the time were at the premises. They were later detained in the police lock-up. At about 12 noon on 11th June 2017, after the charge was read to them, they were released on bail.

On 30th June 2020, all the accused appeared before the Syariah Subordinate Court for hearing of the charge against them for collecting zakat without authority.

(a) Determine whether the Religious Enforcement Officers had the power to raid, search, seize, arrest and detained the suspects.

(10 Marks)

(b) Explain the roles and method of the Syar'ie Defence council in defending their clients's right, in cases where the client has pleaded guilty, and in cases where the client has pleaded not guilty. Analyse the procedure related to it.

(5 Marks)

QUESTION 2 (15 Marks)

Section 21 Of The Brunei Syariah Criminal Procedure Code States that:

"When it is necessary to search a person, the search Shall be made by a person of the same gender with strict regard to decency"

(a) By referring to the section above, discuss how the law deals with the increase of transgender population.

(7 Marks)

(b) Discuss the restrictions imposed on the person from whom a body sample is required.

(8 Marks)

QUESTION 3 (15 Marks)

“A person is presumed innocent until proven guilty”

Based on this presumption, explain the rights of an accused person as guaranteed by the Islamic law and CPC Syariah Code 2018?

QUESTION 4 (15 Marks)

Every Muslim who commits an offence under the Syariah Criminal Offences Act will be Prosecuted / charged and tried in the Syariah Court. The court is required to conduct the trial, make decisions, and pass judgment according to the provisions of the law.

Explain:

(a) The trial procedures that are required to be followed at the Syariah Court.
(8 Marks)

(b) State the remedies available to the accused if the procedure is not followed and judgment is passed by the court without observing the procedural requirements provided under the law.
(7 Marks)

QUESTION 5 (15 Marks)

(a) *“Given a situation where a person tried to escape through a window in a locked room which is to be searched, to what extent the officials can act in order to retrieve the goods and to stop the person from escaping.”*

Answer in reference to the Syariah Criminal Procedure Code and relevant Case Law.

(b) Mode of Investigation in Islam and the Application of Investigation Procedure in Law.

Answer in reference to the Syariah Criminal Procedure Code and relevant Case Law.