



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

**Faculty of Shariah and Law**  
**Semester II, 2021/2022 Academic Session**

**Final Examination Question Paper**

**Course Code : LB4302**  
**Course Name : Law of Evidence II**  
**Course Level : Bachelor's Degree**  
**Time : 3 hours**

**Notes:**

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

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

**QUESTION 1 (15 Marks)**

- a. Define secondary evidence and discuss the cases in which secondary evidence relating to documents may be given in evidence? (7 Marks)
- b. Joko is a sole proprietor of a two-story shop house at Simpang 61 Kiulap, Brunei. Joko leased the shop house to Lisa for a fixed term of 15 years and the lease agreement was duly signed by Joko and Lisa and thereafter registered at the land registry. Upon expiry of the said lease, Joko gave notice to Lisa to give up vacant possession of the said premises. Lisa however contended that Joko had orally agreed with her to renew the lease for a further period of 20 years. Joko vehemently denies this. Joko intends to file a civil action against Lisa for vacant possession of the premises and seeks your advice on the possibility of the court admitting Lisa's oral evidence on the existence of any oral agreement for the renewal of the lease for 20 years. Advise the parties. (8 Marks)

**QUESTION 2 (15 Marks)**

- a. Jean filed a petition for divorce against her husband, Etton. She retained Ritchie as her advocate and solicitor. Etton's solicitor, Joan wrote a letter to Ritchie requesting Ritchie to disclose all the conversation that he had with Jean. Later Jean had discharged Ritchie. Advise Ritchie. (7 Marks)
- b. Amagados is a legal practitioner in Kuala Lumpur. One day, Katijah, a Muslim girl aged 16 was reported missing by her father, Abu Garib, at Sentul Police Station. Apparently, Katijah had converted to Christianity and changed her name to Cathy. Katijah has engaged Amagados as her lawyer and told him that she refused to return home. Katijah also told Amagados that he must keep her whereabouts secret. Jason, who is Katijah's boyfriend, had brought her to Kuala Lumpur and they had planned to get married soon. The police had commenced an investigation and had classified the case as kidnapping.

Discuss whether Amagados could be compelled to inform the whereabouts of his client, Katijah (Cathy). (8 Marks)

**QUESTION 3 (15 Marks)**

- a. In what circumstances would the court presume that the evidence of an accomplice is unworthy of credit unless corroborated and do you think the reasons why evidence of accomplices is considered unreliable or untrustworthy are justified? (6 Marks)
- b. Presumptions are inferences which are drawn by the court with respect to the existence of certain facts. When certain facts are presumed to be in existence the party in whose favour they are presumed to exist need not discharge the burden of proof with respect to it. Analyze this statement in respect of the provisions of the Evidence Act, Cap. 108, Brunei Darussalam and briefly discuss the different types of presumption. (9 Marks)

**QUESTION 4 (15 Marks)**

- a. Bashir is charged with outraging the modesty of Miss X, who is 10 years old. At the trial of Bashir, Miss X appeared as a witness for the prosecution. As it appeared that she could not understand the nature of the oath, Miss X was allowed to give unsworn evidence. Halima, Miss X's mother also gave evidence for the prosecution. Bashir is convicted. Bashir's counsel now appeals on the grounds inter alia that the conviction was bad because;
- i. Miss X's evidence should not have been admitted as it was unsworn.
  - ii. Halima's evidence should have been corroborated as she was an interested witness.
- Advise Bashir's counsel. (6 Marks)

- b. Evidence must be legally relevant in order to be admissible. The admission must be made and received in compliance with the Evidence Act. The improper admission or rejection of evidence shall not be ground of itself for a new trial or reversal of any decision in any case if it appears to the court before which such objection is raised that, independently of the evidence objected to and admitted, there was sufficient evidence to justify the decision, or that, if the rejected evidence had been received, it ought not to have varied the decision.

Discuss the above statement in the provision of section 167 of the evidence Act and its application in civil and criminal cases. (9 Marks)

**QUESTION 5 (15 Marks)**

- a. Discuss the rule against leading question and when they may be asked and when they must not be asked. (7 Marks)
- b. Discuss four ways of impeaching a witness under the Evidence Act and support your answer with relevant statutory provisions and case law. (8 Marks)

**QUESTION 6 (15 Marks)**

Upon proof of the basic facts the court is bound to take the fact to be presumed as having been proved. Discuss the following presumption of law.

- a. Continuity of life. (5 Marks)
- b. Presumption of death. (5 Marks)
- c. Legitimacy of child. (5 Marks)

بالتوفيق والنجاح