



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 : LB4304**  
**Course Name : Criminal Procedure II**  
**Course Level : Bachelor's Degree**  
**Time : 3 hours**

**Reference allowed:**  
**Criminal Procedure Code 1951 (Cap.7)**

**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)**

Nicholas Chong was charged with the offence of theft under section 379 of the Brunei Penal Code at the Magistrate Court in Bandar Seri Begawan before Magistrate Azman. The charge was read and explained to him in Mandarin by the court interpreter, Miss Amanda Loh. Nicholas Chong claimed to speak Mandarin fluently. Nicholas Chong pleaded guilty to the charge.

Advise the Court on procedures governing the taking of a “plea of guilty” from the accused person.

**QUESTION 2 (15 Marks)**

At the close of the prosecution case, Timothy Wong was facing a charge of rape punishable under section 376 of the Brunei Penal Code was acquitted and discharged without his defence being called. The Deputy Public Prosecutor appealed against the said decision. When the record of appeal which contained the grounds of judgment was served on the Deputy Public Prosecutor, it was discovered that the grounds were sketchy and very brief. There was no specific finding of facts and it was not a reasoned judgment.

Advise the Deputy Public Prosecutor, with reference to relevant authorities, how to deal with the issues of the absence of specific finding of facts and the grounds of judgment being a non-reasoned judgment at the appeal.

**QUESTION 3 (15 Marks)**

Mat Rahman was charged with theft of a motorcycle punishable under section 379 of the Penal Code. He pleaded not guilty to the charge. The court fixed the case for

hearing on March 12, 2021. On the date of the hearing, the learned Deputy Public Prosecutor tendered an alternative charge of retaining stolen property punishable under section 411 of the Penal Code.

Advise the Prosecution as to whether it could tender the alternative charge as of right pursuant to Article 81(3) of the Brunei Darussalam Constitution or must the Prosecution apply to the court for leave to do so.

**QUESTION 4 (15 Marks)**

- (a) John Lim is unrepresented. He wishes to plead guilty to the charges preferred against him in the High Court.

Explain the correct procedure of recording John Lim's plea of guilty. Support your answer with case law and relevant provisions of the Brunei Criminal Procedure Code.

(10 Marks)

- (b) John Lim wishes to withdraw his plea of guilty.

Explain whether the High Court would allow John Lim to do so. Support your answer with relevant case law.

(5 Marks)

**QUESTION 5 (15 Marks)**

Richard Lim was arrested and charged for theft under section 378 of the Brunei Darussalam Penal Code and punishable under section 379 of the same Code. At the conclusion of the trial, the Magistrate ordered for Richard Lim's acquittal since the Deputy Public Prosecutor failed to prove his case beyond reasonable doubt. As Richard Lim was walking out the Court building to be reunited with

his loved ones, the police arrested him and the short-lived celebration turned into a nightmare. One week later, Richard Lim was produced before the Magistrate Court and charged for the same offence of theft under section 379 of the Brunei Darussalam Penal Code.

Advise Richard Lim.

### **QUESTION 6 (15 Marks)**

On 20<sup>th</sup> May, 2021, after a trial before the Senior Magistrate, Mat Rahim who was unrepresented at the time was convicted of 3 counts of theft of telephone cables contrary to section 379, and 3 counts of mischief by causing damage to the same cables contrary to section 427 of the Penal Code (Chapter 22); and he was sentenced to a total of 30 months' imprisonment and 3 strokes of corporal punishment. On 23<sup>rd</sup> May, 2021, Mat Rahim instructed his counsel/lawyer to appeal against the conviction and sentence. The counsel/lawyer wrote to the Chief Magistrate on 28<sup>th</sup> May, 2021 requesting for the notes of proceedings, exhibits and judgment indicating that these were "absolutely necessary" to prepare the grounds of appeal. He was not favoured with any reply, let alone furnished with the papers he had requested. On 16<sup>th</sup> June, 2021 the counsel/lawyer for Mat Rahim wrote to the Chief Magistrate repeating his earlier request. Again there was no response whatever.

Advise Mat Rahim on the procedure of appeal and revision of his sentence meted out by the Senior Magistrate.