



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

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

Final Examination Question Paper

Course Code : LB3302
Course Name : Land Law II
Course Level : Bachelor of Laws (LL.B) & Bachelor of Shariah Law (BSL)
Time : 3 hours

Reference allowed:

Land Code (Cap 40), Land Acquisition Act (Cap 41) and any two of these statutes: The Town & Country Planning (Development) Control Act (Cap 143), Land Code (Strata) Act (Cap 189), Power of Attorney Act (Cap 13), Mining Act (Cap 42), Building Control Order (2014), Stamp Act (Cap 34), Limitation Act (Cap 14), Probate and Administration Act (Cap 11), Antiquities and Treasure Trove Act (Cap 31) and Islamic Family Law (Cap 217)

Instructions:

1. Answer **four** (4) of the following questions.
2. Support your answers with relevant statutory provisions and decided cases.

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QUESTION 1 (15 Marks)

Explain briefly, the concepts below in relation to property and land laws and give examples to illustrate your understanding of these concepts:

- a. *Tammah* and *Naqisah* ownership (5 marks)
- b. *Wasiat* (Wills) and *Pusaka* (Inheritance) (5 marks)
- c. *Al-Hima* land (5 marks)

QUESTION 2 (15 Marks)

What are the differences between the concepts of *iqta'* and *ihya'* in Islamic property law? To what extent are these concepts similar to the principles of property ownership / occupation under the Land Code?

QUESTION 3 (15 Marks)

Haji Metussin was critically ill when he told his wife, Hajah Jamilah, that he wished to give the land on which their house was built to his son, Haji Mukhriz. His wife told their son, Haji Mukhriz about his father's wishes and Haji Mukhriz told his mother that he agreed to accept the land. Before Haji Metussin passed away, his wife was able to let Haji Metussin know that his son has accepted the gift, but before the land was transferred officially at the Lands Department Registration Section, Haji Metussin passed away.

- (i) On the concept of *hibah* at *mard al-maut*, explain whether Haji Mukhriz has the right to own the land or not through *hibah* and why?
- (ii) What if Haji Metussin passed away before Haji Mukhriz told his mother that he accepted the land as a gift? What is his right to the property?

QUESTION 4 (15 Marks)

In the Land Acquisition Act Cap.41, Laws of Brunei, compulsory acquisition of land by the Government must be for specific purposes. Describe the procedures in carrying out compulsory acquisition in Brunei and do a comparative analysis between land acquisition under civil and Islamic law in terms of procedures and compensation that you have studied.

QUESTION 5 (15 Marks)

Why is the concept of *harta sepencarian* important? Explain with examples how the concept of *harta sepencarian* has evolved and become part of the Islamic family law.

QUESTION 6 (15 Marks)

Apart from the Land Code Cap 40, the Land Acquisition Act Cap 41 and the Land Code (Strata) Act Cap 189, the Laws of Brunei, name two examples of statutes that affect land ownership that you have studied. Explain the various provisions in those statutes that are likely to affect the registered landowner.

بالتوفيق والنجاح