



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

Faculty of Shariah and Law
Semester II, 2022/2023 Academic Session

Final Examination Question Paper

Course Code : LS4304
Course Name : Islamic Family Law
Course Level : Bachelor of Halal Science
Time : 3 hours

References:

Islamic Family Law Act, Cap.217

Note:

Answer **FOUR** questions only.

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

QUESTION 1 (15 Marks)

1. State differences between these statutes of Brunei:
 - (a) Three differences between Religious Council, State Custom and Kathis Courts Enactment of 1955 and Religious Council and the Qadis' Courts Act, Chapter 77, 1984. (3 marks)
 - (b) 2 differences between Emergency Order (Islamic Family Law), 1999 and Islamic Family Law Act, Cap. 217. (2 marks)
2. Based on Islamic Family Law Act, Cap. 217 and *Fiqh*, state the differences between these terms
 - a) *Bermukim* and *bermastautin* (4 marks)
 - b) Detention and imprisonment (2 marks)
 - c) *Mut'ah* and *Nafaqah* (4 marks)

QUESTION 2 (15 Marks)

Betrothal is a promise from a man with the intention that he will marry a certain woman. It is a sort of agreement that serves as preliminary to the contract of marriage. Unfortunately, not all of these engagements end up with marriages:

1. What is the ruling (*hukm*) regarding the breach of engagement? (1 mark)

2. Discuss the provision from Islamic Family Law Act, Cap. 217 on the claim of betrothal gifts from Islamic perspective.
- (9 marks)

3. The breach of engagement: *Salbiah Othman v Haji Abdul Ghani*:

An engagement agreement was held between the plaintiff and the defendant on July 28, 2001. The date of *nikah* was agreed, that is, on August 31, 2001. However, the defendant called off the engagement on August 17, 2001. The plaintiff claimed for damages due to humiliation at RM200,000 and compensation for the expenses amounting to RM9,677.

The Syariah Court decided that the defendant without lawful reason had breached the promise to marry. The court dismissed the claim for damages due to humiliation. The court granted the claim for expenses in preparation for the marriage in the sum of RM6,277.10.

- a) Discuss the above case regarding the compensation for breach of engagement in Islamic perspective.
- (3 marks)
- b) Why the Syariah Court dismissed the claim for damages due to humiliation?
- (2 marks)

QUESTION 3 (15 Marks)

Awang Ninja had persuasively asked Ira for marriage. However, her father did not like her fiance, and refused to let her marry since they are poor and she is the sole breadwinner of the big family. Ira and Awang Ninja agreed to get married outside Brunei Darussalam so as to avoid issues of *wali*. Give them advice based on Islamic perspective and Islamic Family Law Act, Cap. 217.

(10 marks)

It was later found out that Ira's so-called father is actually not her biological father. She is an illegitimate child. Will the previous advice on *wali* be different?

(5 marks)

QUESTION 4 (15 Marks)

1. Explain the difference between “*ta’liq*” and ‘*ta’liq khul*’ and support your answer with ONE decided case respectively.

(6 marks)

2. In the case of *Nora v Ahmad Zamri* (1990, JH 105), after a quarrel between them, the defendant said to the wife that if she returns to her father’s house at Genting, she would be divorced by one talaq. The wife didn’t in fact return to her father’s house then. Subsequently after they had returned home, the defendant said to the wife that if she really wanted what she asked for, the best thing for her to do is to leave the house without his permission. Later, the defendant took his wife to his parent’s house where she fell ill. So, the wife was fetched by her father to Genting. The wife applied to confirm the *ta’liq* and to declare whether the divorce had become effected or not.

- a) What was the judgement in this case?

(4 marks)

- b) Is the *ta’liq* in this case still effective until today? Why?

(2 marks)

3. Discuss ONE decided case of *nafaqah*

(3 marks)

QUESTION 5 (15 Marks)

1. Discuss ONE decided case regarding the claim of ex-wife on her ex-husband’s “*TAP or Pention or Retirement Gratuity (Baksis)*” as part of matrimonial property.

(5 marks)

2. Discuss this case of Dissolution of Marriage because of the change of Religion:

Pedley v Majlis Ugama Islam Pulau Pinang

(5 marks)

3. Explain the different opinion among *fuqaha* regarding the *fasakh* due to the cruelty towards wife and support your answer with One decided case from Brunei Darussalam.

(5 marks)

بالتوفيق والنجاح