

UNIVERSITY OF KOTA, KOTA

SYLLABUS

**SCHEME OF EXAMINATION AND
COURSES OF STUDY**

FACULTY OF LAW

1. LL.M. Part I Examination, 2013
2. LL.M. Part II Examination, 2013

ORDINANCES RELATED TO LL.M. EXAMINATION

0.257:

- (1) The examination for the Degree of Master of Laws shall consist of two Parts, Part I and Part II and there will be an examination at the end of each year i.e. LL.M. Part I examination at the end of the first year and LL.M. Part II examination at the end of the second year.
- (2) A candidate who has passed the Bachelor of Laws (P) degree examination of this University or an examination of some other University recognised by the Board of Management of the University as equivalent thereto securing a minimum of 55% marks in the aggregate or a candidate who holds the LL.B. (P) degree and has also passed any of the Diploma courses of the University in the Faculty of Law with 55% marks in aggregate at the Diploma examination and there after pursued a regular course of study in an affiliated college or University Department for one academic year shall be eligible for admission to LL.M. Part I Examination.

Provided that 10% seats are reserved for candidates who hold LL.B. (P) degree and have also passed any of the Diploma Courses in the faculty of Law. For candidates belonging to S.C., S.T. or O.B.C. category, the minimum percentage of marks for eligibility to get admission in LL.M. Part I shall be 50% in the qualifying examination.

- (3) A candidate who having passed the LL.M. Part I Examination of this University, has attended a regular course of study in an affiliated college or University Department for one academic year, shall be eligible for admission to the LL.M. Part II Examination. Provided that a candidate who has obtained at least 40% marks in two papers with atleast 50% marks in one paper at the LL.M. Part I Examination may be provisionally admitted to the LL.M. Part II class and after attending a regular course of study for one year, he shall be permitted to appear at the LL.M. Part II Examination, subject to the condition that alongwith the papers prescribed for LL.M. Part II examination, he will also re-appear and pass in paper or papers of LL.M. Part I Examination. Such a candidate as well as a candidate who having failed at the LL.M. Part II Examination reappears at the same, may re-appear in such paper as he choose for the purpose of making up the aggregate of 50%. However, for passing the LL.M. Part I/LL.M. Part II Examination a candidate will be required to fulfill the condition of obtaining a minimum of 40% marks in each paper and 50% marks in aggregate of all the papers at the LL.M. Part I and / or LL.M. Part II Examination as the case may be, separately. The marks of the papers in which a candidate does not choose to reappear will be carried forward for the purpose of working out his result. The option once given by a candidate will be treated as final and no change shall be permitted subsequently.

Note :

Actual marks obtained by a candidate for the paper or papers in which he re-appears shall be taken into account and the marks obtained earlier in the papers in which he has not re-appeared will be carried forward for working out his result.

Notice

1. The Ordinances governing examinations in Faculties of Arts, Fine Arts, Social Science, Commerce and Law are contained in a separate booklet. Students are advised to refer to the same.
2. Changes in Statues/Ordinances/Rules/Regulation/Syllabi and Books may, from time to time, be made by amendment or re-making and a candidate shall, except in so far as the University determines otherwise, comply with any change that applies to the examination he has not passed at the time of change. Marks obtained by the candidate in each paper in the last attempt shall be taken into account.

0257-A :

- (1) A Candidate who holds the degree of Master of Laws of this University or of any other University recognised as equivalent to the Master of Laws degree of this University may be permitted to appear in the LL.M. Part II Examination in any branch in which he has not already qualified for the Master of Laws successfully, will be given a certificate to that effect. For a pass, a candidate shall be required to secure 40% marks in each paper and 50% marks in aggregate of all the papers prescribed for the examination.
- (2) A candidate who desires to enter for the examination under this Ordinance must submit his application on prescribed form. The application shall be accompanied with requisite amount of examination fee and shall be forwarded by the Principal of the College affiliated to the University or by the Head of the Law Deptt. of the University for the LL.M. course.
- (3) A candidate whose application is rejected or who does not submit an application and only sends the fee, the amount paid by the candidate on account of fee, shall be refunded after deducting Rs. 2/-

Note :

1. Candidates appearing in an additional optional group of a subject shall be required to pass the examination in all the papers of the Group before being declared successful in the examination.

O.258 - A : Scheme for LL.M. Examination (Annual)

In order to be declared successful at LL.M. Part I or Part II Examination, a candidate shall be required to obtain at least 40% marks in each paper and 50% marks in aggregate of all the papers prescribed for the examination.

Division shall be awarded on the combined results of LL.M. Part I and LL.M. Part II examinations. All successful candidates who obtain 60% & above marks in aggregate, shall be placed in First division and those who obtain not less than 50% but below 60% of maximum marks shall be placed in Second division.

Syllabus for LL.M. Part I Examination

1) Candidates for LL.M. Part I examination shall be examined in the following papers.

- | | |
|------------|---|
| Paper I- | Jurisprudence |
| Paper II- | Indian Constitutional Law : The new challenges |
| Paper III- | Legislation- Principles, Methods and Interpretation |
| Paper IV- | Legal Education and Research Methodology |

2). Paper I, II and III shall be of 100 marks each. Paper IV shall be of 100 marks out of which 60 marks for written examination and 40 marks for a doctrinal research work.

Course Contents:

Paper - I Jurisprudence

Time allowed:3 Hrs.

Min. Marks:40

Max. Marks:100

**Note: This question paper contains eight questions in all. Attempt any four questions.
All questions carry equal marks.**

1. Meaning, definition and scope of Legal theory and Jurisprudence; General and particular Jurisprudence, importance of study of Jurisprudence.
2. Schools of Jurisprudence. chief Exponents, Background, Basic tenets, their contributions and Indian context or relevance :-
 - (i) Analytical School
 - (ii) Historical School :
 - (iii) Sociological Jurisprudence :
 - (iv) Natural Law :
 - (v) Realistic School :
3. Definition of Law :
4. Administration of Justice.
5. State and Law :
6. State and Sovereignty.
7. The Sources of Law
8. **Legal Concepts :**
 - (i) Rights and duties and their relationship, kinds of legal rights.
 - (ii) Person, personality and its kinds.
 - (iii) Possession,
 - (iv) Ownership,
 - (v) Liability and obligation,
 - (vi) Property,

Suggested Readings :

1. Holmes : The Common Law,
2. Austin : Lectures on Jurisprudence.
3. Allen : Law in the Making.

4. Holland : Jurisprudence.
5. Salmond : Jurisprudence.
6. Paton : A Text Bok of Jurisprudence.
7. Julius Stone : The Province & Function of Law.
8. Pound : An Introduction to the Philosophy of Law.
9. Goodhart : Modern Theories of Law.
10. Vinogradoff : Common sense in Law.
11. Jethrow Brown : The Austinian Theory of Law.
12. Goodhart : English Law and The Moral Law.
13. Friedman : Legal Theory : Concept of Law.
14. Jaipur Law Journal : Articels concerning Jurisprudence.
15. Henry Maine : Ancient Law.
16. Dias : Jurisprudence.
17. Dhyani S.N. : Law, Morality and Justice : Indian Development, 1984
18. Partick Devlin : The Enforcement of Morals, 1965.
19. Bodinheimer E. : Jurisprudence, 1962.
20. Lon Fuller : Morality of Law, 1964
21. Cohen and Cohen : Readings in Jurisprudence & Legal Philosophy, 1951.
22. S.N. Dhyani : Jurisprudence.
23. V.D. Mahajan : Jurisprudence.
23. Anirudh Prasad : Jurisprudence.
24. Various Relevant Articles

Paper II- Indian Constitutional Law : The New Challenges

Time allowed:3 Hrs.

Min. Marks:40

Max. Marks:100

**Note: This question paper contains eight questions in all. Attempt any four questions.
All questions carry equal marks.**

The Constitution of India is an organic, developing and changing system established over decades ago. Through the years it has been in force, the Constitution has shown adaptability to the changing new social order and the institutions of national life. The process of Judicial interpetation, precedents, amendments, conventions, political change have interacted to provide necessary catalysts for growth of the Constitutional Jurisprudence. The paper should encourage postgraduate students to study, analyse and articulate essential features and principles of the basic frame work of the Constitutional system.

Basic Framework-Essential Features :

1. Kesavananda Bharti v state of Kerala. A.I.R. 1973. S.C. 14641
2. Indira Gandhi v Raj Narain A.I.R. 1975, S.C. 2299.

Quasi Federalism :

1. State of Rajasthan v Union of India A.I.R.1997 S.C. 13161
2. Satat of Karnataka v Union of India A.I.R. 1978 SC. 58
3. M. Karunanidhi v Union of India, A.I.R. 1979 S.C. 898.

Union State Relations :

In Re-The Gujrat Legislative Assembly A.I.R. (1974) 2 S.C.C. 33

The Executive-Union and State :

1. S.K. Singh v V V. Giri, A.I.R. 111970 S.C. 2097
2. U.N. Rao vs Indra Gandhi, A.I.R. 1971 S.C. 1002
3. Shamsheer Sing v State of Punjab, A.I.R. (1967) Cal 1198

The Legislature- Union and State:

1. In Re (U.P. Assembly, Allahabad, H.C.) A.I.R. 1965 S.C. 745
2. M.S.M. Sharma v Shri Krishan, A.I.R. 1959 S.C. 395
3. T.K. Jain v Reddy etc. A.I.R. 1970 S.C. 1574.
4. In Re-Delhi Laws Act. A.I.R. (11951) 332

The Judiciary :- Union and State :

1. Union of India. v Jyoti Prakash, A.I.R. 11971, S.C. 11093
2. (A) (1) ART : 131- State of Bihar v Union of India A.I.R. 1970 S.C. 1446.
(2) State of Kerala v Union of India, A.I.R. 1978 S.C. 58.
3. (B) ART : 134- Trarchand Pemu v State of Maharashtra, A.I.R. 1962 S.C. 130
(C) (1) 136-Dhakeshwari Cotton Mills Ltd. v C.I.T. A.I.R. 111965 S.C. 130
(2) Pritam Singh v State of Punjab A.I.R. 1966 S.C. 160
(3) Mangal Das v State of Maharashtra, A.I.R. 1966 S.C. 2156.
(4) Raghubir Singh v State of U.P. A.I.R. 1971 S.C. 1406

Inter State Trade and Commerce :

1. Automobile Transport Rajasthan Ltd. v State of Rajasthan A.I.R. 1962 S.C. 1640
2. Atiabari Tea, Co. Ltd, v State of Assam, A.I.R. 1961 S.C. 232

Fundamental Rights, Duties and Directive Principles :

1. I.C. Golak Nathe v State of Punjab, A.I.R. 1967 S.C. 1643
2. Kesavanand Bharti v State of Kerala, A.I.R. 1973 S.C. 146
3. R.C. Cooper v Union of India, A.I.R. 1970 S.C. 564, Equality
4. Indira Gandhi v Raj Narain A.I.R. 1975 S.C. 2299

5. In-Re Sepcial Bill, A.I.R. 1979 S.C. 585
6. R.K. Dalmia v Justice Tendolkar A.I.R. 1985 S.C. 538
7. Budham Chaudhary v State of Bihar A.I.R. 11955 S.C. 191
8. Lachhmandas Kewal Ram v State of Bombay, A.I.R. 1952 S.C. 235
9. D.N. Chachala v State of Mysore, A.I.R. 1971 S.C. 690.
10. M.R. Balaji v State of Kerala v N.M. Thomas A.I.R. 1976 S.C. 481
11. State of Kerala v N.M. Thomas A.I.R. 1976 S.C. 2015

Right to Equality (Articles 14-16)

Freedom of Speech & Expression (Press)

1. Bennet Coleman v Union of India, A.I.R. 1978 S.C. 186
2. K.A. Abbas v Union of India A.I.R. 1971 S.C. 20115
3. E.M.S. Namboodripad v T.N. Namiar, A.I.R. 1978 S.C. 1675

Personal Liberty :

1. Menaka Gandhi v Union of India, A.I.R. 1978 S.C. 597
2. Bhut Nath v State of W.B.A.I.R. 1974 S.C. 806
3. S.N. Sarkar v State of W.B.A.I.R. 1973 S.C. 1425
4. Fagu Shah v State of W.B.A.I.R. 1974 S.C. 613
5. Sunil Batra v Delhi Administration, A.I.R. 1978 S.C. 1675

Religious Freedom :

1. Commr. of Hindu Religious Endowment v L.T. Swamiar A.I.R. 1954 S.C. 282
2. Durgh Commitee v Syed Hussain Ali, A.I.R. 1961 S.C. 1402
3. Syedna Tahir Saifuddin v State of Bombay, A.I.R. 1962 S.C. 853
4. Yulitha Myde v State of Orisa, A.I.R. 1973, Orissa 116.

Cultural, Educational Rights and Minority Rights:

1. State of Bombay v Bombay Education Society, A.I.R. 1954 S.C. 561
2. In Re-Kerala Education Bill, A.I.R. 1958 S.C. 845
3. Azzeez Basha v Union of India, A.I.R. 1968 S.C. 662
4. St. Xavier's College v State of Gujarat, A.I.R. 1974 S.C. 1389

Property : Articie- 300 A

Emergency :

1. Rao Birendra Singh v Union of India, A.I.R. 1958. Punjab and Harayana 441.
2. State of Rajasthan v Union of India, A.I.R. 1977 A.C. 1361
3. Makham Singh v State of Punjab, A.I.R. 1964 S.C. 381
4. A.D.M. Jabalpur v Shivkant. A.I.R. 1976 S.C. 1207.

Constitutional Power of Amendments

Suggested Readings :

1. H.M. Seervai : Constitutional Law of India, N.M. Tripathi Pvt. Ltd., Mumbai.
2. Jain M.P. : Constitutional Law : N.M. Tripathi Ltd.
3. Kagzi M.C.J. : The Constitution of India, Metropolitan Book Co.
4. Kagzi M.C.J. : Segregation and Untouchability Abolition, Metro Politan Book Co.
5. Shukla, VSN : Commentries on The Constitution of India (Ed. D.K. Singh) Eastern Book Co.
6. D.D. Basu : Commentary on The Constitution of India.

References :

The Constitution (Forty Fourth Amendment) Act. 1978, Law Commission of India (The Fourteenth Report,) Dhawan, Alice Selection and Appoinment of the Supreme Court Judges.

Paper III- Legislation - Principles, Methods and Interpretation

Time allowed:3 Hrs.

Min. Marks:40

Max. Marks:100

**Note: This question paper contains eight questions in all. Attempt any four questions.
All questions carry equal marks.**

A. Principles & Methods of Legislation

1. Relation between law and public opinion.
2. Characteristics of law making opinion in England.
3. Democracy and Legislation.
4. Main current of public opinion.
5. Individualism.
6. Collectivism.
7. Counter current and cross of legislative opinions.
8. Judicial Legislation and Judicial activism
9. Legislative opinion and General Opinion.
10. Theories of Legislation.
 - (i) Utilitarianism & Theories utility.
 - (ii) Doctrine of Hedonistic Calculous.
 - (iii) Pleasure and Pain Theory
 - (iv) Application of utility principles in making laws

- (v) Theories-
 - (a) Moral-Philosophical
 - (b) Social and Political
 - (c) Law Reforms
 - (d) Reforms in Penal System

11. Delegated Legislation.

12. Forms of Legislation Instruments.

Bills, Act Orders, Schedule, Ordinance, Rules, Regulations, Byelaws.

Classification of Statues - with reference to duration, object, operation and effect-
Mandatory, Directory, Obligatory, declaratory, Remedial, enabling, Panel, Amending,
Repealing, Consolidating, Codifying etc.

13. Provision of the Constitution of India with regard to passing of bills, committees.

B. Interpretation

a. General principles.

1. Literal or Grammatical Rule.
2. Harmonious Construction Rule.
3. Golden Rule.
4. Beneficial Construction.
5. Mischief Rule.
6. Statues should be read as a whole.
7. Statutes in Pari-meteria.

B.

1. Eiusdem genenris,
2. Noscitur a SOCIIS,
3. Ut ras magis valeat quam Pereat,
4. Expressio unius est exclusio atterius,
5. Stare decesis,
6. Contemporne exposio.

C. Interpretation of penal, fiscal, remedial statutes, and Constitution.

d. Internal and External Aids to interpretation.

(i) Internal -

Short Title, Long Title, Preamble, Marginal notes, Definition, Proviso, Illustration,
Explanations, Schedules, Punctuations, Presumptions, Non-obstante Clause,
Henry VIII Clause.

(ii) External Aids to interpretation-

Dictionaries, Text Books, Historical Background, Legislative History.

Suggested Reading :

1. Bentham : Theory of Legislation
2. Jethrow Brown : Understanding Principles of Modern Legislation
3. Dicey : Law and Public Opinion in England.
4. Ilbert : Legislative Methods and Forms.
5. Maxwell : The Interpretation of Statutes.
6. Ilbert : Machanism of Law marking` .
7. Baid : Rule of Interpretation.
8. Odges : Interpretation of Statutes
9. Narasimham : Interpretation of Statutes In British India.
10. Wigmore : Panorama of world Legal System.
11. Ginsberg : Law and Public Opinion in England in the 20th Century.
12. Erskine May : Parliamentary Practice.
13. Dr. T. Bhattacharya : Interpretation of Statutes.
14. S.L. Shakdhar : Parliamentary Procedure.
15. Jethrow Brown : Understanding Principles of Modern Legislation.
16. F.A.R. Bannian : Understanding common law Legislation drafting and interpretation.
17. V.P. Sarathi : Interpretation of statutes.
18. G.P. Singh : Interpretation of Statutes.
19. I.L.I. : The Drafting of Law (1980)
20. P.M. Bakshi : Legislative Drafting (1978)

Paper - IV- Legal Education and Research Methodology

Time allowed:3 Hrs.

Min. Marks:24

Max. Marks:60

**Note: This question paper contains eight questions in all. Attempt any four questions.
All questions carry equal marks.**

Paper IV shall be of 100 marks. Out of which 60 marks for written examination and 40 marks for Project Report .

(a) Written Paper (Paper IV) :

1. Objectives of Legal education, Methods of teaching (Problem Method, Discussion Method, & Siminer Method)
2. Clinical legal education : Legal aid, legal literacy, legal survey and law reforms.

3. Research Methods
4. Identification of Problems of Research
5. Preparation of the Research Design.

(b) Project Report -

Each student will be assigned a separate topic and asked to collect materials and submit his/her Project Report.

Bibliography :

High Brayal, Nigam Dunean and Richard Crimes : Clinical Legal Education: Active Learning in your Law School, (1998) Blackstone Press Limited, London

S.K. Agrasal (Ed.) : Legal Education in India (1973) Tripathi, Bombay.

N.R. Madhava Menon (ed) : A Handlook of Clinical Legal Education, (1998) Eastern Book Company, Luchnow.

M.O. Price H. Bitner and Bysiewiez: Effective Legal Reasearch (1978)

Pauline vs Young : Scientific Social Survey and Research, (1962)

William J. Graade and Paul K. Hatt : Methods in Social Research Mc Graw-Hill Book Company, London

H.M. hyman: Interviewing in Social Research (1965)

Payne : The Art of Asking Questions (1965)

Erwin C. Surrency, B. fielf and J. Crea : A Guide to Legal Research (1959)

Morris L. Cohan : Legal Research in Nutshell, (1996), West Publishing Co.

Havard Law Review Association : Uniform System of Citations.

ILI Publication : Legal Research and Methodology.