

Strictly Confidential: (For Internal and Restricted use only)
Senior Secondary School Term II Examination, 2022
Marking Scheme – LEGAL STUDIES (SUBJECT CODE – 074)
(PAPER CODE –40)

General Instructions :-

1. You are aware that evaluation is the most important process in the actual and correct assessment of the candidates. A small mistake in evaluation may lead to serious problems which may affect the future of the candidates, education system and teaching profession. To avoid mistakes, it is requested that before starting evaluation, you must read and understand the spot evaluation guidelines carefully.
2. **“Evaluation policy is a confidential policy as it is related to the confidentiality of the examinations conducted, Evaluation done and several other aspects. Its’ leakage to public in any manner could lead to derailment of the examination system and affect the life and future of millions of candidates. Sharing this policy/document to anyone, publishing in any magazine and printing in Newspaper/Website, etc. may invite action under IPC.”**
3. Evaluation is to be done as per instructions provided in the Marking Scheme. It should not be done according to one’s own interpretation or any other consideration. Marking Scheme should be strictly adhered to and religiously followed. **However, while evaluating, answers which are based on latest information or knowledge and/or are innovative, they may be assessed for their correctness otherwise and marks be awarded to them. In class-XII, while evaluating two competency based questions, please try to understand given answer and even if reply is not from marking scheme but correct competency is enumerated by the candidate, marks should be awarded.**
4. The Head-Examiner must go through the first five answer books evaluated by each evaluator on the first day, to ensure that evaluation has been carried out as per the instructions given in the Marking Scheme. The remaining answer books meant for evaluation shall be given only after ensuring that there is no significant variation in the marking of individual evaluators.
5. Evaluators will mark($\checkmark$) wherever answer is correct. For wrong answer ‘X’ be marked. Evaluators will not put right kind of mark while evaluating which gives an impression that answer is correct and no marks are awarded. **This is most common mistake which evaluators are committing.**
6. If a question has parts, please award marks on the right-hand side for each part. Marks awarded for different parts of the question should then be totalled up and written in the left-hand margin and encircled. This may be followed strictly.
7. If a question does not have any parts, marks must be awarded in the left-hand margin and encircled. This may also be followed strictly.
8. If a student has attempted an extra question, answer of the question deserving more marks should be retained and the other answer scored out.
9. No marks to be deducted for the cumulative effect of an error. It should be penalized only once.

10. A full scale of marks _____ (example 0-40 marks as given in Question Paper) has to be used. Please do not hesitate to award full marks if the answer deserves it.
11. Every examiner has to necessarily do evaluation work for full working hours i.e. 8 hours everyday and evaluate 30 answer books per day in main subjects and 35 answer books per day in other subjects (Details are given in Spot Guidelines). This is in view of the reduced syllabus and number of questions in question paper.
12. Ensure that you do not make the following common types of errors committed by the Examiner in the past :-
 - Leaving answer or part thereof unassessed in an answer book.
 - Giving more marks for an answer than assigned to it.
 - Wrong totaling of marks awarded on a reply.
 - Wrong transfer of marks from the inside pages of the answer book to the title page.
 - Wrong question wise totaling on the title page.
 - Wrong totaling of marks of the two columns on the title page.
 - Wrong grand total.
 - Marks in words and figures not tallying.
 - Wrong transfer of marks from the answer book to online award list.
 - Answers marked as correct, but marks not awarded. (Ensure that the right tick mark is correctly and clearly indicated. It should merely be a line. Same is with the X for incorrect answer.)
 - Half or a part of answer marked correct and the rest as wrong, but no marks awarded.
13. While evaluating the answer books if the answer is found to be totally incorrect, it should be marked as cross (X) and awarded zero (0) Marks.
14. Any unassessed portion, non-carrying over of marks to the title page, or totaling error detected by the candidate shall damage the prestige of all the personnel engaged in the evaluation work as also of the Board. Hence, in order to uphold the prestige of all concerned, it is again reiterated that the instructions be followed meticulously and judiciously.
15. The Examiners should acquaint themselves with the guidelines given in the Guidelines for spot Evaluation before starting the actual evaluation.
16. Every Examiner shall also ensure that all the answers are evaluated, marks carried over to the title page, correctly totaled and written in figures and words.
17. The Board permits candidates to obtain photocopy of the Answer Book on request in an RTI application and also separately as a part of the re-evaluation process on payment of the processing charges.
18. The Marking Scheme carries only suggested value points for an answer.
19. These are only the guidelines and do not constitute the complete answer.

20. The students can have their own expression and if the expression is correct, the marks should be awarded accordingly.
21. The Board permits candidates to obtain photocopy of the Answer Book on request on payment of the prescribed processing fee. All evaluators/Additional Head Examiners/Head Examiners are once again reminded that they must ensure that evaluation is carried out as per value points for each answer as given in the marking scheme.
22. Please read the following guidelines carefully and seek clarifications from the Head Examiner in case of any doubt to reduce subjectivity and bias.
23. Credit should be given to student writing the concept in his own language. Marks should not be deducted for non-use of bookish language.
24. Every care has been taken to prepare the Marking Scheme. However, it is important to keep in mind that, it is neither exhaustive nor exclusive.
25. The examiners are requested to use their own knowledge and experience wherever necessary.
26. Marks should be awarded for any CREATIVE answer given by the student which is logically correct and is related to the concepts taught.
27. Marking should be neither over-strict nor over-liberal. Marks should not be deducted for spelling errors, wrong proper names, minor inaccuracies, or omission of detail.
28. No marks should be deducted for overshooting word limit.
29. Though break-up of value points is given in a few answers, the examiner may be flexible in marking the different parts, if the answers reflect understanding of the scope of the question.

MARKING SCHEME
 Senior Secondary School Examination TERM–II, 2022
LEGAL STUDIES (Subject Code – 074)
[Paper Code – 40]

Maximum Marks : 40

	SECTION A (Attempt any 5 questions out of 7)	
Q. No.	EXPECTED ANSWER / VALUE POINTS	Marks
Q.1.	Rachita is a student leader. She makes a hate speech targeting members of a certain community in the college premises. The college authorities stop her speech mid-way and Rachita accuses them of violating her fundamental rights. Identify which fundamental right applies in this situation. State whether the restriction is justified.	2
1.	(a) Article 19 prescribes and protects freedom of speech and expression. (<i>Mentioning only article number or the title of the article to be awarded</i>) (b) State can reasonably limit this freedom in the event of threat to sovereignty and integrity of India, security of the State. (pg 116-118)	1m (for identification)+ 1m (for justification)
		2
Q.2	State any two outcomes of the enactment of Advocates Act, 1961.	2
2.	(a) All old categories of legal practitioners abolished and consolidated into one—advocates. (b) Established All India Bar Council (c) Established State Bar Council (d) Advocates were allowed to practise in all Courts throughout the Country. (Pg 148-149)	1m + 1m (for any two mentioned points)
		2
Q.3	Aman is a law graduate who is keen on working for an organization with a social justice orientation. Explain the option available to Aman as a law graduate in this context.	2

3.	(a) Not for profit organizations/NGO/Non Governmental organisations have positions for law graduates. (b) They may be general in nature providing free legal aid, etc. to more specialist organizations involved in women and child rights, etc. (Pg 154)	1m (for identification)+ 1m (for explanation)
		2
Q.4	In what circumstances do Legal services institutions avail the services of Senior Advocates?	2
4.	(a) Services of senior advocates may be availed if the Chairman of the Legal Services Institution feels it is a matter of great public importance. (b) It may also be done where serious threats to the life and liberty of the applicant exists. (Pg 176)	1m + 1m
		2
Q.5	Kenwe Shurochi, ex-President of Lukaya, is convicted of grave acts of brutality against his own citizens during a civil war. Identify the international institution that was set up to prosecute the accused in this instance. List the major crimes that come under its jurisdiction.	2
5.	(a) International Criminal Court or ICC (b) Crimes against humanity, genocide, war crimes, crimes of aggression. (any two can be mentioned) (Pg 201-202)	1m (for identification)+ 1m (for mentioning any two crimes)
		2
Q.6	In 1960, the legal aid scheme died a natural death due to paucity of funds. In 1973, the movement was revived by the Union Government with formation of a Committee to develop legal aid scheme for states. (a) Who was the Chairman of this Committee? (b) How did this Committee develop a strong foundation for initiating legal aid scheme in India?	2
6.	(a) Justice Krishna Iyer. (b) It devised a strategy in a decentralized mode with legal aid committees in every district, State and Centre.	1m (for Part a)+

	Or A committee on judicature was set up under the chairmanship of Justice P N Bhagwati to implement the legal aid scheme. Or This Committee suggested legal aid camps and nyayalayas in rural areas and recommended the inclusion of free legal aid provision in the Constitution (Pg 174)	1m (for any relevant point for part b)
		2
Q.7	In a regional summit in South Asia, there is widespread acceptance of the need to strengthen the bonds between nations by promoting cultural heritage and the equal dignity of all cultures. Identify the international organization that works towards this objective. Why was the need for creation of this organization felt?	2
7.	(a) UNESCO Or United Nations Educational, Scientific and Cultural Organisation (b) Members felt that mere economic and political arrangements are not enough to ensure growth and stability in Member-States. By promoting culture, preserving the heritage, sharing knowledge and understanding that are beneficial for the whole of mankind, UNESCO aims to aid sustainable development and foster greater cooperation between nations. (Pg 195)	1m (For identification)+ 1m (for reason)
		2
	SECTION B (Attempt any 5 questions out of 7 questions)	
Q.8	Garvit is arrested on the apprehension that he will indulge in acts of rioting, leading to public disorder near a community centre during the festival season. (a) Identify and explain the legal provision under which Garvit is arrested. (b) Are the safeguards provided under Article 22 of the Indian Constitution available to Garvit?	3
8.	(a) Preventive detention laws	1m (for identification)

	<i>It allow for detaining persons on suspicion—not found guilty of any crime, but their release may be detrimental to society.</i> <i>(b) No, Safeguard under Article 22 are not available to persons detained under preventive detention laws(Reason is not mandatory. Only no can be awarded full marks)</i> (Pg 121)	+ 1m (For explanation) + 1m (for part b)
		3
Q.9	Prem is a bonded labourer working for a construction baron. He is paying off a debt his father had incurred and had not been able to pay off before his death. His two sons, Bhim (aged 10) and Arjun (aged 11) have to drop out of school and work in a glass factory to make their ends meet. A journalist highlights Prem's plight in a newspaper article as it was common for most of the families in village Bhandha from where he was reporting. He also wrote a letter to the Hon'ble Supreme Court requesting its intervention in this situation. (a) Identify and explain the fundamental rights of Prem and his sons, that have been violated. (b) How would the newspaper article and the letter written to the Supreme Court help the villagers?	3
9.	(a) 1. Prohibition of traffic in human beings and forced labor -Article 23 prohibits human trafficking, beggar and forced labor. 2. Prohibition of employment of children in factories, etc. - Article 24 prohibits employment of children below the age of fourteen years in factories, mining, and other hazardous employment. 3. Right to education -Article 21A states that the State shall provide free and compulsory education to all children of the age of six to fourteen years (any two articles to be identified and explained) (b) Public Interest Litigation/Social action litigation/PIL/SAL It is a process by which letters written to Supreme Court or High Courts by public-spirited persons or organizations alleging fundamental rights violations are converted into petitions. The author of the letter alleges violations of fundamental rights of the weaker sections of Indian society who are unable to approach the court (Pg 120-121; 124)	1m for each for any 2 fundamental right (0.5 m for identification of the right + 0.5m for explanation) = 2 (for part a) + 1m (For part b)

		3
Q.10	Pramod, an advocate in the Patna High Court specializes in commercial transactions. He is very hardworking and can go to any extent to bring justice to his clients. In one case, he is defending Mr. Raghav for breach of contract. Mr. Raghav offers him a contingency fee as an incentive to win. He also urges Pramod to meet the judge in person for managing a favourable decision. Pramod refuses to carry on with the case. Mr. Raghav moves a complaint against Pramod. (a) Is Pramod justified in refusing to carry on as a defense lawyer for Mr. Raghav ? If yes why, if no why not? (b) Who has the authority to take an action against Pramod? (c) State the consequences faced by an advocate for breach of professional duties	3
10.	(a) Yes, An Advocate has a duty to refuse to represent clients who insist on adopting unfair means. (b) State Bar Council Or Bar Council (Bar council of India/BCI is not to be considered correct) (c) Breach of rules leads to disciplinary action leading to suspension Or debarment (Pg 150-151)	0.5m (for yes) + 0.5m(for justification of yes) + 1m(for part b) + 1m(for part c)
		3
Q.11	Teresa Williams is a lawyer based in Malaysia and she is keen on expanding her clientele in the country. Assess the regulations that will apply when she advertises her services.	3
11.	(a) Legal profession (Publicity Rules), 2001—simple, comprehensive code that regulates all legal and non-legal directories, etc. (b) Controls publication of journals, magazines and interviews in the media. Bars publicity through clients and even regulates greeting cards. (Pg 152)	1m(For identification of professional code) +

		2m (For explanation of the code)
		3
Q.12	Why was The Legal Services Authorities Act of 1987 amended in year 2002? Describe the changes that were introduced in the Principal Act.	3
12.	(a) To encouraging pre-litigation legal services specially in public utility service, the Parliament has made certain amendments in Legal Services Authorities Act by passing an Act known as the Legal Services Authorities (Amendments) Act, 2002. (b) The purpose of this amendment is to bring out certain changes in the Legal Services Act, 1987 (hereinafter referred to as the principal Act) especially for the establishment of permanent Lok Adalats to settle disputes concerning public utility services at pre-litigation state. Or It established permanent lok adalats for public utility services. (Pg 184)	1m(For part a) + 2m (For part b)
		3
Q.13	When can a case be referred to Lok Adalat ? State the powers of Lok Adalats while trying a suit.	3
13.	a) A case may be referred to Lok Adalat when the parties thereof agree or one of the parties thereof makes an application to the court for referring the case to the Lok Adalat for settlement. b) Powers of Lok Adalat: - The summoning and enforcing the attendance of any witness and examining him on oath. - The discovery and production of any document. - The reception of evidence on affidavits - The requisitioning of any public record or document or copy of such record or document from any court or office; - Such other matters as may be prescribed - are equivalent to that of a Civil court (Any 4 points) (Pg 183)	1m (for part a) + 0.5mX 4(For part b)=2m
		3

Q.14	Explain the provisions of the Indian Constitution that deal with the concept of Legal Aid.	3
14.	(a) The 1976 Amendment inserted 39 A in the Constitution which reiterate equality that promotes justice for all. (b) Provisions of Article 21 clarifies that right to life and personal liberty can be violated only by reasonable procedure. (c) Creation of equal opportunity for accessing courts is a dimension of equality clause in Article 14. (d) Article 15 of the Constitution of India, the State shall not discriminate against any citizen on grounds of religion, race, caste, sex, place of birth or any of them. Based on this cardinal principle, no citizen shall on the grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability. (Any 3 points) OR (a) The 1976 amendment of the Constitution inserted Article 39-A in the Constitution which is as follows: Equal justice and free legal aid- The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. (b) Maneka Gandhi v. Union of India (AIR 1978 SC 597) provided clarity on what procedure means under Article 21. The right to life or liberty could be violated only by a fair, just and reasonable procedure. In the adversarial system, the fairness requires legal representation. (c) Creation of equal opportunity for accessing the courts is a dimension of the equality clause in Article 14. Denial of opportunities in public employment or education to different classes is not the only occasion when considerations about retaining equality go missing; the inadequacy of the legal system to provide an effective forum to the indigent in another. (d) In the MH Hoskot case, the court observed: Judicial justice, with procedural intricacies, legal submissions and critical examination of evidence, leans upon professional expertise; a failure of equal justice under the law is on the cards where such supportive skills is absent for one side. (Any 3) (Pg174-175)	1m + 1m + 1m

		3
	SECTION C (Attempt any 3 questions out of 5 questions)	
Q.15	Ashok files a complaint with the National Commission for Minorities (NCM) alleging discrimination against people speaking a certain language in the recruitment for state government jobs. The NCM however declines his complaint. (a) State the ground/grounds on which the NCM may refuse to entertain Ashok's case. (b) Who are regarded as 'Minorities' for being safeguarded by National Commission for Minorities? (c) State any three functions performed by National Commission for Minorities.	5
15.	(a) NCM can refuse to entertain a case if matter does not relate to religious minorities. (b) The minorities here are referred to religious minorities of Muslims, Christians, Sikhs, Buddhists, Jains, and zoroastrians (Parsis). (Atleast 2 minorities should be mentioned if 'religious minorities' is not mentioned) (c) The functions of the Commission include the following 1. evaluating the progress of the development of Minorities; 2. monitoring the working of the safeguards provided in the Constitution and in other laws enacted by Parliament and the State Legislatures; 3. making recommendations for the effective implementation of safeguards for the protection of the interests of Minorities by the Central Government or the State Governments; 4. looking into specific complaints regarding deprivation of rights and safeguards of the Minorities and taking up such matters with the appropriate authorities; 5. initiating studies on problems arising out of any discrimination against Minorities and recommending measures for their removal; 6. conducting studies, research, and analysis on the issues relating to socio-economic and educational development of Minorities; 7. suggesting appropriate measures in respect of any Minority to be undertaken by the Central Government or the State Governments; 8. and making periodical or special reports to the Central Government on any matter pertaining to Minorities and in particular the difficulties confronted by them (Any 3)	1m(for part a) + 1m(for Part b) + 3m(For part c)

	(Pg134-135)	
		5
Q.16	Susanna is U.K. based lawyer, who is considering law practice in India. Outline the eligibility for enrolment as an advocate in India and the rules that govern enrolment of foreign nationals.	5
16.	(a) To be eligible for enrolment in India— 1. An Advocate must be an Indian Citizen, 2. At least 21 years of age 3. Have an LLB degree 4. Advocates must clear the All India Bar Examination to start practice. (Any 3) (b) Foreign nationals may be enrolled on a reciprocal basis with the country of her citizenship and foreign degrees may be recognized for the purpose. In the absence of this reciprocity—foreign nationals cannot practice law in India. (Pg 149)	3m(for part a) + 2m(For part b)
		5
Q.17	Republic of Ralonia and India sign an agreement to stop the harvesting of the eggs of a rare bird. There is already a domestic law in force in India banning the sale and purchase of these eggs. How does the interplay of domestic and international law work out in similar instances in India? Explain with the help of Constitutional Provisions and decided case laws.	5
17.	(a) In the case of Magan Bhai Patel vs. Union of India—the court held that if a treaty restricts rights of citizens or modifies the laws of the State—there would have to be a legislative measure. If no right is restricted, then it does not need to have a legislative measure to enact it. (b) 1. Article 51 of the Indian Constitution specifically states that the State shall endeavor to 'foster respect for international law and treaty obligations in the dealings of organized peoples with one another'. 2. Under Article 253 of the Constitution of India, the Parliament and the Union of India have the power to implement treaties and can even	1m(for part a) + 4m(for part b)

	interfere in the powers of the state government in order to give power to provisions of an international treaty. 3. In the land mark case of Kesavananda Bharti v. State of Kerala, it was observed that the court must interpret the provisions of the constitution in light of Charter of the United Nations. 4. However, in the case of Sheela Barse v Secretary Children's Aid Society, the Supreme Court held that India had ratified conventions regarding the protection of children and this placed an obligation on the State Government to implement these principles. This was a case in which there were no contradictory laws and as they were supplementing the law already in force the court held that the treaty could be applied directly to Indian law. 5. The most revolutionary of these cases was the case of Vishaka v State of Rajasthan, in which the Indian courts used the provisions of the Convention on Elimination of all forms of Discrimination against Women, (CEDAW), to create legally binding obligations regarding sexual harassment. (any 4 points) (Pg199-200)	
		5
Q.18	Why is Private International Law referred to as "Conflict of Laws"? Explain the provisions of the following conventions that make them important in the sphere of Private International Law. (i) Vienna Convention on Sale of Goods (ii) United Nations Commission for International Trade Law (UNCITRAL) Model Law.	5
18.	a. Private international law is called law of conflict because it deals with Jurisdiction issues or which law to apply or deals with uniformity issues. b. (i) UN Convention on Contracts for Sale of International Goods (CSIG) also known as Vienna Convention is an example of private international law that has gained more traction in recent times. It is a multilateral treaty—provides options for avoiding choice of law issues. Provides a framework of accepted substantive rules w.r.t. contract disputes. One of the most influential documents in private international law. Deemed to be incorporated into any otherwise applicable domestic laws—unless expressly excluded.	2m(For part a) + 1.5m(For part b (i)) + 1.5m (for part b (ii))

	(ii) UNCITRAL- The UNCITRAL works towards developing model laws and guides, related to international trade and commercial laws, including the UNCITRAL Arbitration Rules. (Pg 190-191)	
		5

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