

## LAW

**Marks : 150**

**Paper – A**

**75 Marks**

**a) Muslim Law**

**45 Marks**

- i) Introduction of Muslim Law into British India (Sections 1 to 6 and 14) who is a Muslim. Conversion of Islam and martial status; Conversion to Islam and right of inheritance. Sects and sub-sects of Muslims – Sunnis and Shias and their sub-sects, Change of sect or sub-sect.
- ii) Marriage. Definition and capacity of marriage. Essentials of marriage. Valid, irregular and void marriages. Number of wives, Plurality of husbands. Marriage with a woman undergoing iddat. Marriage between Sunni shaia – Effect of difference of religion on marriage. Prohibition of marriage on the ground of (a) Consanguinity (b) affinity (c) fosterage. Unlawful conjunction. Difference between void and irregular marriages. Effects of (a) Valid marriage (b) Void Marriage (c) irregular marriage (b) Muta Marriage, its incidents.
- iii) Marriage of minors. Guardianship in marriage. Marriage brought about by (a) father or grand-father (b) other guardians. Option of puberty-Effect of exercise of option of puberty. Repudiation of marriage under the Dissolution of Muslim Marriage Act, 1939.
- iv) Maintenance of wife. Order of maintenance by Court. Agreement for further maintenance. Maintenance on divorce. Suit for restitution of conjugal rights.
- v) Dower. Definition of – Kinds of Dower (a) Specified (b) Proper Dower (c) Prompt and (d) Deferred. Remission of dower by wife Suit for Dower Liability of heirs for dower debt.
- vi) Divorce. Different forms of divorce by Talaq. Oral Talaq and Talaq and Talaq in writing. Different modes of Talaq. (a) Talaq hasan (b) Talaq hasan and (c) Talaq-ul-Biddat or Talaq-i-bidat. When an oral Talaq and Talaq in writing becomes bidat. When an oral talaq talaq and talaq in writing become irrevocable. Delegation of power to divorce. Talaq under compulsion.
- vii) Khula and Mubarat. Effect of Khula and Mubarat divorce.
- viii) The Dissolution of Muslims marriage Act of 1939. effect of divorce
- ix) Wills, Gifts. Legitimacy and Waqfs.

**Books Recommended.**

D.F. Mulla – Principles of Mohammedan Law Sixteenth edition by Mr. Justice Hidayat-ullah (1968 Pak. Publications.)

**b) Islamic Jurisprudence.**

**30 Marks**

Customs and usages of the Arabs before Islam. Constitution of Arab Society. How crimes and disputed were tried. Different forms of punishment. Different kinds of marriage status of women for contracting marriage Polygamy, prohibited degrees for marriage. Divorces, its different forms. Adoption. Female infanticide. Nature of property. Power of alienation. Different forms of sale and lease. Loans and riba. Testamentary dispersions of property. Succession and inheritance.

Source of Law. Quran as a Source of Law.

Ijma. Definition of Ijma. Ijma as a source of law. Different kinds of Ijma. Who may participate in Ijma. Qualification of a Mujahid. Is Ijma confined to any age or country? Conditions relating to constitution of Ijma. How far is unanimity of opinion a necessary condition?

Customs and usages as sources of Law.

Analogy, its definition Analogy as a source of Law. Conditions for analogical deduction.

Istihsan or juristic equity and its meaning – Istihsan as a source of law.

Public good – The doctrine of Public good.

Istidlal – its meaning and kinds.

Ijtihad and Talaqid – Meaning of Ijtihad, who may be Mujtahid? Status of modern lawyers.

Doctrine of Taqlid. Duty of laymen.

**Books Recommended.**

Abdur Rahim - The Principles of Muhammadan Jurisprudence. Pakistan Legal Decisions Publications.

## **Paper – B – Jurisprudence**

**75 Marks**

Definition of Jurisprudence. Kinds of Jurisprudence – Analytical Jurisprudence, Historical Jurisprudence and Ethical Jurisprudence. Jurisprudence and Social Science. Kinds of Law – (a) Natural Law or Morel Law (b) Imperative Law (c) Physical or Scientific Law (d) Conventional Law (e) Customary Law (f) Particular or Technical Law (g) International Law (h) Civil Law.

Definition of “Law” Advantages and disadvantages of Law justice according to Law. Imperative Theory of Law. Territorial nature of Law. Law and Equity. Classification of Civil Law. General law and special law and their subdivisions. Administration of Justice – Natural Justice and Legal Justice. Kinds of legal justice – Civil and Criminal and distinction between them.

Purposes of Criminal Justice – Deterrent, Preventive, Reformatory and retributive.

Civil Justice, Primary Sanctioning Rights and their enforcement.

“The State – Nature and functions”. Definition of State its Primary function and Secondary function – territory and membership of the State – Citizenship and Nationality – Constitution of the States – The Government of the State – Independent and dependent States, Unitary and Composite.

States. The Dominion States. Theory of Sovereignty. Internal and external Sovereignty – Legal and Political sovereign; De jure and Defector Sovereigns Hobbes’s theory of Sovereignty.

The Sources of Law – formal sources and material sources Divisions of legal sources – sources of Law and sources of rights – ultimate legal principles.

Precedent – Meaning of precedent; precedents as source of law, authority of precedent State decisis classification of decedent – Ratio decedent and obiter.

Legislation – Its meaning and kinds Supreme and subordinate legislation and kinds of the Latter – Relations of Legislation to other sources of Law – Codification. Its advantages and disadvantages – Interpretation of enacted law –kinds of interpretation.

Dicta – decision on authority and decision on principle – When precedent may be disregarded. How a precedent is dis-regarded – circumstances attaching weight to precedent and circumstances of lessening authority of precedent – Functions of the judge and the jury.

Custom – Importance of Custom – Kind of customs, legal and conventional – local legal custom – local legal custom and precipitin – general custom, legal and conventional.

Legal Rights. Definition of rights, duty and wrong and their inter-relations – Fundamental Rights – Essentials of a legal right – classification of rights in strict and in wider senses – various kinds of legal rights.

Law of Property – Meaning of property kind of Property Corporal and in-corporal property; moveable and immovable property, rights in repropria and its kinds – rights in aliena; leases, servitude and securities. Modes of acquisition of property – possession, agreement and inheritance.