BAR COUNCIL
MALDIVES

MINIMUM STANDARDS ON ENTRY CRITERIA, PRESCRIBED LEARNING OUTCOMES AND STATEMENT OF PRESCRIBED KNOWLEDGE

FOR QUALIFYING LAW DEGREES

ADOPTED AT THE 31ST EXECUTIVE COMMITTEE MEETING OF THE BAR COUNCIL OF THE MALDIVES, HELD ON 3RD MARCH 2020

MINIMUM STANDARDS AMENDED TO INCLUDE ENTRY CRITERIA – ADOPTED AT THE 23RD EXECUTIVE COMMITTEE MEETING 2023, HELD ON 11TH DECEMBER 2023

Table of Contents

Explanatory statement 4

A. PRESCRIBED LEARNING OUTCOMES 5

Guidance: 5

LO 1: LEGAL KNOWLEDGE 5

LO 2: THINKING AND REASONING SKILLS 5

LO 3: RESEARCH SKILLS 6

LO 4: COMMUNICATION SKILLS 6

LO 5: ACADEMIC INTEGRITY AND SELF-MANAGEMENT 6

B. PRESCRIBED KNOWLEDGE AREAS 7

Guidance: 7

Explanatory statement

1. The Learning Outcomes (LOs) and Prescribed Knowledge Areas (PKAs) set out in this Standards Statement represent the minimum learning expected by a graduate of a Bachelor of Laws or Bachelor of Shariah and Law programme recognized by the Bar Council of the Maldives as a qualifying law degree.

2. A qualifying law degree for these purposes is a degree approved by the Bar Council of the Maldives as satisfying the academic stage of education and training for the profession of law.

3. These LOs and PKAs are also adopted as the basis for determining any claim to equivalency in respect of an overseas degree qualification possessed by a graduate who wishes to be permitted to attempt the Bar Examination in the Maldives.

4. This Statement is concerned only with the curriculum content of a qualifying law degree and the English language competency standard to be applied for admission to the programme. It makes no reference to staff-student ratios, learning resources, or teaching and assessment methods, all of which are material to determining the quality or suitability of a degree programme.

5. The LOs and PKAs to which this Statement relates are not the totality of the curriculum. Learning in respect of these LOs and PKAs must constitute not less than 240 credits of the qualifying degree programme,[1] based on a minimum three-year full-time award (or part-time equivalent), constituting 360 credits of study at levels 5 - 7 of the Maldives National Qualification Framework.

6. As described in this Standards Statement, a qualifying law degree provides a comprehensive foundation in the sources of law and fundamental areas of legal knowledge necessary to satisfy the academic stage of training for the Maldivian legal profession, together with the development of relevant skills and dispositions. It includes the study of a prescribed, substantive core (the PKAs) and provides the flexibility for students to add to these foundational knowledge areas from a range of other legal and non-legal, required and elective, subjects. The qualifying law degree also seeks to develop the higher order intellectual skills consistent with the Maldives Qualification Framework specification for a bachelors degree: these include critical thinking and analysis, problem-solving, research, and oral and written communication skills. The Standards are also drafted with a view to fostering the lifelong commitment to professional learning expected of a competent and ethical legal practitioner.

7. Students admitted to a qualifying law degree programme must have obtained an IELTS score in English at Band 6.0 or equivalent[2].

[1] That is, not less than 240 credits of the degree most involve learning and teaching in respect of law subjects and the skills and attributes identified in the LOs. 'Law subjects' for this purpose means the PKAs and may include such additional non-prescribed subjects as necessary to bring the law-specific component of the degree up to the minimum of 240 credits required.

[2] This provision reflects the new amendment to the document.

A. PRESCRIBED LEARNING OUTCOMES

Guidance:

(a) A law school shall be expected by the Bar Council to maintain a rigorous programme of legal education that prepares its students, upon graduation, for admission to the legal profession and for their effective, responsible and ethical participation in the work of the legal profession.

(b) A law school shall establish and publish learning outcomes (LOs) designed to achieve these objectives. The LOs shall represent the expected competences achieved by any student graduating from that law school.

(c) The following prescribed LOs represent the minimum standards of performance or attainment at bachelor's degree level required by the Bar Council of a qualifying degree programme. All recognized providers of qualifying degree programmes are expected to meet or exceed these minimum standards in respect of their programmes.

(d) A law school is not required to adopt these LOs verbatim but should be able to satisfy the Bar Council as professional regulator that the LOs are (i) assimilated within the Course Learning Outcomes, (ii) mapped appropriately against Subject (Module) Learning Outcomes in compulsory subjects and (iii) reflected in a range and variety of assessment tasks that are appropriately aligned to subject-level LOs.

(e) There is no requirement that the LOs be equally weighted in the degree programme.

LO 1: LEGAL KNOWLEDGE

Graduates who have completed a qualifying degree will demonstrate an understanding of a coherent body of knowledge that includes:

(a) The prescribed areas of legal knowledge, and their underlying principles and concepts

(b) The broader practical and social contexts within which legal issues arise, and

(c) The principles and values of justice and of ethical practice in lawyers' roles.

LO 2: THINKING AND REASONING SKILLS

Graduates who have completed a qualifying degree will be able to:

(a) Identify and articulate legal issues,

(b) Apply legal and juristic reasoning to generate appropriate responses to legal issues,

(c) Engage in critical analysis and make a reasoned choice amongst alternatives, and

(d) Think constructively and creatively in order to generate appropriate solutions to legal problems.

LO 3: RESEARCH SKILLS

Graduates who have completed a qualifying degree will be able to:

(a) Research solutions to moderately complex legal problems using primary and secondary sources from Shariah and common law as appropriate

(b) Evaluate and synthesise relevant factual, legal and policy issues in resolving legal problems.

LO 4: COMMUNICATION SKILLS

Graduates who have completed a qualifying degree will be able to:

(a) Communicate effectively for legal purposes in Dhivehi and English

(b) Communicate orally and in writing in ways that are clear, appropriate in form and persuasive for both legal and non-legal audiences

LO 5: ACADEMIC INTEGRITY AND SELF-MANAGEMENT

Graduates who have completed a qualifying degree will be able to:

(a) Demonstrate appropriate standards of academic honesty and integrity

(b) Reflect on their learning, identifying gaps in their own knowledge and skills and when it is necessary to update or acquire new knowledge or capability

(c) Make appropriate use of feedback to support their personal and professional development

B. PRESCRIBED KNOWLEDGE AREAS

Guidance:

1. The course of study for a qualifying degree shall include the study of law subjects for the equivalent of not less than two years out of a three year or four-year course of study, (ie, a student must gain not less than 240 credits from the study of legal subjects in a 360 or 480 credit degree programme).

2. Within the study of legal subjects, the following Prescribed Knowledge Areas (PKAs) shall amount to not less than 180 credits of a qualifying degree set at levels 5-7 of the Maldives National Qualification Framework. At least 30 credits from the PKAs should be taught and assessed at level 7.

3. The Prescribed Knowledge Areas may be taught as discrete compulsory modules, as presented in this document. There is however no requirement that individual topics need to be taught in a module covering the area of knowledge in the heading rather than in another suitable module. Where topics are organized in different forms or combinations from those specified below, the onus shall be on the course provider to demonstrate that all required elements of the PKAs are covered in the degree programme.

4. The language of teaching and assessment for not less than half of the credits allocated to the PKAs shall be English. Although language teaching is not included in these PKAs, the Bar Council expects each approved degree provider to make proper provision to support students' abilities to use both legal English and legal Dhivehi.

5. In teaching the Prescribed Knowledge Areas the primary objectives should be to
   - develop students' understanding of underlying legal principles and policy considerations as illustrated through study of key topics within the subject
   - enable students to develop the skills of applied problem-solving within the setting of each subject
   - encourage a spirit of critical enquiry and the facility for independent learning that will enable students to become effective lifelong learners

   It is not an objective of these standards to develop in students an encyclopedic but superficial knowledge of each subject and every topic prescribed.

6. Curricula and subject outlines based on these standards will be expected to make reference to relevant and current primary and secondary source material.

7. The major prescribed knowledge areas comprise:
   - Contract
   - Constitutional Law
   - Company Law
   - Criminal Law
   - Islamic Criminal Law
   - Islamic Family Law and Inheritance

- Introduction to Jurisprudence
- Lawyers Ethics
- Principles of Islamic Jurisprudence
- Property Law
- Torts

The above subjects should in total constitute not less than 168 credits of the degree. It is open to each law school to determine how credits are allocated across the spread of PKAs. In terms of credit loading, however, it is anticipated that Contract Law, Property, and Principles of Islamic Jurisprudence will require double weighting within the curriculum.

8. The following minor (half) subjects are also included in the prescribed areas, and should in total constitute not less than a further 12 credits of the degree
   - Introduction to the Maldivian Legal System
   - Common Law Legal Method and Reasoning

9. The prescribed knowledge areas are defined as follows:

I. Contract

1) The formation of contracts; the requirements of
   a) agreement
   b) consideration
   c) intention to create legal relations
   d) certainty
   e) capacity
2) Formalities
3) The doctrine of privity
4) the content of contracts
   a) Express terms
   b) Implied terms
5) invalidating factors in contract formation
   a) Mistake and misrepresentation, and
   b) Duress and undue influence OR unconscionability
6) the termination of contracts
   a) Termination by breach
   b) Frustration
7) Remedies for breach of contract
   a) Damages
   b) Specific performance
   c) Rescission
   d) Injunctive relief

II. Constitutional Law

Reference should be made as appropriate to the Constitution of the Republic of the Maldives

1) Introduction to Constitutionalism
   a) Constitutional supremacy
   b) Parliamentary supremacy
   c) Islamic constitutionalism
2) The Rule of Law

3) The Institutions of government and separation of Powers
    a) The Executive
    b) The Legislature
    c) The Judiciary
    d) Separation of powers doctrine
4) The courts and the constitution
    a) Judicial control over legislation
    b) Principles of constitutional interpretation
5) Amendment of the Constitution
6) Introduction to Human Rights under Part II of the Constitution
    a) Introduction to the concept of human rights and the development of international human rights standards
    b) Why embed human rights in the Constitution?
    c) Selected human rights: discussion of at least one example of –
        i) A protected right (eg, right to life, freedom of expression; freedom of assembly; rights of detainees; right to a fair hearing)
        ii) A problem area (eg, children's rights; freedom from sexual exploitation; privacy and freedom of conscience; social and economic rights)

III. Company Law

Reference should be made as appropriate to the Companies Act of the Republic of Maldives as currently in force

1) Corporate personality: nature, consequences and justifications
2) The process of incorporation
3) The corporate constitution: Memorandum and Articles of Association
4) Management and administration of companies
5) Duties and liabilities of directors and officers
    a) Loyalty
    b) Duty of good faith
    c) Duty to act for a proper purpose
    d) Duty of care
6) Share capital and membership
7) Introduction to shareholder actions
8) Company credit and security arrangements
9) Winding up

IV. Criminal Law

Reference should be made as appropriate to the Maldivian Penal Code currently in force

1) Introductory matters
    a) The definition of crime
    b) The aims of criminal law
    c) Classification of offences
2) The elements of crime
    a) Actus Reus
    b) Mens Rea
    c) Strict liability
3) Homicide
    (a) Murder, including reference to the nature and effect of diminished responsibility

(b) Manslaughter
(c) Negligent homicide

4) Non-fatal offences against the person
   a) One example from each of i) and ii) –
      i) Assault, reckless endangerment, threats
      ii) Rape, sexual assault, criminal sexual contact
5) Theft (in outline)
6) Selected topics: one from each of (a) and (b) –
   a) Inchoate offences (attempts, conspiracy, participation in crime)
   b) General defences (infancy, mistake, automatism, necessity, duress, consent)

V. Islamic Criminal Law

1) Introduction:
   a) Definition of crime, relationship with *ma'siyah* and sin
   b) Codification of Islamic Criminal Law (eg, brief references to examples of Islamic and hybrid codes with civil or common law, including the position of the Maldivian Penal Code within these approaches)
2) Introduction to the categorisation of offences and associated penalties
   a) *Hudud*
   b) *Quesas*
   c) *Ta'azir*
   d) Classification of punishments (fixed or discretionary)
3) Elements of a crime
   a) Commission of the wrongful act, and causation
   b) Intention
   c) *Shubha*
4) Homicide (*al-Qatl)*
   a) Wilful murder
   b) Voluntary manslaughter
   c) Manslaughter by mistake, or intermediate cause
5) Theft *(Sariqah)* (in outline)
   a) Fundamental elements and conditions of theft
   b) Punishment for theft and its implementation
6) A further selected topic chosen from:
   a) *Hirabah; Zina; Qazf; Sharb al-Khamr; Riddah*
7) Reasons for withholding punishment
   a) Selected topics: one chosen from each of (i) and (ii)–
      i) Infancy, Insanity, Unconsciousness
      ii) Coercion, Necessity

VI. Islamic Family and Inheritance Law

References should be included, where applicable, to the Family Law Act 2000 (or any successor legislation)

1) Marriage
   a) The definition and purpose of marriage under *Shariah*
   b) Who may marry?
      i) Religious adherence

ii) Legal capacity
iii) Rules on consanguinity
iv) Temporary prohibitions on marriage (eg *iddah,* widowhood)

c) The marriage contract
i) Offer *(ijab)* and acceptance *(qabul)*
ii) Dower *(mahr)*
iii) Conditions *(shurut)*

d) *Wali*
i) Requirement and characteristics of *Wali*
ii) Recusal by the *Wali*
iii) Substitution of judicial consent

e) The requirement for witnesses
i) Ruling on witnessing a marriage
ii) Effects on the validity of marriage if not correctly witnessed
iii) Requirements under Maldivian law for marriage registration and consequences for *urfi* marriages

f) Obligations within marriage
i) *Nataqah*
ii) *Nasyuz*

2) Divorce
a) Definition of divorce
b) Forms of permissible divorce
c) Significance of words used for divorce
d) Conditional divorce
e) Effect of undue influence or incapacity
f) Requirement for reasonable maintenance following divorce
g) Reinstatement of marriage

3) Dissolution and judicial annulment
a) Conditions for *Faskh*
b) *Khul'u* – divorce or *Faskh?*
c) Other grounds for judicial annulment

4) Introduction to Inheritance Law
a) Overview
i) Definition of inheritance
ii) Historical context and modern role in Maldivian law
iii) Wills and bequests in Islamic law

b) Introduction to the principles of succession
i) The primary Quranic heirs
ii) Residual heirs *(asabah)*
iii) The types and grounds for blocking inheritance

VII. Introduction to Jurisprudence

The material below may be delivered either by way of a single subject or by integrating the material pervasively across the curriculum, or by some combination of approaches. If a wholly or partly pervasive approach is adopted, the law school must clearly identify to the Bar Council where in the curriculum the Jurisprudence content and outcomes are to be taught and assessed, and how adequate treatment of these topics is ongoingly to be assured. It is also recognized that there may, legitimately, be significantly different ways of organizing the curriculum, and while

references below are made primarily to schools of (Western) jurisprudence, the curriculum might equally be organized conceptually or thematically.

1) Introduction: why study jurisprudence?
2) Natural Law – distinguishing between Conceptual or Substantive and Procedural natural law theories
3) Legal Positivism – drawing on examples of both inclusive and exclusive legal positivism
4) Dworkin's 'Third Theory' of Law
5) Theories of Justice – eg, Plato, Rawls, Nozick.
6) Critical accounts – drawing on not less than two of the following:
    a) Sociological jurisprudence
    b) Legal Realism
    c) Critical Legal Studies
    d) Legal Pluralism
    e) Systems Theory of Law

VIII. Lawyers Ethics

The material below may be delivered either by way of a single subject or by integrating the material pervasively across the curriculum, or by some combination of approaches. If a wholly or partly pervasive approach is adopted, the law school must clearly identify to the Bar Council where in the curriculum the ethics content and outcomes are to be taught and assessed, and how adequate treatment of these topics is ongoingly to be assured. Ethics might also be taught via or in conjunction with an appropriately designed clinical programme.

1) Lawyers and the administration of justice: the democratic values underpinning the lawyer's role, e.g·
    a) The rule of law
    b) Access to justice (including equality before the law)
    c) Principles of natural justice
    d) The independence of the judiciary
2) The regulation of lawyers
    a) The history and organization of the legal profession in the Maldives.
    b) How lawyers are regulated: the role of the Bar Council.
    c) Professional responsibility and obligations in the workplace: the code of conduct and informal professional norms
    d) Professional discipline
3) Competing (or complementary?) constructions of the lawyer's ethical role
    a) The adversarial advocate
    b) The responsible lawyer
    c) The moral activist
4) Core professional duties[3]
    a) The duty to the court, and the administration of justice
    b) Duties to the client
        i) Loyalty
        ii) Confidentiality

[3] It is expected that not less than half the credits for Lawyers' Ethics should be allocated to learning and teaching in respect of the professional duties.

iii) Competence
c) Conflicts of interest
i) Where lawyer self-interest and client interests conflict
ii) Where concurrent or successive representation of clients creates a conflict between client interests

IX. Property[4]

The focus of this subject should be on the general principles that apply under common law and equity. Reference may be made to the Maldivian Land Act, amendments, and regulations where these provide useful examples of the application of principle.

1) The nature and forms of property – real and personal
2) Introduction to the system of land ownership and distribution in the Maldives
3) Ownership
   a) Title over goods
   b) Title over land -
      i) tenure and estates
      ii) formalities
4) Possession – an overview
   a) Rights derived from possession
   b) Competing claims to possession
5) The variety of property rights
   a) Equitable rights over property[5] –
      i) The function of trusts and trusteeship (in outline)
      ii) equitable assignment and non-assignable rights
   b) Security rights – mortgages, liens and charges
   c) Shared rights and obligations –
      i) co-ownership of land (including strata title)
      ii) indivisibility and co-ownership of chattels
   d) Non-possessory rights over land
   e) Proprietary rights over intangibles
6) Creation and transfer of property rights
   a) Creation and transfer by consent
   b) Succession on death (in outline)
7) Defective transfers

[4] This set of PKAs reflect a significant shift from past practice, highlighted by responses in the consultation period which questioned the value of a detailed study of common law trusts and (to a lesser extent) land law, and suggestions for a combined subject. It is intended to offer a synoptic view of property law – identifying and comparing basic concepts and principles governing the treatment of realty and personalty, in ways (i) that address the similarities, principled differences and inconsistencies in approach across the field of property law, (ii) that create links in understanding the relationship and co-development of property law and obligations, and (iii) enable teachers to focus on the more (eg commercially) relevant applications.

[5] The structure and emphasis here is intended to enable students to understand the underlying significance of the legal vs equitable rights taxonomy, ie, that, while legal property rights relate *directly* to the 'thing' itself, equitable rights relate to 'things' only indirectly, by attaching to a *persons' rights to and interests over those 'things'*. This can be used to explain three core characteristics of trusts law: (i) the extent to which equitable property interests, properly understood, are 'parasitic' on, rather than carved out of, the legal estate; (ii) why any underlying property whether personal or real, held under legal or equitable title, can be the subject of an equitable right over it, and (iii) the focus of trusts law on the *trustee's* rights and duties, since these are properly the subject matter of the trust, rather than the 'thing' to which the trustee's obligations relate.

a) Defects in formalities
    i) eg in respect of transfers of land, incompletely constituted trusts
b) Innocent purchasers and detrimental reliance
    i) Real property transactions
    ii) Personalty and the *nemo dat* rule
c) Unjust enrichment

8) Remedies
a) Damages and equitable compensation
b) Rectification
c) Restitution
d) Proprietary remedies (eg constructive trust)
e) Trespass to chattels and conversion

X. Principles of Islamic Jurisprudence

1) The primary sources and origins of *Shariah*
a) The Holy *Qur'an* and the *Sunnah*
b) *Madhhab* and the emergence of the four schools of Sunni jurisprudence
c) Development of the *usul al-fiqh*

2) Secondary sources of *Shariah*
a) *Ijma* (consensus)
b) *Qiyas* (analogy)
c) *Urf* (custom)
d) *Ijtihad* (independent reasoning)

3) Presumptions and principles aiding interpretation
a) *Maslahah* (public interest)
b) *Istishab* (presumption of continuity)
c) *Istihsan* (juristic preference)
d) *Istidlal* (inference)

4) *Hukm Shariah* – the five rulings
a) *Wajib* and *Fard*
b) *Mandub*
c) *Mubah*
d) *Makrum*
e) *Haram*

5) Rules in relation to circumstances (*wadia'*)
a) Condition (*shart*)
b) Cause (*sabab*)
c) Preventor (*mani*)
d) Permitted / Enforced (*rukhsah, azeemah*)
e) Valid / Corrupt / Invalid (*sahih, fasid, batil*)
f) In time / Deferred / Repeated (*adaa, qadaa, I'ada*)

6) Proof and its classification
a) First proof – Al-Kitab
    i) *Muhukum*
    ii) *Muthashabih*
b) Managing contradiction, and abrogation of rulings
    i) Naskh
    ii) Mansookh
c) Second proof – The *Sunnah:* classification of the *Sunnah*
d) Forgery and distortion

7) Applications of Contemporary *Fiqh*

a) Contemporary issues that are unresolved or involve a new application for *Shariah*, in respect, eg, of one or more of
   i) *Zakat*
   ii) Biomedicine – eg problem cases of abortion, surrogacy
   iii) The Muslim diaspora

XI. Tort

1) Introduction
   a) Classification of torts and definitions
2) Aims of tort law
   a) Attribution of responsibility for harms caused; remediation; deterrence
   b) The changing nature and role of tort law – eg, no-fault liability schemes; torts and human rights
3) Causes of action 1 (intentional torts)
   a) Trespass to land OR
   b) Assault and battery
4) Causes of action 2 (carelessness): negligence
   a) Duty of care
   b) Breach of duty
   c) Causation and remoteness of damage
   d) Specific defences
5) Causes of action 3 (strict liability)
   a) Rylands v Fletcher OR
   b) An example of statute-based strict liability
6) Vicarious liability
7) The evolution of tort law – 'new' harms
   a) Privacy OR
   b) Economic torts OR
   c) Environmental ('toxic') torts
8) General Remedies
   a) Damages
      i) Categories of damages
      ii) Mitigation
      iii) Assessment of damages in negligence
   b) Injunctive relief

XII. Introduction to the Maldivian Legal System [6]

1) The historical development of the Maldivian legal system
   a) Customary law and chthonic origins
   b) Islamic law as an historical and modern (constitutionally-defined) source of law
   c) The reception of common law
2) The classification of law
   a) Public law
   b) Civil law
   c) Criminal law
3) The courts
   a) The Supreme Court

[6] PKAs in respect of the formal sources of law are addressed in Principles of Islamic Jurisprudence, and Common Law Legal Method and Reasoning

b) The High Court
c) Trial courts
d) The qualification and training of judges

4) An outline of the civil justice system
   a) Civil and commercial procedure
   b) Alternative dispute resolution
   c) Access to civil justice
5) An outline of the criminal justice system
   a) The prosecutorial process
   b) Criminal trial procedure
   c) Contemporary problems with the criminal justice system

XIII. Common Law Legal Method and Reasoning

1) The origins of the common law (in outline)
   a) Common law as a form of customary law
   b) Formalization of the English common law; the significance of -
      i) A centralized hierarchy of courts
      ii) Law reporting
   c) The emergence of equity, and its jurisdictional unification with the common law courts
   d) The development of legislation as (i) a significant and then (ii) a higher source of law than case law
   e) Colonialism and post-colonialism – modern divergences in the common law tradition
2) Precedent
   a) The binding nature of precedent in the common law – *stare decisis*
   b) How precedent operates
      i) The importance of material facts
      ii) Identifying the *ratio* of a case
      iii) *Obiter dicta* and their function in developing legal principles
      iv) The practice of distinguishing
   c) Precedent in the Maldivian legal system
3) The process of legislation
   a) Forms of legislation
   b) The legislative process in the Maldives
   c) Reading a statute
      i) The structure and organization of a Maldivian Act
      ii) The structure and organization of an English Act
4) Statutory interpretation
   a) The Canons of statutory interpretation
   b) Moves to purposive and teleological construction in the English tradition
   c) Scope of the duty on judges to 'consider' *Shariah* under Art.142 of the Maldives Constitution
5) The tools of legal reasoning
   a) Reasoning by analogy
   b) Deductive reasoning
   c) The role of policy arguments

------END------