

Faculty of Law



Bachelor of Laws (LL.B) Curriculum 2009

Curriculum Development Centre
Tribhuvan University
Kritipur, Kathmandu
Nepal

Publisher:

Curriculum Development Centre
Tribhuvan University
Kirtipur, Kathmandu
Tel No.: 4-330856, 4-334041

@2009 by CDC, TU All rights reserved

Effective from June 2009

Revised and Reviewed:

500 copies
Ashad 2066
June 2009

Price

Printers:

Tribhuvan University Press
Kirtipur, Kathmandu.

Bachelor of Laws (LL.B.)

Office of the Dean

Faculty of Law

Tribhuvan University

Exhibition Road, Kathmandu

Nepal

Introduction

Legal education in the 21st century requires appropriate and adequate blending of doctrinal knowledge of law and professional lawyering skills orientation. It also requires the capability of using the knowledge and skills in real life situations and live cases. Legal education is an instrument which prepares legal professionals for national development and private sectors. For effective legal manpower preparation, modern legal education has developed many methods and techniques. It is supposed to provide intensive theoretical knowledge and structured professional training in law. Many countries around the world have considerably changed the method of instruction, curriculum and duration of legal education. Many countries have redesigned the courses of instruction and reading materials by introducing problem solving methods which encourage students to participate actively in the learning process. Legal education received by the student can influence the development of the national legal system.

Legal education should contain theoretical knowledge of law pertaining to the cognitive domains and affective domain as well as practical professional skills in developing writing, petitions, etc. and pursuing all litigation procedures. Its objective should be to provide arts and skills of dispute resolution and to make the students competent enough to render justice to the people by making them aware of equal rights of all and of human rights protection.

Brief History of Legal Education in Nepal

In Nepal legal education was introduced with the objective of producing low-level clerical manpower. The first law college was established in 1954 in Kathmandu Affiliated to Patna University, the college started to produce law graduates in the country but the courses of study consisted, for the most part, on Indian laws. The affiliation was transferred to Tribhuvan University in the 1960. Legal education was reorganized under the National Education System Plan (NESP). Accordingly, certificate in Law after S.L.C. and Diploma in law were commenced under the institute of Law in 1972. The two programs together covered a period of five years after School Leaving Certificate (S.L.C.). It tried to make a great breakthrough in the legal education system in the country by incorporating Nepalese laws in the course of study. In the 1980-1986

Tribhuvan University underwent a massive restructuring. Consequently, the institute of law renamed the Faculty of Law empowered to frame academic policies and coordinate activities concerning legal education in Nepal.

Review of Bachelor's Level in Law Program

Legal education received by the people can influence the development of the national legal system of the country. Legal education is generally a professional education, which requires adequate desired doctrinal knowledge of law, legal skills and attitude for responding to national needs. The graduates of Tribhuvan University should be able to render legal services to the nation for national development and individuals in complex legal matters, and to defend clients in the litigation procedures in courts. The society expects that the law graduates should render justice and make people aware of human rights protection and of the need for exploitationless social base. It also expects that law graduates should be equipped with adequate knowledge of law and legal skills. For all this, greater attention should be paid to constantly reviewing and improving the curriculum, teaching learning techniques, etc, so that they would all stand professionally at par with those in other countries.

In many universities of the world educational planners, technologists, academicians have developed and been developing new structure, curriculum, instructional techniques and duration of course. Nepal's legal education of two plus three year's scheme leading to a Certificate in Law and a Bachelors of Law after SLC was felt inadequate. so the curriculum that consisted of law subjects (compulsory and optional) and some Humanities and Social Sciences subjects was realized to be changed. Hence, three years law course after graduation was felt needed in the country. Accordingly, it was introduced in 1996.

The Three-Years Bachelor of Laws (LL.B.) Programme

Tribhuvan University phased out Proficiency Certificate Level in law (P.C.L.) since the academic year 1996.

Tribhuvan University introduced the three years **Bachelor of Laws** (LL.B.) programme in the academic year 1996 in the Faculty of Law. The classes of LL.B. were conducted since academic year 1996 in ten

Tribhuvan University campuses and three private campuses affiliated to Tribhuvan University in the country. Recently, the Campuses having LL.B. courses have been reduced to six university Campuses.

The existing curriculum introduced in 1996 was also felt inadequate to respond the need of present national and international development in law, justice as well as political change in Nepal. Consequently, a new curriculum has been introduced in Feb. 2009 to replace the curriculum of 1996. Along with political and constitutional changes in the country; the existing curriculum has been extensively revamped to meet the needs of the day in the profession and academics. Accordingly, in the Constitutional Law new content namely presidential system, federalism, secularism etc. has been included and the Press Law has been converted into Media law. Similarly, Procedural Law is given 100 full marks and Evidence Law is separately introduced. In this way all subjects are updated, improved, added and tuned with need of today by allotting new code numbers.

The following subjects are newly introduced:

- Child Rights and Juvenile Justice
- Gender and Inclusive Justice
- Law of Insurance
- Professional Ethics and Lawyering Skills
- Victimology
- clinical Law
- Cyber Law

The 3-year Bachelor of Laws

Curriculum Objectives are:

- to provide the students with in-depth knowledge of law and develop in them skills or reasoning, investigation, analysis and critical thinking and practical skills necessary for legal career;
- to enable them to communicate and write legal documents in a clear and effective way;
- to convey to them knowledge of law in action and of the role of law in society and to enable them to handle complex legal situations effectively;
- to promote the values of justice, rights and liberty and to make the law graduates from Tribhuvan University able to compete with the law graduate from other universities;

- to broaden intellectual horizon and develop the personalities of law students; and
- to prepare middle-level legal manpower for new roles in national development efforts and private sectors.

Procedure of curriculum Development

The Faculty Board and the 6 Subject Committees (Jurisprudence, International Law, constitutional Law, Family & commercial Law, Procedural Laws and Criminal Law) determine the basic issues relating to curriculum development in response to then need of the country and in pursuance of the policy and guidance of Tribhuvan University.

Compulsory and Optional

The course of study consists of 16 compulsory subjects and 24 Optional subject. the details of the course structures are presented in the pages below.

Method of Instruction

Instructions will be conducted through lecture (exposition), case study, group discussion, simulation, moot-court, demonstration, role playing, workshop practice, independent study, observation and research activity, problem solving etc.

Evaluation

Each student will have to pass in each paper of the annual examination. Each annual (final) examination will be conducted in accordance with the Tribhuvan University direction and guidance. the candidates will have to pass both theoretical and practical examinations and the grading will be as follows:

35% to below 45%	Pass
45% below 60%	Second Division
60% below 75%	first Division
75% and above	distinction

Graduation Requirements

In order to earn a Bachelor’s degree in law student must pass each annual (final) examination, securing a minimum of 35% marks in each paper. All other requirements must be fulfilled.

Entry Requirements

- i) Completion of Bachelor's degree (10+2+3) in any discipline or an equivalent program recognized by Tribhuvan University.
- ii) Selection criteria will be determined on the basis of the marks and percentage obtained in the previous Bachelor's Degree in any discipline and or of the entrance test administered by the Campus.

Teaching Time Allocation

- i) Total number of teaching days 120-150 (in an academic year)
- ii) Duration of each class hour 50 minutes
- iii) A course carrying 100 marks will be 3 periods in a week.
- iv) Generally, a course carrying 100 marks will be taught 125 hours and a course carrying 50 marks 62 hours 50 minutes.

Calendar of Operation

there will be two months vacation in addition to other vacations declared by university. The other calendar of operation including the examination schedule will be as per university notification.

Structure of the courses for 3 year Bachelor of Laws

Subject areas	No. of Subjects	Full Marks	Total No. or Hours of Instruction in 3 Years	Total No. of Period in 3 Years
Compulsory Subject	16 subjects (8 subjects carrying 100 full marks each and 8 subjects carrying 50 marks each)	1200	1502	1496
Optional Subjects	6 Optional papers will have to be studied by each student out of 24 optional subjects. (Each paper carrying 50 marks)	300	377	372
Total	22 subjects (out of 40 papers)	1500	1879	1868

Tribhuvan University
faculty of Law
bachelor Level of Laws (LL.B.) curriculum structure
I year LL.B.

Course Code No.	Course Title	Nature of Course	full Marks	Period Per Year
Law 321	Jurisprudence	Compulsory	100	125
Law 322	Procedural Law	Compulsory	100	125
Law 323	constitutional Law	Compulsory	100	125
Law 324	Comparative Law and Nepalese Legal System	Compulsory	100	125
Law 325	Law of Contract	Compulsory	50	62
Law 326	Family Law	Optional	50	62
Law 327	Media Law	Optional	50	62
Law 328	Administrative Law	Optional	50	62
Law 329	Taxation	Optional	50	62
Law 330	Fiscal Law	Optional	50	62
Law 331	International Trade Law	Optional	50	62
Law 332	Equity and Torts	Optional	50	62
Law 333	child Rights and Juvenile Justice	Optional	50	62

In the I year Bachelor of Laws (LL.B.) a student is required to take five (5) Compulsory Subjects and any two Optional Subjects out of 8 optional subjects as mentioned in the table above and full marks will be 550. Total teaching period will be 686.

II year LL.B.

Law 421	Criminal Law	Compulsory	100	125
Law 422	Public International Law	Compulsory	100	125
Law 423	Property Law	Compulsory	100	125
Law 424	Methods of Legal Research and Writing	Compulsory	50	62
Law 425	Moot Court, Pre-Trial Preparations and Participation in Trial	Optional	50	62
Law 426	Evidence Law	Optional	50	62
Law 427	Labour Law	Optional	50	62
Law 428	Election Law	Optional	50	62
Law 429	International Air and Space Law	Optional	50	62

Law 430	Environment Law	Optional	50	62
Law 431	Refugee Law	Optional	50	62
Law 432	Criminology	Optional	50	62
Law 433	Gender and Inclusive Justice	Optional	50	62
Law 434	Law of Insurance	Optional	50	62

In the II year Bachelor of Laws (LL.B.) a student is required to carry 6 Compulsory Subjects and any two Optional Subjects out of 8 optional subjects as mentioned in the table above and full marks will be 550. Total teaching period will be 685.

II year LL.B.

Law 521	International Institutions and Human rights	Compulsory	100	125
Law 522	Interpretation of Statutes	Compulsory	50	62
Law 523	Professional Ethics and Lawyering Skills	Compulsory	50	62
Law 524	Company and Corporation Law	Compulsory	50	62
Law 525	Project work/Internship	Compulsory	50	62
Law 526	Law of the Sea and International Rivers	Optional	50	62
Law 527	Law of Banking and Negotiable Instruments	Optional	50	62
Law 528	Private International Law	Optional	50	62
Law 529	Intellectual Property Law	Optional	50	62
Law 530	Population Law	Optional	50	62
Law 531	Victimology	Optional	50	62
Law 532	Clinical Law	Optional	50	62
Law 533	Cyber Law	Optional	50	62

In the III year Bachelor of Laws (LL.B.) a student is required to take five 5 Compulsory Subjects and any two Optional Subjects out of 8 optional subjects as mentioned in the table above and full marks will be 400. Total teaching period will be 497.

Jurisprudence

Course Title: Jurisprudence	Full Marks: 100
Course No: Law 321	Pass Mark: 35%
Duration of the Course: One Year (125 hrs)	Level : LL.B.
Year: I	Nature: Compulsory

Course Description

This course is designed to provide students knowledge on basic idea of jurisprudence, schools and trends of jurisprudence, definition and sources of law, concept of justice, rights and duties, person, property, possession, ownership, obligations and liability.

Course Objectives

The objectives of this course are:

1. to impart the students about meaning, scope and importance of jurisprudence.
2. to inculcate the knowledge about schools of jurisprudence, Critical Legal Studies, Feminist Jurisprudence and Post Modernism.
3. to impart knowledge about the definition and sources of law, concept of justice and rule of law and rights and duties
4. to acquaint the students with nature and meaning of person, property and kinds of property.
5. to enable the students to understand about obligation, its kinds, possession, kinds of possession, ownership and kinds of ownership.

Unit I: Introduction to Jurisprudence

1. Meaning and Definition of Jurisprudence
2. Scope and Importance of Jurisprudence
3. Kinds of Jurisprudence

Unit II: Schools of Jurisprudence

1. Natural Law School
2. Historical School
3. Sociological School
4. Analytical School
5. Realist School
6. Socialist School

Unit III: Trends in Jurisprudence

1. Critical Legal Studies
2. Feminist Jurisprudence
3. Post- Modernism

Unit-IV: Definition and Sources of Law

1. Definition of Law
2. Purpose of Law
3. Functions of Law
4. Kinds of Law
5. Sources of Law
 - (a) Custom: Meaning and kinds of custom
 - (b) Legislation: Meaning and kinds of legislation
 - (c) Precedent: Meaning and kinds of precedent
 - (d) Conventions
 - (e) Juristic writings, professional opinion, reason, equity, justice and good conscience.

Unit-V: The Concept of Justice and Rule of Law:

1. Meaning of Justice
2. Importance of Justice
3. Kinds of Justice
 - (a) Criminal Justice
 - (b) Civil Justice
 - (c) Distributive Justice
 - (d) Corrective Justice
4. Rule of Law

Unit-VI: Rights and Duties

1. Definition of Rights
2. Elements and theories of Rights
3. Kinds of Rights.
 - (a) Perfect and Imperfect Rights
 - (b) Legal and Equitable Rights
 - (c) Positive and Negative Rights
 - (d) Rights in Rem and Right in personam
 - (e) Proprietary and Personal Rights
 - (f) Vested and Contingent Rights
 - (g) Principal and Accessory Rights
 - (h) Primary and Sanctioning Rights

- (i) Rights in re-propria and rights in re-aliena.
- 4. Meaning and kinds of duties
- 5. Relationship between rights and duties

Unit-VII: Person

- 1. Meaning of Person and Personality
- 2. Kinds of Person
 - (a) Natural Person
 - (b) Legal Person
- 3. Double Capacity and double Personality
- 4. Legal Status of: (a) Dead Person, (b) Unborn Person, (c) Animal.
- 5. Theories of Corporate Personality

Unit-VIII: Property:

- 1. Basic Legal Concept of Property
- 2. Importance of Property
- 3. Kinds of Property

Unit-IX: Obligation and Liability

- 1. Meaning and kinds of Obligation
- 2. Meaning and Kinds of Liability

Unit-X: Possession

- 1. Meaning and importance of possession
- 2. Constituent Elements of Possession: Animus Possidendi, Corpus Possessionis
- 3. Types of Possession
 - (a) Possession in Law
 - (b) Possession in Fact
 - (c) Mediate and Immediate Possession
 - (d) Corporeal Possession
 - (e) Incorporeal Possession
 - (f) Constructive Possession
 - (g) Concurrent Possession
- 4. Acquisition, Continuation and Termination of Possession
- 5. Possessory Remedies

Unit-XI: Ownership

1. Meaning and Subject Matter of Ownership
2. Classification of Ownership
 - (a) Sole and Co-ownership
 - (b) Corporeal and Incorporeal Ownership
 - (c) Trust and Beneficial Ownership
 - (d) Absolute and Limited Ownership
 - (e) Vested and Contingent Ownership
3. Acquisition, Continuation and termination of ownership
4. Ownership and Possession

Text and Reference Materials

1. Aggarwal, Nomita Dr., *Jurisprudence*, Central Law Publication, Allahabad, India. (1997)
2. Constitutions and Relevant Statutes
3. Curzon, L.B *Jurisprudence* (Lecture Notes,) Cavendish Publishing Ltd, London. (1993)
4. Fitzgerald, P.J, *Salmond on Jurisprudence*, N.M Tripathi, Bombay. (Recent Edition)
5. Lamsal, Narayan *Bidhi Shastra (Jurisprudence)*, Ratna Pustak Bhandar, Kathmandu, Nepal. (2048 B.S)
6. Lord Llyod of Hamstead, *Introduction to Jurisprudence*, Stevens and Sons, London. (1979)
7. Mukhia, Bal Bahadur, (*Comparative Jurisprudence*, A& Malati Mukhia, Kathmandu, Nepal. 2004)
8. Pradhananga, Rajit Bhakta & Kishore Silwal, *A General Outline of Jurisprudence*, Ratna Pustak Bhandar, Kathmandu, Nepal. (2055 B.S)
9. Romatz, David S & Kathleen Elliot Vinsoon *Legal Analysis* , Carolina Academic Pres, North Carolina. (1998)
10. Sangroula, Y.R. *Kanoon Shastra Ra Kanoon Ko Sidhantha* (3rd ed), Parirabi Pustak Prakashan, Kathmandu, Nepal (2050 B.S)
11. Tripathi, B.N. *Jurisprudence (Legal Theory)*, Allahabad Law Agency, India

Procedural Law

Course Title: **Procedural Law**

Course No: Law 322

Duration of the Course: One Year (125 hrs)

Year: I

Full Marks: 100

Pass Mark: 35%

Level : LL.B.

Nature: Compulsory

Course objectives:

The main objectives of this course are:

- to provide the basic knowledge of civil and criminal procedural laws of Nepal
- to acquaint the students with the practical knowledge of procedural laws of Nepal.

Unit-1 Introduction

- 1.1 Definition, nature and importance of procedural law
- 1.2 Difference between:
 - Procedural law and Substantive law
 - Civil and Criminal Procedure
 - General, Summary and Special procedure
 - Procedure in Judicial, Quasi-judicial and ADR

Unit-2 Basic Principles of Procedural Law

- 2.1 Locus-Standi
- 2.2 Limitation
- 2.3 Laches
- 2.4 Alternative Remedy
- 2.5 Stare decisis
- 2.6 Res-judicata
- 2.7 Natural Justice
- 2.8 Amicus-Curiae

Unit-3 Jurisdiction of Courts, Other Bodies and ADR

- 3.1 Meaning, nature and kinds of Jurisdiction
- 3.2 District Court's Jurisdiction
- 3.3 Appellate Court's Jurisdiction
- 3.4 Special Court's Jurisdiction
- 3.5 Supreme Court's Jurisdiction

3.6 Jurisdiction of Quasi-Judicial Bodies (QJB)

3.7 ADR

Unit-4 Stages and Techniques of Trial Proceedings

4.1 Civil Proceedings: Filing of Suits and its requirements, Notice to the Defendants, Filing of Defense, Date of Presence, Power of Attorney, Courts' Order (inter-locutory, interim & final), Collection of Evidence, Statements of Parties and Witnesses, Postponement and Compromise of case and Judgment

4.2 Criminal Proceedings: Filing of Complaints / Charge sheets, Statement of Accused, Bail application and Courts Order, Notice to Defendant and Accused, Collection of Evidence, Statement of Parties and Witnesses, Postponement, Compromise and Withdrawal of cases, Judgment.

Unit-5 Stages and Techniques of Appellate Proceedings

5.1 Civil and Criminal Proceedings: Filing of Appeal, Ex-parte hearing, Notice to Respondent, Written Statements of Respondents, Final hearing and judgment.

Unit-6 Writ, Review and Revision Proceedings

6.1 Writ Proceedings: Filing of writ petition, show cause order, stay order, notice to the respondent, written statement, final hearing and decision.

6.2 Review and revision Proceedings

Unit-7 Proceedings of QJB and ADR

7.1 Procedure applicable in QJD

7.2 Procedure applicable in ADR: Mediation, Arbitration and Negotiation.

Unit-8 Proceedings for Execution of Judgments, Orders etc.

Procedure for the Execution and enforcement of Judgment in Civil and Criminal cases in Nepal.

Unit 9 Recent Trends

1.1 Adversary (accusatorial), inquisitorial and mixed system

1.2 Development and recent trends of procedural laws in Nepal.

Unit- 10 Prescribed Leading Cases

- 10.1 Advocate Radheshyam Adhikari vs. HMG. Council of Ministers Secretariat & others, (Three Judges, Special Bench), **NKA**, 2048 no. 12 p. 810
- 10.2 Full Bench Report (Pratibedan) no. 7, 2060 (Three Judges Full Bench) Decision no. 7220, **NKP** 2060 nos. 5/6 p. 408
- 10.3 Kallu Tharu (Kallu Chaudhary) vs. Appellate Court, Dipayal Doti & others, (Division Bench), **NKP** 2060 nos. 3 / 4 p. 317
- 10.4 Padam Bahadur Karki vs. Manakumari et. al **NKP** 2061 p. 212
- 10.5 Parsu Ram Banjare vs. Durga Das Shrestha, Bagmati Special Court, Kath. & others (Division Bench), **NKP** 2027 no. 7 p. 157
- 10.6 Pasang Dawa Tamang (Lopchan) vs. HMG, (Division Bench) **NKP** 2058 Nos. 3 4, p. 188
- 10.7 Pradip Kumar Agrawal vs. Tax Office, Morang, Biratnager, (Seven Judges Full Bench) **NKP** 2052 no. 7 p. 542
- 10.8 Ratan Lal Agrawal vs. Father James Dressman, Chairman of Swiss Agency, (Three Judges Full Bench) **NKP** 2044 no. 2 p. 148
- 10.9 Tripura Devi Jha vs. Kali Devi Jha and others (Division Bench) **NKP** 2058 no. 3 page 211
- 10.10 Tulsi Ram Upadhyaya Timilsina vs. Ram Dwoj Karki, (Six Judges Full Bench), **NKP** 2028 no.1 p.1

Prescribed Materials

1. Shrestha, G.B, **Outline of Procedural Law of Nepal**, Pairavi Prakshan (2060)
2. Neupane, G.N., **Procedural Law**, Lumbini Prakashan (2065)

Reference Materials

1. Adam.,& Adam,J.C.,**Criminal Investigation A Practical Textbook for Magistrates, Police Officers and Lawyers**, Universal (2nd Indian Reprint)

2. Bakshi, P.M., Mulla *The Code of Civil Procedure*, Butterworths, New Delhi (2002)
3. Jain, M.P. et.al., *M.P. Jain's The Code of Civil Procedure* (2004)
4. Justice Pandit, Sharadha Prasad, *Law and Justice, Articles, Commentaries and Memoirs*, published by Pandit, Umadevi (2008)
5. Ojha, P.K., *Procedural Law*, Pairavi (2054)
6. Ojha, P.K., *Some Basic Principles on Law and Justice*, part first (In Nepali) Pawan Manju Ojha Foundation (2064)
7. Pathak, N. et.al., *Nirnaya Sar Kosh*, Pairavi (latest edition)
8. Shrestha, Gyayendra Bahadur, *Aadalati Karyabidhi*, Pairabi Publication, (2065)
9. Shrestha, Gyayendra Bahadur, *Writ Nibedan Siddanta Ra Byabhar*, Pairabi Publication, (2064)

Note: Students are required to study the existing Acts, Rules and provisions of the constitution and civil code of Nepal.

Constitutional Law

Course Title: Constitutional Law	Full Marks: 100
Course No: Law 323	Pass Mark: 35%
Duration of the Course: One Year (125 hrs)	Level : LL.B.
Year: I	Nature: Compulsory

Course objectives:

The main objectives of this course are;

- to give an idea of constitutionalism in Nepal.
- to provide a wide-ranging knowledge of fundamental rights and of their relation with detective principles and judicial techniques of enforcement.
- to acquaint the students with the Constitutional framework for enforcement of the cabinet system of Government and show their relation with the people and parliament.
- to give an idea about the judicial trends in interpretations of constitutional provisions, judicial independence and judicial activism in a new perspective.
- to acquaint the students with the critical study of constitutional standards for relation between individual and state and between executive, judiciary and legislature.
- to provide the basic knowledge on rule of law, separation of power and technique of check and balance and independence of judiciary to the students.
- to impart a comparative knowledge on the above mentioned subjects with reference to their state of affairs in the UK, USA and India.

I. Introduction

- Definition of Constitutional law
- Sources of Constitutional Law
- Statutes
- Secondary legislation and other rules
- Judicial decision
- Non legal rules/ Convention, Custom
- Books of authority
- Difference between Constitution and Constitutional Law

II. Classification of Constitution

- Written and Unwritten Constitution
- Rigid and Flexible Constitutions
- Federal and Unitary Constitutions
- Republican and Monarchical Constitutions
- Parliamentary and Presidential Constitutions

III. Constitutional History of Nepal

- Pre Constitutional norms and laws
- Government of Nepal, Act, 1948
- Interim Constitution, 1951
- The Constitution of the Kingdom of Nepal, 1959
- The Constitution of Nepal, 1962
- The Constitution of the Kingdom of Nepal, 1990
- The Interim Constitution of Nepal, 2007

IV. Constitutionalism and Constitutional Principles

- The concept and meaning of Constitutionalism
- Various forms of Constitutionalism

V. Rule of Law

- Concept of the Rule of Law
- Background principles of Rule of Law

VI. Separation of Powers and Checks and Balances

- Conceptual framework of the Separation of Powers
- Principal of the Checks and Balances
- Separation of Powers and Checks and Balances under Presidential and Parliamentary Constitution

VII. Federal System

- Meaning of Federalism
- Essential features of Federal System
- Distribution of State Power in the Federal System
- Merits and demerits of the Federal System

VIII. Unitary System

- Meaning and Nature of Unitary System
- Distribution of power under Unitary System

IX. Directive Principles of the State Policy;

- Constitutional Status and Techniques of Enforcement.
- Comparison of Directive Principles with Fundamental Rights

X. Fundamental Rights

- Right to freedom
- Right to equality
- Right against untouchability and racial discrimination
- Rights regarding publication, broadcasting and press
- Right regarding environment and health
- Education and cultural rights
- Rights regarding employment and social security
- Right to property
- Rights of women
- Right to social justice
- Rights of children
- Right to religion
- Rights regarding justice
- Right against preventive detention
- Right against torture
- Right to information
- Right to privacy
- Right regarding labor
- Right against exile
- Right to constitutional remedy

XI. Legislature- Parliament

- Constitution of legislature – parliament
- Functions of legislature- parliament
- Privileges of legislature – parliament
- Committees system in Parliament
- Dissolution of legislature – parliament
- Legislative (parliamentary) control over executive

XII. The Executive

- Constitutional role of the Head of the State
- Formation of council of Ministers
- Functions of the Council of Ministers

- Role of the Prime Minister under the Constitution
- Responsibility and accountability of the Council of Ministers

XIII. Judiciary

- Concept of the Independence of judiciary and Constitutional provisions
- Court structure
- Supreme Court
- Appointments and qualifications of judges of the Supreme Court
- Conditions of service and privileges of the Chief Justice and other Judges
- Removal of the Chief Justice and the Judges of the Supreme Court
- Jurisdiction of the Supreme Court; ordinary and extraordinary
- Contempt of Court

XIV. Principles of constitutional interpretation: A brief introduction

- Theory of direct and inevitable effect of fundamental rights
- Doctrine of fraud on constitution
- Doctrine of harmonious construction
- Doctrine of severability
- Doctrine of colorable legislation
- Doctrine of Political Question

XV. Political Parties

- Constitutional provisions governing political parties

XVI. Provisions regarding the amendment of the constitution

XVII. Provisions regarding the Emergency Powers

Reference Materials

1. Acharya, Bhimarjun, Dr. *Fundamental Rights of the World Constitutions* (2008)
2. Anderson, G, *Federalism: An Introduction*, Oxford University Press, (2008)
3. Basnet, G.B., *The Crisis for Civil Liberties and Human Rights* (2008)
4. Bogdanor, Vernon, *Politics and the Constitution*; Essays on British Government, England: Dartmouth Publishing Company Limited, (1996)
5. Dahal, Gopal Prasad, Dr. *Public Interest Litigation*(in Nepali) (2065)
6. Dhungel, Dr. Surya PS et al., *Commentary on The Nepalese Constitution*, Kathmandu: DeLF, Srptember (1998)
7. Gyanwali, Chandra Kant, *Constitution, Constitutionalism, Constituent Assembly and Restructuring of State* (in Nepali) Mrs. Vijaya Gyawali (2064)
8. Jain, M.P, *Indian Constitutional Law*, Wadhwa and company law publishers, Nagpur, (1994 and 2003)
9. Jennings. W. Ivor, *The British Constitution* 5th Edition, Universal Book Stall, New Delhi, (1994)
10. Strong, C.F., *Modern Political Constitutions*, 8th edition, London: The ELBS and Sidgwick and Jackson Limited, (1973)
11. Thapa, K.B. and Uprety, B, *Constitutional Law of Nepal*, FREEDEAL, KTM (1992)
12. Wheare K.C, *Federal Government*, The English Language Book Society, Oxford University Press, (1963)
13. Wheare, K.C, *Modern Constitution*, 8th Edition, London: Oxford University Press, (1971)

Comparative Law and Nepalese Legal System

Course Title: **Comparative Law and Nepalese Legal System**

Full Marks: 100

Course No: Law 324

Pass Mark: 35%

Duration of the Course: One Year (125 hrs)

Level : LL.B.

Year: I

Nature: Compulsory

Course Objectives

The objectives of this course are:

- to impart the students with the basic and fundamental knowledge of the major legal systems of the world.
- to enable them to analyze and understand the differences between the major legal systems of the world and laws of some countries.
- to make the students understand the influences of major legal systems and Hindu Jurisprudence in Nepalese legal system.
- to enable the students to understand the basic notion of Nepalese legal system and judicial trend.

Unit 1-Introduction

- 1.1 Meaning and Importance of Comparative Law
- 1.2 Comparative Approach to Legal Studies
- 1.3 Meaning and Definition of legal system and major legal system of the world.

Unit-2 Major Legal System

- 2.1 Common Law Family: Origin, development, sources.
- 2.2 Civil Law Family: Origin, development, sources
- 2.3 Socialist Law Family: Origin, development, sources
- 2.4 Religious Law Family: School and sources of Muslim and Hindu law family.
- 2.5 Comparison between Major Families of Law

Unit-3 Comparison of Laws of some Countries in terms of concepts and sources of law, system of courts and legal profession

- 3.1 Comparative Study between Roman, French, German, and Japanese Law

- 3.2 Comparative Study between English law and the law of the United States of America.
- 3.3 Comparative Study between the Chinese law and the Socialist Legal System
- 3.4 Comparative Study between Hindu law and Muslim law.

Unit-4 Historical Development of Nepalese Legal System

- 4.1 Law before the Lichhavi Period.
- 4.2 Legal System of Lichhavi
- 4.3 Social and Legal Reformation during Malla Period.
- 4.4 Legal and Judicial Reforms of Ram Shah and Prithvi Narayan Shah.
- 4.5 Codification of Law (Muluki Ain 1910 B.S)
- 4.6 Legal System and Judicial Administration during 1904 B.S to 2007 B.S.
- 4.7 Period from 2007 to 2017 B.S.
- 4.8 Period from 2017 to 2047 B.S.
- 4.9 Period from 2047 B.S.

Unit-5 Reformation of Nepalese Legal System

- 5.1 Impact of Religious/Hindu Law on existing Nepalese Legal System.
- 5.2 Impact of Common Law on the existing Nepalese Legal System.
- 5.3 Impact of Civil Law on the existing Nepalese Legal System.
- 5.4 Impact of Socialist/economic Law on the existing Nepalese Legal System.

Unit-6 Recent Trends of Nepalese Legal System

- 6.1 Characteristics of existing Nepalese Legal System: concepts; sources; original or hybrid; impact of Hindu concept of law, justice and duty of king; etc.
- 6.2 Codification and Law making process in Nepal.
- 6.3 Recognition of precedents in Nepal.
- 6.4 Prosecution system in Nepal.
- 6.5 Administration of Justice: Judicial, Quasi Judicial, PIL, and ADR in Nepal.

Prescribed Materials

1. David, Rene and Brierley John E.C; *Major Legal Systems in the World an*
2. Khanal R.R., *Nepalko Kanooni Etihasko Rooprekha*, Mrs. Saraswoti Khanal (2059)
3. Khanal, B., *Regeneration of Nepalese Law*, Bhrikuti Academic Publications (2000)
4. *Introduction to the Comparative Study of Law*, London Stevens and Sons (1985)
5. Shrestha, G.B, *Hindu Jurisprudence and Nepalese Legal System*, Pairavi (2056)

Reference Materials

1. Adhikari Pravakar *et.al*, “Nepal”, In Prof. Dr. R. Blanpain (edi.), *International Encyclopedia Law*, Kluwer Law International (2007)
2. Bogdan, M., *Compaative Law*, Kluwer (1994).
3. Dhungel, S.P.S. et.al, *Readings in the Legal System of Nepal*, Law Publications (1986)
4. Dulal, T.P; *Major Legal Systems*, Pairavi (2065 B.S)
5. Glandon, M.A. & et.al. *Comparative Legal Traditions*, West pub. co.Minnesota (1985).
6. Khanal, B, *Major Legal Systems of the World*, Brikuti Pustak (2054 B.S)
7. Osti Prakash (editor), *Kanoonsambandhi Kehi Etihaskik Abhilekhharu*, Lawyer’s Club, Kathmandu,Nepal 2063 B.S.
8. Osti, Prakash *Hamro Kanooni Itihaska Kehi Jhankiharu*, Pairavi Book House, Kathmandu, 2063 B.S.
9. Pant Dinesh Raj Prof., *Nyayabikashini (Manavnyayasastra, A Law enacted by King Jayasthiti Malla in Nepal Era 500 (AD 1380)* Co-publication of Kanoon Bi-monthly Law Journal, Lawyer’s Club, Kathmandu (2065 B.S.)
10. Sen, Nath Priya *General Principle of Hindu Jurisprudence*, Allahabad Law Agency (1984)
11. Weir, T., (trans.), K.Zweigert & H.Kotz, *An Introduction to Comparative Law*, Clarendon paperbacks (Oxford) (1992).

Law of Contract

Course Title: **Law of Contract**

Full Marks: 50

Course No: Law 325

Pass Mark: 35%

Duration of the Course: One Year (62 hrs)

Level : LL.B.

Year: I

Nature: Compulsory

Course Objectives:

1. To familiarize the students with the basic issues of contemporary contract law and enable them to suggest the best solution to tackle those issues.
2. To impart the students comparative and critical knowledge of Contract law of Nepal as compared to laws of EU, India, U.K., U.S.A. and others as relevant.
3. To enable the students to make critical appreciation of leading cases.

PART- A

General Principles and Provisions of Contract

I. Introductory

1. Meaning of the term "Contract".
2. Nature of the Law of Contract
3. Essential Elements of Contract
4. Kinds of Contract
5. Historical development of the law of contract in Nepal
6. Basic feature of Nepalese Contract Act, 2056

II. Formation of Contract

A. Offer

1. Meaning of Offer.
2. Rules regarding valid Offer.
3. Types of Offer.
4. Communication of Offer.
5. Termination of Offer.

B. Acceptance

1. Meaning of Acceptance
2. Rules regarding Acceptance
3. Communication of Acceptance

4. Revocation and Lapse of Acceptance

III. Consideration

1. Meaning of Consideration.
2. Rules regarding Consideration.
3. Kinds of Consideration
4. The Rule - 'No Consideration no Contract'.
5. Consideration in Nepalese Law of Contract.

IV. Capacity to Contract

1. Meaning of Capacity to Contract:
2. Persons Incompetent to Contract
 - a) Minor
 - b) Person of unsound mind
 - c) Other Persons disqualified by law.
3. Provision of Nepalese Contract Act

V. Free Consent

1. Meaning of Free Consent
2. Factors Affecting Free Consent
 - a. Coercion**
 - Meaning of Coercion
 - Consequences of Coercion
 - Exceptions
 - b. Undue Influence**
 - Meaning of Undue Influence
 - Presumption of Undue Influence
 - Consequences of Undue Influence
 - c. Misrepresentation**
 - Meaning of Misrepresentation
 - Presumption of Misrepresentation
 - Consequence of Misrepresentation
 - d. Fraud**
 - Meaning of Fraud
 - Essential elements of Fraud
 - Consequences of Fraud
 - e. Mistake**
 - Meaning of Mistake

- Types of Mistake
 - Consequences of Mistake
3. Provisions of Nepalese Contract Act

VI. Legality of Object and Consideration

1. Meaning and Importance of Legality of object.
2. Unlawful Agreements
3. Agreements opposed to Public Policy
4. Void Agreements
5. Uncertain and Impossible Contract
6. Wagering Agreement
7. Nepalese Contract Act Provisions.

VII. Quasi-Contract

1. Meaning of Quasi-Contract
2. Rules regarding Quasi-Contract
3. Doctrine of *Quantum Meruit*
4. Nepalese Contract Act provisions on quasi-contract

VIII. Contingent Contract

1. Meaning & Basic Elements of Contingent Contract
2. Rules regarding Contingent Contract
3. Nepalese Contract Act Provisions on Contingent Contract

IX. Performance of Contract

1. Meaning and Importance of Performance of Contract
2. Types of Performance of Contract
 - Types and Requisites of a valid Tender
3. Rules regarding Performance of Contract
4. Nepalese Contract Act Provisions on Performance of Contract

X. Assignment of Contract

1. Meaning of Assignment of Contract.
2. Rules Regarding Assignment of Contract.

XI. Termination/Discharge of Contract

1. Meaning of Termination/Discharge of Contract

2. Modes of Termination/Discharge of Contract
3. Doctrine of Supervening Impossibility
4. Breach of Contract
 - Meaning and Types of Breach of Contract
5. Remedies for Breach of Contract
 - Meaning and Kinds of Remedy
6. Nepalese Contract Act provisions on Termination/Discharge of Contract

PART-B
Specific Contract

XII. Contract of Indemnity and Guarantee.

1. **Contract of indemnity.**
 - a) Meaning of Contract of Indemnity
 - b) Features of Contract of Indemnity
 - c) Kinds of Contract of Indemnity
 - d) Rights and Duties of Indemnity-holder and Indemnifier.
2. **Contract of Guarantee.**
 - a) Meaning of Contract of Guarantee.
 - b) Basic features of Contract of Guarantee.
 - c) Types of Guarantee.
 - d) Continuing Guarantee
 - e) Rights, Duties and Liability of Surety
 - f) Discharge of Surety from Liability
 - g) Grounds of invalidation of Contract of Guarantee.
3. **Nepalese Contract Act provisions on Contract of Indemnity and Guarantee.**

XIII. Contract of Bailment and Pledge.

1. **Bailment**
 - a) Meaning of Bailment
 - b) Basic feature of Bailment
 - c) Types of Bailment
 - d) Rights and Duties of Bailor and Bailee.
 - e) Termination of Bailment.
 - f) Finder of Lost Goods - Meaning and Rights and Duties of Finder of Lost Goods.

2. **Pledge/Pawn.**
 - a. Meaning of Pledge/Pawn
 - b. Basic features of valid Pledge
 - c. Rights and Duties of the Pledgee/Pawnee and Pledger/Pawner
 - d. Pledge by Non-owner
 - e. Distinction between Bailment and Pledge.
3. **Nepalese Contract Act provisions on Bailment and Pledge.**

XIV. Contract of Agency

1. Meaning of Contract of Agency
2. Basic features of Contract of Agency.
3. Modes of Creating Agency
4. Types of Agent
5. Delegation of authority to Agent
 - Meaning and Exception
6. Rights, Duties and Personal liability of Agent
7. Distinction between Sub-agent and Substituted Agent
8. Rights and Duties of Principal
9. Termination of Agency.
10. Law relating to Agency in Nepal

XV. Contract of Sale of Goods.

1. Meaning of Contract of Sale of Goods.
2. Characteristics of Contract of Sale of Goods.
3. Sale and Agreement to Sell
 - Meaning and Differences
4. Goods
 - Meaning and its kinds
5. Condition and Warranties
 - Meaning and Comparison
6. Doctrine of *caveat emptor*
 - Meaning and Exception
7. Transfer of Ownership.
 - a. Meaning of Transfer of Ownership
 - b. Rules regarding transfer of ownership.

8. Transfer of Title
 - Meaning and Exceptions
9. Performance of Contract of Sale of Goods
 - Meaning and steps
10. Unpaid Seller
 - Meaning, Characteristics and Rights
11. Buyer's remedies against Seller.
12. Conditions under which Contract of Sale of Goods becomes void.

XVI. Contract of Carriage.

1. Meaning of Contract of Carriage.
2. Characteristic of Carriage and Contract of Carriage.
3. Kinds of Carriage.
 - a) Carriage by Land
 - Meaning and Classification of Land Carrier
 - Rights, Duties and Liabilities of Common Carrier.
 - Termination of Carrier's Liability.
 - b) Carriage by Rail
 - Meaning
 - Rights, Duties and Liability of Railway Administration
 - c) Carriage by sea
 - Meaning and Definitions of Ship Carriage
 - Contract of Affreightment
 - Kinds
 - Charter Party Classes and Clauses
 - Billing of Lading
 - Master of Ship
 - Meaning, Rights and Duties
 - d) Carriage by Air
 - Meaning
 - Documents relating to Carriage by Air
 - Liabilities of the Air Carrier

XVII. Law of Arbitration.

1. Meaning and Importance of arbitration
2. Essential Elements of arbitration.

3. Arbitrator.
 - Meaning, Number, qualification and Appointment
4. Rights and Duties of Arbitrator.
5. Removal of Arbitrator
6. Award
 - Meaning and Elements of Valid Award
 - Setting aside an Award
 - Execution of an Award
7. The provisions of Nepalese Arbitration Act, 2055.

XVIII. Case Law:

1. Achut Pd. Kharel vs. HMG, *NKP* 2064/533.
2. Anil Kr. Pokheral vs. Kathmandu District Court, *NKP* 2064/460.
3. Bhairab Neupane vs. Chitwan Irrigation project, *NKP* 2046/334.
4. Bir Maya Limbu vs. Rana Maya Limbu, *NKP* 2061/9425.
5. Bir Shanker Kashai. vs. Anita Lama, *NKP* 2063/395.
6. Bitti Nirwan Sewa vs. Pu.Be.Aa.Patan, *NKP* 2063/286.
7. Chandra Kr. Golchha vs. Pu.Be.Aa. Patan, *NKP* 2062/376.
8. Chhue Lama vs. Ishwari Devi, Supreme Court Bulletin, year 2 vol.26, p.1.
9. Dhana Maya Maharjan vs. Tulasi Maharjan, *NKP* 2063/1008.
10. Jal Utpanna Prokop Niyantaran Bhivag vs. PU.Be.Aa Patan, *NKP* 2063/ 633.
11. Lal Bdr. Khatri vs. Jaya Lal Subedi, *NKP*, 2063/1340.
12. Maya Gurung vs. Durga Upadhyay, *NKP* 2061/565.
13. Nani Chauri Maharjan vs. Rabindra Maharjan, *NKP* 2062/1243.
14. Nepal Government vs. Bhairaja Pradhan, *NKP* 2063, Vol 10, P.1319
15. Prithvi Bd. Maharjan vs. Birat Bdr. Khadka, *NKP* 2064/1100.

16. Saraswoti Devi Aryal vs. Chadra Kr. Shrestha, **NKP** 2061/324.
17. Suman P. Sharma vs. Sunowlo Khimti Constuction, **NKP** 2063, Vol.5, P.593
18. Vijaya Chandra Lama vs. Everest Paper Mills Pvt. Janakpur, **NKP** 2064/30.
19. Vijaya Kr. Shah vs. HMG, **NKP** 2049/435.

Text Books: (Latest edition)

1. Anson's Law of Contract
2. Arbitration Act, 2055 (Legal Text)
3. Avatar Singh, Law of Contract
4. Avatar Singh, Principles of Mercantile Law
5. Bhandari, Surendra, Legal Environment of Business, (Nepali version), Kathmandu
6. Nepal Contract Act, 2056 (Legal Text)
7. Uprati, Bharat Rai, Law of Contract {Nepali version}, Kathmandu

References (Latest edition)

1. Atiyan P.S., *An Introduction to Law of Contract*.
2. Blanpain, R, Aadhikari and Upreti K., *International Encyclopedia*, Khuwar Law International, (2007)
3. Chesire and Fiffort, *Law of Contract*
4. Karki, Bharat B. (Prof. Dr.), The Arbitration Act, 1999 and the Implementation - related Issues, *2 Business Law Journal*, vol.2, (2004)
5. Karki, S.B. & Mishra, *Business Law*, Kathmandu, (2005)
6. Nair, M. Krishna, *The Law of Contract*
7. Parajuli, Purusottam, *Karar Sambandhi Kanoon*
8. Redmond, *Mercantile Law*.
9. Sen & Mitra., *Commercial Law*.
10. *Trietel's Law of Contract*
11. Wagle, Rishikesh, *Legal Environment of Business in Nepal*

Family Law

Course Title: **Family Law**

Full Marks: 50

Course No: Law 326

Pass Mark: 35%

Duration of the Course: One Year (62 hrs)

Level : LL.B.

Year: I

Nature: Optional

Course Objectives

The main objectives of this course are:

- to spell out the background and development of family (single and joint) and evaluate the causes of dissolution of joint family system.
- to acquaint the students with the comparative knowledge of the Nepalese, Indian, American and the English family law in brief.
- to familiarize the students with the leading Family law cases of Nepal.

Contents in the Instructional Unit

I Introduction

- Concept and Scope of Family law
- Historical development of Family law of Nepal.
- Impact of gender justice in the Nepalese Family Law.

II Marriage

- Concept of Marriage.
- Condition of Marriage.
- Nullity of Marriage.
- Punishable Marriage.
- Justifiable Marriage.
- Custom and usage pertaining to marriage in Nepal.

III Civil Marriage

- Conditions for a valid civil marriage.
- Procedural requirements.

IV Husband and Wife

- Right to Company.
- Separation of husband and wife.
- Restriction of conjugal rights.
- Grounds of divorce.
- Divorce suit.
- Reunion of divorced husband and wife.
- Child custody.
- Status of children.
- Maintenance and support for children.

V Adultery and Jari:

- Concept of Adultery and Jari.
- Distinction between Adultery, Jari and Bigamy.
- Punishments.

VI Adoption:

- Concept and scope of Adoption.
- Adoption in Traditional Hindu Law.
- Conditions of adoption.
- Status of Adopted Son.
- Conditions for invalidating adoption.
- Adoption by foreigners.
- Adopted daughter.

VII Partition

- Concept and scope of Partition.
- Ancestral Joint Property and Personal Property.
- Joint family and coparcenary.
- Gender equation in Partition.
- Rights and duties of Manager or Karta.
- Procedure of Partition.
- Mano Chhuttine (Partition of Kitchen) separation.
- Maintenance Jiuni.
- Reunion of Families.

VIII Women's property (Istri Dhan)

- Meaning of women's property
- Kinds of women's property
- Succession of women's property

IX Inheritance (Aputali)

- Meaning of Inheritance
- Inheritance in classical Hindu Law
- Daughter's right in inheritance
- Other's right in inheritance

X Family court:

- Concept of Family Court.
- Scope of Family court.

XI Leading Cases:

1. Babu Lal Saha vs. Ram Babu Sahi, **NKP** 2045/96, No. 2, Decision no.3352.
2. Chijkaji Gurung vs Aashmaya Gurung, **NKP** 2055/30 No.1, Decision No. 6494
3. Chitra Khadka et.al. vs Puspa Kumari Khadka, **NKP** 2058/178, No. ¾, Decision No. 6991
4. Ganga Prasad Bhattarai vs Pusparaj Bhattarai, **NKP** 2056/760, No. 10, Decision No. 6799
5. Kaushalya Devi Ghimire vs Parbati Devi Pandey, **NKP** 2048/745
6. Meera Kumari Dhungana vs. HMG, **NKP** 2052/462, No. 6
7. Meera Kumari Dhungana vs. Ministry of Law, Justice and Parliamentary Affairs, writ no.3392/2050.
8. Narendra Mulmi vs Krishna Mulmi,Sc. **NKP** 2060/700, No. 10, Decision No. 7265
9. Purna Sunwar vs Indra B. Bhandari, **NKP** 2052/647, No. 8, Decision No. 6046
10. Ratna Sambhab Tuladhar vs Sonam Tuladhar, **NKP** 2041/425, No. 5, Decision No.1987

11. Trithaman Shakya et. al. vs Jamuna Devi Shakya, *NKP*, 2044/555, No. 5

Prescribed Reading (as amended)

1. Gender Justice Act, 2063.
2. Muluki Ain, 2020 (relevent chapters).
3. The Interim Constitution, 2063.

References:

1. Nandan, D., *Marriage, Divorce and Hindu Law*, Allahabad, (1989)
2. Shrestha, Gyendra B., *Law of Property*, Pairavi, Kathmandu, (2050)
3. Shrestha, Gyendra B., *Muluki Ain, A commentry*, Pairavi, Kathmandu, (2056)
4. Subedi, Mudhusudhan, *History of Hindu Marriage*, (in Nepali), Published by Ms. Sanumaiya Subedi, (2056)
5. Thapalia, S., *Family Law of Nepal* (Nepali version), Kathmandu, (2046)
6. UNIFEM/Pro Public, *A compendium of Gender Justice Cases*, Pairavi, Kathmandu, (2060)

Media Law

Course Title: **Media Law**

Full Marks: 50

Course No: Law 327

Pass Mark: 35%

Duration of the Course: One Year (62 hrs)

Level : LL.B.

Year: I

Nature: Optional

Course Objective

- to introduce the constitutional and legal regime about the mass media
- to study about the legal and institutional arrangement for regulating and monitoring of different sectors of mass media
- to study about the freedom and rights of the persons and institutions working in different sectors of mass media
- to study about the legal limitations and civil and criminal liabilities of people working in mass media

Contents in the Instructional Unit

I. Constitutional Regime and Mass Media

- Freedom of opinion and expression (Article 12 (3) (a))
- Grounds of reasonable restriction and tests of reasonability of restriction Article 12 (3) (1)
- Freedom of Press and Publication, grounds of restriction and immunities of press (Article 15)
- Right to Information and limitations thereof (Article 27)
- Right to Privacy and Mass Media
- Constitutional remedies against violation of above rights (Article 32, 107 (1) (2))
- Privileges of parliament and reporting right of mass media (Article 77)
- General Emergency and Mass Media (Article 143)

II. Contempt of court and mass media

- Meaning and concept of contempt of court
- Civil contempt and criminal contempt of court
- Sanction for contempt of court

III. Media Crimes

- Defamation, Obscenity, indecency and blasphemy
- Defences against the above crimes
- Remedies against above crimes

VI. Copy Right and Mass Media

- Definition of creation and copy right over creation
- Qualifying requirements for copyright protection
- The ownership of copyright
- Exceptions to copyright
- Infringement of copyright, liabilities and defenses

V. Classified Information

- Definition and kinds of classified information
- Punishment for disclosure of classified information
- Defences against disclosure of classified informations
- Public interest disclosures (Whistle Blowing)

VI. Press Council

- Institutional Mechanism
- National Information Commission
- Constitution of Press Council and its Powers and functions.
- Code of conduct of journalists
- Disciplinary actions and sanctions against violation of code of conduct

VII. Laws and Regulating Institutions of Different Sectors of Mass Media

- Commercial Television
- Commercial Radio,
- News papers and Magazines,
- Advertizing, Cinemas,
- Films and documentaries,
- Internet

VIII. News and Information Gathering

- Investigative journalism and right to privacy

- Confidentiality of sources of information and responsibility of journalist
- News information through direct and indirect source

XI. Complaints Against Mass Media

- Complaints to Press Council
- Complaints to Ministry of Information
- Complaints to court of law
- Alternatives to court proceedings

READING MATERIAL

1. References

1. Law Relating to Printing and Publication of Nepal, Published Kath. (1984)
2. Dahal, Kashi Raj, Press Jurisprudence, Nepal Law Society, Kath. First Edition, (1992)
3. Devkota, Grishma Bahadur, *Nepal Ko Chhapakhana Ra Patra Patrika Ko Itihas*, Sajha Prakashan, Second Edition, Kath. (2051)
4. Gallant, Simon, “*Media Law, A Practical Guide to Managing Publication Risks*”
5. *Law of Defamation*, Indian Law Institute, New Delhi, (1984)

2. Acts and rules

1. Cinemas (Production, Demonstration and Distribution) Act 2026
2. Civil Rights Act 2012
3. Copy Right Act 2059
4. Defamation Act 2016
5. National Broadcasting Act 2049
6. National News Committee Act 2019
7. Other media related laws
8. Patent Design and Trademark Act 2022
9. Press and Publication Act 2026
10. Press Council Act 2048
11. Radio Act 2014

12. Right to Information 2064
13. Rules and bylaws made under the above laws
14. The Interim Constitution of Nepal 2063 and other past constitutions of Nepal

3. Cases

1. Advocate Madhav Kumar Basnet vs. Ministry of Information and Communication (2056 Writ no 3638)
2. Badri Prasad Gupta vs. Chief Anchaladhis Bishnu Mani Adi, **NKP** 2028 Vol 13 P 155
3. Baikuntha Pd Upadhyaya vs. Sadar Police Goshwara, **NKP** 2018 P 173
4. CDO office Kathmandu v. Editor of Nirmal Weekly Journal, **NKP** 2039 Vol 15 P 9
5. Dron Prasad Dahal vs. Shri Prasad Acharya (Criminal Miscellaneous no 128 Crminal File 055-11-18)
6. Gopal Shiwakoti v. Ministry of Finance, **NKP** 2051 vol 4 P 255
7. Krishna Prasad Shiwakoti v. Office of the Anchaladhis Bagmati Anchal, **NKP** 2040 P 244
8. Madan Mani Dixit vs. His Majesty's Government, Cabinet Secretariat et all, **NKP** 2035 Vol 20 P 167
9. Mrs Sumitra Gupta v. Cabinet Secretariat, **NKP** 2046 P 850
10. Rajendra Singh Rathore v. Ministry of Communication et all, **NKP** 2045 P 390
11. Ram Prasad Upadhyaya vs. His Majesty's Government, **NKP** 2027 Vol 12 P 258
12. Tej Kharel v. Office of the Anchaladhis Bagmati Anchal, **NKP** 2040 special issue P 250
13. Thir Prasad Pokhrel vs. Harihar Birahi, **NKP** 2049 Vol 8 P 770

Administrative Law

Course Title: **Administrative Law**

Full Marks: 50

Course No: Law 328

Pass Mark: 35%

Duration of the Course: One Year (62 hrs)

Level : LL.B.

Year: I

Nature: Optional

Objectives

The main objectives of this course are to describe and explain:

- the nature and functioning of administrative law
- the role of administrative law in control of abuse of power
- the kinds of administrative actions and means of control
- the institutions and means of enforcement of administrative law

I. Introduction

- Definition Nature Scope Importance and Sources of Administrative Law
- Relationship between constitutional law and administrative law
- Good governance and role of administrative law

II. Basic Doctrines of Administrative Law

- Rule of law
- Separation of powers and checks and balance

III. Classification of Administrative Actions

- Need for the classification
- Distinction between Legislative, Executive, Judicial and Quasi-judicial functions

IV. Delegated Legislation

- Meaning Scope Importance and Types of Delegated Legislation
- Reasons for the Growth of the Delegated Legislation

- Limitations on delegated legislation
- Control over the delegated legislation: (Parliamentary, Judicial, procedural and other control mechanisms)

V. Principles of Natural Justice

- Meaning Nature and Scope of Natural Justice
- Limbs of Natural Justice
- Nemo Judex in Causa Sua
- Audi Alteram Partem

VI. Quasi Judicial Bodies and Administrative Tribunals

- Meaning Nature Structure Functions and Procedure of Quasi-judicial Bodies
- Reasons for the growth of the Quasi-judicial bodies
- Meaning Nature and Functions of Administrative Tribunals
- Control over Administrative Adjudication

VII. Administrative Discretion and Judicial Control

- Nature of Administrative Discretion
- Judicial Control over administrative discretion
- Remedies available to the citizens against abuse of administrative discretion through Writs

VIII. Ombudsman

- Introduction
- Authority of Ombudsman
- Complains, Investigations (with reports) and decisions
- Powers and Function of Commission for Investigation of Abuse of Authority
- Independence and Integrity of Commission for Investigation of Abuse of Authority

IX. Role of the Supreme Court in Development of Administrative Law in Nepal

Text-Books

1. Dr. Dahal, Gopal Prasad, *Public Interest Litigation*(in Nepali) (2065)
2. Jain & Jain, *Administrative Law*
3. Khanal, Dr. Shambhu.P, *Administrative Law*
4. Massey, I.P, *Administrative Law*
5. Pandey, Keshav Raj, *Administrative Law*(in Nepali), Ramesh Silwal (2065)
6. Sangroula, Dr. Yuba Raj, *Administrative Law*
7. Sathe, S. P, *Administrative Law*
8. Wade, HRW, *Administrative Law*

Taxation Law

Course Title: **Taxation Law**

Full Marks: 50

Course No: Law 329

Pass Mark: 35%

Duration of the Course: One Year (62 hrs)

Level : LL.B.

Year: I

Nature: Optional

Course objectives:

1. to give preliminary knowledge of the concept of taxation to the students.
2. to acquaints the students with the nature and construction of taxation of laws.
3. to give basic idea and to familiarize the students with taxation laws prevailing in Nepal, especially Income Tax Act, VAT Act, House and Land Tax Act and Wealth Tax Act.
4. to enable the students to have an understanding of leading cases relating to taxation decided by the supreme court of Nepal.

1. Introduction

- 1.1 Concept and objectives of taxation
- 1.2 Nature of taxation
- 1.3 Kinds of Tax

2. Taxation Law

- 2.1 Meaning of Taxation Law
- 2.2 Principles of Taxation Law
- 2.3 Rules of Construction of Taxation Law
- 2.4 Relation between Finance Act and Tax Acts.

3. Constitutional Framework of Taxation

- 3.1 Taxing Power and Right to Property
- 3.2 Taxing Procedures

4. Income Tax Law

- 4.1 Concept of Income and basic terminology under Income Tax Act, 2058
- 4.2 Basis of Charge of Income Tax
- 4.3 Heads of Income
- 4.4 Income from Employment
- 4.5 Income from Business
- 4.6 Income from Investment
- 4.7 Calculation of Assessable Income, Deduction and Allowances
- 4.8 Method of Filling Tax Returns
 - Assessment of Tax
 - Payment of Tax
 - Recovery of Tax
 - Tax Deduction at source

5. Value Added Tax

- 5.1 Concepts of VAT
- 5.2 Registration for VAT
- 5.3 Collection of VAT
- 5.4 Return of VAT
- 5.5 Payment and Recovery of VAT

6. Wealth Tax, House and Land Tax and House Rent Tax: Objectives and Legal Provisions as to assessment, payment and recovery of tax

7. Rights and duties of Taxpayer

8. Tax Administration

- 8.1 Kinds of authorities (administrative, quasi-judicial and judicial)
- 8.2 Powers and functions of the authorities

9. Judicial Control over Tax Administration (Jurisdiction, Powers and Procedure)

10. Tax-related offences, prosecution and penalties and appeal

Reading Materials:

Prescribed Cases:

1. Ananda Bhakta Rajbhandari v H.M.G. Ministry of Finance et.al., *NKP* 2043/499
2. Bir Lal Shah v. Tax Office, Janakpur et.al., *NKP* 2047/139
3. Gosh International Pvt. Ltd. v. Customs Office, Birgunj et.al., *NKP* 2045/123
4. Hans Raj Golchha v. Tax Office, Biratnagar et.al., *NKP* 2046/355
5. Kulbir Singh Tuladhar v. Central Regional Court, Kathmandu et.al., *NKP* 2043/1011
6. M.D.Kishor Kalwar v. Tax Office, Kathmandu, *NKP* 2045/573
7. Mohan Lal Surabaji v. Tax Office, Birgunj et. al., *NKP* 2045/1178
8. Narayan Shrestha v. Ta Destination Committee, Tax Department, Lazimpat et.al., *NKP* 2044/287
9. Nepal Resort Pvt. Ltd. Hongkong v. Tax Office, Kathmandu, *NKP* 2045/944
10. Ramji Prasad Shah v. Tax Office, Janakpur et.al., *NKP* 2047/147

Acts:

1. House and Land Rent Tax Act, 2023 (1966)
2. House and Land Tax Act, 2019 (1962)
3. Income Tax Act, 2058 and Rules 2059(2003).
4. Interpretation of Statues Act, 2010 (1954)
5. Land Revenue Act, 2034 (1977).
6. Revenue Tribunal Act, 2031 (1974)
7. The Interim Constitution of Nepal, 2063 (2007).
8. Value-added Tax Act, 2052 (1995) and Rules 2053 (1996).
9. Wealth Tax Act, 2047 (1990)

Reference Books (Latest Edition)

- 1) Aadhikari, Bishwadeep, *Income Tax Law: Then and Now* (Nepali version), Bhrikurti, Kathmandu, (2059)
- 2) Adhikari, Chandramani, *Taxation in Nepal, Planning and Management* (Nepali version), Kathmandu, (2056)
- 3) Bhattacharya, S., *Law and Practice of Wealth Tax*
- 4) Desai, Dr. S.S.M., *Principles of Taxation*
- 5) Kandel, Pusparaj (Dr.), *Tax Laws & Tax Planning in Nepal*, Kathmandu, (2003)
- 6) Kandel, Pusparaj (Dr.), *The Context of Tax Reforms and Income Tax Act, 2058*, Kathmandu, (2058)
- 7) Karki, Bharat B. Prof. (Dr.), *Teacher's Guide on Taxation Law*, C.D.C., T.U., Kathmandu, (2000)
- 8) Khadka, Rup Bahadur *Sales Taxation in Nepal*, Kathmandu, Ratna Pustak Bhandar (2041)
- 9) Khanal, Rewati Raman, *Kar Sambandi Kannon*, (Nepali version).
- 10) Ojha, Prawan Kumar, *Kar Kanoon* (Nepali version)
- 11) Singhanian, U.K., *Taxmann's Direct Taxes: Law & Practice*, New Delhi, (1997)
- 12) Subedi, Baburam, *Value-Added Tax*, Bhrikuti, Kathmandu, (1998)
- 13) Tiwari, Narayan Raj, *Nepalma Aayekar Byabastha* (Nepali version), Kathmandu, (2056)

Fiscal Law

Course Title: **Fiscal Law**

Course No: Law 330

Duration of the Course: One Year (62 hrs)

Year: I

Full Marks: 50

Pass Mark: 35%

Level : LL.B.

Nature: Optional

Course Objectives

The main objectives of this course are

- to study laws relating to implementation of fiscal policies
- to study laws relating to government expenditure and legal devices for audit and control
- to study laws relating to collection of revenues

I. Fiscal laws of Nepal

- Meaning and nature of fiscal laws
- Brief history of fiscal legislation in Nepal
- Constitutional provisions relating to financial procedure and finance bill
- Fiscal policy of Nepal

II. Laws relating to the implementation of fiscal policies

- Law of income tax
- Law of property tax
- Law of custom duty
- Law of excise duty

III. Laws relating to government loan and guarantee

- Law of government expenditure
- Laws of relating to treasury bills (Rashtraya Reen)

IV. Laws relating to government expenditure and audit

- Law of government expenditure
- Laws relating to the audit of government expenditure
- Power and function of the Auditor General

V. Laws relating to revenue collection

- Value-added tax (VAT)
- Land tax
- Law of stamp duty

Text-Books

1. Interim Constitution of Nepal, 2063 B.S
2. Palkiwala, N. "*Income Tax Law of India*, Vol. II"

Reading Materials:

Leading Cases

1. Annapurna Soap and Chemical Industries pvt Ltd. V. Internal Revenue Office, Dharan, *Collection of Revenue Tribunal Decisions*, Vol. I Year 2056-57, Income Tax Appeal Case no 391 Decision No. 85.
2. Biswonath Jajodiya V. Office of Value Added Tax, Lazimpat, Kathmandu, *Collection of Revenue Tribunal Decisions*, Vol. I Year 2059, Vat Appeal Case no 101/958 Decision No. 52, year 2059.
3. Dr. Indrajitlal vs. His Majesty's Government, Case: Custom Evasion in Import of Medicines, *Collection of Revenue Tribunal Decisions*, Vol. I Year 2052, Appeal Case no 34 Decision No. 185 year 2052.
4. Hasan Mohammad vs. His Majesty's Government, Case: Custom Evasion in Import of Rice, *Collection of Revenue Tribunal Decisions*, Vol. I, Year 2059, Appeal Case no 18, Decision No. 14, year 2059.
5. Hukum Chandra Duggad v. Internal Revenue Office, Kailali, Dhangadi, Case: Income Tax (2056/57), *Collection of Revenue Tribunal Decisions*, Vol. I Year 2058, Appeal Case no 32 Decision No. 52 year 2058.
6. Jitendra Kumar Luni V. Customs Office, Biratnagar Rani, Case: Over Valuation for Custom purpose, *Collection of Revenue Tribunal Decisions*, Vol. I, Year 2058, Appeal Case no 353 Decision No. 46, year 2058.

7. Olumpia Textile Industries pvt Ltd. V. Department of Value Added Tax, Lazimpat, Kathmandu, ***Collection of Revenue Tribunal Decisions***, Vol. I Year 2059, Vat Appeal Case no 233/947 Decision No. 71, year 2059.
8. Pashupati Iron and Steel Pvt Ltd v. Internal Revenue Office, Dharan, Sunsari, ***Collection of Revenue Tribunal Decisions***, Vol. I Year 2060, Case: Vat (2055/56) Appeal Case no 149 Decision No. 79, year 2060.
9. Suresh Kumar Aggarwal vs. VAT Department, VAT Case, ***Collection of Revenue Tribunal Decisions***, Vol. I Year 2060, Appeal Case no 78/754 Decision No. 94, year 2060.
10. Tikaraj Maske et all v. Mechi Customs Office, Kakarvitta, Jhapa, ***Collection of Revenue Tribunal Decisions***, Vol. I Year 2051, Appeal Case no 901 and 907

Reference book/materials

1. Bista, Balgovinda, ***Public Finance and Budget Management in Nepal*** Pairabi Prakashan, 2054
2. Khadka, Rup Narayan, ***Value Added Tax in Nepal: Principles and Practices***, Ratna Pustak Bhandar, Kathmandu
3. Khanal, Shambhu.P, Dr., ***Fiscal Law***, Prashanti Prakashan Putalisadak (2065)
4. Relevant Acts. Rules and Regulations of Nepal
5. Relevant Journals: Local/International.
6. Shrestha, Bijaya, ***Revenue Jurisprudence: Principles and Practices*** Lumanti Prakashan, 2046
7. Singh, S.K., ***The Fiscal System of Nepal***, Ratna Pustak Bhandar, Kathmandu 1977.

International Trade Law

Course Title: : **International Trade Law**

Full Marks: 50

Course No: Law 331

Pass Mark: 35%

Duration of the Course: One Year (62 hrs)

Level : LL.B.

Year: I

Nature: Optional

Course Objectives are:

- to impart to the students knowledge of International trade with the help of United Nations documents, UNCITRAL and UNCTAD papers and the World Trade Organization.
- to appraise the students with the contributions of the UN and its specialized agencies in the field of International trade law.
- to familiarize the students with International trade regime, particularly developed by the WTO.
- to enable the students to analyze provisions of the Nepalese laws on business transactions, and
- to enable them access the existing trade treaties of which Nepal is a party.

I. Concept of International Trade Law:

- Meaning and concepts
- Genesis
- Importance
- Sources

II. Incoterms

- Purpose of Incoterms
- Incoterms 1990 EHW. FCA. FAS. FOB. CLF. CIF. CPT. CIP. DAF. DES. DEO. DDU. DDP.

III. Standard Form Contract

- Nature, Use and kinds of standard form contract.

IV. Bill of Lading

- Definitions of bill of lading as defined in different International instruments.

- Kinds and characteristics of bill of lading
- Rights and duties of shipper and carrier with particulars reference to the UN convention on carriage of goods by sea (Hamburg rules).

V. International Sale of Goods

- History of International sale of goods
- Importance of unified International sale of goods
- UNCITRAL Convention
- Obligation of the seller
- Right of seller
- Obligations of buyer
- Rights of buyer
- Risk of loss
- Remedies for breach of the contract.

VI. Financing of International Trade

- Bill of exchange
- Direct payment
- Documentary credits

VII. Foreign Exchange

- Importance of foreign exchange in International trade
- Foreign exchange restrictions
- Main provisions of the foreign exchange (Regulations) Act, 2019 (1962) B.S.

VIII. Transnational Enterprises (TNCs) and International Trade

- Meaning of TNCs and joint ventures
- Role of TNCs in International trade
- TNCs and joint ventures in Nepal

IX. World Trade Organization (WTO) and Regional Trade Organizations

A. WTO

- Introduction
- Genesis (including Uruguay Round Report 1994)

- Principles, Objectives, Functions and Scope of WTO
 - Organs and working of WTO
 - Settlement of Disputes under WTO set up
 - Need to align Nepali law in tune with WTO norms
- B. Regional Trade Organizations**
- SAPTA (SAARC Preferential Trading Arrangement)
 - Role of the GATT 1994 in the field of International trade
 - Special reference International trade with special reference to least developed land-locked countries.
- X. UNCTAD**
- Organization of UNCTAD
 - Role of UNCTAD in the field of International trade law.
- XI. European Economic Community and European Union (EU)**
- Genesis of the EEC
 - Role of the EEC in the field of International trade law
 - Establishment of EU
- XII. Settlement of disputes**
- Arbitration, judicial settlement, negotiation, good offices, mediation, conciliation, or injury.
 - UNCITRAL rules on International Commercial Arbitration
 - UNCITRAL Model Law
 - UNCITRAL Conciliation Rules
 - MIGA
 - ICSID
 - International Chamber of Commerce Rules on International Commercial Arbitration.
 - Arbitration Act, 1999
- XIII. Enforcement of Foreign Judgment and Awards**
- Recognition and enforcement of foreign judgment and awards
 - The 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

Prescribed Materials

1. Schmitthoff, C.M. *Export Trade (The Law and Practice of International Trade)*, London (1993)

Reference Materials

1. Arbitration Act, 1999
2. Contract Act, 2056
3. Foreign Investment and Transfer of Technology Act,
4. Koul, A.K. *Legal Framework of UNCTAD IN World Trade*, Leyden, (1997)
5. Maithisen, P.S.R.F. *A Guide to European Community Law*, London (1990)
6. Sangal, P.K. and et.al. *National and Multinational Companies: Sources Legal Issues* N.M. Tripathy, Bombay (1981)
7. *UN: United Nations Commission on International Trade Law* (UNCITRAL) Year Books for the last ten years.
8. UNCTAD. GATT and AALCC (now OAAC) Documents.

Equity and Torts

Course Title: **Equity and Torts**

Full Marks: 50

Course No: Law 332

Pass Mark: 35%

Duration of the Course: One Year (62 hrs)

Level : LL.B.

Year: I

Nature: Optional

Course Objectives

The main objectives of this course are:

- To acquaint students to the basic concepts and notion of equity and torts
- To familiarize the students to the development of the principles of equity in common law system.
- To familiarize the students with general principles of torts.
- To introduce procedural and evidentiary rules of the common law in the realm of Tort and Equity law.
- To enable the students to distinguish between torts, crime and breach of contract
- To familiarize the students with the remedies of torts

Unit-1 : Concept of Equity

- 1.1 Meaning and Nature of Equity
- 1.2 Origin and Development of Equity
- 1.3 Equity and Trust
- 1.4 Equitable Remedies
- 1.5 The Maxims of Equity

Unit-2: Concept and General Principles of Torts

- 2.1 Concept of Torts
- 2.2 Mental State in Tortious Liability
- 2.3 Comparison of Torts with Crime, Contract, Quasi-contract, Breach of Trust and Bailment
- 2.4 Personal Capacity
- 2.5 General Defense (Justification) in Torts
- 2.6 Discharge of Torts
- 2.7 Remedies in Torts
- 2.8 Law of Torts in Nepalese Perspectives

Unit-3: Trespass and Nuisance

- 3.1 Trespass to Person
- 3.2 Trespass to Land
- 3.3 Trespass to Chattels
- 3.4 Nuisance

Unit-4: Defamation

- 4.1. Slander
- 4.2. Libel

Unit-5: Negligence

- 5.1. Meaning, Nature and Concept of Negligence
- 5.2. Duty of Care and Standard of Care
- 5.3. Contributory Negligence
- 5.4. *Res-ipsa*

Unit-6: Liability

- 6.1. Strict Liability
- 6.2. Vicarious Liability

Unit-7: Misrepresentation (Deceit)

- 7.1. Fraud or Deceit
- 7.2. Fraud by Agent
- 7.3. Negligent Misstatement

Reading Materials

Prescribed

1. Mandsly, R.H. *Hansberry's Modern Equity* London: Stevenson and Sons' Ltd. (19th ed.) (1969.)
2. Megarry, R.E. and Baker P.V. *Snell's Principles of equity*. London: Sweet and Maxwell. (27th ed.) (1966).
3. Ratan Lal and Dhiraj Lal. *Law of Torts* Nagpur: Wadhwa and Company, (Reprint: 1996)
4. Redmond, W. D. and Stevens, I. N. *General Principles of English Law*. London: M & E Handbooks

5. Salmond and Hueston *The Law of Torts* London: Sweet and Maxwell. (19th ed.) (1987).
6. Singh, Dr. Avtar *Introduction to Law of Torts* New Delhi: Wadhwa and Company Law Publisher. (1st ed.). (2001)
7. Singh, S.P./Singh, Indrajit P. *Law of Tort* Delhi: Universal Law Publishing Co. Pvt. Ltd. (4th ed.) (2006).
8. Winfield and Jolowicz *Law of Tort* London: Sweet and Maxwell (12th ed.) (1984).

References/Recommended

1. Bangaria, R.K. *The Law of Torts* Allahabad, Law Agency. (4th ed.) (1976)
2. Curzon, L.B. *Equity and Trusts*. London: Cavendish Publishing Limited. (1st ed.) (1993).
3. Elliott, Catherine and Quinn, Frances *Tort Law* Harlow: Pearson Education Limited. (3rd ed.) (2001).
4. Gandhi. B. M. *Law of Torts* (3rd ed.). (2006).
5. Green, Dr. David *Law of Torts* London: Cavendish Publishing Limited. (2nd ed.) (1995).
6. Harpwood, Vivienne *Law of Tort* London: Cavendish Publishing Limited. (2nd ed.) (1996).
7. Iyer, Ramaswami. *The Law of Torts*. Bombay: N.M. Tripathi, Pvt. Ltd.
8. Nicholas, J McBride & Roderick Bagshaw *Tort Law*, (1st Indian ed.). (2003).
9. Pandey, Dr. J.N./Pandey, Vijay Kumar *Law of Torts with Consumer Protection Act, 1986 and motor Vehicles Act, 1988* Allahabad: Central Law Publications. (6th ed.) (2007).
10. Pillai, P. S. A. *Law of Torts* Revised by Avatar Sing. (9th ed.) (2004).
11. Proposed Draft Civil Code, 2063 B.S.
12. Ram John, Mohammed. *Sourcebook on law of Trusts*. London: Cavendish Publishing Limited.

13. Rogers, W.V.H. *The Law of Tort* London: Sweet and Maxwell. (2nd ed.) (1994).
14. Street Harry *The Law of Torts* (6th ed.). London: Butterwoths. (1976).
15. *The Bombay Law Reporter*. Law Publisher India Pvt. Ltd. Vol. 8, 1989-1994.
16. *The Draft Civil Code (Dewani Samhita), 2063 B.S.*
17. Weir, Tony *A Casebook on Tort* (8th ed.). London: Sweet and Maxwell Limited. (1996)

Child Rights and Juvenile Justice

Course Title: Child Rights and Juvenile Justice	Full Marks: 50
Course No: Law 333	Pass Mark: 35%
Duration of the Course: One Year (62 hrs)	Level : LL.B.
Year: I	Nature: Optional

Course Description:

This course is prescribed in LL.B. Second Year) course No. 413 as an optional Subject. This course is regarded as very important subject fundamentally to deal with child rights, juvenile delinquency, juvenile justice system within criminal justice system in Nepal and judicial attitudes and trends of Nepalese courts regarding children and Juveniles.

Course Objectives:

1. To impart basic knowledge of child rights, juvenile delinquency and juvenile justice system.
2. To familiarize key components of juvenile justice system in Nepal and other countries.
3. To acquaint basic approaches of juvenile justice and organizational setting in Child Correction Home and Community Services.
4. To enable the students to understand major problems confronting the juvenile justice system in Nepal.
5. To enable the students to have critical appreciation on landmark decisions regarding child rights and juvenile justice.

Contents in Instructional Unit

Unit - 1: Concept of Rights and Child Rights

- 1.1 Meaning, Nature and Classification of Rights
- 1.2 The Position of Children in Nepal
- 1.3 Meaning Nature and Concept of Child Rights
- 1.4 Fundamental Aspects of Child Rights

Unit - 2: Concept of Justice and Juvenile Justice

- 2.1 Meaning, Nature and Classification of Justice
- 2.2 Meaning, Nature and Concept of Juvenile Justice

- 2.3 The Domestic and International Instruments on Child Rights and Juvenile Justice
- 2.4 Procedural Framework of Nepalese Juvenile Justice System
- 2.5 Actors of Juvenile Justice System
- 2.6 Fundamental Issues Regarding Juvenile Justice System
- 2.7 Role of Different Institutions to Strengthen the Juvenile Justice System in Nepal
- 2.8 Different Models of Juvenile Justice
- 2.9 Alternative Models of Juvenile Justice
- 2.10 Difference between Juvenile Justice and Criminal Justice

Unit - 3: Concept and Theory of Juvenile Delinquency

- 3.1 Meaning and Definition of Juvenile Delinquency
- 3.2 Justification to Treat Juvenile Differently
- 3.3 Childhood Deviant Behaviour
- 3.4 Child and Adolescent Psychology
- 3.5 Theories of Juvenile Delinquency
- 3.6 Causative Factors of Juvenile Delinquency
- 3.7 Types of Juvenile Delinquency
- 3.8 Difference and Interrelation between Juvenile Delinquency and Adult Crime
- 3.9 Juvenile Delinquency: Problem and Solutions

Unit - 4: Juvenile Justice Administration

- 4.1 Juvenile Aid Police (Women and Children Police Cell- Nepal)
- 4.2 Juvenile Court (Juvenile Bench- Nepal)
- 4.3 Correctional Institutions
- 4.4 Psychotherapy
- 4.5 Alternate Programme

Unit - 5: Diversion-Schemes, Restorative Justice and Best Practices

- 5.1 Concept and Development
- 5.2 Pre-trial Settlement
- 5.3 Settlement during Trial
- 5.4 Post Trial Settlement
- 5.5 Settlement by Community Mediation
- 5.6 Multi Agency Support

Unit - 6: Rehabilitation of Juvenile Delinquents in Nepal and Elsewhere

Unit - 7: Judicial Attitudes and Judicial Trends of Nepalese Course Regarding Child Rights and juvenile justice

Leading Cases

1. Advocate Ashish Adhikari on behalf of Keshab Khadka Vs. Dhankuta Distrkt Court et. al., ***Supreme Court Bulletin*** (2058) No. 6 year 10, p.10
2. Advocate Ashish Adhikari on behalf of Keshav Khadka Vs. His Majesty's Government Cabinet Secretariat et. al, Writ of the Year 2058, ***Supreme Court Bulletin***, (2059) No. 4 year 11
3. Advocate Ashish Adhikari on behalf of Pode Tamang Vs. Sindhupalchowk District Court and others, ***Supreme Court Bulletin*** (2058) No. 9, year 10, p.22
4. Advocate Ashish Adhikari on behalf of Shyam Krishna Pahari Vs. District Police Office et. al., Decided on 2058 Shrawan 29, Supreme Court, (unpublished)
5. Advocate Santosh Kumar Mahato Vs. Prime Minister and Office of the Council of Ministers *et.al.* ***NKP***(2062) No. 8, p.948
6. Ashish Adhikari on behalf of Bablu Godia Vs. Banke District Court et. al., Writ No.3390 of the Year 2057, Decided on 2057 Chaitra 12, Supreme Court (unpublished)
7. Balkrishna Mainali Vs. Ministry of Home Affairs et.al, Writ No.3505 of the Year 2056, Decided on 2058 Shrawn 23, Supreme Court (unpublished)
8. Rajkumar Rai Vs. Kathmandu District Court et al., Writ No.25 of the Year 2058, Decided on 2058 Magh 2, Supreme Court, (unpublished)
9. Santo Tamang Vs. 11am District Court et at, Decided on 2058 Marga 22, Supreme Court (unpublished)
10. Trilottam Poudel Vs. Ministry of Home Affairs et. al., Writ No.7020, ***NKP*** (2058), No.7/8, p. 423,

Reading Materials

Prescribed

1. Clemens Bartollas ***Juvenile Delinquency***. (Allyn and Bacon-Boston). (2000)
2. CWIN ***Juvenile Delinquency in Nepal***. Kathmandu: Child Workers in Nepal Concerned Centre (2003)

3. KSL. *Juvenile Justice System in Nepal*, Bhaktapur: Kathmandu School of Law (2003)
4. Sharma, Dr. Lokendra *Juvenile Law and Juvenile Justice* Kathmandu: Pragati Pustak Sadan (1st Ed.) (2061 B.S.)
5. Simonsen and Gordon *Juvenile Justice in America*. Glencoe Publishing Co. Inc. (1979)

References/Recommended

1. Acharya, Madhav Prasad *Aparadh Shastra* Kathmandu: Ratna Pustak Bhandar. (Reprint) (2057 B.S.)
2. CCWB. *National, Regional and International Legal Provisions Regarding Children*. Pulchowk: Central Child Welfare Board.
3. CeLRRD *Research Report of Trial Court System in Nepal*. Bhaktapur: Centre for Legal Research and Resource Development (2002)
4. *Child Partkipation Guide Book*, Lalitpur: Central Child Welfare Committee. (2063 B.S)
5. Convention on the Rights of the Child, (1989)
6. Dahal, Kashi Raj. "Nepalma Bal Durachar: Ek Sarvekshan". *Nepal Law Review* Vol. 31, (2041B.S)
7. Gautam, Bharat Mani, Nepal Law Journal, *Special Issue on the Rights of the Child*. Vol. 1, November 1998.
8. Lamichhane, Gopal *Child Related Laws Special Reference to Juvenile Justice in Nepal. A dissertation submitted to Central Department of Law, Nepal Law Campus as a student of LL.M. 2nd Year*. (2004)
9. Mainali, Laxmi Prasad. "Juvenile Delinquency: Its Treatment and Prevention." *NYAYADOOT*. Bi-monthly, Year 39, No. 175, Vol. Shrawan - Bhadra, Kathmandu: Nepal Bar Association, pp. 6-26. (2065)
10. National Judicial Academy, *Concept of Camera Hearing and Method of Implementation*, Kathmandu (2065)
11. Osti, Prakash. "Kathmandu Upatyaka Ra Sal Durachar: Ek Adhyayan Ek Bishleshant". *NYAYADOOT*. No.31.
12. PPR Nepal *A Research Book on A critical Analysis of Juvenile Justice System in Nepal* Kathmandu Forum for Protection of People's Rights, Nepal, (1st Ed.). (2007)
13. Silwal, Kishore. "Juvenile Justice System in Nepal: An Overview". *Nepal Law Review*, Vol.18, No 1 & 2, (2005)
14. Ved Kumari *The Juvenile System in India from Welfare to Rights*. New Delhi: Oxford University Press. (2004)

Criminal Law

Course Title: **Criminal Law**

Full Marks: 100

Course No: Law 421

Pass Mark: 35%

Duration of the Course: One Year (125 hrs)

Level : LL.B.

Year: II

Nature: Compulsory

Course Objective:

- to enable the students to have the basic and fundamental knowledge of criminal law.
- to teach the general principles of criminal law and criminal liability
- to impart comparative knowledge on relevant provisions of the criminal laws of India, U.K. with special reference to Nepalese laws
- to impart basic knowledge of the international criminal law and jurisdiction of international criminal court.
- to enable the students to have critical appreciation of leading cases decided by the Supreme Court of Nepal.

Part 1

Principles of Criminal Law

Unit 1: General Introduction to Criminal Law:

- 1.1 Concept, meaning and nature of crime and Criminal law.
- 1.2 Difference between crime, tort and civil wrong
- 1.3 Classification of Crime on the basis of Principles of Criminal liability.
Crimes of relative liability
 - 1.3.1 Crimes of strict liability
 - 1.3.2 Crimes of vicarious liability.
 - 1.3.3 Crimes of joint liability.
 - 1.3.4 Crimes of inchoate liability
- 1.4 Jurisdiction of criminal law:
 - 1.4.1 Territorial jurisdiction

- 1.4.2 Extra-territorial jurisdiction
- 1.5.3 Personal jurisdiction
- 1.5 Extradition

Unit -2: Historical Evolution of Criminal Law in Nepal

- 2.1 Criminal Law before codification.
- 2.2 Criminal law after codification
 - 2.2.1 The *Muluki Ain*, 1910 B.S.
 - 2.2.2 The *Muluki Ain*, 1920 B.S
 - 2.2.3 The Draft Nepal Penal Code, 2012 B.S.
 - 2.2.4 The Proposed Draft Criminal Code, 2030 B.S.
 - 2.2.5 The Proposed Draft Criminal Code, 2058 B.S.
 - 2.2.6 The Proposed Draft Criminal Code, 2059 B.S.

Unit-3: General Principles of Criminal Law

- 3.1 General Introduction to General Principles of Criminal Law
- 3.2 Main Principles of Criminal Law
- 3.3 *Ingnoratia juris non excusat* (Ignorance of law is no excuse)
- 3.4 *Nullum crimen sine lege* (no crime without the law)
- 3.5 *Nulla poena sine lege* (no punishment without the law)
- 3.6 Principle of *expost facto* law
- 3.7 Principle of double jeopardy
- 3.8 *Actus personalis moritur cum persona*
(Crime dies with the criminal)

Unit-4: Elements of Crime

- 4.1 Meaning of *Actus Reus*, Meaning of Act, Omission State of Affairs and Causation
- 4.2 Meaning of *Mens Rea*,
- 4.3 Categories of *Mens Rea*
- 4.4 Intention, Recklessness and Negligence
- 4.5 Doctrine of transferred malice

Unit-5: Stages of Crime and Inchoate Crime

- 5.1. Stages of Crime:
 - 5.1.1 Intention,

- 5.1.2 Preparation,
- 5.1.3 Attempt,
- 5.1.4 Complete Crime
- 5.2. Inchoate crime:
 - 5.2.1 Incitement/Abetment/Instigation
 - 5.2.2 Conspiracy
 - 5.2.3 Attempt

Unit-6: Parties to the Crime:

- 1.1 Meaning of Parties to Crime
- 1.2 Classification of Parties to the Crime
 - 6.1.1 Principal Offender
 - 6.1.2 Secondary Offender

Unit-7: General Defenses:

- 7.1 Concept and Meaning of General Defenses
- 7.2 Rationale and Justifications behind General Defense
- 7.3 Classification of General Defense
- 7.4 Excusable General Defenses
 - 7.4.1 Infancy
 - 7.4.2 Insanity
 - 7.4.3 Mistake
 - 7.4.4 Intoxication
- 7.5 Justifiable general defenses
 - 7.5.1 Private Defense: Self Defense, Defense of Chastity, Defense of Property
 - 7.5.2 Necessity
 - 7.5.3 Duress
 - 7.5.4 Superior order

Part- 2
Specific Offenses

Unit-8: Property Offences

- 8.1 Theft
- 8.2 Cheating
- 8.3 Looting (*Lutpiti*)
- 8.4 Arson (*Agjani*)

Unit- 9: Offense against Person and Human Dignity:

- 9.1 Homicide
- 9.2 Abortion
- 9.3 Hurt (*Kutpit*)
- 9.4 Assault and Battery
- 9.5 Human Trafficking
- 9.6 False Imprisonment
- 9.7 Abduction/Kidnapping

Unit-10: Sexual offenses and Offenses relating to Marriage

- 10.1 Rape
- 10.2 Incest
- 10.3 Sexual Harassment/Indecent Assault
- 10.4 Unnatural Offences
- 10.5 Bigamy: Polygamy (Polygene and Polyandry)

Unit-11: Socio-economic Offences

- 11.1 Bribery and Corruption:
- 11.2 Banking Crime
- 11.3 Money Laundering
- 11.4 Crime Relating to Narcotic Drugs
- 11.5 Cyber Crime

Unit-12: Offences Related to Documents and Official Secrets

- 12.1 Forgery
- 12.2 Coercion (*Karkap*)
- 12.3 Crime Relating to Official Secret

Part- 3

International Criminal Law

Unit 13: International Crime and Criminal Law

- 13.1 Concept and meaning of International Criminal Law
- 13.2 Classification of International Crimes
 - 13.2.1 The crime of Genocide
 - 13.2.2 Crimes against Humanity
 - 13.2.3 War Crimes
 - 13.2.4 Crime of Aggression
- 13.3 Development of International Criminal Law
- 13.4 Jurisdiction of International Criminal Court

Leading cases:

- 1) Bhuwane Basnet Kshetry Vs. HMG **NKP** 2031, D. No. 812
- 2) Janak Tripathi Vs. HMG **NKP** 2062, No. 3, D. No. 7507, p. 269
- 3) HMG Vs. Kanaiya Raya Kumri and others, **NKP**, 2064, No. 5, D. No. 7844, p. 549
- 4) HMG Vs. Abdul Fatte Musalman, **NKP**, 2044, No. 8, D. No. 3178p. 840
- 5) HMG Vs. Shova Bai Patel, **NKP**, 2045, No. 3, D. No. 3387, p. 222
- 6) HMG Vs. Bhasanta Kumar Yadav and others, **NKP**, 2064, No. 4, D. No. 7834 p. 426
- 7) Mahendra Raj Bam Vs. HMG, **NKP**, 2051, No. 4, D. No. 4890, p. 226
- 8) HMG Vs. Rameshwor Raut Barai and others, **NKP**, 2041, No. 12, D. No. 1970, p. 360
- 9) Sharmila Parajuli and others Vs. Council of Ministers and Others **NKP**, 2061, No. 10, D. No. 7449, p.1312
- 10) Government of Nepal Vs. Sanjeeb Kumar Singh yadav and others, **NKP**, 2064, No. 10, D. No. 7888, p.1312

Note: Students are required to study the latest decisions affecting the decisions in above stated cases.

Reading Materials

Prescribed

1. Acharya, Madhav Prasad and Bhandari Badri, **Faujdari Kanoon**, Kathmandu; Ratna Pustak Bhandar (2063)
2. Acharya, Madhav Prasad and Pradhananga Rajit Bhakta, **Jiu Jyan Sambandi Aaparadka Parichaya**, Kathmandu; Ratna Pustak Bhandar (2053)
3. Gaur, K.D. **Law of Crimes** (latest ed.). New Delhi: Oxford and IBH, Connaught Circus,
4. Kittichaisaree, Kriangsak. **International Criminal Law**. New York: Oxford University Press.
5. Pillai, P.S.A. **Criminal Law**. Bombay: N.M. Tripathi Limited
6. Pradhananga, Dr. Rajit Bhakta **Homicide Law in Nepal**. Kathmandu: Ratna Pustak Bhandar, (2001)
7. Pradhananga, Rajit Bhakta, Prof. Dr., Pokharel, Megharaj and Pandey Yubaraj, **Nepali Faujdari Kanoonko Parichaya**, Kathmandu; Vrikuti Academy Publication (2063)

References/Recommended

1. Acharya, Madhav Prasad and Pradhananga Rajit Bhakta, ***Faujdari Kanoon ra Faujdari Naya***, Kathmandu; Ratna Pustak Bhandar (2049)
2. Ashworth, Andrew ***Principles of Criminal Law*** London: Oxford University Press. (3rd ed.) (1999).
3. INSEC (Informal Translation), ***Aanatastriya Faujdari Aadalatko Rom Bidhan*** Vrikuti Academic Publication (2064)
4. Osti, Prakash (edi). ***Kanoon Sambandi Kehi Aaitihasik Avilekharu***, Kathmandu; Lawyer's Club
5. ***Proposed Draft Criminal Codes, 2058 & 2059***
6. ***Rome Statute of International Criminal Court, 1998***
7. Smith, J.C. and Hogan B. ***Criminal Law*** London: Butterworth Lexis NexisT^m. (10th ed.) (2002).
8. The Banking Kasur tatha Sajaya Ain, 2064
9. The Commission for the Investigation of Abuse of Authority Act, 2059
10. The Crime and Punishment Against State Act, 2046
11. The Drug Control Act, 2033
12. The Electronic Transaction Act, 2063
13. The Extradition Act, 2045
14. The Gender Equaility Act, 2063
15. The Interim Constitution of Nepal, 2063
16. The Jasusi Act, 2019
17. The Manav Bech Bikhhan Tatha Osar Pasar (Niyantran) Ain, 2064
18. The Muluki Ain, 2020
19. The Prevention of Corruption Act, 2059
20. The Prevention of Money Laundering Act, 2064
21. Turner JW CECIL, ***Kenny's Outline of Criminal Law*** (19th ed.). Delhi: Universal Law Publishing Co. Pvt. Ltd. (Third Indian Reprint 2006).
22. Vaidya, Tulasi Ram, Manandhar Tri Ratna ***Crime and Punishment in Nepal: A Historical Prospective*** Kathmandu: Bini Vaidya and Purna Devi Manandhar. (1st ed.) (1985).
23. Williams, Glanville, ***Text Book of Criminal Law*** Delhi: Universal Publishing Co. Pvt. Ltd. (2nd ed.) (First India Reprint 1999).

Public International Law

Course Title: Public International Law	Full Marks: 100
Course No: Law 422	Pass Mark: 35%
Duration of the Course: One Year (125 hrs)	Level : LL.B.
Year: II	Nature: Compulsory

Objectives

The main objectives of this course are:

- to impart an understanding of public International Law and its meaning, basis, historical background and general principles of law to the students.
- to enable the students to make critical appraisal of the contemporary International issues at the backdrop of International law vis-a- vis municipal law, case law and practices including that of Nepal.

I. Introduction:

- Definition
- Origin and importance
- Nature and basis of International Law
- General Principles and rules of Public International Law
- The relation between International Law and Municipal Law shall be appraised at the backdrop of Nepal Treaty Act, 2046.

II. Sources of International Law and Codification:

- Treaties
- Custom
- General principles of law (including Ex aequo et bono)
- Judicial reason
- Writings of the publicists
- Resolution of the General Assembly and Security Council.
- Draft Conventions of International Law Commission.
- Modern trends (including consideration of humanity)
- State practice.

III. Subject of International Law:

- State
- Concept of state and sovereignty
- Modes of acquiring an losing state territory

- International Institutions
- Individuals (position individual in International Law: this includes, inter alia, Migration, displaced person, refugees and Human rights))
- Private Corporations/MNCs/MNEs

IV. Recognition:

- Nature of recognition
- Recognition of government and state
- Effect of recognition and non-recognition
- De facto and de jure recognition

V. Nationality:

- Importance and function
- Modes of acquiring and losing nationality: Migration, Internal displacement, refugees
- Statelessness/ Migration/ IDPs/ Refugees
- Double nationality (issue raised by Non-resident Nepali National shall be discussed under this unit)

Asylum

- Meaning and function
- Types of Asylum
- Right of asylum
- Obligation of asylum
- State of refugees extradition

Extradition

- Meaning and function
- Basis of extradition as developed by International law vis-à-vis Nepal Extradition Act, 2045
- Political offense and International criminal offense
- Mutual legal assistance

State Responsibility

- Treatment of aliens
- Nationality of aliens

Transnational Business Law and Contractual liability

- New International Economic Order

- General Agreement on Tariff and Trade and World Trade Organisation
- Nepal's Accession to the WTO and harmonization of laws of Nepal in tune with the WTO norms.
- Organs and functioning of WTO
- Exhaustion of local remedial rule and Settlement of Disputes under global settings (including WTO disputes settlement mechanisms).

VI. Jurisdiction and Immunities

- Territorial Jurisdiction
- Personal Jurisdiction
- Maritime Jurisdiction
- Jurisdiction in aero-space.

VII. Immunities and Privilege

- Diplomatic immunities
- Consular immunities
- Immunities of special missions
- Immunity of foreign states
- Immunity of privileges of International organization
- Laminations of immunities.

VIII. State Succession

- Theory of state succession
- Succession of state
- Succession of government
- Succession of International organization

IX. Treaties

- Meaning and importance of treaties
- Types of treaties
- Ratification of treaties
- Reservation of treaties
- Condition of treaties
- Pacta Sunt Servanda
- Rebus Sic Stantibus
- Interpretation of treaties
- Termination of treaties
- Effects of war on treaties

- Treaty making power under the Interim Constitution of Nepal and Nepal Treaty Act, 2047.

X. Neutrality

- Meaning of Neutrality
- Neutrality and non alignment
- Neutrality under the UN charter
- Rights and Duties of a neutral country
- Concept of peace zone.

Intervention

- Definition of intervention
- Humanitarian intervention
- Intervention by invasion

Blockade

- Meaning of Blockade
- Characteristics and validity of blockade
- Breach of blockade

Contraband

- Meaning
- Forms

XI. Settlement of International disputes

- Peaceful means
- Inquiry and Negotiations
- Mediation and good offices
- Conciliation and UN efforts
- Arbitration (ICA, ICSID and other bodies)
- Judicial settlement
- Compulsive means
- Relation and reprisal
- Embargo and pacific blockade

XII. Use of force and war

- Definition of war
- Attempts for an outlawry of war
- Principles of prohibition of use of
- Force under the UN Charter
- Definition of aggression
- Self-defense and collective self defense
- Collective security

XIII. International Humanitarian Law and Laws of warfare:

A. International Humanitarian Law:

- Meaning, nature, principles, scope and sources of IHL
- Conventions of 1899 and 1907; Geneva Conventions (including Four Geneva Convention of 1948 and their Protocols) and other subsequent Conventions to regulate the area.
- Geneva Protocol (1925)
- Legality of war
- Prisoners of war
- Right of Angary
- War crimes including the provisions of the Rome Statute on International Criminal Court and provisions of prominent Tribunals to try war crimes.

Prescribed Materials

1. Brownlie, Ian. *Principles of Public International Law* 4th Editions Oxford University (1990)
2. Hingorani, R.C. *Modern International Law*, Oxford and IBH publishing company, New Delhi (1982)
3. Starke, J.G. *An Introduction of Public International Law*, Butterworths London (1997)

References Materials:

1. Poudel, Madhav. *Public International Law*, Koonoo Kitab Pvt. Ltd., Nepal (1989)
2. Sharma, Gopal Dr. *International Law in Nutshell*, Pathya Samagri Prakashan, Kathmandu (1990)
3. Sharma, Gopal Dr. *Public International Law*, Ratna Pustak Bhandar, Kathmandu (1990)
4. Upadhyaya, Lakshman. *An Introduction to Background and Meaning of International Law* (Antarastriya Kanoon Paribhasha Yebam Prista Bhumigat Chinari in Nepali), Nepal Law Review, Vol. 3, Jan. (1980)
5. Upadhyaya, Lakshman Prof. Dr. *Teacher's Guide on Teaching of Public International Law*, Tribhuvan University Curriculum Development Centre, Kirtipur, Kathmandu, (2000)

Property Law

Course Title: **Property Law**

Full Marks: 100

Course No: Law 423

Pass Mark: 35%

Duration of the Course: One Year (125 hrs)

Level : LL.B.

Year: II

Nature: Compulsory

Course Objectives:

1. to give general and theoretical knowledge of the law of property with special reference to Nepalese laws.
2. to impart a comparative and critical knowledge of the law of property of Nepal as compared to the laws of India and U.K.
3. to impart critical knowledge of the nature and development of land law in Nepal.
4. to enable the students to have critical appreciation of leading cases relating to property law decided by supreme court of Nepal.

1. Introduction of the law of Property:

- 1.1 Meaning of the term property
- 1.2 Theories of property
- 1.3 Kinds of property
- 1.4 Concept of Ownership

2. Modes of Acquisition and Transfer of Property.

3. Constitutional Position of Property Rights in Nepal

4. Property Law in Nepal (Critical Study of Relevant Provisions of the Following Chapters of Muluki Ain):

- 4.1 Kalyandhan (Hidden Treasure)
- 4.2 Guthiko (Legal provisions on Trust).
- 4.3 Jagga Aawad Garneko (Legal Provisions on Land Cultivation)
- 4.4 Jagga Pajaniko (Legal Provisions on Land Arrangement)
- 4.5 Jagga Michneko (Legal Provisions on Land Encroachment)
- 4.6 Ghar Banauneko (Legal Provision on House Construction)
- 4.7 Logne Swasniko (Legal Provisions on Husband and Wife)

- 4.8 Aamsa Bandako (Legal Provisions on Partition)
- 4.9 Striaams Dhanko (Legal Provisions on Women's Property)
- 4.10 Dharma Putra, Dharma Putriko (Legal Provisions on Adoption)
- 4.11 Apputaliko (Legal Provisions on Succession)
- 4.12 Lenden Byabaharko (Legal Provisions on Money Lending Transactions)
- 4.13 Registrasanko (Legal Provisions on Registration of Deeds)
- 4.14 Dan Bakasko (Legal Provisions on Charity and Gift)

5. Traditional Land Tenure System in Nepal:

- 5.1 Birta (Privileged Land Ownership)
- 5.2 Guthi (Institutional Land Ownership)
- 5.3 Jagir (Land assignment System)
- 5.4 Kipat (Communal Land Ownership)
- 5.5 Jamindari and Talukdari (Feudalistic Land Ownership)
- 5.6 Rakam (Labour Land Ownership)
- 5.7 Ukhada (Tenancy of Jamendary Land in Palhi-Majhkhand)
- 5.8 Mahajani (A system of Tenancy at will).
- 5.9 Rajya Rajauta (Abolished Feudatory States within the State of Nepal).
- 5.10 Raikar (Revenue payable Registered Land).
- 5.11 Khaokar (A land tenure system for occupying land zamindari)
- 5.12 Jhora (Reclaimed land in Eastern Terai).
- 5.13 Kharka (Pasture Land).

6. Existing Laws on Land Redistribution and Land use:

- 6.1 Lands Act, 2021 and Rules
- 6.2 Guthi Corporation Act, 2033
- 6.3 Birta Eradication Act, 2016
- 6.4 Ukhada Act, 2021
- 6.5 Nepal Trust Act, 2064

7. Existing Laws on Land Administration and Measurement

- 7.1 Land Measurement Act, 2019 and Rules
- 7.2 Land Revenue Act, 2034

8. Land Acquisition Law:

- 8.1 Land Acquisition Act, 2034
- 8.2 Land Acquisition Rules, 2026

9. Intellectual Property Law in Nepal:

- 9.1 Meaning
- 9.2 Kinds
- 9.3 Rights and Obligations
- 9.4 Remedies

10. Examination of Constitutional and Legal Rights of Property in Nepal

11. Leading Cases:

- 1. Baburam Kurmi vs Kallu Kurmi, *NKP* 2046/96.
- 2. Kancha Ratna Tuladhar et.al. vs. Mayadevi Tuladhar, *NKP* 2043/915.
- 3. Kiran Mainali vs Mahamad Taukir Miya, *NKP* 2043/968.
- 4. Kuldip pd. Dhungel vs Hari Pd. Upadhyaya et.al., *NKP* 2045/17.
- 5. Loknatha Upadhyaya vs Devimaya Bhattarai et.al., *NKP* 2062/670.
- 6. Mithilesh Kumar Singh vs The Rt. Hon'ble Prime Minister et.al., *NKP* 2056/478.
- 7. Mouje Lal Yadav vs Rambaran Yadav, *NKP* 2046/1081.
- 8. Mrs. Ratna Keshari Udas vs. Land Revenue Dept. et. al., *NKP* 2043/1041.
- 9. Narayan Dutta Baral vs Chief Land Measurement Office, *NKP* 2045/590.
- 10. Narendra Bikram Thapa vs Guthi Corporation, Head Office, *NKP* 2045/590.
- 11. Padam Bahadur Bhandari et.al. vs Nepal Govt. et.al., *NKP* 2063/1021.
- 12. Padam Bahadur Karki vs Mankumari Basnet et.al., *NKP* 2061/212.

13. Padma Laxmi Rajbhandari vs. Krishna Chandra Devi Rana, **NKP** 2045/1225.
14. Pitambar Bhusal vs Krishna Raj Upadhyaya, (**NKP** 2038/No.3/1.
15. Punya Maya Bhattarai vs Land Revenue Office, Jhapa et.al., **NKP** 2041/1090.
16. Ram Krishna Pandit vs Nani Maiya Pandit, **NKP** 2047/258.
17. Sam Tuliya Devi et.al. vs. Maheshwor Shahu Kannu, **NKP** 2046/631.
18. Shatidevi Thapa vs Jagat Kumari Shah et.al., **NKP** 2035/133.
19. Suryaman Shrestha vs Amardevi Shrestha, **NKP** 2045/361.
20. Tirthaman Shakya vs Jamuna Devi Shakya, **NKP** 2044/556.

Reading Materials:

1. Legal Texts (as amended)

1. Birta Eradication Act, 2016
2. Copyrights Act, 2059
3. Guthi Corporation Act, 2033
4. Land (Measurement) Act, 2019 and Rules
5. Land Acquisition Act, 2034 and Rules
6. Land Revenue Act, 2034
7. Lands Act, 2021 and Rules
8. Muluki Ain, 2020
9. Nepal Trust Act, 2064
10. Patent, Design and Trademark Act, 2022
11. The Interim Constitution, 2063.
12. Ukhada Act, 2021

2. Text Books:

1. Neupane, Gunanidhi *Property Law in Nepal*, Lumbini Prakashan, Kathmandu, (2064)
2. Shrestha, G.B. *Law of Property*, Pairavi, Kathmandu, (2050)
3. Shrestha, G.B. *Muluki Ain: A Commentary*, Pairavi, Kathmandu, (2064)

3. Reference Books:

1. Basnyat, Surendra Bir Singh, *House Land Related Law Precedents Principles (in Nepali)*, Renu Prakashan (2058)
2. Dr. Shanta Thapalia, *Family Law*, Kathmandu.

3. Fitzgerald, *Salmond on Jurisprudence*, (Latest Edition).
4. Karki, Bharat Bahadur Prof. Dr., *Teacher's Guide on Property Law*, CDC, T.U., (2000)
5. Menon, Krishna *The Law of Property*.
6. Regmi, M.C. *Land Ownership in Nepal*, Kathmandu, (1976)
7. Regmi, M.C. *Land Tenure and Taxation in Nepal*, Kathmandu, Ratna Pustak Bhandar, (1978)
8. Shah, S.M. *Lectures on Transfer of Property*.

Methods of Legal Research and Writing

Course Title: Methods of Legal Research and Writing	Full Marks: 50
Course No: Law 424	Pass Mark: 35%
Duration of the Course: One Year (62 hrs)	Level : LL.B.
Year: II	Nature: Compulsory

Course Objectives:

The objectives of this course are:

- to acquaint the students with the philosophy of legal research
- to familiarize the students with the general concept and methods of legal writing
- to provide knowledge about the technique of collection, analysis and interpretation of data in research.
- to depart know how about Idea and layout of research report.

Unit 1: Introduction

1. Meaning and types of research
2. Objectives of research
3. Meaning, nature and types of legal research
4. Importance of legal research
5. Forms and styles of legal writing

Unit 2: Approaches to Legal Research

1. Historical research approach
2. Comparative research approach
3. Analytical research approach
4. Doctrinal and Non-doctrinal research approach

Unit 3: Formulation of research problem and Research Proposal

1. Factors affecting problem selection
2. Criteria of a research problem
3. The Research Design
4. Formulating a research proposal

Unit 4: Tools of Research

1. The surveys

2. The questionnaire and Schedules
3. The interview
4. Observation

Unit 5: Data Collection and Interpretation

1. Primary and Secondary Data
2. Processing and Analysis of Data
3. Interpretation and Presentation of data
4. Measurement and Scaling techniques

Unit 6: The Research Report

1. Idea of research report
2. Layout of the research report
3. Rules of Foot-notes and Bibliography

Prescribed Materials

1. Bhandari, Surendra *Legal Research*, Kathmandu: Aath Rai Publication, (2050)
2. Belbase, Krishna *Legal Research and Writing*, Kathmandu: Lumbini Publication, (2065)
3. Pradhananga, Rajit Bhakta *An introduction to Legal Research and Methodology*, Kathmandu: Bhrikuti Academy, (2064)

Reference Materials:

1. Bailey, Kenneth D. *Methods of Social Research*, New York: The Free Press, (1978)
2. Goode William J. and Hatt, Paul K. *Methods in Social Research*, Mc Graw Hall, (1985)
3. Kothari, C.R. *Research Methodology; Methods and Techniques*, New Delhi: Wishwa Prakashan, (1995)
4. Verma S.K. and Wani M. Afzal (ed.), *Legal Research and Methodology*, Delhi: ILI, (2006)
5. Wolf and Pant, *A Handbook for Social Science Research and Thesis writing*, Second Edition, Kathmandu: P.R. Pant, (1999)

Moot Court, Pre-Trial Preparations and Participation in Trial

Course Title: Moot Court, Pre-Trial Preparations and Participation in Trial	Full Marks: 50
Course No: Law 425	Pass Mark: 35%
Duration of the Course: One Year (62 hrs)	Level : LL.B.
Year: II	Nature: Compulsory

Course Objectives

The main objectives of this course are:

- to give practical skills to students for preparing a case file containing all legal documents in the case assigned by campus.
- to give a practical knowledge of oral argument or advocacy
- to familiarize the students with the various steps of the trial and hearing proceedings
- to provide the knowledge of interviewing techniques and pre-trial / hearing preparations (interviewing to clients)

Course Description and Evaluation

The course contains three main components namely moot court, pre-trial / hearing preparations (interviewing to clients), and participation in trial proceedings. All these components are designed to provide practical knowledge to the students. At the completion of the session, students will have to submit a moot court file assigned by the campus along with examination form for the external evaluation. The full marks for the external and internal examination will be 35 and 15 marks respectively. The internal evaluation will be done through viva-voce and the pass marks in both the external and internal examinations will be 35 percent of the full marks. The campus shall constitute a three member committee having at least 7 years of experience in teaching or practicing law for conducting the viva-voce examination.

Evidence Law

Course Title: **Evidence Law**

Full Marks: 50

Course No: Law 426

Pass Mark: 35%

Duration of the Course: One Year (62 hrs)

Level : LL.B.

Year: II

Nature: Compulsory

Course Objectives

The main objectives of this course are:

- to provide the basic knowledge of law of evidence
- to acquaint the students with the practical knowledge of collection and evaluation of evidences

Unit-1 Introduction

- 1.1. Meaning, nature, kinds, scope and importance of Evidence and the law of evidence.
- 1.2. Historical Development of the Law of evidence in Nepal.

Unit-2 Basic Principles of Law of Evidence in Nepal

- 2.1 Evidence must be confined to the matters in issue.
- 2.2 Best evidence must be produced.
- 2.3 Hearsay evidence is no evidence.
- 2.4 He who asserts must prove.
- 2.5 Principle of Estoppel

Unit-3 Facts which need or need not be proved

- 3.1. Meaning and concept of facts, facts in issue, and relevant facts.
- 3.2 Facts which need to be proved.
 - 3.2.1 Facts in Issue
 - 3.2.2 Relevant Issue
- 3.3 Facts which need not be proved
 - 3.3.1 Formal admission
 - 3.3.2 Judicial Notice
 - 3.3.3 Presumption

Unit-4 Evidences when admissible and inadmissible

- 4.1 Admissible Evidence
 - 4.1.1 Admission and Confession
 - 4.1.2 Statement on the Spot
 - 4.1.3 Dying Declaration

- 4.1.4. Statement by persons of special conditions
- 4.1.5 Facts recorded in Public documents
- 4.1.6 Facts recorded in Books of Account
- 4.1.7 Facts published in Books or Articles
- 4.1.8. Matters recorded in regular Statistics, Lists, Statements, etc.
- 4.1.9. Statement of witness in other cases.
- 4.1.10 Investigation document
- 4.1.11 Certificate, Report, other document; and any matter or material evidence (dashi) attested by witness.
- 4.1.12 Expert's opinion
- 4.1.13 Statement of witness
- 4.2 Inadmissible Evidence
 - 4.2.1 Confession under threat, inducement etc
 - 4.2.2 Statement expressed for the purpose of compromise
 - 4.2.3 Statement not recorded as witness at court.
 - 4.2.4 Character
 - 4.2.5 Privileges.

Unit-5 Classification of Evidence

1. On the basis of Relevancy: Direct and Circumstantial
2. On the basis of Physical Structure: Documentary, Oral and Material
3. On the basis of Probative Value: Primary and Secondary

Unit-6 Burden of Proof in Nepal

- 6.1 General Concepts
- 6.2 Rules of Burden of Proof under:
 - Evidence law
 - Corruption law
 - Drugs law
 - Woman's trafficking
 - Other laws.

Unit-7 Prescribed Leading Cases

- 1.1. Baldev Upadhyaya vs. Gita Bhattarai & others (Division Bench), *NKP* 2049 no. 6 p. 538
- 1.2. Devendra Shamshere J. B. R.vs.Late Lila Shamshere J.B.R.& others (Five Judges Full Bench) *NKP* 2045 no. 8 p. 743

- 1.3. HMG vs. Devi Maya Ranabhat (Division Bench) **NKP** 2057 no. 8 / 9 p. 685
- 1.4. HMG vs. Diwakar Pandit, (Division Bench), **NKP** 2060 nos. 1 / 2 p. 64
- 1.5. HMG vs. Kailash Mahato & others (Three Judges Full Bench), **NKP** 2057 no. 4 p. 268
- 1.6. HMG vs. Sahadev Singh Sikh & others (Division Bench) **NKP** 2032 no. 7 p. 175
- 1.7. Keshav Prasad Ghimire vs. HMG (Division Bench), **NKP** 2036 no. 4 p. 108
- 1.8. Megh Raj Raut vs. HMG (Five Judges Full Bench), **NKP** 2057 no. 2 p. 92
- 1.9. Miss Marshakal Kaski vs. Chief Custom Officer Shree Tribhuvan Airport Custom Office and others, (Division Bench), **NKP** 2034 no. 5 p. 134
- 1.10. Mona Sir Rain Kachary vs. Jeun Khatun (Division Bench), **NKP** 2048 no. 1 p. 8

Prescribed Materials

1. Osti, Prakash, **Evidence Law** (Praman Kanoon), Pairavi (2053)
2. Pradhanang, R.B., **A General Introduction to the Nepalese Law of Evidence**, Bhrikuti Academic Pub. (2061)
3. Shrestha, G.B., **Evidence Law**, Pairavi (2049)

Reference Materials

1. Elliott, D.W. (ed) **Phipson and Elliott Manual of the Law of Evidence**, Universal Law publishing (1st Indian Reprint 2001)
2. Hon'ble Mr. Justice Chandrachud, Y.V. et.al(ed.), Ratanlal and Dhirajlal, **The Law of Evidence**, (21st ed. 2004)
3. Justice Nandan, D; (Rev), Chief Justice **M. Monir Principles and Digest of the Law of Evidence**, Universal Law Publishing (2004)
4. Ursekar, H.S. (Rev.), **M.Monir Law of Evidence**, The Universal Book Agency, Allahabad (2002)

Labour Law

Course Title: **Labour Law**

Full Marks: 50

Course No: Law 427

Pass Mark: 35%

Duration of the Course: One Year (62 hrs)

Level : LL.B.

Year: II

Nature: Optional

Course Objectives:

- to introduce before the student basic concept of Labour law and Labour Jurisprudence and other related Acts.
- to impart knowledge to the students about International Labour Organization (ILO) and its Core Labour Standards
- to inculcate in them knowledge about fundamental elements of labour law like concept of industrial relations, labour employment laws ; labour welfare and social security; occupational safety and health care; disciplinary action etc.
- to give knowledge to them about Trade Unions and its activities.
- to impart knowledge to the students about labour disputes with reference to Labour Court and Central Level Labour Advisory Committee

1. Introduction

- i) Meaning and scope of labour law
- ii) ILO, its origin and its Core labour standards.
- iii) Industrial jurisprudence and fundamental rights of the workers
- iv) History of Labour legislation in Nepal.

2. Labour Employment Laws

- i) Appointment of workers
- ii) Wages
- iii) Hours of work
- iv) Child workers and women workers

3. Law of labour Welfare and Social Security.

- i) Meaning of Labour welfare, Need of labour welfare, welfare fund, Child care centre, Leave.
- ii) Meaning of social security, provident fund, Gruatuity, workemen's compensation, and employee's motivation.

4. Occupational safety and Health care.

5. Concept of Industrial disputes and Collective bargaining

- i) Individual grievances, collective grievances.
- ii) Collective bargaining
- iii) Strikes and Lock-out

6. Disciplinary Action

- i) Misconduct
- ii) Kinds of punishments
(Suspension, domestic inquiry, right of representation i.e. explanation and Appeal before Labour Court.)

7. Trade Union

Meaning, Registration, Authority and Function of Trade Union, Hierarchy of Trade Unions.

8. Others:

Labour Office, Labour courts and its jurisdiction, Central Level Labour Advisory Committee.

9. Prescribed Cases:

- 1. Casino Royal vs. Labour Court, *NKP* 2064, vol.5. p. 625
- 2. Dr. Rupjyoti vs. Labour Court, *NKP* 2063 No. 4, p 407.
- 3. International Center for Integrated Mountain Development vs. Labour Court, Writ No3125 (2062), (Decision date 2064/12/5).
- 4. Mukunda Bahadur Bista vs. Labour Court, *NKP* 2063 No. 8 p. 1099.
- 5. Nepal Battery Company Balaju Industrial Estate Pvt. Ltd vs. Ministry of Labour, *NKP* 2059, No. 11/12, p726, Decision No. 7150
- 6. Nepal Insurance vs. Labour Court, Writ No 3625, Year 2061.
- 7. Olampia Textile vs. Labour Court, *NKP* 2064/ 371.
- 8. Prop-Public vs. Ministry of Women, Children and Social welfare, *NKP* 2060, No. 9/10, p 726, Decision No. 7268
- 9. Pro-public Vs. Nepal Independent Trade Union of Hotel, Writ No 0602 (2063)

10. Purushottam Bhandari vs. Ministry of transport and Labour Management 2058, Writ No 3232, (Important Decisions related to Labour Law, part II p.379).

Reading Materials

1. Legal Texts:

1. Bonus Act, 2030.
2. Interim Constitution, 2063
3. Labour Act, 2048 and Rules
4. Trade Union Act, 20249 and Rules

2. Text Books

1. Dahal, Kasi Raj, *Industrial Jurisprudence*, Pairavi Publication, Kathmandu, (2050)
2. ILO, *Labour Administration: Profile on Nepal*, Kathmandu, (1998)
3. Ojha, Pawan Kumar, *Industrial Jurisprudence*, Atharai Publication, Putalisadak.
4. Ojha, Pawan Kumar, *Labour Law*, Part I and II.
5. Thapa, Sita Maiya Singh, *An Introduction of Labour law of Nepal*, Nepal, Law Society, (1991)

3. Reference (Latest editions)

1. Giri, V.V., *Labour Problem in India*
2. ILO, *International Labour Standards*
3. Malhotra O.P., - *Law of Industrial Disputes*.
4. *Taxman's Industrial Law of India*.

Election Law

Course Title: **Election Law**

Full Marks: 50

Course No: Law 428

Pass Mark: 35%

Duration of the Course: One Year (62 hrs)

Level : LL.B.

Year: II

Nature: Optional

Course Objectives:

The objectives of this course are:

- to give knowledge to the students about general principle of the law of election and related provisions of the constitution.
- to acquaint the students with the various forms of election i.e. Majority, Proportional and Mixed systems.
- to spell out the background and development of the election law in Nepal.
- to acquaint the students with the basic election procedure as prescribed by law, and
- to familiarize the students with the modern trends, concepts and development in the field of election law.

I. General Background:

- Concept and forms of Representation.
- Meaning and importance of Election
- Meaning and nature of Election law
- Idea of Adult Franchise

II. Basic Concept:

- An introduction to electoral systems – Direct and Indirect, Majority, Proportional and mixed systems.
- Requirement of elections – Qualification of voters, Registration of voters, Delimitation of election districts (Constituencies), Voting process.
- Bi-elections, recall and secret ballot system
- Nature of Voting right

III. Election Authorities:

- Composition, power and functions of Election Commission.
- Subsidiary bodies of election commission.
- Appointment, power and function of polling officer, presiding officer and returning officers.
- Role of Political parties in election.

IV. Laws Relating to Election in Nepal:

- History of election law in Nepal
- Interim Constitution of Nepal, 2063
- Election (Crime and Punishment) Act, 2063
- Election Commission Act, 2063
- Election Code of Conduct
- Provision for observation / Surveillance of election.

V. Election Crime and Punishment:

- Crimes relating to election
- Punishment for election crimes
- Election tribunal: Jurisdiction and trial
- Safeguards for free, fair and impartial elections

Prescribed Cases

1. Mulchand Azad Vs. Madan Mohan Joshi, NKP (Reprint) 281 (2025)
2. Communist Party of Nepal V. Election Commission, 36 NKP 314 (2051)
3. Som Prasad Sapkota Vs. Election Commission, NKP 693 (2051)
4. Mangol National Organization V. Election Commission, 37 NKP 19 (2052)
5. Peshal Dahal and others Vs. Parliament Secretariat, 1 NKP 6 (2056)
6. Mihir Kumar Thakur and others Vs. Election Commission, 5 NKP 593 (2062)
7. Advocate Kamlesh Dwivedi Vs. PM and Secretariat of Council of Ministers, 7 NKP 827 (2064)

Text Books

1. K.M. Shrestha, *Election Law*, Kathmandu: Vidhyarthi Pustak Bhandar, (2050)
2. L.B. Basnet, *Election Law*, Kathmandu: Aath Rai Pustak Bhandar

References

1. Election (Crime and Punishment) Act, 2063
2. Election Commission Act, 2063
3. Interim Constitution of Nepal, 2063
4. IDEA, Forms of Election Systems, New Handbook of International IDEA, (2005)

International Air and Space Law

Course Title: International Air and Space Law	Full Marks: 50
Course No: Law 429	Pass Mark: 35%
Duration of the Course: One Year (62 hrs)	Level : LL.B.
Year: II	Nature: Optional

Course Objectives:-

- to impart the students the knowledge relating to International and national laws of air and space
- to acquaint the students with the principles and practices of aerial navigation with critical appreciation of the growing importance of the air space law
- to enable the students to analyze the contribution of the ICAO in the progressive development of air law
- to familiarize the students with contribution of UN in development of the air and space law.

I. Introduction:

- i. Meaning scope and sources of International air and space law
- ii. Importance of International air and space law
- iii. Civil Aviation legislation in Nepal
- iv. International Air law convention to which Nepal is a party
- v. Air Service agreement concluded by Nepal
- vi. Recent trends

II. Air space:

- i. Definition of air space
- ii. Sovereignty over air space
 - a. Nationality and registration of aircraft
 - b. International law and procedure on registration of aircraft

III. Role and functions of ICAO:

- i. Composition, role, functions, safety measures and settlement of International disputes
- ii. Features of Chicago Convention

IV. Carriers' Liability:

- i. Warsaw Convention 1929 and Hague Protocol 1955 and the Montreal Convention of 1999.
- ii. The Guadalajara Convention and Montreal Agreement on Nonscheduled carrier's liability
- iii. Nepalese experience on carrier's liability.

V. Hijacking:

- i. Meaning of aerial piracy/ unlawful seizure of Aircraft
- ii. Tokyo Convention
- iii. Hague Convention

VI. Montreal convention

- iv. Nepalese law on hijacking with special reference to Tokyo, Hague, and Montreal Conventions.

Damage:

The Rome convention on damage caused by foreign aircraft to third parties on the surface 1952

VII. Law of Outer space:

- i. Definition
- ii. Distinction between air space and outer space
- iii. Doctrine of sovereignty
- iv. Liability for accident by objective in the outer space
- v. Special protection to Astronaut disarmament in outer space
- vi. Outer space treaty to which Nepal is party.

Text Books and Statutes:

1. Airport Certificate Regulation, 2004.
2. Airport Charges Rules, 2058.
3. Aviation Policy, 2050 and 2063.
4. Aviation Security (Management) Rules, 2046.
5. Civil Aviation (Investigation of Accident) Rules, 1962.
6. Civil Aviation Act, 1959.
7. Civil Aviation Authority Act, 2053.
8. Civil Aviation Regulation, 1996 and 2002.

9. Draft of Airlines Liability Act, 2065.
10. Martin, Peter. et. al (eds), **Shawcross and Beaumont's Air Law**, Butterworths, London 1977.
11. Nepal Airlines Act, 1963.

References:

1. Ayner, Nancy D. *Aerial Hijacking as an International Crime*, Nijhoff, Leyden, (1974)
2. McNair, Lord. *The Law of Air*, London
3. Upadhyaya, Lakshman Prof. Dr. *Teachers' Guide for Teaching of International Air and Space Law*, Tribhuvan University Curriculum Development Centre, Kirtipur Kathmandu, (2000)
4. Wassenberge, H.A. *Aspects of Air Law and Civil Air Law Policy in the Seventies*, Nijhoff, (1970)

Environmental Law

Course Title: **Environmental Law**

Full Marks: 50

Course No: Law 430

Pass Mark: 35%

Duration of the Course: One Year (62 hrs)

Level : LL.B.

Year: II

Nature: Optional

Course Objectives

The main objectives of this course are to:

- Impart the students with the basic knowledge of environmental law and principles.
- Acquaint the students with the different aspects of international environmental law.
- Familiarize the students with the history and existing environmental law of Nepal.

1. Introduction

- a. Meaning, nature and scope of environmental Law
- b. Global, Regional and National Environmental Problems and issues: Loss of biological diversity, disappearance of species, climate change, global warming, green house effect, depletion of ozone layer, acid rain and Pollution etc.
- c. Emerging principles of Environmental law
 - Polluter pays principle
 - Precautionary principle
 - Public trust doctrine
 - Sustainable development
 - Responsibility not to cause environmental damages
 - Principles of Preventive Action
 - Principles of Good Neighborliness and International Cooperation
 - Principles of Common but Differentiated Responsibility
 - Environmental Impact Assessment

2. International Environmental Law

- a. Meaning, nature, kinds and sources of International Environmental Law 1 Period

- b. Brief Introduction on Global Conferences
 - United Nations Conference on Human Environment 1972 (Stockholm)
 - UNCED 1992 (Rio)
 - WSSD 2002 (Johannesburg)

- c. Selected Multilateral Environmental Agreements (MEAs)
 - Convention on International Trade in Endangered Species (CITES) 1973
 - Ramsar Convention 1972
 - Convention Concerning the Protection of the world Cultural and Natural Heritage 1972
 - Vienna Convention on Ozone Layer Depletion (1985)
 - Montreal Protocol (1987) and subsequent amendments
 - Trans-boundary Movements of Hazardous Wastes (1989)
 - Framework Convention on Climate Change (FCCC) 1992 and Kyoto Protocol (1997)
 - Convention on Biological Diversity 1992 and Bio safety Protocol 2000
 - Agenda- 21 1992
 - Convention Against Desertification 1994
 - Other environmental treaties to which Nepal has become a party
 - Convention on Non-navigational uses of International Water Courses 1997
 - Treaty Banning Nuclear Weapons Tests 1963
 - Outer space Treaty 1967
 - Other treaties to which Nepal is a party

- d. International Environmental Institutions
 - United Nations Environmental Program (UNEP)
 - Commission on Sustainable Development (CSD)
 - Global Environmental Facility (GEF)
 - Conference of Parties and other bodies formed under MEAs
 - Other International Institutions

3. **Regional Approach for the Protection of Environment:**
 - a. South Asian Association for Regional Cooperation (SAARC)
 - b. South Asia Cooperative Environment Programme (SACEP)
 - c. International Center for Integrated Mountain Development(ICIMOD)

4. **Environmental Laws of Nepal**
 - a. Brief History of Environment Protection in Nepal

 - b. Constitutional Provision and Environment

 - c. Policy of Nepal Government for the Protection of Environment
 - National Conservation Strategy
 - Nepal Environmental Policy and Action Plan
 - EIA Guidelines
 - Periodic Plans
 - Industrial Policy
 - d. Chapters of National Code
 - Of fire
 - Of Animals
 - Of Lands
 - Other Provisions
 - e. Forest Law
 - Forest Protection (Special arrangement) Act 1967
 - Plant Protection Act, 1982
 - Soil and Watershed Conservation Act 1982
 - Forest Act 1992
 - Forest Regulations
 - f. Wildlife and Biological Diversity Law
 - National Parks and Wildlife Conservation Act 1972
 - Rules regarding to the conservation of National Parks i.e. Chitwan National Park Rules, Royal Bardiya National Parks Rules etc.
 - Conservation Area Management Rugulations
 - Aquatic Animals Protection Act 1960 (2017)

- g. Cultural Heritage Law
 - Ancient Monuments Protection Act. 1956 (2013)
 - Lumbini Development Fund Act 1985 (2042)
 - Pashupati Area Development Fund Act 1987 (2044)
- h. National Heritage Law
- i. Water Resource Law
 - Soil and Watershed Conservation Act 1982 (2039)
 - Drinking Water Corporation Act 1983 (2040)
 - Water Resources Act. 1992 (2049)
 - Electricity Act 1992 (2049)
- j. Pollution Prevention and Control Law
 - Solid Waste (Management and Resource Mobilization) Act 1987 (2044)
 - Tourism Act 1988 (2045)
 - Industrial Enterprises Act 1992 (2049)
 - Labour Act 1990 (2048) Chapter 5. Sec. 27-36
 - Mining and Minerals Act 1985 (2042)
 - Local Self Government Act 1998
 - Local Self Government Regulation 1999
 - Petroleum Act, 2040 B.S.
- k. Environment Protection Act and Rules (1996 and 1997) 1 Period
- i. Other Laws
- m. Institutional and Environmental Protection in Nepal
- n. Judiciary and Environmental Protection in Nepal

(Decisions of the Supreme Court in selected Cases.)

- Advocate Bharat Mani Gautam Vs. HMG Council of Ministers Secretariat, and others *Supreme Court Bulletin* year 10 No. 13 Vol 223 pp.10-12 (2058)
- Advocate Bharat Mani Gautam Vs. HMG Council of Ministers Secretariat, and others- 2056-2-31 Prakash Mani Sharma et.al. (edi), *Compendium of Cases relating to Environment*, Pro-Public, pp.283-289

- Advocate Bhojraj Iyer on behalf of Pro-Public Vs. HMG Ministry of Population and Environment, ***Supreme Court Bulletin*** year 11, No. 1, Vol 235, P. 10 (2059)
- Advocate Prakash Mani Sharma vs. Council of Ministers and others, ***NKP*** vol. 39, No. 6, pp312-322, (1997)
- Gopal Shiwakoti 'Chintan' et al vs. Ministry of Finance (Arun III case), ***NKP***, No. 4 (2051 B.S.)
- Prakash Mani Sharma et. al. vs. HMG, Ministry of Population and Environment et. al. (Setting Pollution Standard), Writ No.3429, decision date 2062-09-04(17-12-2008). ***Some Important Precedents of the Supreme Court relating to Public Welfare***, Vol.08, Supreme Court (2006)
- Surya Prasad Dhungle vs. Marble Industries, NKP Golden Jubilee Special Issues pp.132-150, 169, (2052)
- Yogi Narahari Nath vs. HMG Ministry of Education and others ***NKP*** Vol. 38 No. 1, pp.33-49, (1996)

o. Environmental Impact Assessment Law

Prescribed Materials

1. Belbase, Narayan ***The Implementation of International Environmental Law in Nepal*** IUCN- The World Conservation Union Kathmandu Nepal, 1997
2. Belbase, Narayan (ed.) ***Environmental Law and Justice, IUCN, Forum for Justice Nepal***, 2055
3. Leeiakrishnan P., ***Environmental Law in India*** New Delhi; Butterworths: 1999
4. Singh Gurdip, ***Environmental Law: International and National Perspectives***, Lawman India Pvt. Ltd. New Delhi 1995

References Materials

1. Adhikari, Pravakar "Environmental Protection Issues related to Civil Aviation", ***Nepal Law Review***, Vol. 15, No. 1/2 (2002)
2. Ancient Monument Act 1313
3. Aquatic Protection Act 2017
4. Belbase, Dr. Lekhnath *et.al*, ***Jaibik Bibidhata Samrakshan Shrot Sangalo***, Pro-Public (2057)

5. Birnie, Patrica and Allan Boy Ley, *Internatioanl Law and the Environment* (Oxford Clarendon Press 1972)
6. Desai Bharat, *Environmental Laws of India Basic Documents* (New Delhi: Lancers, 1994)
7. Drinking Water Corporation Act, 2040
8. Electricity Act, 2049
9. Environment Protection Act 2053 and Environmental Protection Rules 2054
10. Forest Act, 2049
11. Industrial Enterprise Act, 2049
12. IUCN, UNEP, WWF, *Caring for the Earth: Strategy for Sustainable Living* (Switzerland: IUCN, UNEP, WWF, 1991)
13. Local Self-government Act 2055 and it's rule 2056
14. Lumbini Development Fund, 2042
15. Mine and Mineral Act, 2042
16. Muliki Ain, Aago Lagauneko Mahal, Chaupayako mahal, Pashu Karani ko Mahal.
17. National Parks and Wildlife Protection Act, 2039 and different rules
18. Nature Conservation Fund Act, 2039
19. Pant, Amber Prasad Dr., *et.al.*, Teacher's Guide on Environmental Law (LL.B), CDC, TU (2000)
20. Pashupati Area Development Fund 2044
21. Plan, Policies and programs of Government of Nepal
22. Private Forest Nationalization Act, 2013
23. Rosencranz, Armin, *et. al*, *Environmental Law and Policy in India Cases, Materials and Statutes*, 2001 Tripathi, Bombay India,
24. Sharma Prakashmani *et. al.*, *Collection of Environmental Cases* (In Nepali), Pro-public (2057)
25. Soil and Watershed Conservation Act, 2039
26. Solid Waste and Resource mobilization Act 2044
27. The Interim Constitution of Nepal 2063
28. Tourism Act, 2045
29. Water Resource Act, 2049

Note: The students are required to keep well informed of the latest Constitution, Acts, Rules, precedents and reading materials in the respective subject area.

Refugee Law

Course Title: **Refugee Law**

Full Marks: 50

Course No: Law 431

Pass Mark: 35%

Duration of the Course: One Year (62 hrs)

Level : LL.B.

Year: II

Nature: Optional

Course Objectives:

The objectives of the course are to:

- Acquaint the students with the meaning, nature, scope and history of refugee law.
- Familiarize the students with the International instruments relevant to refugees, asylum seekers and persons in refugee like situation.
- Acquaint the students with various state practices in the treatment of refugees and asylum seekers.
- Familiarize the students with the role and mandates of the UNHCR and other agencies in the protection of refugees.
- Enable the students to contribute to the development of legal framework for refugee law in Nepal.

I. Introduction:

- Nature, sources, scope and history of refugee law.
- Relations between human rights law, humanitarian law and refugee law.

II. Definition of Refugees:

- Definition of refugees in historical perspective (1920-to date, OAU, Cartagena)
- Persons in refugee-like situations, internally displaced persons, stateless migrants, fugitives from justice and asylum, seekers.

III. The concepts of asylum and the principle:

- Rights of Asylum
- Types of Asylum
- Duties of the state of Asylum and Asylees
- Principle of non-refoulement

IV. Status determination Procedure:

- Review and comparison of state practices
- Individual determination/ prima facie determination
- Loss of state (cessation and revocation)

V. International efforts for the protection of refugee and other persons in need of protection:

- 1951 Geneva Refugee Convention and Protocol
- OAU Convention
- The Cartagena Declaration
- Rights and Duties of Refugees
- The Four Geneva Convention
- The two convention of statelessness
- General Human Rights Instruments
- The U.N. General Assembly
- And the Exom resolution

VI. International Organizations concerned with the refugees and other persons in need of protection:

- The UNHCR
- ICRC

VII. New trends in Refugee Law:

- Temporary protection
- Safe country of origin and safe country of asylum
- First country of asylum

VIII. Refugees in the world with particular reference to Asia including Nepal:

- Complex humanitarian crises the cases of Cambodia Somalia and former Yugoslavia
- Prospects for possible legal framework for refugee law in Nepal

Prescribed Materials

1. Atle, Grahi Maden. *The Status of Refugees and International Law*. Vol. 1 and 2, A.W. Leyden 1966.

2. Gowlland, Vera. and Samson, Klous. (eds) *Problems and Prospects of Refugees*, The Graduate Institute of International Studies, Geneva, 1992.
3. Guy, Goodwin. *The Refugees in International Law*, Oxford Clarendon Press, 1983 Gill.

Reference Materials:

1. AALCC, Combined Report 26-30th Sessions, New Delhi, AALCC Secretariat, 1992.
2. AALCC, Reports and Selected Documents of the Thirty Second Session, New Delhi, 1993, Chapter II on Refugees.
3. Bhandari, Surendra Dr. *Teaching of Refugee Law*, Tribhuvan University Curriculum Development Centre, Kirtipur, Kathmandu, 2000.
4. Hingorani, R.C. (ed) *Humanitarian Law*. New Delhi, Oxford & IBH, New Delhi, 1987.
5. Madsen, Grohi., Atle. *The Status of Refugees and International Law*, vol. 1 & 2 Leyden, 1996.
6. The Faculty of Law, T.U. & UNHCR (Nepal), *Proceeding of the World Conference on Refugee Law in Nepal: Prospects and Future*, Kathmandu 1994.
7. UNHCR, Collections of *International Instruments Concerning Refugees*, Geneva, 1979.
8. UNHCR, *The State of the World's Refugees*.

Criminology

Course Title: **Criminology**

Full Marks: 50

Course No: Law 432

Pass Mark: 35%

Duration of the Course: One Year (62 hrs)

Level : LL.B.

Year: II

Nature: Optional

Course objectives

1. To impart knowledge on the cause of crime and the factors affecting the crime.
2. To explain the concept of the punishment along with the modern trends towards reformation.
3. To impart knowledge on juvenile delinquency, its problem, measures of controls, legal and social means of rehabilitation.
4. To enable the students about causes of crimes and other anti-social behavior.
5. To impart the knowledge about Organized crimes and Trans-national organized crimes, and its effects.

Contents in the Instructional Unit

Unit - 1: Introductory:

- 1.1. Definition and scope of Criminology.
- 1.2. Utility of Criminology.
- 1.3. Study method of Criminology.

Unit - 2: Introduction and Etiology of Crime:

- 2.1. Universal nature of Crime.
- 2.2. Definition of Crimes.
- 2.3. Causes of crimes.
- 2.4. Classification of Crime.
- 2.5. Nature of Criminal Law.
- 2.6. Modern trends as to Crime and Criminals.

Unit - 3: Traditional Explanation of Crime:

- 3.1. Demonological Approaches.
- 3.2. The free will Theory.
- 3.3. The Classical and Neo Classical Theory.
- 3.4. The Geographical Theory.

Unit - 4: Biological Explanation of Crime:

- 4.1. The typological Theory (Lombroso, Garofalo, Ferri).
- 4.2. Phrenology and Crime.
- 4.3. The Chromosome Theory.
- 4.4. The Feeble Minded Theory.
- 4.5. Psyche-Analysis Theory.

Unit - 5: Economic Explanation of Crime:

- 5.1. The Poverty and Crime.
- 5.2. The Socialist Theory.
- 5.3. Economics Prosperity and Crimes.
- 5.4. White Color Crime.
- 5.5. Comparison of Tradition crime with white Color Crime.

Unit - 6: Sociological Explanation of Crime:

- 6.1. The Social disorganization Theory.
- 6.2. The Anomie Theory.
- 6.3. The differential association Theory.
- 6.4. The Environmental Theory.

Unit - 7: Multiple Causation and Crimes:

- 7.1. The multiple causation Theory
- 7.2. Family condition and Crime
- 7.3. School condition and Crime
- 7.4. Mass media and Crime
- 7.5. Racism and Crime

Unit - 8: Theories of Punishment:

- 8.1. Definition of Punishment
- 8.2. Features of Punishment
- 8.3. Theories of Punishment

Unit - 9: Capital punishment System:

- 9.1. Introduction of Capital punishment
- 9.2. Historical development of Capital punishment
- 9.3. Traditional attitude towards Capital punishment
- 9.4. Modern thought towards Capital punishment

Unit - 10: The Prison System:

- 10.1. Historical development of prison System

- 10.2. Reform in Prison System
- 10.3. Alternative to Prison System
- 10.4. The Nepalese Prison System
- 10.5. Defect underlying the Prison System

Unit - 11: Other forms of Punishment System:

- 11.1. Corporal Punishment
- 11.2. Banishment
- 11.3. Social Disgrace
- 11.4. Fine and Restitution

Unit - 12: Re-socialization of Offenders:

- 14.1. Probation
- 14.2. Parole
- 14.3. Treatment of offenders
- 14.4. After care Programme

Unit - 13: Juvenile delinquency:

- 13.1. Introduction & Causes to Juvenile delinquency
- 13.2. Difference between the law for Juvenile delinquency and Adult Criminals (substantive & procedural)

Unit - 14: Victimology:

- 14.1. Introduction to Victimology
- 14.2. Place of the victim in criminal Justice

Unit - 15: Sentencing policy of the Court:

- 15.1. The Court Proceeding
 - i. Hearing
 - ii. conviction and
 - iii. Sentencing.
- 15.2. Nepalese Sentencing policy

Unit - 16: Organized Crime:

- 16.1. Introduction of Organized Crime.
 - i) Arms Trafficking.
 - ii) Human Trafficking.
 - iii) Drugs Trafficking.

- iv) Money Laundering
- 16.2. Characteristics of Organized Crime.
- 16.3. Nature of Organized and Trans-national Organized Crime.
- 16.4. Crime Problem in Relation to Nepalese Society

Leading Cases:

1. Advocate Aashish Adhikari (on behalf of Bablu Godia) Vs. Banke District Court et, al., D. Date: 2057/12/12, (Robbery) Habeas Corpus.(unpublished)
2. Advocate Aashish Adhikari (on behalf of Shyam Krishna Pahari) Vs. District Police Office et. al., D. Date: 2058/4/29 (Rape); Habeas Corpus. (unpublished)
3. Bhim Bdr. Pariyar et. al. Vs. HMG, **Supreme Court Bulletin**, No. 17, Year 12 (2060) p18.
4. HMG Vs. Gorden William Robinson, Drugs case, **NKP**, 2061 Year 8, D. No.7421, p. 980.
5. HMG Vs. Samjhana Lamichane, (Murder; Infanticide), **NKP**, 1/2 (2060), Year 1&2, D.N. 7169, p. 77
6. Krishna Bdr. Rana Vs. HMG, (Mandamus), Rehabilitation to victim; Case No.3257; D. D. 2061/9/6. (unpublished)
7. Rabindra Prasad Dhakal (on behalf of Rajendra Pd. Dhakal) Vs. HMG, **NKP** 2064 (**Disappeared Person**) Habeas Corpuses No. 2, D.No. 7817, p.179
8. Resma Thapa Vs. HMG, (Mandamus), inhumane behavior as Witch, **NKP** 2062, Vol 2, p. 205.
9. Shanti B. K. Vs. HMG, (Murder; Infanticide), **NKP** Year 6 (2061), D.No.7399; p.769.
10. Walter Roland Vs. HMG, Case: Counterfeiting, C. No. 3103, D.D. 2061-1-11. (unpublished)

Reading Materials

Prescribed

1. Acharya, Madhav P. **Criminology** (in Nepali). Kathmandu: Ratna Pustak Bhandar. (2060 B.S.).

2. Ahuja, Ram *Criminology*. New Delhi: Rawal Publications. (2000).
3. Dohetry, Micheal *Criminology* London: Id Bailey Press. (3rd ed.) (1997).
4. Siddqui, Ahmand *Criminology: Problem and Prospective* India: Easter Book Co. (4th ed.) (1997).
5. Williams, Katherine *Textbook of Criminology*. London: Blackstone Press. (2001)

References/Recommended

1. Barnes and Tecters, *New Horizon in Criminology*.
2. Cressy, Donald and Sutherland, E.H., *Principles and Criminology*.
3. Morris, *Deviance and Control*
4. Paranjane, Dr. N.P., *Criminology and Administration of Criminal Justice*.
5. Sharma, Dr. Lokendra, *Criminology* (in Nepali) Kathmandu: Nepal Educational Cooperation Centre (2nd ed.). (2058 B.S.).
6. Taylor, Walton and Yornd, *The New Criminology*, International Library of Sociology.
7. *The Children Act, 2048 B.S.*
8. *The Prison Act, 2019 and Rules, 2020 B.S.*
9. Tripathi, Hari Bansh, *Criminology*. Kathmandu: Nepal Kanoon Kitab Co.
10. Verma, P., *Introduction to Criminology*.
11. Wilsed, Paul., *The Sociology and Crime and Delinquency in Britain*. Year 1 and 2.

Gender and Inclusive Justice

Course Title: Gender and Inclusive Justice	Full Marks: 50
Course No: Law 433	Pass Mark: 35%
Duration of the Course: One Year (62 hrs)	Level : LL.B.
Year: II	Nature: Optional

Course Objectives

The objectives of the course are as follows:

- To acquaint the students with the meaning, nature & scope of Gender and Inclusive Justice.
- To familiarize the students with the international instruments relevant to the Gender and Inclusive Justice.
- To enable the students to examine the laws relating to Gender and Inclusive Justice in Nepal.
- To enable the students to appraise the role of judiciary for upholding Gender and Inclusive Justice in Nepal.

Contents in the instructional unit

1. Introduction

- a) Concept of Justice: Meaning and Kinds.
- b) Meaning, Nature, Kinds & Scope of Gender Justice.
- c) Meaning, Nature & Scope of Inclusive Justice.
- d) Rights of Women, Dalits, Indigenous/ethnic groups (Adivasi Janajati), Madhesi Communities and other groups.

2. International Instruments relating to Gender and Inclusive Justice.

- b) Universal Declaration of Human Rights 1948
- c) International Covenant on Economic, Social and Cultural Rights 1966
- d) International Covenant on Civil and Political Rights 1966
- e) Optional Protocols to the International Covenant on Civil and Political Rights 1966.
- f) Convention on the Elimination of All Forms of Discrimination against women 1979

- g) Declaration of Violation Against Women 1993
- h) International Convention on the Elimination of All Forms of Racial Discrimination 1965 & its optional protocols.
- i) Convention on the Rights of Persons with Disabilities and optional Protocol (RPD 2006).
- j) Convention on Indigenous and Tribal People 1989 (ILO Convention 169).
- k) Declaration on Indigenous Peoples, 2007.

3. Laws relating to Gender Justice in Nepal

- a) Constitutional provisions on Gender Justice.
- b) Civil law provisions on Gender Justice (property, employment, reputation, reproductive health, and status)
- c) Criminal Law provisions on Gender Justice (Domestic violence, rape, sexual harassment, trafficking, dowry, witchcraft)

4. Inclusive Justice: Right of the Dalits, Indigenous/Ethnic groups, Madhesi communities & other groups (Differently abled, senior citizens & internally displaced persons) in Nepal

- a) Constitutional & legal provisions against untouchability
- b) Constitutional and legal provision on the rights of indigenous/ethnic groups (Adivasi Janajati)
- c) Constitutional and legal status of Madhesi communities
- d) Constitutional and legal rights of Differently able (Differently abled), Senior Citizens and Internally Displaced Person
- e) Need for a comprehensive law on inclusive justice.

5. Role of Judiciary in upholding Gender & Inclusive Justice in Nepal.

1. *Babu Krishna Maharjan V Office of the Council of Ministers*, Writ No. 3666 of 2061
2. *Lal Bahadur Nepali et.al V Secretariat of Council of Ministers*, NKP. 2061, No. 4
3. *Man Bahadur B.K. V. HMG/Nepal*, Writ No. 2506 of 2049

4. *Meera Dhungana V. HMG/ Ministry of Law Justice and Parliamentary Affairs* NKP 2052, vol. 6, p. 462
5. *Meera Dhungana V. HMG/MLJPA*, Writ No 110 of 2059 B.S.
6. *Ratna Bahadur Bagchand V.HMG*, Writ No.46 of 2061
7. *Resma Thapa V HMG/Nepal*, Writ No 2891 of 2058
8. *Sapana Pradhan Malla V. HMG/Nepal*, Writ No 34 of 2060
9. *Sita Acharya V Public Service Commission*, Writ No. 3975 of 2056
10. *Sudarshan Subedi V.Secretariat of Council of Ministers*, Some Important Precedents relating to Public Welfare established by Supreme court (2015-2062), part 8,2063,p.171

Prescribed Books

- 1) National Judicial Academy, *Laingik Nyaya: Shrot Samagri* (Nepali version), Kathmandu, (2062 B.S.)
- 2) Siwakoti, Gopal ‘Chintan’ (edt.), *Manab Aadhikar Sambandi Sorbocha Aadalatka Faisalharuko Tippni*, T.U. Manab Aadhikar Kendra, Faculty of Law, (2059)
- 3) Siwakoti, Gopal ‘Chintan’ (edt.), *Nepalma Manab Aadhikar tatha Kanuni Upachar*, T.U. Manab Aadhikar Kendra, Faculty of Law, (2059)
- 4) Steiner H.J. & Alston P., *International Human Rights in Context*, Oxford, (2000)

Reference:

1. Acharya M, *Efforts of Promotion of Women* in Nepal, TPMF/ FES (2003)
2. Acharya M, *Gender Equality and Empowerment of Women*, Kathmandu, UNFPA, (1997)
3. Beijing Platform for Action and Beijing Declaration 1995.
4. Belbase,K.,*Bridddharooko Hak, Hit Yabam Surakshhyako Prsna Ra Nepalma Tatsambandhi Byabastha*, A Mini Research Report Saubmitted to Faculty Of Law,T.U., (2057)
5. Bhasin K. *Understanding Gender*, New Delhi, Kali for Women, (2000)

6. Bhasin K., *What is Patriarchy*, New Delhi, Kali for Women, (1993)
7. Bhattarai S.K. and Koirala U, *Sarbochha Adalatbata Jari Bhayeka Nirdeshanatmak Aadheshharuko Karyanowyanko Abastha* (In Nepali), N.J.A, Kathmandu, (2063 B.S.)
8. CBS, *Population Monograph of Nepal*, Kathmandu, (2003/04)
9. Convention for the Suppression of the Traffic in persons and of the Exploitation of the Prostitution of others (1949)
10. Convention on the Nationality of Married Women 1957
11. Convention on the Political Rights of Women 1952
12. Convention on the Rights of the Child 1989.
13. HMG/MWCSW, *National Plan of Action for Implementing CEDAW*, Kathmandu, (2004)
14. HMG/MWCSW, *National Plan of Action of Gender Equality and Women Empowerment*, Kathmandu, HMG/MWCSW, (2004)
15. Human Trafficking Control Act, 2064 B.S.
16. *Ibid, Mahila Adhikarko Sandarbhama youn Tatha Prajanan Swasthya Sambandhi Adhikar Ra Nepalma Yasko Sthiti*, A Mini Research Report Submitted to Faculty Of Law, T.U., (2057)
17. *Ibid, Violation against women and Efforts of its Elimination*, A Research Report submitted to UGC.
18. ILO Convention (No. 100) Concerning Equal Remuneration for Men and Women Workers for work of Equal Value 1951.
19. Interim Constitution of Nepal, (2063)
20. Kaplan T., “Women’s Rights and Human Rights; Women as Agents of Social Change” in Marjorie Agosin (edt.) *Women Gender and Human Rights: A Global Perspective*, New Delhi, Rawal Publications, (2003)
21. Kapur R. and Crossman B. “On Women Equality and the Constitution: Through the Looking Glass of Feminism” in NRM Menon (edt.) *National Law School Journal*, Special Issue on Feminism and Law, Vol. 1, Banglore, NLSI University, (1993)
22. Karki, Bharat Bahadur Prof. Dr. “Impact of Conflict on Dispensation of Justice”, *The Telegraph*, vol. 23, No 36 November 8, Wednesday (2006)
23. Karki, Bharat Bahadur Prof. Dr. “Role of Judiciary in Upholding Justice” *The Telegraph*, vol. 23, no. 39, Nov. 29, Wednesday (2006)

24. Khanal B., *Human Rights and Development*, Kathmandu, Manjusha, (2006)
25. Koirala, A.P., “Violation of Human Rights of People of Disabilities in Nepal” *Disabled Empowerment*, National monthly, Kartik (2061)
26. Malla S.P., *Baseline Study of Inheritance Right of Women*, Kathmandu: FWLD, (2000)
27. Malla S.P., *Discriminatory Laws Against Women: An update Study*, Kathmandu: FWLD and The Ford Foundation, (2007)
28. Malla S.P., *Special Measures for Women and their Impact*, Kathmandu, Forum for Women, Law and Development, (2003)
29. Muluki Ain.
30. Nepal Government, *Nepal Government’s 3 years Interim Plan*, (2007)
31. Sangroula, Y. and Pathak, G., *Gender and Laws: Nepalese Perspective*, Kathmandu: Pairavi Prakashan, (2002)
32. Sharma P., et. al, *Laingik Nyaya Sambandhi Muddhaharuko Sangalo (Collection of Gender Justice Cases)* Kathmandu, Unijem and Pro-public, (2060 B.S.)
33. Social Welfare Act, 2049 B.S.
34. Thapalia S, “Vaivahik Valatkar : Kanoonko Samsodhan Aabasyak” (In Nepali), *Prachi*, Vol 52 (2004.)
35. Thapalia S. and Subedi N, “Male Culture of Law: An Instrument of Oppression of women,” *Nepal Law Review*, vol. 19, no 1 and 2, Kathmandu, Nepal Law Campus, (2006)
36. West R., “Jurisprudence and Gender” in Smith (edt.) *Feminist Jurisprudence*.

Law of Insurance

Course Title: **Law of Insurance**

Full Marks: 50

Course No: Law 434

Pass Mark: 35%

Duration of the Course: One Year (62 hrs)

Level : LL.B.

Year: II

Nature: Optional

Course Objectives:

The Objective of the Course are:

- to survey the basic types of insurance policies, legal principles of insurance.
- to study the role insurance plays in society.
- to analyse laws related to insurance industry and insurance policy structure and interpretation.

Content:

Unit 1: Introduction

- 1.1 The History and Functions of Insurance
- 1.2 Some Classification of Insurance
- 1.3 The Legal Definition of Insurance

Unit 2: Formalities and Formation of the Insurance Contract

- 2.1 Nature and Classification of Insurance Contract
- 2.2 Formation of the Insurance Contract
- 2.3 Formalities
- 2.4 Temporary Cover and Cover Note
- 2.5 Duration and Renewal of Insurance Policies

Unit 3: Regulation of Insurance

- 3.1 The Development of State Control
- 3.2 Impact of Nepalese Insurance Laws
- 3.3 The Protection of Policyholders
- 3.4 Constitution, Functions and Powers of Insurance Committee
- 3.5 Re-Insurance Policy and Re-Insurance Pool

Unit 4: Repudiation of Policies and Liability

- 4.1 Unfair Terms in Consumer Insurance Policies and Liability
- 4.2 Void Contracts
- 4.3 Voidable or Discharged Contracts
- 4.4 Repudiating the Contract or Claim
- 4.5 Loss of Right to Avoid or Repudiate

Unit 5: Premium

- 5.1 Payment of Premium
- 5.2 Return of Premium

Unit 6: Intermediaries

- 6.1 Agent, Surveyor and Broker
- 6.2 Relevant Agency Principles
- 6.3 The Regulation of Intermediaries

Unit 7: Life Insurance

- 7.1 Nature and Types of Life Insurance
- 7.2 Formalities and Disclosure
- 7.3 Assignment of Life Policy
- 7.4 Trust of Life Policies

Unit 8: Non-Life Insurance

- 8.1 Meaning and Nature of Fire, Motor, Marine and Personal Insurance
- 8.2 Non-Life Insurance Policies
- 8.3 Principles of Non-Life Insurance

Unit 9: Impact of Economic Liberalization on the Volume of Insurance Business

- 9.1 Introduction
- 9.2 Performance of Life Insurance Companies
- 9.3 Performance of Non-Life Insurance Companies
- 9.4 Impact of Investment Pattern of Insurance Business

Text Books:

1. Ali, Sajid Dr., Mohammad, Riyaz and Masharique, Ahmad, *Insurance in India*, Chapter Seven, (2007)
2. Birds, John, *Modern Insurance Law*, London, Sweet and Maxwell (1997)
3. Insurance Act and Rules
4. Mishra, M. N., *Law of Insurance*, India
5. Re-Insurance Regulation

References Readings:

1. Advocate Bharat Mani Gautam Vs. His Majesty's Government of Nepal, *NKP* 2058, Decision No. 7004, Page 280.
2. Mishra, M.N. and S.B. Mishra, *Insurance: Principles and Practice*, India
3. Rastriya Bima Samiti Act.
4. Steele, T. John, *Principles and Practice of Insurance*, U.K., London
5. Vats, R.M. Laws Relating to Insurance, India

International Institutions and Human Rights

Course Title: International Institutions and Human Rights	Full Marks: 100
Course No: Law 521	Pass Mark: 35%
Duration of the Course: One Year (125 hrs)	Level : LL.B.
Year: III	Nature: Compulsory

Course Objective:

The objectives of the course are:

- To acquaint the students with the role of International institutions in the maintenance of the world peace and security.
- To familiarize them with the development of the law through International organizations.
- To identify the constitutions of regional and International organizations in the field of mutual co-operation to fight against illiteracy, poverty backwardness torture and discriminations.
- To orient the students with the origin, rationale and legal instruments (national and International) pertaining to human rights.
- To appraise the Nepalese legal provisions on human rights.

I. Introduction to International Institutions

- Definition
- Nature and scope
- Classification
- Role and importance

II. Origin and Development in International Institution

- International conferences
- The Holy Alliance
- The Concert of Europe
- The Hague Systems
- League of Nations

III. United Nations

- Historical Background
- Purpose and principles

- Membership
- Organs of the UN (composition), power, functions and achievements of each organ
- The General Assembly and its role in Peace Process and uniting for Peace Resolutions
- The Security Council and its role in peace keeping
- The Economic and Social Council
- The Trusteeship Council
- The Secretariat and
- The Secretary General

IV. International Court of Justice:

- Background
- Composition
- Access to the court
 - a. Compulsory Jurisdiction**
 - Ad-hoc jurisdiction
 - The Asylum case of Haya
 - Dele Torre
 - Voluntary jurisdiction
 - Corfu channel case

b. Advisory Jurisdiction

(Condition of Admission of state to membership in the United Nations)
 Law to be applied by the court
 Decision of the court and enforcement of the judgment:
 development of International law through ICJ.

V. Some major specialized agencies of the UN and other International agencies:

UNESCO, ILO, IMF, IBRD, ICAO, FAO, UPU and UNICEF.

VI. Outline of some Regional organizations:

ESCAP, ADB, ASEAN, AALCC(now OAA) , SAARC, BMIST, OAU, EEC and OAS

VII. Introduction to Human Rights:

- Historical perspective

- Emergence of H.R. on a subject of national and International rules of law
- Concept of dignity of human person vis-à-vis human right refugee law and humanitarian law

VIII. International Protection of Injury to Aliens

- Denial of justice and International responsibility
- Violations of Human Rights and International responsibility
 - a. The International minimum standard of justice and the principle of Equality
 - b. Conflicting principles as applied to treatment of alien's property

IX. Humanitarian Intervention

- Rescue operation
- UN, Charter

X. Rights of members of vulnerable group

- Rights of children
- Prevention of discrimination and protection of minorities
- The advancement of women
- UN, High commission for refugees
- The other International instruments generally

XI. International instrument concerned with Human Rights

- The United Nations charter
- Universal Declaration of Human Rights
- International convention on the elimination of all forms of racial discrimination
- International covenant on civil and political rights with optional protocol
- International covenant on economic, social and cultural rights
- Covenant against torture and other cruel, in human or degrading treatment or punishment

XII. Regional and National Arrangements on Human Rights

- The European Convention on Human Rights

- The American Convention on Human Rights
- The African Convention on Human Rights
- Consideration for Asian Convention and SAARC
- Major court Decisions relating to Human Rights
- Recent trends

Prescribed Materials:

1. Amerasinghe, C.F. *Principles of the Institutional Law of International Organizations*, Cambridge, (1996)
2. Bermjardt, R. (edi), *Encyclopedia of Public International Law*, International Organization, “*Encyclopedia of the Social Science* (New York ; The Macmillan company, Used by permission of the Macmillan company. (1937)
3. Bowett, D.W. *The Law of International Institutions*, 4th edition, London, (1982)
4. Cheever, Daniel S. and Haviland, H. Field Jr. *Organizing for Peace : International Organization in World Affairs*, Boston, Houghton Mifflin company, (1954)
5. Dahal Kashiraj, *Human Rights Jurisprudence* (in Nepali) Nepal Law Society (2050)
6. Dixon, Martin. and McCorquodale, Robert. *Cases and Materials on International Law*, Lawman (India) Pvt. Ltd. New Delhi, First India Reprint. (1995)
7. Fawcett, J.E.S. *The Application of the European Convention on Human Rights*, Clearandon Press Oxford, (1987)
8. Friedmann, W. *The Changing Structure of International Law*, Vakil and Sons Pvt. Ltd, Bombay, (1964)
9. Georges, Abi-saab (ed). *The Concept of International Organization*, UNESCO, France, (1981)
10. Gerard, P. and Mangone, J. *A Short History of International Organization*, New York McGraw Hill Book Company, (1954)
11. Henkin, Pugh, Schachter, *International Law Cases and Materials*, West Publishing Company, (1997)
12. Higgins, Rosalyn. *Development of International Law Through the Political Organs of United Nations*, Oxford University, Press. London, (1963)
13. Janis, Mark. *An Introduction to International Law*, New Delhi, Aditya Books, at (First India Edition). (1989)

14. Malla, Katak. *Human Rights*, Kathmandu (in Nepali).
15. *Manual on Human Rights Reporting*, U.N. publication, Sales No. E 91 XII Vol.1, (1991)
16. Reuter, P. *International institutions* London, (1958)
17. Robertson, A.H. *Human Rights in the Worlds*,_Manchester, (1972)
18. Schermers, H.G and Blokker, N.M. *International Institution Law*, 3rd edition, The Hagure , (1995)
19. Sharma, Gopal Dr. *An Outline of International Organizations*, Ratna Pustak Bhandar, Kathmandu, (1990)
20. Sharma, Gopal Dr. *Human Rights*, (in Nepali)Kathmandu, (1993)
21. Shaw, Malcolm N. *International Law*, Cambridge University, Cambridge (1997)
22. Singh, Nagendra. *Human Rights and International Cooperations*, S.Chand, New Delhi, (1969)
23. Siwakoti Chintan, Gopal (edi.), *Commentary on Supreme judgments related to Human Rights* (in Nepali) Human Rights Center, Faculty of Law (T.U.) (2056)
24. Siwakoti Chintan, Gopal (edi.), *Human Rights and Legal remedies in Nepal* (in Nepali), Human Rights Center, Faculty of Law (T.U.) (2056)
25. Thapa, S. *UN and Specialized Agencies* Kathmandu, CDC, TU, (1977)
26. Tripathi, D. *Human Rights*, (in Nepali) Kathmandu, (1993)
27. *United Nations Action in the Field of Human Rights*, U.N. Publication sales No. E88 XI Vol.2, (1988)
28. Upadhyaya, Lakshman *Antarastriya Kanoon Ebam Samandhka Paripekshma Nepalko Prayas*, Gorkha Patra Sansthan, Kathmandu, (2043)
29. Upadhyaya, Lakshman Prof. Dr. *Teacher's Guide on Teaching of International Institutions and Human Rights Law*, Tribhuvan University Curriculum Development Centre, Kirtipur, Kathmandu, (2000)
30. Wallace, Rebecca M.M. *International Law*, Universal Book Traders, Delhi India Reprint), (1995)
31. White, N., *The Law of International Organizations*, Manchester, (1996)

Interpretation of Statutes

Course Title: Interpretation of Statutes	Full Marks: 50
Course No: Law 522	Pass Mark: 35%
Duration of the Course: One Year (62 hrs)	Level : LL.B.
Year: III	Nature: Compulsory

Course Objectives :-

The course has the objective to familiarize the students with general idea about theories and methods of the statutory Interpretation and the student will be able to :

- state the importance of Law
- Interpret the Statutes with rules
- Construct constitution
- Construct deeds and will etc.
- State the methods of construction of statute
- State presumption
- Interpret the Intrapretation of statute act, 2010 B.S.

Unit-1: Introduction of Law of Interpretation

- I. Meaning, objectives, importance, kinds and principle of Interpretation:
- II. Role and Importance of :
 - a. The different parts of a statutes :
 1. Title
 2. Preamble
 3. Marginal Note
 4. Heading
 5. Schedules
 6. Punctuation
 7. Proviso
 8. Exception
 - b. The External aspects:
 1. Historical Setting
 2. Parliamentary History
 3. International Conventions
 4. Dictionaries & text books

- c. Commencement, Repeal and Revival of Legislation
- d. Consolidating and codifying statutes

Unit-2: Rules of Interpretation

1. Rules of interpretation :
 - a. General Rules :
 1. Literal rule
 2. Mischief rule
 3. Golden rule
 4. Construction ut res magis valeat quam pereat.
 5. Reading words in their context : Statutory aspects
 - b. Subsidiary rule:
 - (i) Ejusdem generis rule
 - (ii) Noscitur a sociis
 - (iii) Re-oddendo singula singuli
 - (iv) Expression unius rule
 - (v) Contemporanea expositio
 - (vi) Construction of words in bonam partem
 - c. Beneficial rule

Unit-3: Construction of Constitution, Deeds and Wills

1. Construction of Constitution
2. Construction of Deeds and Wills

Unit-4: Restrictive, Exceptional and other Construction

1. Restrictive construction
2. Construction to avoid collision with other provisions
3. Exceptional construction

Unit-5: Presumption

1. Presumption against the common law.
2. Presumption of constitutionality of a statute
3. Presumption regarding jurisdiction
4. Presumption against retrospective legislation
5. Presumption against violation of international law
6. Presumption against intending injustice or absurdity

7. Presumption against imparting obligation or permitting advantage
8. Presumption against intending what is inconvenient or unreasonable

Unit-6: Intention attributed to the legislature when it express none

1. Intention attributed to the legislature when it express none

Unit-7: Interpretation of Statute Act 2010 B.S.

III. The Interpretation of Statute Act 2010 B.S.

Text Books :

1. Bindra, *Interpretation Statutes*
2. Langan, P.St *Maxwell on the Interpretation of Statutes*_(Latest Edition)
3. Swarup, Jagadish *Interpretation of Statutes Legislation.*
4. *Interpretation of Statute Act*, (2010 B.S)

References :

1. Fitzgerald, P.J. *Salmond on Jurisprudence* (Latest Edition)
2. Pant, Amber Prasad Dr.,*et.al.,Teacher's Guide on Inerpretation of Statutes* (LL.B.),CDC TU (2000)
3. Shrivastav, R.D. *Interpretation of Statutes*

Professional Ethics and Lawyering Skills

Course Title: Professional Ethics and Lawyering Skills	Full Marks: 50
Course No: Law 523	Pass Mark: 35%
Duration of the Course: One Year (62 hrs)	Level : LL.B.
Year: III	Nature: Compulsory

Course Objectives

The main objectives of this course are:

- to provide the basic knowledge of various aspects of professional ethics absolutely essential in the legal profession.
- to ensure that all students are aware of the practical aspects of drafting, pleading, and conveyancing skills essential for practicing advocates.
- to familiarize with skills of advocacy, public interest, lawyering, legal aid, and literacy, and para-legal services.

Unit 1-Professional Ethics

- 1.1 Concepts and Principles
- 1.2 Professional responsibility of lawyers towards client, opposite party, court, society and state.
- 1.3 Bar-Bench relations
- 1.4 Professional ethics under the existing laws of Nepal.
- 1.5 Investigation and other Disciplinary Action on the violation of professional ethics in Nepal.

Unit: 2 Drafting, Pleading, and Conveyancing skills in Nepal

- 2.1 Legislative drafting:
 - 2.1.1 General principles
 - 2.1.2 Laws and Skills of Legislative Drafting
- 2.2 Court Oriented written pleadings from plaint/complaint to execution of judgments/ orders etc in civil and criminal cases.
- 2.3 Conveyancing: (i)Sale Deed (ii)Lease and Contract Deed(iii)Gift and Will Deed(iv)Adoption Deed(v) Exchange Deed(vi)Separation of coparcener or Reunion

Deed(vii)Mortgage Deed(viii) Loan Deed (ix) Guarantee Deed (x)Promissory Note(xi)Power of Attorney (xii) Deed Poll (xiii) Indenture

Unit: 3 Advocacy skills in Nepal

- 3.1 Concepts and Rules of Advocacy.
- 3.2 Communication skills for Lawyers:
 - General Presentations
 - Client Interviewing and Advising
 - Negotiation
 - Oral Arguments
 - Examination of Witnesses
- 3.3 Trial Advocacy skill
 - Case Oriented Legal Research
 - Case Preparations
 - Organization of arguments

Unit: 4, Public Interest, Lawyering skills, and legal aid

- 4.1. Public interest lawyering
- 4.2 Legal Aid
- 4.3 Legal Literacy
- 4.4 Para-legal services
- 4.5 Writing case Comments, editing of law journals, law office management and accountancy for lawyers
- 4.6 Notary Public

Unit: 5 Prescribed Cases

- 5.1 Advocate Lila Mani Poudel vs. HMG Council of Minister Secretariat & others, **NKP** 2060 nos. 5 / 6 p. 354
- 5.2 Advocate Narayan Prasad Koirala vs. Syanja District Court & others, **NKP** 2058 nos. 9 / 10 p. 542
- 5.3 Badri Bahadur Karki vs. CIAA (Five Judges Full Bench), **NKP** 2058 nos. 5 / 6 p. 239
- 5.4 Kalpana Sharma vs. Tilak Prasad Adhikari & others **NKP** 2059 nos. 3 / 4 p. 178
- 5.5 Madhusudan Bhattarai vs. Narendra Bahadur Chand, **NKP** 2059 nos. 3 / 4 p. 210

- 5.6 Ravilal Chaudhary Tharu vs. Nepal bar Council & others, *NKP* 2053 no. 10 p. 711
- 5.7 Ravindra Bhattarai vs. HMG Council of Ministers & others order sought under Art. 88(1) of the Constitution..., *NKP* 2055 no. 11 p. 615
- 5.8 Subarna Prajapati vs. Kavre Palanchowk District Court & others, *NKP* 2046 no. 9 p. 946
- 5.9 Tuel Manya Chakradhar vs. Supreme court Bar Association President Shambhu Thapa, *NKP* 2053 no. 7 p. 611

Prescribed Materials

1. Code of Conduct of Lawyers, 1994
2. Disciplinary Committee (Management) Rule 2002
3. Kharel, S.K. et.al., *Basic Skills for Lawyer*, NBA in Assistance of Embassy of U.K.,
4. Nepal Bar Council Act, 1993
5. Shrestha, G.B., *Drafting of Legal Document*, Pairavi

Reference Materials

1. Abbey, R. M. et.al, *A Practical Approach to Conveyancing*, Blackstone/Universal (First Indian Reprint 2000)
2. Atre, B.R; *Legislative Drafting-Principles and Techniques*, Universal (2001).
3. Blake, S; *The Practical Approach to Legal Advice and Drafting*, Universal (First Indian reprint 2000)
4. Evans, K; *Advocacy at the Bar-A Beginner's Guide*, Universal Book Traders (First Indian Reprint 1998)
5. Evans, K; *The Golden Rules of Advocacy*, Universal Book Traders (First Indian Reprint 1994)
6. Harwood, M; *Conveyancing Law and Practice*, Lawman (India) Pvt. Ltd, New Delhi (1995)
7. Hyam, M., *Advocacy Skills*, Universal (2002)
8. Jai Lal, *Conveyancing, Deeds, Forms and Precedents*, Universal (1995)
9. Malik, B., *The Art of a Lawyer*, (Advocacy-Cross Examination), Universal (1999)

10. Munkman, J.H; *The Technique of Advocacy*, Universal (First Indian Reprint 1999)
11. Pannett, A; *Legal Practice Handbook-Managing the law Firm*, Universal (First Indian Reprint 2001).
12. Rose, W.M; *Pleadings without Tears-a Guide to legal drafting*, Universal book Traders (1995)
13. Rylance, P., *Legal Writing and Drafting*, Universal (2000).
14. Sherr, A; *Legal Practice Handbook Advocacy*, Universal Book Traders (First Indian Reprint 1994)
15. Ugrs', *Pleadings and Practice*, Universal, (2003)

Note: Students are required to study the existing Acts, Rules and provisions of the constitution and civil code as well as disciplinary actions taken by Nepal Bar Council.

Company and Corporation Law

Course Title: Company and Corporation Law	Full Marks: 50
Course No: Law 524	Pass Mark: 35%
Duration of the Course: One Year (62 hrs)	Level : LL.B.
Year: III	Nature: Compulsory

Course Objectives:-

The main objectives of this course are to provide the students with sound knowledge of:

- The Company Law including the historical aspects and legal principles.
- The nature, types, organization and functions of the public corporation.
- Some related Leading cases of Nepal

Contents in the Instructional Unit

I. Historical aspects of the law of company and corporation

1. Origin and development of public corporations and companies in general.
2. Origin and development of public corporations and companies in Nepal.

II. The basic legal principles of public corporations and companies:

1. The concept of incorporation of company or corporation as a legal person.
2. Basic characteristics of a company and a public corporation.

III. Nature and types of public corporations and companies:

1. Public Corporation with charter.
2. Public companies formed under Company Act, 2063.
3. Public Corporations formed under the Corporations Act, 2021.
4. Public Corporations formed under the Development Board Act, 2013.
5. Private Companies selling shares to a restricted number of shareholders.

6. Companies selling shares to the public.
7. Difference between private firms and the companies.
8. Public companies, private companies, public corporations, non-profit making companies and Government companies.

IV. Organizational Structure and Management of Companies

1. Pre-incorporation agreements
2. Company prospectus
3. Articles and Memorandum of Association
4. Certification of incorporation
5. Membership
6. Shares: Types, allotment and transfer
7. Debenture and stock
8. Board of directors: Functions, Powers, duties, and responsibilities.
9. Functions and responsibilities of the chief executive.
10. General Manager or manager
11. Delegation of authority from the board to the management.
12. Company secretary
13. Foreign Companies.
14. Corporate control and the different forms of control
15. Corporate meeting.
16. Winding up.
17. Suits and proceedings by and against companies and corporations.
18. Corporate liability
19. Social responsibilities of companies.
20. Workers participation in the management

V. Prescribed Cases

1. Bhuminanda Sharma Dawadi v HMG, 062/5/6, *Some Landmark Precedents of the Supreme Court on Commercial Law*, 1st, ed., (1959-2005), Supreme Court, 2006.
2. Khem Chandra Chaurasia v H.M.G. Dept. of Industries, *NKP* 2065/507.
3. Piyus Raj Panday v. Tax office Kathmandu, *NKP* 2040/901.
4. Prakash Bahadur Singh et.al, v Nepal Match co.et.al., *NKP* 2045/655.

5. Prakash Shrestha v HMG Nepal, NKP 2061/687.
6. Purusottam Acharya v. Boris and Restaurant Pvt. Ltd., **NKP** 2044/934.
7. Surya Narayan Das v Diary Development Corporation Head Office, Kathmandu, **NKP** 2045/419.
8. Sushilrani v Hotel Jaya International, **NKP** 2040/901.
9. Tarini Prasad Adhikari v. G.M. Surya Bahadur, **NKP** 2065/1093
10. Tej Raj Pant v. Board of Directors, Timber Corporation et.al. **NKP** 2044/895.

Relevant Laws of Nepal

1. Bank and Financial Institutions Act, 2063.
2. Company Act, 2063.
3. Corporations Act, 2021.
4. Insolvency Act, 2063.
5. Nepal Development Board Act, 2063.
6. Securities Exchange Act, 2063.

Reference Materials

1. **Gower's Principles of Modern Company Law**, Latest Edition, London.
2. Karki, Bharat B. (Dr. Prof.), **Teacher's Guide for the LL.B. Course on Company and Corporation Law**, Faculty of Law, T.U.
3. Neupane, Avtar, **Company Law** (Nepali version), Commercial Law Society, Kathmandu, (2063)
4. Sen, A.K., **Commercial Law**, Eighteenth Edition, The World Press Pvt. Ltd., Calcutta (1985)
5. Shiwakoti, S. & Shrestha, S. (ed.), **Company Cases and Supreme Court** (Gyangun Kanoon Academy), (Nepali version).
6. Shukla M.C., **Mercantile Law**. Latest Edition, New Delhi.
7. Singh Avatar, **Company Law**, Latest Edition, Delhi.
8. Uprety, B.R. **Company Law**, (Nepali version), Free deal, Kathmandu, 2064 (2007).
9. Uprety, B.R., **An Introduction of Insolvency Law (in Nepali)** FNCCI/CFG Project

Project Work / Internship

Course Title: Project Work/Internship	Full Marks: 50
Course No: Law 525	Pass Mark: 35%
Duration of the Course: One Year (62 hrs)	Level : LL.B.
Year: III	Nature: Compulsory

Course Objectives:-

- The subject has two different components. The students will have to take up one of the subject as permitted by Campus.
- The objective of the Project Work is to enable students to undertake a research on definite legal issues approved by the Campus.
- The objective of internship is to acquaint students with practical knowledge in any area of law through internship.

1. Project Work:

- In the final year of Bachelors of Laws, students will undertake a research on the topic approved by campus.
 - Student will firstly submit a proposal to the campus and the campus will thereafter appoint the guide for supervising the student.
 - The student should prepare the Project Work in close consultation with the guide.
 - Following requirements have to be met and followed by student and guide :
1. Subject selection: The student should select topic related to the subject passed in the first or second year
 2. Proposal: The proposal submitted by the student should also include the content and reference materials
 3. Guide: No guide will be appointed to any one who is not eligible to teach and hasn't been experienced at least five years in legal field.
 4. Supervision technique: The student will be in contact with the guide at least once every fifteen days to get the direction of the supervisor and get signature of the guide on these dates.

5. Recommendation of the guide: The guide should submit a recommendation by evaluating on the dedication, creativity, intellectual capability and originality of the student as well as on number of consultations with and compliance of instructions of the guide.
6. Evaluation: The guide will submit evaluation on the Project Work based on the level of creativity and originality.
7. Interview: A viva-voce examination will be conducted on 30 % full marks by a three member committee appointed by campus comprising of experts having at least six years of experience in legal field with eligibility to teach law.
8. An information will be communicated to guide if the students who has submitted the Project Work will be failed,

2. Internship:

The student will be placed before any reputed institution for Internship wherein the student will learn practical knowledge on topic approved by Campus. The student will submit a report of practical work on the recommendation of an institution for evaluation. The campus will conduct viva-voce on 30% full marks by a three member committee appointed by campus comprising of experts having at least six years of experience in legal field with eligibility to teach law.

Law of the Sea and International Rivers

Course Title : **Law of the Sea and
International Rivers**

Full Marks: 50

Course No: Law 526

Pass Mark: 35%

Duration of the Course: One Year (62 hrs)

Level : LL.B.

Year: III

Nature: Optional

Course Objectives

The objectives of the course are as follows:

- To introduce the students to the classical and modern concept of the laws of the sea and International rivers.
- To equip them with analytical perspectives of the subject matter
- To familiarize them with important features of the law of the sea.
- To acquaint the students with the evolution of the law of International rivers and their utilization for mutual benefits.
- To make the students aware of the global concern pertaining to preservation of environment and the resources of the sea for the generations to come.

I. Introduction

- Meaning, Nature and Scope of the Law of the Sea.
- Evolution of the Law of the Sea.
- Sources of the Law of the Sea.

II. Territorial Sea

- Legal status and breadth of territorial Sea.
- Baseline for measurement of the Territorial Water.
- Straits bays and gulf.
- Delimitation
- Right of innocent passage.

III. Contiguous Zone

- Concept and scope
- Breadth

IV. Continental Shelf

- Nature and the concept of continental shelf
- Delimitations
- Sea bed and ocean floor
- Rights of landlocked states

V. Economic Zone

- Concept and scope
- Delimitations
- Resources
- Rights and duties of coastal states vis-a-vis the landlocked and GDS in the Exclusive Economic Zone (EEZ)
- Legal status of the EEZ

VI. High Seas

- Concept and scope
- Freedom of the high seas
- Piracy

VII. Land-locked and Geographically Disadvantaged States

- Concept and nature of land-locked and geographically disadvantaged states
- Right of access of land-locked states to and from the sea and freedom of transit
- Rights of geographically disadvantaged states

VIII. International Sea Bed Authority

- Decline of common heritage of deep ocean resources
- Exploration and exploitation of deep ocean resources
- Power and functions of the International Sea Bed Authority
- Protection and preservation of the Marine Environment
- Settlement of disputes

IX. International Rivers

- Definition
- Historical background of International rivers.
- Rights and duties of Upper and lower riparian vis-a- vis down stream benefits and its practices.

- Rights and duties of co-riparian states.
- Principles of utilization of International rivers.
- Freedom of navigation in International rivers.
- Principle and practice in regard to pollution control.
- The European commission of the Danube.
- International joint commission.
- Barcelona Convention
- Bangkok Convention
- Helsinki rules on the uses of waters of International rivers.

X. Mutual co-operation in the field of rivers between Nepal and India

- Koshi
- Gandaki
- Mahakali
- International legal-regime of Asian and African rivers (Ganga, Niger, Nile, river Danube, Koshi)
- Role of UN in International rivers.

Prescribed Materials

1. Bhasin, A.S. (ed). *Documents on Nepal's Relation with India and China* (949-66), New Delhi, (1970)
2. Columbus, John C. *The International Law of the Sea*, London (Longmen), (1967)
3. Friedmann, W. *The Future of the Oceans*, New York, (1971)
4. Mangone, Gerald J. *Law of the World Ocean*, Calcutta, (1981)
5. Oda, Shigeru. *The Law of the Sea in Our Time* vol. 2 Leyden (1977)
6. Salman M.A. Salmon, et.al, *Conflict and Cooperation on South Asia's International Rivers* the World Bank (2002)
7. Starke. J.G. *Introduction to International Law*, Delhi (1988)
8. Subedi, S.P. *Dynamics of Foreign Policy and Law A Study of Indo-Nepal relations*, oxford (2002)
9. Upadhyaya, Lakshman , "Representation of Landlocked and Geographically Disadvantaged Countries in the Council of

- International Seabed Authority”, *Nepal Law Review*, Vol. 10 (1), (July 1987)
10. Upadhyaya, Lakshman, “Evolution of the concept of Continental Shelf and Law of the Sea”, *Nepal Law Review*, Vol. 9 (4), (April 1986)
 11. Upadhyaya, Lakshman, “Regional Cooperation in South Asia and Landlocked Nepal”, *Nepal Law Review*, Vol. 10 (3), (1987)
 12. Upadhyaya, Lakshman, “Views on Fishing Rights of Landlocked Countries in the EEZ under the new convention of Law of the Sea” (1982), *Nepal Law Review*, Vol. 9 (1), (July 1985)
 13. Upadhyaya, Lakshman. , “A Review of Doctrinal Foundation of the Right of Free Access to the Sea for Landlocked Countries”, *Nepal Law Review* Vol. 3 (2), (Oct. 1979)
 14. Upadhyaya, Lakshman. “Reflection on the Problems and Prospects of Landlocked Countries in International Law”, *Nepal Law Review*, Vol. 1 (3), (Oct-Dec, 1978)

Law of Banking and Negotiable Instruments

Course Title: Law of Banking and Negotiable Instruments	Full Marks: 50
Course No: Law 527	Pass Mark: 35%
Duration of the Course: One Year (62 hrs)	Level : LL.B.
Year: III	Nature: Optional

Course Objectives:

- To give comparative, clear and detailed knowledge of the Principles and practice of the law of banking and negotiable instruments in Nepal to the students.
- To acquaint the students with the role and functions of various kinds of Banks.
- To enable the students to have critical appreciation of leading cases relating to law of banking and negotiable instruments decided by the Supreme Court of Nepal.

1. Introductory

- 1) Origin, meaning and necessity of bank
- 2) Types of Banks
- 3) Importance of banking system
- 4) Historical background of banking system and banking law of Nepal

2. Law relating to Central Bank

- Establishment, composition, functions and powers of Nepal Rastra Bank

3. Law relating to commercial banks:

- Establishment, management and functions of Commercial banks
- Privileges and banking procedures of commercial banks

4. The Banker-Customer relationship

- 1) Possible relationships:
 - Bailor-bailee, Trustee-beneficiary, Agent-Principal, Debtor-creditor

- 2) Types of customer:
 - Individuals, minors, private firms, partnership firms, Companies and corporation, other body corporates, e.g., NGOs and INGOs
 - 3) Deposits and accounts of the customer:
 - Demand deposit and current account, saving deposit and account, Term deposit and account
 - Combining of accounts
 - Passbook and statements of account
5. **Duties of Banker**
 - 1) Duty to pay cheque
 - 2) The duty of secrecy and its exceptions
 6. **Bank Lending and Securities**
 - 1) Different methods of charging securities
 - Pledge, Hypothecation, Trust receipts, Assignments, Mortgage
 - 2) Different types of security and their perfection
 - 3) Goods and commodities, shares and debenture, insurance policies, bank deposits, national saving bonds, gold, immovable property, personal and corporate guarantee, promissory note, letter of comfort
 7. **Procedure of Recall and Recovery of Bank Loans**
 8. **Trade Finance**
 - Legal characters of demand guarantees
 - Basic features and fundamental principles of letter of credit
 9. **Law relating to negotiable instruments**
 10. **Law relating to Foreign Exchange Management**
 11. **Banking Offence and Punishment.**

Prescribed Cases:

1. Board of Directors, Nepal Bank Ltd. *et.al.* vs. Raghunath Agrawal, **NKP** 2044/998 (Auction)
2. Dal Bahadur Budha Magar vs. Nepal Bank Ltd., **NKP** 2048/50
3. G.M. Aananda Bhakta Rajbhandari *et.al.* vs. Ballav Shumsher J.B.R., **NKP** 2044/520 (Power of Board of Directors)
4. Gajendra man Pati vs. Maheshworman Shakya, **NKP** 2042/468 (Loan Recovery)
5. Indu Shrestha vs. Rastriya Banijya Bank, **NKP**, Vol..30, No.11, P.1214 (Recovery of Loan)
6. Karishma Impex vs. Rastriya Banijya Bank, **NKP** 2048/891
7. Keshav Kisi *et.al.* vs. International Leading and Finance Co.Ltd. **NKP** 2058/139
8. Nepal Leather Industry Pvt. Ltd. vs. Nepal Indo-sweez Bank Ltd., **NKP** 2052/978
9. Purusottam Marwadi vs Nepal Bank Ltd. Head office's behalf its Manager Ananda Bhakta Rajbhandari, **NKP** 2025/74-75 (liability of the Bank)
10. Rastriya Banijya Bank Janakpur Branch vs. Jhawarmal Goenka, **NKP** 2045/216
11. The Fulbari Ltd. vs. Nepal Rastra Bank *et.al.*, **NKP** 2064/1034
12. Uma Agrawal vs. Nepal Bank Ltd. Duhubi Branch *et.al.*, **NKP** 2046/868 (Security)

Prescribed Reading materials

1. Legal Texts (with amendments)

1. Bank and Financial Institutions Act, 2006
2. Bank and Financial Institutions Loan Recovery Act, 2001.
3. Bank and Financial Institutions Loan Recovery Rules, 2002
4. Banking Offence and Punishment Act, 2007
5. Foreign Exchange (Regulation) Act, 1961
6. Negotiable Instruments Act, 1977
7. Nepal Rastra Bank Act, 2001
8. Secured Transactions Act, 2006

2. Reference (Latest edition)

1. Ellinger E.P. & Lomnicka E., *Modern Banking Law*, Oxford, (1994.)
2. Gupta, S.N., *The Banking Law in Theory and Practice*, Universal.
3. Milnes, J. Holden, Pitman, *The Law and Practice of Banking*.
4. Narayan, P.S., *Law of Negotiable Instruments and Dishonour of Cheques*, Asia Law House.
5. *Paget's Law of Banking*, Butterworths.
6. Pennington, R.R. & Hudson, A.H. ME, *Commercial Banking Law*.
7. Regmi, Reshemraj, *Banking Law of Nepal*, Lumbini Pustak, Kathmandu, (2064)
8. *Sheldon's Practice and Law of Banking*.
9. Shiwakoti, S. & Shrestha, S. (ed.), *Leading Cases of Supreme Court on Banking*, Part 1 & 2, (Gyangun Kanoon Acamedy), (Nepali version).
10. *Tannan's Banking Law and Practice in India* - India Law House.

Private International Law

Course Title: **Private International Law**

Full Marks: 50

Course No: Law 528

Pass Mark: 35%

Duration of the Course: One Year (62 hrs)

Level : LL.B.

Year: III

Nature: Optional

Course Objectives:

- To impart the students the knowledge about various aspects of conflicts of laws.
- To acquaint the students with Laws and case law of Nepal of conflicts of laws.
- To expose the students to the practical aspects of the subject matter.

I. Introduction

- a. Meaning, nature, basis, sources and scope of Private International Law.
- b. Commonly used phrases and words
- c. Difference between public and private International law.
- d. Origin & Development of private International law.
- e. Recent trends
- f. Nepalese Experience on private International law.

II. Jurisdiction

- a. Meaning, basis and limitations of jurisdiction
- b. Jurisdiction of courts under different conventions
- c. Cause of action/ Lex cause
- d. Persons to whom jurisdiction applies
- e. Who can file suites
- f. Immunity from suites
- g. Jurisdiction: Immovable property
- h. Jurisdiction: in personam
- i. Jurisdiction: in rem
- j. When court will decline jurisdiction

III. Doctrine of renvoi

- a. Meaning of renvoi
- b. French and English theory of renvoi
- c. Partial and total renvoi

- d. Scope of the application of renvoi

IV. Exclusion of Foreign Law / Extra Territorial Application of Law

- a. Foreign Revenue Laws
- b. Foreign Penal laws
- c. Foreign Proprietary Legislation
- d. Foreign Laws Repugnant to Public Policy

V. Domicile

- a. Definition and general principles.
- b. Elements of domicile-intention and Residence
- c. Kinds of domicile-domicile of origin; domicile of choice; domicile of dependence/ dependents.
- d. Domicile of corporation.
- e. Domicile, Citizenship and residence

VI. Marriage, divorce and matrimonial Relief

- a. Nature of Marriage
- b. Formalities of marriage
- c. Capacity to marry
- d. Consent of Parties
- e. Polygamous marriage
- f. Divorce, nullity and judicial separation
- g. Legitimacy, Legitimizing and adoption
- h. Mental disorder

VII. Property

- a. Distinction between movable and immovable property
- b. Immovable and Law of the Situs rule
- c. Distinction between tangible and intangible movables
- d. Assignment of intangible movables
 - Debt
 - Negotiable instruments
 - Shares
- e. Succession

VIII. Foreign Judgments / Awards

- a. Rational and Principle of recognizing foreign judgments / Awards

- b. Direct enforcement
- c. Actionability of foreign judgments/awards
- d. Conclusiveness of foreign judgments/awards
- e. Defense
- f. New York Convention on Reorganization of Foreign Arbitral Awards, 1958

IX. Procedure

- a. Difference between substance and procedure
- b. Time and model of action
- c. Burden of proof and evidence
- d. Action and extent of remedy
- e. Execution

Prescribed Materials

1. North, P.M. *et. al.*, ***Cheshire and North's Private International Law***, Reed Elsevier (1999) Lexis Nexis Butterworths (First Indian Reprint 2004)
2. Getalvad, Atul., ***Conflict of Laws***, Lexus Nexus Butterworths (2007)

Reference Materials :

1. Bill of Exchange, 2034.
2. Diwan, Paras. ***Private International Law***, Deep and Deep Publications, Delhi, 1998.
3. Dicey & Morris, ***Conflict of laws***, 13th edition or latest edition
4. Evidence Act, 2031.
5. Foreign Exchange (Regulation) Act, 2019.
6. Graveson, R. *Conflict of Law*.
7. Income Tax Act, 2031.
8. Leading case, Published in Nepal Kanoon Patrika (such as Tung Shamsher JB Rana v. Indian Airlines).
9. Relevant Sections of the National Code of Nepal (Muluki Ain).
10. The Indian society of International Law, International Conference on Private International Law, 2-3 Dec. 2006, New Delhi ISIL (2006)
11. The Permanent Bureau of the Conference (edi), ***Hague Conference on Private International Law, Collection of Conventions*** (1951-1996)

Intellectual Property Law

Course Title: Intellectual Property Law	Full Marks: 50
Course No: Law 529	Pass Mark: 35%
Duration of the Course: One Year (62 hrs)	Level : LL.B.
Year: III	Nature: Optional

Course Objectives

- To impart the students knowledge of the meaning, kinds and sources of intellectual property law.
- To inculcate in them the understanding of the nature, kinds, ownership, transfer of ownership, fair use, infringement, remedies against infringement of copyright as provided in the laws of Nepal, USA, UK and India.
- To impart the students knowledge of the provisions of copyright and related rights provided by Berne Convention, TRIPS Agreements, Phonogram Convention, WIPO Copyright Treaty, and WIPO Performers and Phonogram Treaty.
- To acquaint the students with the nature and meaning of industrial property viz. trade mark, patent, industrial design, geographical indications, protection against unfair trade practices, trade secrets, etc.
- To enable the students to assess the benefits for Nepal from International Instruments dealing with intellectual property.
- Imparting of Knowledge of the above Course contents shall be carried out through Lecture, discussion, question-answer and problem solving methods of instructional techniques.

Unit I: Introduction, Importance, and sources of Intellectual Property Law:

1. Concept of Intellectual Property.
2. Importance of Intellectual Property.
3. Kinds of Intellectual Property:
 - a. Industrial Property
 - b. Copyright

4. Sources of Intellectual Property Law.
5. Historical Development of Intellectual Property in Nepal

Unit II: Meaning and Nature of different term of intellectual property and remedies against infringement of intellectual property rights:

1. Industrial Property

- i. Patent:** Meaning and nature of patent, term and ownership of patent, acquisition of patent right, infringement of patent right, remedies against infringement of patent.
 - ii. Trademark, Services marks:** Meaning and Nature of trade-mark, acquisition of trade-mark right, infringement of trade mark rights, remedies against infringement of trade-mark rights.
 - iii. Industrial design:** Meaning and nature of design, term and ownership of design, acquisition of design right, remedies against infringement of design right.
- 2. Copyright:** Nature and meaning of copyright, kinds of copyright, term and ownership of copyright, right conferred by copyright, infringement of copyright, remedies against infringement of copyright.

Unit III: International Conventions on Intellectual Property:

1. Paris Convention for the Protection of Industrial Property, 1883 (as revised in 1971).
2. Trademark Law Treaty, 1994.
3. Nice Agreement Concerning the International Classification of Goods and Services, 1957.
4. Berne Convention for the Protection of Literary and Artistic Works, 1886 (Paris Text 1971)
5. Hague Agreement Concerning the International Deposit of Industrial Designs, 1923.
6. Locarno Agreement Establishing International Classification of Industrial Designs, 1968.

7. Rome Convention, 1961.
8. Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS), 1994
9. World Intellectual Property Organization and its Role.

Unit V: Existing Legal Frameworks of Intellectual Property in Nepal

1. Harmonization of International norms of Intellectual Property in Nepalese Legal regime.
2. Provisions of Patent, Design and Trademarks Act, 1965 (with amendments).
3. Provisions of Foreign Investment and Technology Transfer Act, 1992 (with amendments).
4. Provisions of Electronic Transactions Act, 2006.
5. Consumer Protection Act, 1998.
6. Export-Import (Control) Act, 1957 (with amendments).
7. Copyright Act, 2002 (with amendments).
8. Foreign Exchange Regulation Act, 1974 (with amendments).

Unit VI: Institutional Mechanism in Nepal

1. Functions of Nepal Copyright Registrar's Office.
2. Functions of Nepal Copyright Protection Society.
3. Function of Music Royalty Collection Society-Nepal.
4. Functions of Computer Association of Nepal
5. Functions of Film Producer's Association
6. Functions of Film Development Board.

Reading materials

1. **Legal Texts (with amendments):**
 - a. Company Act, 2006
 - b. Consumer Protection Act, 1998
 - c. Copyright Act, 2002
 - d. Copyright Rule, 2004
 - e. Electronic Transaction Act, 2006
 - f. Export-Import (Control) Act, 1957
 - g. Foreign Exchange Regulation Act, 1974
 - h. Foreign Investment and Technology Transfer Act, 1992
 - i. Patent, Design and Copyright Act, 1965

2. Cases:

- a. Nurpratap Rana vs. Department of Industry Tripureshowar Kathmandu et.al. ***Some landmark Precedents of the Supreme Court on Commercial Law***, 1st. ed. (1959-2005), Supreme Court, 2006
- b. Suresh Chandra Agrawal vs. Department of Industry et.al., ***NKP*** 2049/791 S.C. decision no.4605

References

1. Chawla, Alka, ***Copyright and Related Rights: National and International Perspective***, Macmillan India Ltd., (First ed.), (2007)
2. Cornish, W.R., ***Intellectual Property***, Sweet and Maxwell, Universal Book Traders, Indian Reprint, New Delhi, (3rd ed), (1995)
3. Mukhia, Bal Bahadur Dr., "Role of Effectual CMO for Copyright Protection", ***Nyayadoot***, English Special Issue, Year 38, No.171, Vol-6, Nepal Bar Association, Kathmandu, Nepal, (2008)
4. Mukhia, Bal Bahadur Dr., "The Role of Intellectual Property in Economic Progress and Issues in Nepal", ***Nyayadoot***, Nepal Bar Association, Kathmandu, Nepal, (2007)
5. Mukhia, Bal Bahadur, ***An Inquiry Into the Legislation of Intellectual Property and Teaching of IP in Nepal*** (Research), University Grants Commission, Kathmandu, Nepal, (1997)
6. Mukhia, Bal Bahadur, ***Legal Aspects of Incorporated Property Rights with Special Reference to Industrial Property in Nepal***, (Research), Faculty of Law, Tribhuvan University, (2001)
7. Narayan, P., ***Intellectual Property***, Eastern Law House, New Delhi, (3rd ed), (1990)
8. Sangal, P.S., ***Intellectual Property Law***, R.K. Naroola, New Delhi, (1994)
9. Shahalia, Manu, Luv, ***Perspective in Intellectual Property Law***, Universal Law Publishing Co.P.Ltd., (2003)
10. Sople, V.V., ***Managing Intellectual Property and the Strategic Imperative***, Prentice Hall of India P.Ltd., New Delhi, (2006)
11. Wadehra, B.L., ***Law Relating to Patents, Trademarks, Copyrights, Designs and Geographical Indications***, Universal Law Publishing Co. P. Ltd., India, (2nd ed), (2000)

Population Law

Course Title: **Population Law**

Full Marks: 50

Course No: Law 530

Pass Mark: 35%

Duration of the Course: One Year (62 hrs)

Level : LL.B.

Year: III

Nature: Optional

Course Objectives

- The objective of the course is to make students familiar with definition, scope and basic concept of Population and laws related to it
- The course aims to develop the students knowledge and understanding about the population situation of Nepal and quality of life issues.
- To make students aware of the laws that impact population growth such as law and policy on Birth, Death, Migration, Marriage, Social Structure of Population etc.
- To inform about legal interventions for solving population related issues.
- To study about the law as an instrument for management of population.

I. Introduction

- Meaning, Scope and Definition of Population Law
- Demography of Nepal (Size, Composition, Distribution, desegregated situation, socio-culture- religious context of Nepal)
- Importance of study on Population Law

II. Census Law

- Law relating to census, survey and vital registration

III. Basic Demographic Components and Law Related there to

- Laws on Citizenship
- Laws Relating to Registration of birth and deaths
- Laws on Migration (Concept of Migration & mobility, Types.

- Permanent, Semi- Permanent temporary & seasonal)
- Causes & consequences of Migration.
- Immigration & Emigration, free border and Treaty of Peace and Friendship with India

IV. Family Law and Population

- Law on Marriage, Divorce and Judicial Separation
- Joint Family and Population
- Adoption Law

V. Major Factors that are Directly Related to Population (Urbanization)

- Urbanization and Population Growth
- Religion and Population Growth
- Culture and Population Growth

VI. Population and Human Rights Issues

- Concept of Human Rights and its Correlation with Population
- Women's Reproductive Right (including fertility) as a Fundamental Right
- Right to Basic Health Service as a Fundamental Right
- Family Planning Laws of Nepal
- Child Rights
- Equality and Gender Discriminations

VII. Criminal Offences and Penology

- Reproductive health related offences and its impact on fertility (Infanticide, Rape, Bigamy, Incest, Adultery, Prostitution, Homosexuality, Third Sex)
- Law relating to contraception and Abortion in Nepal
- Law relating to religion and its impact on fertility

VIII. Institutional Arrangement for Population Management

- Central Bureau of Statistics
- Ministry of Population and its Functions

Text Books

1. Acharaya, Dilli Raj, "***Law of Population***", Pairavi Publication
2. Kafle, Balaram, "***Law and Population of Nepal***", Legal Service and Research Center, Kathmandu,

Reference

1. Gurung, Harkha, Dr. (Coordinated), ***Main Report of Domestic and International Migration an Educational Group Studies on Migration***, National Population Commission, (2040)
2. ***Introduction of Population and Law***, Secretariat of Population Commission, SinghaDurbar Kathmandu.
3. ***Population Monograph of Nepal***, Vol. I& II, Central Bureau of Statistics, Katmandu, (2003.)
4. Tandon, Usha "***Population Law : An Instrument for Population Stabilization***". New Delhi, Deep and Deep, (2003)
5. ***Women of the World:Laws and Policies Affecting Their Reproductive Lives***, South Asia Pub, CRR Newyork (2004)

Victimology

Course Title: **Victimology**

Full Marks: 50

Course No: Law 531

Pass Mark: 35%

Duration of the Course: One Year (62 hrs)

Level : LL.B.

Year: III

Nature: Optional

Course Objectives:-

1. To impart the knowledge about various aspects of Victimology to the students.
2. To acquaint the students with the rights of Victims.
3. To provide knowledge about recent trends of Criminal law and the role of Victim.
4. To acquaint the students about the major problems and issues facing by the Nepalese Law regarding to Victimology.
5. To impart the knowledge about Truth Commission.
6. To acquaint the students about concept and impact of impunity in the society.
7. To enable the students to understand some landmark decisions regarding to victim justice and victim rights decided by the Supreme Court of Nepal.

Unit 1: Conceptual Development of Victimology

- 1.1. Meaning and Definition of the Term 'Victimology'
- 1.2. Evolution and Conceptual Development of Victimology
- 1.3. Conceptual Evolution of 'Victim Justice System'
- 1.4. Victimological Development in Nepal

Unit 2: Meaning and Definition of Crime Victims

- 2.1. Meaning and Definition of Crime Victims
- 2.2. Classifications of Crime Victim

Unit 3: Rights and Role of Victim

- 3.1. Rights of Victims
- 3.2. Role of Victim in Criminal Justice System

- 3.3. Victim Witness Assistance
- 3.4. Victim Support Management

Unit 4: The Conceptual Evolution of Victim Justice System

- 4.1. Restorative Justice
- 4.2. Victim Justice System

Unit 5: State Liabilities towards Victims

- 5.1. Role of Office of the Government Attorney, Nepal Police and victims related to Governmental and Non-governmental Organizations towards Victims
- 5.2. Role of State to Enact Compensatory Legal Provisions
- 5.3. Role of State to Provide Victim Supports

Unit 6: Nepalese Perspectives on the Victims and the Rights of Victims

- 5.1. Constitutional Provisions
- 5.2. Statutory Provisions

Unit 7: Concept of Truth Commission and its Feasibility in Nepal

- 7.1. Concept of Truth Commission
- 7.2. Feasibility of Truth Commission in Nepal

Unit 8: Concept and Impact of Impunity

- 8.1. Concept of Impunity
- 8.2. Impact of Impunity in Nepal as well as in Criminal Justice System

Leading cases:

- 1. Bhim Bahadur Oli Vs. HMG, Writ 3394/061, D.D.2062/10/18 (unpublished)
- 2. Budhi Bahadur Praja Vs. HMG, Writ 3448/063, D.D.2065/1/30 (unpublished)
- 3. HMG Vs. Ansail Miya, Cr. Appeal No 34422.062, D.D.2064/1/14 (unpublished)

4. HMG Vs. Jugta Sada, Cr. Appeal No 2291.057, D.D.2062/12/7 (unpublished)
5. Jagdish Thapa Vs. HMG, Writ 3326/063, D.D.2065/1/30 (unpublished)
6. Krishna Bahadur Lama Vs. HMG, C.No.5257, D.D.2061/9/6 (unpublished)
7. Rabindra Prasad Dhakal (on behalf of Rajendra Pd. Dhakal) Vs. HMG, **NKP** 2064 (**Disappeared Person**) Habeas Corpus No. 2, D.No. 7817, p.179
8. Reshma Thapa Vs. HMG, **NKP** 2062 No. 2 p.205
9. Shanti Bishwakarma Vs. HMG, **NKP** 2061, No. 6 p.769

READING MATERIALS

Prescribed

1. FORID, **Dandahinta-Aabadharana, Samasya Ra Nidhan** (in Nepali), Kathmandu, Forum for Human Rights and Democracy (2064)
2. FORID, **Dandahinata Birudda Bikasit Antarasriya Dastabejharu** (in Nepali), Kathmandu, Forum for Human Rights and Democracy (2064)
3. FORID, **Dandapidit Ra Nyaye** (in Nepali), Kathmandu, Forum for Human Rights and Democracy (2064)
4. Rajan, V. N., **Victimology in India**. India: Ashish Publishing House. (2001)
5. Shrestha, Dr. Shanker Kumar, **A Step towards Victim Justice System**. Kathmandu: Pairavi Prakashan, (2001 AD).
6. Shrestha, Dr. Shanker Kumar. **Victims Jurisprudence**, (Nepali vernacular). Kathmandu: Pairavi Prakashan, (2062 B.S.)
7. Spalek, Basia **Crime Victim- Theory, Policy and Practice**. New York: Palgrave Macmillan, (2004)
8. The Compensation against Torture Act, 2053 BS
9. The Food Act, 2049 BS
10. The Foreign Employment Act, 2065 BS
11. The Gender Equality Act, 2063 BS
12. The Human Rights Commission Act, 2053 BS
13. The Human Trafficking and Transportation (Control) Act, 2064 BS
14. The Interim Constitution of Nepal, 2063 BS

15. The Muluki Ain, 2020 BS
16. The Proposed Draft of Criminal Code and Criminal Procedure Code, 2058/59
17. The State Cases Act, 2049 BS
18. The Vehicle and Transportation Management Act, 2049 BS

References/Recommended

1. *A Statement of the Rights of Victims of Crime, 1991*
2. *Annual Reports of Supreme Court of Nepal and Office of Attorney General of Nepal.*
3. *Attorney General Guidelines for Victims and Witness Assistance, US Department of Justice, May 2005*
4. Das, Bharat B. *Victims in the Criminal Justice System*. India: APH Publishing Corporation.
5. *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 1985*
6. Devasia, V. V. and Devasia, Leelamma, *Criminology, Victimology and Corrections*. India: Ashis Publishing House.
7. Elias, Robert, *The Politics of Victimization - Victims, Victimology and Human Rights*. New York: Oxford University Press.
8. Singh, S. P., Makkar and Paul C., *Global Perspectives in Victimology*.
9. *The Rome Statute of ICC, 1998*
10. *UN Declaration of Human Rights, 1948*
11. Viano, Ed. Emilio. *Victims' Rights and Legal References-International Perspectives*. USA: The Onati International Institute for the Sociology of Law.
12. William, F. McDonald. *Criminal Justice and Victim*. London: Sage Publications.
13. William, H. Parsonage. *Perspectives of Victimology*. London: Sage Publication.

Clinical Law

Course Title: **Clinical Law**

Course No: Law 532

Duration of the Course: One Year (62 hrs)

Year: III

Full Marks: 50

Pass Mark: 35%

Level : LL.B.

Nature: Optional

Course Objectives

The main objectives of Clinical Law Course are to:

- acquaint the students with the practical skills of the lawyering generally and advocacy in particular
- enable the students to develop a sense of social and professional responsibility
- familiarize with the norms of professional and working ethics
- appreciate the alternative mode of lawyering.

Course description and Evaluation

The course is designed generally to give practical training on law to students in the Campus, field or mobile clinic. Students may also be assigned a placement training at specified places or institutions. The course covers a wide range of activities which include working on real client problems, legal aid clinic, legislative drafting, law reform exercises and projects directed towards legal awareness, legal counseling, legal writing and research, law enforcement, public interest litigation and para-legal training. As part of the course, it may offer free legal service for women, dalit and other deprived and weak community involving students under the supervision of teachers in areas related to litigation related services and other legal services. This course shall be conducted by assigned teacher having at least ten years of professional experience. The Campus Chief In Charge of Law or any other senior and experienced teacher designated by Campus Chief or in charge of law will be the Coordinator who is responsible to carry out the programme in accordance with the instruction of the Faculty of Law, Tribhuvan University. A course outline and the number of students admitted in each academic session in this course will be announced by the Campus. A report of the works and experience of students will have to be submitted by students within the prescribed date at the end of academic session. This course carries 50 marks out of which 25 marks will be assessed by supervising teacher or institution and remaining 25 marks will be evaluated in viva-voce conducted by Campus.

Cyber Law

Course Title: **Cyber Law**

Full Marks: 50

Course No: Law 533

Pass Mark: 35%

Duration of the Course: One Year (62 hrs)

Level : LL.B.

Year: III

Nature: Optional

Course objectives

- To impart to the students knowledge of origin, development and jurisdiction of cyber law.
- To inculcate to students about the aspect of information and communication technology, computers and network systems, internet and virtual world, internet service providers, electronic data interchange, public key infrastructure and electronic/digital signature.
- To acquaint them with the meaning and nature of e-commerce, contract in cyberspace, digital contracts, provisions of UNCITRAL Model Laws on E-commerce, 1996.
- To impart to students concept of intellectual property rights, copyright in computer software, patenting software application, trademarks and domain names, law relating to semi-conductor layout and designs.
- To inculcate them the provision of Electronic Transaction Act, 2006 (2063 B.S.) and other relevant provisions of Nepalese law.
- To impart them about nature, scope and types of cyber crime.
- To enable the students to assess the challenges of cyberspace and benefits of ICT.
- Such knowledge will be transpired to the students through lecture, classroom, problem-solving, question answer method in order to promote their knowledge, comprehension and their capacity in the application of learnt knowledge and skill.

Unit I: Introduction, Origin and Development of Cyber Law

1. Evolution, Meaning and Nature of Cyber Law.
2. Relation of Law and Technology.
3. Aspects of Information and Communication Technology

- a. Computer and network systems
- b. Internet and Virtual World
 - i. World Wide Web
 - ii. Internet Protocol
 - iii. Internet Service Provider (ISP)
 - iv. Electronic Data Interchange (EDI)
 - v. Public Key Infrastructure and Electronic/
Digital Signature
4. Need and scope of the study of Cyber Jurisprudence
5. Judicial Control and Jurisdiction of Cyber Space
 - a. Jurisdiction over cyberspace
 - b. Internet Jurisdiction: Choice of Law
6. Internet Regulation; Content Regulation and its Authority
7. Issues and Challenges of Cyber Jurisprudence

Unit II: Intellectual Property Rights, Computer Software and Cyberspace

1. The concept of Intellectual Property rights.
2. Copyrights in Computer Software
3. Patenting software applications
4. Trademarks and domain names
5. Law relating to Semi-conductor, layout and designs
6. Cyber Property and Internet

Unit III: E-Commerce and Legal Issues

1. Meaning, Nature and Areas of E-commerce
2. Digital Signature/Electronic Signature and Certifying Authority
3. Creation and Authentication of Electronic Records
4. Digital and Online Contracts
5. Data Protection and Privacy
6. Legal Issues of digital/electronic signature
7. Consumer Protection in E-Commerce
8. UNCITRAL Model Law on E-commerce 1996

Unit IV: Cyber Crime

1. Essential Elements of Crime

2. Concept of Cyber Crime, Nature of cyber criminality
3. Types of Cyber Crime
 - i. Based on Role of Computer
 - ii. Based on perpetrators
 - iii. Based on Victims
 - a. Crime affecting individual: Infringement of privacy, identity, theft, cyber stalking, etc.
 - b. Crimes affecting economy: hacking, virus planting, other malicious programs, computer sabotage and extortion, online fraud, forgery, counterfeiting, espionage, software piracy and other copyright violations.
 - iv. Based on Contents:
 - a. Racial and other hatred propaganda
 - b. Child Pornography
4. Investigation in Cyber Crime
 - i. Investigation Authority & its power
 - ii. Problems in Investigation
 - iii. Liability of Internet Service Provider
5. Jurisdiction of IT Tribunal and IT Appellate Tribunal
6. European Convention on Cyber Crime 2001.

Unit V: Existing Provisions of Cyber Law, relevant laws and policies in Nepal

1. Provisions of Electronic Transactions Act, 2006.
2. Related Provisions of Copyright Act, 2002 (with amendments).
3. Provisions of Patent, Design and Trademark Act, 1965 (with amendments)
4. Related provisions of Competition Promotion and Market Protection Act, 2006 (2063).
5. Information Technologies Policies 2000
6. Long Term Policies on Information and Communication 2002

Unit VI: Institutional Mechanism in Nepal:

1. Functions of Office of Controller of Certifying Authority, Ministry of Environment, Science and Technology.

2. Functions of Nepal Copyright Protection Society.
3. National Information Technology Center
4. High-Level Commission for Information Technology (HLCIT).
5. Function of Computer Association of Nepal

Reading Materials

1. Statutes (with amendments)

- 1) Company Act, 2006
- 2) Computer Misuse Act, UK
- 3) Data Protection Act, UK
- 4) Digital Millennium Copyright Act, 2000, USA
- 5) Electronic Signature in Global and National Commerce Act, 2000, USA
- 6) Export-Import (Control) Act, 1957
- 7) Foreign Investment and Technology Transfer Act, 1992
- 8) Information Technology Act, 2000, India
- 9) Patent, Design and Copyright Act, 1965
- 10) The Copyright Act, 2002
- 11) The Electronic Transaction Act, 2006
- 12) The Telecommunication Act, 1997

2. International Conventions and Model Laws

- 1) European Conventions on Cyber Crime, 2001
- 2) WIPO Copyright Treaty, 1997
- 3) UNCITRAL Model Law on Electronic Commerce, 1996
- 4) United Nations Convention on the Use of Electronic Communications in International Contracts, 1998

3. Text books

- 1) Cornish, W.R., *Intellectual Property* Sweet and Maxwell, Universal Book Traders, Indian Reprint, New Delhi (3rd ed), (1995)
- 2) Kumar, Krishna, *Cyber Law: Intellectual Property and E-Commerce Security*, Dominant Publishers & Distributors, Delhi, India, (2001)

- 3) Lloyd, Ian J, ***Information Technology Law***, Oxford University Press, (4th ed) (2004)
- 4) Nandan, Kamatha, ***Law Relating to Computers, Internet, E-Commerce***, Universal Law Publishing Co. Ltd., India, (2002)
- 5) Narayan, P., ***Intellectual Property***, Eastern Law House, New Delhi, (2nd ed) (1990)
- 6) Rao, S.V. Joga, ***Law of Cyber Crimes and Information Technology Law*** Wadhawa and Companies, Nagpur, (1st ed), (2004)
- 7) Reed, Chris, ***Internet Law: Text and Materials*** Butterworths, (1st ed) (2000)
- 8) Reiter, Bumenfeld and Boulding, ***Internet Law for the Business Lawyer***, American Bar Association, U.S.A, (2001)
- 9) Rider, Rodney D., ***Guide to Cyber Laws (Information Technology Act, 2000, E-Commerce, Data Protection and The Internet*** Wadhawa and Companies, Nagpur, (2nd ed) (2003)
- 10) Sood, Vivek, ***Cyber Law Simplified*** Tata McGraw-Hill Publishing Company Limited, (Second reprint), (2003)
- 11) Verma, S.K. and Mittal, Raman (ed), ***Legal Dimensions of Cyberspace*** Indian Law Institute, (1st ed), (2004)

4. References

1. Adhikari, Pravakar, “Emergence of IT & Need of Cyber Law and its Impact on IPR”, ***Nepal Law Review***. Vol. No. 1 & 2, (2004)
2. Adhikari, Pravakar, “Legislative Challenge in Nepalese Telecom Sector: Problems and Prospects”, ***Nepal Law Review*** Vol. 19, No. 1 & 2, (2006)
3. Bainbridge, David I., ***Introduction to Computer Law*** Pearson education, (4th ed.), (2000)
4. Ballon, Leviadwong (ed.), ***Seventh Annual Internet Law Institute***, Vols. I & II, Practicing Law Institute, New York, (2003)
5. Edwards and Waelde(ed.), ***Law and the Internet-a framework for electronic commerce***, HART Publishing, (2nd ed.) (2000)

6. Kalakota and Whinston, *Frontiers of Electronic Commerce* Pearson Education, (12th Indian Reprint), (2004.)
7. Kumar, G.Ram, *Cyber Crimes-a primer on Internet threats and Email abuses*, Viva Books Private Limited, (1st ed.) (2006)
8. Lawrence, Penelope, *Law on the Internet-A practical guide* Sweet and Maxwell, (1st ed.), (2000)
9. Mukhia, Bal Bahadur, *Legal Aspects of Incorporeal Property Rights with Special Reference to Industrial Property in Nepal*, (Research), Faculty of Law, Tribhuvan University, (2001)
10. Mukhia, Bal Bahadur Dr., *"The Role of Intellectual Property in Economic Progress and Issues in Nepal"*, Nyayadoot, Nepal Bar Association, Kathmandu, Nepal, (2007)
11. Mukhia, Bal Bahadur, *"An Inquiry Into the Legislation of Intellectual Property and Teaching of IP in Nepal"* (Research), University Grants Commission, Kathmandu, Nepal, (1997)
12. Mukhia, Bal Bahadur, *Role of Law for Strengthening ICT in Nepal*, Annual Survey of Nepalese Law, Vol.V, Nepal Bar Council, (2001)
13. Rao, S.V Joga, *Computer Contracts and Information Technology Law* Wadhwa and Companies, Nagpur, (2nd ed), (2005)
14. Rider, Rodney D., *Intellectual Property and the Internet* Butterwoths, (1st ed.), (2002)
15. Rider, Rodney D., Rider, *Business Process Outsourcing, Data Protection and Information Security*, Wadhwa and Company, (1st ed.) (2007)
16. Rosenoer, Jonathon, *Cyber Law, The law of the Internet* Springer-Verlag, (1st ed), (1997)
17. Rowland and Macdonald, *Information Technology Law*, Cavendish Publishing Limited, (3rd ed), (2005)
18. Singh, Yatindra Justice, *Cyber Law* Universal Law Publishing Company Private Limited, (2nd ed.), (2005)