

Rajarshi Janak University
Faculty of Humanities and Law
Janakpurdham, Dhanusa, Nepal
Course Structure -2082 B.S (2025 A.D)
Three Year LL. B Programme

1. Introduction

Rajarshi Janak University (RJU) is the public university, was founded on the month of October in the year 2017 in Janakpur, Danusha District. Rajarshi Janak University has been running the 10 Semester Bachelor of Arts and Bachelor in Law (B.A LL. B) Integrated program. The curriculum of the ten semesters encompasses the Humanities and Social Sciences subjects' i.e. Political Science, Sociology, History, Economics, Legal English, Legal Nepali, and Law subjects. Law subjects comprise Criminal Law, International Law, Commercial Law (Corporate Law, Banking Law, and Company Law), Property Law, Intellectual Property Law, Law of Contract, Family Law, and Environmental Law and so on.

Rajarshi Janak University proudly announces the curriculum for 3 years LL.B. yearly programme. Course cycle has been divided into compulsory and elective subjects in each year. Total programme consists of eighteen compulsory subjects and six elective subjects. There are five elective area. The elective area is: Criminal Law, Business Law, Environmental Law, International Law, and Constitutional Law. University or Collages can invite international or national resource persons and can conduct a portion of this course though such resource persons. The mode of such teaching-learning process can be hybrid that is online as well as physical.

2. Course Objectives

The LL.B. programme of Rajarshi Janak University aims to develop competent legal professionals with sound theoretical knowledge, practical skills, and ethical values required for the legal profession. The course is designed to provide a comprehensive understanding of national and international laws, legal institutions, and procedures while fostering critical thinking, research ability, advocacy skills, and social responsibility. Through a balanced

combination of compulsory and elective subjects, practical training, and interdisciplinary learning, the programme prepares students for legal practice, judicial services, academic, public service, and other law-related careers in Nepal and beyond.

3. Admission Criteria

An applicant seeking admission to the LL.B. programme must have successfully completed a Bachelor's degree or an equivalent qualification from a recognized university or Board of Education. For this purpose, a Bachelor's degree shall be understood as the completion of formal education under the 10+2 or +3 and + at least 3 years bachelor degree pass in any discipline or an equivalent program).

4. Course Cycle

This LL. B programme runs in a yearly cycle. Course cycle has been divided into compulsory and elective subjects in each year. Total programme consists of eighteen compulsory subjects and six elective subjects. Full marks of the programme are 1700, out of which first year consists of 600 marks, second year consists of 650 marks, and third year consists of 450 marks.

5. Evaluation Scheme

The subjects which have been divided in first, second and third years. This yearly program will evaluate in percentage system.

Schemes	Total weightage
<u>Internal evaluation</u> <ul style="list-style-type: none">Assignments, project works, learning summary, participationMid-term exams	<u>40 per cent</u> 20% 20%
External evaluation (End-term exams)	60 per cent
	Pass Mark 50% (percentage system)

6. Evaluation Methods/ Components

In-course Evaluation (Assignments and Projects)	Mid-term and End-Course Exams
a) Unit Assignments/Projects/ b) Reviews & Discussions on Issues c) Case Study/ Situation Analysis d) Participation in Interactions with the Tutor & Quizzes e) Other Assignments	a) Descriptive/ Long Answer Questions b) Short Answer Questions

7. LL. B First Year

In first year of the LL. B programme, students are required to undertake five compulsory subjects (each consisting of 100 Full Marks), and two elective subjects (each consisting of 50 Full Marks) from the five area viz. Criminal Law Group, Business Law Group, Environmental Law Group, International Law Group, and Constitutional Law Group. Altogether students are required to intake seven subjects in first year. Total marks of the first year are six hundred. It has been divided as follows:

Course Code No	Course Title	Nature of Course	Full Marks	Period Per Year	Credit Hour
Law 301	Jurisprudence & Legal Theory	Compulsory	100	125	6
Law 302	Substantive Criminal Law	Compulsory	100	125	6
Law 303	Constitutional Law	Compulsory	100	125	6
Law 304	Public International Law	Compulsory	100	125	6
Law 305	Procedural Law (Civil & Criminal)	Compulsory	100	125	6

Elective-Group					
Law 306	Criminal Law-I (Criminology & Penology)	Elective	50	62	3
Law 307	Criminal Law-II (Law Against Organized Crime)	Elective	50	62	3
Law 308	Business Law-I (Intellectual Property Law)	Elective	50	62	3
Law 309	Business Law-II (International Trade Law)	Elective	50	62	3
Law 310	Environmental Law-I (Conservation Law)	Elective	50	62	3
Law 311	Environmental Law-II (Climate Change Law)	Elective	50	62	3
Law 312	International Law-I (International Humanitarian Law)	Elective	50	62	3
Law 313	International Law-II (International Refugee Law)	Elective	50	62	3
Law 314	Constitutional Law-I (Media Law)	Elective	50	62	3
Law 315	Constitutional law-II (Civil Rights Litigation)	Elective	50	62	3
	Total		600 Marks		36

8. LL. B Second Year

In second year of the LL. B programme, scholars are required to undertake seven compulsory subjects (out of which four subjects consisting of 100 Full Marks, and three compulsory subject consists of 50 full Marks), and two elective subjects (each consisting of 50 Full Marks) from the five area, viz. Criminal Law Group, Business Law Group, Environmental Law Group, International Law Group, and Constitutional Law Group. Altogether scholars are required to

intake nine subjects in second year. Total marks of the second year are six hundred. It has been divided as follow

Course Code No.	Course Title	Nature of Course	Full Marks	Period Per Year	Credit Hours
Law 401	Civil Code & Criminal Code	Compulsory	100	125	6
Law 402	Contract Law	Compulsory	100	125	6
Law 403	Drafting, Pleading & Conveyancing	Compulsory (Practical)	100	125	6
Law 404	Moot Court, Pre-Trial, Proceeding, Preparation & Participation in Trial Proceeding	Compulsory (Practical)	100	125	6
Law 405	Company Law	Compulsory	50	62	3
Law 406	Legal Research	Compulsory (Practical)	50	62	3
Law 407	Evidence Law	Compulsory	50	62	3
Elective- Group					
Law 408	Criminal Law-III (Forensic Jurisprudence)	Elective	50	62	3
Law 409	Criminal Law-IV (Victimology)	Elective	50	62	3
Law 410	Business Law-III (Taxation Law)	Elective	50	62	3
Law 411	Business Law-IV (Fiscal Law)	Elective	50	62	3
Law 412	Environmental Law-III (Natural Resource Law)	Elective	50	62	3
Law 413	Environmental -IV (Environmental)	Elective	50	62	3

	Law)				
Law 414	International Law-III (Laws of Seas & Intranational Rivers)	Elective	50	62	3
Law 415	International Law-IV (International Human Rights Law)	Elective	50	62	3
Law 416	Constitutional Law-III (Electoral Law)	Elective	50	62	3
Law 417	Constitutional Law-IV (Administrative Law)	Elective	50	62	3
	Total		650 Marks		39

9. LL. B Third Year

In third year of the LL. B programme, scholars are required to undertake six compulsory subjects (out of which one subject consists of 100 Full Marks, and remaining five subjects consists of 50 Full Marks), and two elective subjects (each consisting of 50 Full Marks) from the five area, viz. Criminal Law Group, Business Law Group, Environmental Law Group, International Law Group, and Constitutional Law Group. Altogether scholars are required to intake eight subjects in total in third year. Total marks of the third year are four hundred and fifty. It has been divided as follows:

Course Code No.	Course Title	Nature of Course	Full Marks	Period Per Year	Credit Hour
Law 501	Modern Nepalese Legal System	Compulsory	100	125	6
Law 502	Code of Conduct	Compulsory	50	62	3
Law 503	Public Interest Lawyering- Legal & Para Legal Service	Compulsory (Practical)	50	62	3

Law 504	Interpretation of Statute	Compulsory	50	62	3
Law 505	Health Law	Compulsory	50	62	3
Law 506	Seminar (Thesis Writing)	Compulsory (Practical)	50	62	3
Elective- Group					3
Law 507	Criminal Law-V (Cyber Crime & Artificial Intelligence)	Elective	50	62	3
Law 508	Criminal Law-VI (Sports Crime Law)	Elective	50	62	3
Law 509	Business Law-V (Insurance Law)	Elective	50	62	3
Law 510	Business Law-VI (Banking Law)	Elective	50	62	3
Law 511	Environmental Law-V (Hazardous Waste Management Law)	Elective	50	62	3
Law 512	Environmental Law-VI (Sustainable Development Law)	Elective	50	62	3
Law 513	International Law-V (Private International Law)	Elective	50	62	3
Law 514	International Law-VI (Settlement of International Disputes)	Elective	50	62	3
Law 515	Constitutional Law-V (Laws on Equity, Tort & Consumer Protection)	Elective	50	62	3
Law 516	Constitutional Law-VI (Laws on Good Governance & Public Policy)	Elective	50	62	3
	Total		450 Marks		27

Rajarshi Janak University

Faculty of Humanities and Law

Curriculum for

Bachelor of Laws (Legum Baccalaureus) (LL. B)

Course: Jurisprudence and Legal Theory

Duration of the Course: 125 Hours

FM: 100

Course Code: 301

PM: 50

Nature: Compulsory

Year: First Year

COURSE DESCRIPTION

This course is designed to acquaint students with the fundamental knowledge and concept of jurisprudence and legal theory as science of law and justice. It imparts students with critical knowledge on legal philosophy, thoughts, skills, techniques and methods relating to jurisprudence and legal theory. Legal system of the human world and particular nation state is rooted within the conception of just and unjust or good and bad. Here in legal discipline, jurisprudence and legal theory enables the students with juristic knowledge, process and methods to quest and establish and determine the just and unjust or rationality and validity of governing techniques and tools such as constitution, legislation and so on. Various aspects and elements are functioning to establish the criteria of just and unjust are becoming the scope of jurisprudence and legal theory. Hence, it is designed to enable the learner to consult, analyze and understand overall aspects and process which pose and influence the law and justice. To enhance and equip such skills and technique, this course offers basic conceptions as detail throughout this course. This course of jurisprudence and legal theory enables the learner to possess philosophy of law, fundamental knowledge, ideas, concepts and skills as well as methods of legal science, thought and techniques.

LEARNING OUTCOMES

At the end of the course, learners will be competent to:

- Understand and generalize the basic conception such as meaning and defining jurisprudence, aspect, nature and values of jurisprudence and legal theory in the governing process.
- Participate, consult and deal with the various aspects of legal philosophy, schools of legal thoughts including techniques, methods and contents of the schools of jurisprudence and legal theory.
- Develop students' knowledge, skills, and competencies to deal, generalize, rationalize and examine the legal thought and reasoning and its process.

- Enable learners to understand the basic methods, techniques and skills in thoughts, reasoning and process of logics in law pursuing disciplinary, critical and multidisciplinary approaches.
- Explain and discuss the various aspects of legality, rationality, authority of law and legal system.
- Understanding and utilizing the jurisprudence and legal theory in practice through legislative and judicial process.
- Prepare learners to response and deal with the unique and novel issues of present and future.
- Analyzing, critiquing and reasoning skills and ability.

COURSE CONTENTS

Unit I: Introduction to Jurisprudence (8 hrs.)

- 1.1 Meaning and definition of jurisprudence
- 1.2 Schools of Jurisprudence
- 1.3 Methods of Jurisprudence
- 1.4. Nature and scope of Jurisprudence
- 1.5 Importance and Application of Jurisprudence

Unit II: Meaning and Sources of Law (12 hrs.)

- 2.1 Meaning and definition of Law
- 2.2 Kinds of Law
- 2.3 Schools of Jurisprudence and Nature of Law
- 2.4 Sources of Law
 - 2.4.1. Constitution
 - 2.4.2. Legislation
 - 2.4.3. Case Law
 - 2.4.4. Recognized Principles of Justice
 - 2.4.5. Customs and Practices
 - 2.4.6. International Conventions, treaties
 - 2.4.6. Juristic writings and Professional Opinion

Unit III: School of Law: (30 hrs.)

Natural School of Law

- 3.1 Conceptualizing and Understanding Natural School
- 3.2 Methods and Nature
- 3.3 Modern Trends of Natural Law

School of Law: Positivism

- 3.4 Conceptualizing and Understanding positive School
- 3.5 Methods and Nature
- 3.6 Modern Trends of Positivism

School of Law: Historical School

- 3.7 Conceptualizing and Understanding Historical School

3.8 Methods and Nature

3.9 Modern Trends of Historical and Anthropology of law

School of Law: Sociological Jurisprudence

4.10 Conceptualizing and Understanding Sociological School

4.11 Methods and Nature

4.12 Modern Trends of Sociological Law

School of Law: Realism

5.13 Conceptualizing and Understanding Realist School

5.14 Methods and Nature

5.15 Modern Trends of Realist Law

School of Law: Socialist School of Law

6.16 Conceptualizing and Understanding Socialist School

6.17 Methods and Nature

6.18 Modern Trends of Socialist and Marxist Law

Unit IV: Trends of Jurisprudence (10 hrs.)

4.1 Critical Legal Studies

4.2 Feminist Jurisprudence

4.3 Post Modern Jurisprudence

Unit V: Theories and Administration of Justice (12 hrs.)

5.1 Meaning and Aspects of Justice

5.2 Theories of Justice

5.3 Types of Justice: Corrective/Distributive/Gender / Restorative/Social/ Environmental

5.4 Administrative Justice: Constitutional/Civil/ Criminal/Consumer/Industrial

Unit VI: Conception of Rights and Duties (10 hrs.)

6.1 Meaning and definition of rights and duty

6.2 Nature and types of rights and duty

6.3 Elements and various theories of rights

6.4 Jural relation of rights and duties

6.5 Hohfeldian analysis of rights and duty

6.6 Critique of rights

Unit VII: Person and Personality (8 hrs.)

7.1 Meaning and nature of person and personality

7.2 various types of persons: Natural, legal, electronic etc.

7.3 Corporate personality and theories of corporate personality

7.4 Legal statutes of fetus, dead, animals, idols

7.4 Double capacity and double personality

7.5 Sanctity of human person

Unit VIII: Property and its Sanctity (10 hrs.)

8.1 Meaning and Definition of Property

8.2 Nature and values of property

8.3 Kinds of property

- 8.4 Various moods of acquiring property
- 8.5 Conception of sanctity of property
- 8.6 Private property and social justice

Unit IX: Liability and Obligation (7 hrs.)

- 9.1 Meaning and definition of Liability and Obligation
- 9.2 Kinds of Liability: civil, remedial, penal, vicarious and strict liability
- 9.3 Nature and types of Obligation

Unit X: Possession and Ownership (8 hrs.)

- 10.1 Meaning and nature of possession and ownership
- 10.2 Elements of possession
- 10.3 Various types of possession
- 10.4 Acquisition, continuation and termination of possession
- 10.5 Possession and adverse possession
- 10.6 Possessory Remedies
- 10.7 Kinds of ownership
- 10.8 Relationship between possession and ownership

Unit XI: Issues of Contemporary Jurisprudence (10 hrs.)

- 11.1 Law and Morality
- 11.2 Law and Economy: Economic analysis of law and Political economy of law
- 11.3 Law and Environment: Earth Jurisprudence
- 11.4 Demos-prudence

Units & Lecture Hours	Learning Outcomes (Learners will be able to:)	Contents	Mode of delivery and Imparting	Key Readings/References
Unit I: Introduction to Jurisprudence 8 hrs.	<ul style="list-style-type: none"> • understand the subject matter, its nature & importance, • know about the schools of jurisprudence, • explain and deal the philosophical and scientific method in legal thoughts. • Basic knowledge about juristic concepts. • Methods and techniques of legal thoughts or schools of law. • Develops the skills and ability of understanding, reasoning, analyzing and critiquing. 	<ul style="list-style-type: none"> 1.1 Meaning and definition of jurisprudence 1.2 Schools of Jurisprudence 1.3 Methods of Jurisprudence 1.4. Nature and scope of Jurisprudence 1.5 Importance and Application of Jurisprudence 	<ul style="list-style-type: none"> • Lectures, • Self-Reading materials, • Participatory class • discussion & • Question answer 	<ul style="list-style-type: none"> • Dias. (1994). Jurisprudence. • Fitzerland, P. J. (1996). Salmond on Jurisprudence. • Thapa, Kamal Raj (2023). Jurisprudence as Cabbage

11.5 Legal aid and PIL movement in Law

11.6 Socialization of law

CONTENT ELABORATION AND MODUS OPERANDI

Unit II: Meaning and Sources of Law (12 hrs.)	<ul style="list-style-type: none"> Basic knowledge on sources of law and understanding the varieties of legal sources. Methods and techniques of justification and acquiring the sources of law. Develops the skills and ability of understanding, reasoning, analyzing and critiquing. 	2.1 Meaning and definition of Law 2.2 Kinds of Law 2.3 Schools of Jurisprudence and nature of Law 2.4 Sources of Law <ul style="list-style-type: none"> 2.4.1. Constitution 2.4.2. Legislation 2.4.3. Case Law 2.4.4. Recognized Principles of Justice 2.4.5. Customs and Practices 2.4.6. International Conventions, treaties 2.4.7. Juristic writings and Professional Opinion 	<ul style="list-style-type: none"> Lectures, Self-Reading materials, Participatory class discussion & Question answer 	<ul style="list-style-type: none"> Allen, C. K., (1997). Law in the Making. Fitzerland, P. J. (1996). Salmond on Jurisprudence.
Unit III: School of Law: (30 hrs.)	<ul style="list-style-type: none"> Fundamental aspect of schools of legal thought, its methods and reasoning. Major proponents and their contribution on legal thought. Develop the skills and ability of understanding, reasoning, analyzing and critiquing. Its contribution and evaluation along with critiquing skills. Learning the philosophical methods e.g., reflexive and introspective. 	<p>Natural School of Law (5 hrs)</p> 3.1 Conceptualizing and Understanding Natural School 3.2 Methods and Nature 3.3 Modern Trends of Natural Law <p>Legal Positivism (5 hrs)</p> 3.4 Conceptualizing and understanding positive School 3.5 Methods and Nature 3.6 Modern Trends of Positivism <p>Historical Jurisprudence (5 hrs)</p> 3.7 Conceptualizing and Understanding Historical School 3.8 Methods and Nature 3.9 Modern Trends of Historical and Anthropology of law <p>Sociological Jurisprudence (5 hrs)</p> 3.10 Conceptualizing and Understanding Sociological School 3.11 Methods and Nature 3.12 Modern Trends of Sociological Law <p>Legal Realism (5 hrs)</p> 3.13 Conceptualizing and Understanding Realist School 3.14 Methods and Nature 3.15 Modern Trends of Realist Law <p>Socialist School of Law (5 hrs)</p> 3.16 Conceptualizing and Understanding Socialist School 3.17 Methods and Nature 3.18 Modern Trends of Socialist and Marxist Law	<ul style="list-style-type: none"> Lectures, Self-Reading materials, Participatory class discussion & Question answer 	<ul style="list-style-type: none"> Fitzerland, P. J. (1996). Salmond on Jurisprudence. Freeman, M. A. D. (2008). Llyod's Introduction to Jurisprudence. Thapa, Kamal Raj (2023). Jurisprudence as Cabbage Fuller, L. L. (1969). The Morality of Law. Hart, H. L. A. (1961). The Concept of Law.

Unit IV: Trends of Jurisprudence (10 hrs.)	<ul style="list-style-type: none"> • Observing and experiencing the critical trends in legal discourses and achieving the skills to be abandonment from conventional legal truths and reasoning in law. • Major proponents and their contribution on legal thought. • Develop the skills and ability of understanding, reasoning, analyzing and critiquing. 	4.1 Critical Legal Studies 4.2 Feminist Jurisprudence 4.3 Post Modern Jurisprudence	<ul style="list-style-type: none"> • Lectures, • Self-Reading materials, • Participatory class • discussion & Question answer 	<ul style="list-style-type: none"> • Freeman, M. A. D. (2008). Llyod's Introduction to Jurisprudence. • Friedmann, W. L (2011). Legal Theory.
Unit V: Theories and Administration of Justice (12 hrs.)	<ul style="list-style-type: none"> • Fundamental theories, and conception of justice. • Major proponents and their contribution to theorize the justice. • understanding and evaluation and critiquing the conception of justice and its efficiency. 	5.1 Meaning and Aspects of Justice 5.2 Theories of Justice 5.3 Types of Justice: Corrective/Distributive/Gender / Restorative/Social/ Environmental 5.4 Administrative Justice: Constitutional/Civil/ Criminal/Consumer/Industrial	<ul style="list-style-type: none"> • Lectures, • Self-Reading materials, • Participatory class • discussion & Question answer 	<ul style="list-style-type: none"> • Rawls, John (1971). A theory of justice. • Fitzerland, P. J. (1996). Salmond on Jurisprudence.
Unit VI: Conception of Rights and Duties (10 hrs.)	<ul style="list-style-type: none"> • Understanding the fundamental aspect of rights and duty as juristic concept. • Demystifying the interrelation between rights and duties. • Develops the skills and ability of understanding, reasoning, analyzing and critiquing the concept of right and duty. 	6.1 Meaning and definition of rights and duty 6.2 Nature and types of rights and duty 6.3 Elements and various theories of rights 6.4 Jural relation of rights and duties 6.5 Hohfeldian analysis of rights and duty 6.6 Critique of rights	<ul style="list-style-type: none"> • Lectures, • Self-Reading materials, • Participatory class • discussion & Question answer 	<ul style="list-style-type: none"> • Dworkin, Ronald (1977). Taking Rights Seriously. • Hohfeld, W. N (1913). Some fundamental Legal Conceptions as Applied in Judicial Reasoning,
Unit VII: Person and Personality (8 hrs.)	<ul style="list-style-type: none"> • Understanding the basis conception of natural and human person and its utility in law and society. • Electronic personality and its legal statutes • Values of human life in law and theorizing the sanctity of personality 	Unit VII: Person and Personality 7.1 Meaning and nature of person and personality 7.2 various types of persons: Natural, legal, electronic etc. 7.3 Corporate personality and theories of corporate personality 7.4 Legal statutes of fetus, dead, animals, idols 7.4 Double capacity and double personality 7.5 Sanctity of human person	<ul style="list-style-type: none"> • Lectures, • Self-Reading materials, • Participatory class • discussion & Question answer 	<ul style="list-style-type: none"> • Fitzerland, P. J. (1996). Salmond on Jurisprudence. • Dias. (1994). Jurisprudence.

Unit VIII: Property and its sanctity (10 hrs.)	<ul style="list-style-type: none"> • Understanding the meaning and values of property in law and life • Pursing the technique and skills to justifying private property and its sanctity. • Knowing the prevailing technique to balance between individual interest and social justice relating to property. 	8.1 Meaning and Definition of Property 8.2 Nature and values of property 8.3 Kinds of property 8.4 Various moods of acquiring property 8.5 Conception of sanctity of property 8.6 Private property and social justice	<ul style="list-style-type: none"> • Lectures, • Self-Reading materials, • Participatory class • discussion & Question answer 	<ul style="list-style-type: none"> • Fitzerland, P. J. (1996). Salmond on Jurisprudence. • Dias. (1994). Jurisprudence
Unit IX: Liability and Obligation (7 hrs.)	<ul style="list-style-type: none"> • Generalizing the liability and obligation in law. • Understanding the sources, nature and types of liability and obligation. 	9.1 Meaning and definition of Liability and Obligation 9.2 Kinds of Liability: civil, remedial, penal, vicarious and strict liability 9.3 Nature and types of Obligation	<ul style="list-style-type: none"> • Lectures, • Self-Reading materials, • Participatory class • discussion & Question answer 	<ul style="list-style-type: none"> • Fitzerland, P. J. (1996). Salmond on Jurisprudence. • Dias. (1994). Jurisprudence
Unit X: Possession and Ownership (8 hrs.)	<ul style="list-style-type: none"> • Knowing the idea of possession and ownership and its mood of acquisition. • Skills and technique to claim remedy under legal system. 	10.1 Meaning and nature of possession and ownership 10.2 Elements of possession 10.3 Various types of possession 10.4 Acquisition, continuation and termination of possession 10.5 Possession and adverse possession 10.6 Possessory Remedies 10.7 Kinds of ownership 10.8 Relationship between possession and ownership	<ul style="list-style-type: none"> • Lectures, • Self-Reading materials, • Participatory class • discussion & Question answer 	<ul style="list-style-type: none"> • Fitzerland, P. J. (1996). Salmond on Jurisprudence. • Dias. (1994). Jurisprudence
Unit XI: Issues of Contemporary Jurisprudence (10 hrs.)	<ul style="list-style-type: none"> • Accessing and examining the newly established trends and movement in law and legal theory. • Empowering and making learners efficient to practice and utilize such new legal techniques. 	11.1 Law and Morality 11.2 Law and Economy: Economic analysis of law and Political economy of law 11.3 Law and Environment: Earth Jurisprudence 11.4 Demos-prudence 11.5 Legal aid and PIL movement in Law 11.6 Socialization of law	<ul style="list-style-type: none"> • Lectures, • Self-Reading materials, • Participatory class • discussion & Question answer 	<ul style="list-style-type: none"> • Fuller, L. L. (1969). The Morality of Law. • Hart, H. L. A. (1961). The Concept of Law.

Student Activities

- Attending Lectures
- Readings and Class Discussions/ Interactions
- Case Study and Analysis
- Self-evaluation Review Questions/ Quizzes
- Exercises
- Project Work Assessments
- Web-based Assignments

Basic Readings:

- Curzon, L. B. (1993). *Jurisprudence: Lecture Notes*. London. Cavendish Publishing Ltd.
- Dias. (1994). *Jurisprudence*. India: Aditya Books.
- Dhyani, S. N. (2011). *Fundamentals of Jurisprudence: The Indian Approach*. Allahabad: Central Law Agency.
- Fitzerland, P. J. (1996). *Salmond on Jurisprudence*. Bombay: N. M. Tripathi.
- Mukhiya, Bal Bahadur. (2004). *Comparative Jurisprudence*. Kathmandu: Malati Mukhiya
- Paudel, Bibek Kumar (2068). *An Outline of General Law*. Kathmandu: MM Publication.
- Wacks, Raymond. (2009). *Understanding Jurisprudence: An Introduction to Legal Theory*. New Delhi: Oxford University Press.

References:

- Allen, C. K., (1997). *Law in the Making*. New Delhi: Universal Law Publishing.
- Dworkin, Ronald (1977). *Taking Rights Seriously*. New Delhi: Universal Law Publishing.
- Freeman, M. A. D. (2008). *Llyod's Introduction to Jurisprudence*. London: Sweet and Maxwell.
- Friedmann, W. L (2011). *Legal Theory*. New Delhi: Universal Law Publishing.
- Fuller, L. L. (1969). *The Morality of Law*. New Delhi: Oxford University Press.
- Hart, H. L. A. (1961). *The Concept of Law*. New Delhi, Oxford University Press.
- Hohfeld, W. N (1913). Some fundamental Legal Conceptions as Applied in Judicial Reasoning,
- Rawls, John (1971). *A theory of justice*. New Delhi: Universal Law publishing House.
- Raz, Joseph (2008). *The Authority of Law*. New Delhi: Oxford University Press.
- Thapa, Kamal Raj (2023). *Jurisprudence as Cabbage*. Kathmandu: Unnati Books.
- The Yale Law Journal. <https://www.jstor.org/stable/785533>

Evaluation Scheme

Schemes	Total weigh-age
<u>Internal Evaluation</u>	<u>40 Per cent</u> <u>20%</u>
<ul style="list-style-type: none"> • Assignments, project works, learning summary, Participation • Mid-term exam 	<u>20%</u>
External Evaluation (End Exam)	60 Per cent

Evaluation Methods/ Components

In-course Evaluation (assignments and projects)	Mid-term and End-course Exams
a) Unite assignments/projects b) Reviews and class discussion c) Case study and situation analysis d) Participation and answer questions e) Other assignment	a) Descriptive/ Long question answer b) Short question answer

Rajarshi Janak University

Faculty of Humanities and Law

Curriculum for	F.M- 100
Bachelor of Laws (Legum Baccalaureus) (LL. B)	P.M- 50
Course: Substantive Criminal Law	
Duration of the Course- 125 Hours	
Course Code: Law 302	
Nature: Compulsory	
Year: First	

COURSE DESCRIPTION

Substantive Criminal Law outlines what constitutes a crime and its accompanying punishment. Substantive Criminal Law ensures that a prosecutor must prove to secure a conviction to the convicted. Substantive Criminal Law differs from procedural law, which governs the process of how a case is handled in court, including rules of evidence and the timeline of legal proceedings. Substantive Criminal Law includes principles like self-defense or insanity and determines if specific conduct is illegal, from misdemeanors like petty theft to offences such as homicide. This course has been designed to acquaint basic knowledge of substantive criminal law. This course of substantive criminal law enumerates definition of crime, establishes punishments, and outlines the elements necessary to prove guilt. It provides a framework for social order by defining acceptable and unacceptable behaviors and the consequences for breaking rules. Understanding this area of law is crucial for legal professionals, policymakers, and citizens to grasp the principles of criminalization, constitutional rights, and the justifications for state-imposed penalties.

LEARNING OUTCOMES

At the end of the course, students will be able to:

- Explain the functional aspects of Criminal Law.
- Familiarize students with the general principles of Criminal Law.
- Inquire about effective functioning of the Criminal Justice System
- Critically interpret about the relevancy of various provisions of Criminal Law.
- Analytically discuss about various theories of criminal liability.
- Interpret the modern trends of Criminal Law.
- Explain about the various National & International Instruments related to substantive Criminal Law.
- Interpret the leading cases decided by Supreme Court of Nepal related to the Criminal Liability.

COURSE CONTENT

1. Evolution of Criminal Law in Nepal [6 hrs]

- 1.1 Before Codification of Muluki Ain, 1910 B.S.
- 1.2 After Codification of Muluki Ain, 1910 B.S.

2. General Introduction to Criminal Law [12 hrs.]

- 2.1 Meaning and Nature of Crime
- 2.2 Difference between Crime, Tort and Other Civil Wrong
- 2.3 Nature, Function and Classification of Criminal Law
- 2.4 General Principles of Criminal Law (Muluki Criminal Code, 2074 B.S.)
- 2.5 Criteria of Criminalization (Aggravating Factors and Mitigating Factors)
- 2.6 Criminal Liabilities: Strict Liabilities; Joint Liabilities; Vicarious Liabilities
- 2.7 Jurisdiction of Criminal Law: Territorial, Extra-Territorial, Personal, Universal

3. Elements of Crime [12 hrs.]

- 3.1 Actus Reus and its Forms: Act, Omission, Possession (Strict Liability), State of Affairs
- 3.2 Mens rea and its Forms: Intention (Transferred Malice), Knowledge, Recklessness, Negligence
- 3.3 Corporate Criminal Liability

4. Parties to the Crime [10 hrs.]

- 4.1 Classification: Principal Offender, Secondary Offender, Innocent Agent
- 4.2 Applicable Principles

5. Stages of Crime [9 hrs.]

- 5.1 Stages of Crime: Intention, Preparation, Attempt, Completion of Crime
- 5.2 Inchoate Offence: Incitement/Abetment/Instigations, Conspiracy, Attempt

6. General Defense [12 hrs.]

- 6.1 Excusable Defense: Infancy, Insanity, Mistake (Fact and Law), Intoxication
- 6.2 Justifiable Defense: Private Defense (Self Defense, Defense of Property, Defense of Chasity), Consent, Necessity, Duress, Inevitable Accident, Superior Order (Individual Criminal Liability, Command Responsibility), Battered Women Syndrome

7. Offence Against Person [15 hrs.]

- 7.1 Homicide: (including Suicide, Suicide Pact, Uxoricide)
- 7.2 Abortion:
- 7.3 Kutpit: (Assault and Battery)
- 7.4 Abduction: Kidnapping and Hostage Taking
- 7.5 False Imprisonment
- 7.6

8. Sexual Offences and Offence Related to Marriage [13 hrs.]

- 8.1 Rape, Incest
- 8.2 Sexual Harassment
- 8.3 Custodial Sex
- 8.4 Pedophile
- 8.5 Void, Voidable and Punishable Marriage
- 8.6 Bigamy: Polygamy, Polyandry
- 8.7 Adultery: relationship outside marriage, Jari
- 8.8 Unconsent Marriage
- 8.9 Child Marriage
- 8.10 Transaction Marriage: Dowry, Alimony

9. Offence Against Property [9 hrs.]

- 9.1 Theft
- 9.2 Looting (Lutpit)
- 9.3 Cheating

10. Offence Related to Documents [9 hrs.]

- 10.1 Forgery
- 10.2 Coercion (Karkap)
- 10.3 Crime Against Official Secrets

11. Socio-Economic Offences [12 hrs.]

- 11.1 Banking Crime
- 11.2 Bribery and Corruption
- 11.3 Organized Crime: Drug Trafficking, Human Trafficking, Arms Trafficking, Extortion, Money Laundering, Smuggling of Migrants, Illegal Trade of Natural Resources and Wildlife
- 11.4 Drug offences: Use as an Offence
- 11.5 Cyber Crime
- 11.6 Offence Related to Medical Care and Treatment
- 11.7 Offence Against State: Treason, Duty of Citizen
- 11.8 Offence Related to Animals

12. Court Simulation [6 hrs.]

Teachers are requested to perform court simulation on at least one of the cases prescribed below

CONTENT ELABORATION AND MODUS OPERANDI

Units & Lecture Hours	Learning Outcomes (students will be able to:)	Mode of Delivery	Key References	Readings/
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Unit-I <p>1. Evolution of Criminal Law in Nepal [6 hrs.]</p> <p>1.1 Before Codification of Muluki Ain, 1910 B.S. 1.2 After Codification of Muluki Ain, 1910 B.S.</p>	❖ Mention about the development of Criminal Law in Kirat, Lichhavi, Malla and Saah Period. ❖ Mention about the development of Criminal Law after 2046 B.S ❖ Discuss about the role of Draft Penal Code (DPC) for the development of Criminal Law in Nepal: Proposed DPC, 2012 B.S.; Proposed DPC, 2030 B.S.; Proposed DPC, 2058/59 B.S.; Proposed DPC, 2067 B.S.	• Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Historical Analysis • Exercises	• Acharya & Pradhananga (2053 B.S). • Ashworth (2011). • Herning (2014). • Reid (2012). • Vaidya & Manadhar (1985).
Unit-II <p>2 General Introduction to Criminal Law [12 hrs.]</p> <p>2.1 Meaning and Nature of Crime 2.2 Difference between Crime, Tort and Other Civil Wrong 2.3 Nature, Function and Classification of Criminal Law 2.4 General Principles of Criminal Law (Muluki Criminal Code, 2074 B.S.) 2.5 Criteria of Criminalization (Aggravating Factors and Mitigating Factors) 2.6 Criminal Liabilities: Strict Liabilities; Joint Liabilities; Vicarious Liabilities 2.7 Jurisdiction of Criminal Law: Territorial, Extra-Territorial, Personal, Universal</p>	❖ Mention about the Meaning, Nature of Crime. ❖ Discuss about the function and classification of Criminal Law. ❖ Explain about General Principles of Criminal Law. ❖ Explain about criteria for criminalization. ❖ Discuss about the jurisdiction theory of Criminal Law.	• Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises	• Acharya & Pradhananga (2053 B.S). • Ashworth (2011). • Herning (2014). • Reid (2012). • Vaidya & Manadhar (1985).
Unit-III <p>3 Elements of Crime [12 hrs.]</p> <p>3.1 Actus Reus and its Forms: Act, Omission, Possession (Strict Liability), State of Affairs 3.2 Mens rea and its Forms: Intention (Transferred Malice), Knowledge, Recklessness, Negligence 3.3 Corporate Criminal Liability</p>	❖ Analytically discuss about the forms of actus reus and mens rea. ❖ Explain about the concept of corporate criminal liability.	• Assignment • Presentation • Brainstorming • Case Analysis • Case Based Studies • Blended Learning	• Acharya & Pradhananga (2053 B.S). • Ashworth (2011). • Herning (2014). • Reid (2012). • Vaidya & Manadhar (1985).
Unit-IV <p>4 Parties to the Crime [10 hrs.]</p> <p>4.1 Classification: Principal Offender, Secondary Offender, Innocent Agent 4.2 Applicable Principles</p>	❖ Discuss about the parties to the crime and their classification. ❖ Explain about the applicable principles in parties to the crime.	• Assignment • Presentation • Brainstorming • Case Analysis • Blended Learning • Self-evaluation	• Acharya & Pradhananga (2053 B.S). • Ashworth (2011). • Herning (2014). • Reid (2012). • Vaidya & Manadhar (1985).
Unit-V <p>5 Stages of Crime [9 hrs.]</p> <p>5.1 Stages of Crime: Intention, Preparation, Attempt,</p>	❖ Explain about the Stages of Crime. ❖ Discuss about the Inchoate	• Assignment • Presentation • Brainstorming	• Acharya & Pradhananga (2053 B.S).

Completion of Crime 5.2 Inchoate Offence: Incitement/Abetment/Instigations, Conspiracy, Attempt	Offences.	<ul style="list-style-type: none"> • Case Analysis • Readings • Self-evaluation 	<ul style="list-style-type: none"> • Ashworth (2011). • Herning (2014). • Reid (2012).
Unit-VI 6 General Defense [12 hrs.] 6.1 Excusable Defense: Infancy, Insanity, Mistake (Fact and Law), Intoxication 6.2 Justifiable Defense: Private Defense (Self Defense, Defense of Property, Defense of Chasity), Consent, Necessity, Duress, Inevitable Accident, Superior Order (Individual Criminal Liability, Command Responsibility), Battered Women Syndrome	<ul style="list-style-type: none"> ❖ Analyze about General Defense applicable to the Crime. ❖ Discuss about Excusable Defense and its difference from Justifiable Defense ❖ Discuss about eh Applicable Law. 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies 	<ul style="list-style-type: none"> • Acharya & Pradhananga (2053 B.S). • Ashworth (2011). • Herning (2014). • Reid (2012). • Vaidya & Manadhar (1985).
Unit VII 7 Offence Against Person [15 hrs.] 7.1 Homicide: (including Suicide, Suicide Pact, Uxoricide) 7.2 Abortion: 7.3 Kutpit: (Assault and Battery) 7.4 Abduction: Kidnapping and Hostage Taking 7.5 False Imprisonment	<ul style="list-style-type: none"> ❖ Discuss about the offence committed against a person. ❖ Discuss about the Applicable Law. 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies 	<ul style="list-style-type: none"> • Acharya & Pradhananga (2053 B.S). • Ashworth (2011). • Herning (2014). • Reid (2012). • Vaidya & Manadhar (1985).
Unit VIII 8 Sexual Offences and Offence Related to Marriage [13 hrs.] 8.1 Rape, Incest 8.2 Sexual Harassment 8.3 Custodial Sex 8.4 Pedophile 8.5 Void, Voidable and Punishable Marriage 8.6 Bigamy: Polygamy, Polyandry 8.7 Adultery: relationship outside marriage, Jari 8.8 Unconsent Marriage 8.9 Child Marriage 8.10 Transaction Marriage: Dowry, Alimony	<ul style="list-style-type: none"> ❖ Explain about the Sexual Offences. ❖ Explain about the Offence related to Marriage 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies 	<ul style="list-style-type: none"> • Acharya & Pradhananga (2053 B.S). • Ashworth (2011). • Herning (2014). • Reid (2012). • Vaidya & Manadhar (1985).
Unit IX 9 Offence Against Property [9 hrs.] 9.1 Theft 9.2 Looting (Lutpit) 9.3 Cheating	<ul style="list-style-type: none"> ❖ Explain about the Offence against Property ❖ Discuss about the Applicable Laws 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies 	<ul style="list-style-type: none"> • Acharya & Pradhananga (2053 B.S). • Ashworth (2011). • Herning (2014). • Reid (2012).
Unit X 10 Offence Related to Documents [9 hrs.] 10.1 Forgery	<ul style="list-style-type: none"> ❖ Identify the Offences related to Document ❖ Discuss about the Applicable Laws 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis 	<ul style="list-style-type: none"> • Acharya & Pradhananga (2053 B.S). • Herning (2014).

10.2Coercion (Karkap) 10.3Crime Against Official Secrets		• Readings	• Reid (2012).
Unit XI 11 Socio-Economic Offences [12 hrs.] 11.1Banking Crime 11.2Bribery and Corruption 11.3Organized Crime: Drug Trafficking, Human Trafficking, Arms Trafficking, Extortion, Money Laundering, Smuggling of Migrants, Illegal Trade of Natural Resources and Wildlife 11.4Drug Offences: Use as an Offence 11.5Cyber Crime 11.6Offence Related to Medical Care and Treatment 11.7Offence Against State: Treason, Duty of Citizen 11.8Offence Related to Animals	❖ Explain Socio-Economic Crime, viz Banking Offences, Organized Crime, Cyber Crime, Offence against State ❖ Discuss about the Applicable Laws.	• Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises	• Acharya & Pradhananga (2053 B.S). • Ashworth (2011). • Herning (2014). • Reid (2012). • Vaidya & Manadhar (1985).
12. Court Simulation [6 hrs.] Teachers are requested to perform court simulation on at least one of the cases prescribed below	❖ This court simulation has been designed so that the scholars will get in hand experience about the trial process, involving the roles like judge, lawyer, or witness. It helps them to enhance the practical skills, understands court functions, and resolve hypothetical cases through arguments, evidence presentation, and judicial deliberation.	• Court Simulation. • Case Review • Brainstorming • Presentation • Argumentation	• Prescribed cases
Total= 125 Lecture hours (hrs.)			

Student Activities

- Attending Lectures
- Readings and Class Discussions/ Interactions
- Case Study and Analysis
- Self-evaluation Review Questions/ Quizzes
- Exercises
- Project Work Assessments
- Web-based Assignments

Referred Cases:

- ❖ Bhuvane Basnet Kshetri vs. HMG, NKP 2031, No. 3, p. 87
- ❖ GON vs. Sanjeev Kumar Singh Yadav & Others, NKP 2064, No. 10, p. 1312
- ❖ GON vs. Vasanta Kumar Yadav et. al, NKP 2064, No. 4, p. 426
- ❖ Hendric Otto vs. GON, NKP 2069, No. 7, p. 1076
- ❖ HMG vs. Abdul Phatte Muslman, NKP 2044, No. 8, p. 840
- ❖ HMG vs. Mayashwori Damini, NKP 2037, No. 11, p. 261
- ❖ HMG vs. Rameshwar Raut Barai & Others, NKP 2041, No. 4, p. 360.
- ❖ Idris Miya vs. HMG, NKP 2044, No. 2, p. 259
- ❖ Indra Prasad Khanal vs. GON, NKP 2068, No. 7, p. 1235
- ❖ Janak Tripathi & Others vs. HMG, NKP 2062, No. 9, p. 269
- ❖ Jasman Limbu vs. GON, NKP 2069, No. 1, p. 84
- ❖ Mahendra Raj Bam vs. HMG, NKP 2051, No. 4, p. 226
- ❖ Manish Shrestha vs. GON, NKP 2070, No. 8, p. 1050
- ❖ Tirtha Dangol vs. HMG, NKP 2042, No. 5, p. 435
- ❖ Triratna Chitrakar vs. GON, NKP 2066, No. 5, p. 784
- ❖ Tek Bahadur Reule vs. HMG, NKP 2061, No. 11, p. 1486
- ❖ Uttam Lama vs. HMG, NKP 2061, No. 9, p. 1092

References:

- The Constitution of Nepal, 2072 (2015).
- Muluki Criminal Code, 2074 (2017).
- Muluki Criminal Procedure Code, 2074 (2017)
- Criminal Offences (Determination of Sentences and Execution) Act, 2074 (2017)
- Banking Crimes and Punishment Act, 2064 (2007).
- Commission for the Investigation of Abuse of Authority Act, 2059 (2003).
- Rome Statute of International Criminal Court, 1998.
- Acharya, Madhav P. & Rajit Bhakta Pradhananga (2053 B.S). Criminal Law and Criminal Justice, Kathmandu: Ranta Pustak Bhandar.
- Ashworth, Andrew (2011). Principles of Criminal Law, 6th Ed., London: Oxford University Press.
- Herning, Jonathan (2014). Criminal Law: Text, Cases and Materials, 6th ed., London: Oxford University Press.
- Reid, Sue Titus (2012). Criminal Law: The Essentials, 2nd ed., London: Oxford University Press.
- Vaidya, Tulsi Ram & Tri Ratna Manadhar (1985). Crime and Punishment in Nepal: A Historical Perspective, 1st ed., Kathmandu: Bini Vaidya and Purna Devi Vaidhya.

E Sources

- ❖ Website of Nepal Law Commission: www.lawcommission.gov.np
- ❖ Website of Office of the Attorney General of Nepal: www.ag.gov.np
- ❖ Website of National Judicial Academy (of Nepal): www.njanepal.org.np

Evaluation Scheme

Schemes	Total weight-age
<u>Internal evaluation</u> <ul style="list-style-type: none"> • Assignments, project works, learning summary, participation • Mid-term exams 	40 per cent 20% 20%
External evaluation (End-term exams)	60 per cent

Evaluation Methods/ Components

In-course Evaluation (Assignments and Projects)	Mid-term and End-Course Exams
a) Unit Assignments/Projects/ b) Reviews & Discussions on Issues c) Case Study/ Situation Analysis d) Participation in Interactions with the Tutor & Quizzes e) Other Assignments	a) Descriptive/ Long Answer Questions b) Short Answer Questions

Rajarshi Janak University

Faculty of Humanities and Law

Curriculum for

Bachelor of Laws (Legum Baccalaureus) (LL. B)

Course: Constitutional Law

Duration of the Course: 125 Hours

FM: 100

Course Code: 303

PM: 50

Nature: Compulsory

Year: First Year

COURSE DESCRIPTION

This course is designed to acquaint learners with the fundamental knowledge and concept of constitutional law. It imparts students with sufficient knowledge on constitutional philosophy, constitutionalism and the state mechanism to govern the nation. Governing the government and its objective criteria such as ensuring fundamental rights of the citizens and limiting the power of government in many ways in order to avoid the concentration and monopoly use of the power through the separation of power and by ensuring the accountability and best scrutiny through the constitutional institutions with the purpose to greater application of democratic values are designed to impart to the learners through the course. This course enables the students to understand the idea of constitutional government, techniques to secure the fundamental rights of citizens and making government accountable and attaining the citizenry control over government. Various aspects of constitutionalism and its basic elements are central scope of constitutional law. It is equally designed to enable learners to consult, analyze and understand fundamental aspects of federal structure dealing with public power and managing the state affair in between federal, provincial and local government. This course offers knowledge and techniques and skills about constitutionalism, federalism, rule of law, fundamental rights and constitutional government of Nepal and world in a comparative, liberal and multidisciplinary approach.

LEARNING OUTCOMES

At the end of the course, learners will be competent to:

- Understand and possess the fundamental knowledge and skills about meaning, scope and sources of constitution and constitutional law.
- Understand and generalize the foundational skills and ideas on constitution and constitutional theory remarkably constitutionalism, federalism and the techniques and criteria of constitutional government.
- Acquire and explain the values of fundamental rights and techniques of right to remedy along with the interrelation between directive principles and its enforceability.
- Deal, generalize and examine the interrelationship between constitution, politics and people's aspirations and expectations.

- Explain and discuss the various aspects of parliamentary form of government, its process and potentiality.
- Understand and access to the theory and practices of independence of judiciary, its functions and scopes of constitutional interpretation, nature of jurisdiction and access to justice.
- Possess the broader scope and responsibility of constitutional institutions to enforce and secure the constitutional objectives and criteria of constitutional justice.
- Understand and explain the process and mood of formation of the various branch and major offices of government, theirs scope and function as well as accountability under Nepal's constitution.
- Analyzing, examining and further exploration on the area of constitutional government and democratization process.

COURSE CONTENTS

Unit I: Introduction to Constitution and Constitutional Law (16 hrs.)

- 1.1 Meaning and definition of Constitution
- 1.2 Nature and Scope of the constitution
- 1.3 various types of the Constitution:
- 1.4. Sources of the Constitution and Constitutional Law

Unit II: Constitutional development in Nepal (12 hrs.)

- 2.1. Basic practices and its influence on government
- 2.2. Constitutional practices before unification of Nepal
- 2.3. Constitutional practices post-unification of Nepal
- 2.4. Development of written constitution and practices from 2004 BS to 2007 BS

Unit III: Theory of the Constitution: Constitutionalism & Nepalese Practices (12 hrs.)

- 3.1 Meaning and definition of constitutionalism
- 3.2 Various forms of constitutionalism
- 3.3 Basic requirements of constitutionalism
 - 3.3.1. Fundamental democracy
 - 3.3.2. Supremacy of the constitution
 - 3.3.3. limited government
 - 3.3.4. fundamental rights
 - 3.3.5. Separation of power & check and balance
 - 3.3.5. Independence of Judiciary
 - 3.3.6. Rule of law

Unit IV: Basic features of the Constitution of Nepal, 2072 BS (8 hrs.)

Unit V: Fundamental Rights and Right to Remedy (15 hrs.)

- 5.1 Meaning and nature of Fundamental Right
- 5.2 Scope and Importance of Fundamental rights
- 5.3 Fundamental aspects of fundamental rights

- 5.3 Fundamental rights and duties under Nepalese Constitution
- 5.4 Right to remedy as fundamental rights
- 5.5 Basic techniques to claim rights
- 5.6 Judicial role and constitutional responsibility

Unit VI: Directive principles, Policies and Obligations (6 hrs.)

- 6.1 Meaning and nature of directive Principles, policies and obligations
- 6.2 Constitutional position and values of directive principles
- 6.3 Interrelation between Fundamental rights and directive principles
- 6.4 Trends and techniques of the enforcement of the directive principles

Unit VII: The Executive (10 hrs.)

- 7.1 Constitutional Position of the Head of the Government
- 7.2 Formation of the federal government: Prime Minister and Council of ministers
- 7.3 Function of the government
- 7.4 Role and Responsibility of the Prime Minister and CoM
- 7.5 Formation and constitutional position of provincial and local government
- 7.6 Autonomy and interrelationship between various governments under federal structure
- 7.7 Constitutional Control over Executive: Vote of no confidence & Impeachment motion

Unit VIII: The Legislative Parliament (10 hrs.)

- 8.1 Meaning, nature and scope of the legislature
- 8.2 Composition and dissolution of the House of Representatives and National Assembly
- 8.3 Constitutional position and function of legislature
- 8.4 legislative process and committee system
- 8.5 Parliamentary privileges and its limitations
- 8.6 Dual parliament and its interrelation

Unit IX: The Judiciary (14 hrs.)

- 9.1 Meaning and scope of Independence of Judiciary
- 9.2 Judicial structure and types of the court
- 9.3 Supreme Court: Appointment, qualifications and removal of the Chief justice and Judges
- 9.4 Jurisdiction of the Supreme Court: Ordinary/Extraordinary/ Writ jurisdiction/ Judicial Review/ Contempt of court/Court of Record etc.
- 9.5. Role and responsibility of the Chief Justice
- 9.6. Judicial accountability and code of conduct of the judges
- 9.7. Judicial Council: role and responsibility
- 9.8 jurisdiction of the appeal and district court

Unit X: Constitutional Institution (12 hrs.)

- 10.1 Scope and Nature of the constitutional institutions
- 10.2 Role and responsibility to ensuring and strengthening constitutionalism
- 10.3 NHRC: Role and Responsibility
- 10.4 CIAA: Role and Responsibility
- 10.5 Election Commission: Role and Responsibility
- 10.6 Public Service Commission: Role and Responsibility

10.7 Attorney General: Role and Responsibility
 10.8 Auditor General: Role and Responsibility
 10.9 Fiscal Commission: Role and Responsibility
 10. 10. Others constitutional Institution: function and responsibility

Unit XI: Potential Issues of the Constitution (10 hrs.)

11.1 Citizenship
 11.2 Constitutional amendment
 11.3 Political Party under constitution
 11.4 Emergency Power under constitution
 11.5 Constitutional Interpretation

CONTENT ELABORATION AND MODUS OPERANDI

Units & Lecture Hours	Learning Outcomes (Learners will be able to:)	Contents	Mode of delivery and Imparting	Key Readings/References
Unit I: Introduction to Constitution and Constitutional Law (16 hrs.)	<ul style="list-style-type: none"> understand the subject matter, its nature & importance, know about the different types of constitutional practices such as written and unwritten or federal or unitary model and can enhance knowledge by comparing with foreign practices as British and American or Japanese and Switzerland and likewise, explain and differentiate the constitution and constitutional law to identify and find the broader sources of constitutional law, possess and consult the philosophical and practical aspect of rules to govern the government Develops the skills and ability of understanding, reasoning, analyzing and critiquing the diverse and unique aspect of constitution. 	<p>1.1 Meaning and definition of Constitution 1.2 Nature and Scope of the constitution 1.3 various types of the Constitution: written and unwritten, rigid and flexible, federal and unitary, presidential and parliamentary, republican and monarchical, evolutionary and revolutionary constitution etc.</p> <p>1.4. Sources of the Constitution and Constitutional Law</p> <ul style="list-style-type: none"> a) Constitution b) Case Law c) legislation d) customs and conventions e) Recognized principles of constitutional law f) international law and foreign practices h) Juristic writings and Professional Opinion 	<p>Lectures, Self-Reading materials, Storytelling, Participatory class discussion & Question answer</p>	<p>Strong, C. F. (1975). A History of Modern Political Constitutions</p> <p>Jennings, Ivor (1996). The law and the Constitution</p> <p>Thapa, Kamal Raj (2023). Sambidhanbadh ra Sambidhan</p>

Unit II: Constitutional development in Nepal (12 hrs.)	<ul style="list-style-type: none"> Acknowledge the peculiar nature of constitutional development of Nepal, Identify and experience the elements of constitution, Understand and explain relativism by expiring influential factors such as politics, economy, international movement and people movement in the life of constitutional development. Diagnose the local problems through historical methods. 	2.1. Basic literature and its influence on government 2.2. Constitutional practices before unification of Nepal 2.3. Constitutional practices post-unification of Nepal 2.4. Development of written constitution and practices from 2004 BS to 2007 BS	Lectures, Self-Reading materials, Storytelling, Participatory class discussion & Question answer	Singh, Top Bahadur (2066 BS). Constitutional History of Nepal and Constitutional Documents Regmi, Jagadish Chandra (2060). Nepalko vaidanik Parampara. Wasti, Prakash (2065). Nayayavikasini
Unit III: Theory of the Constitution: Constitutionalism & Nepalese practices (12 hrs.)	<ul style="list-style-type: none"> Acquire the broader knowledge about fundamental aspect of philosophical foundation of constitution, Understand the concept, content and criteria of constitutionalism consulting various practices of the constitutional government, Describe and diagnose the real challenges and opportunities of Nepalese constitutionalism, Explain, evaluate and further explore the good constitution. 	3.1 Meaning and definition of constitutionalism 3.2 Various forms of constitutionalism 3.3 Basic requirements of constitutionalism <ul style="list-style-type: none"> 3.3.1. Fundamental democracy 3.3.2. Supremacy of the constitution 3.3.3. limited government 3.3.4. fundamental rights 3.3.5. Separation of power & check and balance 3.3.5. Independence of Judiciary 3.3.6. Rule of law 3.4 Nepalese experience and challenges	Lectures, Self-Reading materials, Storytelling, Participatory class discussion & Question answer	Thapa, Kamal Raj (2023). Sambidhanbadh ra Sambidhan Dicey, A. V. (1885). An Introduction to the Study of the Law of the Constitution
Unit IV: Basic features of the Constitution of Nepal, 2072 BS (8 hrs.)	<ul style="list-style-type: none"> Understand and explain the overall elements of constitution of Nepal and relate with the theoretical knowledge. Acknowledge the constitution in totality, Identify the content and criteria of Nepalese constitution. 		Lectures, Self-Reading materials, Storytelling, Participatory class discussion & Question answer	The Constitution of Nepal (2072 BS).

Unit V: Fundamental Rights and Right to Remedy (15 hrs.)	<ul style="list-style-type: none"> Understand and examine the nature, potentiality and authority of fundamental rights relating to constitutionalism and by comparing with different nature of rights e.g., legal; moral; human rights and so on, Access to the list of the fundamental rights Discuss and acquire the skills and techniques to claim such rights and its limitations and challenges, understanding and evaluation and critiquing the conception of rights and its reality. Understand the role of judiciary as sentinel of rights and its challenges. 	<p>5.1 Meaning and nature of Fundamental Right 5.2 Scope and Importance of Fundamental rights 5.3 Fundamental aspects of the fundamental rights: a) natural and inalienable rights b) life, liberty, equality and security in a polity c) positive and negative rights d) political and socio-economic rights e) Fundamental rights and duties f) preferred rights under constitution g) constitutionality of limitation on fundamental rights</p> <p>5.4 Right to remedy as fundamental rights 5.5 Basic techniques to claim rights 5.6 Judicial role and constitutional responsibility</p>	Lectures, Self-Reading materials, Storytelling, Participatory class discussion & Question answer	Tripathy, Hari Bansh, (2002). Fundamental Rights and Judicial Review in Nepal
Unit VI: Directive principles, Policies and Obligations (6 hrs.)	<ul style="list-style-type: none"> Understanding the constitutional position of directive principle from different schools of thought, Demystifying the interrelation between fundamental rights and directive principles, understand and explore the broader aspect of accountability of public offices and resources, Examine and explore the broader techniques and skills to enforce directive principle. 	<p>6.1 Meaning and nature of directive Principles, policies and obligations 6.2 Constitutional position and values of directive principles 6.3 Interrelation between Fundamental rights and directive principles 6.4 Trends and techniques of the enforcement of the directive principles</p>	Lectures, Self-Reading materials, Storytelling, Participatory class discussion & Question answer	<p>Dicey, A. V. (1885). An Introduction to the Study of the Law of the Constitution</p> <p>Strong, C. F. (1975). A History of Modern Political Constitutions</p> <p>Jennings, Ivor (1996). The law and the Constitution</p> <p>Thapa, Kamal Raj (2023). Sambidhanbadh ra Sambidhan</p>
Unit VII: The Executive (10 hrs.)	<ul style="list-style-type: none"> Understand and discuss the role of the executive under the separation of power and check and balance in operation. Acquire the chief function of executive and its responsibility. Devise the various ways of 	<p>7.1 Constitutional Position of the Head of the Government 7.2 Formation of the federal government: Prime Minister and Council of ministers 7.3 Function of the government 7.4 Role and Responsibility of the Prime Minister and CoM 7.5 Formation and constitutional position of provincial and local</p>	Lectures, Self-Reading materials, Storytelling, Participatory class discussion & Question	<p>Dicey, A. V. (1885). An Introduction to the Study of the Law of the Constitution</p> <p>Strong, C. F. (1975). A History of Modern Political Constitutions</p> <p>Jennings, Ivor (1996).</p>

	<ul style="list-style-type: none"> • limited government. • Examine the role of the de jure and de facto power of government. 	<p>government</p> <p>7.6 Autonomy and interrelationship between various governments under federal structure</p> <p>7.7 Constitutional Control over Executive: Vote of no confidence & Impeachment motion</p>	answer	<p>The law and the Constitution</p> <p>Thapa, Kamal Raj (2023). <i>Sambidhanbadh ra Sambidhan</i></p>
Unit VIII: The legislative parliament (10 hrs.)	<ul style="list-style-type: none"> • Understand and discuss the role of the legislature under the separation of power and check and balance in operation. • Explain the broader meaning of parliamentarianism and examine the position and sanctity of Nepalese parliament. • Acknowledge the substantive position and parliamentary techniques to achieve responsible and representative government. • Explain and examine the legislative process, parliamentary privilege and committee system in Nepal. 	<p>8.1 Meaning, nature and scope of the legislature</p> <p>8.2 Composition and dissolution of the House of Representatives and National Assembly</p> <p>8.3 Constitutional position and function of legislature</p> <p>8.4 legislative process and committee system</p> <p>8.5 Parliamentary privileges and its limitations</p> <p>8.6 Dual parliament and its interrelation</p>	Lectures, Self-Reading materials, Storytelling, Participatory class discussion & Question answer	<p>Dicey, A. V. (1885). <i>An Introduction to the Study of the Law of the Constitution</i></p> <p>Strong, C. F. (1975). <i>A History of Modern Political Constitutions</i></p> <p>Jennings, Ivor (1996). <i>The law and the Constitution</i></p> <p>Thapa, Kamal Raj (2023). <i>Sambidhanbadh ra Sambidhan</i></p>
Unit IX: The Judiciary (14 hrs.)	<ul style="list-style-type: none"> • Possess the substantive meaning of independence and judicial accountability. • Understand and discuss the position and role of judicial department under the doctrine of separation of power and check and balance in functional reality. • Understand, explain and utilize the judicial authority to guarantee the fundamental rights and protect the constitution from direct and indirect infringement and violation. • Explain and practice various devices to enjoy the right to remedy, access to justice and due process. • Explore and evaluate the role of the Nepalese 	<p>9.1 Meaning and scope of Independence of Judiciary</p> <p>9.2 Judicial structure and types of the court</p> <p>9.3 Supreme Court: Appointment, qualifications and removal of the Chief Justice and Judges</p> <p>9.4 Jurisdiction of the Supreme Court: Ordinary/Extraordinary/ Writ jurisdiction/ Judicial Review/ Contempt of court/Court of Record etc.</p> <p>9.5. Role and responsibility of the Chief Justice</p> <p>9.6. Judicial accountability and code of conduct of the judges</p> <p>9.7. Judicial Council: role and responsibility</p> <p>9.8 jurisdiction of the appeal and district court</p>	Lectures, Self-Reading materials, Storytelling, Participatory class discussion & Question answer	<p>Dicey, A. V. (1885). <i>An Introduction to the Study of the Law of the Constitution</i></p> <p>Strong, C. F. (1975). <i>A History of Modern Political Constitutions</i></p> <p>Jennings, Ivor (1996). <i>The law and the Constitution</i></p> <p>Thapa, Kamal Raj (2023). <i>Sambidhanbadh ra Sambidhan</i></p>

	judiciary.			
Unit X: Constitutional Institution (12 hrs.)	<ul style="list-style-type: none"> Understand the concept and criteria of constitutional institution and their functions under the constitutionalism. Role and responsibility of the constitutional institution. Explain and examine the constitutional institutions as permanent and autonomous pillar of the constitutionalism and life of the constitution. 	10.1 Scope and Nature of the constitutional institutions 10.2 Role and responsibility to ensuring and strengthening constitutionalism 10.3 NHRC: Role and Responsibility 10.4 CIAA: Role and Responsibility 10. 5 Election Commission: Role and Responsibility 10.6 Public Service Commission: Role and Responsibility 10.7 Attorney General: Role and Responsibility 10.8 Auditor General: Role and Responsibility 10.9 Fiscal Commission: Role and Responsibility 10. 10. Others constitutional Institution: function and responsibility	Lectures, Self-Reading materials, Storytelling, Participatory class discussion & Question answer	Dicey, A. V. (1885). An Introduction to the Study of the Law of the Constitution Strong, C. F. (1975). A History of Modern Political Constitutions Jennings, Ivor (1996). The law and the Constitution Thapa, Kamal Raj (2023). Sambidhanbadh ra Sambidhan
Unit XI: Potential Issues of the Constitution (10 hrs.)	<ul style="list-style-type: none"> Understand and elaborate the essential elements of the constitution. Discuss and examine the constitutional position of such issues and their role and responsibility. Relate and exploring with constitutionalism, constitutional justice and democratization process. 	11.1 Citizenship 11.2 Constitutional amendment 11.3 Political Party under constitution 11.4 Emergency Power under constitution 11.5 Constitutional Interpretation	Lectures, Self-Reading materials, Storytelling, Participatory class discussion & Question answer	Dicey, A. V. (1885). An Introduction to the Study of the Law of the Constitution Strong, C. F. (1975). A History of Modern Political Constitutions Jennings, Ivor (1996). The law and the Constitution Thapa, Kamal Raj (2023). Sambidhanbadh ra Sambidhan

Basic Readings

- Anderson, G., (2008). **Federalism: An Introduction**, New Delhi: Oxford University Press.
- Basu, Durga Das (2008). **Comparative Constitutional Law**: New Delhi, Wadhwa and Company.
- Bashyal, Binod, (2008). **Sambidhanik Kanoon**, Kathmandu. Lumbini Publication.
- Dicey, A. V. (1975). **An Introduction to the Law of the Constitution**, New Delhi: Universal Law Publication.
- Dhungel, Surya P.S. et. Al., (1998). **Commentary on the Nepalese Constitution**, Kathmandu: DELF.
- Strong, C. F., (1973). **The History of Modern Political Constitution**, India: Surjeet Publication.
- Thapa, Kamal Raj (2023). **Sambidhanbad ra Sambidhan**. Kathmandu. Unnati Publication.
- Wheare, K. C., (1971). **Modern Constitutions**, London: Oxford University Press.

Evaluation Scheme

Schemes	Total weigh-age
<u>Internal Evaluation</u> <ul style="list-style-type: none">• Assignments, project works, learning summary, Participation• Mid-term exam	<u>40 Per cent</u> <u>20%</u> <u>20%</u>
External Evaluation (End Exam)	60 Per cent

Evaluation Methods/ Components

In-course Evaluation (assignments and projects)	Mid-term and End-course Exams
a) Unite assignments/projects b) Reviews and class discussion c) Case study and situation analysis d) Participation and answer questions e) Other assignment	a) Descriptive/ Long question answer b) Short question answer

Rajarshi Janak University
Faculty of Humanities and Law

Curriculum for F.M- 100
Bachelor of Laws (Legum Baccalaureus) (LL. B) P.M- 50
Course: Public International Law
Duration of the Course-125 Hours
Course Code: Law 304
Nature: Compulsory
Year: First

COURSE DESCRIPTION

Public International Law (PIL) is a body of rules and principles that governs the conduct of sovereign states and international organizations in their interactions with each other and, in some cases, with individuals and other actors. PIL addresses various areas, such as the use of force, human rights, international treaties, and the settlement of disputes, and is distinct from domestic law because it lacks a supreme executive authority or international police force. The main sources of international law include treaties, customary international law, the general principles of law recognized by nations, and judicial decisions and the writings of publicists. The completion of the Course would allow students to understand the foundations of PIL. The Course would prepare a student to solve general problems of international law and formulate and provide legal opinions on contemporary international legal issues. The Course would also prepare a student to research finer details in international law and pursue higher degree on international law.

LEARNING OUTCOMES

Students successfully completing this course should be able to:

- explain and apply the fundamental concepts and terminology of public international law
- understand and appreciate the nature of the international system, how it is organized and how it works
- demonstrate knowledge and understanding of the key legal regimes operating in the international realm
- understand how international and foreign law are applicable in the domestic courts
- demonstrate the ability to identify various factors and forces that shape the contemporary international community and how problem-solving contexts are interrelated
- use and interpret sources of public international law, case law in particular
- demonstrate understanding of the international legal rules concerning treaties and their application to factual scenarios

- analyze the subject of Public International Law in order to recognize its assumptions, arguments, conclusions and implications
- analyze complex legal questions in problem solving.
- apply the knowledge gained from this course to identify contemporary international problems

COURSE CONTENT

1. Introduction to International Law (9 hrs.)

- 1.1.Evolution of International Law
- 1.2.Theoretical Foundations of International Law
- 1.3.Nature and Role of International Law

2. Relationship between International Law and Municipal Law (12 hrs.)

- 2.1.Application (Domestication) of International Law in Municipal Courts
- 2.2.Theories of domestic application of international law
- 2.3.Domestication of International Law in Nepal and the Treaty laws of Nepal
- 2.4.Comparative study of domestication of international law in Nepal, the United Kingdom and the United States of America.

3. Sources of International Law (12 hrs.)

- 3.1.Article 38 of the Statute of the International Court of Justice
 - 3.1.1. Treaties and Conventions
 - 3.1.2. Custom
 - 3.1.3. The General Principles of Law
 - 3.1.4. Judicial Decisions and Publications and Teachings
- 3.2.The Relationship Between the Sources of International Law
- 3.3.Additional Sources of International Law
 - 3.3.1. Unilateral Declaration as a source of international law
 - 3.3.2. Equity as a source of international law

4. Subjects of International Law (12 hrs.)

- 4.1.States as subjects of International Law
 - 4.1.1. Concept of Statehood
 - 4.1.2. Creation of State
 - 4.1.3. Self Determination
 - 4.1.4. Recognition
- 4.2.International Organizations as subjects of International Law
- 4.3.Individuals as subjects of International Law
 - 4.3.1. International Rights and Responsibilities
 - 4.3.2. International Claims

5. Jurisdiction of State (10 hrs.)

- 5.1.Civil Jurisdiction
- 5.2.Criminal Jurisdiction
- 5.3.Extraterritorial Jurisdiction

- 5.4.Concurrent Jurisdiction
- 5.5.Extradition

6. The Law of Treaties (12 hrs.)

- 6.1.Formation of Treaties
- 6.2.Reservations of Treaties
- 6.3.Application of Treaties
- 6.4.Interpretation of International Treaties
- 6.5.Invalidation, Termination of Treaties
- 6.6.Treaties and *Jus cogens*

7. Immunities and Privileges of State and Diplomats (12 hrs.)

- 7.1.State Immunity
- 7.2.Diplomatic and Consular Relations Law
 - 7.2.1. Immunities and Privileges of International Organizations and their Officials
 - 7.2.2. Immunities and Privileges of Foreign Diplomats

8. Law of Access to Sea and the Rights of the Land Locked Countries (14 hrs.)

- 8.1.Law of the Sea and Land Locked Countries
- 8.2.United Nations Convention of the Law of the Sea
- 8.3.Transit Agreement Between Nepal and India
- 8.4.Rights of Landlocked Countries in GATT 94

9. State Responsibility (12 hrs.)

- 9.1.Nature and Scope of State Responsibility
- 9.2.The Elements of International State Responsibility
- 9.3.The Substance of International State Responsibility
- 9.4.Invocation of International State Responsibility
- 9.5.Admissibility of Claims
- 9.6.Diplomatic Protection
- 9.7.Rule of Exhaustion of Local Remedies
- 9.8.The ILC Articles on International Responsibility for Internationally Wrongful Acts

10. Settlement of International Disputes (12 hrs.)

- 10.1. Peaceful Settlement of International Disputes in International Law and Politics
- 10.2. International Court of Justice (ICJ)
 - 10.2.1. History of the Permanent Court of International Justice and the International Court of Justice
 - 10.2.2. Formation of the ICJ
 - 10.2.3. Jurisdictions of the ICJ
 - 10.2.4. Contentious and Advisory Jurisdiction of the ICJ
 - 10.2.5. Provisional Measures
 - 10.2.6. Enforcement of the Decisions of the ICJ
- 10.3. Use of International Arbitration in the Settlement of International Disputes

11. Court Simulation [8 hrs.]

Teachers are requested to perform court simulation on at least one of the cases prescribed below

Unit/ Objective	Contents	Learning Outcomes	Activitie s	References
Unit I (9 hrs.) This Unit shall introduce the concept and nature of international law. This Unit shall also briefly trace out the historical development of international law from its origin in the 17th Century to the present era. The Unit shall also discuss some of the basic foundational theories of international law.	1. Introduction to International Law 1.1 Evolution of International Law in the 17 th Century. Influence of the Treaty of Westphalia, Treaty of Paris, Monroe Doctrine, Hague Conferences, League of Nations, World War II, the United Nations, New International Order, Cold War, Post-Cold War. 1.2 Theoretical Foundations of International Law: Debates in legal philosophy with regards to the nature of international law. Theories of John Austin, Hans Kelsen, Grotius, Oppenheim, Naturalism. 1.3 Nature and Role of International Law: International law as law; the state and sovereignty; the institutional structure; expansion of international law (subjects and area); modern international legal problems	After the completion of this unit, you should be able to: <ul style="list-style-type: none"> ▪ Understand the concept of international law ▪ Understand the historical development of international law ▪ Examine and understand various theoretical debates and justifications in international law ▪ Understand and appreciate the contemporary nature of international law and international legal problems. 	<ul style="list-style-type: none"> ▪ Lectures ▪ Reading ▪ Case study & analysis ▪ Self-evaluation ▪ Review question ▪ Exercise ▪ Project work ▪ Assignment ▪ Web-based assignment 	J.G. Starke, <i>Monism and Dualism in the Theory of International Law</i> , 17 Brit. Y. B. Int'l L. 66 (1936). David Sloss (ed.), <i>The Role of Domestic Courts in Treaty Enforcement</i> , (CUP: Cambridge, 2009).
Unit II (12 hrs.) The main objective of	2 Relationship between International Law and Municipal Law 2.1 Application (Domestication) of International Law in	After the completion of this unit, you should be able to: <ul style="list-style-type: none"> ▪ Understand how international law and municipal law 	<ul style="list-style-type: none"> ▪ Lectures ▪ Reading ▪ Case study 	J.G. Starke, <i>Monism and Dualism in the Theory of International Law</i>

<p>the Unit is to introduce the relationship between international law and municipal law. It also seeks to present theories and practices of implementing international law in a municipal court.</p>	<p>Municipal Courts</p> <p>2.2 Theories of domestic application of international law</p> <p>2.3 Domestication of International Law in Nepal and the Treaty laws of Nepal</p> <p>2.4 Comparative study of domestication of international law in Nepal, the United Kingdom and the United States of America.</p>	<p>interact with each other.</p> <ul style="list-style-type: none"> ▪ Examine various theories related to the implementation of international law in municipal courts. ▪ Make comparative analysis of the process of applying international law in Nepal, the UK and the USA. In the process understand the various practices of implementing international law in domestic court. ▪ Critically analyze Nepali and foreign case law dealing with the question of implementing international law in domestic courts. 	<p>and analysis</p> <ul style="list-style-type: none"> ▪ Self-evaluation ▪ Review ▪ Question ▪ Exercise ▪ Project work ▪ Assignment ▪ Assignment 	<p><i>Law, 17 Brit. Y. B. Int'l L. 66 (1936).</i></p> <p>David Sloss (ed.), <i>The Role of Domestic Courts in Treaty Enforcement</i>, (CUP: Cambridge, 2009).</p> <p>Anja Seibert-Fohr, <i>Domestic Implementation of the International Covenant on Civil and Political Rights Pursuant to its article 2 para.2</i>, in J.A. Frowein and R. Wolfrum (eds.), Max Planck Yearbook of United Nations Law, Volume 5, 2001 (Kluwer Law International, Netherlands).</p>
<p>Unit III (12 hrs.)</p> <p>The objective of the Unit is to introduce and discuss various sources of international</p>	<p>Sources of International Law</p> <p>3.1 Article 38 of the Statute of the International Court of Justice</p> <p>3.1.1 Treaties and Conventions</p> <p>3.1.2 Custom</p> <p>3.1.3 The General Principles of Law</p> <p>3.1.4 Judicial Decisions and Publications and Teachings</p> <p>3.2 The Relationship Between the</p>	<p>After the completion of this unit, you should be able to:</p> <ul style="list-style-type: none"> ▪ Understand the concept of sources of international law ▪ Know various sources of modern international law ▪ Understand the relationship between various sources of international law. ▪ Understand the importance and significance of 	<ul style="list-style-type: none"> ▪ Lectures ▪ Reading ▪ Case study and analysis ▪ Self-evaluation ▪ Review ▪ Question ▪ Exercise 	<p>Report of the International Law Commission to the General Assembly, 'Ways and means for making the</p>

<p>law.</p>	<p>Sources of International Law</p> <p>3.3 Additional Sources of International Law</p> <p>3.3.1 Unilateral Declaration as a source of international law</p> <p>3.3.2 Equity as a source of international law</p>	<p>international law.</p> <ul style="list-style-type: none"> ▪ Understand and discuss newly evolving forms of sources of international law 	<ul style="list-style-type: none"> ▪ Project work assignment ▪ Assignment 	<p>evidence of customary international law more readily available'</p> <p>Yearbook of the International Law Commission, Vol. II, 1950, pg 368-372.</p> <p>Statute of the International Court of Justice, 26 June 1945, 892 UNTS 119.</p>
<p>Unit IV (12 hrs.)</p> <p>This unit deals with the concept of subjects of international law and discusses various subjects of international law.</p>	<p>4 Subjects of International Law</p> <p>4.1 States as subjects of International Law</p> <p>4.1.1 Concept of Statehood</p> <p>4.1.2 Creation of State</p> <p>4.1.3 Self Determination</p> <p>4.1.4 Recognition</p> <p>4.2 International Organizations as subjects of International Law</p> <p>4.3 Individuals as subjects of International Law</p> <p>4.3.1 International Rights and Responsibilities</p> <p>4.3.2 International Claims</p>	<p>After the completion of this unit, you should be able to:</p> <ul style="list-style-type: none"> ▪ Understand the concept and importance of subjects of international law. ▪ Know the various types of subjects of international law. ▪ Examine the nature of statehood in international law. ▪ Understand the international legal process of the creation of a state. ▪ Understand the concept of recognition of state. ▪ Examine the development in the scope and nature of the subjects of international law since the World War II. ▪ Understand the significance and impact of including International Organizations and individuals as subjects of international law. 	<ul style="list-style-type: none"> ▪ Lectures ▪ Reading ▪ Case study and analysis ▪ self-evaluation ▪ review ▪ question ▪ Exercise ▪ Project work assignment ▪ Assignment 	<p>J.G. Starke, <i>Monism and Dualism in the Theory of International Law</i>, 17 Brit. Y. B. Int'l L. 66 (1936).</p> <p>David Sloss (ed.), <i>The Role of Domestic Courts in Treaty Enforcement</i>, (CUP: Cambridge, 2009).</p>

Unit V (10 hrs.) The aim of this unit is to explain the concept of state jurisdiction in international law. The Unit shall present the various forms of state jurisdictions.	5 Jurisdiction of State 5.1 Civil Jurisdiction 5.2 Criminal Jurisdiction 5.3 Extraterritorial Jurisdiction 5.4 Concurrent Jurisdiction 5.5 Protective and Universal Jurisdiction 5.6 Extradition	After the completion of this unit, you should be able to: <ul style="list-style-type: none"> ▪ Understand what it means for a state to exercise jurisdiction from the perspective of international law. ▪ Understand how international law confer competence to state to exercise various forms of jurisdictions. ▪ Understand the concept and nature of different forms of jurisdictions that state may exercise. ▪ Understand the concept of extradition and examine the underlying concept of overlapping state jurisdictions in context of extradition. 	<ul style="list-style-type: none"> ▪ Lectures ▪ Reading ▪ Case study and analysis ▪ self-evaluation ▪ review question ▪ Exercise ▪ Project work assignment ▪ Web-based assignment 	J.G. Starke, <i>Monism and Dualism in the Theory of International Law</i> , 17 Brit. Y. B. Int'l L. 66 (1936). David Sloss (ed.), <i>The Role of Domestic Courts in Treaty Enforcement</i> , (CUP: Cambridge, 2009).
Unit VI (12 hrs.) This Unit shall introduce the concept, formation, interpretation, enforcement, and termination of international treaties.	The Law of Treaties 6.1 Formation of Treaties 6.2 Reservations of Treaties 6.3 Application of Treaties 6.4 Interpretation of International Treaties 6.5 Invalidation, Termination of Treaties 6.6 Treaties and <i>Jus cogens</i>	After the completion of this unit, you should be able to: <ul style="list-style-type: none"> ▪ Understand the concept and functions of international treaty. ▪ Understand and explain the treaty formation process. ▪ Understand the concept of reservation of international treaty and the implications of reserving an international treaty. ▪ Understand the law of application, invalidation and termination of international treaty. 	<ul style="list-style-type: none"> ▪ Lectures ▪ Reading ▪ Case study & analysis ▪ self-evaluation ▪ review question ▪ Exercise ▪ Project work assignment ▪ Assignment 	J.G. Starke, <i>Monism and Dualism in the Theory of International Law</i> , 17 Brit. Y. B. Int'l L. 66 (1936). David Sloss (ed.), <i>The Role of Domestic Courts in Treaty Enforcement</i> , (CUP: Cambridge, 2009).

Unit VII (12 hrs.) The main objective of the Unit is to introduce the concept, rational and implications of immunities and privileges of state and diplomats	7 Immunities and Privileges of State and Diplomats 7.1 State Immunity 7.2 Diplomatic and Consular Relations Law 7.2.1 Immunities and Privileges of International Organizations and their Officials 7.2.2 Immunities and Privileges of Foreign Diplomats	After the completion of this unit, you should be able to: ■ Understand the concept and rational of diplomatic and state immunity and privileges. ■ Examine international rules governing diplomatic and state immunities and privileges. ■ Understand the theoretical and historical developments of diplomatic and state immunities and privileges. ■ Understand the scope of immunities and privileges of representatives of international organizations.	■ Lectures ■ Reading ■ Case study and analysis ■ self-evaluation ■ review question ■ Exercise ■ Project work assignment ■ Web-based assignment	J.G. Starke, <i>Monism and Dualism in the Theory of International Law</i> , 17 Brit. Y. B. Int'l L. 66 (1936). David Sloss (ed.), <i>The Role of Domestic Courts in Treaty Enforcement</i> , (CUP: Cambridge, 2009).
Unit VIII (14 hrs.) shall introduce the basic international law of the sea. The Unit shall then focus on the access to sea and rights of land locked countries.	8 Law of Access to Sea and the Rights of the Land Locked Countries 8.1 Law of the Sea and Land Locked Countries 8.2 United Nations Convention of the Law of the Sea 8.3 Transit Agreement Between Nepal and India 8.4 Rights of Landlocked Countries in GATT 94	After the completion of this unit, you should be able to: ■ Understand the basic framework of the present international law of the sea. ■ Understand the various categories of regions in the sea defined by the international law of the sea. ■ Understand the jurisdictional competence of states in various regions of the sea. ■ Understand and analyze the rights of states, particularly landlocked states, to access the sea and exercise transit rights through and up to the sea. ■ Examine and analyze international law governing Nepal's access to sea and transit rights in context of transit agreement with India and GATT 94.	■ Lectures ■ Reading ■ Case study & analysis ■ self-evaluation ■ review question ■ Exercise ■ Project work assignment ■ Assignment	J.G. Starke, <i>Monism and Dualism in the Theory of International Law</i> , 17 Brit. Y. B. Int'l L. 66 (1936). David Sloss (ed.), <i>The Role of Domestic Courts in Treaty Enforcement</i> , (CUP: Cambridge, 2009).
Unit IX (12	9 State Responsibility 9.1 Nature and Scope of State	After the completion of this	■ Lectures ■ Reading	

<p>hrs.)</p> <p>The main aim of this unit is to examine the concept of state responsibility and understand the processes involved in concluding state responsibility.</p>	<p>Responsibility</p> <p>9.2 The Elements of International State Responsibility</p> <p>9.3 The Substance of International State Responsibility</p> <p>9.4 Invocation of International State Responsibility</p> <p>9.5 Admissibility of Claims</p> <p>9.6 Diplomatic Protection</p> <p>9.7 Rule of Exhaustion of Local Remedies</p> <p>9.8 The ILC Articles on International Responsibility for Internationally Wrongful Acts</p>	<p>unit, you should be able to:</p> <ul style="list-style-type: none"> ▪ Understand the concept of state responsibility ▪ Examine the nature and scope of state responsibility ▪ Analyze the elements essential to establish state responsibility. ▪ Understand the concept of attribution of a conduct to the state. ▪ Examine and analyze the processes involved in the establishment of state responsibility. ▪ Examine and analyze the ILC Articles on International Responsibility for Internationally Wrongful Acts ▪ Examine and analyze the concept of diplomatic protection. 	<ul style="list-style-type: none"> ▪ Case study and analysis ▪ self-evaluation ▪ review question ▪ Exercise ▪ Project work ▪ assignment ▪ Assignment 	<p>J.G. Starke, <i>Monism and Dualism in the Theory of International Law</i>, 17 Brit. Y. B. Int'l L. 66 (1936).</p> <p>David Sloss (ed.), <i>The Role of Domestic Courts in Treaty Enforcement</i>, (CUP: Cambridge, 2009).</p>
<p>Unit X (12 hrs.)</p> <p>The Unit shall introduce the nature of the contemporary dispute settlement process in international law. The Unit shall primarily rely on the discussions on ICJ's role in achieving its main objective of understanding and analyzing the nature of the contemporary dispute</p>	<p>10 Settlement of International Disputes</p> <p>10.1 Peaceful Settlement of International Disputes in International Law and Politics</p> <p>10.2 International Court of Justice (ICJ)</p> <p>10.2.1 History of the PCIJ & the ICJ</p> <p>10.2.2 Formation of the ICJ</p> <p>10.2.3 Jurisdictions of the ICJ</p> <p>10.2.4 Contentious and Advisory Jurisdiction of the ICJ</p> <p>10.2.5 Provisional Measures</p> <p>10.5.6 Enforcement of the Decisions of the ICJ</p> <p>10.3 Use of International Arbitration in the Settlement of</p>	<p>After the completion of this unit, you should be able to:</p> <ul style="list-style-type: none"> ▪ Understand the concept of peaceful settlement of international disputes. ▪ Examine the historical process of the development of international courts and peaceful settlement of international disputes. ▪ Understand and examine the nature, function, jurisdiction, and impact of the ICJ on the peaceful settlement of international disputes. ▪ Examine the various types of ICJ's jurisdictions. ▪ Understand the concept of international arbitration. ▪ Analyze the role of ICJ and other international dispute resolution mechanisms in the development of international law and settlement of international disputes. 	<ul style="list-style-type: none"> ▪ Lectures ▪ Reading ▪ Case study & analysis ▪ self-evaluation ▪ review question ▪ Exercise ▪ Project work ▪ assignment ▪ Web-based assignment 	<p>J.G. Starke, <i>Monism and Dualism in the Theory of International Law</i>, 17 Brit. Y. B. Int'l L. 66 (1936).</p> <p>David Sloss (ed.), <i>The Role of Domestic Courts in Treaty Enforcement</i>, (CUP: Cambridge, 2009).</p>

resolution process.	International Disputes			
11. Court Simulation [8 hrs.] Teachers are requested to perform court simulation on at least one of the cases prescribed below	<p>❖ This court simulation has been designed so that the scholars will get in hand experience about the trial process, involving the roles like judge, lawyer, or witness. It helps them to enhance the practical skills, understands court functions, and resolve hypothetical cases through arguments, evidence presentation, and judicial deliberation.</p>	<ul style="list-style-type: none"> • Court Simulation. • Case Review • Brainstorming • Presentation • Argumentation 	<ul style="list-style-type: none"> • Prescribed cases 	
Total= 125 Lecture hours (hrs.)				

Student Activities

- Attending Lectures
- Readings and Class Discussions/ Interactions
- Case Study and Analysis
- Self-evaluation Review Questions/ Quizzes
- Exercises
- Project Work Assessments
- Web-based Assignments

International Cases:

- *Advisory Opinion on Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, ICJ Reports 2004
- *Ahmadou Sadio Diallo Case* ICJ Reports (2010)
- *Anglo-Norwegian Fisheries Case* ICJ Reports 1951
- Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v Uganda) ICJ Reports 2005
- Asylum Case, (Colombia v. Peru) ICJ Reports, 1950, p. 266.
- *Barcelona Traction, Light and Power Company, Limited (Belgium v Spain)* ICJ Rep 1970
- *Case concerning East Timor*, ICJ Reports 1995
- *Case Concerning Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia), Judgment*, I.C.J. Reports 2002
- *Case Concerning the Frontier Dispute (Burkina Faso/Republic of Mali)* I.C.J. Reports, 1986

- *Case concerning the Gabcikovo- Nagymaros Project (Hungary v Slovakia)* 1997 ICJ Rep
- Corfu Channel Case (UK v. Albania ICJ Reports 1949)
- *Certain Criminal Proceedings in France Case (Democratic Republic of Congo v. France, Provisional Measure*
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- *Foster v. Neilson* 27 U.S. (2 Pet.) 253 (1829).
- *Icelandic Fisheries Case (United Kingdom v Iceland) (Jurisdiction)* 1973 ICJ Rep
- *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt* ICJ Rep 1980
- *Island of Palmas Case (Netherlands, US)* (1928) 2 RIAA 829
- *Land and Maritime Boundary between Cameroon and Nigeria*, 2002 ICJ Rep
- *Legal Consequences for States for the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276 (1970) (Advisory Opinion)* 1971 ICJ Rep
- *Legality of the Use by a State of Nuclear Weapons in Armed Conflict* (World Health Organization Request) ICJ Rep 1996
- *Maritime Delimitation and Territorial Questions (Qatar v Bahrain) (Jurisdiction and Admissibility)* 1994 ICJ Rep
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- *North Sea Continental Shelf Cases*, ICJ Reports 1969, 3
- *Nottebohm Case (Liechtenstein v Guatemala)*, ICJ (1955)
- *Pinochet Case, Kumar Lama Case, Arrest Warrant Case (Democratic Republic of Congo v. Belgium)*
- *Reparations for Injuries Suffered in the Service of the United Nations Case* ICJ Rep 1949
- *Reservations to the Genocide Convention (Advisory Opinion)* 1951 ICJ Rep
- *Temple of Preah Vihear (Merits)* 1962 ICJ Rep
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- Western Sahara Case, ICJ Report 1975

Nepalese Case:

- Adv. Sudarshan Subedi v. Office of P.M. & Council of Ministers, NKP 2069, p. 1142
- Adv. Rajeeb Bastola v. Office of P.M. & Council of Ministers, NKP 2068, p. 422
- Adv. Shanker Limbu v. Office of P.M. & Council of Ministers, NKP 2070, p.491
- Balkrishna Neupane v. P.M G. P Koirala & Others, SC Bulletin 2049, p. 1
- Gyana Raj Rai v. Cabinet Secretariat & Others, Writ no 2651 of 2056 (Decision Date: 2058/12/18)
- Hom Nath Adhikari v. Prem Prasad Sapkota, NKP 2072, p.1488

- Lily Thapa v. Cabinet Secretariat, NKP 2062, p. 1054
- Rabindra P. Dhakal v. Office of the P.M. & Others, NKP 2057, Vol. 5, P. 376.
- Rajendra Dulal v. Office of P.M. & Council of Ministers, NKP 2072, p.17
- Ramji Bista v. Council of Ministers et.al., NKP 2055, p.200
- Rajaram Dhakal v. Office of the P.M. & Others, NKP 2060, p.781
- Rama Panta Kharel (Pro Public) v. Office of the P.M. & Council of Ministers NKP 2065, Vol. 4, p. 398
- Sabina Damai v. Office of P.M. & Council of Ministers, NKP 2068, p. 247
- Sandip Sherpa et.al. v. Office of P.M. & Council of Ministers, NKP 2071, p.171
- Tamding Dorge Tuladhar v. District Administration Office Kathmandu NKP 2065, Vol 3, p. 360
- Yogi Narhari Nath v. Council of Ministers et.al. Writ no. 3193 of 2054

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- ❖ Website of National Judicial Academy (of Nepal): www.njanepal.org.np

Evaluation Scheme

Schemes	Total weight-age
<u>Internal evaluation</u>	<u>40 per cent</u>
<ul style="list-style-type: none"> • Assignments, project works, learning summary, participation • Mid-term exams 	20% 20%
External evaluation (End-term exams)	60 per cent

Evaluation Methods/ Components

In-course Evaluation (Assignments and Projects)	Mid-term and End-Course Exams
a) Unit Assignments/Projects/ b) Reviews & Discussions on Issues c) Case Study/ Situation Analysis d) Participation in Interactions with the Tutor & Quizzes e) Other Assignments	a) Descriptive/ Long Answer Questions b) Short Answer Questions

Rajarshi Janak University

Faculty of Humanities and Law

Curriculum for

F.M- 100

Bachelor of Laws (Legum Baccalaureus) (LL. B)

P.M- 50

Course: Procedural Law (Civil & Criminal)

Duration of the Course-125 Hours

Course Code: Law 305

Nature: Compulsory

Year: First

COURSE DESCRIPTION

Procedural law governs the process of how a court case moves through the legal system, dictating the methods for enforcing rights and resolving disputes. It outlines the steps and rules for everything from initial filing and evidence collection to trials, appeals, and judgment execution, and is distinct from substantive law, which defines legal rights and duties. For example, procedural law would explain the steps to file a contract breach lawsuit, while substantive law would define what constitutes a valid contract and a breach of it. Procedural law is crucial because it ensures fair and orderly legal proceedings by defining how substantive laws are enforced. It guarantees that cases are handled consistently, protects due process rights, and provides a systematic method for courts to operate, which is essential for the administration of justice. This course is designed to impart the students with theoretical and practical knowledge about the general legal procedures, short procedures, judicial and quasi-judicial procedures which are followed in Nepalese legal system. This course will impart knowledge regarding the stages to be followed in the court procedures from the beginning to the end of a case (civil and criminal) separately the students. Further, this course aims to enable the students to apply the theoretical knowledge in practical application.

COURSE OBJECTIVES

The main objective of this course is:

- to provide the students basic knowledge of civil and criminal court procedures in Nepalese perspective.
- to acquaint the students with the civil and criminal procedures as provided in Nepalese Legal System.
- to make the student competent to gain knowledge about Nepalese procedural laws and enable them for the practical implementation of their knowledge in legal field.
- to impart knowledge about the legal procedures related to civil and criminal cases in judicial and quasi-judicial bodies.
- to enable the students represent themselves in court as a government attorney and a private lawyer while they involve in judicial and quasi-judicial bodies.
- to enhance the students' professional knowledge and skill on procedural aspects regarding civil and criminal cases.

COURSE CONTENTS

Unit 1: Introduction 12 LH

- 1.1 Definition, Nature and Importance of procedural law
- 1.2 Difference between:
 - 1.2.1 Procedural law and Substantial law
 - 1.2.2 Civil and Criminal Law
 - 1.2.3 General, Summary and Special Procedure

Unit 2: Basic Principles of Procedural Law 10 LH

- 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, Quasi-judicial bodies 16 LH

- 3.1 Meaning, nature and kinds of Jurisdiction
- 3.2 Trial Court's Jurisdiction
- 3.3 High Court's Jurisdiction
- 3.4 Special Court's Jurisdiction
- 3.5 Supreme Court's Jurisdiction:
 - 3.5.1 Ordinary and Extra ordinary jurisdiction
 - 3.5.2 Review and revision
- 3.6 Jurisdiction of Quasi-Judicial Bodies (QJB)

Unit 4: Stages and Proceedings of Trial Proceedings 20 LH

4.1 Kinds of Hearing

Preliminary Hearing, Merit (Final) Hearing, Sentencing Hearing

4.1 Civil Proceedings: Filing of Suits and its requirements, Notice to the Defendants, Filing of Defense, Date of Presence to the judicial & quasi-judicial bodies, Power of

Attorney, Court's Order (inter-locutory, interim & final orders), Collection of Evidence, Statements of Parties & Witnesses, Postponement & Compromise of case and judgment.

4.2 Criminal Proceedings: Filing of FIR and Charge sheets, Statement of Accused, Bail Hearing (Hearing for release or custody of the accused for prosecution) and Bail Order, Notice to Defendant and Accused, Examination of Evidence, Statement of Parties and Witnesses, Postponement, Compromise and Withdrawal of cases, Judgment.

4.3 Principle of *Nolle Prosequi*

4.4. Plea Bargaining

Unit 5: Stages and Proceedings of Appellate Proceedings 15 LH

5.1 Civil and Criminal Proceedings: Filing of Appeal, Ex-parte hearing, Granting of permission, Notice to Respondent, Written Statements by Respondents, Final hearing and judgment (Approval, void in partial and null and void).

Unit 6: Writ, Review and Revision Proceedings 10 LH

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

6.2 PIL Su motu action

6.3 Review and revision proceedings

Unit 7: Alternative Dispute Resolution (ADR) 5 LH

7.1 Arbitration and its Procedures

7.2 Mediation and its Procedures

Unit 8: Proceedings for Execution of Judgments, Orders etc 20 LH

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

Unit 9: Recent Trends 7 LH

9.1 Adversary (accusatorial), inquisitorial and mixed system

9.2 Development and recent trends of procedural laws in Nepal

9.3 Separate Bench Systems

9.3.1 Civil bench

9.3.2. Criminal bench

9.3.3 Juvenile bench

- 9.3.4 Commercial bench
- 9.4 Continuous hearing
- 9.5 In- camera hearing
- 9.6 Use of Information Technology

Unit 10: Case Analysis	10 LH
10.1 Advocate Radheshyam Adhikari vs. HMG. Council of Ministers Secretariat & others, (Three Judges, Special Bench), NKP, 2048 no.12 p. 810	
11.2 Full Bench Report (Pratibedan) no. 7,2060 (Three Judges Full Bench) Decision no.7220, NKP 2060 nos.5/6 p.408	
11.3 Liladhar Rijal vs. Bel Prasad Rijal (Jaisi) et. al, NPK 2077, Vol.7, Decision no.10531, p. 1300	
11.4 Padam Bahadur Karki vs. Manakumari et.al NKP 2061 p. 212	
11.5 Parsu Ram Banjare vs. Durga Das Shrestha, Bagmati Special Court, Kath. & others (Division Bench), NKP 2027 no.7 p.157	
11.6 Pasang Dawa Tamang (Lopchan) vs. HMG, (Division Bench) NKP 2058 Nos. 3 4, p.188	
11.7 Pradip Kumar Agrawal vs. Tax Office, Morang, Biratnagar, (Seven Judges Full Bench) NKP 2052 no. 7 p.542	
11.8 Ratan Lal Agrawal vs. Father James Dressman, Chairman of Swiss Agency, (Three Judges Full Bench) NKP 2044 no.2 .148	
11.9 Ram Prabesh Shah et. al. vs. Appellate Court Patan, NPK 2070, Vol. 8989, p.483	
11.10 Sameer Khan Vs. Kathmandu, Habeas Corpus, NPK 2071, Vol. 9, Decision no. 9245, p 1465	

CONTENT ELABORATION AND MODUS OPERANDI

Unit/Objective	Content	Learning Objectives (After the completion of this unit should be able to understand)	Activities
Unit 1 (12 hrs) The main objective of this unit is to introduce the concepts of procedural law	1.1 Definition, nature and importance of procedural law 1.2 Difference between: 1.2.1 Procedural law and Substantial law 1.2.2 Civil and Criminal Procedure	• Meaning, nature and importance of procedural law. • Difference between substantive and procedural law. • Types of procedures.	• Lectures • Readings • Case study & Analysis • Self-evaluation • Review questions • Exercises • Project work

<p>Unit 2. (10 hrs)</p> <p>The main objective of this course is to provide the basic Principles of Procedural Law.</p>	<p>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</p>	<ul style="list-style-type: none"> • To apply the basic principles of procedural law in Civil and Criminal proceedings. • To acquaint the students with the principles of latches, alternative remedy, res judicata, principles of natural justice and amicus-curiae. 	<ul style="list-style-type: none"> • Lectures • Readings • Case study & Analysis • Self-evaluation • Review questions • Exercises • Project work • Assessment.
<p>Unit 3 (16 hrs)</p> <p>The main objective of this unit is to impart knowledge on the Jurisdiction of Courts, Other Bodies</p>	<p>3.1 Meaning, nature and Jurisdiction 3.2 Trial Court's Jurisdiction 3.3 High Court's Jurisdiction 3.4 Special Court's Jurisdiction 3.5 Supreme Court's Jurisdiction: 3.5.1 Ordinary and Extra ordinary jurisdiction 3.5.2 Review and revision 3.6 Jurisdiction of Quasi-Judicial Bodies (QJB)</p>	<ul style="list-style-type: none"> • Meaning, nature and Jurisdiction • Jurisdiction of different tiers of Courts including special court (judicial and quasi-judicial bodies) • Concept types, jurisdiction and decisions of Alternative Dispute Resolution (QJB) 	<ul style="list-style-type: none"> • Lectures • Readings • Case study & Analysis • Self-evaluation • Review questions • Exercises • Project work • Assessment

<p>Unit 4 (20 hrs)</p> <p>The main objectives of this unit is to impart knowledge regarding the stages and techniques of trial proceeding</p>	<p>4.1 Civil Proceedings: Filing of Suits and its requirements, Notice to the Defendants, Submission of the Reply, Date of Presence to the judicial and quasi-judicial bodies, Power of Attorney, Court's Order (inter-locutory, interim and final orders), Collection of Evidence, Statements of Parties and Witnesses, Postponement and Compromise of case and judgment.</p> <p>4.2 Criminal Proceedings: Filing of FIR and Charge sheets, Statement of Accused, Bail Hearing and Bail Order, Notice to Defendant and Accused, Examination of Evidence, Statement of Parties and Witnesses, Postponement, Compromise and Withdrawal of cases, Judgment.</p> <p>4.3 Principle of <i>Nolle Prosequi</i></p>	<ul style="list-style-type: none"> • Filing of the case • Presence to the court. (<i>tarikh</i>) • Reply from the defendant • Collection of evidence. • Collection of the concerned documents as per the needs. • Statement of the witness • Order sheet by judges • Date of the hearing(<i>pesi</i>) • Compromise of the case or judgment • Filing of FIR • Chargesheet • Statement of accused • Custody or • Bail order • Examination of Evidence • Postpostment of hearing(<i>pesi</i>) • Compromise and withdrawal • Principle of <i>Nolle Prosequi</i> • Plea Bargaining 	<ul style="list-style-type: none"> • Lectures • Readings • Case study & Analysis • Self-evaluation • Review questions • Exercises • Project work • Assessment
<p>Unit 5 (15 hrs)</p> <p>The major objective of this unit is to provide knowledge about the stages and techniques of appellate proceedings</p>	<p>5.1 Civil and Criminal Proceedings: Filing of Appeal, Ex-parte hearing, Granting of permission, Notice to Respondent, Written Statements by Respondents, Final hearing and judgment (Approval, void in partial and null and void).</p>	<ul style="list-style-type: none"> • Draft of the appeal • Understand the filing procedure of appeal to the High Courts • Understand order to bring the case file(<i>misils</i>) from the concerned decision making judicial and quasi-judicial bodies. • Appellate procedures and final judgment 	<ul style="list-style-type: none"> • Lectures • Readings • Case study & Analysis • Self-evaluation • Review questions • Exercises • Project work • Assessment
<p>Unit 6 (10 hrs)</p> <p>The main objective of this unit is to enable the students to draft writ, review and revision proceedings</p>	<p>6.1 Writ Proceedings: Filing of writ petition, show cause order, stay order, notice to the respondent (subpoena), written submission, final hearing and decision.</p> <p>6.2 PIL Su motu action</p> <p>6.3 Review and revision proceedings</p>	<ul style="list-style-type: none"> • Draft different types writs i.e Habeas Corpus, Mandamus, Certiorari, Prohibition and Quo-warranto. • Show cause order, call both parties for discussion, • Written submission by the opponent • Final Hearing and decision • Reviewing and revision • Procedures. 	<ul style="list-style-type: none"> • Lectures • Readings • Case study & Analysis • Self-evaluation • Review questions • Exercises • Project work • Assessment

Unit 7 (5 hrs) The main objective of this course is to acquaint students with the procedure for Alternative Dispute Resolution (ADR)	7.1 Procedure applicable Arbitration 7.2 Procedure applicable in Mediation.	<ul style="list-style-type: none"> process the mediation and arbitration process as ADR. 	<ul style="list-style-type: none"> Lectures Readings Case study & Analysis Self-evaluation Review questions Exercises Project work Assessment
Unit 8 (20 hrs) The main objective of this course is to provide knowledge about Proceedings for Execution of Judgments, Orders etc to the students.	8.1 Proceedings for execution in for QJB and both judicial and quasi-judicial bodies to the students. 8.1 Procedure for the Execution or enforcement of Judgment in Civil and Criminal cases in Nepal.	<ul style="list-style-type: none"> procedure for the execution or enforcement on judgment in Civil and Criminal Cases in Nepalese perspective. 	<ul style="list-style-type: none"> Lectures Readings Case study & Analysis Self-evaluation Review questions Exercises Project work Assessment
Unit 9 (7 hrs) This unit aims to introduce about the recent trends and developments of procedural law in Nepal.	9.1 Adversary (accusatorial), inquisitorial and mixed system 9.2 Development and recent trends of procedural laws in Nepal. 9.3 Separate Bench Systems 9.3.1 Civil bench 9.3.2. Criminal bench 9.3.3 Juvenile bench 9.3.4 Commercial bench	<ul style="list-style-type: none"> The different legal systems of the world. Development of procedural laws in Nepal. Recent trends of judicial and quasi-judicial procedures in Nepal. Separate Bench Systems 	<ul style="list-style-type: none"> Lectures Readings Case study & Analysis Self-evaluation Review questions Exercises Project work Assessment

	<p>9.4 <i>Amicus- Curie</i></p> <p>9.5 Continuous hearing</p> <p>9.6 In- camera hearing</p> <p>9.7 Use of Information Technology</p>		
Unit 11 (10 hrs) This unit aims to provide the students' knowledge with analyzing the cases tracing out the facts, procedures and verdict of the Supreme Court.	<p>11.1 Advocate Radheshyam Adhikari vs.HMG. Council of Ministers Secretariat & others, (Three Judges, Special Bench), NKP, 2048 no.12 p. 810</p> <p>11.2 Full Bench Report (Pratibedan) no. 7,2060 (Three Judges Full Bench) Decision no.7220, NKP 2060 nos.5/6 p.408</p> <p>11.3 Liladhar Rijal vs. Belprasad Rijal (Jaisi) et. al, NPK 2077, Vol.7, Decision no.10531, p. 1300</p> <p>11.4 Padam Bahadur Karki vs. Manakumari et.al NKP 2061 p.212</p> <p>11.5 Parsu Ram Banjare vs. Durga Das Shrestha,Bagmati Special Court, Kath. & others (Division Bench), NKP 2027 no.7p.157</p> <p>11.6 Pasang Dawa Tamang (Lopchan) vs. HMG, (Division Bench) NKP 2058 Nos. 3 4, p.188</p> <p>11.7 Pradip Kumar Agrawal vs. Tax Office, Morang, Biratnagar, (Seven Judges Full Bench) NKP 2052 no. 7 p.542</p> <p>11.8 Ratan Lal Agrawal vs. Father James Dressman, Chairman of Swiss Agency, (Three Judges Full Bench) NKP 2044no.2 .148</p> <p>11.9 Ramprabesh Shah et. al. vs. Appellate Court Patan, NPK 2070, Vol. 8989, p.483</p> <p>11.10 Sameer Khan Vs. Kathmandu, Habeas Corpus, NPK 2071, Vol. 9, Decision no. 9245, p 1465</p>	<ul style="list-style-type: none"> • Practical knowledge on civil and criminal proceedings on the basis of the precedents established by the Nepalese Supreme Court. 	<ul style="list-style-type: none"> • Lectures • Readings • Case study & Analysis • Self-evaluation • Review questions • Exercises • Project work • Assessment

Student Activities:

- Attending Lectures
- Readings and Class Discussions/ Interactions
- Case Study and Analysis
- Self-evaluation Review Questions/ Quizzes
- Exercises
- Project Work Assessments
- Web-based Assignments

References

- Muluki Civil Code, 2074
- Muluki Civil Procedure Code, 2074
- Muluki Criminal Code, 2074 and
- Muluki Criminal Procedure Code, 2074
- Sentencing Act, 2074
- Bhattarai, Ananda Mohan et al, *Problems and Solutions related to Execution of Decisions*, Lalitpur: Nepal Judicial Academy, 2065 BS.
- Khanal, Shambhu Prasad, *Administrative Law*, Sara Prakashan, 2073, Kathmandu.
- Neupane, Gunanidhi, *Karyabidhi Kanoon* (In Nepali): Lumbini Prakashna, 2065 BS.
- Ojha, Pawan Kumar, *Procedural Law*, Kathmandu: Lumbini Prakashan, 2070 BS.
- Shrestha, Gyaindra Bahadur, *Karyabidhi Kanoonko Rooprekha* (in Nepali), Kathmandu: Pairavi Prakashan, 2072 BS.
- ___, Writ Nibenan Siddanta Ra Byabahar (in Nepali), Kathmandu: Pairavi Prakashan, 2068 BS.

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- ❖ Website of Nepal Law Commission: www.lawcommission.gov.np
- ❖ Website of Office of the Attorney General of Nepal: www.ag.gov.np
- ❖ Website of National Judicial Academy (of Nepal): www.njanepal.org.np

Evaluation Scheme

Schemes	Total weight-age
<u>Internal evaluation</u>	<u>40 per cent</u>
<ul style="list-style-type: none"> • Assignments, project works, learning summary, participation • Mid-term exams 	20% 20%
External evaluation (End-term exams)	60 per cent

Evaluation Methods/ Components

In-course Evaluation (Assignments and Projects)	Mid-term and End-Course Exams
a) Unit Assignments/Projects/ b) Reviews & Discussions on Issues c) Case Study/ Situation Analysis d) Participation in Interactions with the Tutor & Quizzes e) Other Assignments	a) Descriptive/ Long Answer Questions b) Short Answer Questions

Rajarshi Janak University**Faculty of Humanities and Law**

Curriculum for

F.M- 50

Bachelor of Laws (Legum Baccalaureus) (LL. B)

P.M- 25

Course: Criminal Law-I (Criminology and Penology)

Duration of the Course- 62Hours

Course Code: Law 306

Nature: Elective

Year: First

COURSE DESCRIPTION

"Criminology & Penology" is a combined academic course that studies the causes of crime (criminology) and the theory and practice of punishment and offender rehabilitation (penology). Criminology focuses on understanding criminal behavior, while penology examines how society responds to crime through punishment, correction, and the treatment of offenders. Criminology & penology is important because it analyzes the causes of crime and the effectiveness of punishment, which in turn informs policies for crime prevention and offender rehabilitation. Criminology examines the social, psychological, and economic factors of criminal behavior, while penology focuses specifically on the management, punishment, and rehabilitation of offenders to reduce recidivism and ensure humane treatment. This combined field is crucial for developing effective and ethical criminal justice systems. This course is designed to acquaint students with the fundamental knowledge and concept of Criminology and Penology. The course imparts students with the critical knowledge on philosophy of Criminology and Penology. The course also imparts students with the knowledge on Muluki Criminal Code, Muluki Criminal Procedure Code. The course enables the students with knowledge about the theories, practices, judicial trends of criminology and victimology. The course encourages students in the involvement in multi-faceted interpretation of laws. The course thereby helps in the development of laws, i.e. criminology and penology and justice in Nepal.

LEARNING OUTCOMES

At the end of the course, students will be able to:

- Explain the general concept, nature, importance, Criminology & Penology.
- Discuss about the identification & formulation of different types of crimes.
- Discuss about the relevancy of literature relating to criminology and penology.
- Explain about schools, theories, terms of Criminology and Penology.
- Explain about the provisions of National Criminal Code and National Criminal Procedures Code.
- Discuss about the Policy, Methods & Techniques of Criminology and Penology.

COURSE CONTENTS

1. Introduction to Criminology (10 hrs.)

- 1.1 Meaning & Definition of Crime & Deviance
- 1.2 Definition, Nature, Scope & Importance of Criminology
- 1.3 Study Methods of Criminology
- 1.4 Classification of Crime (Muluki Criminal Code, 2074)
- 1.5 Concept, Nature & Purpose of Criminal Law & Criminal Justice System
- 1.6 Modern Trends to Criminology
- 1.7 Interrelation between Criminology, Penology & Victimology

2. Schools of Criminology (10 hrs.)

- 2.1 Pre-Classical School
- 2.2 Classical & Neo-classical School
- 2.3 Biological School
- 2.4 Psychological School
- 2.5 Sociological School
- 2.6 Economical School

3. Factors Responsible for Deviance and its Outcome (8 hrs.)

- 3.1 Causative Factors for Deviance: Personal Factors, Family, School, Environmental Factors, Peer Group, Neighborhood, Media & Movies
- 3.2 Interrelation between Heredity Factor & Crime
- 3.3 Mental Disorder & Criminality
- 3.4 M' Naughten's Rule of Criminal Responsibility
- 3.5 Insanity under Muluki Criminal Code
- 3.6 Bio-physical Factors & Criminality
- 3.7 Intelligence Testing & Crime

4. Police Organization and Crime Control (6 hrs.)

- 4.1 Origin & Development of Police Organization
- 4.2 Goals, Objectives & Functions of Police Organization
- 4.3 Principles of Policing
- 4.4 Role of Police in Investigation & Prevention of Crime
- 4.5 Police & Protection of Crime Victims & Offenders

5. Theories of Punishment (10 hrs.)

- 5.1 Meaning & Definition of Punishment
- 5.2 Approaches to Punishment: Punitive Approach; Therapeutic Approach; Preventive Approach
- 5.3 Theories of Punishment: Retributive theory; Deterrent Theory; Rehabilitative/ Reformative Theory
- 5.4 Types of Punishment: Capital Punishment; Corporal Punishment; Other forms of Punishments
- 5.5 Penal Policies in Nepal

6. The Prison System & Alternative to Prison (10 hrs.)

- 6.1 Meaning & Purpose of Prison
- 6.2 Historical development of Prison
- 6.3 Concept of Prison Reformation
- 6.4 Major Flaws Underlying the Prison system
- 6.5 A Case Study on Nepalese Prison System
- 6.6 Alternative to Prison: Fine; Restitution; Community Service, After Care Programme
- 6.7 Probation & Parole: Does they include in Alternative to Prison?
- 6.8 Open Prison: A Case Study of Nuwakot Open Prison

7. Sentencing System (8 hrs.)

- 7.1 Concept & Definition of Sentencing
- 7.2 Difference between Conviction & Sentencing
- 7.3 Principles & Policies of Sentencing
- 7.4 Process of Sentencing
- 7.5 Victim Participation in Sentencing Process
- 7.6 Attitude of Community Towards Released Offender
- 7.7 Major Features of Nepalese Sentencing Law

CONTENT ELABORATION AND MODUS OPERANDI

Units & Lecture Hours	Learning Outcomes (students will be able to:)	Mode of Delivery	Key Readings/ References
Unit-I 1. Introduction to Criminology (10 hrs) 1.1 Meaning & Definition of Crime & Deviance 1.2 Definition, Nature, Scope & Importance of Criminology 1.3 Study Methods of Criminology 1.4 Classification of Crime (Muluki Criminal Code, 2074) 1.5 Concept, Nature & Purpose of Criminal Law & Criminal Justice System 1.6 Modern Trends to Criminology 1.7 Interrelation between Criminology, Penology & Victimology	<ul style="list-style-type: none">❖ Define crime & mention nature, scope & importance of Criminology.❖ Inquire about the study methods of Criminology.❖ Classify crime; & mention concept, nature & purpose of Criminal Law & Criminal Justice System.❖ Correlate the relation between, Criminology, Penology & Victimology.	<ul style="list-style-type: none">• Assignment• Presentation• Brainstorming• Case Analysis• Readings• Case Based Studies• Blended Learning• Self-evaluation• Review questions• Exercises	<ul style="list-style-type: none">• Acharya (2020).• Morselli (2008).• Nelen & Siegel (eds.) (2021)• Nicaso & Lamothe (2010)• Paranjape (2017).• Pradhananga (2013).• Scot (2008).• Siddique (1987).• Vibhuti (2013).
Unit-II 2 Schools of Criminology (10 hrs) 2.1 Pre-Classical School 2.2 Classical & Neo-classical School 2.3 Biological School 2.4 Psychological School 2.5 Sociological School 2.6 Economical School	<ul style="list-style-type: none">❖ Explain concept of various school of Criminology.❖ Use of the learned theories in problem solving, such as: in the law enforcement, social work, public administration, private sector counselling.❖ Use to explain the legal	<ul style="list-style-type: none">• Assignment• Presentation• Brainstorming• Case Analysis• Readings• Case Based Studies• Blended Learning	<ul style="list-style-type: none">• Acharya (2020).• Morselli (2008).• Nelen & Siegel (eds.) (2021)• Nicaso & Lamothe (2010)• Paranjape (2017).• Pradhananga (2013).

	system based on its criminal law, penal law & victim justice system.	<ul style="list-style-type: none"> • Self-evaluation • Review questions • Exercises 	<ul style="list-style-type: none"> • Scot (2008). • Siddique (1987). • Vibhuti (2013).
Unit-III 3 Factors Responsible for Deviance & its Outcome (8 hrs)	<ul style="list-style-type: none"> ❖ Discuss about the factors responsible for the causation of crime. ❖ Explain if there is any connection between hereditary factor & crime. ❖ Discuss about the relation between mental disorder & criminality. ❖ Explain Mc Naughten's rules of criminal responsibility. ❖ Explain Bio-physical factor & criminality. ❖ Discuss if there is any relationship between the IQ level & crime. 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions 	<ul style="list-style-type: none"> • Acharya (2020). • Morselli (2008). • Nelen & Siegel (eds.) (2021) • Nicaso & Lamothe (2010) • Paranjape (2017). • Pradhananga (2013). • Scot (2008). • Siddique (1987). • Vibhuti (2013).
Unit-IV 4 Police Organization and Crime Control (6 hrs)	<ul style="list-style-type: none"> ❖ Discuss about origin & development of police organization & its goals, objectives & functions. ❖ Explain about the principles of policing. ❖ Explain about the role of police & crime investigation. ❖ Discuss about the protection of crime victims & offenders by police. 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation 	<ul style="list-style-type: none"> • Acharya (2020). • Morselli (2008). • Nelen & Siegel (eds.) (2021) • Nicaso & Lamothe (2010) • Paranjape (2017). • Pradhananga (2013). • Scot (2008).
Unit-V 5 Theories of Punishment (10 hrs)	<ul style="list-style-type: none"> ❖ Explain about the meaning & definition of punishment. ❖ Discuss about the approaches to punishment: should it be punitive or reformatory. ❖ Explain about the theories of punishment. ❖ Explain about the types of punishments. ❖ Inquire about the penal policies in Nepal. 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions 	<ul style="list-style-type: none"> • Acharya (2020). • Morselli (2008). • Nelen & Siegel (eds.) (2021) • Nicaso & Lamothe (2010) • Paranjape (2017). • Pradhananga (2013). • Scot (2008). • Siddique (1987). • Vibhuti (2013).
Unit-VI 6 The Prison System & Alternative to Prison (10 hrs)	<ul style="list-style-type: none"> ❖ Explain the meaning, purpose, & historical development of prison. ❖ Discuss about the concept of prison reform. ❖ Analyze the prison system of Nepal & underlying flaws. ❖ Discuss about the concept of 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning 	<ul style="list-style-type: none"> • Acharya (2020). • Morselli (2008). • Nelen & Siegel (eds.) (2021) • Nicaso & Lamothe (2010) • Paranjape (2017). • Pradhananga (2013).

6.6 Alternative to Prison: Fine; Restitution; Community Service, After Care Programme.	alternative to prison.	• Self-evaluation	• Scot (2008). • Siddique (1987). • Vibhuti (2013).
6.7 Probation & Parole: Does they include in Alternative to Prison?	❖ Discuss if probation & parole include in alternative to prison?		
6.8 Open Prison: A Case Study of Nuwakot Open Prison			
Unit VII 7 Sentencing System (8 hrs)	❖ Explain concept & definition of sentencing. ❖ Discuss about principles & policies of sentencing. ❖ Explain about the process of sentencing. ❖ Analyze about the victim participation in sentencing process. ❖ Discuss the attitude of community towards released offender. ❖ Analyze Nepalese laws & policies about sentencing.	• Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation	• Acharya (2020). • Morselli (2008). • Nelen & Siegel (eds.) (2021) • Nicaso & Lamothe (2010) • Paranjape (2017). • Pradhananga (2013). • Scot (2008). • Siddique (1987). • Vibhuti (2013).
Total= 62 Lecture hours (hrs.)			

Student Activities

- Attending Lectures
- Readings and Class Discussions/ Interactions
- Case Study and Analysis
- Self-evaluation Review Questions/ Quizzes
- Exercises
- Project Work Assessments
- Web-based Assignments

References

- Muluki Criminal Code, 2074 (2017).
- Muluki Criminal Procedural Code, 2074 (2017).
- Criminal Offences (Sentencing and Execution) Act, 2074 (2017)
- Acharya, Madhav (2020). *Criminology*, 2nd ed., Kathmandu: Ratan Pustak Bhandar.
- Albanese, Jay S. (2010). *Organized Crime in Our Times*, London: Routledge.
- Albinia, Joseph L. & Jeffrey Scott McIllwain (2012). *Deconstructing Organized Crime: An Historical and Theoretical Study*, USA: McFarland.
- Mallory, Stephen L. (2011). *Understanding Organized Crime*, USA: Jones & Bartlett.
- Marco, Pasquale De (2025). *The Global Reach of Organized Crime*, Self-published.
- Morselli, Carlo (2008). *Inside Criminal Networks*, USA: Springer.
- Nelen, Hans and Dina Siegel (eds.) (2021). *Contemporary Organized Crime: Developments, Challenges and Responses*, Germany: Springer Nature.

- Nicaso, Antonio and Lee Lamothe (2010). *Angels, Mobsters and Narco-Terrorists: The Rising Menace of Global Criminal Empires*, USA: John Wiley & Sons.
- Paranjape, N.P. (2017). *Criminology, Penology, Victimology*. Allahabad: Central Law Publications
- Pradhananga, Rajit Bhakta (2013). *Criminal Law*, Kathmandu: Pairavi Prakashan.
- Scot, David (2008). *Penology*, India: Sage Publication.
- Siddique, Ahmad (1987). *Criminology: Problems and Perspective*, India: Eastern book Company.
- Vibhuti, K. I. (2013). *PSA Pillai's Criminal Law*, India: Butterworths.

E Sources

- ❖ Website of Nepal Law Commission: www.lawcommission.gov.np
- ❖ Website of Office of the Attorney General of Nepal: www.ag.gov.np
- ❖ Website of National Judicial Academy (of Nepal): www.njanepal.org.np

Evaluation Scheme

Schemes	Total weight-age
<u>Internal evaluation</u>	<u>40 per cent</u>
<ul style="list-style-type: none"> • Assignments, project works, learning summary, participation • Mid-term exams 	20% 20%
External evaluation (End-term exams)	60 per cent

Evaluation Methods/ Components

In-course Evaluation (Assignments and Projects)	Mid-term and End-Course Exams
a) Unit Assignments/Projects/ b) Reviews & Discussions on Issues c) Case Study/ Situation Analysis d) Participation in Interactions with the Tutor & Quizzes e) Other Assignments	a) Descriptive/ Long Answer Questions b) Short Answer Questions

Rajarshi Janak University
Faculty of Humanities and Law

Curriculum for F.M- 50
Bachelor of Laws (Legume Baccalaureus) (LL. B) P.M- 25
Course: Criminal Law- II (Laws Against Organized Crime)
Duration of the Course- 62 Hours
Course Code: Law 307
Nature: Elective
Year: First

COURSE DESCRIPTION

A "law against organized crime" is a set of statutes designed to combat and prosecute criminal organizations by criminalizing specific activities and providing tools for investigation, prosecution, and asset forfeiture. These laws often define organized crime as criminal activities conducted by a highly organized group, and they can include provisions against racketeering, money laundering, and trafficking, as well as enhanced penalties for crimes committed by such groups. Studying the law against organized crime is important for protecting public safety and human rights, safeguarding economic stability, upholding the rule of law, and enabling effective national and international policy responses. This course is designed to acquaint students with the fundamental knowledge and concept of Laws on Organized Crime. The course imparts students with the critical knowledge on philosophy of Organized Crime. The course also imparts students with the knowledge on Criminal Code, Criminal Procedure Code. The course enables the students with knowledge about the theories, practices, and judicial trends on Organized Crime. The course also enables students to prepare the layout for criminal justice system. The course imparts students with the knowledge of national Criminal code and National Criminal Procedure Code regarding the laws on organized crime. The course encourages students in the involvement in multi-faceted interpretation of laws. The course thereby helps in the development of laws, i.e. Organized Crime and justice in Nepal.

LEARNING OUTCOMES

At the end of the course, students will be able to:

- Explain the general concept, nature, importance, laws on organized crime.
- Discuss about the identification & formulation of different types of organized crimes.
- Discuss about the relevancy of literature relating to organized crime.
- Explain about the investigation and prosecution of process related to organized crime.
- Explain about the provisions of National Criminal Code and National Criminal Procedures Code related to the organized crime.
- Discuss about the judicial trends and co-operation towards ligating organized crime cases.

COURSE CONTENTS

1. Introduction to Organized Crime (10 hrs.)

- 1.1 Meaning and Definition of Organized Crime
- 1.2 Nature and Pattern of Organized Crime
- 1.3 Characteristics and Types of Organized Crime
- 1.4 Causes of Organized Crime
- 1.5 Comparison between White Collar Crime, Corporate Crime, and Organized Crime
- 1.6 Theories of Organized Crime
- 1.7 Changing Trends in Organized Crime
- 1.8 Jurisdiction Theories related to Organized Crime

2. Measures to Combat and Control of Organized Crime (20 hrs.)

- 2.1 International Perspective: Transnational Organized Crime, Illicit Firearm Trafficking, Drug Trafficking, Money Laundering Scams and Frauds, Human Trafficking and Exploitation in the Sex Industry, Illegal Gambling, Extortion, Loansharking, Arms Trafficking, Illegal Exploitation of Natural Resources, Cyber Crimes
- 2.2 Nepalese Perspective: Corruption, Smuggling, Money Laundering, Extortion, Terrorism, Counterfeiting of Currency, Drug Trafficking, Trafficking of Arms, Trafficking of Women and Children, Trafficking of Human Organs, Human Smuggling, Smuggling of Remains of Wild Life (Flore and Fauna)
- 2.3 International Measures to Combat and Control Organized Crime: Pattern, Trend and Measures to Combat and Control
- 2.4 National Measures to Combat and Control Organized Crime: Pattern, Trend and Measures to Combat and Control

3. Investigation and Prosecution of Organized Crime (12 hrs.)

- 3.1 Criminal Intent and “*mens rea*” in Organized Crime
- 3.2 Modus Operandi of Organized Crime
- 3.3 Investigative and Prosecutorial Approach in Organized Crime
- 3.4 Institutional Setting: Specialized Entities for Investigation of Organized Crime
- 3.5 Special Investigative Techniques in Organized Crime
- 3.6 Role of Judiciary: Trial and Sentencing in Organized Crime
- 3.7 Protection of Crime Victims
- 3.8 Protection of Witness

4. International Law Enforcement and Judicial Co-operation (8 hrs.)

- 4.1 International Legal Basis for Investigation and Prosecution of Organized Crime
- 4.2 Role of INTERPOL in the Investigation of Organized Crime
- 4.3 Joint Investigative Team in Organized Crime
- 4.4 Institutional Aspects and Law Enforcement Co-operation
- 4.5 Mutual Legal Assistance and Extradition

5. Case Study (12 hrs.)

- 6.1 Italian Mafia: Sicily the Origin of Organized Crime
- 6.2 Organized Crime in Columbia: Illegal Drug Industry
- 6.3 Italian- American Mafia: La Costa Nostra
- 6.4 Mexican Drug Cartels
- 6.5 Japanese Mafia: Yakuza
- 6.6 Nigerian Criminal Organization
- 6.7 Russian Mafia: Oligarchs, Rise and Extinction
- 6.8 Chinese Organized Crime

Units & Lecture Hours	Learning Outcomes (students will be able to:)	Mode of Delivery	Key Readings/ References
Unit-I 1. Introduction (10 hrs.) 1.1 Meaning and Definition of Organized Crime 1.2 Nature and Scope of Organized Crime 1.3 Characteristics and Types of Organized Crime 1.4 Causes of Organized Crime 1.5 Comparison between White Collar Crime, Corporate Crime, and Organized Crime 1.6 Theories of Organized Crime 1.7 Changing Trends in Organized Crime 1.8 Jurisdiction Theories related to Organized Crime	<ul style="list-style-type: none"> ❖ Define organized crime. ❖ Explain nature, scope, characteristics & types of organized crime. ❖ Discuss about the causes of organized crime. ❖ Compare between white collar crime, corporate crime & organized crime. ❖ Analyze the theories of organized crime ❖ Explain the changing trend in organized crime. ❖ Explain about the jurisdiction theories in transnational crimes like organized crime. 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Exercises 	<ul style="list-style-type: none"> • Albanese (2010). • Albini & McIllwain (2012). • Nelen, & Siegel (eds.) (2021). • Nicaso, & Danesi (2025). • Paoli (ed.) (2014). • Paranjape (2017). • Schneider (2024). • Scot (2008). • Wright (2013)
Unit-II 2 Measures to Combat and Control of Organized Crime (20 hrs.) 2.1 International Perspective: Transnational Organized Crime, Illicit Firearm Trafficking, Drug Trafficking, Money Laundering Scams and Frauds, Human Trafficking and Exploitation in the Sex Industry, Illegal Gambling, Extortion, Loansharking, Arms Trafficking, Illegal Exploitation of Natural Resources, Cyber Crimes 2.2 Nepalese Perspective: Corruption, Smuggling, Money Laundering, Extortion, Terrorism, Counterfeiting of Currency, Drug Trafficking, Trafficking of Arms, Trafficking of Women and Children, Trafficking of Human Organs, Human Smuggling, Smuggling of Remains of Wild Life (Flore and Fauna)	<ul style="list-style-type: none"> ❖ Discuss about the primal measures to control organized crime. ❖ Discuss about the international perspective in organized crime: types & nature of crime, reasons for their growth, efforts by respective governments in combating it. ❖ Explain about the national perspective in organized crime: types and nature of crime, reasons for their growth, & efforts taken by government in combating and controlling it. 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises 	<ul style="list-style-type: none"> • Acharya (2020). • Albanese (2010). • Albini & McIllwain (2012). • Morselli (2008). • Nelen, & Siegel (eds.) (2021). • Nicaso, & Danesi (2025). • Paoli (ed.) (2014). • Paranjape (2017). • Schneider (2024). • Scot (2008). • Vibhuti (2013). • Wright (2013)

<p>2.3 International Measures to Combat and Control Organized Crime: Pattern, Trend and Measures to Combat and Control</p> <p>2.4 National Measures to Combat and Control Organized Crime: Pattern, Trend and Measures to Combat and Control</p>			
<p>Unit-III</p> <p>3 Investigation and Prosecution of Organized Crime (12 hrs.)</p> <p>3.1 Criminal Intent and mens rea in Organized Crime</p> <p>3.2 Modus Operandi of Organized Crime</p> <p>3.3 Investigative and Prosecutorial Approach in Organized Crime</p> <p>3.4 Institutional Setting: Specialized Entities for Investigation of Organized Crime</p> <p>3.5 Special Investigative Techniques in Organized Crime</p> <p>3.6 Role of Judiciary: Trial and Sentencing in Organized Crime</p> <p>3.7 Protection of Crime Victims</p> <p>3.8 Protection of Witness</p>	<p>❖ Discuss about the investigation & prosecution process of organized crime.</p> <p>❖ Explain about the modus operandi of organized crime.</p> <p>❖ Explain about the institutional setting for the investigation of organized crime.</p> <p>❖ Discuss about the special investigative technique in organized crime.</p> <p>❖ Analyze the role of judiciary in trial, sentencing and victim protection.</p>	<ul style="list-style-type: none"> Assignment Presentation Brainstorming Case Analysis Readings Case Based Studies Blended Learning Self-evaluation Review questions Exercises 	<ul style="list-style-type: none"> Acharya (2020). Albanese (2010). Albini & McIllwain (2012). Morselli (2008). Nelen, & Siegel (eds.) (2021). Nicaso, & Danesi (2025). Paoli (ed.) (2014). Paranjape (2017). Schneider (2024). Scot (2008). Vibhuti (2013). Wright (2013)
<p>Unit-IV</p> <p>4 International Law Enforcement and Judicial Co-operation (8 hrs.)</p> <p>4.1 International Legal Basis for Investigation and Prosecution of Organized Crime</p> <p>4.2 Role of INTERPOL in the Investigation of Organized Crime</p> <p>4.3 Joint Investigative Team in Organized Crime</p> <p>4.4 Institutional Aspects and Law Enforcement Co-operation</p> <p>4.5 Mutual Legal Assistance and Extradition</p>	<p>❖ Explain about the role of international law enforcement and judicial co-operation in the organized crime.</p> <p>❖ Discuss about the legal basis for investigation & prosecution of organized crime.</p> <p>❖ Analyze the role of INTERPOL in the investigation of organized crime.</p> <p>❖ Discuss about the possibility of joint investigative team in organized crime.</p> <p>❖ Also, explain about the possible mutual legal assistance and possibility of extradition.</p>	<ul style="list-style-type: none"> Assignment Presentation Brainstorming Case Analysis Readings Case Based Studies Blended Learning Self-evaluation Review questions 	<ul style="list-style-type: none"> Acharya (2020). Albanese (2010). Albini & McIllwain (2012). Morselli (2008). Nelen, & Siegel (eds.) (2021). Nicaso, & Danesi (2025). Paoli (ed.) (2014). Paranjape (2017). Schneider (2024). Scot (2008). Vibhuti (2013). Wright (2013)
<p>Unit-V</p> <p>5 Case Study (12 hrs.)</p> <p>6.1 Italian Mafia: Sicily the Origin of Organized Crime</p> <p>6.2 Organized Crime in Columbia: Illegal Drug Industry</p> <p>6.3 Italian- American Mafia: La Costa Nostra</p> <p>6.4 Mexican Drug Cartels</p> <p>6.5 Japanese Mafia: Yakuza</p> <p>6.6 Nigerian Criminal Organization</p>	<p>❖ Analyze the provided cases.</p> <p>❖ Discuss about modus operandi, reason for rise of such crimes.</p> <p>❖ Discuss about the investigative and prosecution techniques in such cases.</p>	<ul style="list-style-type: none"> Assignment Presentation Brainstorming Case Analysis Readings Case Based Studies Blended Learning 	<ul style="list-style-type: none"> Relevant Cases Acharya (2020). Albanese (2010). Nelen, & Siegel (eds.) (2021). Nicaso, & Danesi (2025). Paoli (ed.) (2014). Paranjape (2017).

6.7 Russian Mafia: Oligarchs, Rise and Extinction 6.8 Chinese Organized Crime		• Self-evaluation	• Schneider (2024).
Total= 62 Lecture hours (hrs.)			

Student Activities

- Attending Lectures
- Readings and Class Discussions/ Interactions
- Case Study and Analysis
- Self-evaluation Review Questions/ Quizzes
- Exercises
- Project Work Assessments
- Web-based Assignments

National Instruments:

- Muluki Criminal Code, 2074 (2017)
- Organized Crime Prevention Act, 2070 (2014)
- Assets (Money) Laundering Prevention Act, 2064 (2008)
- Prevention of Corruption Act, 2059 (2002) [Corruption Prevention (First Amendment) Bill, 2082 (2025)]
- Banking Offence and Punishment Act, 2064 (2008) [with Amendment of 2082 (2025)]
- Arms and Ammunition Act, 2019 (1962)
- Nepal Immigration Act, 2049 (1992)
- Revenue Leakage (Investigation and Control) Act, 2052 (1995)
- The Forest Act, 2076 (2019)
- Ancient Monument Preservation Act, 2013 (1956)
- Control of International Trade of Endangered Wild Fauna and Flora Act, 2073 (2016)
- Custom Act, 2064 (2007)
- Electronic Transaction Act, 2063 (2006)
- Narcotic Drugs Control Act, 2033 (1976)
- Human Trafficking and Transportation (Control) Act, 2064 (2007)
- The Proceeds and Instrumentalities of Crime (Freezing, Seizing and Confiscation) Act, 2070 (2014)
- The Crime Victim Protection Act, 2075 (2018)

International Instruments:

- UN Convention against Transnational Organized Crime (UNTC), 2000
- United Nations Convention against Corruption (UNCAC), 2003
- Convention for the Suppression of the Traffic Person and of the Exploitation of the Prostitution of Others, 1949
- UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988
- International Convention for the Suppression of the Financing of Terrorism, 1999
- The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, 2000
- The Protocol against the Smuggling of Migrants by Land, Sea and Air, 2000
- The Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, 2001
- BIMSTEC Convention on cooperation in combating International Terrorism, Trans nation Organized Crime and Illicit Drug Trafficking Dec 2009
- Global Action Plan against Organized Transnational Crime, 1998
- SAARC Convention on Suppressing of Terrorism, 1987
- SAARC Convention on Narcotic Drugs and Psychotropic Substances, 1998
- SAARC Convention on Preventing and Combating Trafficking In Women and Children for Prostitution, 2002

References:

- Acharya, Madhav (2020). *Criminology*, 2nd ed., Kathmandu: Ratan Pustak Bhandar.
- Albanese, Jay S. (2010). *Organized Crime in Our Times*, London: Routledge.
- Albini, Joseph L. & Jeffrey Scott McIllwain (2012). *Deconstructing Organized Crime: An Historical and Theoretical Study*, USA: McFarland.
- Allerfeldt, Kristofer (2018). *Organized Crime in the United States, 1865–1941*, USA: McFarland.
- Mallory, Stephen L. (2011). *Understanding Organized Crime*, USA: Jones & Bartlett.
- Marco, Pasquale De (2025). *The Global Reach of Organized Crime*, Self-published.
- Morselli, Carlo (2008). *Inside Criminal Networks*, USA: Springer.
- Nelen, Hans and Dina Siegel (eds.) (2021). *Contemporary Organized Crime: Developments, Challenges and Responses*, Germany: Springer Nature.
- Nicaso, Antonio & Marcel Danesi (2025). *Organized Crime: A Cultural Introduction*, UK: Taylor & Francis.
- Nicaso, Antonio and Lee Lamothe (2010). *Angels, Mobsters and Narco-Terrorists: The Rising Menace of Global Criminal Empires*, USA: John Wiley & Sons.
- Paoli, Letizia (ed.) (2014). *The Oxford Handbook of Organized Crime*, London: Oxford University Press.
- Paranjape, N.P. (2017). *Criminology, Penology, Victimology*. Allahabad: Central Law Publications
- Pradhananga, Rajit Bhakta (2013). *Criminal Law*, Kathmandu: Pairavi Prakashan.
- Schneider, Stephen (2024). *An Ontology of Organized Crime: A Meta-Analytical Framework and Enforcement Implications*, UK: Taylor & Francis.

- Scot, David (2008). *Penology*, India: Sage Publication.
- Vibhuti, K. I. (2013). *PSA Pillai's Criminal Law*, India: Butterworths.
- Wright, Alan (2013). *Organized Crime*, London: Routledge.

Evaluation Scheme

Schemes	Total weight-age
<u>Internal evaluation</u>	<u>40 per cent</u>
<ul style="list-style-type: none"> • Assignments, project works, learning summary, participation • Mid-term exams 	20% 20%
External evaluation (End-term exams)	60 per cent

Evaluation Methods/ Components

In-course Evaluation (Assignments and Projects)	Mid-term and End-Course Exams
a) Unit Assignments/Projects/ b) Reviews & Discussions on Issues c) Case Study/ Situation Analysis d) Participation in Interactions with the Tutor & Quizzes e) Other Assignments	a) Descriptive/ Long Answer Questions b) Short Answer Questions

Rajarshi Janak University**Faculty of Humanities and Law**

Curriculum for

F.M- 50

Bachelor of Laws (Legum Baccalaureus) (LL. B)

P.M- 25

Course: Business Law-I (Intellectual Property Law)

Duration of the Course- 62Hours

Course Code: Law 308

Nature: Elective

Year: First

COURSE DESCRIPTION

Intellectual property (IP) is a category of intangible assets created by the mind, such as inventions, literary and artistic works, designs, and symbols, names, and images used in commerce. Intellectual property rights like patents, copyrights, trademarks, and trade secrets are protected through laws. Intellectual property gives creators the exclusive right to benefit from their work. This legal protection incentivizes innovation and creativity by allowing creators to control and profit from their creations. This course is designed to acquaint students with the fundamental principles of IPR, Concept and Theories of intellectual property and historical development of intellectual property. This course enables student to comprehend Intellectual Property Rights and national and international regimes relating to IPR. The course enables the students granting patent rights for inventions, right of trademark owner, industrial design right holder and procedures of registration under the existing laws of Nepal. This course acquaints the students with another branch of intellectual property, that is, copyright and neighboring rights, kinds of copyright, national legal regime and international regime relating to the protection and promotion of copyright and neighboring rights including disputes resolution mechanisms.

LEARNING OUTCOMES

After the completion of the course, students will be able to:

- define the concept of intellectual property.
- explain the different categories of intellectual property.
- discuss the importance, philosophy, theories and kinds of intellectual property.
- enhance knowledge relating to intellectual property.
- acquaint students regarding infringement of IPR and punishment relating existing laws.
- acquaint students with the national and international regimes relating to IPR.
- analytically discuss main features and drawbacks of Copyright Act, 2059 (2002) and its practices. Also, its alignment with international instruments.
- discuss on the main features and drawbacks of Patent, Design and Trademark Act 2022 (1965) and its practices. Also, its alignment with international instruments.
- describe the roles of national organizations like DOI, Copyright Registrar Office, CPSN, MRCS-N, Courts etc.
- discuss about international organizations like WIPO, TRIPS Council etc.

COURSE CONTENTS

1. Introduction (8 hrs.)

- 1.1 Concept, Philosophy & Theories of Intellectual Property
- 1.2 Major forms of Intellectual Property
- 1.3 Importance & Economic Value of intellectual Property
- 1.4 Sources of Intellectual Property Law
- 1.5 Historical Development of Intellectual Property
- 1.6 Role of WIPO for the Protection & Promotion of Intellectual Property Rights

2. Laws on Copyright Protection (12 hrs.)

- 2.1 Concept, Justification & Elements of Copyright
- 2.2 Subsistence of Copyright Ownership: Economic Rights & Moral Rights
- 2.3 Exercise of Copyright Ownership: Assignment, Licensing, & Compulsory Licensing
- 2.4 Infringement, Remedies & Defense in Copyright
- 2.5 Permitted Use; Fair Dealing/Fair Use
- 2.6 Neighboring Rights: Performer's Right, Right of Sound Recording Companies & Phonogram Procedures, Rights of Broadcasting Organizations
- 2.7 National & International Instruments related to Copyright Protection
- 2.8 Judicial Approach towards Copyrights Protection

3. Laws on Patent Protection (8 hrs.)

- 3.1 Concept, Justification & Elements of Patent (Condition of Patentability)
- 3.2 Subsistence of Patent Ownership & Patent Specification
- 3.3 Exercise of Patent: Assignment, Licensing, & Compulsory Licensing
- 3.4 Infringement, Remedies & Defense in Patent Protection
- 3.5 National & International Instrument related to Patent Protection
- 3.6 Judicial Approach towards Patent Protection

4. Laws on Industrial Design Protection (8 hrs.)

- 4.1 Concept, Justification & Elements of Industrial Design
- 4.2 Ownership of Industrial Design & Exercise of Trademark
- 4.3 Infringement, Remedies & Defense in Industrial Design
- 4.4 National & International Instrument related to Protection of Industrial Design
- 4.5 Judicial Approach towards the Protection of Industrial Design

5. Laws Against Trademark Infringement (8 hrs.)

- 5.1 Concept, Justification & Element of Trademark
- 5.2 Major forms of Marks: Trademark, Trade Name, Service Marks, Service Name, Certification Marks, Collective Marks, Associated Marks, Geographic Marks
- 5.3 Ownership of Trademark, substance & Exercise

- 5.4 Infringement, Remedies & Defense in Trademark Infringement
- 5.5 National & International Instruments against Trademark Infringement
- 5.6 Judicial Approach towards the protection of Trademark Infringement

6. Introduction to Other Forms of Intellectual Properties (8 hrs.)

- 6.1 Geographical Indication
- 6.2 Lay-out Design of Integrated Circuits
- 6.3 Trade Secret/Confidential Information
- 6.4 Protection of Unfair Competition
- 6.5 Protection of New Variety of Plants
- 6.6 Traditional Knowledge, Traditional Cultural Expression, Genetic Resources

7. Authorities & Organization Dealing with Intellectual Property in Nepal (10 hrs.)

- 7.1 Department of Industry; Industrial Property Section
- 7.2 Nepal Copyright Registrar's Office (NCRO)
- 7.3 National Archive of Nepal
- 7.4 Custom Offices, Post Office, Police Departments & Nodal Offices
- 7.5 Judiciary
- 7.6 Nepal Standard & Quality Office Relating to National Standard Marks
- 7.7 Nepal Copyrights Protection Society
- 7.8 Collective Management Organizations
- 7.9 Film Development Board & Other Similar Organizations

CONTENT ELABORATION AND MODUS OPERANDI

Units & Lecture Hours	Learning Outcomes (students will be able to:)	Mode of Delivery	Key Readings/ References
Unit-I <p>1. Introduction (8 hrs.)</p> <p>1.1 Concept, Philosophy & Theories of Intellectual Property</p> <p>1.2 Major forms of Intellectual Property</p> <p>1.3 Importance & Economic Value of Intellectual Property</p> <p>1.4 Sources of Intellectual Property Law</p> <p>1.5 Historical Development of Intellectual Property</p> <p>1.6 Role of WIPO for the Protection & Promotion of Intellectual Property Rights</p>	<ul style="list-style-type: none"> ❖ Define meaning, philosophy & theories of IP Law. ❖ Explain about the importance & economic values of IP. ❖ Discuss about the sources of IP law. ❖ Determine the role of WIPO for the protection of IP rights. 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises 	<ul style="list-style-type: none"> • Chawla (2007). • Cornish (2001). • Drahos & Mayne (eds.) (2002). • Khanal (2020). • Nepal (2021). • Narayan, P (1990). • Sangal (1994). • Singh (ed.) (2005). • Tritton (2002). • Wadera (2001).
Unit-II <p>2 Laws on Copyright Protection (12 hrs.)</p> <p>2.1 Concept, Justification & Elements of Copyright</p> <p>2.2 Subsistence of Copyright Ownership: Economic</p>	<ul style="list-style-type: none"> ❖ Discuss about the laws related to copyright protection. ❖ Discuss about the concept, justification & element of 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings 	<ul style="list-style-type: none"> • Chawla (2007). • Cornish (2001). • Drahos & Mayne (eds.) (2002). • Khanal (2020).

<p>Rights & Moral Rights</p> <p>2.3 Exercise of Copyright Ownership: Assignment, Licensing, & Compulsory Licensing</p> <p>2.4 Infringement, Remedies & Defense in Copyright</p> <p>2.5 Permitted Use; Fair Dealing/Fair Use</p> <p>2.6 Neighboring Rights: Performer's Right, Right of Sound Recording Companies & Phonogram Procedures, Rights of Broadcasting Organizations</p> <p>2.7 National & International Instruments related to Copyright Protection</p> <p>2.8 Judicial Approach towards Copyrights Protection</p>	<p>copyright.</p> <p>❖ Explain about moral & economic rights of copyright.</p> <p>❖ Explain about condition for exercise of copyright ownership & remedies & defense in the infringement of copyright.</p> <p>❖ Explain about performer's rights, rights of sound recordings, rights of broadcasting organization.</p> <p>❖ Discuss about national & international instrument related to copyright protection.</p>	<ul style="list-style-type: none"> • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises 	<ul style="list-style-type: none"> • Nepal (2021). • Narayan, P (1990). • Sangal (1994). • Singh (ed.) (2005). • Tritton (2002). • Wadera (2001).
<p>Unit-III</p> <p>3 Laws on Patent Protection (8 hrs.)</p> <p>3.1 Concept, Justification & Elements of Patent (Condition of Patentability)</p> <p>3.2 Subsistence of Patent Ownership & Patent Specification</p> <p>3.3 Exercise of Patent: Assignment, Licensing, & Compulsory Licensing</p> <p>3.4 Infringement, Remedies & Defense in Patent Protection</p> <p>3.5 National & International Instrument related to Patent Protection</p> <p>3.6 Judicial Approach towards Patent Protection</p>	<p>❖ Analytically discuss about laws on patent protection.</p> <p>❖ Explain about the concept, justification & element of copyrights.</p> <p>❖ Discuss about the subsistence of patent ownership & patent specification.</p> <p>❖ Exercise of patent ownership & can be able to exercise remedy & defense against patent protection.</p> <p>❖ Discuss about national & international instruments related for IP protection & find its interrelation.</p>	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions 	<ul style="list-style-type: none"> • Chawla (2007). • Cornish (2001). • Drahos & Mayne (eds.) (2002). • Khanal (2020). • Nepal (2021). • Narayan, P (1990). • Sangal (1994). • Singh (ed.) (2005). • Tritton (2002). • Wadera (2001).
<p>Unit-IV</p> <p>4 Laws on Industrial Design Protection (8 hrs.)</p> <p>4.1 Concept, Justification & Elements of Industrial Design</p> <p>4.2 Ownership of Industrial Design & Exercise of Trademark</p> <p>4.3 Infringement, Remedies & Defense in Industrial Design</p> <p>4.4 National & International Instrument related to Protection of Industrial Design</p> <p>4.5 Judicial Approach towards the Protection of Industrial Design</p>	<p>❖ Discuss about laws on industrial design protection.</p> <p>❖ Explain about the concepts, justification & elements of industrial design.</p> <p>❖ Explain about the ownership of industrial design & exercise of trademark for such protection.</p> <p>❖ Explain about the remedy & defense in the infringement of industrial design</p> <p>❖ Discuss about national & international instruments and also find its interrelations.</p>	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises 	<ul style="list-style-type: none"> • Chawla (2007). • Cornish (2001). • Drahos & Mayne (eds.) (2002). • Khanal (2020). • Nepal (2021). • Narayan, P (1990). • Sangal (1994). • Singh (ed.) (2005). • Tritton (2002). • Wadera (2001).
<p>Unit-V</p> <p>5 Laws Against Trademark Infringement (8 hrs.)</p> <p>5.1 Concept, Justification & Element of Trademark</p>	<p>❖ Explain about the concept, justification & elements of trademark.</p> <p>❖ Discuss about the major forms of marks.</p>	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings 	<ul style="list-style-type: none"> • Chawla (2007). • Cornish (2001). • Drahos & Mayne (eds.) (2002). • Khanal (2020).

<p>5.2 Major forms of Marks: Trademark, Trade Name, Service Marks, Service Name, Certification Marks, Collective Marks, Associated Marks, Geographic Marks</p> <p>5.3 Ownership of Trademark, Substance & Exercise</p> <p>5.4 Infringement, Remedies & Defense in Trademark Infringement</p> <p>5.5 National & International Instruments against Trademark Infringement</p> <p>5.6 Judicial Approach towards the protection of Trademark Infringement</p>	<p>❖ Explain about the ownership of trademark.</p> <p>❖ Discuss about the possible remedy & defense for the infringement of trademark rights.</p> <p>❖ Discuss about the national & international instruments related to such trademark protection. Also, find the interrelation between them.</p>	<ul style="list-style-type: none"> • Case Based Studies • Blended Learning • Self-evaluation • Review questions 	<ul style="list-style-type: none"> • Nepal (2021). • Narayan, P (1990). • Sangal (1994). • Singh (ed.) (2005). • Tritton (2002). • Wadera (2001).
<p>Unit-VI</p> <p>6 Introduction to Other Forms of Intellectual Properties (8 hrs.)</p> <p>6.1 Geographical Indication</p> <p>6.2 Lay-out Design of Integrated Circuits</p> <p>6.3 Trade Secret/Confidential Information</p> <p>6.4 Protection of Unfair Competition</p> <p>6.5 Protection of New Variety of Plants</p> <p>6.6 Traditional Knowledge, Traditional Cultural Expression, Genetic Resources</p>	<p>❖ Discuss about other forms of intellectual property such as: geographical indication; lay out design of IC; trade secret etc.</p> <p>❖ Express about how these IP can be protected & if infringed what are the possible remedies.</p>	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation 	<ul style="list-style-type: none"> • Chawla (2007). • Cornish (2001). • Drahos & Mayne (eds.) (2002). • Khanal (2020). • Nepal (2021). • Narayan, P (1990). • Sangal (1994). • Singh (ed.) (2005). • Tritton (2002). • Wadera (2001).
<p>Unit VII</p> <p>7 Authorities & Organization Dealing with Intellectual Property in Nepal (10 hrs.)</p> <p>7.1 Department of Industry; Industrial Property Section</p> <p>7.2 Nepal Copyright Registrar's Office (NCRO)</p> <p>7.3 National Archive of Nepal</p> <p>7.4 Custom Offices, Post Office, Police Departments & Nodal Offices</p> <p>7.5 Judiciary</p> <p>7.6 Nepal Standard & Quality Office Relating to National Standard Marks</p> <p>7.7 Nepal Copyrights Protection Society</p> <p>7.8 Collective Management Organizations</p> <p>7.9 Film Development Board & Other Similar Organizations</p>	<p>❖ Discuss about authorities & organizations dealing with IP in Nepal such as DOI, NCRO, Department of Archive, Custom Office, Police, Courts etc.</p> <p>❖ Discuss about role of such institutions for the protection of IP rights.</p>	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation 	<ul style="list-style-type: none"> • Chawla (2007). • Cornish (2001). • Drahos & Mayne (eds.) (2002). • Khanal (2020). • Nepal (2021). • Narayan, P (1990). • Sangal (1994). • Singh (ed.) (2005). • Tritton (2002). • Wadera (2001).
Total= 62 Lecture hours (hrs.)			

Student Activities:

- Attending Lectures
- Readings and Class Discussions/ Interactions
- Case Study and Analysis
- Self-evaluation Review Questions/ Quizzes
- Exercises
- Project Work Assessments
- Web-based Assignments

Prescribed Cases:

- Daman Bahadur Amatya vs. Prem Dhoj Thapa, NKP 2067, No. 4, D.N. 8356, p.650
- Karma Ghale vs. Anju Upreti Dhakal, NPK 2068, Vol. 3, D. N. 8577, p 448
- Mihir Kumar Thakur vs. Bhes Jung Thapa, NKP 2066, No. 12, D.N. 8283
- Nur Pratap Rana vs. Department of Industry, Tripureshwor et. al. NKP 2062, Vol. 5, D. N. 7536, P. 539
- Rajeeb Jung Shah et. al. vs. Inland Revenue Department et. al. NKP 2076. Vol.7, D. N. 10315.p. 1493
- Suresh Chadra Agrawal vs. Department of Industry et. al., NKP 2049, D.N. 4605-1

National Instruments:

- Constitution of Nepal, 2072 (2015).
- Muluki Civil Code, 2074 (2017).
- Muluki Civil Procedural Code, 2074 (2017).
- Muluki Criminal Code, 2074 (2017).
- Muluki Criminal Procedural Code, 2074 (2017).
- Criminal Offence (Determination of Sentence & Execution) Act, 2074 (2017).
- The Copyright Act, 2059 (2002).
- Patent, Design & Trademark Act, 2022 (1965).
- Industrial Enterprise Act, 2076 (2020).
- Environment Protection Act, 2076 (2019).
- Foreign Investment and Technology Transfer Act (FITTA), 2075 (2019).
- Consumer Protection Act, 2075 (2018).
- National Indigenous Nationalities Commission Act, 2074 (2017).
- Electronic Transaction Act, 2063 (2006).
- Telecommunication Act, 2053 (1997).
- National Broadcasting Act, 2049 (1992).
- Nepal Academy for Science and Technology Act, 2048 (1991).
- Nepal Agricultural Research Council Act, 2048 (1991).
- Nepal Treaty Act, 2047 (1990).
- Archives Preservation Act, 2046 (1989).
- Black Marketing and Some Other Social Offenses and Punishment Act, 2032 (1975).
- Motion Picture (Production, Exhibition and Distribution) Act, 2026 (1969).

International Instruments:

- Berne Convention for the Protection of Literary & Artistic Works, 1886.
- Universal Copyright Convention, 1952 [Revised on 1971] [Not Administered by WIPO].

- Rome Convention for the Protection of Performers, producers of Phonograms and Broadcasting Organizations, 1961.
- Geneva Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, 1971.
- WIPO Copyright Treaty (WCT), 1996.
- WIPO Performances and Phonograms Treaty (WPPT), 1996.
- Beijing Treaty on Audio Visual Performances, 2012.
- Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled, 2016.
- Paris Convention for the Protection of Industrial Property, 1883.
- Patent Cooperation Treaty (PCT), 1970.
- Strasbourg Agreement Concerning the International Patent Classification, 1971.
- Budapest Treaty on the International Recognition of the Deposit of Microorganism for the Purpose of Patent Producer, 1977 [Amended on 1980].
- TRIPS Agreement, 1994 [Art. 27-34].
- Patent Law Treaty (PLT), 2000.
- Paris Convention for the Protection of Industrial Property, 1883.
- Madrid Agreement Concerning the International Registration of Marks, 1891.
- Nice Agreement Concerning the International Classification of Goods and Services for the Purpose of the Registration of Marks, 1957.
- WIPO Convention, 1967.
- Vienna Agreement Establishing on International Classification of Figurative Elements of Marks, 1973.
- Protocol Relating to Madrid Agreement Concerning the International Registration of marks, 1989.
- Trademark Law Treaty (TLT), 1994.
- Singapore Treaty on the Law of Trademarks, 2006.
- Locarno Agreement Establishing International Classification of Industrial Design (Locarno Classification), 1968.
- The International Convention for the Protection of New Varieties of Plants (UPOV Convention), 1961 [Revised in 1972, 1978, and 1991].
- The Convention on Biological Diversity (CBD), 1992.
- International Treaty on Plant Genetic Resources for Food and Agriculture, 2001.
- CBD Cartegena Protocol on Biosafety, 2003.
- Nagoya Protocol on Access and Benefit Sharing, 2010.
- CBD Strategic Plan for Bio-Diversity (2011- 2020).
- UN Bio-Diversity Convention, 2021.

References:

- Chawla, A. (2007). *Copyright and Related Rights: National and International Perspective*, 1st ed., Macmillan India Ltd.
- Cornish, W.R. (2001). *Intellectual Property: Patents, Copyright, Trademarks and Allied Rights*, 3rd ed., Delhi: Universal Law Publishing Company, Indian Reprint.
- Drahos, P. & Ruth Mayne (eds.) (2002). *Global Intellectual Property Rights: Knowledge, Access and Development*. Palgrave, UK.
- Khanal, S (2020), *Protection of Patent Right in Nepal: An Overview*, Vol. XIX, Nepal Bar Council Journal, Nepal Bar Council.
- Mukhia, B.B. Dr. (2015). *Intellectual Property Law*, 1st ed., Mission Legal Service Pvt. Ltd, Imadole, Lalitpur.
- Nepal, M. (2021). *A Text Book of Intellectual Property Law*, Kathmandu: Lumbini Prakashan.

- Nepal, M. (2020). Protection of Trade Secret/Confidential Information as an Intellectual Property Right, An Analysis, Vol. XIX, *Nepal Bar Council Journal*.
- Narayan, P (1990). *Intellectual Property*, 3rd ed, New Delhi: Eastern Law House.
- Sangal, P.S (1994). *Intellectual Property Law*, New Delhi: R.K. Narroona.
- Singh, S. S. (ed.) (2005). *The law of Intellectual Property Rights*, 1st ed., Deep & Deep Publication Pvt. Ltd., New Delhi.
- Tritton, G. (2002). *Intellectual Property in Europe*, 2nd ed., Sweet & Maxwell, London.
- Wadera, B.L. Dr. (2001). *Law Relating to Patent, Trademark, Copyright, Design and Geographical Indication*, 2nd ed., Delhi: Universal Law Publishing co. Pvt. Ltd.

E Sources

- ❖ Website of Nepal Law Commission: www.lawcommission.gov.np
- ❖ Website of Office of the Attorney General of Nepal: www.ag.gov.np
- ❖ Website of National Judicial Academy (of Nepal): www.njanepal.org.np

Evaluation Scheme

Schemes	Total weight-age
<u>Internal evaluation</u>	<u>40 per cent</u>
<ul style="list-style-type: none"> • Assignments, project works, learning summary, participation • Mid-term exams 	20% 20%
External evaluation (End-term exams)	60 per cent

Evaluation Methods/ Components

In-course Evaluation (Assignments and Projects)	Mid-term and End-Course Exams
a) Unit Assignments/Projects/ b) Reviews & Discussions on Issues c) Case Study/ Situation Analysis d) Participation in Interactions with the Tutor & Quizzes e) Other Assignments	a) Descriptive/ Long Answer Questions b) Short Answer Questions

Rajarshi Janak University**Faculty of Humanities and Law**

Curriculum for

F.M- 50

Bachelor of Laws (Legum Baccalaureus) (LL. B)

P.M- 25

Course: Business Law-II (International Trade Law)

Duration of Course: 62 Hours

Course Code: Law 309

Nature: Elective

Year: First

COURSE DESCRIPTION

International trade law is the body of rules and agreements that govern the purchasing and exporting of goods and services across national borders. It covers areas like tariffs, trade barriers, dispute resolution, and ensuring fair and smooth global commerce through a combination of national laws and international treaties and agreements. Key bodies in this field include the World Trade Organization (WTO) and United Nations Commission on International Trade Law (UNCITRAL). This course has been designed so that the scholars get enough theoretical as well as philosophical guidelines in order to solve the problems related to International Trade Law professionally. It also, ensures that the scholars will be able to solve the dispute arising from such engagement.

LEARNING OUTCOMES

At the end of the course, students will be able to:

- To select and apply a range of approaches to written communication, and apply the critical thinking required to bring about solutions to complex legal problems in the area of international trade law;
- To describe and analyze how the rules, principles, and institutions of international trade impact on domestic legal, political, and social arrangements;
- To explain and analyze the role of the WTO and the principal international trade agreements it administers;
- To gain insights into the mechanisms for resolving trade disputes between countries.

COURSE CONTENT**1. Introduction to International Trade Law (10 hrs.)**

- 1.1 Meaning and Evolution of International Trade Law
- 1.2 Sources of International Trade Law
- 1.3 Concept of Bilateral Trade Agreement and Bilateral Investment Treaties
- 1.4 Theories of International Trade
- 1.5 Multinational Corporations (MNCs) and International Trade

- 1.6 Foreign Investment and Technology Transfer
- 1.7 Trend of International Trade and Nepalese Context

2. WTO and its Integrals (15 hrs.)

- 2.1 Evolution of International Trade from GATT to WTO
- 2.2 WTO: Objective, Function and Structure
- 2.3 Decision making Process of WTO
- 2.4 Principles of WTO
- 2.5 WTO Agreement on Technical Barrier to Trade
- 2.6 Assessment to: GATTS, GATS, TRIPS, and TRIMS
- 2.7 Dispute Settlement Procedure under WTO
- 2.8 Exceptions: General Exception (Art. XX of GATT) & National Security Exception (Art. XXI of GATT)

3. Barriers to International Trade and its Remedies (8 hrs.)

- 3.1 Concept of Tarriff, and Non-Tarriff Barriers to Trade
- 3.2 Economic Barriers: Tariffs, Quotas, Subsidies, Voluntary Export Restrain
- 3.3 Non-Tariff Barriers: Technical Barriers to Trade, Administrative Barriers, Embargo, Dumping
- 3.4 Other Barriers: Natural Barriers, Currency Devaluation, Government Preferences, Sanitary & Phytosanitary Measures, Rules and Marks of Origin, Trade related Investment Measures, Transparency provisions, Perishment Inspection
- 3.5 Disadvantages of Free Trade.
- 3.6 Trade Remedies under WTO

4. Regional Trade Agreements (10 Th)

- 4.1 Objectives, & Process of Formation of Regional Trade Agreements (RTAs)
- 4.2 Prospects & Challenges of RTAs
- 4.3 Observation of: EU, SAFTA, SATIS, BIMSTEC, NAFTA (USMCA)

5. Landlocked and Least Developed Countries (LDC) (8 Th)

- 5.1 Landlocked and LDC: Special and Differential Treatment, Trade Preferences
- 5.2 Assessment of India-Nepal Trade Agreement
- 5.3 Assessment of India-Nepal Transit Agreement

6. Law Governing International Sales of Goods (5 hrs.)

- 6.1 Vienna Convention on International Contracts for Sales of Goods
- 6.2 International Sales of goods Contract; Transport Documents

7. International Financial Transactions (6 hrs.)

- 7.1 Financial Instruments: Bills of Exchange, Collection Arrangements, Letter of Credit, Bank Guarantee, Contract Guarantee, Factoring, Forfaiting, Financial Leasing & other forms of Merchant Finance.
- 7.2 Incoterms Rules
- 7.3 International Bill of Payment

CONTENT ELABORATION AND MODUS OPERANDI

Units & Lecture Hours	Learning Outcomes (students will be able to:)	Mode of Delivery	Key Readings/ References
Unit-I 1. Introduction to International Trade Law (ITL) (10 Th) 1.1 Meaning and Evolution of International Trade Law 1.2 Sources of International Trade Law 1.3 Concept of Bilateral Trade Agreement and Bilateral Investment Treaties 1.4 Theories of International Trade 1.5 Multinational Corporations (MNCs) and International Trade 1.6 Foreign Investment and Technology Transfer 1.7 Trend of International Trade and Nepalese Context	<ul style="list-style-type: none"> ❖ Define and mention evolving trend of ITL. ❖ Inquire about the source of ITL. ❖ Discuss about the restrictive trade practice & competition law. ❖ Determine the interrelationship between bilateral trade agreement & bilateral investment treaties. ❖ Explain theories of ITL. ❖ Mention interrelation between MNCs & international trade. ❖ Discuss about the role of foreign investment & technology transfer in ITL. ❖ Discuss about Nepalese trade integration strategies. ❖ Discuss about recent international trade practices & Nepalese adherence. 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises 	<ul style="list-style-type: none"> • Bansal (2012). • Bhalla (2013). • Born (2015). • Bossche (2016). • Chawla (2012). • Hudec (2010). • Moses (2017). • Schmitthoff (2012). • Singh (2018). • WTO (2017).
Unit-II 2 WTO and its Integrals (15 Th) 2.1 Evolution of International Trade from GATT to WTO 2.2 WTO: Objective, Function and Structure 2.3 Decision making Process of WTO 2.4 Principles of WTO 2.5 WTO Agreement on Technical Barrier to Trade 2.6 Assessment to: GATT, GATS, TRIPS, and TRIMs 2.7 Dispute Settlement Procedure under WTO 2.8 Exceptions: General Exception (Art. XX of GATT) & National Security Exception (Art. XXI of GATT)	<ul style="list-style-type: none"> ❖ Discuss about the evolution process of WTO. ❖ Mention about the objective, function, structure & decision-making process of WTO. ❖ Discuss about the principle of WTO. ❖ Explain about dispute settlement procedure under WTO. Compare dispute settlement process with GATT. ❖ Explain about general exception & national security exception of GATT. 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises 	<ul style="list-style-type: none"> • Bansal (2012). • Bhalla (2013). • Born (2015). • Bossche (2016). • Chawla (2012). • Hudec (2010). • Moses (2017). • Schmitthoff (2012). • Singh (2018). • WTO (2017).
Unit-III 3 Barriers to International Trade and its Remedies (8 Th) 3.1 Concept of Tarriff, and Non-Tarriff Barriers to Trade 3.2 Economic Barriers: Tariffs, Quotas, Subsidies,	<ul style="list-style-type: none"> ❖ Analytically discuss about the barrier to international trade. ❖ Explain about the economic barriers, non-tariff barriers, & other barriers to international 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies 	<ul style="list-style-type: none"> • Bansal (2012). • Bhalla (2013). • Born (2015). • Bossche (2016). • Chawla (2012). • Hudec (2010). • Moses (2017).

<p>Voluntary Export Restraint</p> <p>3.3 Non-Tariff Barriers: Technical Barriers to Trade, Administrative Barriers, Embargo, Dumping</p> <p>3.4 Other Barriers: Natural Barriers, Currency Devaluation, Government Preferences, Sanitary & Phytosanitary Measures, Rules and Marks of Origin, Trade related Investment Measures, Transparency provisions, Perishment Inspection</p> <p>3.5 Disadvantages of Free Trade.</p> <p>3.6 Trade Remedies Under WTO</p>	<p>trade.</p> <p>❖ Discuss about the limitation of free trade.</p> <p>❖ Discuss about the trade remedies as available under WTO mechanism.</p> <p>❖ Explain about the dumping practices & anti-dumping measures to overcome it.</p> <p>❖ Mention about government subsidies to prevent unfair trade & establish rules for when countries can impose countervailing measures?</p> <p>❖ Discuss about the restriction & barriers to trade.</p> <p>❖ Explain emergency trade remedies. Nepalese provision under the Safeguards, Anti-dumping & Dumping Act, 2019.</p>	<ul style="list-style-type: none"> • Blended Learning • Self-evaluation • Review questions 	<ul style="list-style-type: none"> • Schmitthoff (2012). • Singh (2018). • WTO (2017).
<p>Unit-IV</p> <p>4 Regional Trade Agreements (10 Th)</p> <p>4.1 Objectives, & Process of Formation of Regional Trade Agreements (RTAs)</p> <p>4.2 Prospects & Challenges of RTAs</p> <p>4.3 Observation of: EU, SAFTA, SATIS, BIMSTEC, NAFTA (USMCA)</p>	<p>❖ Explain about the role of regional organizations in promoting regional trade agreements.</p> <p>❖ Discuss about the prospects & challenges of RTAs.</p> <p>❖ Define origin, function, contribution in international trade & dispute settlement mechanism of various regional organizations/institutions viz, EU, SAFTA, SATIS, BIMSTEC, NAFTA (now USMCA)</p>	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions 	<ul style="list-style-type: none"> • Bansal (2012). • Bhalla (2013). • Born (2015). • Bossche (2016). • Chawla (2012). • Hudec (2010). • Moses (2017). • Schmitthoff (2012). • Singh (2018). • WTO (2017).
<p>Unit-V</p> <p>5 Landlocked and Least Developed Countries (LDC) (8 Th)</p> <p>5.1 Landlocked and LDC: Special and Differential Treatment, Trade Preferences</p> <p>5.2 Assessment of India-Nepal Trade Agreement</p> <p>5.3 Assessment of India-Nepal Transit Agreement</p>	<p>❖ Analyze the special & differential trade treatment as provided to LDCs & State without access.</p> <p>❖ Discuss about India-Nepal Trade & Transit Agreement.</p>	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation 	<ul style="list-style-type: none"> • Bansal (2012). • Bhalla (2013). • Born (2015). • Bossche (2016). • Chawla (2012). • Hudec (2010). • Moses (2017). • Schmitthoff (2012). • Singh (2018). • WTO (2017).
<p>Unit VI</p> <p>6 Law Governing International Sales of Goods (5 Th)</p> <p>6.1 Vienna Convention on International Contract for Sales of Goods</p> <p>6.2 International Sales of Goods Contract; Transport</p>	<p>❖ Discuss about laws governing international sales of goods.</p> <p>❖ Discuss about Vienna Convention on International Contract for Sales of Goods.</p> <p>❖ Explain the process of</p>	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies 	<ul style="list-style-type: none"> • Bansal (2012). • Bhalla (2013). • Born (2015). • Bossche (2016). • Chawla (2012). • Hudec (2010). • Moses (2017).

Documents	contract formation; obligation & rights of buyers & sellers under it; effective performance of the contract; & remedies for the breach of the agreement. ❖ Explain about the transport documents.	• Blended Learning • Self-evaluation	• Schmitthoff (2012). • Singh (2018). • WTO (2017).
Unit VII 7 International Financial Transactions (6 Th)	❖ Discuss about international financial transactions requirements. ❖ Explain about the required financial instruments. ❖ Discuss Incoterms Rules (responsibilities, cost & risks of buyers & sellers in trade) ❖ Interpret international bill of payment system.	• Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation	• Bansal (2012). • Bhalla (2013). • Born (2015). • Bossche (2016). • Chawla (2012). • Hudec (2010). • Moses (2017). • Schmitthoff (2012). • Singh (2018). • WTO (2017).
Total= 62 Lecture hours (hrs.)			

Student Activities:

- Attending Lectures
- Readings and Class Discussions/ Interactions
- Case Study and Analysis
- Self-evaluation Review Questions/ Quizzes
- Exercises
- Project Work Assessments
- Web-based Assignments

Referred Cases:

- *EC Banana Case I, II & III* [WT/DS 27 (ongoing)]
- *Case-Japan-Alcoholic Beverage Case* [WT/DS 6, WT/DS 10, WT/DS 11 (1996)]
- *Factory at Chorzow Case* [1927 P.C.I.J. (ser. A No.9 (July 26), ICGJ 247 (PCIJ 1927)]
- *Barcelona Traction Case* [ICJ Rep 3, (1970) 9 ILM 227, ICGJ 152 (ICJ 1970)]
- *US-Tuna/Dolphin Case* [WT/DS 381 (2012)]
- *US –Shrimp (“Shrimp/Turtle”) Case* [WT/DS58/AB/R) (1998)]
- *EC –Asbestos Case* [WT/DS135/AB/R) (2000)]
- *Brazil– Canada Aircraft Case* [WT/DS 70/AB/R (1992)]
- *Turkey - Restrictions on Imports of Textile and Clothing Products* [WT/DS34/R (2001)]
- *United States - Rules of Origin for Textiles and Apparel Products* [WT/DS243/8 (2003)]
- *Metal clad v. United Mexican State* [ICSID, Case No. ARB (AF) /97/1 (2000)]
- *International Thunderbird Gaming Corporation v. The United Mexican State* [Civil Aviation 06-00748 (HHK) (D.D.C. (2006)]
- *Yukos Universal Limited v. The Russian Federation* [PCA Case No. 2005-04/AA227 (2014)]
- *The Republic of the Philippines v. the People’s Republic of China* [PCA Case No. 2013-19 (2016)]

- *Chagos Marine Protected Area Arbitration, Mauritius v United Kingdom* [Final Award, ICGJ 486 (PCA 2015) (2015)]
- *Philips Morris v. Uruguay Case* [ICSID Case No. ARB/10/7 (2016)]
- *Saudi Arabia v. Arabian American Oil Company (Aramco)*, 27 I.L.R. 117 (1963)
- *Chevron Corporation and Texaco Petroleum Company v. The Republic of Ecuador* [PCA Case No. 2009-234 (2009)]
- *Bharat Aluminium Co. (BALCO) v. Kaiser Aluminium Technical Services Inc.* [9 SCC 552 (2012)]
- *Axiata Investments (UK) Limited and Ncell Private Limited v. Federal Democratic Republic of Nepal* [ICSID Case No. ARB/19/15 (20230)]

Reference Materials

- UNCITRAL Model Law (1985, with amendments)
- ICC Arbitration Rules (2021)
- ICC Model Terms of Reference
- UNCITRAL Arbitration Rules (2010, with 2013 amendments)
- NY Convention (1958)
- Simon Lester, Bryan Mercurio, Arwel Davies, *World Trade Law Text, Materials and Commentary*, Hart Publishing, 2018.
- Prof. Raj Bhalla, *Modern GATT Law: A Treatise on the Law and Political Economy of the GATT & other W.T.O Agreements*, Sweet & Maxwell, 2013.
- Ralph Folsom, *International Trade Law Including the World Trade Organization, Technology Transfers, and Import/Export/Customs Law*, West Academic Publishing, 2017.
- P. Van Den Bossche, *Essentials of WTO Law*, Cambridge University Press, 2016
- M. Schmitthoff, *The Law and Practice of International Trade*, 2012.
- World Trade Organization, *The WTO Agreements: The Marrakesh Agreement Establishing the World Trade Organization and its Annexes*, Cambridge University Press, 2017.
- Robert E. Hudec, *Developing Countries in the GATT Legal System*, Cambridge University Press, 2010.
- Gary B. Born, *International Commercial Arbitration*, Kluwer Law International, 2015.
- David St John Sutton, Judith Gill, Matthew Gearing, *Russell on Arbitration*, Sweet & Maxwell Ltd., 2009.
- Margaret L. Moses, *The Principles and Practice of International Commercial Arbitration*, Cambridge University Press, 2017.
- Bansal A K, *Law of International Commercial Arbitration Practice & Procedure Enforcement of Foreign Awards*, Universal Law Publishers, 2012.
- S.K. Chawla, *Law of Arbitration & Conciliation –Including other ADRs*, Eastern Law House, 2012.
- Dr. Markanda P.C., *Law Relating to Arbitration and Conciliation*, Lexis Nexis, 2016.
- Avtar Singh, *Law of Arbitration and Conciliation*, Eastern Book Company, 2018.

Evaluation Scheme

Schemes	Total weigh-age
<u>Internal Evaluation</u>	<u>40 Per cent</u> <u>20%</u>
<ul style="list-style-type: none"> • Assignments, project works, learning summary, Participation • Mid-term exam 	20%
External Evaluation (End Exam)	60 Per cent

Evaluation Methods/ Components

In-course Evaluation (assignments and projects)	Mid-term and End-course Exams
f) Unite assignments/projects g) Reviews and class discussion h) Case study and situation analysis i) Participation and answer questions j) Other assignment	c) Descriptive/ Long question answer d) Short question answer

Rajarshi Janak University
Faculty of Humanities and Law

Curriculum for F.M- 50
Bachelor of Laws (Legum Baccalaureus) (LL. B) P.M- 25
Course: Environmental Law-I (Conservation Law)
Duration of the Course-62 Hours
Course Code: Law 310
Nature: Elective
Year: First

COURSE DESCRIPTION

Conservation law refers to a legislative act that protects and conserves a natural or cultural resource. For example, an Environmental Law establishes rules for the preservation of ecosystems, and a National Conservation Law might aim to protect endangered species and their habitats. Studying "conservation law" (more commonly referred to within the broader category of environmental law) is vital for the legal profession as it provides the legal framework to manage humanity's interaction with the natural world, balance competing interests, and enforce policies for environmental protection and sustainable development. This course is designed to apprise students with the fundamental concept of Conservation Law. The course imparts students with the critical knowledge on philosophy related with the Conservation Law. The course also imparts students with the knowledge on various socio-legal research related with the various aspects of Conservation Law. The course enables the students with knowledge about the techniques of collection, analyze and interpretation of data related with the socio-legal research related with the Conservation Law. The course also enables students to prepare the layout of the research report. The course encourages students in the involvement in multi-faceted research of Environmental Law. The course thereby helps in the development of environmental research and justice in Nepal.

LEARNING OUTCOMES

At the end of the course, students will be able to:

- Explain the general concept, importance, & forms of Conservation Law.
- Inquire about the various aspects of Conservation of Forest.
- Discuss about the relevancy of Conservation of Soil.
- Analytically discuss about the Conservation of Fresh Water Resources.
- Discuss about the Methods & Techniques of protection of Bio-diversity.
- Explain about the various National & International Instruments related to Conservation Law.

COURSE CONTENT:

1. **Introduction (8 hrs.)**
 - 1.1 Concept and Importance of Conservation Law
 - 1.2 Forms of Conservation: In-situ Conservation, Ex-situ Conservation
 - 1.3 Level of Conservation: 'least concern', 'near threatened', 'vulnerable', 'endangered', 'critically endangered', 'extinct in the wild', and 'extinct'
 - 1.4 Interrelation between Environment Protection and Sustainable Development

- 1.5 Concept of Trans-boundary Conservation
- 1.6 Role of Judiciary in Conservation

2. Conservation of Forest (12 hrs.)

- 2.1 Sub-Areas in Forest Conservation: Forest Ecology, Forest Management, Wildlife biology, Conservation Biology, Social Forestry
- 2.2 Importance of Forest Conservation: Minimizing Bio-Diversity Loss, Climate Change Mitigation, Water Security, Livelihood and Economic Benefit, Eco-Tourism
- 2.3 Practical Importance of Forest Conservation: Protected Areas (National Parks, Wildlife Reserves, Buffer Zones), People's Participation (Community Forest, Religious Forest, Leasehold Forest)
- 2.4 Applicable Laws: Crime and Punishment

3. Conservation of Soil (7 hrs.)

- 3.1 Soil Conservation Practices: Conservation Tillage, Cover Cropping, Contour Farming, Terracing, Windbreaks, Buffer Strips, Crop Rotation
- 3.2 Importance of Soil Conservation: Food Security, Ecological Balance, Environmental Protection, Economic Benefit
- 3.3 Applicable Laws: Crime and Punishment

4. Conservation of Fresh Water Resources (10 hrs.)

- 4.1 Water Right: under International Water Course Law & National Legal Provisions
- 4.2 Water Quality: Biological and Chemical Composition and Physical Condition of Raw Water quality
- 4.3 Water Resource Management
- 4.4 Applicable Laws: Crime and Punishment

5. Conservation of Bio-Diversity (12 hrs.)

- 5.1 Conservation of Wild and Aquatic Life and their Habitat
- 5.2 Protection and Conservation of Land Resources
- 5.3 Conservation of Wet-Lands (Ramsar Convention, 1971)
- 5.4 Protection and Conservation of Bio-Diversity (CBD, 1992)
- 5.5 Applicable Laws: Crime and Punishment

6. International Instruments (13 hrs.)

- 6.1 UN Framework Convention on Climate Change (UNFCCC, 1992); Kyoto Protocol, 1995; Paris Agreement, 2015
- 6.2 Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES, 1973)
- 6.3 UN Convention to Combat Desertification (UNCCD, 1994)
- 6.4 Convention for the Protection of World Cultural and Natural Heritage (UNESCO World Heritage Convention, 1972)
- 6.5 Basel Convention on the Control of Trans-boundary Movement of Hazardous Wastes & their Disposal, 1989

CONTENT ELABORATION AND MODUS OPERANDI

Units & Lecture Hours	Learning Outcomes (students will be able to:)	Mode of Delivery	Key Readings/ References
Unit-I 1. Introduction (8 hrs.) 1.1 Concept and Importance of Conservation Law 1.2 Forms of Conservation: In-situ Conservation, Ex-situ Conservation 1.3 Level of Conservation: 'least concern', 'near threatened', 'vulnerable', 'endangered', 'critically endangered', 'extinct in the wild', and 'extinct' 1.4 Interrelation between Environment Protection and Sustainable Development 1.5 Concept of Trans-boundary Conservation 1.6 Role of Judiciary in Conservation	<ul style="list-style-type: none"> ❖ Explain the general concept, nature, importance, & forms of Conservation Law. ❖ Inquire about the interrelationship between environmental protection and sustainable development ❖ Discuss about the role of judiciary in the advancement of Conservation Law. 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises • Web-based assignment 	<ul style="list-style-type: none"> • Adhikari & Basnet (2024). • Aryal (2004). • Belbase (1993). • Belbase (1999). • Bhattarai (2010). • Dawan (2008). • Sahasrananan (2009). • Sapkota (2014). • Sijapati (2011).
Unit-II 2 Conservation of Forest (12 hrs.) 2.1 Sub-Areas in Forest Conservation: Forest Ecology, Forest Management, Wildlife biology, Conservation Biology, Social Forestry 2.2 Importance of Forest Conservation: Minimizing Bio-Diversity Loss, Climate Change Mitigation, Water Security, Livelihood and Economic Benefit, Eco-Tourism 2.3 Practical Importance of Forest Conservation: Protected Areas (National Parks, Wildlife Reserves, Buffer Zones), People's Participation (Community Forest, Religious Forest, Leasehold Forest) 2.4 Applicable Laws: Crime and Punishment	<ul style="list-style-type: none"> ❖ Discuss about the sub-areas and importance of forest conservation. ❖ Discuss about the relevancy of forest conservation. ❖ Explain about applicable laws of forest conservation and discuss about the crime and punishment of possible violation of protected areas. 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises • Web-based assignment 	<ul style="list-style-type: none"> • Adhikari & Basnet (2024). • Aryal (2004). • Belbase (1993). • Belbase (1999). • Bhattarai (2010). • Dawan (2008). • Sahasrananan (2009). • Sapkota (2014). • Sijapati (2011)
Unit-III 3 Conservation of Soil (7 hrs.) 3.1 Soil Conservation Practices: Conservation Tillage, Cover Cropping, Contour Farming, Terracing, Windbreaks, Buffer Strips, Crop Rotation 3.2 Importance of Soil Conservation: Food Security, Ecological Balance, Environmental Protection, Economic Benefit 3.3 Applicable Laws: Crime and Punishment	<ul style="list-style-type: none"> ❖ Analytically discuss about the practices of soil conservation. ❖ Explain about the importance of soil conservation. ❖ Discuss about the of applicable laws in conservation of soil and applicable crime and punishment. 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions 	<ul style="list-style-type: none"> • Adhikari & Basnet (2024). • Aryal (2004). • Belbase (1993). • Belbase (1999). • Bhattarai (2010). • Dawan (2008).
Unit-IV 4 Conservation of Fresh Water Resources (10 hrs.) 4.1 Water Right: under International Water Course Law & National Legal Provisions 4.2 Water Quality: Biological and Chemical	<ul style="list-style-type: none"> ❖ Discuss about the methods of analysis of water rights under the international water course law and national legal provisions. ❖ Explain about the water 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning 	<ul style="list-style-type: none"> • Adhikari & Basnet (2024). • Aryal (2004). • Belbase (1993). • Belbase (1999). • Bhattarai (2010).

Composition and Physical Condition of Raw Water quality 4.3 Water Resource Management 4.4 Applicable Laws: Crime and Punishment	quality of raw water. ❖ Discuss about water resource management effort.	• Self-evaluation • Review questions • Exercises • Web-based assignment	• Dawan (2008). • Sapkota (2014).
Unit-V 5 Conservation of Bio-Diversity (12 hrs.) 5.1 Conservation of Wild and Aquatic Life and their Habitat 5.2 Protection and Conservation of Land Resources 5.3 Conservation of Wet-Lands (Ramsar Convention, 1971) 5.4 Protection and Conservation of Bio-Diversity (CBD, 1992) 5.5 Applicable Laws: Crime and Punishment	❖ Explain about the conservation effort of bio-diversity. ❖ Discuss about the conservation of wetland, wild and aquatic life and their habitat. ❖ Explain about the protection and conservation effort of land resources.	• Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises • Web-based assignment	• Adhikari & Basnet (2024). • Aryal (2004). • Belbase (1993). • Belbase (1999). • Bhattarai (2010). • Dawan (2008). • Sapkota (2014). • Sijapati (2011)
Unit-VI 6 International Instruments (13 hrs.) 6.1 UN Framework Convention on Climate Change (UNFCCC, 1992); Kyoto Protocol, 1995; Paris Agreement, 2015 6.2 Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES, 1973) 6.3 UN Convention to Combat Desertification (UNCCD, 1994) 6.4 Convention for the Protection of World Cultural and Natural Heritage (UNESCO World Heritage Convention, 1972) 6.5 Basel convention on the Control of Trans-boundary Movement of Hazardous Wastes & their Disposal, 1989	❖ Analyze the international instruments in the protection and conservation of environment. ❖ Analyze about the domestication effort of such conventions.	• Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises • Web-based assignment	• Adhikari & Basnet (2024). • Aryal (2004). • Belbase (1993). • Belbase (1999). • Bhattarai (2010). • Dawan (2008). • Sahasrananan (2009). • Sapkota (2014). • Sijapati (2011)
Total= 62 Lecture hours (hrs.)			

Student Activities:

- Attending Lectures
- Readings and Class Discussions/ Interactions
- Case Study and Analysis
- Self-evaluation Review Questions/ Quizzes
- Exercises
- Project Work Assessments
- Web-based Assignments

References:

International Instruments:

- Stockholm Conference on Human Environment, 1972
- Convention Concerning the Protection of World Cultural and Natural Heritage, 1972
- Vienna Convention for the Protection of the Ozone Layer, 1985
- Montreal Protocol on Substances that Deplete the Ozone Layer, 1987
- Rio Conference on Environment and Development, 1992

National Instruments:

- The Constitution of Nepal, 2072 (related provisions)
- Muluki Civil Code, 2074 (2017) (related provisions)
- Muluki Criminal Code, 2074 (2017) (related provisions)
- Environment Protection Act, 2076 (2019)
- Environment Protection Regulation, 2077 (2020)
- Forest Act, 2076 (2019)
- Forest Regulation, 2077 (2020)
- National Parks and Wildlife Conservation Act, 2029 (1973)
- National Parks and Conservation Rules, 2030 (1974)
- The Control of International Trade in Endangered Wild Fauna and Flora, 2074 (2017).
- Aquatic Animal Protection Act, 2017 (1960)
- Ancient Monuments Preservation Act 2013, (1956) (with amended of 1988)
- Ancient Monument Preservation Rules, 2046 (1989).
- Water Resources Act, 2049 (1992)
- Soil and Watershed Conservation Act, 2039 (1982)
- National Wetlands Policy, 2059 (2003)
- Sagarmatha Declaration on Climate Change, 2066 (2009)
- National Adaptation Programme of Action to Climate Change, 2067 (2010)
- National Framework on Local Adaptation Plans for Action, 2068 (2011)
- National Climate Change Policy, 2076 (2019)
- Solid Waste Management Act, 2068 (2011)
- Pesticides Management Act, 2076 (2019)
- Industrial Enterprises Act, 2076 (2020)

Prescribed Cases:

- Surya Prasad Dhungel Sharma & Others vs. Godavari Marble Industries and Others, NKP (2052), p. 168.
- Yogi Narahari Nath & Others vs. Prime Minister Girija Prasad Koirala and Others, NKP (2053), No. 1, p. 33.
- Narayan Prasad Devkota and Others vs. Prime Minister and Council of Ministers and Others, NKP (2067), No. 12, p.2053.

- Bhoj Raj Air vs. Ministry of Population and Environment, NKP (2061), No10, p.1361
- Bhoj Raj Air vs. Ministry of Water Resources & Others, NKP (2061), No10, p.1288
- Adv. Prakash Mani Sharma and Others vs. PM and Council of Ministers and 11, Writ Number 2063-WO-0218, Decision Number 8922
- Adv. Prakash Mani Sharma and Others vs. Prime Minister and Council of Ministers and Others, NKP (2073), Number 4, Writ Number 065-WF-0005, Decision Number 9575
- Ram Chandra Simkhada and Others vs. PMO and Council of Ministers and Others, NKP (2076), Number 2, Writ Number 068-WO-0597
- Padam Bahadur Shrestha vs. PM and Council of Ministers and Others, NKP (2076), Number 3, Writ Number 074-WO-0283

Books and Articles:

- Adhikari, Sanjay & Rupa Basnet (2024). *Simhavalokan of Conservation Law*, Mata Bhumih Putruanhan Prthivya.
- Aryal, Ravi Sharma (2004). *CfTES Implementation in Nepal and India: Law, Policy and Practice*, Kathmandu: Bhrikuti Academic Publication.
- Belbase, Narayan (1993). *The Implementation of International Environmental Law in Nepal*, IUCN.
- Belbase, Narayan (1999). *National Implementation of the Convention on Biological Diversity - Policy and Legislative Requirements*, IUCN
- Bhattarai, Mohan (2010). *Protection of Himalayan Biodiversity - International Law and Regional Legal Framework*, Kathmandu: Mandala Book Point.
- Dawan, Ashok (2008). *A Textbook of Environmental Studies*, Saurabh Publishing House.
- Sahasranan, P. B. (2009). *Handbook of Environmental Law*, Oxford University Press.
- Sapkota, Tara Prasad (2014). *An Introduction to Environmental Law and General Principles*, Kathmandu: Integrated Law Firm and Consultancy Publication, 2nd Edition.
- Sijapati, Bijay Singh (2011). *Environmental Protection and Justice*, Kathmandu: Pairavi Publication.

E Sources

- ❖ Website of Nepal Law Commission: www.lawcommission.gov.np
- ❖ Website of Office of the Attorney General of Nepal: www.ag.gov.np
- ❖ Website of National Judicial Academy (of Nepal): www.njanepal.org.np

Evaluation Scheme

Schemes	Total weight-age
<u>Internal evaluation</u> <ul style="list-style-type: none"> • Assignments, project works, learning summary, participation • Mid-term exams 	<u>40 per cent</u> 20% 20%
External evaluation (End-term exams)	60 per cent

Evaluation Methods/ Components

In-course Evaluation (Assignments and Projects)	Mid-term and End-Course Exams
a) Unit Assignments/Projects/ b) Reviews & Discussions on Issues c) Case Study/ Situation Analysis d) Participation in Interactions with the Tutor & Quizzes e) Other Assignments	a) Descriptive/ Long Answer Questions b) Short Answer Questions

Rajarshi Janak University
Faculty of Humanities and Law

Curriculum for F.M- 50
Bachelor of Laws (Legum Baccalaureus) (LL. B) P.M- 25
Course: Environmental Law-II (Climate Change Law)
Duration of the Course-62 Hours
Course Code: Law 311
Nature: Elective
Year: First

COURSE DESCRIPTION

Climate change is a pressing environmental, economic and social problem of the today's world. Global warming, biproduct of climate change, is predicted to have wide-ranging impacts, and it presents enormous challenges for conventional models of law and socio-economic governance. This subject examines the challenges for law in driving that change, from the United Nations Framework Convention on Climate Change (UNFCCC) and its associated Paris Agreement, to international trade, climate finance and litigation, to legislative responses, through to local effects including relating to the protection of rights of Indigenous peoples.

LEARNING OUTCOMES

After the completion of the course, students will be able to:

- understand clearly the principal elements of International and Comparative Climate Change Law
- have an advanced and integrated understanding of the scientific basis of global warming and its impacts in an ecological, social and economic context.
- critically examine, analyze, interpret and assess the international legal framework governing climate change issues and likely future trends, including the United Nations Framework Convention on Climate Change (UNFCCC), the Paris Agreement and associated international instruments.
- have the cognitive and technical skills to independently examine, research and analyze the various legislative and regulatory mitigation measures.
- have the communication skills to clearly articulate and convey complex information regarding domestic and international regimes focusing on or relating to climate change.
- Be able to demonstrate autonomy, expert judgment and responsibility as a practitioner and learner in the field of climate change law.
- Have a comprehension of the complex (scientific, economic, political and legal) framework of climate change issues.

COURSE CONTENT

1. Introduction (8 hrs.)

- 1.1 Concept of Climate Change
- 1.2 Causes and Consequences of Climate Change
- 1.3 Mitigation and Adaptational Changes in Climate Change
- 1.4 History of International Climate Change Regime
- 1.5 Principles of Climate Change Law

2. Climate Change Law as the Part of International Economic Law (8 hrs.)

- 2.1 Economic Analysis of Climate Change
- 2.2 Impact of Climate Change in International Trade and Investment
- 2.3 Climate Change and Sustainable Development
- 2.4 Climate Change and Corporate Obligation
- 2.5 Corporate Social Responsibility
- 2.6 Combating Climate Change through Investment Arbitration

3. Climate Engineering (8 hrs.)

- 3.1 Risk and Vulnerability Assessment: (Gov. to publish information on climate-related physical risk and vulnerability)
- 3.2 Intermediate, Sectoral and Long-Term Target: (Decarbonization target for 2050: net zero)
- 3.3 Stakeholder Engagement: Private Sector, Academic, Civil Society, Local Community
- 3.4 Climate Change Strategies and Plan

4. Climate Change Liability (8 hrs.)

- 4.1 Green House Effect
- 4.2 Environment Impact Assessment
- 4.3 Carbon Tax
- 4.4 Carbon Trading
- 4.5 Disaster Risk Management

5. Hazards in Climate Destruction (10 hrs.)

- 5.1 Ozone Layer Depletion
- 5.2 Pollution: Atmosphere, Water, Land, Noise, Plastic (micro-plastics)
- 5.3 Bio-diversity Loss
- 5.4 Food and Water Insecurity
- 5.5 Melting Ice Caps and Rising Sea Level
- 5.6 Ocean Acidification
- 5.7 Destruction of Cultural Heritage

6. Climate Justice (12 hrs.)

- 6.1 Climate Refugees
- 6.2 Climate Change Mitigation in Developing Countries

- 6.3 UN Climate Change Regime
- 6.4 Intergovernmental Panels on Climate Change
- 6.5 Nationally Determined Contributions (NDCs)
- 6.6 Climate Change and Human Rights
- 6.7 Climate Activism
- 6.8 Climate Change and Urban Adaptation

7. International Instruments (8 hrs.)

- 7.1 UN Framework convention on Climate Change (UNFCCC, 1992)
- 7.2 Kyoto Protocol, 1994
- 7.3 Paris Agreement, 2015
- 7.4 Climate Litigation and Role of Court

CONTENT ELABORATION AND MODUS OPERANDI

Units & Lecture Hours	Learning Outcomes (students will be able to:)	Mode of Delivery	Key Readings/ References
Unit-I 1. Introduction (8 hrs.) 1.1 Concept of Climate Change 1.2 Causes and Consequences of Climate Change 1.3 Mitigation and Adaptational Changes in Climate Change 1.4 History of International Climate Change Regime 1.5 Principles of Climate Change Law	<ul style="list-style-type: none"> ❖ Explain the general concept of climate change. ❖ Inquire about causes and consequence of climate change ❖ Discuss about the history of climate change law. ❖ Explain the principles of climate change law. 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises • Web-based assignment 	<ul style="list-style-type: none"> • Adhikari & Basnet (2024). • Aryal (2004). • Belbase (1993). • Belbase (1999). • Bhattarai (2010). • Dawan (2008). • Sahasrananan (2009). • Sapkota (2014). • Sijapati (2011).
Unit-II 2 Climate Change Law as the Part of International Economic Law (8 hrs.) 2.1 Economic Analysis of Climate Change 2.2 Impact of Climate Change in International Trade and Investment 2.3 Climate Change and Sustainable Development 2.4 Climate Change and Corporate Obligation 2.5 Corporate Social Responsibility 2.6 Combating Climate Change through Investment Arbitration	<ul style="list-style-type: none"> ❖ Discuss about the economic analysis of climate change. ❖ Discuss about the impact of climate change in international trade and investment. ❖ Explain about the interrelationship between climate change and sustainable development. ❖ Explain about the corporate social responsibility and corporate obligation towards climate change. ❖ Discuss arbitration process for climate 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises • Web-based assignment 	<ul style="list-style-type: none"> • Adhikari & Basnet (2024). • Aryal (2004). • Belbase (1993). • Belbase (1999). • Bhattarai (2010). • Dawan (2008). • Sahasrananan (2009). • Sapkota (2014). • Sijapati (2011)

	justice.		
Unit-III 3 Climate Engineering (8 hrs.) 3.1 Risk and Vulnerability Assessment: (Gov. to publish information on climate-related physical risk and vulnerability) 3.2 Intermediate, Sectoral and Long-Term Target: (Decarbonization target for 2050: net zero) 3.3 Stakeholder Engagement: Private Sector, Academic, Civil Society, Local Community 3.4 Climate Change Strategies and Plan	<ul style="list-style-type: none"> ❖ Analytically discuss about the risk and vulnerability assessment in climate engineering. ❖ Explain about the intermediate, sectoral and long-term target in climate engineering. ❖ Discuss about the stakeholder engagement in climate engineering. ❖ Explain about the climate change and its plan in climate engineering. 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions 	<ul style="list-style-type: none"> • Adhikari & Basnet (2024). • Aryal (2004). • Belbase (1993). • Belbase (1999). • Bhattacharai (2010). • Dawan (2008).
Unit-IV 4 Climate Change Liability (8 hrs.) 4.1 Green House Effect 4.2 Environment Impact Assessment 4.3 Carbon Tax 4.4 Carbon Trading 4.5 Disaster Risk Management	<ul style="list-style-type: none"> ❖ Discuss about the greenhouse effect as the climate change liability. ❖ Explain about the environment impact assessment as the climate change liability. ❖ Discuss about the carbon taxation and carbon trading. ❖ Discuss about the disaster risk management. 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises • Web-based assignment 	<ul style="list-style-type: none"> • Adhikari & Basnet (2024). • Aryal (2004). • Belbase (1993). • Belbase (1999). • Bhattacharai (2010). • Dawan (2008). • Sapkota (2014).
Unit-V 5 Hazards in Climate Destruction (10 hrs.) 5.1 Ozone Layer Depletion 5.2 Pollution: Atmosphere, Water, Land, Noise, Plastic (micro-plastics) 5.3 Bio-diversity Loss 5.4 Food and Water Insecurity 5.5 Melting Ice Caps and Rising Sea Level 5.6 Ocean Acidification 5.7 Destruction of Cultural Heritage	<ul style="list-style-type: none"> ❖ Explain about the ozone layer depletion, pollution, as the hazards in climate destruction. ❖ Discuss about the bio-diversity loss, food and water insecurity as the result of climate destruction. ❖ Explain about the melting ice caps and rising sea levels; ocean acidification; and destruction of cultural heritage as the hazards in climate destruction. 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises • Web-based assignment 	<ul style="list-style-type: none"> • Adhikari & Basnet (2024). • Aryal (2004). • Belbase (1993). • Belbase (1999). • Bhattacharai (2010). • Dawan (2008). • Sapkota (2014). • Sijapati (2011)
Unit-VI 6 Climate Justice (12 hrs.) 6.1 Climate Refugees 6.2 Climate Change Mitigation in Developing Countries 6.3 UN Climate Change Regime 6.4 Intergovernmental Panels on Climate Change 6.5 Nationally Determined Contributions (NDCs) 6.6 Climate Change and Human Rights	<ul style="list-style-type: none"> ❖ Analyze about the climate refugees, climate change mitigation in developing countries. ❖ Discuss about the UN climate change regime. ❖ Discuss about the intergovernmental panels on climate change ❖ Interrelate the concept of 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises 	<ul style="list-style-type: none"> • Adhikari & Basnet (2024). • Aryal (2004). • Belbase (1993). • Belbase (1999). • Bhattacharai (2010). • Dawan (2008). • Sahasranaman

6.7 Climate Activism 6.8 Climate Change and Urban Adaptation	climate change and human rights. ❖ Discuss about the climate justice as the climate justice. ❖ Explain about the process of climate change and urban adaptation.	Web-based assignment	(2009). • Sapkota (2014). • Sijapati (2011)
Unit VII 7 International Instruments (8 hrs.) 7.1 UN Framework convention on Climate Change (UNFCCC, 1992) 7.2 Kyoto Protocol, 1994 7.3 Paris Agreement, 2015 7.4 Climate Litigation and Role of Court	❖ Explain about the international instruments, such as, UNFCCC, Kyoto Protocol, Paris Agreement, related to the protection of climate change.	• Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises • Web-based assignment	• Adhikari & Basnet (2024). • Aryal (2004). • Belbase (1993). • Belbase (1999). • Bhattarai (2010). • Dawan (2008). • Sahasrananan (2009). • Sapkota (2014). • Sijapati (2011)
Total= 62 Lecture hours (hrs.)			

Student Activities:

- Attending Lectures
- Readings and Class Discussions/ Interactions
- Case Study and Analysis
- Self-evaluation Review Questions/ Quizzes
- Exercises
- Project Work Assessments
- Web-based Assignments

References:

International Instruments (addition to above mentioned):

- Stockholm Conference on Human Environment, 1972
- Convention Concerning the Protection of World Cultural and Natural Heritage, 1972
- Vienna Convention for the Protection of the Ozone Layer, 1985
- Montreal Protocol on Substances that Deplete the Ozone Layer, 1987
- Rio Conference on Environment and Development, 1992

National Instruments:

- The Constitution of Nepal, 2072 (related provisions)
- Muluki Civil Code, 2074 (2017) (related provisions)
- Muluki Criminal Code, 2074 (2017) (related provisions)
- Environment Protection Act, 2076 (2019)
- Environment Protection Regulation, 2077 (2020)

- Forest Act, 2076 (2019)
- Forest Regulation, 2077 (2020)
- National Parks and Wildlife Conservation Act, 2029 (1973)
- National Parks and Conservation Rules, 2030 (1974)
- The Control of International Trade in Endangered Wild Fauna and Flora, 2074 (2017).
- Aquatic Animal Protection Act, 2017 (1960)
- Ancient Monuments Preservation Act 2013, (1956) (with amended of 1988)
- Ancient Monument Preservation Rules, 2046 (1989).
- Water Resources Act, 2049 (1992)
- Soil and Watershed Conservation Act, 2039 (1982)
- National Wetlands Policy, 2059 (2003)
- Sagarmatha Declaration on Climate Change, 2066 (2009)
- National Adaptation Programme of Action to Climate Change, 2067 (2010)
- National Framework on Local Adaptation Plans for Action, 2068 (2011)
- National Climate Change Policy, 2076 (2019)
- Solid Waste Management Act, 2068 (2011)
- Pesticides Management Act, 2076 (2019)
- Industrial Enterprises Act, 2076 (2020)

Prescribed Cases:

- Surya Prasad Dhungel Sharma & Others vs. Godavari Marble Industries and Others, NKP (2052), p. 168.
- Yogi Narahari Nath & Others vs. Prime Minister Girija Prasad Koirala and Others, NKP (2053), No. 1, p. 33.
- Narayan Prasad Devkota and Others vs. Prime Minister and Council of Ministers and Others, NKP (2067), No. 12, p.2053.
- Bhoj Raj Air vs. Ministry of Population and Environment, NKP (2061), No10, p.1361
- Bhoj Raj Air vs. Ministry of Water Resources & Others, NKP (2061), No10, p.1288
- Adv. Prakash Mani Sharma and Others vs. PM and Council of Ministers and 11, Writ Number 2063-WO-0218, Decision Number 8922
- Adv. Prakash Mani Sharma and Others vs. Prime Minister and Council of Ministers and Others, NKP (2073), Number 4, Writ Number 065-WF-0005, Decision Number 9575
- Ram Chandra Simkhada and Others vs. PMO and Council of Ministers and Others, NKP (2076), Number 2, Writ Number 068-WO-0597
- Padam Bahadur Shrestha vs. PM and Council of Ministers and Others, NKP (2076), Number 3, Writ Number 074-WO-0283

Books and Articles:

- Adhikari, Sanjay & Rupa Basnet (2024). *Simhavalokan of Conservation Law*, Mata Bhumih Putruanhan Prthivya.
- Aryal, Ravi Sharma (2004). *CfTES Implementation in Nepal and India: Law, Policy and Practice*, Kathmandu: Bhrikuti Academic Publication.

- Belbase, Narayan (1993). *The Implementation of International Environmental Law in Nepal*, IUCN.
- Belbase, Narayan (1999). *National Implementation of the Convention on Biological Diversity - Policy and Legislative Requirements*, IUCN
- Bhattacharai, Mohan (2010). *Protection of Himalayan Biodiversity - International Law and Regional Legal Framework*, Kathmandu: Mandala Book Point.
- Dawan, Ashok (2008). *A Textbook of Environmental Studies*, Saurabh Publishing House.
- Sahasranan, P. B. (2009). *Handbook of Environmental Law*, Oxford University Press.
- Sapkota, Tara Prasad (2014). *An Introduction to Environmental Law and General Principles*, Kathmandu: Integrated Law Firm and Consultancy Publication, 2nd Edition.
- Sijapati, Bijay Singh (2011). *Environmental Protection and Justice*, Kathmandu: Pairavi Publication.

E Sources

- ❖ Website of Nepal Law Commission: www.lawcommission.gov.np
- ❖ Website of Office of the Attorney General of Nepal: www.ag.gov.np
- ❖ Website of National Judicial Academy (of Nepal): www.njanepal.org.np

Evaluation Scheme

Schemes	Total weight-age
<u>Internal evaluation</u>	<u>40 per cent</u>
<ul style="list-style-type: none"> • Assignments, project works, learning summary, participation • Mid-term exams 	20% 20%
External evaluation (End-term exams)	60 per cent

Evaluation Methods/ Components

In-course Evaluation (Assignments and Projects)	Mid-term and End-Course Exams
a) Unit Assignments/Projects/ b) Reviews & Discussions on Issues c) Case Study/ Situation Analysis d) Participation in Interactions with the Tutor & Quizzes e) Other Assignments	a) Descriptive/ Long Answer Questions b) Short Answer Questions

Rajarshi Janak University
Faculty of Humanities and Law

Curriculum for F.M- 50
Bachelor of Laws (Legum Baccalaureus) (LL. B) P.M- 25
Course: International Law-I (International Humanitarian Law)
Course Code: Law 312
Nature: Elective
Year: First

COURSE DESCRIPTION

International Humanitarian Law (IHL) is a body of rules that seeks to limit the effects of armed conflict. It protects people who are not fighting (like civilians) and those who can no longer fight (such as the wounded or prisoners of war), while also restricting the methods and means of warfare. The primary sources of IHL are treaties, like the 1949 Geneva Conventions, and customary international law. Studying IHL is important for protecting civilians, limiting the effects of war, and upholding fundamental rights during armed conflict. It fosters legal reasoning, provides vital knowledge for careers in the military and humanitarian aid, and helps create a common understanding of the rules of war to promote international cooperation and accountability for violations. This course is designed to apprise students with the fundamental knowledge and concept of Laws of Armed Conflict & International Criminal Law. The course imparts students with the critical knowledge on means and method of warfare. The course also imparts students with the knowledge on four Geneva Conventions and its Additional Protocols. The course enables the students with knowledge about the core principles of IHL. The course encourages students in the involvement in multi-faceted research on laws. Students will be able to analyze the application of IHL laws in pre-conflict and post-conflict situation. The course thereby helps in the development of legal research in the field of IHL.

LEARNING OUTCOME

The objectives of the course are as follows:

- To provide students with an understanding of the development of Laws of Armed Conflict
- To acquaint students with the categories of warfare and its contemporary development
- To impart knowledge of Geneva Conventions and its Additional Protocols
- To elucidate on the international crimes of war crimes, genocide, crimes against humanity, aggression, torture and terrorism
- To provide students with an understanding of international criminal trials
- To discuss various international criminal tribunals and courts including Nuremberg Tribunal, Tokyo Tribunal, ICTY, ICTR, ICC and mixed tribunals

COURSE CONTENT

1. Introduction to IHL (8 hrs.)

- 1.1 Definition of IHL
- 1.2 Nature and Scope of IHL
- 1.3 Genesis and Development of IHL
- 1.4 Sources of IHL
- 1.5 Core Principle of IHL
- 1.6 *Jus ad bellum, jus in bello, jus post bellum, & jus contra bellum*
- 1.7 Interrelationship between IHL, Refugee Law and International Human Rights Law

2. Categories of Armed Conflicts (9 hrs.)

- 2.1 International Armed Conflict and applicable Laws
- 2.2 Non-international Armed conflict and Applicable Laws
- 2.3 Internationalized Non-international Armed Conflict and Applicable Laws
- 2.4 Belligerent Occupation

3. Method of Warfare (9 hrs.)

- 3.1 Protection of Civilian Population
- 3.2 Protection of Prisoner of War
- 3.3 Protection of Civilian Objects, Areas, and Institutions: Hospitals, Place of Worship, Safety and Neutralized Zones, Respect of Distinctive Emblem
- 3.4 Protection of Cultural Property
- 3.5 Protection of Wounded, Sick and Shipwrecked

4. Means of Warfare (9 hrs.)

- 4.1 Prohibition on Weapons
- 4.2 Principle of Prohibition of Unnecessary Suffering
- 4.3 Explicit Prohibition or Restrictions of Certain Weapons
- 4.4 Prohibition on Certain Conventional Weapons
- 4.5 Prohibition on the Weapons of mass Destruction

5. Application of IHL (14 hrs.)

5.1 Pre- Conflict Situation:

- (a) Obligation to translate and Disseminate Geneva Convention and Additional Protocols
- (b) Adoption of Legal and Administrative Measures
- (c) Appointment of Legal Advisors and Training on IHL
- (d) Creation of Safety Zones and Hospitals

5.2 Post-Conflict Situation:

- (a) Investigation, Fact Findings on Grave Breach of Geneva Convention
- (b) Prosecution of Offenders Responsible for the breach of Geneva Convention
- (c) Reconstruction and Rebuilding
- (d) Transitional Justice and Reparation to the Victims
- (e) Nepalese Experience

6. Modern Trends and Issues in IHL (8 hrs.)

- 6.1 Role of Peace Keeping Forces in Armed Conflict
- 6.2 Role of Private Securities Companies and Militias in Armed Conflict
- 6.3 Use of Drone in Armed Conflict
- 6.4 Cyber Warfare and its Consequences in IHL
- 6.5 Electromagnetic Warfare and its Consequences in IHL
- 6.6 Proxy War and its Consequences in IHL

7. International Military Tribunals, UN ad-hoc Tribunals & ICC (9 hrs.)

- 7.1 International Military Tribunal (Nuremberg Tribunal)
- 7.2 International Military Tribunal for the Far East (Tokyo Tribunal)
- 7.3 Intra-national Criminal Tribunal for Former Yugoslavia (ICTY)
- 7.4 International Criminal Tribunal for Rwanda (ICTR)
- 7.5 International Criminal Court (ICC)

CONTENT ELEBORATION AND MODUS OPERANDI

Units & Lecture Hours	Learning Outcomes (students will be able to:)	Mode of Delivery	Key Readings/ References
Unit-I 1. Introduction to IHL (8 hrs.) 1.1 Definition of IHL 1.2 Nature and Scope of IHL 1.3 Genesis and Development of IHL 1.4 Sources of IHL 1.5 Core Principle of IHL 1.6 <i>Jus ad bellum, jus in bello, jus post bellum, jus contra bellum</i> 1.7 Interrelationship between IHL, Refugee Law and International Human Rights Law	<ul style="list-style-type: none"> ❖ Explain the general concept, nature, scope, & sources of IHL. ❖ Explain genesis & development of IHL ❖ Discuss about core principles of IHL ❖ Differentiate between <i>jus ad bellum</i>, <i>jus in bello</i>, <i>jus post bellum</i>, & <i>jus contra bellum</i>. ❖ Corelate between IHL, refugee law & international human rights law. 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises 	<ul style="list-style-type: none"> • ICRC (2015). • Cassese (2008). • Werle & Jessberger (2014). • Schabas & Bernaz (Eds.) (2011). • Sayapin (2014). • ICRC website. • ICC website.
Unit- II 2 Categories of Armed Conflicts (9 hrs.) 2.1 International Armed Conflict (IAC) and applicable Laws 2.2 Non-international Armed Conflict (NIAC) and Applicable Laws 2.3 Internationalized Non-international Armed Conflict and Applicable Laws 2.4 Belligerent Occupation	<ul style="list-style-type: none"> ❖ Differentiate between IAC, NIAC, Internationalized NIAC. ❖ Discuss about the applicable laws in these armed conflicts. ❖ Explain about belligerent occupation, & applicable laws. 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises 	<ul style="list-style-type: none"> • ICRC (2015). • Cassese (2008). • Werle & Jessberger (2014). • Schabas & Bernaz (Eds.) (2011). • Sayapin (2014). • ICRC website. • ICC website.
Unit-III	❖ Discuss about the method of	• Assignment	• ICRC (2015).

<p>3 Method of Warfare (9 hrs.)</p> <p>3.1 Protection of Civilian Population</p> <p>3.2 Protection of Prisoner of War (POW)</p> <p>3.3 Protection of Civilian Objects, Areas, and Institutions: Hospitals, Place of Worship, Safety and Neutralized Zones, Respect of Distinctive Emblem</p> <p>3.4 Protection of Cultural Property</p> <p>3.5 Protection of Wounded, Sick and Shipwrecked</p>	<p>warfare.</p> <p>❖ Explain the importance of protecting civilian population, POW, wounded, sick & shipwrecked.</p> <p>❖ Explain the importance of protection of cultural properties, civilian objects, area & institutions</p> <p>❖ Discuss about the of applicable laws.</p>	<ul style="list-style-type: none"> • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions 	<ul style="list-style-type: none"> • Cassese (2008). • Werle & Jessberger (2014). • Schabas & Bernaz (Eds.) (2011). • Sayapin (2014). • ICRC website. • ICC website.
<p>Unit-IV</p> <p>4 Means of Warfare (9 hrs.)</p> <p>4.1 Prohibition on Weapons</p> <p>4.2 Principle of Prohibition of Unnecessary Suffering</p> <p>4.3 Explicit Prohibition or Restrictions of Certain Weapons</p> <p>4.4 Prohibition on Certain Conventional Weapons</p> <p>4.5 Prohibition on the Weapons of mass Destruction</p>	<p>❖ Discuss about the means of warfare.</p> <p>❖ Explain about the prohibition of weapons which causes unnecessary suffering,</p> <p>❖ Prohibition on use of certain conventional weapons.</p> <p>❖ Discuss about the use of weapons of mass destruction.</p>	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises • Web-based assignment 	<ul style="list-style-type: none"> • ICRC (2015). • Cassese (2008). • Werle & Jessberger (2014). • Schabas & Bernaz (Eds.) (2011). • Sayapin (2014). • ICRC website. • ICC website.
<p>Unit-V</p> <p>5 Application of IHL (14 hrs.)</p> <p>5.1 Pre- Conflict Situation:</p> <p>(a) Obligation to translate and Disseminate Geneva Convention and Additional Protocols</p> <p>(b) Adoption of Legal and Administrative Measures</p> <p>(c) Appointment of Legal Advisors and Training on IHL</p> <p>(d) Creation of Safety Zones and Hospitals</p> <p>5.2 Post-Conflict Situation:</p> <p>(a) Investigation, Fact Findings on Grave Breach of Geneva Convention</p> <p>(b) Prosecution of Offenders Responsible for the breach of Geneva Convention</p> <p>(c) Reconstruction and Rebuilding</p> <p>(d) Transitional Justice and Reparation to the Victims</p> <p>(e) Nepalese Experience</p>	<p>❖ Explain about the application of IHL in pre-conflict as well as in post-conflict situation.</p> <p>❖ Discuss about the process of transitional justice.</p> <p>❖ Explain about Nepalese experience in the application of IHL.</p>	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises • Web-based assignment 	<ul style="list-style-type: none"> • ICRC (2015). a. Cassese (2008). b. Werle & Jessberger (2014). c. Schabas & Bernaz (Eds.) (2011). d. Sayapin (2014). • ICRC website. • ICC website.
<p>Unit-VI</p> <p>6 Modern Trends and Issues in IHL (8 hrs.)</p> <p>6.1 Role of Peace Keeping Forces in Armed Conflict</p> <p>6.2 Role of Private Securities Companies and Militias in Armed Conflict</p> <p>6.3 Use of Drone in Armed Conflict</p>	<p>❖ Analyze the modern trends in IHL.</p> <p>❖ Analyze about the role of peace-keeping forces, & private securities company in armed conflict.</p> <p>❖ Explain about the use of and its consequences of drone &</p>	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation 	<ul style="list-style-type: none"> • ICRC (2015). e. Cassese (2008). f. Werle & Jessberger (2014). g. Schabas & Bernaz (Eds.) (2011).

6.4 Cyber Warfare and its Consequences in IHL 6.5 Electromagnetic Warfare and its Consequences in IHL 6.6 Proxy War and its Consequences in IHL	internet in armed conflict. ❖ Analyze the role of Electronic Spectrum increasing in the modern warfare. ❖ Analyze the essence of increasing nature of proxy wars in 21 st Century.	• Review questions • Exercises	h. Sayapin (2014). • ICRC website. • ICC website.
Unit-VII 7 International Military Tribunals, UN ad-hoc Tribunals & ICC (9 hrs.)	❖ Discuss about the role & efficiency of international military tribunals & UN ad-hoc tribunals in post-conflict situation. ❖ Discuss the role & efficiency of ICC in providing justice to victims.	• Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises	• ICRC (2015). i. Cassese (2008). j. Werle & Jessberger (2014). k. Schabas & Bernaz (Eds.) (2011). l. Sayapin (2014). • ICRC website. • ICC website.
Total= 62 Lecture hours (hrs.)			

Student Activities:

- Attending Lectures
- Readings and Class Discussions/ Interactions
- Case Study and Analysis
- Self-evaluation Review Questions/ Quizzes
- Exercises
- Project Work Assessments
- Web-based Assignments

Referred Cases:

- ❖ Adv. Bidur Prasad Adhikari et. all Vs. GON et. all, NKP 2075, no. 3, D.N. 10002
- ❖ Adv. Govinda Prasad Sharma “Bandi” vs. Attorney General Mukti Narayan Pradhan, NKP 2070, N.12, D.N. 9091
- ❖ Anita Ghimire vs. GON et. all, NKP 2074, No. 1, D.N. 9738
- ❖ Devi Sunar vs. CDO of Kavrepalanchok et. all, NKP 2064, No. 6, D.N. 7857
- ❖ Jay Kishor Lav vs. CDO Dhanusha et. all, NKP 2066, No.2, p. 284
- ❖ Liladhar Bhandari et. all vs. GON, PM and Office of Ministry et. all, NKP 2065, No. 9, D.N.
- ❖ Madhav Kumar Basnet vs. GON et all., NKP 2074, No9, D.N. 9051
- ❖ Rabindra Dhakal vs. GON et. all, NKP 2064, N.2, D.N.
- ❖ Rajendra Prasad Dhakal vs. GON, Home Ministry et. all, NKP 2065, No. 2, D.N. 7817
- ❖ Ramesh Parajuli et. all vs. PM and Council of Minister, NKP 2073, No. 12, D.N. 9832

- ❖ Suman Adhikari et. all vs. GON, Office of PM and Council of Minister, NKP 2073, No3, D.N. 9551
- ❖ Suman Adhikari et. all vs. GON, NKP 2071, No. 12, D.N. 9303
- ❖ Sushil Pyakurel vs. PM Jhala Nath Khanal et. all, Writ of 2068, No. 1094

Reference Materials:

- ICRC, International humanitarian law: Answers to your questions, 2015, available at <https://shop.icrc.org/international-humanitarian-law-answers-to-yourquestions-261.html>
- ICRC, The domestic implementation of international humanitarian law, available at <https://www.icrc.org/eng/resources/documents/publication/pdvd40.htm>
- Australian Red Cross, Promoting respect for international humanitarian law – a handbook for parliamentarians, available at <http://www.redcross.org.au/ihlresources.aspx>
- ICRC, Discover the ICRC, available at <https://www.icrc.org/eng/resources/documents/publication/p0790.htm>.
- m. Cassese, Antonio (2008). International Criminal Law, 2d Ed. England: Oxford University Press
- n. Dinstein, Yoram (2010). The Conduct of Hostilities under the Law of International Armed Conflict, 2nd Ed., London: Cambridge University Press.
- o. Fleck, Dieter (ed.) (2008), The Handbook of International Humanitarian Law, 2nd Ed., England: Oxford University Press
- p. Sayapin, Sergey (2014), The Crime of Aggression in International Criminal Law, Springer.
- q. Schabas, William A. & Nadia Bernaz (eds.) (2011). Routledge Handbook of International Criminal Law, Routledge.
- r. Werle, Gerhard & Florian Jessberger (2014), Principles of International Criminal Law, 3d Ed. England: Oxford University Press.

Useful Websites

- ICRC: <https://www.icrc.org/en>
- International Criminal Court: https://www.icc-cpi.int/EN_Menus/icc/pages/default.aspx
- International Review of the Red Cross: <https://www.icrc.org/en/international-review>
- International Humanitarian Fact-Finding Commission: <http://www.ihffc.org/index.asp?Language=EN&page=home>
- List of States party to IHL treaties: <https://www.icrc.org/ihl> ICRC database on the national implementation of IHL: <https://www.icrc.org/ihl-nat>
- Model laws on IHL issues: <https://www.icrc.org/eng/resources/documents/legal-factsheet/national-implementation-model-laws.htm>
- Law and policy platform: <https://www.icrc.org/en/war-and-law/law-and-policy>

E Sources

- ❖ Website of Nepal Law Commission: www.lawcommission.gov.np
- ❖ Website of Office of the Attorney General of Nepal: www.ag.gov.np
- ❖ Website of National Judicial Academy (of Nepal): www.njanepal.org.np

Evaluation Scheme

Schemes	Total weight-age
<u>Internal evaluation</u>	<u>40 per cent</u>
<ul style="list-style-type: none"> • Assignments, project works, learning summary, participation • Mid-term exams 	20% 20%
External evaluation (End-term exams)	60 per cent

Evaluation Methods/ Components

In-course Evaluation (Assignments and Projects)	Mid-term and End-Course Exams
a) Unit Assignments/Projects/ b) Reviews & Discussions on Issues c) Case Study/ Situation Analysis d) Participation in Interactions with the Tutor & Quizzes e) Other Assignments	a) Descriptive/ Long Answer Questions b) Short Answer Questions

Rajarshi Janak University
Faculty of Humanities and Law

Curriculum for F.M- 50
Bachelor of Laws (Legum Baccalaureus) (LL. B) P.M- 25
Course: International Law-II (International Refugee Law)
Duration of the Course-62 Hours
Course Code: Law 313
Nature: Elective
Year: First

COURSE DESCRIPTION

International refugee law is a body of rules, based on the 1951 Refugee Convention and its 1967 Protocol, that defines who is a refugee and sets standards for their protection, ensuring they aren't forced back to danger(non-refoulement) and outlining rights and responsibilities for refugees and asylum countries, serving as a safety net when a home state can't or won't protect its people from persecution. This course offers an introduction to the International Refugee Law. It also examines the legal status of International Refugees. It examines issues of refugee protection under international refugee law, human rights law, and Humanitarian Law. Rights for refugees and other persons in need of international protection will be analyzed with respect to the 1951 Convention and 1967 Protocol Relating to the Status of Refugees and the practice of the United Nations High Commissioner for Refugees. It focuses on the refugee definition, the right to seek asylum, the principle of non-refoulement, and how decisions are made.

LEARNING OUTCOMES

After the completion of the course students will be able to:

- have an advanced and integrated understanding of the international development of refugee law and
- have knowledge of the different international instruments governing refugee law at the international level
- critically examine, analyze, interpret and assess the effectiveness of the international legal regime for refugee protection
- have the cognitive and technical skills to generate critical and creative ideas relating to the future of the international refugee regime
- have the cognitive and technical skills to independently examine, research and analyze existing and emerging legal issues relating to international refugee law

COURSE CONTENT

1. Introduction (10 hrs.)

- 1.1 Meaning and Definition of Refugee
- 1.2 Nature and Scope of Refugee Law
- 1.3 Source of Refugee Law
- 1.4 Types of Refugees
- 1.5 Vulnerable Groups: Children, Women, Disabled, Refugees in Camp Settings

- 1.6 Responsibility of Refugee towards host State
- 1.7 Interrelation between International Refugee Law, International Humanitarian Law and International Human Rights Law

2. History of Refugee Law (9 hrs.)

- 2.1 History of Refugee Law (before and after UNHCR Statute, 1950)
- 2.2 History of Refugees in Nepal: Burmese Refugee, Tibetan Refugee, Bhutanese Refugee, Rohingya Refugee, and others

3. Criteria for Determination of Refugee Status (9 hrs.)

- 3.1 Prima facie Recognition v. Individual Status Determination
- 3.2 Fugitives, Asylums Seeker, Stateless Persons, Illegal Immigrants and their Legal Status (Immigration Act, 1992)
- 3.3 Revocation of Refugee Status: Exclusion, Cessation, Cancellation

4. State's Obligation towards Refugee (9 hrs.)

- 4.1 States Obligation towards Refugee with or without signing 1951 Refugee Convention
- 4.2 Principle of non-Refoulement
- 4.3 Instruments Ratified by Nepal: ICCPR (Art. 2,6,7); CAT (Art. 3); CRC (Art. 22)
- 4.4 Domestic Legal Framework: Nepal Treaty Act, 1991 (Sec. 9 (2)); Immigration Act, 1992

5. Role of International Organizations (9 hrs.)

- 5.1 UNHCR role: Providing Aid and Assistance, advocating their Rights, ensuring safety from persecution, Information Dissemination, Aiding Governments to draft Refugee Legislation and Policies
- 5.2 ICRC role: Providing Aid and Assistance, Restoration of Family Links, Promoting International Law for the protection of Refugee in Armed Conflict, depository of peremptory norms of International Law
- 5.3 Regional Protection Mechanism

6. Durable Solution (9 hrs.)

- 6.1 Reparation, Local Integration, Third Country Resettlement
- 6.2 Is it an obligation only to global-south? : An analysis with reference to recent refugee crisis in Europe

7. Internally Displaced Persons (IDP) (9hrs)

- 7.1 Meaning and Definition of IDP's
- 7.2 UN Guiding Principles on IDP's: Kampala Convention
- 7.3 National Policies on IDP's, 2007

CONTENT ELABORATION AND MODUS OPERANDI

Units & Lecture Hours	Learning Outcomes (students will be able to:)	Mode of Delivery	Key Readings/ References
Unit-I 1. Introduction (10 hrs.) 1.1 Meaning and Definition of Refugee 1.2 Nature and Scope of Refugee Law 1.3 Source of Refugee Law 1.4 Types of Refugees 1.5 Vulnerable Groups: Children, Women, Disabled, Refugees in Camp Settings 1.6 Responsibility of Refugee towards host State 1.7 Interrelation between International Refugee Law (IRL), International Humanitarian Law (IHL) and International Human Rights Law (IHRL).	<ul style="list-style-type: none"> ❖ Define refugee and mention about the nature and scope of refugee law. ❖ Inquire about the types of refugee and vulnerable groups ❖ Discuss about the responsibility of refugee towards the host state. ❖ Determine the interrelationship between IRL, IHL, & IHRL 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises 	<ul style="list-style-type: none"> • Refugee Convention, 1951. • Statute of UNHCR, 1950. • African Refugee Convention, 1969. • Cartagena Declaration, 1984. • Chimmni (2007). • Goodwin (1990). • Hathaway (1991). • Hathaway (1990). • Loescher (1993).
Unit-II 2 History of Refugee Law (9 hrs.) 2.1 History of Refugee Law (before and after UNHCR Statute, 1950) 2.2 History of Refugees in Nepal: Burmese Refugee, Tibetan Refugee, Bhutanese Refugee, Rohingya Refugee, and others	<ul style="list-style-type: none"> ❖ Discuss about the refugee law. ❖ Explain about the history of refugees in Nepal. 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises 	<ul style="list-style-type: none"> • Refugee Convention, 1951. • Statute of UNHCR, 1950. • African Refugee Convention, 1969. • Cartagena Declaration, 1984. • Chimmni (2007). • Goodwin (1990). • Hathaway (1991). • Hathaway (1990). • Loescher (1993).
Unit-III 3 Criteria for Determination of Refugee Status (9 hrs.) 3.1 Prima facie Recognition v. Individual Status Determination 3.2 Fugitives, Asylums Seeker, Stateless Persons, Illegal Immigrants and their Legal Status (Immigration Act, 1992) 3.3 Revocation of Refugee Status: Exclusion, Cessation, Cancellation	<ul style="list-style-type: none"> ❖ Discuss about the prima facie recognition process of refugee. Is it an obligation of global south to follow it? ❖ Discuss about the individual status determination, refugee recognition process. ❖ Explain about fugitives and asylum seekers according to Immigration Act, 1992. ❖ Explain about condition for revocation of refugee status. 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises 	<ul style="list-style-type: none"> • Refugee Convention, 1951. • Statute of UNHCR, 1950. • African Refugee Convention, 1969. • Cartagena Declaration, 1984. • Chimmni (2007). • Goodwin (1990). • Hathaway (1991). • Hathaway (1990). • Loescher (1993).
Unit-IV 4 State's Obligation towards Refugee (9 hrs.) 4.1 States Obligation towards Refugee with or without signing 1951 Refugee Convention 4.2 Principle of non-Refoulement	<ul style="list-style-type: none"> ❖ Analytically discuss about the State's obligation towards refugee: is it global south's burden or proportionality share of 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings 	<ul style="list-style-type: none"> • Refugee Convention, 1951. • Statute of UNHCR, 1950. • African Refugee

<p>4.3 Instruments Ratified by Nepal: ICCPR (Art. 2,6,7); CAT (Art. 3); CRC (Art. 22)</p> <p>4.4 Domestic Legal Framework: Nepal Treaty Act, 1991 (Sec. 9 (2)); Immigration Act, 1992</p>	<p>everybody.</p> <p>❖ Explain about the principle of non-refoulment.</p> <p>❖ Discuss about the of applicable laws and instruments ratified by Nepal.</p>	<ul style="list-style-type: none"> • Case Based Studies • Blended Learning • Self-evaluation • Review questions 	<p>Convention, 1969.</p> <ul style="list-style-type: none"> • Cartagena Declaration, 1984. • Chimmni (2007). • Goodwin (1990). • Hathaway (1991). • Hathaway (1990).
<p>Unit-V</p> <p>5 Role of International Organizations (9 hrs.)</p> <p>5.1 UNHCR role: Proving Aid and Assistance, advocating their Rights, ensuring safety from persecution, Information Dissemination, Aiding Governments to draft Refugee Legislation and Policies</p> <p>5.2 ICRC role: Providing Aid and Assistance, Restoration of Family Links, Promoting International Law for the protection of Refugee in Armed Conflict, depository of peremptory norms of International Law</p> <p>5.3 Regional Protection mechanism</p>	<p>❖ Explain about the role of international organization in the protecting refugee.</p> <p>❖ Discuss about the ICRC in providing aid and assistance to refugee protection.</p>	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions 	<ul style="list-style-type: none"> • Refugee Convention, 1951. • Statute of UNHCR, 1950. • African Refugee Convention, 1969. • Cartagena Declaration, 1984. • Chimmni (2007). • Goodwin (1990). • Hathaway (1991). • Hathaway (1990).
<p>Unit-VI</p> <p>6 Durable Solution (9 hrs.)</p> <p>6.1 Reparation, Local Integration, Third Country Resettlement</p> <p>6.2 Is it an obligation only to global-south? An analysis with reference to recent refugee crisis in Europe</p>	<p>❖ Analyze the durable solution in refugee problems.</p> <p>❖ Discuss if refugee obligation is only of the global south, or global north has to take some share?</p>	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation 	<ul style="list-style-type: none"> • Refugee Convention, 1951. • Statute of UNHCR, 1950. • African Refugee Convention, 1969. • Cartagena Declaration, 1984. • Chimmni (2007). • Goodwin (1990). • Hathaway (1991). • Hathaway (1990).
<p>Unit VII</p> <p>7 Internally Displaced Persons (IDP) (9 hrs.)</p> <p>7.1 Meaning and Definition of IDP's</p> <p>7.2 UN Guiding Principles on IDP's: Kampala Convention</p> <p>7.3 National Policies on IDP's, 2007</p>	<p>❖ Discuss about IDP.</p> <p>❖ Discuss about national and international instrument related with the IDPs.</p>	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation 	<ul style="list-style-type: none"> • Refugee Convention, 1951. • Statute of UNHCR, 1950. • African Refugee Convention, 1969. • Cartagena Declaration, 1984. • Chimmni (2007). • Goodwin (1990). • Hathaway (1991). • Hathaway (1990).

Total= 62 Lecture hours (hrs.)

Prescribed Cases:

- ❖ Abdi Fahad Yusuf vs. Department of Immigration et. al., Case No: 076-WH-0233, D.N. 10503, Decision Date: 2076.10.20 (03 Feb. 2020)
- ❖ Abdul Khaliq vs. Council of Ministers et. al, Case No: 067-WH-0089, D.N. 8684, Decision Date: 2068.04.16 (1 Aug. 2011)
- ❖ Dechen Wangmo vs. Council of Ministers et. al., Case No: 072-WO-0643, D.N. 8684, Decision Date: 2075.02.13 (27 May 2018)
- ❖ Hadi Jaber Habib vs. Ministry of Home Affairs et. al, Case No: 065-WH-0019, D.N. 8055, Decision Date: 2065.09.20 (4 Jan. 2009)
- ❖ Kelsang Tsiring et. al. vs. Council of Ministers et. al, Case No: 067-WH-0062, D.N. , Decision Date: 2067.12.04 (18 March 2011)
- ❖ Lopsang Sherpa vs. CDO, Kathmandu et. al, Case No: 067-WH-0084, D.N. 8672, Decision Date: 2068.03.26 (10 July 2011)
- ❖ Mahammod Rashid vs. Ministry of Home Affairs et. al, Case No. 0039 of the year 2064, D.N. 7860, Decision Date: 2064.06.07 (24 Sep. 2007)
- ❖ Nawnag Sangmo vs. Ministry of Home Affairs et. al, Case No: Writ no. 0040 of the year 2064, D.N., Decision Date: 2065.03.23 (7 July 2008)
- ❖ Sonam Khampa et. al. vs. Ministry of Home affairs et. al, Case No: 068-WH-0021, D.N. , Decision Date: 2068.06.08 (22 Sep. 2011)
- ❖ Tamding Dorge Tuladhar for Bhot Kalyankari Samaj vs. District Administrative Office, Kathmandu et. al., Case No: Writ No. 0684 of the year 2064, Decision Date: 2064.10.28
- ❖ Usman Jabed vs. GON, Case No: Writ No. 0038 of the year 2064 (2007)

References:

International Instruments:

- Universal Declaration of Human Rights, UNGA res. 217 (LXIII), 10 Dec. 1948, Art. 14.
- Convention Relating to the Status of Refugees, 28 July 1951, 189 U.N.T.S. 150.
- Protocol Relating to the Status of Refugees, 4 October 1967, 606 U.N.T.S. 267.
- Statute of the Office of the United Nations High Commissioner for Refugees, UNGA, A/RES/428, 14 Dec. 1950.
- Convention Governing the Specific Aspects of Refugee Problems in Africa, 10 Sept. 1969, 1001 U.N.T.S. 45.
- Cartagena Declaration on Refugees, 22 Nov. 1984, OAS/Ser.L./V/II.66, doc. 10, rev. 1.
- Council of Europe Parliamentary Assembly, ‘Recommendation 773 (1976) on the Situation of de facto Refugees’.
- Declaration on Territorial Asylum, UNGA res. 2313 (XXII), 14 Dec. 1967.
- Committee of Ministers of the Council of Europe, ‘Declaration on Territorial Asylum’, 18 Nov. 1977.
- New York Declaration on Refugee and Migrants, 2016.

Books and Journals:

- Chimmni, B.S. (ed.) (2007), *International Refugee Law: A Reader*, New Delhi: Sage Publication.
- Goodwin-Gill, S. Guy (1990). *The Refugee in International Law*, USA: Clarendon Press, Oxford University.
- Hathaway, C. James (1991). *The Law of Refugee Status*, Toronto: Butterworth's Publication.
- (1990). *A Reconsideration of the Underlying Premise of Refugee Law*, 31 Harvard International Law Journal.
- (2005). *The Rights of Refugee under International Law*. New York: Cambridge University Press.
- Loescher (1993). *The Origins of the International Refugee Regime' in Beyond Charity: International Co-operation and the Global Refugee Crisis*, Oxford: Oxford University Press.
- Malanczuk, P. (1997). *Akehurst's Modern Introduction to International Law*, 7th Ed., London: Routledge

E Sources

- ❖ Website of Nepal Law Commission: www.lawcommission.gov.np
- ❖ Website of Office of the Attorney General of Nepal: www.ag.gov.np
- ❖ Website of National Judicial Academy (of Nepal): www.njanepal.org.np

Evaluation Scheme

Schemes	Total weight-age
<u>Internal evaluation</u> <ul style="list-style-type: none">• Assignments, project works, learning summary, participation• Mid-term exams	<u>40 per cent</u> 20% 20%
External evaluation (End-term exams)	60 per cent

Evaluation Methods/ Components

In-course Evaluation (Assignments and Projects)	Mid-term and End-Course Exams
a) Unit Assignments/Projects/ b) Reviews & Discussions on Issues c) Case Study/ Situation Analysis d) Participation in Interactions with the Tutor & Quizzes e) Other Assignments	a) Descriptive/ Long Answer Questions b) Short Answer Questions

Rajarshi Janak University
Faculty of Humanities and Law

Curriculum for F.M- 50
Bachelor of Laws (Legum Baccalaureus) (LL. B) P.M- 25
Course: Constitutional Law-I (Media Law)
Duration of the Course-62 Hours
Course Code: Law 314
Nature: Elective
Year: First

COURSE DESCRIPTION

Media law covers three main areas: print, broadcast and online. Battle between freedom of expression and restricted subject is the center of the course. Right to privacy, defamation and contempt of court are key factors for the Media and Law. More than that technology, especially the Internet, continues to bring new questions to the field of media law and intellectual property. The aim of the course is to assist students in identifying Legal issues of Media and the related law to Media. The focus of the course is to make familiar to the nature and functions of the Media law. It emphasizes on constitutional regime and the role of media, where students will get core idea of the Right to information and Media and Defamation and Right to Privacy. The course is dealt with Media crimes and institutional mechanism to control it, so the students will also get knowledge of recent trends of cyber-crimes and other challenges of the Media law in fast developing technology.

LEARNING OUTCOMES

On completion of the course the students will be able to;

- understand the basic nature and application of Media Law.
- analyze the rights of the media and restriction on it.
- find out issues of privacy law and role of media
- analyze currents trends and development in the field of Media law.
- introduce students to legal and ethical issues related to mass media
- help students gain an understanding of media laws of Nepal and their implications on the profession of Journalism
- identify and analyze ethical questions pertaining to Journalism, the importance of responsible Journalism which works within the framework of laws and ethics
- learn to apply media laws to case studies and evaluate the relative merits and demerits of laws and ethical questions pertaining to media.

COURSE CONTENTS

Unit I: Introduction (12 hrs)

- 1.1 Meaning and Definition of Media Law
- 1.2 Scope and Subject Matter of Media law
- 1.3 Types and Significance of Mass Media
- 1.4 Development and Challenges of Mass Media in Nepal
- 1.5 Recent Trend of Media Law
- 1.6 Contempt of Court and Mass Media
- 1.7 Protection of Journalist in Armed Conflict (Geneva Convention, 1949 & Additional Protocol-I, 1977; Art. 79)

Unit II: Constitutional Rights related to Mass Media (12 hrs)

- 2.1 Freedom of Opinion and Expression
- 2.2 Freedom of Press and Publication
- 2.3 Right to Information
- 2.4 Right to Privacy
- 2.5 Constitution Remedy for the Violation of Constitutional Rights
- 2.6 Ground for Reasonable Restriction of Fundamental Rights: (Emergency & Media)
- 2.7 Privileges of Parliament and Reporting right of Mass Media

Unit III: Media Crimes (10 hrs)

- 3.1 Cyber Media Crime: Hacking, Malware, Internet Fraud, Identity Theft, Software Piracy, Cyber Bullying, Cyber Stalking, Other Online Threats
- 3.2 Financial Crimes: Internet Fraud, Credit Card Fraud or Bank Loan Fraud, Phishing, Charity Scam,
- 3.3 In General: Defamation, Libel or Slander, Obscenity, Indecency, Hate-speech, Blasphemy, Intellectual Property related Crime, Media Trial

3.4 Misleading Media Portrait: Media's Role in Influencing and Amplifying Crime

3.5 Social Media Influence on Crime

3.6 Media Ethics: (including Code of Conduct)

Unit IV: Copyright and Mass Media (8 hrs)

4.1 Definition of Creation and provisions for Copy Right over Creation

4.2 Qualifying requirements for Copyright Protection

4.3 Rights of the Ownership of Copyright

4.4 Exception to Copyright Ownership

4.5 Infringement of Copyright, Liabilities and its Defenses

Unit V: Information and Privacy (10 hrs)

5.1 Types of Classified Information

5.2 Punishment for Disclosure of Classified Information'

5.3 Defenses Against Disclosures (Whistle Blowing)

5.4 News Information through Direct and Indirect Source

5.5 Confidentiality of Sources of Information and Responsibility of Journalist

5.6 Right to Privacy and Investigative Journalism

Unit VI: Institutional Mechanism (10 hrs)

6.1 Ministry of Communication and Information Technology

6.2 National Information Commission (NIC): Composition; Judicial Power and Functions

6.3 Press Council: Composition; its Powers & Functions; Code of Conduct; Disciplinary Actions & Sanctions

6.4 Federation of Nepalese Journalist

6.5 Related Laws on: Television, Radio, Newspapers, Cinemas, Advertisement, Internet

6.5 Court and Media: Media Responsibility in Case Reporting

CONTENT ELABORATION AND MODUS OPERANDI

Units & Lecture Hours	Learning Outcomes (students will be able to:)	Mode of Delivery	Key Readings/ References
Unit-I Unit I: Introduction (12 hrs) <p>1.1 Meaning and Definition of Media Law 1.2 Scope and Subject Matter of Media law 1.3 Types and Significance of Mass Media 1.4 Development and Challenges of Mass Media in Nepal 1.5 Recent Trend of Media Law 1.6 Contempt of Court and Mass Media 1.7 Protection of Journalist in Armed Conflict (Geneva Convention, 1949 & Additional Protocol-I, 1977; Art. 79)</p>	<ul style="list-style-type: none"> ❖ Define media law. ❖ Mention about the scope, subject matter, types & significance of media law. ❖ Inquire about the development and challenges of mass media. ❖ Discuss about the recent trend in media law. ❖ Explain about the contempt of court by mass media, as by publishing pre-judicial case, showing disrespect to court's authority. ❖ Explain about the concept of protection of journalist in armed conflict. 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises 	<ul style="list-style-type: none"> • Acharya & Kandel (2062 B. S.). • Ahuja (1998). • Basu (1996). • Bhattarai & Luitel (2068 B.S.). • Dahal (1992). • Devkota (2051 B. S.). • Duncan & Hadwin (2013). • Grovner (1990). • Holsinger & Dilts (1994).
Unit-II Unit II: Constitutional Rights related to Mass Media (12 hrs) <p>2.1 Freedom of Opinion and Expression 2.2 Freedom of Press and Publication 2.3 Right to Information 2.4 Right to Privacy 2.5 Constitution Remedy for the Violation of Constitutional Rights 2.6 Ground for Reasonable Restriction of Fundamental Rights: (Emergency & Media) 2.7 Privileges of Parliament and Reporting Right of Mass Media</p>	<ul style="list-style-type: none"> ❖ Discuss about the constitutional rights (fundamental rights related to mass media) such as: freedom of opinion and expression, freedom of press, right to information, right to privacy. ❖ Compare and contrast between right to privacy and right to information. ❖ Explain about the constitutional remedy for the violation of fundamental rights. ❖ Explain about condition for reasonable restriction of fundamental rights. ❖ Explain about how these two fundamental components of a State interact in the matter of transparency, accountability & freedom of press. 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises 	<ul style="list-style-type: none"> • Acharya & Kandel (2062 B. S.). • Ahuja (1998). • Basu (1996). • Bhattarai & Luitel (2068 B.S.). • Dahal (1992). • Devkota (2051 B. S.). • Duncan & Hadwin (2013). • Grovner (1990). • Holsinger & Dilts (1994).
Unit-III Unit III: Media Crimes (10 hrs) <p>3.1 Cyber Media Crime: Hacking, Malware, Internet</p>	<ul style="list-style-type: none"> ❖ Analytically discuss about various types of media crimes such as: cyber-crimes, financial crimes & 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis 	<ul style="list-style-type: none"> • Acharya & Kandel (2062 B. S.). • Ahuja (1998). • Basu (1996).

<p>Fraud, Identity Theft, Software Piracy, Cyber Bullying, Cyber Stalking, Other Online Threats</p> <p>3.2 Financial Crimes: Internet Fraud, Credit Card Fraud or Bank Loan Fraud, Phishing, Charity Scam,</p> <p>3.3 In General: Defamation, Libel or Slander, Obscenity, Indecency, Hate-speech, Blasphemy, Intellectual Property related Crime, Media Trial</p> <p>3.4 Misleading Media Portrait: Media's Role in Influencing and Amplifying Crime</p> <p>3.5 Social Media Influence on Crime</p> <p>3.6 Media Ethics: (including Code of Conduct)</p>	<p>other crimes conducted by mass media or conducted to the mass media.</p> <p>❖ Explain about misleading media portrait in influencing & amplifying the crime.</p> <p>❖ Discuss about the media ethics (code of conduct of journalist).</p>	<ul style="list-style-type: none"> • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions 	<ul style="list-style-type: none"> • Bhattacharai & Luitel (2068 B.S.). • Dahal (1992). • Devkota (2051 B. S.). • Duncan & Hadwin (2013). • Grovner (1990). • Holsinger & Dilts (1994).
<p>Unit-IV</p> <p>Unit IV: Copyright and Mass Media (8 hrs)</p> <p>4.1 Definition of Creation and provisions for Copy Right over Creation</p> <p>4.2 Qualifying requirements for Copyright Protection</p> <p>4.3 Rights of the Ownership of Copyright</p> <p>4.4 Exception to Copyright Ownership</p> <p>4.5 Infringement of Copyright, Liabilities and its Defenses</p>	<p>❖ Define about creation & provision for copyright over any author's creation in mass media.</p> <p>❖ Explain about requirement of copyright protection.</p> <p>❖ Explain about ownership of copyright & exception to copyright ownership.</p> <p>❖ Discuss about the liabilities and its defenses in copyright infringement.</p>	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises 	<ul style="list-style-type: none"> • Acharya & Kandel (2062 B. S.). • Ahuja (1998). • Basu (1996). • Bhattacharai & Luitel (2068 B.S.). • Dahal (1992). • Devkota (2051 B. S.). • Duncan & Hadwin (2013). • Grovner (1990). • Holsinger & Dilts (1994).
<p>Unit-V</p> <p>Unit V: Information and Privacy (10 hrs)</p> <p>5.1 Types of Classified Information</p> <p>5.2 Punishment for Disclosure of Classified Information'</p> <p>5.3 Defenses Against Disclosures (Whistle Blowing)</p> <p>5.4 News Information through Direct and Indirect Source</p> <p>5.5 Confidentiality of Sources of Information and Responsibility of Journalist</p> <p>5.6 Right to Privacy and Investigative Journalism</p>	<p>❖ Explain about different types of classified information, such as: confidential, secret, and top secret.</p> <p>❖ Discuss about the punishment for disclosure of classified information.</p> <p>❖ Mention about the defenses against disclosure of such information.</p> <p>❖ Discuss about news information through different sources and confidentiality of such sources.</p> <p>❖ Discuss about the interrelationship between right to privacy and investigative journalism.</p>	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions 	<ul style="list-style-type: none"> • Acharya & Kandel (2062 B. S.). • Ahuja (1998). • Basu (1996). • Bhattacharai & Luitel (2068 B.S.). • Dahal (1992). • Devkota (2051 B. S.). • Duncan & Hadwin (2013). • Grovner (1990). • Holsinger & Dilts (1994).

Unit-VI Unit VI: Institutional Mechanism (10 hrs)	<ul style="list-style-type: none"> ❖ Discuss the role of ministry of communication, information technology for managing, regulating and developing mass media in Nepal. ❖ Discuss the role of NIC: public's right to access information from public bodies & to promote transparency, & accountability. ❖ Explain role of Press Council: as independent & quasi-judicial body, it promotes & regulates mass media by enforcing code of conduct for ethical journalism. ❖ Explain role of FNJ: defending press freedom, protecting journalist rights, promoting professional & ethical standers, & supporting right to information. ❖ Inquire about laws related to mass media. ❖ Explain about the media responsibility in case reporting. 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation 	<ul style="list-style-type: none"> • Acharya & Kandel (2062 B. S.). • Ahuja (1998). • Basu (1996). • Bhattarai & Luitel (2068 B.S). • Dahal (1992). • Devkota (2051 B. S.). • Duncan & Hadwin (2013). • Grovner (1990). • Holsinger & Dilts (1994).
Total= 62 Lecture hours (hrs.)			

Student Activities:

- Attending Lectures
- Readings and Class Discussions/ Interactions
- Case Study and Analysis
- Self-evaluation Review Questions/ Quizzes
- Exercises
- Project Work Assessments
- Web-based Assignments

Referred Cases:

- Adv. Madhav Kumar Basnet vs. Ministry of Information and Communication, NKP 2058, D.N. 7018
- Adv. Ratna K. Shrestha vs. Editor of Kantipur Magazine, Sudhir Sharma et. all, Decision Date: 2073/10/10, D.N. 10370
- Bhupendra P. Pokhrel vs. Office of PM et all, NKP 2064, No. 5, D.N. 7846
- CDO Office Kathmandu vs. Editor of Nirmal Weekly Journal, NKP 2039 Vol. 15 P 9

- Department of Administration vs. Jana Astha Weekly, NKP 2070, p. 1392
- Gajananda Vaidya vs. Editor of Cachu Magazine, Padam Bhakta Khanal, NKP 2056, No. 10, D.N. 6795
- Gopal Shiwakoti vs. Ministry of Finance, NKP 2051 vol. 4 p 255
- GON in the petition of Nawaraj Khadka vs. Yadav Dawadi, NKP 2066, No. 6, D.N. 8178
- Kamal Rana vs. Angur Baba Joshi, NKP 2038, No. 4, D.N. 1460
- Thir Prasad Pokhrel vs. Harihar Birahi, NKP 2049 vol. 8 P 770
- Madan Mani Dixit vs. His Majesty's Government, Cabinet Secretariat et all, NKP 2035 Vol 20 P 167
- Mihir Kumar Thakur vs. Bhesh Jung Badal, NKP 2066, D.N. 8283
- Mrs. Sumitra Gupta vs. Cabinet Secretariat, NKP 2046 P 850
- Rajendra Singh Rathore vs. Ministry of Communication et all, NKP 2045 P 390
- Ram Prasad Upadhyaya vs. His Majesty's Government, NKP 2027 Vol 12 P 258
- Thaka Chantayal vs. Bali Maya Chantayal et all, NKP 2067, No. 4, D.N. 8355

National Instruments:

- The Constitution of Nepal, 2072 (2015)
- Copyright Act 2059 (2002)
- Libel and Slander Act 2016 (1959)
- Right to Information Act 2064 (2007)
- National Broadcasting Act 2049 (1993)
- The Electronic Transaction Act, 2063 (2008)
- Patent Design and Trademark Act 2022 (1965)
- Press and Publication Act 2048 (1991)
- Press Council Act 2048 (1992)
- Cinemas (production, Demonstration and Distribution) Act 2026
- Journalist Code of Conduct 2073 (2017)

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- Basu, Durga Das (1996). Law of the Press, 3rd ed., New Delhi: Prentice-Hall of India Private Limited.
- Bhattarai, Ram Prasad & Ananta Raj Luitel (2068 B.S). Media Jurisprudence, Kathmandu: Pairavi Prakashan.
- Dahal, Kashi Raj (1992). Press Jurisprudence, 1st ed., Kathmandu: Nepal Law Society.
- Devkota, Grishma Bahadur (2051 B. S.). Nepal ko Chapakhana Ra Patra Patrikako Itihas, 2nd ed., Kathmandu: Sajha Prakashan.
- Duncan, Bloy and Sara Hadwin (2013). Law and the Media, London: Sweet and Maxwell.

- Grovner A.N (1990). Press and the Law, Justice, New Delhi: Vikas Publishing House Pvt. Ltd.
- Holsinger, Ralph L. & Jon Paul Dilts (1994). Media Law, USA

E Sources

- ❖ Website of Nepal Law Commission: www.lawcommission.gov.np
- ❖ Website of Office of the Attorney General of Nepal: www.ag.gov.np
- ❖ Website of National Judicial Academy (of Nepal): www.njanepal.org.np

Evaluation Scheme

Schemes	Total weight-age
<u>Internal evaluation</u>	<u>40 per cent</u>
<ul style="list-style-type: none"> • Assignments, project works, learning summary, participation • Mid-term exams 	20% 20%
External evaluation (End-term exams)	60 per cent

Evaluation Methods/ Components

In-course Evaluation (Assignments and Projects)	Mid-term and End-Course Exams
a) Unit Assignments/Projects/ b) Reviews & Discussions on Issues c) Case Study/ Situation Analysis d) Participation in Interactions with the Tutor & Quizzes e) Other Assignments	a) Descriptive/ Long Answer Questions b) Short Answer Questions

Rajarshi Janak University
Faculty of Humanities and Law

Curriculum for F.M- 50
Bachelor of Laws (Legum Baccalaureus) (LL. B) P.M- 25
Course: Constitutional Law-II (Civil Rights Litigation)
Duration of the Course-62 Hours
Course Code: Law 315
Nature: Elective
Year: First

COURSE DESCRIPTION

Civil rights litigation is the legal procedure for challenging violations of an individual's rights that has been established by the Constitution and various other laws. Civil rights lawsuits are filed to seek accountability and remedies for violation of certain fundamental rights such as discrimination, violations of freedom of speech or voting rights. It also encompasses certain criminal law violation such as, sexual offences, socio-economic offences etc. It also ensures the litigation for the certain civil rights violated by the state, such as police misconduct, administrative misconduct. The legal action can be taken against individuals, private entities, or government actors. This can result in outcomes like financial compensation or court orders to change policies. This course has been designed to acquaint students with the basics of civil rights litigation. Civil rights litigation relevancy lies with the fundamental rights as enshrined in the constitution and other legal rights. So, this course helps students with the detection and sighting remedies if citizens' civil rights is violated.

LEARNING OUTCOMES

At the end of the course, students will be able to:

- Explain the general concept, meaning and definition of Civil Rights Litigation.
- Inquire about the various aspects of Civil Rights Litigation.
- Discuss about the relevancy of Fundamental Rights and Civil Rights Litigation.
- Analytically discuss about the role of judiciary to facilitate Civil Rights Litigation.
- Discuss about the Methods & Techniques of Civil Rights Litigation process.
- Explain about the various National instruments related to the Civil Rights Litigation.

COURSE CONTENT

- 1. Introduction (10 hrs.)**
 - 1.1 Meaning and Definition of Civil Right Litigation
 - 1.2 Purpose and Scope of Civil Rights Litigation
 - 1.3 Need of Civil Rights Litigation: Protecting Individual Liberty, Driving Social Change, Demanding Accountability, Setting Legal Precedence
 - 1.4 History of Civil Rights Movement
 - 1.5 Government Liability in Civil Rights Litigation

- 1.6 Civil Rights Violations
- 1.7 Distinction between Civil Rights and Civil Liberties
- 1.8 Civil Rights Lawyering Ethics
- 1.9 Advocacy for Civil Rights Cases
- 1.10 Modern Trends in development of Civil Rights and Civil Liberties

2. Fundamental Rights (FR) (6 hrs.)

- 2.1 Historical Aspects of FR
- 2.2 Difference between FR and Fundamental Duties
- 2.3 Fundamental Rights (related to Civil Rights Litigation)
- 2.4 Key Aspects of FR: Legal Enforceability, Constitutional Basis, Limitation & Exceptions
- 2.5 Doctrine related to FR: Doctrine of Severability, Doctrine of Eclipse

3. Role of Judiciary (12 hrs.)

- 3.1 Role of Constitutional bench (in Interpretation of Constitution): Critical Evaluation
- 3.2 Power of the Supreme Court/ High court to Enforce Fundamental Rights
- 3.3 Judicial Review and Supreme Court
- 3.4 Right to Constitutional Remedies: Extra-ordinary Remedies
- 3.5 Public Interest Litigation
- 3.6 Judicial Activism
- 3.7 “Suo motu” Intervention by the Judge
- 3.8 Concept of “Lok Adalat” of India
- 3.9 Law relating to Legal Aid

4. Civil Rights Litigation (12 hrs.)

- 4.1 Distinction between Civil Rights Proceedings and Public Interest Litigation Proceedings
- 4.2 Civil Right Litigation Process: Recognizing the Violation, developing a Legal Strategy, Filing and Advancing the Case, Pursuing Resolution
- 4.3 Civil Rights Litigation on Human Rights
- 4.4 Civil Rights Litigation on Environmental Law
- 4.5 Civil Rights Litigation on Criminal Law
- 4.6 Civil Rights Litigation on Employment Law
- 4.7 Civil Rights Litigation on Sexual Harassment
- 4.8 Civil Rights Litigation on Discrimination

5. Civil Rights Legislation (10 hrs.)

- 5.1 The Constitution of Nepal, 2072 (2015)
- 5.2 Muluki Civil Code, 2074 (2017)
- 5.3 Muluki Criminal Code, 2074 (2017)
- 5.4 Children’s Act, 2075 (2018)
- 5.5 National Human Rights Commission Act, 2068 (2012)
- 5.6 The Enforced Disappearance Enquiry, Truth and Reconciliation Commission Act, 2071 (2014)
- 5.7 Environmental Protection Act, 2076 (2019)

6. Courtroom Simulation (practical on at least one of the cases mentioned below) (12 hrs.)

- 6.1 Laxmi Dhikta & Others vs. GoN, NKP 2067, No.9, D.N. 8464. (right to abortion case)
- 6.2 Annapurna Rana vs. Gorakh Samsher Rana et. al., NKP 2055, No.8, D.N. 6588. (women's sexuality and chastity case)
- 6.3 Rina Bajracharya vs. HMG, Council of Ministers, NKP 2057, No. 5, D.N. 6898. (case related to equality in service)
- 6.4 Sabina Damai vs. GoN & Others, NKP 2068, No. 2, D.N. 8557. (citizenship through the name of mother too)
- 6.5 Brown v Board of Education 347 U.S. 483 (1954) (segregation in education)
- 6.6 Loving v. Virginia, 388 U.S. 1 (1967) (interracial marriage)
- 6.7 Regents of Univ. of California v. Bakke, 438 U.S. 265 (1978) (segregation in college admission (ie. Quota))
- 6.8 Gideon v. Wainwright 372 U.S. 335 (1963) (right to counsel even in felony)
- 6.9 Dred Scott v. Sandford, 60 U.S. 393 (1856) (citizenship for African Americans)
- 6.10 Miranda v. Arizona, 384 U.S. 436 (1966) (right to remain silent, before being interrogated)
- 6.11 Maneka Gandhi v. UOI AIR 1978 SC 597 (right to life and personal liberty)
- 6.12 Kesavananda Bharati v. State of Kerala, AIR 1973 SC 1461 (basic structure doctrine)

CONTENT ELABORATION AND MODUS OPERANDI

Units & Lecture Hours	Learning Outcomes (students will be able to:)	Mode of Delivery	Key Readings/ References
Unit—I 1. Introduction (10 hrs.) <ol style="list-style-type: none"> 1.1 Meaning and Definition of Civil Right Litigation 1.2 Purpose and Scope of Civil Rights Litigation 1.3 Need of Civil Rights Litigation: Protecting Individual Liberty, Driving Social Change, Demanding Accountability, Setting Legal Precedence 1.4 History of Civil Rights Movement 1.5 Government Liability in Civil Rights Litigation 1.6 Civil Rights Violations 1.7 Distinction between Civil Rights and Civil Liberties 1.8 Civil Rights Lawyering Ethics 1.9 Advocacy for Civil Rights Cases 1.10 Modern Trends in development of Civil Rights and Civil Liberties 	<ul style="list-style-type: none"> ❖ Define Civil Rights Litigation ❖ Mention about the purpose, scope and need of Civil Rights Litigation. ❖ Discuss about the history of Civil Rights Litigation. ❖ Determine the government liability in Civil rights Litigation ❖ Define civil rights violations ❖ Mention about the ethics of civil rights lawyering ❖ Able to individually advocate in civil rights cases ❖ Mention about eh modern trends in civil rights & civil liberties 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises 	<ul style="list-style-type: none"> • Basnet (2008). • Bogdanor (1996). • Dahal (2065 B.S.). • Jain (2003). • Jennings (1994). • Strong (1973). • Wheare (1971).
Unit—II 2 Fundamental Rights (FR) (6 hrs.) <ol style="list-style-type: none"> 2.1 Historical Aspects of FR 2.2 Difference between FR and Fundamental Duties 2.3 Fundamental Rights (related to Civil Rights Litigation) 	<ul style="list-style-type: none"> ❖ Discuss about the prima facie recognition process of refugee. Is it an obligation of global south to follow it? ❖ Discuss about the individual status determination, refugee 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies 	<ul style="list-style-type: none"> • Basnet (2008). • Bogdanor (1996). • Dahal (2065 B.S.). • Jain (2003). • Jennings (1994). • Strong (1973).

<p>2.4 Key Aspects of FR: Legal Enforceability, Constitutional Basis, Limitation & Exceptions</p> <p>2.5 Doctrine related to FR: Doctrine of Severability, Doctrine of Eclipse</p>	<p>recognition process.</p> <p>❖ Explain about fugitives and asylum seekers according to Immigration Act, 1992.</p> <p>❖ Explain about condition for revocation of refugee status.</p>	<ul style="list-style-type: none"> • Blended Learning • Self-evaluation • Review questions • Exercises 	<ul style="list-style-type: none"> • Wheare (1971).
<p>Unit-III</p> <p>3 Role of Judiciary (12 hrs.)</p> <p>3.1 Role of Constitutional bench (in Interpretation of Constitution): Critical Evaluation</p> <p>3.2 Power of the Supreme Court/ High court to Enforce Fundamental Rights</p> <p>3.3 Judicial Review and Supreme Court</p> <p>3.4 Right to Constitutional Remedies: Extra-ordinary Remedies</p> <p>3.5 Public Interest Litigation</p> <p>3.6 Judicial Activism</p> <p>3.7 “Suo motu” Intervention by the Judge</p> <p>3.8 Concept of “Lok Adalat” of India</p> <p>3.9 Law relating to Legal Aid</p>	<p>❖ Analytically discuss about the role of judiciary in protection of civil rights.</p> <p>❖ Explain about the power of supreme court/ high court to enforce fundamental rights.</p> <p>❖ Explain about PIL and its application</p> <p>❖ Discuss about the judicial activism and use of “Suo motu” by the judiciary in the protection of civil rights.</p>	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions 	<ul style="list-style-type: none"> • Basnet (2008). • Bogdanor (1996). • Dahal (2065 B.S.). • Jain (2003). • Jennings (1994). • Strong (1973). • Wheare (1971).
<p>Unit-IV</p> <p>4 Civil Rights Litigation (12 hrs.)</p> <p>4.1 Distinction between Civil Rights Proceedings and Public Interest Litigation Proceedings</p> <p>4.2 Civil Right Litigation Process: Recognizing the Violation, developing a Legal Strategy, Filing and Advancing the Case, Pursuing Resolution</p> <p>4.3 Civil Rights Litigation on Human Rights</p> <p>4.4 Civil Rights Litigation on Environmental Law</p> <p>4.5 Civil Rights Litigation on Criminal Law</p> <p>4.6 Civil Rights Litigation on Employment Law</p> <p>4.7 Civil Rights Litigation on Sexual Harassment</p> <p>4.8 Civil Rights Litigation on Discrimination</p>	<p>❖ Differentiate between civil rights proceedings and PIL proceedings</p> <p>❖ Mention about the civil rights litigation process.</p> <p>❖ Explain about the various civil rights litigation process in the violation of human rights, environmental law, criminal law, sexual harassment, and discrimination.</p>	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises 	<ul style="list-style-type: none"> • Basnet (2008). • Bogdanor (1996). • Dahal (2065 B.S.). • Jain (2003). • Jennings (1994). • Strong (1973). • Wheare (1971).
<p>Unit-V</p> <p>5 Civil Rights Legislation (10 hrs.)</p> <p>5.1 The Constitution of Nepal, 2072 (2015)</p> <p>5.2 Muluki Civil Code, 2074 (2017)</p> <p>5.3 Muluki Criminal Code, 2074 (2017)</p> <p>5.4 Children’s Act, 2075 (2018)</p> <p>5.5 National Human Rights Commission Act, 2068 (2012)</p> <p>5.6 The Enforced Disappearance Enquiry, Truth and Reconciliation Commission Act, 2071 (2014)</p> <p>5.7 Environmental Protection Act, 2076 (2019)</p>	<p>❖ Explain about the civil rights legislation of Nepal.</p> <p>❖ Extract the civil rights provisions from such legislations and other future legislation.</p>	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions 	<ul style="list-style-type: none"> • Basnet (2008). • Bogdanor (1996). • Dahal (2065 B.S.). • Jain (2003). • Jennings (1994). • Strong (1973). • Wheare (1971).

Unit-VI			
6 Courtroom Simulation (practical on at least one of the cases mentioned below) (12 hrs.) <p>6.1 Laxmi Dhikta & Others vs. GoN, NKP 2067, No.9, D.N. 8464. (right to abortion case)</p> <p>6.2 Annapurna Rana vs. Gorakh Samsher Rana et. al., NKP 2055, No.8, D.N. 6588. (women's sexuality and chastity case)</p> <p>6.3 Rina Bajracharya vs. HMG, Council of Ministers, NKP 2057, No. 5, D.N. 6898. (case related to equality in service)</p> <p>6.4 Sabina Damai vs. GoN & Others, NKP 2068, No. 2, D.N. 8557. (citizenship through the name of mother too)</p> <p>6.5 Brown v Board of Education 347 U.S. 483 (1954) (segregation in education)</p> <p>6.6 Loving v. Virginia, 388 U.S. 1 (1967) (interracial marriage)</p> <p>6.7 Regents of Univ. of California v. Bakke, 438 U.S. 265 (1978) (segregation in college admission (ie. Quota))</p> <p>6.8 Gideon v. Wainwright 372 U.S. 335 (1963) (right to counsel even in felony)</p> <p>6.9 Dred Scott v. Sandford, 60 U.S. 393 (1856) (citizenship for African Americans)</p> <p>6.10 Miranda v. Arizona, 384 U.S. 436 (1966) (right to remain silent, before being interrogated)</p> <p>6.11 Maneka Gandhi v. UOI AIR 1978 SC 597 (right to life and personal liberty)</p> <p>6.12 Kesavananda Bharati v. Sate of Kerala, AIR 1973 SC 1461 (basic structure doctrine)</p>	<ul style="list-style-type: none"> ❖ Litigate in the moot-cases. ❖ Extract the civil rights provisions from such cases and offer a solution for such problems. ❖ Litigate in future other civil rights cases. 	<ul style="list-style-type: none"> • Presentation • Case Analysis • Case Based Studies • Blended Learning • Self-evaluation 	• Relevant Cases
Total= 62 Lecture hours (hrs.)			

Student Activities:

- Attending Lectures
- Readings and Class Discussions/ Interactions
- Case Study and Analysis
- Self-evaluation Review Questions/ Quizzes
- Exercises
- Project Work Assessments
- Web-based Assignments

References:

- Basnet, G.B. (2008). *The Crisis for Civil Liberties and Human Rights*
- Bogdanor, Vernon (1996). *Politics and the Constitution; Essays on British Government*, England: Dartmouth Publishing Company Limited
- Dahal, Gopal Prasad (2065 B.S.). *Public Interest Litigation (in Nepali)*
- Jain, M.P (2003). *Indian Constitutional Law*, Wadhwa and company law publishers, Nagpur.
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- **Strong, C. F., (1973). *The History of Modern Political Constitution*, India: Surjeet Publication.**
- **Wheare, K. C., (1971). *Modern Constitutions*, London: Oxford University Press.**

E Sources

- ❖ Website of Nepal Law Commission: www.lawcommission.gov.np
- ❖ Website of Office of the Attorney General of Nepal: www.ag.gov.np
- ❖ Website of National Judicial Academy (of Nepal): www.njanepal.org.np

Evaluation Scheme

Schemes	Total weight-age
<u>Internal evaluation</u>	40 per cent
• Assignments, project works, learning summary, participation • Mid-term exams	20% 20%
External evaluation (End-term exams)	60 per cent

Evaluation Methods/ Components

In-course Evaluation (Assignments and Projects)	Mid-term and End-Course Exams
a) Unit Assignments/Projects/ b) Reviews & Discussions on Issues c) Case Study/ Situation Analysis d) Participation in Interactions with the Tutor & Quizzes e) Other Assignments	a) Descriptive/ Long Answer Questions b) Short Answer Questions