

**Rajarshi Janak University
Faculty of Humanities and Law
Janakpurdham, Dhanusa, Nepal
Course Structure-2082 B.S (2025 A.D)
Two Years Annual LL. M 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 LL.M yearly programme. Course cycle has been divided into compulsory and elective subjects in each year. Total programme consists of six compulsory subjects and four elective subjects. Total credit hour of the programme is sixty credit hours, consisting of thirty credit hours each year. The mode of such teaching-learning process can be hybrid, which is online as well as physical.

2. Course Objective

The objective of the LL.M programme at Rajarshi Janak University is to provide advanced and specialized legal education that enhances students' theoretical understanding, research skills, and practical competence in law. The programme aims to develop critical thinking, comparative legal analysis, and interdisciplinary perspectives across key areas such as criminal law, business law, and constitutional and developmental law, and international law, thereby preparing graduates for academic excellence, legal practice, policy-making, and research at national and international levels.

3. Eligibility Criteria

Eligibility criteria for admission to LL. M program must have completed B.A. LL. B or LL. B level from a recognized University or Board of Education. Universities/ Collages can invite international or national teacher/ resource persons and can conduct this course though such resource persons.

4. Evaluation Scheme

The subjects which have been dived in first and second 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)

5. 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

6. Course Cycle of LL.M Programme

This LL.M programme runs in a yearly cycle. Course cycle has been divided into compulsory and elective subjects in each year. Total programme consists of six compulsory subjects and four elective subjects. Total credit hour of the programme is sixty credit hours, consisting of thirty credit hours each year.

7. LL.M First Year

In first year of the LL.M programme, scholars need to undertake three compulsory subjects and two elective subjects from the same group out of four-specialization area, viz. Criminal Law Group, Business Law Group, Constitutional & Developmental Law Group, &

International Law Group. Total credit hour consists of thirty credit hours. Each subject consists of equal six credit hours. It has been divided as follows:

Course Code	Course Title	Nature of the Course	Credit Hour
Law 601	Jurisprudence-I	Compulsory	6
Law 602	Legal Research Methodology	Compulsory	6
Law 603	Seminar	Compulsory	6
	Criminal Law Group		
Law 604	Criminal Law-I (Criminal Law: Theory & Practices)	Elective	6
Law 605	Criminal Law-II (Cyber Crime & Artificial Intelligence)	Elective	6
	Business Law Group		
Law 606	Business Law-I (Intellectual Property Law)	Elective	6
Law 607	Business Law-II (International Trade Law & Arbitration)	Elective	6
	Constitutional and Developmental Law Group		
Law 608	Constitutional & Developmental Law-I (Constitutional Law & Constitutionalism)	Elective	6
Law 609	Constitutional & Developmental Law-II (Law & Development)	Elective	6
	International Law Group		
Law 610	International Law-I (Public International Law)	Elective	6
Law 611	International Law-II (International Humanitarian Law & International Criminal Law)	Elective	6
		Total=	30 Credit Hour

8. LL.M Second Year

In second year of the LL.M programme, scholars need to undertake three compulsory subjects and two elective subjects from the same group out of four-specialization area, viz. Criminal Law Group, Business Law Group, Constitutional & Developmental Law Group, and International Law Group. Total Credit hour consists of thirty credit hours. Each subject consists of equal six credit hours. It has been divided as follows:

Course Code	Course Title	Nature of the Course	Credit Hour
Law 701	Jurisprudence-II	Compulsory	6
Law 702	Comparative Legal Tradition	Compulsory	6
Law 703	Thesis	Compulsory	6
	Criminal Law Group		
Law 704	Criminal Law-III (Contemporary Criminal Law and Practices)	Elective	6
Law 705	Criminal Law-IV (Criminal Justice System)	Elective	6
	Business Law Group		
Law 706	Business Law-III (Banking & Insurance Law)	Elective	6
Law 707	Business Law-IV (Corporate Financial Law)	Elective	6
	Constitutional and Developmental Law Group		
Law 708	Constitutional & Developmental Law-III (Constitutional Remedy)	Elective	6
Law 709	Constitutional & Developmental Law-IV (Constitution & Court's Approach to Developmental Issue)	Elective	6
	International Law Group		
Law 710	International Law-III (International Human Rights Law & Gender Justice)	Elective	6
Law 711	International Law-IV (International Environmental Law)	Elective	6
		Total =	30 Credit Hour

Rajarshi Janak University
Faculty of Humanities and Law

Curriculum for F.M- 100
Master of Laws (Legum Magister) (LL. M) P.M- 50
Course: Jurisprudence-I
Credit Hour: 6
Course Code: Law 601
Nature: Compulsory
Year: First

COURSE DESCRIPTION

Studying jurisprudence is imperative since it provides a theoretical foundation for understanding law, enabling critical thinking about its purpose, and shaping how it is practiced and developed. It helps legal professionals think beyond the understanding of the law to consider the fundamental concepts of justice, rights, and morality, and it provides guidance for judges and policymakers to create and apply laws fairly. Jurisprudence also offers a broader perspective by examining law within its social, historical, and political contexts. It develops critical thinking, fosters a deeper understanding of law, connects law to society, provide practical guidance on the application of law, shape legal reasoning thus encourages the scholars with deeper philosophical understanding of law and its terminologies. So, this course is designed to acquaint students with the fundamental knowledge and concept of Jurisprudence. The course imparts students with the critical knowledge on western philosophy. The course also imparts students with the knowledge on schools of jurisprudence, trends in jurisprudence, theories of justice. The course enables the students with knowledge about the theories of jurisprudence. The course encourages students in the involvement in multi-faceted research on laws. Students will be able to analyze the eastern and western philosophical thought. The course thereby helps in the development of laws, legal research and justice in Nepal.

LEARNING OUTCOMES

Upon completion of this course, students will be able to:

- demonstrate in depth knowledge of basic concepts in jurisprudence and to develop a critical approach in the field of law.
- demonstrate critical assessment of legal theories and debate by questioning their internal consistency and coherence as well as their foundational assumptions.
- produce a sustained and well-constructed argument and apply abstract philosophical argument to given cases.
- have a foundational understanding of philosophy of law and ability to critically examine the historical, epistemological and social context of these philosophical ideas.
- identify the strengths and limitations of different theories and models in explaining the basics of Law.
- construct philosophical arguments & apply abstract philosophical argument to real problems and contexts.

- debates in legal and political philosophy and especially the main methodological, ontological and normative questions concerning law and its legitimacy.

COURSE CONTENTS

UNIT – I Introduction to Jurisprudence (7 Lh)

1.1 Meaning and Definition of Jurisprudence

1.2 Nature and Scope of Jurisprudence

1.3 Importance and Limitation of Jurisprudence

UNIT – II Natural School of Legal Thought (28 Lh)

2.1 Ancient Period: Pre-Greek, Sophist, Socrate, Plato, Aristotle, Stoics, Cicero

2.2 Medieval Period: St. Augustine, St. Thomas Aquinas

2.3 Classical Natural Law Theory: Grotius, Hobbes, Locke, Rousseau, Montesquieu, Pufendorf, Hegel, Kant

2.4 Revival of Natural Law Theory: (Stammler, Radburch, Kohler), Fuller, Finnis, Hart, Hart-Fuller Debate, Hart-Devlin Debate

2.5 Nepalese Perspective

UNIT – III Analytical School of Legal Thought (18 Lh)

3.1 Classical Positivist: Austin, Bentham, Kelsen

3.2 Modern Positivist: Hart, Raz

3.3 Ronald Dworkin (3rd Theorist)- Law as an Interpretative Process, Law as Integrity

3.4 Nepalese Perspective

UNIT – IV Historical School of Legal Thought (8 Lh)

4.1 Montesquieu, George Fedrich Putcha, Edmund Burke

4.2 Fedrich Karl Von Savigny and Sir Henry Maine

4.3 Nepalese Perspective

UNIT - V Sociological School of Legal Thought (15 Lh)

5.1 Balancing of Interest theory of Rudolf von Jhering and Rosco Pound

5.2 Social Solidarity theory of Emile Durkheim and Leon Duguit

5.3 Living Law of Eugen Ehrlich

5.4 Max Weber's Topology of Law

5.5 Philip Selznick- Law as the Normative System

5.6 Nepalese Perspective

UNIT – VI Marxist School of Legal Thought (12 Lh)

6.1 Origin of Marxism and Its Application: Marx, Lenin, Pashukanis, The Post-Stalinist era, People's Republic of China.

6.2 Post- Marxism- Developments in West: Karl Renner; Ernesto Laclau, Chantal Mouffe, Michel Foucault, and Judith Butler

6.3 Nepalese Perspective- Vaidik Samyabad (Yogi Narahari Nath)

Unit- VII Realist School of Legal Thought (10 Lh)

7.1 American Legal Realist: Gray, Holmes, Cardozo, Frank, Llewellyn, Jurimetrics, Judicial Behaviorism

7.2 Scandinavian Realist: Hagerstrom, Lundstedt, Olivecrona, Ross

7.3 Nepalese Perspective

Unit-VIII Trends in Jurisprudence (12 Lh)

8.1 Critical Legal Studies Movement, LAT-CRIT Movement, Asian Studies, African Studies

8.2 Feminist Movement

8.3 Post- Modernism in Law, Meta-Modernism in Law

8.4 Liberalism, Neo-Liberalism and Post-Liberalism

8.5 Nepalese Experience

Unit- IX Theories of Justice (15 Lh)

9.1 Basic notion of Justice

9.2 Types of Justice- Criminal Justice, Political Justice, Social Justice, Global Justice

9.3 Aristotelian Theory of Justice

9.4 Utilitarian Theory of Justice: Bentham and Mill

9.5 Liberal Theory of Justice-

- a) John Rawls- Justice as Fairness
- b) Robert Nozick- Entitlement Theory of Justice
- c) Ronald Dworkin- Theory of Resource Equality
- d) Max Weber- Substantive Requirement of Justice
- e) Amartya Sen- Social Choice Theory
- f) Michel Sandel- Communitarian Theory of Justice

9.6 Theory of Justice in Eastern Philosophy-

- a) King Janak Conception of Justice
- b) Naaya Darsan- Gautam Rishi
- c) Justice according to Chanakya
- d) Idea of Justice in Confucianism
- e) Concept of Justice in Buddhism

CONTENT ELABORATION AND MODUS OPERANDI

Unit Objective	Content	Learning Outcomes (After the completion of this unit students will be able to:)	Activities	References
<p>Unit I: The main objective of this unit is to introduce Jurisprudence and to familiarize students with the Nature, Scope and Importance of Jurisprudence.</p>	<p>UNIT – I Introduction to Jurisprudence (7 Lh)</p> <p>1.1 Meaning and Definition of Jurisprudence</p> <p>1.2 Nature and Scope of Jurisprudence</p> <p>1.3 Importance and Limitation of Jurisprudence</p>	<ul style="list-style-type: none">• Define Jurisprudence• Explain about the Nature and Scope of Jurisprudence• Explain about the importance of Jurisprudence	<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">• Hart(1961/1992)• Henley (1982)• Bix (2018)• Freeman (2008)• Golding & Edmundson (2005)• McCoubrey & White (1999)• Mukhia (2019)• Wacks (2015)• Morrison (1977)• Thapa (2023)

			<ul style="list-style-type: none"> • Web-based assignment 	<ul style="list-style-type: none"> • Handouts
<u>Unit II</u> The main objective of this unit is to explore in the ideas of Natural School of Legal Thought	UNIT – II Natural School of Legal Thought (28 Lh) 2.1 Ancient Period: Pre-Greek, Sophist, Socrate, Plato, Aristotle, Stoics, Cicero 2.2 Medieval Period: St. Augustine, St. Thomas Aquinas 2.3 Classical Natural Law Theory: Grotius, Hobbes, Locke, Rousseau, Montesquieu, Pufendorf, Hegel, Kant 2.4 Revival of Natural Law Theory: (Stammler, Radburch, Kohler) Fuller, Finnis, Hart, Hart-Fuller Debate, Hart-Devlin Debate 2.5 Nepalese Perspective	<ul style="list-style-type: none"> • Explain about the basics of natural School of Legal Thought • Explain Ancient and Medieval period of natural School and differentiate between them • Explain Classical Natural Law Theory and Interpret the findings of the scholars of that period • Express Revival of Natural Law Theory in 20th Century. • Debate in Law and Morality 	<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"> • Hart(1961/1992) • Henley (1982) • Bix (2018) • Freeman (2008) • Golding & Edmundson (2005) • McCoubrey & White (1999) • Mukhia (2019) • Wacks (2015) • Morrison (1977) • Thapa (2023) • Handouts
<u>Unit- III</u> The main objective of this unit is to provide in-depth knowledge of Positive School of Legal Thought and to differentiate it from other Schools	UNIT – III Analytical School of Legal Though (18 Lh) 3.1 Classical Positivist: Austin, Bentham, Kelsen 3.2 Modern Positivist: Hart, Raz 3.3 Ronald Dworkin (3 rd Theorist)- Law as an Interpretative Process, Law as Integrity 3.4 Nepalese Perspective	<ul style="list-style-type: none"> • Interpret Meaning, Definition of Legal Positivism • Express the learning from the Classical and Modern Positivist • Mention about Ronald Dworkin's theory of Law • Outline Nepalese Perspective 	<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"> • Hart(1961/1992) • Henley (1982) • Bix (2018) • Freeman (2008) • Golding & Edmundson (2005) • McCoubrey & White (1999) • Mukhia (2019) • Wacks (2015) • Morrison (1977) • Thapa (2023) • Handouts
<u>Unit IV</u> The main objective of this unit is to put forward the ideas of Historical School of Legal Thought	UNIT – IV Historical School of Legal Thought (8 Lh) 4.1 Montesquieu, George Fedrich Putcha, Edmund Burke 4.2 Fedrich Karl Von Savigny and Sir Henry Maine 4.3 Nepalese Perspective	<ul style="list-style-type: none"> • State the basis of Historical School of Legal Thought • Outline the Jurisprudential Theory of Historical School • Examine the Prosect of Historical Schools learning in Nepalese Perspective 	<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"> • Hart(1961/1992) • Henley (1982) • Bix (2018) • Freeman (2008) • Golding & Edmundson (2005) • McCoubrey & White (1999) • Mukhia (2019) • Wacks (2015) • Morrison (1977) • Thapa (2023) • Handouts

<u>Unit-V</u> The main objective of this unit is to accord the students about the various ideas related with the Sociological School of Legal Thought, and its Application in the Societal relation	UNIT - V Sociological School of Legal Thought (15 Lh) 5.1 Balancing of Interest theory of Rudolf von Jhering and Rosco Pound 5.2 Social Solidarity theory of Emile Durkheim and Leon Duguit 5.3 Living Law of Eugen Ehrlich 5.4 Max Weber's Topology of Law 5.5 Philip Selznick- Law as the Normative System 5.6 Nepalese Perspective	◆ Define and differentiate between Sociological Jurisprudence and Sociology of Law ◆ Mention about the findings of Jurists of Historical School ◆ Explain about relationship between the Sociological School and Nepalese Social and Judicial undertaking	• Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises	• Hart(1961/1992) • Henley (1982) • Bix (2018) • Freeman (2008) • Golding & Edmundson (2005) • McCoubrey & White (1999) • Mukhia (2019) • Wacks (2015) • Morrison (1977) • Thapa (2023) • Handouts
<u>Unit-VI</u> The main objective of this unit is to explain about the various aspect of Marxist School of Legal Thought	UNIT – VI Marxist School of Legal Thought (12 Lh) 6.1 Origin of Marxism and Its Application: Marx, Lenin, Pashukanis, The Post-Stalinist era, People's Republic of China. 6.2 Post- Marxism- Developments in West: Karl Renner; Ernesto Laclau, Chantal Mouffe, Michel Foucault, and Judith Butler 6.3 Nepalese Perspective- Vaidik Samyabad (Yogi Narahari Nath)	◆ Identify the basics of Marxist School of Legal Thought ◆ Mention about Application of Marxism in Soviet Union, China and Nepal	• Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises	• Hart(1961/1992) • Henley (1982) • Bix (2018) • Freeman (2008) • Golding & Edmundson (2005) • McCoubrey & White (1999) • Mukhia (2019) • Wacks (2015) • Morrison (1977) • Thapa (2023) • Handouts
<u>Unit-VII</u> The main objective of this unit is to accord the students about Realist School of Legal Thought and application of it in Nepalese Court Structure	Unit- VII Realist School of Legal Thought (10 Lh) 7.1 American Legal Realist: Gray, Holmes, Cardozo, Frank, Llewellyn, Jurimetrics, Judicial Behaviorism 7.2 Scandinavian Realist: Hagerstrom, Lundstedt, Olivecrona, Ross 7.3 Nepalese Perspective	◆ Identify the basics of Realist School of Legal Thought ◆ Differentiate between American Legal Realist and Scandinavian Legal Realist ◆ Mention about the Application of Realist Idea in Nepalese Judiciary	• Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises	• Hart(1961/1992) • Henley (1982) • Bix (2018) • Freeman (2008) • Golding & Edmundson (2005) • McCoubrey & White (1999) • Mukhia (2019) • Wacks (2015) • Morrison (1977) • Thapa (2023) • Handouts
<u>Unit-VIII</u> The main objective of this unit is to accord the students about CLS movement, Feminism, Post-modernism, and Liberalism and application of it in Nepalese Court Structure	Unit-VIII Trends in Jurisprudence (12 Lh) 8.1 Critical Legal Studies Movement, LAT-CRIT Movement, Asian Studies, African Studies 8.2 Feminist Movement 8.3 Post- Modernism in Law, Meta-Modernism in Law 8.4 Liberalism, Neo-Liberalism and Post-Liberalism 8.5 Nepalese Experience	◆ Identify the basics of CLS movement ◆ Explain about Feminist Movement and feminist achievements ◆ Explain about Post-modernism & Meta-Modernism in Law ◆ Differentiate between Liberalism, Neo-Liberalism & Post Liberalism ◆ Discuss about its Nepalese Experiences	• Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises	• Hart(1961/1992) • Henley (1982) • Bix (2018) • Freeman (2008) • Golding & Edmundson (2005) • McCoubrey & White (1999) • Mukhia (2019) • Wacks (2015) • Morrison (1977) • Thapa (2023) • Handouts

<p>Unit-IX The main objective of this unit is to provide comprehensive concept of justice & to compare western (or liberal) value of justice & eastern value of concept</p>	<p>Unit- IX Theories of Justice (15 Lh)</p> <p>9.1 Basic notion of Justice 9.2 Types of Justice- Criminal Justice, Political Justice, Social Justice, Global Justice 9.3 Aristotelian Theory of Justice 9.4 Utilitarian Theory of Justice: Bentham and Mill 9.5 Liberal Theory of Justice- a) John Rawls- Justice as Fairness b) Robert Nozick- Entitlement Theory of Justice c) Ronald Dworkin- Theory of Resource Equality d) Max Weber- Substantive Requirement of Justice e) Amartya Sen- Social Choice Theory f) Michel Sandel- Communitarian Theory of Justice 9.6 Theory of Justice in Eastern Philosophy- a) King Janak conception of justice b) Naaya Darsan- Gautam Rishi c) Justice according to Chanakya d) Idea of Justice in Confucianism e) Concept of Justice in Buddhism</p>	<ul style="list-style-type: none"> ◆ Explain about different theories of Justice. ◆ Differentiate between western theory of justice & eastern theory of justice ◆ Explain the advantages of eastern theory over the western theory. 	<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"> • Hart(1961/1992) • Henley (1982) • Bix (2018) • Freeman (2008) • Golding & Edmundson (2005) • McCoubrey & White (1999) • Mukhia (2019) • Wacks (2015) • Morrison (1977) • Thapa (2023) • Handouts
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Note: Lh stands for lecture hours required for the course

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:

- ❖ Allen, C. K., (1997). **Law in the Making**. New Delhi: Universal Law Publishing
- ❖ Bix, Brian H. (2018). *Jurisprudence: Theory and Context*, Seventh Edition, Sweet & Maxwell.
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- ❖ McCoubrey, Hilaire Prof. & Dr. Nigel D. White (1999). *Textbook on Jurisprudence*, Third Edition, Blackstone Press Limited.
- ❖ Morrison, Wayne (1977). *Jurisprudence: from the Greeks to Post-Modernism*, Special Indian Edition, Cavendish Publishing Limited.
- ❖ Mukhia, Bal Bahadur (2019), Comparative Jurisprudence- I, Kathmandu: Malati Mukhia & Aditya Mukhia
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- ❖ **The Yale Law Journal**. <https://www.jstor.org/stable/785533>

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
- ❖ Website of National Human Right Commission (of Nepal): www.nhrcnepal.org

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 & Live 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

Master of Laws (Legum Magister) (LL. M)

P.M- 50

Course: Legal Research Methodology

Credit Hour: 6

Course Code: Law 602

Nature: Compulsory

Year: First

COURSE DESCRIPTION

Legal research methodology is the systematic, and scientific process of acquiring, analyzing, interpreting, and applying legally relevant information to answer a legal question or resolve an issue. It involves a range of techniques, from traditional doctrinal methods to interdisciplinary and empirical approaches, to gather and evaluate data like statutes, case law, and other relevant facts. The goal is to develop a logical and accurate argument, solve a legal problem, and present the findings in a systematic way. So, legal research methodology is essential for systematically resolving contemporary legal issues. Normative legal research focuses on analyzing existing legal doctrines and theories. Empirical legal research collects primary data to understand actual legal effectiveness in society. Research may be pursued to obtain better knowledge and understanding of any problem of legal philosophy, legal history, comparative study of law or any system of positive law-International or Municipal. The purpose of legal research is to find "authority" that will aid in finding a solution to a legal problem. This course is designed to acquaint students with the fundamental knowledge and concept of legal research methodology. The course imparts students with the critical knowledge on philosophy of legal research. The course also imparts students with the knowledge on doctrinal, empirical and various socio-legal research. The course enables the students with knowledge about the techniques of collection, analyze and interpretation of data in research. The course also enables students to prepare the layout of the legal research report. The course imparts students with the knowledge of code of ethics in legal research. The course encourages students in the involvement in multi-faceted research of laws. The course thereby helps in the development of laws, legal research and justice in Nepal.

LEARNING OUTCOMES

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

- be familiar with the specific language, core concepts, and principles inherent in the law.
- find, access, and use fundamental legal materials, including primary sources (statutes, case law) and secondary sources (treatises, law reviews, legal encyclopedias).
- master the use of both traditional "paper" tools (libraries) and modern digital resources (online databases like Lexis Nexis, Westlaw).
- develop the capacity to identify and define a specific legal problem or research questions.

- acquire the skills to critically read, extract essential points, analyze facts, and interpret legal sources.
- enhance the ability to apply legal principles and logic to factual situations and evaluate the strengths and weaknesses of legal arguments.
- describe and apply various models of legal research, such as doctrinal, non-doctrinal/socio-legal, comparative, historical, and inter-disciplinary approaches.
- develop and present structured, coherent, and logical arguments based on research findings.
- gain proficiency in legal writing, including drafting synthesis papers, research notes, and research proposals.
- master proper legal vocabulary and the correct standards for referencing and citing legal sources.
- effectively communicate the reasons and conclusions drawn from legal research to diverse audiences.
- understand and apply ethical principles to legal and socio-legal research, ensuring informed consent, confidentiality, and integrity in the research process.

COURSE CONTENTS

UNIT – I GENERAL INTRODUCTION TO LEGAL RESEARCH

24 Lh

1.4 Relevancy of Legal Research

- Meaning, Nature, Scope and Importance of Legal Research
- Stages in Legal Research
- Significance of Legal Research as an Interdisciplinary Research Study
- Need of Legal Research for the Legal Professionals
- Use of Deductive and Inductive Reasoning in the Legal Research

1.5 Types of (Legal) Research

- Doctrinal and Empirical Research
- Descriptive and Analytical Research
- Applied and Fundamental Research
- Qualitative and Quantitative Research
- Historical Research
- Sociological Research
- Legislative Research
- Socio-Legal Research
- Case-Law Research

1.6 Various Aspects of Legal Research in Nepal

- Institutions Conducting Legal Research in Nepal: Government Ministries, Nepal Law Commission, National Human Right Commission, Universities, UGC, Office of the Attorney General, National Judicial Academy (NJA), Nepal Bar Council, CeLRRd, Pro-Public, FREEDEL, FWLD etc.
- Legal (Peer-Reviewed) Journals: Nepal Law Review, NaLC Law Review, KSL Review, NJA Law Journal, Nepal Bar Council Law Journal, Prosecution Journal, Supreme Court Bar Law Journal
- Problems Encountered by Legal Researchers in Nepal

UNIT – II CONCEPTUAL PHASE IN LEGAL RESEARCH**24 Lh****2.1 Identification and Formulation of Research Problem**

- a) Steps to Identify and Formulate Research Problem
- b) Factors Affecting the Research Problem Identification

2.2 Reviewing of Concerned Literature in Research

- a) Relevancy of Reviewing of Literature in Research
- b) Techniques of Literature Review: Scanning, Identifying, Note-Taking
- c) Types of Note-Taking: Direct Quotations, Paraphrasing, Summarizing
- d) Organization of the Source: Chronological, Thematic, Methodological

2.3 Formulation of Research Proposal

- a) Structure of Research Proposal
- b) Common Mistake in Proposal Writing

2.4 Development of Research Hypothesis

- a) Null and Alternative Hypothesis
- b) Importance of Hypothesis in Research

2.5 Measurement of Variables in Research

- a) Nature and Importance of Variables
- b) Types of Variables: Dependent, Independent, Moderating, Intervening Variables

UNIT – III EMPIRICAL PHASE IN LEGAL RESEARCH**24 Lh****3.1 Preparation of Research Design**

- a) Meaning and Need of Research Design
- b) Features of Good Research Design
- c) Research Design in Doctrinal and Non-Doctrinal Research

3.2 Sources of Data Collection

- a) Primary Authority of Law: Constitution, Acts, By-Laws, Ordinances, Precedent
- b) Secondary Authority of Law: Textbook, Journal Articles, Research Reports, Legal Digest, Legal Encyclopedia, Legal Dictionary, Treaties

3.3 Methods or Techniques of Legal Studies

- a) Primary Data Method: Observation, Interview (Schedule), Questionnaire, Survey, Focus Group Discussion, Case Study, Experimental Method
- b) Secondary Data Method: Case Law Method, Cumulative Record Card
- c) Sampling Method: Advantages and Limitations of Sampling, Probability and Non-Probability Sampling, Sampling and Non-Sampling Errors.

UNIT – IV ANALYTICAL PHASE IN LEGAL RESEARCH**20 Lh****4.1 Methods of Analysis of Quantitative Data**

- a) Data Processing: Editing, Coding, Classification, Tabulation
- b) Statistical Analysis: Use of Percentile, Measurement of Central Tendency (Mean, Median, Mode), Correlation, Regression, Time Series Analysis, Variance (ANOVA), p- value Approach

4.2 Method of Analysis of Qualitative Data

- a) Content Analysis, Thematic Analysis, Narrative Analysis
- b) Comparative Analysis, Historical Analysis
- c) Case-Law Analysis, Legal Impact Analysis

4.3 Use of Technology in the Interpretation of Data

- a) Use of SPSS and Other Statistical Software
- b) Jurimetrics and Judicial Behavior
- c) Computer Assisted Legal Research

4.4 Measurement and Scaling Techniques in Legal Research

- a) Scale of Measurement: Nominal Scale, Ordinal Scale, Interval Scale, Ratio Scale, Socio-Metric Scale
- b) Scaling Techniques: Likert-Type Scale, Thurstone Scale, Guttman Scale, Attitude Scale
- c) Validity and Reliability of the Obtained Result

UNIT - V PREPARATION OF LEGAL RESEARCH REPORT**20 Lh****5.1 Legal Research Report, Proposal Writing, Internship and Thesis Writing**

- a) Meaning, Purpose and Importance of Legal Research Writing
- b) Types of Legal Research Report
- c) Layout of Legal Research Report, Proposal, Internship and Thesis
- d) Method of Using Library and Computer in Legal Research

5.2 Presentation Styles of Legal Research Report, Proposal, Internship and Thesis

- a) Use of Footnotes, Mid-notes, End-notes in the Legal Research Work/Text
- b) Use of References, Bibliography in the Legal Research Work/Text
- c) Use of Uniform Rules of Citation: Blue Book, APA, MLA, CGOS

UNIT – VI ETHICS IN LEGAL RESEARCH**13 Lh****6.1 Code of Ethics in Legal Research**

- a) Need of Avoiding Plagiarism in Legal Research Work
- b) Need of Peer Review of Research Work/Article

6.2 Critical Thinking/ Writing in Legal Research

- a) Authorship and Copyright of the Original Work
- b) Data Fabrication and How to Remain Ethical
- c) Relevancy of Research Work for the Society
- d) Motivation in Legal Research
- e) Nature of Relationship Between Supervisor and Researcher

CONTENT ELABORATION AND MODUS OPERANDI

Units & Lecture Hours	Learning Outcomes (students will be able to:)	Contents	Mode of Delivery	Key Readings/ References
Unit-I General Introduction to Legal Research 24 Lh	<ul style="list-style-type: none"> ❖ Explain the general concept, nature, importance, & types of Legal Research. ❖ Inquire about the various aspects of Legal Research in Nepal. 	<i>1.1 Relevancy of Legal Research</i> <i>1.2 Types of (Legal) Research</i> <i>1.3 Various Aspects of Legal Research in Nepal</i>	<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"> • Mukhia, Bal Bahadur (2011) • Myneni, S.R. (2001) • Verma, S.K. et. al. (2006)
Unit-II Conceptual Phase in Legal Research 24 Lh	<ul style="list-style-type: none"> ❖ Discuss about the identification & formulation of Research Problem. ❖ Discuss about the relevancy of literature review. ❖ Explain about Research Proposal, Variables & Research Hypothesis. 	<i>2.1 Identification & Formulation of Research Problem</i> <i>2.2 Relevancy of Concerned Literature in Research</i> <i>2.3 Formulation of a Research Proposal</i> <i>2.4 Development of Research Hypothesis</i> <i>2.5 Measurement of Variables in Research</i>	<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"> • Baker, T. L. (1994) • Kothari, C.K. (2009) • Mukhia, Bal Bahadur (2011) • Myneni, S.R. (2001) • Pant, Prem Raj (2012) • Verma, S.K. et. al. (2006)
Unit-III Empirical Phase in Legal Research 24 Lh	<ul style="list-style-type: none"> ❖ Analytically discuss about the preparation of Research Design. ❖ Explain about the sources of Data Collection. ❖ Discuss about the Methods & Techniques of Legal Studies. 	<i>3.1 Preparation of Research Design</i> <i>3.2 Sources of Data Collection</i> <i>3.3 Methods or Techniques of Legal Studies</i>	<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"> • Baker, T. L. (1994) • Kothari, C.K. (2009) • Mukhia, Bal Bahadur (2011) • Myneni, S.R. (2001)
Unit-IV Analytical Phase in Legal Research 20 Lh	<ul style="list-style-type: none"> ❖ Discuss about the methods of analysis of Quantitative & Qualitative Data. ❖ Explain about the use of Technology in the Interpretation of Data. ❖ Discuss about Measurement & Scaling Techniques. 	<i>4.1 Methods of Analysis of Quantitative Data</i> <i>4.2 Methods of Analysis of Qualitative Data</i> <i>4.3 Use of Technology in the Interpretation of Data</i> <i>4.4 Measurement & Scaling Techniques in Legal Research</i>	<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"> • Baker, T. L. (1994) • Kothari, C.K. (2009) • Mukhia, Bal Bahadur (2011) • Myneni, S.R. (2001)

			<ul style="list-style-type: none"> • Review questions • Exercises • Web-based assignment 	<ul style="list-style-type: none"> • Pant, Prem Raj (2012) • Verma, S.K. et. al. (2006)
Unit-V Preparation of Legal Research Report 20 Lh	<ul style="list-style-type: none"> ❖ Explain about the legal Research Report, Proposal Writing, Internship & Thesis Writing. ❖ Discuss about the presentation styles of Legal Research Report. 	<p>5.1 Legal Research Report, Proposal Writing, Internship, Thesis Writing</p> <p>5.2 Presentation Styles of Legal Research Report</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"> • Baker, T. L. (1994) • Kothari, C.K. (2009) • Mukhia, Bal Bahadur (2011) • Myneni, S.R. (2001) • Pant, Prem Raj (2012) • Verma, S.K. et. al. (2006)
Unit-VI Ethics in Legal Research 13 Lh	<ul style="list-style-type: none"> ❖ Analyze the relevancy of Code of Ethics in Legal Research. ❖ Develop Critical Thinking/Writing in Legal Research 	<p>6.1 Code of Ethics in Legal Research</p> <p>6.2 Critical Thinking/Writing in Legal Research</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"> • Baker, T. L. (1994) • Kothari, C.K. (2009) • Mukhia, Bal Bahadur (2011) •(2015) • Myneni, S.R. (2001) • Nepal, Manish (2021) • Verma, S.K. et. al. (2006)
Total= 125 Lecture hours (Lh)				

Note: Lh stands for lecture hours required for the course

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 and References

- ❖ Bailey, Kenneth D (1978). **Methods of Social Research**. New York: The Free Press.
- ❖ Baker, Therese L (1994). **Doing Social Research** (2nd edn.). Mc. Graw Hill Inc.
- ❖ Belbase, Krishna (Prof. Dr.) (2074 B.S). **Legal Research Methodology** (in Nepali) (5th edn.). Kathmandu: Unnati Publication.
- ❖ Devkota, Sanad et. al. (2013). **Legal Research Methodology**. Kathmandu: Pairavi Prakashan.
- ❖ Giri, Hima Raj (2013). **Legal Research Method: Theory and Research**. Kathmandu: Pairavi Prakashan.
- ❖ Goode, William J. & Hatt, Paul K (1985). **Methods in Social Research**. Mc. Graw Hall.
- ❖ Kerlinger, F.N. (2018). **Foundation of Behavioral Research**. New Delhi: Surjeet Publication.
- ❖ Kothari, C.K. (2009). **Research Methodology: Methods and Techniques**. New Delhi: Wilsey Eastern Limited.
- ❖ Mukhia, Bal Bahadur (Dr.) (2011). **Legal Research Methodology at a Glance**. Kathmandu: Malati Mukhia & Aditya Mukhia.
- ❖(2015). **Intellectual Property Law**. Lalitpur: Mission Legal Service Pvt. Ltd.
- ❖ Mukhia, Bal Bahadur (Prof. Dr.) & Parajuli, D.N. (Dr.) (2020). **Manual of Uniform Citation Style for Legal Research**. Kathmandu: Nepal Law Campus.
- ❖ Myneni, S.R. (Dr.) (2001). **Legal Research Methodology** (2nd edn.). India: Allahabad Law Agency.
- ❖ Nepal, Manish (2021). **A Text Book of Intellectual Property Law**. Kathmandu: Lumbini Publication.
- ❖ Pant, Prem Raj (2012). **Social Science Research and Thesis Writing** (6th edn.). Kathmandu: Buddha Academic Enterprises Pvt. Ltd.
- ❖ Prahananga, Rajit Bhakta (Prof. Dr.) (2074 B.S.). **Legal Research and Research Methodology** (2nd edn.). Kathmandu: Lumbini Publication.
- ❖ Tewari, H.N. (Dr.) (2008). **Legal Research Methodology**. India: Allahabad Law Agency.
- ❖ Verma, S.K. & Wani, M. Afzal (edts.) (2006). **Legal Research and Methodology**. New Delhi: Indian Law Institute.

Articles

- ❖ Khadka, Chandra Shekhar (2018-19). “*Empirical Method in Legal Research*”. Nepal Law Review. Year 41 Vol. 28 No. 1 & 2. Kathmandu: Nepal law Campus.
- ❖ Luitel, Bishnu (2018). “*Plagiarism As an Intellectual Offence*”. Nepal Bar Council Law Journal. Lalitpur: Nepal Bar Council.
- ❖ Thapa, Kamal Raj (2011). “*Socio-Legal Research: A Jurisprudential Impression*”. Nepal Law Review. Year 36 Vol. 23 No. 1 & 2. Kathmandu: Nepal Law Campus.
- ❖ Upadhyay, Animesh (2013). “*Paradox of Quantitative and Qualitative Methods*”. Nepal Law Review. Year 38 Vol. 25 No. 1 & 2. Kathmandu: Nepal Law Campus.

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
- ❖ Website of National Human Right Commission (of Nepal): www.nhrcnepal.org

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 e) Other Assignments	a) Descriptive/ Long Answer Question b) Short Answer Questions

Rajarshi Janak University
Faculty of Humanities and Law

Curriculum for
Master of Laws (Legum Magister) (LL. M)
Course: Seminar
Credit Hour: 6
Course Code: Law 603
Nature: Compulsory
Year: First

F.M- 100
P.M- 50

COURSE DESCRIPTION:

As a part of research work, the course of Seminar is designed. This course is designed to attain practical knowledge to the students regarding conducting research on an issue of law and justice. The course is of 100 marks. In the beginning of the class, the convenor has to take introductory class for clarifying the objectives, modes and instruction for preparing seminar preparation. Every student has to submit the seminar paper to the convener within the deadline. Out of 100 marks, 60 marks is allotted for written report submitted at the end of the semester for final evaluation. Remaining 40 marks is allotted for internal evaluation. 20 marks will be assessed through internal practical evaluation. 10 marks is allotted for external expert and 10 marks is for viva-voce.

METHODOLOGY:

Scholars are prescribed following instructions:

- scholars need to choose & finalize their seminar topic, within their elective subject area and, consulting with the convenor.
- the scholars need to complete and submit their seminar paper to the convener within the deadline as per the standards set by the University.
- after the submission of the seminar, the convenor invites resource person as per the topic of the seminar paper.
- scholars need to present their seminar paper in the presence of their colleagues, resource person and convenor.
- the scholars need to use any uniform rules of citation; however, Blue Book Rules of Citation (21st Ed.) is preferred.
- scholars need to submit the final copy of the seminar incorporating the comments and suggestions provided during the presentation.
- viva-voice will be conducted at the end of the session.

LEARNING OUTCOMES

This course will offer scholars the opportunity to enhance their ability to:

- identify a personally meaningful and academically relevant question to explore related to the course theme
- design a logical search plan to gathering information that addresses the question from multiple, relevant points of view
- gather, organize and interpret relevant information as per necessary, and think critically about the subject matter.
- reflect on the process including new insights and knowledge about the topic, their own research question, and themselves as learners
- integrate their lived experiences and their intellectual aptitudes through developing an Academic Plan
- identify and practice a sense of decidedness, engagement, and self-regulated learning
- strengthen students' ability to participate in an inquiry-based learning process.

Rajarshi Janak University
Faculty of Humanities and Law

Curriculum for F.M- 100
Master of Laws (Legum Magister) (LL. M) P.M- 50
Course: Criminal Law-I (Criminal Law: Theory & Practices)
Credit Hour: 6
Course Code: Law 604
Nature: Elective
Year: First

COURSE DESCRIPTION

This course is designed to acquaint and comprehend the students about the advanced theories of the criminal law. The course would help students to learn and conceive critical part of evolution of penal law theories. Additionally, the aim of the course is to grow and advance critical knowledge of criminal law. It also aims at making students able to suitably observe, understand and analyze complex criminal issues and know how to resolve them within the framework of criminal law

LEARNING OUTCOMES

After the studies students are expected to-

- observe creatively the issues of contemporary criminal law
- understand the value and essence of criminal problems
- converse on different theories and practices of criminal law
- analyze and interpret various issues of criminal law
- critically determine the problems beforehand

COURSE CONTENT

1. Evolution of Crimes and Criminal Law (13 hrs.)

- 1.1 Crimes and Response to Crimes in Early Periods - as Greek, Roman, Continental Practices
- 1.2 Hindu concept of Panchaparadha/ *Panchakhat* and *Khat* (crime)
- 1.3 Classifying Crimes- felony and its types, misdemeanor, moral turpitude

2. Causation Theories (12 hrs.)

- 2.1 Establishing Causation in Crime
- 2.2 Factual and Legal Causation

2.3 Causation Theories Including Negligence: defense for minimal causation: ordinary hazard: reasonable foresight: remote harm: contributory negligence, special sensitivity, improper medical treatment

3. Elements of a Crime (12 hrs.)

- 3.1 The mental elements or “*mens rea*”- such as intention, motive, conspiracy, malice/ transferred malice
- 3.2 The physical element or *Actus reus* - such as preparation, accessories, attempt, crime commission

4. Role of Principal and Accessory Offenders (12 hrs.)

- 4.1 Principal - committing crime whether willfully or unwillingly
- 4.2 Accessories- aiding, abetting, counseling, procuring, omission
- 4.3 Inchoate crimes
- 4.4 Where principal offender is not guilty
- 4.5 Innocent agents - infancy, insanity, autism, addiction, drunkenness etc.

5. Criminal Liabilities (12 hrs.)

- 5.1 Understanding Criminal Liability
- 5.2 Liability without Fault
- 5.3 Strict/Absolute Liability
- 5.4 Joint Liability as Strict Liability
- 5.5 'Fault done by the self part of Strict Liability
- 5.6 Vicarious Liability in Crime

6. Theory of Over Criminalization (12 hrs.)

- 6.1 Applying Penal Law in Small or Trivial Guilt
- 6.2 Balancing Severity of Offence and Penalty
- 6.3 Excess of Criminal Law Limits upon Freedom
- 6.4 Focus to the Conduct of Suspect than Offence
- 6.5 Focus to State/Public Interest while Making Penal Law

7. Decriminalizing and Recriminalizing Theories (14 hrs.)

- 7.1 Decriminalizing Harsh form of Punishment
- 7.2 Decriminalization for Expanding Freedoms
- 7.3 Decriminalization in Changing Social Context
- 7.4 Simplifying Criminal Procedure
- 7.5 Minimizing Criminal Charge and Punishment
- 7.6 Recriminalizing for Harsh Punishment in terrorism, drugs, multiple murder etc. disputes
- 7.7 Recriminalizing in Inhumane and Acts with Larger Public Harm

8. Sentencing Disparities (12 hrs.)

- 8.1 Meaning and Scope
- 8.2 Sentencing Disparity by Court in Similar Disputes
- 8.3 Unfair Disparity based on Judicial Discretion
- 8.4 Sentencing Disparity in Different State Laws in Federal System
- 8.5 Sentencing and Criminal Charge Disparity based on race, sex, color, ethnicity, undue means etc.

9. Correctional Institutions (14 hrs.)

- 9.1 Evolution of the Practice of Detention/Prison along with Nepali Context
- 9.2 Juvenile Delinquent Caring Agencies
- 9.3 Prisons and Jails- high security prisons, general prisons and open prisons
- 9.4 Concept of Private Prisons
- 9.5 Detention Centers and Unlawful Detention
- 9.6 The Rights of Prisoners and Detainees

10. Four International Offences/ Remedies in Nepali Penal Code (12 hrs.)

- 10.1 Genocide
- 10.2 Crime against Humanity
- 10.3 War Crimes
- 10.4 Crime of Aggression
- 10.5 Remedies on their Violation

CONTENT ELABORATION AND MODUS OPERANDI

Units & Lecture Hours	Learning Outcomes (students will be able to:)	Mode of Delivery	Key Readings/ References
Unit-I 1. Evolution of Crimes and Criminal Law (13 hrs.) 1.1 Crimes and Response to Crimes in Early Periods - as Greek, Roman, Continental Practices 1.2 Hindu Concept of Panchapradha/ <i>Panchakhat</i> and <i>Khat</i> (crime) 1.3 Classifying Crimes- felony and its types, misdemeanor, moral turpitude	❖ Mention about the evolution of crimes & criminal law. ❖ Mention about the crimes and response to crimes in the Greek, roman and in Continental Practices. ❖ Discuss about the Hindu conception of crime. ❖ Classify the crimes.	• 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 2 Causation Theories (12 hrs.) 2.1 Establishing Causation in Crime 2.2 Factual and Legal Causation 2.3 Causation Theories Including Negligence: defense for minimal causation: ordinary hazard: reasonable foresight: remote harm: contributory negligence, special sensitivity, improper medical treatment.	❖ Mention about the causation theories. ❖ Discuss about the process of establishing causation in crime.	• 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 3 Elements of a Crime (12 hrs.) 3.1 The mental elements or “ <i>mens rea</i> ”- such as intention, motive, conspiracy, malice/ transferred malice 3.2 The physical element or <i>Actus reus</i> - such as preparation, accessories, attempt, crime commission	❖ Explain about the elements of a crime ❖ Analytically discuss about the forms of <i>actus reus</i> and <i>mens rea</i> .	• 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 4 Role of Principal and Accessory Offenders (12 hrs.) 4.1 Principal - committing crime whether willfully or unwillingly 4.2 Accessories- aiding, abetting, counseling, procuring, omission 4.3 Inchoate crimes 4.4 Where principal offender is not guilty 4.5 Innocent agents - infancy, insanity, autism, addiction, drunkenness etc.	❖ Discuss about the parties to the crime and their classification. ❖ Explain about the applicable principles in parties to the crime. ❖ Discuss about the Inchoate Offences. ❖ Analyze about General Defense applicable to the Crime. ❖ Discuss about Excusable Defense and its difference from Justifiable Defense.	• 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 5 Criminal Liabilities (12 hrs.) 5.1 Understanding Criminal Liability 5.2 Liability without Fault 5.3 Strict/Absolute Liability 5.4 Joint Liability as Strict Liability 5.5 Fault done by the self part of Strict Liability 5.6 Vicarious Liability in Crime	❖ Explain about the criminal liabilities. ❖ Explain about the joint liability as in strict liability. ❖ Discuss about vicarious liability.	• Assignment • Presentation • Brainstorming • Case Analysis • Readings • Self-evaluation	• Acharya & Pradhananga (2053 B.S). • Ashworth (2011). • Herning (2014). • Reid (2012).
Unit-VI 6 Theory of Over Criminalization (12 hrs.) 6.1 Applying Penal Law in Small or Trivial Guilt 6.2 Balancing Severity of Offence and Penalty 6.3 Excess of Criminal Law Limits upon Freedom 6.4 Focus to the Conduct of Suspect than Offence	❖ Discuss about the theory of over criminalization. ❖ Discuss about the excessive use of criminal law which leads to the curtail to freedom of a person.	• Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies	• Acharya & Pradhananga (2053 B.S). • Ashworth (2011). • Herning (2014). • Reid (2012).

6.5 Focus to State/Public Interest while Making Penal Law.			• Vaidya & Manadhar (1985).
Unit VII 7 Decriminalizing and Recriminalizing Theories (14 hrs.) 7.1 Decriminalizing Harsh form of Punishment 7.2 Decriminalization for Expanding Freedoms 7.3 Decriminalization in Changing Social Context 7.4 Simplifying Criminal Procedure 7.5 Minimizing Criminal Charge and Punishment 7.6 Recriminalizing for Harsh Punishment in terrorism, drugs, multiple murder etc. disputes 7.7 Recriminalizing in Inhumane and Acts with Larger Public Harm	❖ Discuss about the decriminalizing and recriminalizing theories. ❖ Discuss about the decriminalization in the changing social context. ❖ Explain the need for recriminalization in inhumane and acts with larger public harm.	• Assignment • Presentation • Brainstorming • Case Analysis • Readings Case Based Studies	• Acharya & Pradhananga (2053 B.S). • Ashworth (2011). • Herning (2014). • Reid (2012). • Vaidya & Manadhar (1985).
Unit VIII 8 Sentencing Disparities (12 hrs.) 8.1 Meaning and Scope 8.2 Sentencing Disparity by Court in Similar Disputes 8.3 Unfair Disparity based on Judicial Discretion 8.4 Sentencing Disparity in Different State Laws in Federal System 8.5 Sentencing and Criminal Charge Disparity based on race, sex, color, ethnicity, undue means etc.	❖ Explain about the sentencing disparities by court in disputes with similar nature. ❖ Explain about the sentencing and criminal charge disparities based on race, sex, colour, ethnicity, etc.	• Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies	• Acharya & Pradhananga (2053 B.S). • Ashworth (2011). • Herning (2014). • Reid (2012). • Vaidya & Manadhar (1985).
Unit IX 9 Correctional Institutions (14 hrs.) 9.1 Evolution of the Practice of Detention/Prison along with Nepali Context 9.2 Juvenile Delinquent Caring Agencies 9.3 Prisons and Jails- high security prisons, general prisons and open prisons 9.4 Concept of Private Prisons 9.5 Detention Centers and Unlawful Detention 9.6 The Rights of Prisoners and Detainees	❖ Explain about the correctional institutions ❖ Discuss about the juvenile delinquency caring agency. ❖ Discuss about the alternative to prison and private prison.	• Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies	• Acharya & Pradhananga (2053 B.S). • Ashworth (2011). • Herning (2014). • Reid (2012).
Unit X 10 Four International Offences/ Remedies in Nepali Penal Code (12 hrs.) 10.1 Genocide 10.2 Crime against Humanity 10.3 War Crimes 10.4 Crime of Aggression 10.5 Remedies on their Violation	❖ Identify the four international offences as stated in Art. 5 of ICC Statute. ❖ Discuss about the applicable remedies on their violations.	• Assignment • Presentation • Brainstorming • Case Analysis • Readings	• Acharya & Pradhananga (2053 B.S). • Herning (2014). • Reid (2012).
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

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.
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- Reid, Sue Titus (2012). Criminal Law: The Essentials, 2nd ed., London: Oxford University Press.
- Smith & Hogan (2024). Criminal Law, 17th 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>	<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

Master of Laws (Legum Magister) (LL. M)

P.M- 50

Course: Criminal Law- II (Cyber Crime and Artificial Intelligence)

Credit Hour: 6

Course Code: Law 605

Nature: Elective

Year: First

COURSE DESCRIPTION

Cybercrime is illegal activity that uses computers, networks, or networked devices to commit crimes. It includes a wide range of offenses, such as identity theft, fraud, phishing, and hacking, and can target individuals, businesses, or governments. The goals of cybercriminals are often financial, but they can also be political or personal. Artificial intelligence (AI), on the other hand, is a branch of computer science that enables machines to perform tasks that normally require human intelligence, such as learning, reasoning, and problem-solving. AI systems achieve this by analyzing vast amounts of data to recognize patterns, make predictions, and adapt to new information. The course examines various AI-based approaches, including machine learning and their application in mitigating cyber security risks. Additionally, the course discusses the advantages and limitations of AI in cyber-crime prevention and detection, as well as the ethical considerations associated with AI-powered solutions. By examining real-world case studies and current advancements in the field, this course provides insights into the potential of AI as a powerful tool in combating cybercrime. This course discusses the implications that AI policy making would bring to the administration of the criminal justice system to specifically counter cybercrimes. This course offers an alternative to create effective policy responses to counter cybercrime committed through AI systems. So, studying cyber-crime and AI yields comprehensive learning outcomes spanning technical knowledge, ethical considerations, and its legal implication.

LEARNING OUTCOMES

On the successful completion of this course students will be able to:

- understand the nature, types, and evolution of cyber offenses, as well as the motivations of cybercriminals (hacktivists, cyber terrorists, etc.).
- grasp fundamental AI concepts, including machine learning (ML), deep learning and how these technologies learn from data.
- describe the dual nature of AI in cybersecurity, recognizing how it can be used for both robust defense mechanisms and sophisticated, evasive cyberattacks (e.g., AI-powered phishing, deepfakes, adaptive malware).
- apply AI-powered solutions to collect, preserve, and analyze large volumes of digital evidence efficiently to support legal proceedings and cybercrime investigations.

- analyze the ethical, legal, and regulatory impacts of AI-driven security systems, including data privacy concerns, the admissibility of AI-analyzed evidence in court.
- formulate and evaluate national and international cybersecurity strategies and policies, understanding how to integrate AI responsibly within these frameworks to enhance a country's or organization's security posture.
- assess and debate the ethical dilemmas surrounding the use of AI in cybercrime prevention and investigation.
- identify and investigate advance legal issues that emerges at the interface of law and AI

COURSE CONTENT

I. Introduction (20 hrs)

- 1.1 Meaning and Definition of Cyber Law and AI
- 1.2 Nature and Importance of Cyber Law and AI
- 1.3 Genesis and Development of Cyber Law and AI
- 1.4 Need and Significance of AI in Cyberspace
- 1.5 Scope of Cyber Law and AI in Nepal
- 1.6 Sources of Cyber Law and AI
- 1.7 Challenges and Opportunity of AI
- 1.8 Ethical Concern in the Use of AI: Bias, Accountability and Transparency
- 1.9 Cyber Frauds, Identity Theft, Cyber Security, Database Protection and Dispute Settlement in Cyber Space

II. Psychological, Sociological, and Criminological Perspective of Cyber Crime (15 hrs)

- 2.1 Meaning, Definition and Rationale of Cyber Crime
- 2.2 Main Principles of Criminal Liability
- 2.3 Psychological Factors of Cybercrime
- 2.4 Sociological and Criminological Perspective of Cyber Crime
- 2.5 Types of Cyber Crimes:
 - 2.5.1 Cyber Crimes Against Individuals, Institutions and State
 - 2.5.2 Cyber Crime Against Women and Children

2.6 New Emerging Issue in Cyber Crime: Trojan on Smart Phones, Crime through Social Networking, Cloud Computing, Big Data, Internet of Things, AI and robotics, Deepfake, Blockchain, Fake URLs, Cyber Fraud, Military AI's, Ransomware, Spyware

III. E-Commerce, Intellectual Property in Cyber Space (12 hrs)

3.1 Meaning, Definition, Importance and Scope of E-Commerce

3.2 Digital Signature, Online Payment and Consumer Protection from Digital Forgery in E-Commerce

3.3 Meaning, Definition, Important and Scope of Intellectual Property

3.4 Copyright, Patent, Trademark, AI Products, Domain Name Related Rights in Cyber Space

3.5 Challenges in Protecting Intellectual Property Rights for AI Innovations

3.6 AI Generated Contract: Copyrightability and Ownership Issue

IV Jurisdiction Theories of Cyber Space and Prosecution (16 hrs)

4.1 Jurisdiction Theories in Cyber Space: Territoriality Theory, Nationality Theory, Passive Personality Theory, Protective Theory, Universality theory, Theory suggested in Budapest Convention

4.2 Jurisdiction of IT tribunal and IT Appellate Tribunal

4.3 Investigation and Prosecution in Cyber Crime:

4.3.1 Role of Investigating Officers (including INTERPOL)

4.3.2 Role of Public Prosecutor

4.3.3 Role of Adjudicating Officer

4.4 Punishment in Cyber Crime

4.5 Problems in Investigation and Prosecution

4.6 Liability of Internet Service provider

V. Issues in Cyber Space and AI (20 hrs)

5.1 Legal Personhood of AI: Does AI have Rights and Duties?

5.2 Right to Access to Cyber Space/Internet as a Human Rights

5.3 AI and Free speech, Freedom of Expression in Cyber Space

5.4 Social Responsibility and Use of AI

5.5 Blackbox Problem of AI

5.6 Influence of AI on Public Opinion, Values and Social Manipulation through AI algorithm

5.7 AI and Data Privacy: Right to Privacy Vs Electronic Surveillance (Social Surveillance through AI)

5.8 Tort Liability and AI

5.9 AI and Catastrophic Risk: Risk of Autonomous Weapons Powered by AI

5.10 Human AI Collaboration: Cognitive Synergies and Challenges

VI AI in Cybersecurity (6 hrs)

6.1 Interrelation between Cyber Threat, Cyber Crime and Cyber Security

6.2 Machine Learning Models for Analyzing Large Data Set to Detect Threat

AI's role in Enhancing Threat Detection Accuracy

VII Data Protection, Data Analysis and Law (15 hrs)

7.1 Introduction to Data Protection, and Analysis

7.2 Introduction to Legal Analysis

7.3 Need for Machine Learning for Lawyers

7.4 Introduction to Legal Reasoning and (Social) Scientific Reasoning

7.5 Lexicon of Data Analysis (Descriptive and Inferential)

7.6 Critically Assessing “Statistics”

7.7 Report Writing with Data

VIII Cyber Forensics (12 hrs)

8.1 Definition, Scope and Importance of Cyber Forensics

8.2 Evolution of Cyber Forensics and Its Role in Legal Research

8.3 Cyber Forensic and Admissibility of Electronic Evidence in Prosecution

8.4 Analyzing Crime through Digital Footprints

8.5 Challenges in Cyber Forensic in Investigation, such as Data Integrity, Encryption, and Jurisdictional Issue

IX Interrelationship between Technology and Legal System (9 hrs)

9.1 Overview of AI Application in Law: Legal Research, Contract Drafting, Dispute Resolution, Compliance, and Analysis

9.2 Role of Technology in Legal System: E-Courts, Online ADR, Legal Tech Startups

9.3 Concept of AI as Juror, Judge and Policy Maker

9.4 Policy initiatives of International Organizations in the field of Cyber-Crime & AI

CONTENT ELABORATION AND MODUS OPERANDI

Unit Objective	Content	Learning Outcomes	Activities	References
<u>Unit I:</u> The main objective of this unit is to introduce the Cyber Law and AI and to familiarize students with the genesis and development of Cyber Law in Nepal.	<p>I. Introduction (20 hrs)</p> <p>1.1 Meaning and Definition of Cyber Law and AI</p> <p>1.2 Nature and Importance of Cyber Law and AI</p> <p>1.3 Genesis and Development of Cyber Law and AI</p> <p>1.4 Need and Significance of AI in Cyberspace</p> <p>1.5 Scope of Cyber Law and AI in Nepal</p> <p>1.6 Sources of Cyber Law and AI</p> <p>1.7 Challenges and Opportunity of AI</p> <p>1.8 Ethical Concern in the Use of AI: Bias, Accountability and Transparency</p> <p>1.9 Cyber Frauds, Identity Theft, Cyber Security, Database Protection and Dispute Settlement in Cyber Space</p>	<p>After the completion of this unit students will be able to:</p> <ul style="list-style-type: none"> • Define Cyber Law & AI • Affirm nature and importance of Cyber Law & AI • Explain the Genesis and Development of Cyber Law & AI • Express the Need and Scope of Cyber Law & AI • Specify the Source of Cyber Law • Explain about the ethical concern for the use of AI 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Watching video lecture • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises • Web-based assignment 	<ul style="list-style-type: none"> • Edwards & Waelde (ed.), (2000) • Lloyd, Ian. J. (2004) • Reed, Chris, (2000) • Rider, Rodney D, (2000) • Ronald & MacDonald (2005) • Singh, Yatindra Justice, (2005) • Jaiswal, Bhupendra & Amita Verma (2024) • Juneja, Dipesh (2024)
<u>Unit II</u> The main objective of this unit is to Identify Psychological, Sociological and Criminological Presentive of the Cyber Crime	<p>II. Psychological, Sociological, and Criminological Perspective of Cyber Crime (15 hrs)</p> <p>2.1 Meaning, Definition and Rationale of Cyber Crime</p> <p>2.2 Main Principles of Criminal Liability</p> <p>2.3 Psychological Factors of Cybercrime</p> <p>2.4 Sociological and Criminological Perspective of Cyber Crime</p> <p>2.5 Types of Cyber Crimes:</p> <ul style="list-style-type: none"> 2.5.1 Cyber Crimes Against Individuals, Institutions and State 2.5.2 Cyber Crime Against Women and Children <p>2.6 New Emerging Issue in Cyber Crime: Trojan on Smart</p>	<p>After the completion of this unit students will be able to:</p> <ul style="list-style-type: none"> • Define Cyber Crime • Explain Principles of Criminal Liability • Explain Psychological, Sociological and Criminological factors of Cyber Crime • Express the types of Cyber Crimes • Explain about the new emerging trends of Cyber Crime 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Watching video lecture • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises • Web-based assignment 	<ul style="list-style-type: none"> • Edwards & Waelde (ed.), (2000) • Lloyd, Ian. J. (2004) • Reed, Chris, (2000) • Rider, Rodney D, (2000) • Ronald & MacDonald (2005) • Singh, Yatindra Justice, (2005) • Jaiswal, Bhupendra & Amita Verma (2024)

	Phones, Crime through Social Networking, Cloud Computing, Big Data, Internet of Things, AI and robotics, Deepfake, Blockchain, Fake URLs, Cyber Fraud, Military AI's, Ransomware, Spyware			• Juneja, Dipesh (2024)
<u>Unit- III</u> The main objective of this unit is to familiarize E-Commerce, Intellectual Property Rights and its interrelationship with Cyber Law	<p>III. E-Commerce, Intellectual Property in Cyber Space (12 hrs)</p> <p>3.1 Meaning, Definition, Importance and Scope of E-Commerce</p> <p>3.2 Digital Signature, Online Payment and Consumer Protection from Digital Forgery in E-Commerce</p> <p>3.3 Meaning, Definition, Important and Scope of Intellectual Property</p> <p>3.4 Copyright, Patent, Trademark, AI Products, Domain Name Related Rights in Cyber Space</p> <p>3.5 Challenges in Protecting Intellectual Property Rights for AI Innovations</p> <p>3.6 AI Generated Contract: Copyrightability and Ownership Issue</p>	<p>After the completion of this unit students will be able to:</p> <ul style="list-style-type: none"> ◆ Interpret Meaning, Definition and Importance of E-Commerce ◆ Express the fraudulent activities in Cyber Space such as: Digital Signature Fraud, Consumer Protection from such fraud ◆ Mention about Meaning, Definition Importance and Scope of IP ◆ Outline the challenges in protecting IP rights 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Watching video lecture • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises • Web-based assignment 	<ul style="list-style-type: none"> • Edwards & Waelde (ed.), (2000) • Lloyd, Ian. J. (2004) • Reed, Chris, (2000) • Rider, Rodney D, (2000) • Ronald & MacDonald (2005) • Singh, Yatindra Justice, (2005) • Jaiswal, Bhupendra & Amita Verma (2024) • Juneja, Dipesh (2024)

<p><u>Unit IV</u> The main objective of this unit is to put forward the Jurisdiction Theories of Cyber Crime, and Prosecution in the case of Cyber Crime</p>	<p>IV Jurisdiction Theories of Cyber Space and Prosecution (16 hrs)</p> <p>4.1 Jurisdiction Theories in Cyber Space: Territoriality Theory, Nationality Theory, Passive Personality Theory, Protective Theory, Universality theory, Theory suggested in Budapest Convention</p> <p>4.2 Jurisdiction of IT tribunal and IT Appellate Tribunal</p> <p>4.3 Investigation and Prosecution in Cyber Crime:</p> <p>4.3.1 Role of Investigating Officers (including INTERPOL)</p> <p>4.3.2 Role of Public Prosecutor</p> <p>4.3.3 Role of Adjudicating Officer</p> <p>4.4 Punishment in Cyber Crime</p> <p>4.5 Problems in Investigation and Prosecution</p> <p>4.6 Liability of Internet Service provider</p>	<p>After the completion of this unit students will be able to:</p> <ul style="list-style-type: none"> ◆ State Jurisdiction Theories in Cyber Space ◆ Outline the Jurisdiction of IT Tribunal and IT Appellate tribunal ◆ Examine the Prosecution process in Cyber Crime ◆ Express the Punishment in Cyber Crime ◆ Identify the Liability of ISP 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Watching video lecture • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises • Web-based assignment 	<ul style="list-style-type: none"> • Edwards & Waelde (ed.), (2000) • Lloyd, Ian. J. (2004) • Reed, Chris, (2000) • Rider, Rodney D, (2000) • Ronald & MacDonald (2005) • Singh, Yatindra Justice, (2005) • Jaiswal, Bhupendra & Amita Verma (2024) • Juneja, Dipesh (2024)
<p><u>Unit-V</u> The main objective of this unit is to accord the students about the various issues in Cyber Space</p>	<p>V. Issues in Cyber Space and AI (20 hrs)</p> <p>5.1 Legal Personhood of AI: Does AI have Rights and Duties?</p> <p>5.2 Right to Access to Cyber Space/Internet as a Human Rights</p> <p>5.3 AI and Free speech, Freedom of Expression in Cyber Space</p> <p>5.4 Social Responsibility and Use of AI</p> <p>5.5 Blackbox Problem of AI</p> <p>5.6 Influence of AI on Public Opinion, Values and Social Manipulation through AI algorithm</p> <p>5.7 AI and Data Privacy: Right to Privacy Vs Electronic Surveillance (Social Surveillance through AI)</p> <p>5.8 Tort Liability and AI</p>	<p>After the completion of this unit students will be able to:</p> <ul style="list-style-type: none"> ◆ Define Legal Personality of AI ◆ Mention about the Right to internet as Basic Human Right ◆ Mention about the Social Responsibility of the use of AI ◆ Mention about the Blackbox Problem of AI ◆ Mention about the Interrelationship between AI and Data Privacy ◆ Explain about relationship between 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Watching video lecture • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises • Web-based assignment 	<ul style="list-style-type: none"> • Edwards & Waelde (ed.), (2000) • Lloyd, Ian. J. (2004) • Reed, Chris, (2000) • Rider, Rodney D, (2000) • Ronald & MacDonald (2005) • Singh, Yatindra Justice, (2005) • Jaiswal, Bhupendra & Amita Verma (2024)

	<p>5.9 AI and Catastrophic Risk: Risk of Autonomous Weapons Powered by AI</p> <p>5.10 Human AI Collaboration: Cognitive Synergies and Challenges</p>	<p>the Tort Liability and AI</p> <ul style="list-style-type: none"> ◆ Mentions about the Catastrophic risk that can be caused by AI ◆ Also Mentions about possible Human-AI collaborations 		
<p><u>Unit-VI</u></p> <p>The main objective of this unit is to explain about the various aspect of AI in Cyber Security</p>	<p>VI AI in Cybersecurity (6 hrs)</p> <p>6.1 Interrelation between Cyber Threat, Cyber Crime and Cyber Security</p> <p>6.2 Machine Learning Models for Analyzing Large Data Set to Detect Threat</p> <p>AI's role in Enhancing Threat Detection Accuracy</p>	<p>After the completion of this unit students will be able to:</p> <ul style="list-style-type: none"> ◆ Identify the interrelationship between Cyber-crime, Cyber Threats and Cyber ◆ Mention about Machine Learning Models 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Watching video lecture • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises • Web-based assignment 	<ul style="list-style-type: none"> • Edwards & Waelde (ed.), (2000) • Lloyd, Ian. J. (2004) • Ronald & MacDonald (2005) • Singh, Yatindra Justice, (2005) • Jaiswal, Bhupendra & Amita Verma (2024)
<p><u>Unit-VII</u></p> <p>The main objective of this unit is to accord the students about Data</p>	<p>VII Data Protection, Data Analysis and Law (15 hrs)</p> <p>7.1 Introduction to Data Protection, and Analysis</p> <p>7.2 Introduction to Legal Analysis</p> <p>7.3 Need for Machine Learning for Lawyers</p>	<p>After the completion of this unit students will be able to:</p> <ul style="list-style-type: none"> ◆ Identify and explain about the Data Protection, Legal Analysis and Data Analysis 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Watching video lecture • Readings 	<ul style="list-style-type: none"> • Edwards & Waelde (ed.), (2000) • Lloyd, Ian. J. (2004) • Ronald & MacDonald (2005)

<p>Protection , Data Analysis and its interrelation with the Law</p>	<p>7.4 Introduction to Legal Reasoning and (Social) Scientific Reasoning 7.5 Lexicon of Data Analysis (Descriptive and Inferential) 7.6 Critically Assessing “Statistics” 7.7 Report Writing with Data</p>	<ul style="list-style-type: none"> ◆ Mention about the Provision of Machine Learning for Lawyers ◆ Mention about the Legal Reasoning and Social Scientific Reasoning ◆ Utilize the Statistics for analysis of data 	<ul style="list-style-type: none"> • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises • Web-based assignment 	<ul style="list-style-type: none"> • Singh, Yatindra Justice, (2005) • Jaiswal, Bhupendra & Amita Verma (2024) • Juneja, Dipesh (2024) 	
<p><u>Unit-VIII</u> The main objective of this unit is to impart knowledge of Cyber Forensics to the Scholars</p>	<p>VIII Cyber Forensics (12 hrs)</p> <p>8.1 Definition, Scope and Importance of Cyber Forensics 8.2 Evolution of Cyber Forensics and Its Role in Legal Research 8.3 Cyber Forensic and Admissibility of Electronic Evidence in Prosecution 8.4 Analyzing Crime through Digital Footprints 8.5 Challenges in Cyber Forensic in Investigation, such as Data Integrity, Encryption, and Jurisdictional Issue</p>	<p>After the completion of this unit students will be able to:</p> <ul style="list-style-type: none"> ◆ Interpret Meaning, Definition and Importance of E-Commerce ◆ Express the fraudulent activities in Cyber Space such as: Digital Signature Fraud, Consumer Protection from such fraud ◆ Mention about Meaning, Definition Importance and Scope of IP ◆ Outline the challenges in protecting IP rights 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Watching video lecture • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises • Web-based assignment 	<ul style="list-style-type: none"> • Singh, Yatindra Justice, (2005) • Jaiswal, Bhupendra & Amita Verma (2024) • Juneja, Dipesh (2024) • Reed, Chris, (2000) • Rider, Rodney D, (2000) 	
<p><u>Unit-IX</u> The main objective of this unit is to accord the students about the interrelationship between Law and Technology</p>	<p>IX Interrelationship between Technology and Legal System (9 hrs)</p> <p>9.1 Overview of AI Application in Law: Legal Research, Contract Drafting, Dispute Resolution, Compliance, and Analysis 9.2 Role of Technology in Legal System: E-Courts, Online ADR, Legal Tech Startups 9.3 Concept of AI as Juror, Judge and Policy Maker 9.4 Policy Initiatives of International Organizations in the field of Cyber-crime & AI.</p>	<p>After the completion of this unit students will be able to:</p> <ul style="list-style-type: none"> ◆ Identify and Explain about the Application of AI in Law ◆ Express the role of Technology in Legal System ◆ Explain about the concept of AI as Juror, Judge and Policy Maker. ◆ Analyze the ongoing policy draft of international organizations (UN through UNODC, 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Watching video lecture • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises • Web-based assignment 	<ul style="list-style-type: none"> • Singh, Yatindra Justice, (2005) • Jaiswal, Bhupendra & Amita Verma (2024) • Juneja, Dipesh (2024) • Reed, Chris, (2000) • Rider, Rodney D, (2000) 	

		UNICRI) in the field of cyber-crime & AI.		
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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:

National Instruments Related to Cyber Law*

- Constitution of Nepal, 2072 (2015)
- Muluki Criminal Code, 2074 (2018)
- Muluki Criminal Procedure Code, 2074 (2018)
- Muluki Civil Code, 2074 (2018)
- Muluki Civil Procedure Code, 2074 (2018)
- Electronic Transaction Act, 2063 (2006)
- Children Act, 2075 (2018)
- Copy Right Act, 2059 (2002)
- Patent, Design and Trademark Act, 2022 (1965)
- ICT Policy, 2072 (2015)
- National Cyber-Security Policy, 2080 (2023)
- AI Policy, 2082 (2025)
- Cases Decided by Supreme Court of Nepal

International Instruments related to Cyber Law and AI

- WIPO Copyright Treaty, 1996
- Budapest Convention on Cyber Crime, 2001
- UN Convention on the Use of Electronic Communications in International Contracts, 2005
- EU AI Act, 2024

*** Students are requested to study the related provisions of above-mentioned laws (with amendments)**

Books

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- Edwards & Waelde (ed.), (2000), *Law and the Internet*: A Framework for Electronic Commerce, HART publishing, London.
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- Jaiswal, Bhupendra & Amita Verma (2024), *Artificial Intelligence, Technology and Cyber Law: Challenges and Future Prospects*, Integrity Education, India.
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- Mukhia, Dr. Bal Bahadur, (2015), *Intellectual Property Law*, Mission Legal Service P. Ltd, Lalitpur, Nepal.
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- Sharma, Narayan Prasad, (2015), *Cyberspace and the Cyber Law*, Koselee Prakashan, Kathmandu.
- Singh, Yatindra Justice, (2005), *Cyber Law*, Universal Law Publishing, New Delhi.
- Verma, S.K. & Mittal, Raman (eds.) (2004), *Legal Dimensions of Cyberspace*, Indian Law Institute, New Delhi.

Articles

- Adhikari, Pravakar, (2004), "Emergence of IT and Need of Cyber Law and its Impact on IPR", Nepal Law Review, No. 1 and 2 Kathmandu Nepal law Campus (2004).
- Mukhia, Bal Bahadur Dr., (2008), "Role of Effectual CMO for Copyright Protection", Nayadoot, English Special Issue, Year 38, No.171, Vol-6, Nepal Bar Association, Kathmandu, Nepal.
- (2001), "Role of law For Strengthening ICT in Nepal" Annual Survey of Nepal Law, Nepal Bar Council, Kathmandu, Nepal.
- (2001), "Legal Aspects of Incorporeal Property Rights with Special Reference to Industrial Property in Nepal" (Research), Faculty of Law, Tribhuvan University, Nepal.
- Nepal, Manish (2018), "Cyber Victimization of Woman in Nepal: A Survey" Nepal Bar Council Law Journal, Nepal Bar Council, Kupondole, Nepal.

Evaluation Scheme

Schemes	Total weight-age
<u>Internal evaluation</u>	
• 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-semester Evaluation (Assignments and Projects)	Mid-term and End-semester Exams
a) Unit Assignments/Projects/ b) Reviews & Discussions on Issues c) Case Study/ Situation Analysis d) Participation in Interactions with the Tutor e) Quizzes f) Other Assignments	a) Descriptive/ Long Answer Question b) Short Answer Questions

Rajarshi Janak University Faculty of Humanities and Law

Curriculum for

F.M- 100

Master of Laws (Legum Magister) (LL. M)

P.M- 50

Course: Business Law- I (Intellectual Property Law)

Credit Hour: 6

Course Code: Law 606

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 explains the students with another branch of intellectual property; 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.
- explain 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. in the protection of intellectual property rights.

COURSE CONTENTS

1. Introduction to Intellectual Property (12 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 (20 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 (16 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 (15 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 (16 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 (16 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
- 6.7 Case studies

7. Authorities & Organization Dealing with Intellectual Property in Nepal (15 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

8. Dispute Settlement mechanism (12 hrs)

- 8.1 Main Features of ADR Mechanism
- 8.2 Dispute Settlement Mechanism under GATT, 1947
- 8.3 Dispute Settlement Mechanism under WTO
- 8.4 Dispute Settlement Mechanism under WIPO: WIPO Arbitration & Mediation Centre
- 8.5 Alternative Dispute Settlement Mechanism under Nepali Law: Mediation Council, Nepal Council of Arbitration
- 8.6 Relevant Legislation: Mediation Act, 2068 (2011); Arbitration Act, 2055 (1999)

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 Intellectual Property (15 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	<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 2 Laws on Copyright Protection (20 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	<ul style="list-style-type: none"> ❖ Discuss about the laws related to copyright protection. ❖ Discuss about the concept, justification & element of copyright. ❖ Explain about moral & economic rights of copyright. ❖ Explain about condition for exercise of copyright ownership & remedies & defense in the infringement of copyright. ❖ Explain about performer's rights, rights of sound recordings, rights of broadcasting organization. ❖ Discuss about national & international instrument related to copyright protection. 	<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-III 3 Laws on Patent Protection (16 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	<ul style="list-style-type: none"> ❖ Analytically discuss about laws on patent protection. ❖ Explain about the concept, justification & element of copyrights. ❖ Discuss about the subsistence of patent ownership & patent specification. ❖ Exercise of patent ownership & can be able to exercise remedy & defense against patent protection. 	<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).

3.6 Judicial Approach towards Patent Protection	❖ Discuss about national & international instruments related for IP protection & find its interrelation.		
Unit-IV 4 Laws on Industrial Design Protection (15 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	❖ Discuss about laws on industrial design protection. ❖ Explain about the concepts, justification & elements of industrial design. ❖ Explain about the ownership of industrial design & exercise of trademark for such protection. ❖ Explain about the remedy & defense in the infringement of industrial design ❖ Discuss about national & international instruments and also find its interrelations.	• Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises	• 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-V 5 Laws Against Trademark Infringement (16 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	❖ Explain about the concept, justification & elements of trademark. ❖ Discuss about the major forms of marks. ❖ Explain about the ownership of trademark. ❖ Discuss about the possible remedy & defense for the infringement of trademark rights. ❖ Discuss about the national & international instruments related to such trademark protection. Also, find the interrelation between them.	• Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions	• 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-VI 6 Introduction to Other Forms of Intellectual Properties (16 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 6.7 Case studies	❖ Discuss about other forms of intellectual property such as: geographical indication; lay out design of IC; trade secret etc. ❖ Express about how these IP can be protected & if infringed what are the possible remedies.	• Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation	• 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 VII 7 Authorities & Organization Dealing with Intellectual Property in Nepal (15 hrs.)	❖ Discuss about authorities & organizations dealing with IP in Nepal such as DOI, NCRO, Department of	• Assignment • Presentation • Brainstorming • Case Analysis • Readings	• Chawla (2007). • Cornish (2001). • Drahos & Mayne (eds.) (2002). • Khanal (2020).

<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>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"> • Case Based Studies • Blended Learning • Self-evaluation 	<ul style="list-style-type: none"> • Nepal (2021). • Narayan, P (1990). • Sangal (1994). • Singh (ed.) (2005). • Tritton (2002). • Wadera (2001).
<p>Unit VIII</p> <p>9. Dispute Settlement Mechanism (12 hrs.)</p> <p>9.1 Main Features of ADR Mechanism</p> <p>9.2 Dispute Settlement Mechanism under GATT, 1947</p> <p>9.3 Dispute Settlement Mechanism under WTO</p> <p>9.4 Dispute Settlement Mechanism under WIPO: WIPO Arbitration & Mediation Centre</p> <p>9.5 Alternative Dispute Settlement Mechanism under Nepali Law: Mediation Council, Nepal Council of Arbitration</p> <p>9.6 Relevant Legislation: Mediation Act, 2068 (2011); Arbitration Act, 2055 (1999)</p>	<p>❖ Explain the features of alternative resolution procedure.</p> <p>❖ Explain dispute settlement mechanism under GATT, WTO, WIPO.</p> <p>❖ Enumerate the alternative dispute settlement mechanism in Nepali laws.</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>Total= 125 Lecture hours (hrs.)</p>			

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

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.

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).

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.

Evaluation Scheme

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

Evaluation Methods/ Components

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

Rajarshi Janak University
Faculty of Humanities and Law

Curriculum for F.M- 100
Master of Laws (Legum Magister) (LL. M) P.M- 50
Course: Business Law-II (International Trade Law & Arbitration)
Credit Hour: 6
Course Code: Law 607
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). Arbitration is a binding, out-of-court dispute resolution method where parties present their case to a neutral third party, an arbitrator, who makes a final decision. This process is governed by an agreement between the parties and results in a legally enforceable "award" that is generally final, with very limited grounds for appeal. It is a form of alternative dispute resolution that can be faster and more private than a traditional court trial. 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 (12 Th)

- 1.1 Meaning and Evolution of International Trade Law
- 1.2 Sources of International Trade Law
- 1.3 Concept of Free Trade v. Protectionism
- 1.4 Restrictive Business Practice and Competition Law
- 1.5 Concept of Bilateral Trade Agreement and Bilateral Investment Treaties
- 1.6 Theories of International Trade: Theories of Absolute Advantage, Comparative Advantage and Opportunity Cost Theory, Theorem of Factor Price Equalization, Heckscher-Ohlin Theory of Trade, Theory of Intervention (Tariffs, Quota, Non-tariff Barriers)
- 1.7 Multinational Corporations (MNCs) and International Trade
- 1.8 Foreign Investment and Technology Transfer
- 1.9 Nepalese Trade Integration Strategies
- 1.10 Trend of International Trade and Nepalese Context

2. WTO and its Integrals (20 Th)

- 2.1 Evolution of International Trade from GATT to WTO: Marrakesh Agreement to Establish WTO
- 2.2 WTO: Objective, Function and Structure
- 2.3 Decision making Process of WTO
- 2.4 Principles of WTO: Non-Discrimination- Most Favored Nation (MFN), National Treatment; Exception to MFN, and Concept of Tariff Binding
- 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: DSU, Jurisdiction and Applicable mechanism, Dispute Settlement Procedure, Formation and Working of Panels, Working of Appellate Bodies, Enforcement and Legal effect of Panels and Appellate Bodies Reports, DSB recommendation and Rulings
- 2.8 Difference between GATT and WTO Dispute Settlement Mechanism
- 2.9 Exceptions: General Exception (Art. XX of GATT) & National Security Exception (Art. XXI of GATT)

3. Barriers to International Trade (8 hrs)

- 3.1 Concept of Tariff, and Non-Tariff Barriers to Trade
- 3.2 Economic Barriers: Tariffs, Quotas, Subsidies, Voluntary Export Restraint
- 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.

4. Trade Remedies Under WTO (8 Th)

- 4.1 Dumping and Anti-dumping Measures
- 4.2 Plurilateral Trade Agreements (Art. XXIV of GATT)
- 4.3 Agreement on Subsidies and Countervailing Measures
- 4.4 Tariff, Quantitative Restrictions and other Barriers to Trade: Reciprocity, Balance of Payment, Developmental Policy
- 4.5 Safeguarding Measures

5. Regional Trade Agreements (10 Th)

- 5.1 Objectives, & Process of Formation of Regional Trade Agreements (RTAs)
- 5.2 Prospects & Challenges of RTAs
- 5.3 Observation of: EU, SAFTA, SATIS, BIMSTEC, NAFTA (USMCA)

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

- 6.1 Landlocked and LDC: Special and Differential Treatment, Trade Preferences
- 6.2 Assessment of India-Nepal Trade Agreement
- 6.3 Assessment of India-Nepal Transit Agreement

7. Law Governing International Sales of Goods (16 Th)

- 7.1 Vienna Convention on International Contract for Sales of Goods
- 7.2 International Sales of Goods Contract: Formation of Contract, Obligation and Rights of Buyers and Sellers, Performance of Contract, Remedies for Breach of Contract
- 7.3 Transport Documents: Bill of Lading, Consignment Bill, Warehouse Receipt, Use of Blockchain Technology
- 7.4 Hague Visby Rules, 1924 (amended in 1968): Carrier's Responsibility- Due Diligence for Seaworthiness; Carriers Liability-Bills of Lading
- 7.5 Laws and Principles Governing Multi-Modal Transportation of Goods
- 7.6 International Convention on Carriage of Goods by Sea (Hamburg Rules, 1978; Hague Visby Rules, 1968; Rotterdam Rules, 2008)
- 7.7 Convention on the Contract for International Carriage of Goods by Rail (1980 Convention & URL Convention, 2023) & by Road (CMR, 1956)
- 7.8 International Convention on a contract of International Carriage of Goods by Air (Warsaw Convention, 1929; Montreal Convention, 1999)

8. International Financial Transactions (6 Th)

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

9. Introduction to International Commercial Arbitration (15 Th)

- 9.1 Concept of International Commercial Arbitration: Lex fori/ lex Arbitri, Choice of Law, Conflict of Law/ Applicable Law, Party Autonomy, Freedom of Contract, Reciprocity/ Sovereignty, Unification/ Harmonization
- 9.2 Theories in International Commercial Arbitration: Jurisdiction Theory, Contractual Theory, Hybrid Theory, Autonomous theory
- 9.3 Concept of “forum shopping” and Forum non-convenient
- 9.4 Judicial Features of an Arbitral Proceedings
- 9.5 Applicable Law in an Arbitral Proceedings
- 9.6 Comparative Analysis between Nepali Arbitration Law and UNCITRAL Modal Rules (on Arbitration)

10. Fundamentals of Arbitration (12 Th)

- 10.1 General Provisions: Process of Arbitration, Basic Features of Arbitration, Authorities
- 10.2 Arbitration Agreement: Definition and General Principles, Requirement of Valid Arbitration, Termination of Arbitration Agreement
- 10.3 Conduct of Arbitral Proceedings: Prerequisite
- 10.4 Making of Arbitral Award and Termination of the Proceedings
- 10.5 Recourse against Arbitral Award
- 10.6 Finality and Enforcement of Arbitral Award
- 10.7 Legality and Fairness of Arbitral Award
- 10.8 Moot Arbitration: subject teachers are requested to conduct at least one moot arbitration

11. Recognition and Enforcement of Foreign Arbitral Award (10 Th)

- 11.1 Recognition and Enforcement of foreign Arbitral Award
- 11.2 Foreign Investment Agreements and Enforcement of Award
- 11.3 New-York Convention, 1958
- 11.4 Challenges in the Enforcement of a Foreign Arbitral Award
- 11.5 Supervision of an Arbitral Tribunal by a Formal 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 to International Trade Law (ITL) (12 Th) 1.1 Meaning and Evolution of International Trade Law 1.2 Sources of International Trade Law 1.3 Concept of Free Trade v. Protectionism 1.4 Restrictive Business Practice and Competition Law 1.5 Concept of Bilateral Trade Agreement and Bilateral Investment Treaties 1.6 Theories of International Trade: Theories of Absolute Advantage, Comparative Advantage and Opportunity Cost Theory, Theorem of Factor Price Equalization, Heckscher-Ohlin Theory of Trade, Theory of Intervention (Tariffs, Quota, Non-tariff Barriers) 1.7 Multinational Corporations (MNCs) and International Trade 1.8 Foreign Investment and Technology Transfer 1.9 Nepalese Trade Integration Strategies 1.10 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 (20 Th) 2.1 Evolution of International Trade from GATT to WTO: Marrakesh Agreement to Establish WTO 2.2 WTO: Objective, Function and Structure 2.3 Decision making Process of WTO 2.4 Principles of WTO: Non-Discrimination- Most Favored Nation (MFN), National Treatment; Exception to MFN, and Concept of Tariff Binding 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: DSU, Jurisdiction and Applicable mechanism, Dispute Settlement Procedure, Formation and Working of Panels, Working of Appellate Bodies, Enforcement and Legal effect of Panels and Appellate Bodies Reports, DSB recommendation and Rulings 2.8 Difference between GATT and WTO Dispute Settlement Mechanism 2.9 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).

<p>Unit-III</p> <p>3 Barriers to International Trade (8 Th)</p> <p>3.1 Concept of Tarriff, and Non-Tarriff Barriers to Trade</p> <p>3.2 Economic Barriers: Tariffs, Quotas, Subsidies, Voluntary Export Restrain</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>❖ Analytically discuss about the barrier to international trade.</p> <p>❖ Explain about the economic barriers, non-tariff barriers, & other barriers to international trade.</p> <p>❖ Discuss about the of limitation of free trade.</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-IV</p> <p>4 Trade Remedies Under WTO (8 Th)</p> <p>4.1 Dumping and Anti-dumping Measures</p> <p>4.2 Plurilateral Trade Agreements (Art. XXIV of GATT)</p> <p>4.3 Agreement on Subsidies and Countervailing Measures</p> <p>4.4 Tariff, Quantitative Restrictions and other Barriers to Trade: Reciprocity, Balance of Payment, Developmental Policy</p> <p>4.5 Safeguarding Measures</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"> • 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).
<p>Unit-V</p> <p>5 Regional Trade Agreements (10 Th)</p> <p>5.1 Objectives, & Process of Formation of Regional Trade Agreements (RTAs)</p> <p>5.2 Prospects & Challenges of RTAs</p> <p>5.3 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-VI</p> <p>6 Landlocked and Least Developed Countries (LDC) (8 Th)</p> <p>6.1 Landlocked and LDC: Special and Differential Treatment, Trade Preferences</p> <p>6.2 Assessment of India-Nepal Trade 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 	<ul style="list-style-type: none"> • Bansal (2012). • Bhalla (2013). • Born (2015). • Bossche (2016). • Chawla (2012). • Hudec (2010). • Moses (2017).

6.3 Assessment of India-Nepal Transit Agreement		<ul style="list-style-type: none"> • Blended Learning • Self-evaluation 	<ul style="list-style-type: none"> • Schmitthoff (2012). • Singh (2018). • WTO (2017).
Unit VII 7 Law Governing International Sales of Goods (16 Th) 7.1 Vienna Convention on International Contract for Sales of Goods 7.2 International Sales of Goods Contract: Formation of Contract, Obligation and Rights of Buyers and Sellers, Performance of Contract, Remedies for Breach of Contract 7.3 Transport Documents: Bill of Lading, Consignment Bill, Warehouse Receipt, Use of Blockchain Technology 7.4 Hague Visby Rules, 1924 (amended in 1968): Carrier's Responsibility- Due Diligence for Seaworthiness; Carriers Liability-Bills of Lading 7.5 Laws and Principles Governing Multi-Modal Transportation of Goods 7.6 International Convention on Carriage of Goods by Sea (Hamburg Rules, 1978; Hague Visby Rules, 1968; Rotterdam Rules, 2008) 7.7 Convention on the Contract for International Carriage of Goods by Rail (1980 Convention & URL Convention, 2023) & by Road (CMR, 1956) 7.8 International Convention on a contract of International Carriage of Goods by Air (Warsaw Convention, 1929; Montreal Convention, 1999)	❖ Discuss about laws governing international sales of goods. ❖ Discuss about Vienna Convention on International Contract for Sales of Goods. ❖ Explain the process of 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. ❖ Discuss Hague Visby Rules, 1924 about carriers' liability & responsibility. ❖ Mention about the laws & principles governing multi-modal transportation of goods. ❖ Explain Hamburg Rules, 1978; Hague Visby Rules, 1968; Rotterdam rules, 2008. ❖ Explain 1980 Convention; URL Convention, 2023; CMR, 1956. ❖ Also explain, Warsaw Convention, 1929; Montreal Convention, 1990.	<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).
Unit VIII 8 International Financial Transactions (6 Th) 8.1 Financial Instruments: Bills of Exchange, Collection Arrangements, Letter of Credit, Bank Guarantee, Contract Guarantee, Factoring, Forfaiting, Financial Leasing & other forms of Merchant Finance. 8.2 Incoterms Rules 8.3 International Bill of Payment	❖ 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.	<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).
Unit IX 9 Introduction to International Commercial Arbitration (ICA) (15 Th) 9.1 Concept of International Commercial Arbitration: Lex fori/ lex Arbitri, Choice of Law, Conflict of Law/ Applicable Law, Party Autonomy, Freedom	❖ Enumerate general concept & terminologies of ICA. ❖ Explain theories of ICA. ❖ Explain the concept of "forum shopping" & "forum non convenient".	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings 	<ul style="list-style-type: none"> • Bansal (2012). • Bhalla (2013). • Born (2015). • Bossche (2016). • Chawla (2012). • Hudec (2010).

of Contract, Reciprocity/ Sovereignty, Unification/ Harmonization 9.2 Theories in International Commercial Arbitration: Jurisdiction Theory, Contractual Theory, Hybrid Theory, Autonomous theory 9.3 Concept of “forum shopping” and “forum non-conveniens” 9.4 Judicial Features of an Arbitral Proceedings 9.5 Applicable Law in an Arbitral Proceedings 9.6 Comparative Analysis between Nepali Arbitration Law and UNCITRAL Modal Rules (on Arbitration)	♦ Discuss about the quasi-judicial nature of the tribunal, the procedural flexibility, & the limited but important role of state court in supporting & enforcing the process. ♦ Explain about the applicable laws in arbitral proceedings. ♦ Compare & contrast between Nepal Arbitration Act, 2055 & UNCITRAL Modal Law on International Commercial Arbitration, 1985 with amendments of 2006.	• Case Based Studies • Blended Learning • Self-evaluation	• Moses (2017). • Schmitthoff (2012). • Singh (2018). • WTO (2017).
Unit X 10 Fundamentals of Arbitration (12 Th) 10.1 General Provisions: Process of Arbitration, Basic Features of Arbitration, Authorities 10.2 Arbitration Agreement: Definition and General Principles, Requirement of Valid Arbitration, Termination of Arbitration Agreement 10.3 Conduct of Arbitral Proceedings: Prerequisite 10.4 Making of Arbitral Award and Termination of the Proceedings 10.5 Recourse against Arbitral Award 10.6 Finality and Enforcement of Arbitral Award 10.7 Legality and Fairness of Arbitral Award 10.8 Moot Arbitration	♦ Explain process of arbitration, basic features of arbitration & authorities in arbitral process. ♦ Interpret the provisions of arbitration agreement. ♦ Discuss about the conduct of arbitral proceedings. ♦ Discuss the process of making arbitral award & termination of such proceedings. ♦ Mention about the ground for setting aside an award. ♦ Discuss about the finality, enforceability, legality & fairness of an arbitral award. ♦ Conduct Arbitration.	• 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).
Unit XI 11 Recognition and Enforcement of Foreign Arbitral Award (10 Th) 11.1 Recognition and Enforcement of Foreign Arbitral Award 11.2 Foreign Investment Agreements and Enforcement of Award 11.3 New-York Convention, 1958 11.4 Challenges in the Enforcement of a Foreign Arbitral Award 11.5 Supervision of an Arbitral Tribunal by a Formal Court	♦ Discuss about the recognition & enforcement of foreign arbitral award. ♦ Explain New-York convention, 1958. ♦ Mention about the challenges & difficulty in the enforcement of foreign arbitral award. ♦ Discuss about the supervision of an arbitral tribunal by a formal court while generally adhering to the principle of minimum intervention in the actual merits of the dispute.	• 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= 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:

- *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> <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
Master of Laws (Legum Magister) (LL. M) P.M- 50
Course: Constitutional & Developmental Law-I (Constitutional Law & Constitutionalism)
Credit Hour: 6
Course Code: Law 608
Nature: Elective
Year: First

COURSE DESCRIPTION

This course intends to familiarize the students about the constitutionalism and advance theories and practices of constitutional law. The students would learn the crux and essence of the rule of law and its inconsistency with judicial review of statutes and judicial activism. They would be acquainted on leading constitutional rules and practices advanced through judicial interpretation of the constitution and laws. Additionally, it would make them able to interpret and analyze the complex constitutional issues. They would expand views and advance the knowledge of complex constitutional issues and make capable to examine them creatively. At the end student would be able to deeply comprehend complexities within the constitutional system and explore the ways ahead.

LEARNING OUTCOMES

At the end students are expected to-

- reasonably converse on the complex issues of constitutional law
- deeply comprehend the issues revolving around constitutionalism
- acquainted with critical issues of rule of law in a democracy
- learn the significance of judiciary to determine just, fair and reasonable law
- comprehend the role of judicial activism and PIL in a constitutional system
- know the role of separation of powers and check and balance in a democracy
- learn problem and prospects of the doctrine of judicial self-restraint

COURSE CONTENT

1. In and around Constitutionalism (12 hrs.)

- 1.1 Legitimate Constitutional Rules
- 1.2 Political wisdom- in '*making law according to law*'
- 1.3 Relying on Formal State (constitutional or political) Structure or Institutions- Rawls

- 1.4 Pluralism, Recognizing Personal Liberty
- 1.5 Publicly Known Rules/Law in Place
- 1.6 Limited Government
- 1.7 Existence of “just and fair” Law
- 1.8 Absence of Arbitrary Powers

2. Comparative Constitutional Practices- in brief (20 hrs.)

- 2.1 Constitutional Practices in Parliamentary System with reference to Nepal, India and UK
- 2.2 Constitutional Practices in Presidential Form of Governance with reference to USA
- 2.3 Constitutional Practices in Civil Law System with reference to France, Germany and Japan

3. Rule of Law (12 hrs.)

- 3.1 Equality in the Eye of Law
- 3.2 Equal and Equitable Rights and Privileges
- 3.3 Fair Procedures Established by Law
- 3.4 Legitimate and Reasonable Enforcement of Law
- 3.5 Abuse and Violation of Law is Inexcusable

4. Judicial Review (12 hrs.)

- 4.1 Constitutional Basis- concept of constitutional supremacy
- 4.2 Supremacy of the Constitution v. Sovereign Parliament
- 4.3 Scope and Extent of Judicial Review
- 4.4 Judicial Review-
 - (a) judicial review of legislation- English v. US approaches;
 - (b) judicial review of executive actions and
 - (c) review by appeal- review or revision of judicial decisions

5. Judicial Activism (12 hrs.)

- 5.1 Court Decision '*going beyond the provision of law*'
- 5.2 Product of Judicial Discretion
- 5.3 Scope and Extent
- 5.4 Discourse on Judicial Activism v. '*justice according to law*' (basic tenet of rule of law)
- 5.5 Ideological Difference between Judges and Jurists on the Acceptance of the Doctrine
- 5.6 Judicial Activism: a process to amending law
- 5.7 Judicial Activism: to the extent of amending constitutional clauses

6. Public Interest Litigation (15 hrs.)

- 6.1 Evolution of the Concept
- 6.2 Departing from the Letter of Law to the Discretion of Judges
- 6.3 A path to Judicial Activism
- 6.4 PIL: responding to insincerity of executive agencies
- 6.5 Comparing Social Interest Litigation (SAL- in US) and PIL
- 6.6 Setting Procedural Rules by the Judges
- 6.7 PIL Provisions in Constitution and Law in Nepal
- 6.8 PIL in the Prism of Rule of Law

7. Debates on Just, Fair and Reasonable Law (12 hrs.)

- 7.1 The Just, Fair and Reasonable law: *Universal rules*- respect to freedoms and its remedies; pluralism; publicly known laws and structures; limited government; absence of arbitrary powers
- 7.2 *Rules Applicable in Certain Areas under Socio-Cultural Influence* Such as- cow slaughtering, matriarchy/ patriarchy, setting marriageable age usually above 18
- 7.3 Rational and Reasonable Application of Judicial Discretion

8. Doctrine of Separation of Powers and Checks and Balance (18 hrs.)

- 8.1 State Powers Separated to Major three Agencies of the State- executive, judiciary and legislature
- 8.2 How Much Power is Fair to Give to Respective Agencies?
- 8.3 Doctrine of Non-interference to Each Other's' Work and Limitations
- 8.4 Exceptions –
- 8.5 Impeachment of Judge and Others is a Judicial Nature of Power of the Legislature
- 8.6 Delegated Legislation or Rule Making Power - a legislative nature of power of executive
- 8.7 Delegated Legislation or Courts Related Rule Making Power of the Supreme Court - a legislative nature of power

9. Doctrine of Self-judicial Restraint and its Effects (12 hrs.)

- 9.1 Meaning Self-judicial Restraint of the Courts
- 9.2 Applying Wisdom in Judicial Discretion and its Limits
- 9.3 Narrow Scope of Judicial Discretion in Civil Law System Countries
- 9.4 Risk of Misusing Power of Self-judicial Restraint
- 9.5 Limitation on Self-judicial Restraints

CONTENT ELABORATION AND MODUS OPERANDI

Units & Lecture Hours	Learning Outcomes (students will be able to:)	Mode of Delivery	Key Readings/ References
Unit-I 1. In and around Constitutionalism (12 hrs.) 1.1 Legitimate Constitutional Rules 1.2 Political wisdom- in 'making law according to law' 1.3 Relying on Formal State (constitutional or political) Structure or Institutions- Rawls 1.4 Pluralism, Recognizing Personal Liberty 1.5 Publicly Known Rules/Law in Place 1.6 Limited Government 1.7 Existence of "just and fair" Law 1.8 Absence of Arbitrary Powers	<ul style="list-style-type: none"> ❖ Explain legitimate constitutional rules. ❖ Discuss about political wisdom. ❖ Discuss about pluralism, personal liberty. ❖ Describe limited governance. ❖ Mention about just and fair law. ❖ Discuss about the arbitrary power. 	<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"> • Anderson (2008). • Basu (2008). • Dicey (1975). • Jowell & Oliver (eds.) (1994). • Rawls (1993). • Strong (1973). • Thapa (2023). • Wheare (1971).
Unit-II 2 Comparative Constitutional Practices- in brief (20 hrs.) 2.1 Constitutional Practices in Parliamentary System with reference to Nepal, India and UK 2.2 Constitutional Practices in Presidential Form of Governance with reference to USA 2.3 Constitutional Practices in Civil Law System with reference to France, Germany and Japan	<ul style="list-style-type: none"> ❖ Discuss about the constitutional practices in parliamentary system. ❖ Mention about the constitutional practices in presidential form of governance. ❖ Discuss about the constitutional practices in civil legal system. 	<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"> • Anderson (2008). • Basu (2008). • Dicey (1975). • Jowell & Oliver (eds.) (1994). • Rawls (1993). • Strong (1973). • Thapa (2023). • Wheare (1971).
Unit-III 3 Rule of Law (12 hrs.) 3.1 Equality in the Eye of Law 3.2 Equal and Equitable Rights and Privileges 3.3 Fair Procedures Established by Law 3.4 Legitimate and Reasonable Enforcement of Law 3.5 Abuse and Violation of Law is Inexcusable	<ul style="list-style-type: none"> ❖ Analytically discuss about the equality before the rule of law. ❖ Explain about the equal and equitable rights and privileges. ❖ Discuss about abuse and violation of law as inexcusable offences. 	<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"> • Anderson (2008). • Basu (2008). • Dicey (1975). • Jowell & Oliver (eds.) (1994). • Rawls (1993). • Strong (1973). • Thapa (2023). • Wheare (1971).
Unit-IV 4 Judicial Review (12 hrs.) 4.1 Constitutional Basis- concept of constitutional supremacy 4.2 Supremacy of the Constitution v. Sovereign Parliament 4.3 Scope and Extent of Judicial Review 4.4 Judicial Review-	<ul style="list-style-type: none"> ❖ Discuss about the constitutional supremacy. ❖ Debate about constitutional supremacy v. sovereign parliament. ❖ Discuss about the scope and extent of judicial review. ❖ Explain about judicial review of legislation; 	<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"> • Anderson (2008). • Basu (2008). • Dicey (1975). • Jowell & Oliver (eds.) (1994). • Rawls (1993). • Strong (1973). • Thapa (2023). • Wheare (1971).

<p>(a) judicial review of legislation- English v. US approaches; (b) judicial review of executive actions and (c) review by appeal- review or revision of judicial decisions.</p>	<p>executive actions; and review by appeal.</p>	<ul style="list-style-type: none"> • Review questions • Exercises 	
<p>Unit-V 5 Judicial Activism (12 hrs.) 5.1 Court Decision '<i>going beyond the provision of law</i>' 5.2 Product of Judicial Discretion 5.3 Scope and Extent 5.4 Discourse on Judicial Activism v. '<i>justice according to law</i>' (basic tenet of rule of law) 5.5 Ideological Difference between Judges and Jurists on the Acceptance of the Doctrine 5.6 Judicial Activism: a process to amending law 5.7 Judicial Activism: to the extent of amending constitutional clauses</p>	<p>❖ Explain about judicial activism and its scope. ❖ Discuss about judicial activism v. justice according to law. ❖ Discuss about the differences in acceptance of doctrine by jurist and judges.</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"> • Anderson (2008). • Basu (2008). • Dicey (1975). • Jowell & Oliver (eds.) (1994). • Rawls (1993). • Strong (1973). • Thapa (2023). • Wheare (1971).
<p>Unit-VI 6 Public Interest Litigation (15 hrs.) 6.1 Evolution of the Concept 6.2 Departing from the Letter of Law to the Discretion of Judges 6.3 A path to Judicial Activism 6.4 PIL: responding to insincerity of executive agencies 6.5 Comparing Social Interest Litigation (SAL- in US) and PIL 6.6 Setting Procedural Rules by the Judges 6.7 PIL Provisions in Constitution and Law in Nepal 6.8 PIL in the Prism of Rule of Law</p>	<p>❖ Explain about evolution of PIL. ❖ Discuss about the discretion used by judges in PIL cases which is beyond the rule of law. ❖ Discuss the concept of Social Interest Litigation. ❖ Explain about Nepalese experiences on PIL cases.</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"> • Anderson (2008). • Basu (2008). • Dicey (1975). • Jowell & Oliver (eds.) (1994). • Rawls (1993). • Strong (1973). • Thapa (2023). • Wheare (1971).
<p>Unit VII 7 Debates on Just, Fair and Reasonable Law (12 hrs.) 7.1 The Just, Fair and Reasonable law: <i>Universal rules</i>- respect to freedoms and its remedies; pluralism; publicly known laws and structures; limited government; absence of arbitrary powers 7.2 <i>Rules Applicable in Certain Areas under Socio-Cultural Influence</i> Such as- cow slaughtering, matriarchy/ patriarchy, setting marriageable age usually above 18 7.3 Rational and Reasonable Application of Judicial Discretion</p>	<p>❖ Discuss about the just, fair and reasonable law. ❖ Discuss about rules applicable in certain areas under socio-cultural influences. ❖ Nepalese experiences in the rational and reasonable applicable of judicial discretion.</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"> • Anderson (2008). • Basu (2008). • Dicey (1975). • Jowell & Oliver (eds.) (1994). • Rawls (1993). • Strong (1973). • Thapa (2023). • Wheare (1971).

<p>Unit VIII</p> <p>8 Doctrine of Separation of Powers and Checks and Balance (18 hrs.)</p> <p>8.1 State Powers Separated to Major three Agencies of the State- executive, judiciary and legislature</p> <p>8.2 How Much Power is Fair to Give to Respective Agencies?</p> <p>8.3 Doctrine of Non-interference to Each Other's' Work and Limitations</p> <p>8.4 Exceptions –</p> <p>8.5 Impeachment of Judge and Others is a Judicial Nature of Power of the Legislature</p> <p>8.6 Delegated Legislation or Rule Making Power - a legislative nature of power of executive</p> <p>8.7 Delegated Legislation or Courts Related Rule Making Power of the Supreme Court - a legislative nature of power</p>	<p>❖ Discuss about doctrine of separation of power and check and balance.</p> <p>❖ Explain about the doctrine of non-interference.</p> <p>❖ Discuss about the process of impeachment of judges.</p> <p>❖ Explain about the concept of delegated legislation.</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"> • Anderson (2008). • Basu (2008). • Dicey (1975). • Jowell & Oliver (eds.) (1994). • Rawls (1993). • Strong (1973). • Thapa (2023). • Wheare (1971).
<p>Unit IX</p> <p>9 Doctrine of Self-judicial Restraint and its Effects (12 hrs.)</p> <p>9.1 Meaning Self-judicial Restraint of the Courts</p> <p>9.2 Applying Wisdom in Judicial Discretion and its Limits</p> <p>9.3 Narrow Scope of Judicial Discretion in Civil Law System Countries</p> <p>9.4 Risk of Misusing Power of Self-judicial Restraint</p> <p>9.5 Limitation on Self-judicial Restraints</p>	<p>❖ Explain about the doctrine of self-judicial restraint and its effects.</p> <p>❖ Discuss judicial restraint in civil law system.</p> <p>❖ Explain about the limitation of self-judicial restraint.</p>	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • Anderson (2008). • Basu (2008). • Dicey (1975). • Jowell & Oliver (eds.) (1994). • Rawls (1993). • Strong (1973). • Thapa (2023). • Wheare (1971).
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

Basic Readings

- **The Constitution of Nepal, 2072 (2015).**
- **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, (2068). Sambidhanik Kanoon, Kathmandu. Lumbini Publication.**
- **Dicey, A. V. (1975). An Introduction to the Law of the Cosnstitution, New Delhi: Universal Law Publication.**
- **Dhungel, Surya P.S. et. Al., (1998). Commentary on the Nepalese Constitution, Kathmandu: DELF.**
- **Jowell, Jeffery & Dawn Oliver (eds) (1994). The Changing Constitutions, London: Clarendon Press.**
- **Pinnock J. Roland & John W. Chapman (eds.) (1983). Liberal Democracy, USA: NY University Press.**
- **Rawls, John (1993). Political Liberalism, Cambridge: Harvard University Press.**
- **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
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- 100
Master of Laws (Legum Magister) (LL. M) P.M- 50
Course: Constitutional & Developmental Law-II (Law & Development)
Credit Hour: 6
Course Code: Law 609
Nature: Elective
Year: First

COURSE DESCRIPTION

This course intends to creatively acquaint the students about the role of constitution and law in development initiatives. The students would critically observe on the complimentary role and responsibilities of law and development to achieve goal of state/governance in democracy. Additionally, it will make the students able to analyze and interpret the complex legal issues relating to multiple development efforts. They would also widen their views and advance the knowledge of law and development. At the end they would be able to examine the application of fair and reasonable standards during development efforts to ensure expected results.

LEARNING OUTCOMES

At the end students are expected to-

- comprehend the relation of constitution, law and development
- identify and analyze constitutional goals for development
- explore inevitable relation of law and development all economic, social, political, human
- understand and explore the role of executive, judiciary and legislature on law and development at all levels
- acquaint the role of governance in a federal system on issues development concern and their legal compliance
- understand the rapid and dynamic development advances and need of timely legal and judicial response to those advances

COURSE CONTENT

- 1. Law in Development Perspective (10 hrs.)**
1.1 A Discourse on Meaning: Law and Development

1.2 Multiple Development Approaches - as based on income, growth, change, attitude, need, human rights, gender

1.3 Authority and Compliance of Law to Development Efforts

2. Development Policy Goals of the Constitution- (Art 51) (12 hrs.)

2.1 Progressive Change of Society (preamble, Art 51, b-1)

2.2 Proportional, Inclusive and Representative Democracy (preamble)

2.3 Egalitarian Society based on Democratic Norm and Values (Art 50-2)

2.4 Equitable Distribution of Development Efforts and Results

2.5 Social Justice and Socio-economic Equality (Art 42, 50-2)

2.6 Sustainable Peace, Good Governance and Development (Art 51 b-4)

2.7 People's Prosperity through Economic, Social and Cultural Transformation (Art 51 b-1)

3. Law and Public Prosperity (12 hrs.)

3.1 Dignity of the Nation and Nationalities (Art 5, 16, 42)

3.2 Economic and Social Well-being (Art 5, 29)

3.3 Equality - (Art 24)

3.4 Protection of Environment (Art 30)

3.5 Public Welfare System (Art 50-1)

3.6 Transparency and Accountability Issues

4. Law in Human Development Perspective (10 hrs.)

4.1 Access to Education

4.2 Education to all in Different Forms (Art 31)

4.3 Skill Development under Different Government Policies

4.4 Spiritual Development

4.5 Empowering People

5. Law in Economic Development Perspective (13 hrs.)

5.1 Sustainable Economic Growth and Development (Art 50-3)

5.2 Socialist Nature of Economy (Art 50-3)

5.3 Enabling Environment for Economic Development (Art 50)

5.4 Economic Empowerment of People (Art 42)

5.5 Public, Private Partnership on Industry and Trade etc. (Art 50, 51 b-4)

5.6 Earning, Employment and Labor (Art 33, 34)

5.7 Food Sovereignty, Food Safety and Security (Art 36)

5.8 Land Rights and Tillers (Art 42)

6. Law in Social Development Perspective (10 hrs.)

- 6.1 Health Care Facilities (Art 35)
- 6.2 Education and Skills in Different Forms
- 6.3 Housing/Shelter (Art 37)
- 6.4 Social Security (Art 43)
- 6.5 Social Empowerment of People

7. Law in Political Development Perspective (10 hrs.)

- 7.1 Political Developments in Brief
- 7.2 Civic Awareness
- 7.3 Fair Participation
- 7.4 Fair Representation
- 7.5 Choosing Reasonable Representative
- 7.6 Idea of Ideal Democracy- 'rule by just and fair majority'

8. Power Sharing (12 hrs.)

- 8.1 Federal System of Governance
- 8.2 Making and Implementing Law by Local Governments and their Effects in Development
- 8.3 Devolution of Powers to Provinces
- 8.4 Devolution/Decentralization of Power to Local Governments
- 8.5 Transparency and Accountability Issues

9. Judiciary in Development Concerns (12 hrs.)

- 9.1 Balancing Individual Rights and Mass Interest
- 9.2 Positive and Constructive Role
- 9.3 Facilitative and Flexible Role
- 9.4 Catalytic Not Adamantine
- 9.5 Rational Not Restrictive
- 9.6 Reasonable Not Legalistic
- 9.7 Swift Not Sluggish

10. Role of Legislature (12 hrs.)

- 10.1 Development Law Making Objectives
- 10.2 Bill Procedures
- 10.3 Use of Expertise Including Technical
- 10.4 Timely Work and Delivery
- 10.5 Delegated Legislation Provisions

11. Role of Executive (12 hrs.)

- 11.1 Enforcing Legislations
- 11.2 Making Delegated Legislation
- 11.3 Proper Enforcement
- 11.4 Resolving Obstacles, if any
- 11.5 Development Plan, Finance, Infrastructure and Logistics
- 11.6 Periodic Monitoring and Evaluation

CONTENT ELABORATION AND MODUS OPERANDI

Units & Lecture Hours	Learning Outcomes (students will be able to:)	Mode of Delivery	Key Readings/ References
Unit-I 1. Law in Development Perspective (10 hrs.) 1.1 A Discourse on Meaning: Law and Development 1.2 Multiple Development Approaches - as based on income, growth, change, attitude, need, human rights, gender 1.3 Authority and Compliance of Law to Development Efforts	<ul style="list-style-type: none"> ❖ Explain about law in development perspective. ❖ Discuss about multiple development approaches, which can be based on income, growth, attitude and so on. ❖ Discuss about authority and compliance of law to development. 	<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"> • Anderson (2008). • Basu (2008). • Dicey (1975). • Jowell & Oliver (eds.) (1994). • Rawls (1993). • Strong (1973). • Thapa (2023). • Wheare (1971).
Unit-II 2 Development Policy Goals of the Constitution- (Art 51) (12 hrs.) 2.1 Progressive Change of Society (preamble, Art 51, b-1) 2.2 Proportional, Inclusive and Representative Democracy (preamble) 2.3 Egalitarian Society based on Democratic Norm and Values (Art 50-2) 2.4 Equitable Distribution of Development Efforts and Results 2.5 Social Justice and Socio-economic Equality (Art 42, 50-2) 2.6 Sustainable Peace, Good Governance and Development (Art 51 b-4) 2.7 People's Prosperity through Economic, Social and Cultural Transformation (Art 51 b-1)	<ul style="list-style-type: none"> ❖ Discuss about the development policy goals and constitutional practices. ❖ Mention about the constitutional practices on proportionality, inclusive, representative democracy, egalitarian society. ❖ Discuss about the constitutional practices on social justice and socio-economic equality. ❖ Explain interrelation between sustainable peace, good governance and development. ❖ Explain people's prosperity to be achieved through the transformation of economic, social and cultural factors. 	<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"> • Anderson (2008). • Basu (2008). • Dicey (1975). • Jowell & Oliver (eds.) (1994). • Rawls (1993). • Strong (1973). • Thapa (2023). • Wheare (1971).
Unit-III 3 Law and Public Prosperity (12 hrs.)	<ul style="list-style-type: none"> ❖ Analytically discuss about the law and public prosperity, dignity of nation 	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming 	<ul style="list-style-type: none"> • Anderson (2008). • Basu (2008). • Dicey (1975).

<p>3.1 Dignity of the Nation and Nationalities (Art 5, 16, 42)</p> <p>3.2 Economic and Social Well-being (Art 5, 29)</p> <p>3.3 Equality - (Art 24)</p> <p>3.4 Protection of Environment (Art 30)</p> <p>3.5 Public Welfare System (Art 50-1)</p> <p>3.6 Transparency and Accountability Issues</p>	<p>and nationality, and economic and social well-being.</p> <p>❖ Explain about the protection of environment for the prosperity.</p> <p>❖ Discuss about necessity of public welfare system and transparency & accountability.</p>	<ul style="list-style-type: none"> • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions 	<ul style="list-style-type: none"> • Jowell & Oliver (eds.) (1994). • Rawls (1993). • Strong (1973). • Thapa (2023). • Wheare (1971).
<p>Unit-IV</p> <p>4 Law in Human Development Perspective (10 hrs.)</p> <p>4.1 Access to Education</p> <p>4.2 Education to all in Different Forms (Art 31)</p> <p>4.3 Skill Development under Different Government Policies</p> <p>4.4 Spiritual Development</p> <p>4.5 Empowering People</p>	<p>❖ Discuss about interrelationship of law in human development perspective.</p> <p>❖ Debate about access to education, skill development under different government policies.</p> <p>❖ Discuss about spiritual development and empowerment of people for the human development perspective.</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"> • Anderson (2008). • Basu (2008). • Dicey (1975). • Jowell & Oliver (eds.) (1994). • Rawls (1993). • Strong (1973). • Thapa (2023). • Wheare (1971).
<p>Unit-V</p> <p>5 Law in Economic Development Perspective (13 hrs.)</p> <p>5.1 Sustainable Economic Growth and Development (Art 50-3)</p> <p>5.2 Socialist Nature of Economy (Art 50-3)</p> <p>5.3 Enabling Environment for Economic Development (Art 50)</p> <p>5.4 Economic Empowerment of People (Art 42)</p> <p>5.5 Public, Private Partnership on Industry and Trade etc. (Art 50, 51 b-4)</p> <p>5.6 Earning, Employment and Labor (Art 33, 34)</p> <p>5.7 Food Sovereignty, Food Safety and Security (Art 36)</p> <p>5.8 Land Rights and Tillers (Art 42)</p>	<p>❖ Explain about Law in the context of economic development perspective.</p> <p>❖ Discuss about sustainable economic growth and development.</p> <p>❖ Discuss about the enabling economic factors for economic development.</p> <p>❖ Explain the possibility of PPP Model on industry and trade.</p> <p>❖ Mention interrelationship between earning, employment and labor.</p> <p>❖ Explain about rights to food sovereignty.</p> <p>❖ Explain interrelationship between land rights and tillers in economic development perspective.</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"> • Anderson (2008). • Basu (2008). • Dicey (1975). • Jowell & Oliver (eds.) (1994). • Rawls (1993). • Strong (1973). • Thapa (2023). • Wheare (1971).
<p>Unit-VI</p> <p>6 Law in Social Development Perspective (10 hrs.)</p> <p>6.1 Health Care Facilities (Art 35)</p> <p>6.2 Education and Skills in Different Forms</p> <p>6.3 Housing/Shelter (Art 37)</p> <p>6.4 Social Security (Art 43)</p> <p>6.5 Social Empowerment of People</p>	<p>❖ Explain about law in the social development perspective.</p> <p>❖ Discuss about the health care facilities as social development perspective.</p> <p>❖ Discuss about education and skills development; housing,</p>	<ul style="list-style-type: none"> • Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies 	<ul style="list-style-type: none"> • Anderson (2008). • Basu (2008). • Dicey (1975). • Jowell & Oliver (eds.) (1994). • Rawls (1993). • Strong (1973). • Thapa (2023).

	social security as the social empowerment.	•Blended Learning •Self-evaluation	• Wheare (1971).
Unit VII 7 Law in Political Development Perspective (10 hrs.) 7.1 Political Developments in Brief 7.2 Civic Awareness 7.3 Fair Participation 7.4 Fair Representation 7.5 Choosing Reasonable Representative 7.6 Idea of Ideal Democracy- 'rule by just and fair majority'	❖ Discuss about law in political development perspective. ❖ Discuss about political development, ❖ Explain about civic awareness, civic representation as political development perspectives. ❖ Explain about the idea of ideal democracy.	•Assignment •Presentation •Brainstorming •Case Analysis •Readings •Case Based Studies •Blended Learning •Self-evaluation	• Anderson (2008). • Basu (2008). • Dicey (1975). • Jowell & Oliver (eds.) (1994). • Rawls (1993). • Strong (1973). • Thapa (2023). • Wheare (1971).
Unit VIII 8 Power Sharing (12 hrs.) 8.1 Federal System of Governance 8.2 Making and Implementing Law by Local Governments and their Effects in Development 8.3 Devolution of Powers to Provinces 8.4 Devolution/Decentralization of Power to Local Governments 8.5 Transparency and Accountability Issues	❖ Discuss about concept of power sharing by different forms of governments. ❖ Explain about the devolution to powers to provinces. ❖ Explain about the concept of transparency and accountability.	•Assignment •Presentation •Brainstorming •Case Analysis •Readings •Case Based Studies •Blended Learning •Self-evaluation	• Anderson (2008). • Basu (2008). • Dicey (1975). • Jowell & Oliver (eds.) (1994). • Rawls (1993). • Strong (1973). • Thapa (2023). • Wheare (1971).
Unit IX 9 Judiciary in Development Concerns (12 hrs.) 9.1 Balancing Individual Rights and Mass Interest 9.2 Positive and Constructive Role 9.3 Facilitative and Flexible Role 9.4 Catalytic Not Adamantine 9.5 Rational Not Restrictive 9.6 Reasonable Not Legalistic 9.7 Swift Not Sluggish	❖ Explain about the concept of judiciary in the development concerns. ❖ Discuss about the concept of balancing of individual rights and mass interest. ❖ Explain about the facilitative and flexible role of the judiciary in the development concerns.	•Assignment •Presentation •Brainstorming •Case Analysis •Readings •Case Based Studies •Blended Learning •Self-evaluation	• Anderson (2008). • Basu (2008). • Dicey (1975). • Jowell & Oliver (eds.) (1994). • Rawls (1993). • Strong (1973). • Thapa (2023). • Wheare (1971).
Unit X 10 Role of Legislature (12 hrs.) 10.1 Development Law Making Objectives 10.2 Bill Procedures 10.3 Use of Expertise Including Technical 10.4 Timely Work and Delivery 10.5 Delegated Legislation Provisions	❖ Explain the role of legislative in the development law making procedure. ❖ Explain the concept of including experts in the legislative law-making process. ❖ Explain the concept of delegated legislation.	•Assignment •Presentation •Brainstorming •Case Analysis •Readings •Case Based Studies •Blended Learning •Self-evaluation	• Anderson (2008). • Basu (2008). • Dicey (1975). • Jowell & Oliver (eds.) (1994). • Rawls (1993). • Strong (1973). • Thapa (2023). • Wheare (1971).
Unit XI 11 Role of Executive (12 hrs.) 11.1 Enforcing Legislations 11.2 Making Delegated Legislation 11.3 Proper Enforcement 11.4 Resolving Obstacles, if any	❖ Discuss the role of executive in development concerns. ❖ Explain the process of resolving obstacles and proper enforcement of the developmental plan.	•Assignment •Presentation •Brainstorming •Case Analysis •Readings	• Anderson (2008). • Basu (2008). • Dicey (1975). • Jowell & Oliver (eds.) (1994). • Rawls (1993).

11.5 Development Plan, Finance, Infrastructure and Logistics	❖Mention about the periodic monitoring of development plan and its evaluation.	• Case Based Studies • Blended Learning • Self-evaluation	• Strong (1973). • Thapa (2023). • Wheare (1971).
11.6 Periodic Monitoring and Evaluation			
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

Basic Readings

- **The Constitution of Nepal, 2072 (2015).**
- Constitution of Nepal, 2047 (1990).
- Reference of various legislations relating to development such as education, health, environment, pollution, inclusion, freedoms/equality, election, representation, law making, infrastructure, construction, power, IT, information, communication, forestry, water, land, transport, endangered species, etc.
- Anand Aditya ed, The Inclusive State, SAP Nepal,
- UNDP Human Development (annual) Reports (global and national-Nepal)
- UN Declaration on the Right to Development, 1986
- UN Declaration on Social Progress and Development, 1969
- UN (Copenhagen) Declaration on Social Development, 1995
- **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.**
- **Jowell, Jeffery & Dawn Oliver (eds) (1994). The Changing Constitutions, London: Clarendon Press.**
- **Pinnock J. Roland & John W. Chapman (eds.) (1983). Liberal Democracy, USA: NY University Press.**
- **Rawls, John (1993). Political Liberalism, Cambridge: Harvard University Press.**

- 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
k) Unite assignments/projects l) Reviews and class discussion m) Case study and situation analysis n) Participation and answer questions o) Other assignment	e) Descriptive/ Long question answer f) Short question answer

Rajarshi Janak University
Faculty of Humanities and Law

Curriculum for F.M- 100
Master of Laws (Legum Magister) (LL. M) P.M- 50
Course: International Law- I (Public International Law)
Credit Hour: 6
Course Code: Law 610
Nature: Elective
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 will be able to:

- understand the meaning of public international law, its legal basis, development, approaches.
- distinguish between various sources of public international law and their respective use in any given dispute involving questions of law.
- 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.

- understand the relationship between public international law and the national legal system with special emphasis on Nepal.
- understand and reflect upon the jurisprudential doctrines and law related to the laws of airspace & outer-space, laws of the sea, laws of diplomatic and consular immunities.
- apply the knowledge gained from this course to identify contemporary international problems solving.

COURSE CONTENT

1. Introduction to International Law (12 hrs.)

- 1.1 Definition, Nature & Scope of International Law
- 1.2 Developmental phases of International Law
- 1.3 Classification of International Law
- 1.4 Principles of International Law
- 1.5 Subjects of International Law: States; International Organizations; Non-state Entities; Individuals
- 1.6 Sources of International Law:
 - (a) Primary Sources (Art. 38 (1) of Statue of ICJ);
 - (b) Secondary Sources (Resolution of UNGA & UNSC; Legally binding Resolution of International Organizations; Draft of International Law Commission; State Practice; Doctrine of International Comity; Ex-aequo et bono; Soft Laws; Principle of Equity)
- 1.7 Sanctioning Authority of International Law: UNSC; UNGA; ICJ; Human Right Council; ITLOS, ICC, PCA; sanctions under different human rights treaties
- 1.8 Provisions Concerning Internationalization of International Law: Monism; Dualism; Fitzmaurice Compromise Theory; Nepalese Practice

2. The Law of Treaties (16 hrs.)

- 2.1 Introduction: Treaty between States; Treaty between States & International Organizations; Treaties between International Organizations
- 2.2 Classification of Treaties: Law Making Treaties & Treaties Contracts
- 2.3 Treaty Making Procedure
- 2.4 Conclusion of Treaties
- 2.5 Entry into Force & Implementation of Treaties
- 2.6 Observance, Application & Interpretation of Treaties
- 2.7 Termination of Treaty: Material Breach; Supervening Impossibility; Fundamental Change of Circumstances (Art. 60, 61 & 62 of VCLT, 1969)
- 2.8 Treaty making Power under the Constitution of Nepal, 2072 (2015); Nepal Treaty Act, 2047 (1990)
- 2.9 UN Treaty Series
- 2.10 Prescribed Cases

3. Diplomatic and Consular Relations (16 hrs.)

- 3.1 Concept of Diplomatic & Consular Relations
- 3.2 Functions of Diplomatic Agents & its Types
- 3.3 Functions of Diplomatic Missions & its Types
- 3.4 Evolution of Diplomatic Relation
- 3.5 Diplomatic Privileges and Immunities with reference to Vienna Convention on Diplomatic Relations, 1961
- 3.6 Consular Privileges and Immunities with reference to Vienna Convention on Consular Relations, 1963
- 3.7 Privileges and Immunities of Special Missions and International Organizations
- 3.8 Diplomatic Immunities & Privileges with reference to Diplomatic Immunities and Privileges of Foreign State and Representative Act, 2027 (1970)
- 3.9 Suspension of Diplomatic Representation & Termination of Diplomatic Relation
- 3.10 Grounds for Refusing to give "*agreemo*": (Nepalese experiences as well)
- 3.11 Are Diplomates Immune from Criminal Liabilities: An analysis
- 3.12 Case Study: Shanti Gurung Case (2010); Khobragade Devyani vs. Sangeeta Richards Case (2013)

4. Laws of the Sea (12 hrs.)

- 4.1 General Concept and Development Phases of Laws of Sea
- 4.2 Persistent Objection Theory: Anglo-Norwegian Fishery Case
- 4.3 Jurisdiction of Territorial Sea; Right to Innocent Passage: when right to innocent passage be suspended?
- 4.4 Interrelation of Coastal State with Contiguous Zone
- 4.5 Exclusive Economic Zones; Continental Shelf; and High Seas with respect to UNCLOS
- 4.6 UNCLOS-I 1958; UNCLOS-II, 1960; UNCLOS-III, 1973-82
- 4.7 ITLOS (dispute settlement); Sea-bed Dispute Chamber; International Maritime Organization
- 4.8 Trade and Transit Rights of States without Access
- 4.9 Case Study: Trade and Transit Agreement between India and Nepal
- 4.10 Cases Prescribed

5. International Watercourse Law (14 hrs.)

- 5.1 Concept of International Watercourse Law & its Core Principles
- 5.2 Criteria Required to become an International Rivers: does any river of Nepal meet these criteria?
- 5.3 Concept of Navigational and Non-Navigational Uses with respect to International Rivers
- 5.4 Non-navigational uses of International Watercourse with reference to Nepal
- 5.5 Boundary Delimitation of Boarder Rivers: Thalweg Doctrine

- 5.6 UN Convention on the Laws on Non-Navigational Use of International Water Course, 1997, Helsinki Rules on the Use of Waters on International Rivers, 2006
- 5.7 Can Upper Riparian State adopt the Harmon Doctrine?
- 5.8 Study of: Indus Water Treaty, 1960; Ganga Water Treaty, 1996; Mahakali Treaty, 1996; Gandak Treaty, 1959; Koshi Treaty, 1954
- 5.9 Case Study: Laksmanpur dam, Merchabar dam, Khurdalotan dam, Tanakpur Case, West-Seti Case

6. Laws of the Air Space (16 hrs.)

- 6.1 Evolution and Development of Air Law
- 6.2 Role and Features of International Civil Aviation Organization (ICAO)
- 6.3 Public International Air Law: Paris Convention, 1919; Chicago Convention, 1944; Tokyo Convention, 1963; Hague Convention, 1970; Montreal Convention, 1971; Protocol Supplement to Montreal Convention, 1988
- 6.4 Private International Air Law: Warsha Convention, 1929 & Hague Protocol, 1955; Guadalajara Convention 1961, its Guadalajara Protocol 1971, & its Montreal Protocol 1975; Montreal Convention, 1999; Rome convention, 1952
- 6.5 Limitation to Sovereignty in Air Space: 5 Freedom of Air; 9-Freedom of Air
- 6.6 Development of Open Skies Agreement (Nepalese Experiences)
- 6.7 Air Carriages' Liability towards Passengers and Cargo
- 6.8 Hijacking/ Unauthorized Ariel Intrusion: Can State Sponsor hijacking?
- 6.9 Legislative provisions of Nepal: Proposed Nepal Civil Aviation Act, 2073 (2017); Civil Aviation Authority Act, 2053 (1996); Nepal Airlines Corporation Act, 2019 (2063); Civil Aviation Regulations, 2058 (2002); Civil Aviation Security (MGMT) Regulation, 2046 (1990); Aerodrome Certification Regulations, 2061 (2004); Civil Aviation (Accident Investigation) Regulation, 2071 (2014); National Aviation Policy (draft), 2082 (2025)
- 6.10 Judicial Trends in Aviation Sector of Nepal

7. Laws of Outer Space and Celestial Bodies (12 hrs.)

- 7.1 Delimitation of Air Space & Outer Space
- 7.2 Resolved & Unresolved Issued in Outer Space; Customary Rules of International Space Law
- 7.3 Grotian Moment: establishing outer space in “res communis” (revolution of earth by Sputnik-I in 1957)
- 7.4 Outer Space Law: Outer Space Treaty, 1967; The Liability Convention, 1971; Convention on Registration of Objects Launched in Outer Space, 1974; The Moon Treaty, 1979; Rescue & Return Agreement, 1968
- 7.5 Disarmament in Outer Space: Moscow Test Ban Treaty, 1963

7.6 Legal Status of Geo-Stationary Objects: Bogata Declaration, 1976

7.7 Instruments related to International Telecommunication

7.8 Committee in the Peaceful Use of Outer Space (COPUOS)

8. Settlement of International Disputes (16 hrs.)

8.1 Definition of International Disputes

8.2 Notion of Settlement of International Disputes in International Instruments including the Charter of UN

8.3 Genesis and Development of Peaceful Settlement of International Disputes

8.4 Modes of Settlement of International Disputes: Peaceful Method & Forceful Method

8.5 Peaceful Method:

(a) Extra-Judicial/ Diplomatic Methods: Negotiation, Good office, Mediation; Conciliation; Inquiry

(b) Judicial & Quasi-Judicial Method: Judicial Settlement by ICJ, ITLOS; Quasi-judicial Settlement by Institutional & ad-hoc Arbitration

8.6 Forceful Method: Retorsion, Reprisal, Pacific Blockade, Blockade (Embargo); Intervention, War

8.7 International Institutions & Dispute Settlement: UNSC, UNGA

8.8 Regional Instruments: European Convention on Peaceful Settlement of Disputes, 1957; OAU Charter, 1963; Helsinki Final Act, 1975

8.9 Dispute Settlement Mechanism through WTO

8.10 Dispute Settlement through ICSID

8.11 Case Study: Shimla Agreement, 1972

8.12 Mock Arbitration: (subject teachers are requested to conduct moot-arbitration in at least one case)

9. International Institutions (11 hrs.)

9.1 Status and Function of International Institutions as Subject of International Law

9.2 General Legal Nature and Constitutional Structure

9.3 Privileges and Immunities

9.4 Legislative and Regulatory Functions of International Institutions

9.5 International Administrative Law

9.6 Quasi-diplomatic and Treaty Relations of International Institutions

9.7 Dissolution of International Institutions; and succession to Rights, Duties and Functions

9.8 The United Nations

9.9 International Labor Organization and Other Specialized Agencies and Related Agencies

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 to International Law (12 hrs.)</p> <p>1.1 Definition, Nature & Scope of International Law 1.2 Developmental phases of International Law 1.3 Classification of International Law 1.4 Principles of International Law 1.5 Subjects of International Law: States; International Organizations; Non-state Entities; Individuals 1.6 Sources of International Law: (a) Primary Sources (Art. 38 (1) of Statute of ICJ); (b) Secondary Sources (Resolution of UNGA & UNSC; Legally binding Resolution of International Organizations; Draft of International Law Commission; State Practice; Doctrine of International Comity; Ex-aquo et bono; Soft Laws; Principle of Equity) 1.7 Sanctioning Authority of International Law: UNSC; UNGA; ICJ; Human Right Council; ITLOS, ICC, PCA; sanctions under different human rights treaties 1.8 Provisions Concerning Internationalization of International Law: Monism; Dualism; Fitzmaurice Compromise Theory; Nepalese Experience</p>	<ul style="list-style-type: none"> ❖ Define international law. ❖ Explain the developmental phases of international law. ❖ Mention classification, principles, subject matter of international law. ❖ Explain the primary sources & secondary sources of international law. ❖ Mention about the sanctioning authority of international law. ❖ Mention about the internationalization process of international law 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"> • Paulsson (2005). • Crawford (2012). • Jennings & Watts (eds), 1992. • Evans (ed), (2010). • Shaw (2008) • Higgins (1994). • Rosenne (2006). • Sands et al (2003).
Unit-II <p>2 The Law of Treaties (16 hrs.)</p> <p>2.1 Introduction: Treaty between States; Treaty between States & International Organizations; Treaties between International Organizations 2.2 Classification of Treaties: Law Making Treaties & Treaties Contracts 2.3 Treaty Making Procedure 2.4 Conclusion of Treaties 2.5 Entry into Force & Implementation of Treaties 2.6 Observance, Application & Interpretation of Treaties 2.7 Termination of Treaty: Material Breach; Supervening Impossibility; Fundamental Change of Circumstances (Art. 60, 61 & 62 of VCLT, 1969) 2.8 Treaty making Power under the Constitution of Nepal, 2072 (2015); Nepal Treaty Act, 2047 (1990) 2.9 UN Treaty Series 2.10 Prescribed Cases</p>	<ul style="list-style-type: none"> ❖ Discuss about the concept of treaty law as a source of international law. ❖ Mention about the treaty making procedure. ❖ Explain about the conclusion of treaties. ❖ Mention about the condition of treaties to be enforced. ❖ Mention about the observation, application & interpretation of treaties. ❖ Explain the conditions for termination of treaties. ❖ Explain about the treaty making power under the Constitution of Nepal, 2072 & Nepal Treaty Act, 2047. ❖ Mention about the functioning of UN treaty Series. ❖ Explain about the related cases as prescribed below. 	<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"> • Paulsson (2005). • Crawford (2012). • Jennings & Watts (eds), 1992. • Evans (ed), (2010). • Shaw (2008) • Higgins (1994). • Rosenne (2006). • Sands et al (2003).

<p>Unit-III</p> <p>3. Diplomatic and Consular Relations (16 hrs.)</p> <p>3.1 Concept of Diplomatic & Consular Relations</p> <p>3.2 Functions of Diplomatic Agents & its Types</p> <p>3.3 Functions of Diplomatic Missions & its Types</p> <p>3.4 Evolution of Diplomatic Relation</p> <p>3.5 Diplomatic Privileges and Immunities with reference to Vienna Convention on Diplomatic Relations, 1961</p> <p>3.6 Consular Privileges and Immunities with reference to Vienna Convention on Consular Relations, 1963</p> <p>3.7 Privileges and Immunities of Special Missions and International Organizations</p> <p>3.8 Diplomatic Immunities & Privileges with reference to Diplomatic Immunities and Privileges of Foreign State and Representative Act, 2027 (1970)</p> <p>3.9 Suspension of Diplomatic Representation & Termination of Diplomatic Relation</p> <p>3.10 Grounds for Refusing to give “agreemo”: (Nepalese experiences as well)</p> <p>3.11 Are Diplomates Immune from Criminal Liabilities: An analysis</p> <p>3.12 Case Study: Shanti Gurung Case (2010); Khobragade Devyani vs. Sangeeta Richards Case (2013)</p>	<ul style="list-style-type: none"> ❖ Mention about the concept, function of diplomatic and consular relations. ❖ Explain about the evolutionary phases of diplomatic relations. ❖ Discuss about the diplomatic immunities & privileges with respect to VCDR, 1961. ❖ Discuss about the consular immunities & privileges with respect to VCCR, 1963. ❖ Analytically discuss about the provisions under Nepalese Act. ❖ Mention about the conditions for the suspension of diplomatic representation & relations. ❖ Explain if diplomats are immune from the criminal liabilities (even back in the home country as well)? ❖ Analyze the prescribed cases and other related cases. 	<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"> • Paulsson (2005). • Crawford (2012). • Jennings & Watts (eds), 1992. • Evans (ed), (2010). • Shaw (2008) • Higgins (1994). • Rosenne (2006). • Sands et al (2003).
<p>Unit IV</p> <p>4. Laws of the Sea (12 hrs.)</p> <p>4.1 General Concept and Development Phases of Laws of Sea</p> <p>4.2 Persistent Objection Theory: Anglo-Norwegian Fishery Case</p> <p>4.3 Jurisdiction of Territorial Sea; Right to Innocent Passage: when right to innocent passage be suspended?</p> <p>4.4 Interrelation of Coastal State with Contiguous Zone</p> <p>4.5 Exclusive Economic Zones; Continental Shelf; and High Seas with respect to UNCLOS</p> <p>4.6 UNCLOS-I 1958; UNCLOS-II, 1960; UNCLOS-III, 1973-82</p> <p>4.7 ITLOS (dispute settlement); Sea-bed Dispute Chamber; International Maritime Organization</p> <p>4.8 Trade and Transit Rights of States without Access</p> <p>4.9 Case Study: Trade & Transit Agreements between India and Nepal</p> <p>4.10 Cases Prescribed</p>	<ul style="list-style-type: none"> ❖ Discuss about the general concept & essentials of the laws of sea. ❖ Explain the concept of persistent objection theory. ❖ Discuss the concept of jurisdiction of territorial sea, & right to innocent passage & its limitations. ❖ Mention about the rights of coastal states in the contiguous zone. ❖ Explain the provisions of EEZ, continental shelf, & high seas with respect to UNCLOS. ❖ Interpret UNCLOS with the general principles of international laws, & customary international law. ❖ Mention dispute settlement mechanism under ITLOS & 	<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"> • Paulsson (2005). • Crawford (2012). • Jennings & Watts (eds), 1992. • Evans (ed), (2010). • Shaw (2008) • Higgins (1994). • Rosenne (2006). • Sands et al (2003).

	<p>international sea-bed dispute channel.</p> <p>❖ Explain the function of international maritime organization.</p> <p>❖ Analyze trade and transit rights of land lock states.</p> <p>❖ interpret Trade & Transit agreement between India & Nepal.</p> <p>❖ interpret Cases prescribed.</p>		
<p>Unit-V</p> <p>5. International Watercourse Law (14 hrs.)</p> <p>5.1 Concept of International Watercourse Law & its Core Principles</p> <p>5.2 Criteria Required to become an International Rivers: does any river of Nepal meet these criteria?</p> <p>5.3 Concept of Navigational and Non-Navigational Uses with respect to International Rivers</p> <p>5.4 Non-navigational uses of International Watercourse with reference to Nepal</p> <p>5.5 Boundary Delimitation of Boarder Rivers: Thalweg Doctrine</p> <p>5.6 UN Convention on the Laws on Non-Navigational Use of International Water Course, 1997, Helsinki Rules on the Use of Waters on International Rivers, 2006</p> <p>5.7 Can Upper Riparian State adopt the Harmon Doctrine?</p> <p>5.8 Study of: Indus Water Treaty, 1960; Ganga Water Treaty, 1996; Mahakali Treaty, 1996; Gandak Treaty, 1959; Koshi Treaty, 1954</p> <p>5.9 Case Study: Laksmanpur dam, Merchabari dam, Khurdalotan dam, Tanakpur Case, West-Seti Case</p>	<p>❖ Define the core concept of international watercourse law.</p> <p>❖ Mention the essential requirement for a internal river to be an international river.</p> <p>❖ Define the concept of navigation & non-navigation uses of international rivers.</p> <p>❖ Explain the concept of non-navigational uses of international watercourse with reference to Nepal.</p> <p>❖ Explain the concept of Thalweg Doctrine of boundary delimitation of boarder rivers.</p> <p>❖ Interpret the convention related to international watercourse law.</p> <p>❖ Discuss, if upper riparian states or the states with internal rivers has rights not to share water with the lower boarder states.</p> <p>❖ Explain various treaties related to international watercourse.</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"> • Paulsson (2005). • Crawford (2012). • Jennings & Watts (eds), 1992. • Evans (ed), (2010). • Shaw (2008) • Higgins (1994). • Rosenne (2006). • Sands et al (2003).
<p>Unit-VI</p> <p>6. Laws of the Air Space (16 hrs.)</p> <p>6.1 Evolution and Development of Air Law</p> <p>6.2 Role and Features of International Civil Aviation Organization (ICAO)</p> <p>6.3 Public International Air Law: Paris Convention, 1919; Chicago Convention, 1944; Tokyo Convention, 1963; Hague Convention, 1970; Montreal Convention, 1971; Protocol Supplement to Montreal Convention, 1988</p> <p>6.4 Private International Air Law: Warsha Convention, 1929 & Hague Protocol, 1955; Guadalajara Convention 1961, its Guadalajara Protocol 1971, &</p>	<p>❖ Explain about the evolution and development of air law.</p> <p>❖ Explain the role & features of ICAO.</p> <p>❖ Interpret the convention related to air laws.</p> <p>❖ Explain about the limitation of sovereignty in Air Space</p> <p>❖ Explain the concept of Open Skies Agreement & Nepalese experience in it.</p> <p>❖ Explain about the concept of air carriages' liabilities towards passengers & cargo.</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"> • Paulsson (2005). • Crawford (2012). • Jennings & Watts (eds), 1992. • Evans (ed), (2010). • Shaw (2008) • Higgins (1994). • Rosenne (2006). • Sands et al (2003).

<p>its Montreal Protocol 1975; Montreal Convention, 1999; Rome convention, 1952</p> <p>6.5 Limitation to Sovereignty in Air Space: 5 Freedom of Air; 9-Freedom of Air</p> <p>6.6 Development of Open Skies Agreement (Nepalese Experiences)</p> <p>6.7 Air Carriages' Liability towards Passengers and Cargo</p> <p>6.8 Hijacking/ Unauthorized Ariel Intrusion: Can State Sponsor hijacking?</p> <p>6.9 Legislative provisions of Nepal: Proposed Nepal Civil Aviation Act, 2073 (2017); Civil Aviation Authority Act, 2053 (1996); Nepal Airlines Corporation Act, 2019 (2063); Civil Aviation Regulations, 2058 (2002); Civil Aviation Security (MGMT) Regulation, 2046 (1990); Aerodrome Certification Regulations, 2061 (2004); Civil Aviation (Accident Investigation) Regulation, 2071 (2014); National Aviation Policy (draft), 2082 (2025)</p> <p>6.10 Judicial Trends in Aviation Sector of Nepal</p>	<p>❖ Explain high jacking, its preventive measures & punishment for the hijackers,</p> <p>❖ Explain about the legislative provision & judicial trends on air law.</p>		
<p>Unit-VII</p> <p>7. Laws of Outer Space and Celestial Bodies (12 hrs.)</p> <p>7.1 Delimitation of Air Space & Outer Space</p> <p>7.2 Resolved & Unresolved Issues in Outer Space; Customary Rules of International Space Law</p> <p>7.3 Grotian Moment: establishing outer space in “res communis” (revolution of earth by Sputnik-I in 1957)</p> <p>7.4 Outer Space Law: Outer Space Treaty, 1967; The Liability Convention, 1971; Convention on Registration of Objects Launched in Outer Space, 1974; The Moon Treaty, 1979; Rescue & Return Agreement, 1968</p> <p>7.5 Disarmament in Outer Space: Moscow Test Ban Treaty, 1963</p> <p>7.6 Legal Status of Geo-Stationary Objects: Bogota Declaration, 1976</p> <p>7.7 Instruments related to International Telecommunication</p> <p>7.8 Committee in the Peaceful Use of Outer Space (COPUOS)</p>	<p>❖ Explain the laws related to outer space.</p> <p>❖ Explain the concept of delimitation of air space & outer space.</p> <p>❖ Discuss about the resolved & un resolved issues in outer space.</p> <p>❖ Explain the “jus-cogen” moment that outer space is the common heritage of mankind.</p> <p>❖ Explain the disarmament of outer space.</p> <p>❖ Discuss about the legal status of geo-stationary object & the sovereignty issue aroused by equatorial region states in Bogota Declaration, 1976.</p> <p>❖ Discuss about the instruments related to international telecommunication</p> <p>❖ Explain the role and function of COPUOS.</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"> Paulsson (2005). Crawford (2012). Jennings & Watts (eds), 1992). Evans (ed), (2010). Shaw (2008) Higgins (1994). Rosenne (2006). Sands et al (2003).

<p>Unit VIII</p> <p>8. Settlement of International Disputes (16 hrs.)</p> <p>8.1 Definition of International Disputes</p> <p>8.2 Notion of Settlement of International Disputes in International Instruments including the Charter of UN</p> <p>8.3 Genesis and Development of Peaceful Settlement of International Disputes</p> <p>8.4 Modes of Settlement of International Disputes: Peaceful Method & Forceful Method</p> <p>8.5 Peaceful Method:</p> <p>(a) Extra-Judicial/ Diplomatic Methods: Negotiation, Good office, Mediation; Conciliation; Inquiry</p> <p>(b) Judicial & Quasi-Judicial Method: Judicial Settlement by ICJ, ITLOS; Quasi-judicial Settlement by Institutional & ad-hoc Arbitration</p> <p>8.6 Forceful Method: Retorsion, Reprisal, Pacific Blockade, Blockade (Embargo); Intervention, War</p> <p>8.7 International Institutions & Dispute Settlement: UNSC, UNGA</p> <p>8.8 Regional Instruments: European Convention on Peaceful Settlement of Disputes, 1957; OAU Charter, 1963; Helsinki Final Act, 1975</p> <p>8.9 Dispute Settlement Mechanism through WTO</p> <p>8.10 Dispute Settlement through ICSID</p> <p>8.11 Case Study: Shimla Agreement, 1972</p> <p>8.12 Mock Arbitration: (subject teachers are requested to conduct moot-arbitration in at least one case)</p>	<ul style="list-style-type: none"> ❖ Discuss about settlement process of international dispute amicably. ❖ Discuss the role played by UN in the settlement of international disputes. ❖ Explain about the genesis and development of peaceful settlement of international disputes. ❖ Explain the process of forceful methods of international dispute settlement, ❖ Discuss the role of international & regional institutions in the settlement of international disputes. ❖ Explain the process of dispute settlement by WTO, ICSID. ❖ interpret the cases related. 	<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"> • Paulsson (2005). • Crawford (2012). • Jennings & Watts (eds), 1992. • Evans (ed), (2010). • Shaw (2008) • Higgins (1994). • Rosenne (2006). • Sands et al (2003).
<p>Unit IX</p> <p>9. International Institutions (11 hrs.)</p> <p>9.1 Status and Function of International Institutions as Subject of International Law</p> <p>9.2 General Legal Nature and Constitutional Structure</p> <p>9.3 Privileges and Immunities</p> <p>9.4 Legislative and Regulatory Functions of International Institutions</p> <p>9.5 International Administrative Law</p> <p>9.6 Quasi-diplomatic and Treaty Relations of International Institutions</p> <p>9.7 Dissolution of International Institutions; and succession to Rights, Duties and Functions</p> <p>9.8 The United Nations</p> <p>9.9 International Labor Organization and Other Specialized Agencies and Related Agencies</p>	<ul style="list-style-type: none"> ❖ Explain the status & functions of international institutions as a subject of international law. ❖ Explain about the privileges & immunities granted to international institutions. ❖ Explain the legislative and regulatory functions of those institutions. ❖ Explain the administrative relationship international organizations and situation evolving foreign elements such as international disputes of international civil servants & the regulation of international legal order of such organizations. ❖ Explain the concept of quasi-diplomatic position & treaty 	<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"> • Paulsson (2005). • Crawford (2012). • Jennings & Watts (eds), 1992. • Evans (ed), (2010). • Shaw (2008) • Higgins (1994). • Rosenne (2006). • Sands et al (2003).

	<p>relations of international institutions.</p> <p>❖ Explain the process of dissolution of international institutions & the succession of its rights, duties & functions.</p> <p>❖ Explain the essentials of UN.</p> <p>❖ Explain the essentials of ILO and other specialized agencies.</p>		
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 Instruments:

- Charter of the United Nations, 1945
- Statute of the International Court of Justice, 1945
- International Covenant on Civil and Political Rights (ICCPR), 1966
- International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966
- Optional Protocols to ICCPR, ICESCR, CEDAW, CRC, CRPD
- European Convention on Human Rights, 1950, Protocol 9 of 1990 and Protocol 11 of 1994
- United Nations Convention on Law of the Sea (UNCLOS-I, 1958; UNCLOS-II, 1960; UNCLOS-III, 1973-82)

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 Gabčíkovo- 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*
- Eastern Greenland, PCIJ 1933
- *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
- *Mavrommatis Palestine Concessions Case* (1924) PCIJ Reports, Series A, No 2
- *Medellin v. Texas* 552 U.S. 491 (2008). (<http://www.scotusblog.com/wp-content/uploads/2008/03/06-984.pdf>)
- *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, Jurisdiction and Admissibility, Judgment, ICJ Rep 1984
- *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
- US Diplomatic and Consular Staff in Tehran (US v Iran), ICJ Reports 1980
- 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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- M. Evans (ed), *International Law* (Oxford: OUP 2010).
- Malcolm N Shaw, *International Law*, (Cambridge: CUP 2008)
- Merrills, *International Dispute Settlement* (4th edn, 2005).
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- Shany, *The Competing Jurisdictions of International Courts and Tribunals* (2003).
- W. M. Reisman, *Systems of Control in International Adjudication and Arbitration. Breakdown and Repair*. (1992).
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E Sources

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- ❖ 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- 100

Master of Laws (Legum Magister) (LL. M)

P.M- 50

Course: International Law II (International Humanitarian Law & International Criminal Law)

Credit Hour: 6

Course Code: Law 611

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 extensive 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 International Humanitarian Law (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 provide students with an understanding of the development of international criminal law
- 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

- To be able to analyze contemporary international criminal law problems in the light of the concepts learnt.

COURSE CONTENT

Part-1

1. Introduction to IHL (10 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, International 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 (10 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 (10 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 (15 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 (10 hrs.)

- 6.1 Role of Peace Keeping Forces in Armed Conflict
- 6.2 Role of Private Securities Companies and Militia 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 Wars and its impact on IHL

Part-2

7. Introduction to International Criminal Law (ICL) (15 hrs.)

- 7.1 Meaning and Definition of ICL
- 7.2 Nature and Scope of ICL
- 7.3 Development of ICL
- 7.4 Concept of International Crime:
 - (a) War Crimes, Crime Against Humanity, Genocide
 - (b) Crime under Customary International Law
 - (c) Crime Under International Treaties and other International Instruments
- 7.5 Individual Responsibility under ICL:
 - (a) Individual Criminal Responsibility
 - (b) Command Responsibility

8. International Military Tribunals and UN ad-hoc Tribunals (12 hrs.)

- 8.1 International Military Tribunal (Nuremberg Tribunal)
- 8.2 International Military Tribunal for the Far East (Tokyo Tribunal)

- 8.3 Intranational Criminal Tribunal for Former Yugoslavia (ICTY)
- 8.4 International Criminal Tribunal for Rwanda (ICTR)

9. Hybrid and Mixed Tribunals (12 hrs.)

- 9.1 Special Court of Sierra Leone
- 9.2 Special Court of East Timor
- 9.3 Extraordinary Chambers in the Court of Cambodia
- 9.4 War Crime Chambers of Bosnia and Herzegovina
- 9.5 Special Tribunal for Lebanon
- 9.6 War Crimes Tribunal of Bangladesh
- 9.7 Iraqi High Crimes Tribunal

10. International Criminal Court (ICC) (12 hrs.)

- 10.1 Development prior to the Rome Convention
- 10.2 The Rome Conference: Negotiation, Signatory, Opposition, Operational of ICC
- 10.3 Jurisdiction of ICC: War Crimes, Crime Against Humanity, Genocide, Crime of Aggression
- 10.4 Victim Justice System
- 10.5 Concept of Universal Jurisdiction

11. Theories of Jurisdiction (10 hrs.)

- 11.1 Temporal Jurisdiction (ratione temporis)
- 11.2 Personal Jurisdiction (ratione personae)
- 11.3 Territorial Jurisdiction (ratione loci)
- 11.4 Subject-matter Jurisdiction (ratione materiae)
- 11.5 Acceptance of Jurisdiction by non-state Parties
- 11.6 Enforcement of ICL in Municipal Court

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 to IHL (8 hrs.)</p> <p>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, International Refugee Law and International Human Rights Law</p>	❖ 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, jus in bello, jus post bellum, & jus contra bellum</i> . ❖ Corelate between IHL, refugee law & international human rights law.	• Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises	• ICRC (2015). • Cassese (2008). • Werle & Jessberger (2014). • Schabas & Bernaz (Eds.) (2011). • Sayapin (2014). • ICRC website. • ICC website.
Unit- II <p>2 Categories of Armed Conflicts (9 hrs.)</p> <p>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</p>	❖ Differentiate between IAC, NIAC, Internationalized NIAC. ❖ Discuss about the applicable laws in these armed conflicts. ❖ Explain about belligerent occupation, & applicable laws.	• Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises	• ICRC (2015). • Cassese (2008). • Werle & Jessberger (2014). • Schabas & Bernaz (Eds.) (2011). • Sayapin (2014). • ICRC website. • ICC website.
Unit-III <p>3 Method of Warfare (9 hrs.)</p> <p>3.1 Protection of Civilian Population 3.2 Protection of Prisoner of War (POW) 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</p>	❖ Discuss about the method of warfare. ❖ Explain the importance of protecting civilian population, POW, wounded, sick & shipwrecked. ❖ Explain the importance of protection of cultural properties, civilian objects, area & institutions ❖ Discuss about the of applicable laws.	• Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions	• ICRC (2015). • Cassese (2008). • Werle & Jessberger (2014). • Schabas & Bernaz (Eds.) (2011). • Sayapin (2014). • ICRC website. • ICC website.
Unit-IV <p>4 Means of Warfare (9 hrs.)</p> <p>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</p>	❖ Discuss about the means of warfare. ❖ Explain about the prohibition of weapons which causes unnecessary suffering, ❖ Prohibition on use of certain conventional weapons. ❖ Discuss about the use of weapons of mass destruction.	• Assignment • Presentation • Brainstorming • Case Analysis • Readings • Case Based Studies • Blended Learning • Self-evaluation • Review questions • Exercises • Web-based assignment	• 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>(e) Obligation to translate and Disseminate Geneva Convention and Additional Protocols</p> <p>(f) Adoption of Legal and Administrative Measures</p> <p>(g) Appointment of Legal Advisors and Training on IHL</p> <p>(h) Creation of Safety Zones and Hospitals</p> <p>5.2 Post-Conflict Situation:</p> <p>(f) Investigation, Fact Findings on Grave Breach of Geneva Convention</p> <p>(g) Prosecution of Offenders Responsible for the breach of Geneva Convention</p> <p>(h) Reconstruction and Rebuilding</p> <p>(i) Transitional Justice and Reparation to the Victims</p> <p>(j) 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). • Cassese (2008). • Werle & Jessberger (2014). • Schabas & Bernaz (Eds.) (2011). • 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 Militia in Armed Conflict</p> <p>6.3 Use of Drone in Armed Conflict</p> <p>6.4 Cyber Warfare and its Consequences in IHL</p> <p>6.5 Electromagnetic Warfare and its Consequences in IHL</p> <p>6.6 Proxy Wars and its impact on IHL</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 & internet in armed conflict.</p> <p>❖ Analyze about the electromagnetic warfare and its growing issue.</p> <p>❖ Assess the impact of proxy warfare in IHL</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"> • ICRC (2015). • Cassese (2008). • Werle & Jessberger (2014). • Schabas & Bernaz (Eds.) (2011). • Sayapin (2014). • ICRC website. • ICC website.
<p>Unit-VII</p> <p>7. Introduction to International Criminal Law (ICL) (15 hrs.)</p> <p>7.1 Meaning and Definition of ICL</p> <p>7.2 Nature and Scope of ICL</p> <p>7.3 Development of ICL</p> <p>7.4 Concept of International Crime:</p> <p>(d) War Crimes, Crime Against Humanity, Genocide</p> <p>(e) Crime under Customary International Law</p> <p>(f) Crime Under International Treaties and other International Instruments</p> <p>7.5 Individual Responsibility under ICL:</p> <p>(c) Individual Criminal Responsibility</p> <p>(d) Command Responsibility</p>	<p>❖ Discuss about the role & efficiency of international military tribunals & UN ad-hoc tribunals in post-conflict situation.</p> <p>❖ Discuss the role & efficiency of ICC in providing justice to victims.</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"> • ICRC (2015). • Cassese (2008). • Werle & Jessberger (2014). • Schabas & Bernaz (Eds.) (2011). • Sayapin (2014). • ICRC website. • ICC website.

Unit VIII	<p>8. International Military Tribunals, & UN ad-hoc Tribunals (9 hrs.)</p> <p>8.1 International Military Tribunal (Nuremberg Tribunal)</p> <p>8.2 International Military Tribunal for the Far East (Tokyo Tribunal)</p> <p>8.3 Intra-national Criminal Tribunal for Former Yugoslavia (ICTY)</p> <p>8.4 International Criminal Tribunal for Rwanda (ICTR)</p>	<p>❖ Explain the functioning of international military tribunals, & UN ad-hoc tribunals</p> <p>❖ Discuss the effectiveness of such tribunals</p> <p>❖ Explain the adjudicated cases in such tribunals.</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"> • ICRC (2015). • Cassese (2008). • Werle & Jessberger (2014). • Schabas & Bernaz (Eds.) (2011). • Sayapin (2014). • ICRC website. • ICC website.
Unit IX	<p>9. Hybrid and Mixed Tribunals (12 hrs.)</p> <p>9.1 Special Court of Sierra Leone</p> <p>9.2 Special Court of East Timor</p> <p>9.3 Extraordinary Chambers in the Court of Cambodia</p> <p>9.4 War Crime Chambers of Bosnia and Herzegovina</p> <p>9.5 Special Tribunal for Lebanon</p> <p>9.6 War Crimes Tribunal of Bangladesh</p> <p>9.7 Iraqi High Crimes Tribunal</p>	<p>❖ Explain about the hybrid and mixed tribunals of ICL</p> <p>❖ Discuss the effectiveness of such tribunals</p> <p>❖ Explain the adjudicated cases in such tribunals.</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"> • ICRC (2015). • Cassese (2008). • Werle & Jessberger (2014). • Schabas & Bernaz (Eds.) (2011). • Sayapin (2014). • ICRC website. • ICC website.
Unit X	<p>10 International Criminal Court (ICC) (12 hrs.)</p> <p>10.1 Development prior to the Rome Convention</p> <p>10.2 The Rome Conference: Negotiation, Signatory, Opposition, Operational of ICC</p> <p>10.3 Jurisdiction of ICC: War Crimes, Crime Against Humanity, Genocide, Crime of Aggression</p> <p>10.4 Victim Justice System</p> <p>10.5 Concept of Universal Jurisdiction</p>	<p>❖ Explain about the functioning of ICC</p> <p>❖ Discuss the effectiveness of ICC.</p> <p>❖ Explain the adjudicated cases in ICC.</p> <p>❖ Discuss about the rights of victims as enunciated by ICC.</p> <p>❖ Discuss about ICC in applying universal jurisdiction theories.</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"> • ICRC (2015). • Cassese (2008). • Werle & Jessberger (2014). • Schabas & Bernaz (Eds.) (2011). • Sayapin (2014). • ICRC website. • ICC website.
Unit XI	<p>11 Theories of Jurisdiction (10 hrs.)</p> <p>11.1 Temporal Jurisdiction (<i>ratione temporis</i>)</p> <p>11.2 Personal Jurisdiction (<i>ratione personae</i>)</p> <p>11.3 Territorial Jurisdiction (<i>ratione loci</i>)</p> <p>11.4 Subject-matter Jurisdiction (<i>ratione materiae</i>)</p> <p>11.5 Acceptance of Jurisdiction by non-state Parties</p> <p>11.6 Enforcement of ICL in Municipal Court</p>	<p>❖ Explain about the theories of jurisdiction.</p> <p>❖ Discuss about the acceptance of jurisdiction by non-state parties.</p> <p>❖ Discuss about the difficulties of enforcement of ICL in municipal court.</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"> • ICRC (2015). • Cassese (2008). • Werle & Jessberger (2014). • Schabas & Bernaz (Eds.) (2011). • Sayapin (2014). • ICRC website. • ICC website.
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:

- ❖ 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,
- ❖ 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>.
- Cassese, Antonio (2008). International Criminal Law, 2d Ed. England: Oxford University Press
- Dinstein, Yoram (2010). The Conduct of Hostilities under the Law of International Armed Conflict, 2nd Ed., London: Cambridge University Press.
- Fleck, Dieter (ed.) (2008), The Handbook of International Humanitarian Law, 2nd Ed., England: Oxford University Press
- Sayapin, Sergey (2014), The Crime of Aggression in International Criminal Law, Springer.
- Schabas, William A. & Nadia Bernaz (eds.) (2011). Routledge Handbook of International Criminal Law, Routledge.

- 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