

## **1. Introduction**

The LL.M. (Master of Laws) program is a two-year degree program that typically includes number of students as approved by the University from all over the country. The master Degree Program is interested in attracting intellectually curious and thoughtful candidates from a variety of legal systems and backgrounds and with various career plans. Purbanchal University's LL.M. students include lawyers working in firms, government officials, law professors, judges, diplomats, human rights activists, doctoral students, business men and women, and others. The diversity of the participants in the LL.M. program contributes significantly to the educational experience of all students at the University.

## **2. Aim:**

The main aim of this program is to produce professional legal experts who could provide legal services in the government, semi government, corporate offices, Financial Institutions, international organizations and other legal set ups including freelance advocacy to the private clients.

## **3. Objectives**

After completion of this course the students will be able:

- To pursue legal education of particular specialization in criminal / Human Rights/ Business and International Trade Laws.
- To be professional legal expert who can provide legal service of his/her specialization through any legal set ups s/he involves.
- To explain/interpret constitutions, precedents and legal doctrines that can be applied for providing just to the clients.
- To explore and or involve in research of legal education and prepare reports/term papers/dissertations with candid findings with directives to guide the future students of legal education.
- To develop presentation skills so that they can develop level of confidence in presentation of any skills related to legal profession.

## **4. Description**

This curriculum is based on the job required to be performed by legal expert. This course is designed to equip with knowledge and skills of the field of legal education and its application. This course consists of three specialization areas: Criminal Laws (CL), Human Rights Laws (HRL) and Business and International Trade Laws (BITL). Students of all specialization should also undergo the subjects of common nature. This course mainly prepares students in pursuing legal education with skills such as presentation, research and convincing advocacy in all forms of legal professions.

**5. Duration**

The total duration of the course will be of two years.

**6. Target Group**

The target group for this program will be all interested individuals in the field of legal education with educational prerequisite of minimum Bachelor passed with legal education degree.

**7. Location**

The target group for this program will be in and from all over Nepal.

**8. Group Size**

The group size of this training program will be as of the quota approved by the university as provided all necessary resources to pursue legal education within and outside the class room.

**9. The medium of instruction:**

The medium in class delivery and examinations of this program will be Nepali or English or both.

**10. Pattern of Attendance**

Students should have 75% attendance during the academic year to attend the University Examinations.

**11. Focus of Curriculum**

This curriculum focuses on mastery learning. This curriculum emphasizes on all skills and knowledge related to legal education of masters level.

**12. Entry Criteria**

Individuals who meet the following criteria will be allowed to enter this degree program:

- Minimum of Bachelor degree holder in legal education
- Nepali citizen and or foreigners with legal visa status
- No age bar
- Should pass entrance examination as administered by the college

**13. Instructional Media and Materials**

The following instructional media and materials are suggested for the effective class room instruction and interactions.

- Printed Media Materials (Assignment sheets, Case studies, Handouts, Information sheets, Individual training packets, Procedure sheets, Reference Material lists, Textbooks etc.).
- Non-projected Media Materials (Display, Models, Flip chart, Poster, Writing board etc.). Projected Media Materials (Opaque projections, Overhead transparencies, Slides etc.).
- Audio-Visual Materials (Audiotapes, Films, Slide-tape programs, Videodiscs, Videotapes etc.)

- Computer-Based Instructional Materials (Computer-based Interactive video etc.).

#### **14. Teaching Methodologies**

The methods of teachings for this program will be a combination of several approaches. Such as Illustrated Lecture, Group Discussion, Demonstration, Simulation, Guided practice, Practical experiences, Fieldwork and Other Independent learning.

#### **15. Grading System**

The trainees will be graded as follows based on the marks in percentage secured by them in tests/ evaluations.

- Distinction: Passed with 80% or above
- First Division: passed with 65% above and less than 80%
- Second Division: passed with 50% above and less than 65%

#### **16. Students Evaluation Details**

- Continuous evaluation of the students' learning is to be done by the related subject lecturer/ Associate Professor/ professor to ensure the proficiency over each topic, unit and chapter under each area of the whole course.
- Related knowledge learnt by students will be evaluated through written or oral tests as per the nature of course during teaching and learning in the college.
- Students must secure minimum marks as stated in the course structure of all forms of examinations separately. However, aggregate marks will be considered for division determination.
- There will be internal examinations, term paper writing and presentations and university examinations in which students must pass each examination separately.

#### **17. Teachers' Qualification (Minimum)**

- Master's Degree in Legal Education or equivalent
- Good communication and instructional skills
- Experience in related field

#### **18. Suggestions for Instruction**

- Select objectives
- Write objectives of cognitive domain.
- Write objectives of psychomotor domain.
- Write objectives of affective domain
- Select Subject matter
- Study subject matter in detail.
- Select content related to cognitive domain.
- Select content related to psychomotor domain.

- Select content related to affective domain.
- Select Instructional Methods
- Teacher centered methods: like lecture, demonstration, question answers inquiry, induction and deduction methods.
- Student initiated methods like experimental, field trip/excursion, discovery, exploration, problem solving, and survey methods.
- Interaction methods like discussion, group/team teaching, microteaching and exhibition.
- Dramatic methods like role play and dramatization
- Select Instructional method (s) on the basis of objectives of lesson plans and Knowledge Attitude and psychomotor (KAS) domains.
- Select appropriate educational materials and apply at right time and place.
- Evaluate the trainees applying various tools to correspond the KAS domains.
- Make plans for classroom / field visits/ organization visits and management of any organizations.
- Coordinate among objectives, subject matter and instructional methods.
- Prepare lesson plan for each lecture to be delivered.
- Deliver /conduct instruction / program.
- Evaluate instruction/ program.

#### **19. The Certificate Requirements**

University will award the certificate of "Master's Degree of LL.M" to those students who successfully complete the prescribed course and fulfill all requirements set by the university.

# LL.M. Program

## Human Rights & Gender Justice

### First Year

S. N.	Course Code	Course Title	Contact Hours (Total)	Credit Hours	Full Marks			Total Full Marks	Pass Marks		Remarks
					University Exam	Internal Exam	Internal Term Paper		University Exam	Internal Exam	
1	501	Legal Research	120	4	60	20	20	100	30	10	10
2	502	Comparative Study of Legal System	120	4	60	20	20	100	30	10	10
3	503	Nepalese Laws on Gender and Accessibility to Justice	120	4	60	20	20	100	30	10	10
4	504	Civil and Political Right and Thematic Mechanism for Enforcement of Human Rights	120	4	60	20	20	100	30	10	10

## **1. Legal Research**

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Full Marks: 100

Pass Marks: 50

Year: I

**Nature: Compulsory**

**Course Code: 501**

### **Course Objectives:**

Objectives of the course are:

- To help students develop critical knowledge of fundamental concepts, elements and processes of legal research,
- To help them develop research based professionalism,
- To encourage involvement in multi-faceted of laws, and
- To help thereby development of laws and justice in Nepal.

### **Contents:**

1. Research Ethics and Plagiarism
2. Introduction to the Legal Research
3. Importance and Scope of Research in Law
4. Types of Research
5. Tools of Research
6. Case Law Research
  - a. Background & Development of Behavioral Approach
  - b. Case Law Organization
  - c. Case Law Location Methods
7. Legislative Research
  - a. Research on Constitution
  - b. Research on Statutes
8. Secondary Source of Data in Legal Research
9. Collection of Primary Data in Legal Research
  - a. Importance of Primary Sources

- b. Tools and Techniques of Primary Data Collection
- 10. Rules of Citation
- 11. Process of Research Project Development (Proposal Writing and Report Writing)
- 12. Jurimetrics Study
- 13. Computer Assisted Legal Research
- 14. Legal Research and Sociology of Law
  - a. Need based approach
  - b. Interest based approach

Reference:

1. Bonita. Roberts & Linda L. Schlueter, 1990, 'Legal Research Guide: Patterns and Practice. Contemporary Legal Education Series'. The Michie Company, Law Publishers. Virginia.
2. Robert C. Berring, 1992 'Finding the Law', (11<sup>th</sup>Ed.), West Group,
3. Alan L. Drowsy, 1992 'The Little Book on Legal Writing,'
4. Marjorie D. Rombauer, 1983 'Legal Problem Solving Analysis, Research and Writing,' West Publication, USA.
5. Legal Research, 1985, Indian Law Institute, India.
6. Dr. Myneni, 1997, Legal Research Methodology, Pioneer Books.

## **2. Jurisprudence and Comparative Study of Legal System**

Full Marks: 100

Pass Marks: 50

Year: I

Nature: Compulsory

Course Code: 501

### **Course Objectives:**

The Objectives of the course are:

- To help students critically understand the tenets and trends of various legal systems, and thus prepare them to develop critical analysis of concepts and principles of laws.
- To impart knowledge on theoretical base of the Nepalese system, and thus develop it as a viable system to address the needs.

### **Contents:**

1. School of Legal Thoughts
  - a. Natural School of Legal Thoughts
  - b. Positive School of Legal Thoughts
  - c. Historical School of Legal Thoughts
  - d. Sociological School of Legal Thoughts
  - e. Realists School of Legal Thoughts
  - f. Economics School of Legal Thoughts
2. Introduction to Comparative Law
3. Method in Comparative Law
4. Introduction to Major Legal Systems of the World
  - a. Hindu Legal System
  - b. Islamic Legal System
  - c. Common Law System
  - d. Civil Law System
  - e. Chinese Legal System
  - f. Japanese Legal System
5. Nature of Global Legal Problems

6. Comparison Of History and Sources
7. Basis Concepts and Application of Legal Transplants.
8. Comparative Law Method in Various Schools of Legal Transplants
  - a. Historical School of Legal Thoughts
  - b. Sociology School of Legal Thoughts
9. Comparative Legal Study of Religion, Race, Untouchability, Secularization and Gender Equality
10. Comparative and Critical Appraisals Of Human Rights Domestication Process
  - a. Rationalization of Statues
  - b. Judicial Contribution in Domestication of Human Rights Instruments
11. Development Challenges and Legal Systems
12. Globalization and International Rule of Law: Comparative Law perspective
13. Historical Development of Nepal Legal System: Comparative Law and Questions Regarding Legal Transplants

Reference:

1. Alan Watson Comparative Law and Legal Change, 37 Cambridge L.J. 313 (1978).
2. Alan Watson, Legal Transplants. An Approach to Comparative Law (University of Georgia Press., 1974).
3. BishalKhanal, Regeneration of Nepalese Legal System (BhrikutiPustakBhandar).
4. Dias, Jurisprudence(1994)
5. Eu Jin Chua, The Laws of the People's Republic of China: An Introduction for International Investors, 7 Chi.J. Int'l L. 133 (2006).
6. Herbert Jacob, Erhard Blankenburg, Herbert M. Kritzer, Doris Marie Provine, Joseph, Erhard Blankenburg, Herbert M. Kritzer, Doris Marie Provine, Joseph Sanders, Courts, Law and Politics in Comparative Perspective, (Yale University Press, 1996)

7. HLA Hart, Concept of Law(1992)
8. J. Connors, Sharia Law: An Introduction (London,20000)
9. James M. Cooper, Competing Legal Culture and Legal Reform: The Battle For Chile, 29 MICH. J. INT’L LAW 501(2008).
10. Johan C. Reitz, How To DO Comparative Law, 46 AM.J.COMp.L.617(1998).
11. Johan H. Langbein, The German Advantage in Civil Procedure, 52U.CHI. L. REV.823(1985).
12. John Henry Merryman& Rogelio Perez- Perdomo, The Civil Law Tradition: An Introduction to the Legal Systems of Europe and Latin America (Third Edition).
13. John Rawls, Theory of Justice(1971).
14. Kenneth S. Gallant, The Principle of Legality in International and Comparative Law(2007).
15. L.L. Fuller, Morality of Law(Universal Law Publications,2000).
16. Langbein, History of the Common Law,(Wolters Kluwer,2009).
17. Lloyd, Introduction to jurisprudence (Sweet and Maxwell, 1996).
18. Rene David and John E.C. Brierly, Major Legal System in the World Today.
19. Richard B. Cappalli, At the Point of Decision: The Common Law’s Advantage over the Civil Law, 12 TEMP. INT’L & COMP.L.J.87 (1998).
20. Rudolph B. Schlesinger, Schlesinger’s Comaparative Law (Foundation Press 2009).
21. Tulashi Ram Vaidya and Tri RatnaManandhar, Crime and Punishment in Nepal: A Historical Perspective.
22. YubarajSangroula&GeetaPathak, Gender and Lawe: Nepalese Perspective (pairavi Publication,2002).
23. YubarajSangroula, Jurisprudence: The Philosophy of Laws Oriental Perspective with Special Reference to Nepal (Kathmandu School of Law, 2010).

### **3. Nepalese laws on Gender & Accessibility To Justice**

Full Marks: 100

Pass Marks: 50

Year: I

Nature: Optional (Human Right & Gender Justice)

Course Code: 503

#### **Course Objectives:**

- To Critically introduce students With Nepalese Jurisprudence in relation to Gender and Women's accessibility to justice, and
- To help through students involvement in research in this areas rationalize the Nepalese Legal System

#### **Contents:**

1. To critically introduce students with Nepalese Legal System
  - Historical Growth of Nepalese Legal System Influence of Hindu Values in Framework of Nepalese Legal System
  - Customary Values and Laws of Nepal in Relation to women's Status
2. Women's Personality and Laws:
  - Women's Capacity to Contract Laws
  - Women's Capacity to Inherit Parental Position and Property
  - Women's Capacity to Succeed Right and duties of natal families
3. Scope and Application of Constitution of Nepal, 2015 for Enhancement of Women's Personality
4. Critical Analysis of Article 18 of the Constitution of the of Nepal, 2015
  - Constitutional History of Gender Equality Legislative Efforts to Enforce the Article 18, the Proviso of Sub- Article (3)
  - Judicial Activism in Relation to Article 18, including of sub-article (3).
  - Trends and Challenges.

5. Domestication of Convention on Elimination of all Forms of Discrimination Against Women
  - Critical overview of Government of Nepal's efforts to legislate laws to safeguard equality.
  - Critical Overview of Government of Nepal's efforts to legislate laws restrict traditional discriminatory practices.
  - Critical Overview of Government of Nepal's efforts to legislate laws restrict traditional discriminatory practices.
  - Critical Overview of Government of Nepal's efforts to secure participation of women in politics, civil and military services.
  - Critical Overview of Government of Nepal's efforts safeguard women's right to maternity, reproductive health and protection against practices prejudicial to their health.
  - Critical Overview of Government of Nepal's initiatives to fulfill the Commitment under the Constitution and International Treaties, Conventions and declarations.
6. Marital Laws
  - Freedom of Marriage
  - Divorce
  - Alimony
7. Protection against Sexual Exploitation Violence:
  - Rape
  - Incest
  - Sexual Harassment
  - Trafficking Sexual Exploitation
  - Domestic Violence
8. Abortion and Family Planning Laws
9. Judicial System and Gender Issues
  - Overview of Legislation concerning accessibility to judicial proceedings
  - Socio-legal obstacles for unrestricted access to justice.

- Fairness of Criminal proceeding for helping women to have access to justice
  - Protection of the Right to during judicial proceedings
10. Issues of Social Stigmas and Judicial proceedings
  11. Compensation for Crimes against person and property of women.
  12. Role of National Women's Commission in Protecting women's Rights

Reference Book:

1. The Constitution of Nepal, 2017
2. Muluki Civil Code Act 2017 & Muluki Criminal Code Act 2017
3. Human Trafficking Control Act.
4. Domestic Violence laws.
5. Local Government Operation Act, 2017.
6. Civil Service Act and Regulations.
7. Muluki Civil Code Act, 2017.
8. Muluki Criminal Code Act, 2017.
9. HMG's Thematic Report on CEDAW to UN.
10. Doctor Shankar Kumar Shrestha, A step towards Victim Justice System in Nepal. Pairabi .Prakashan, 2001.
11. Yubaraj Sangraula, Condemn to exploitation; Trafficking of women and girls. Kathmandu School of Law, (2001).

#### **4. Civil and Political Right and Thematic Mechanism for Enforcement of Human Rights**

Full Marks: 100

Pass Marks: 50

Year: I

Nature: Optional (Human Right & Gender Justice)

Course Code: 504

##### **Course Objectives:**

- To develop critical understanding of student on rights guaranteed by international conventions and treaties on human rights,
- To develop skills of using national, regional and international mechanism to protect human rights,
- To help create an environment for rationalization the domestic laws, and
- To help build capacity to apply international human rights instruments in the domestic situation.

##### Contents:

###### Part 'A'

1. Evolution of International Human Right Law
2. The fundamental Concepts of Human Right
  - a. Special Features of Human Rights
  - b. Kinds of Human Rights
  - c. Subjects of Human Rights
  - d. Human Rights vs. Basic Needs
  - e. Interdependence and Indivisibility of Human Rights
3. Human Rights and Cultural Relativism
  - a. Defining Cultural Relativism
  - b. Relativity and Universality
  - c. Varieties of Cultural Relativism
  - d. Caste and Cultural Relativism in Nepal
  - e. Gender and Cultural Relativism in Nepal
  - f. Human Rights and People's Rights
  - g. Group's Rights in Human Rights Framework
  - h. Cultural Rights and Cultural Identity.

#### 4. Right to Fair Trial

- Right to be Presumed Innocent
- Right to Legal Counsel, the Meaning and Scope and Roles of Lawyers
- Right to public and adequate Hearing, the Extent and Limitation
- Right Against Illegal Detention, the Meaning , Extent and Safeguards
- Right Against Torture Under

#### 5. Right to Nationality and Marriage

#### 6. Protection of Human Rights During Civil Strife

- Meaning and Definition
- International Conventions and Treaties Permitting Use of Arms
- Code of Conduct of Law Enforcement Officials while Using Arms
- Control of Illegal Mob and Detention during Civil Strif

#### 7. Human Rights during Emergency and Armed Conflicts

- Definition of Emergency and Armed Conflict
- Vulnerable groups during Armed Conflicts, Women, Children,

Minority, Refugees, Aliens, and journalist

- a. Protection Afforded to Vulnerable Groups by International Human

Rights Law

- b. Minimum International Standards Applicable to Protection of

Vulnerable Groups

- International Conventions and Treaties Applicable During Conflict

#### 8. Nepal's Commitment to Protect and Promote Human Rights

- Constitution
- Statues
- Enforcement of Human Rights
- a. Supreme Court Judgments on Applicability of International

Instruments

- b. National Human Rights Commission
- c. Accountability and Impunity

#### Part'B'

#### 1. Human Rights Enforcement Mechanism

- Thematic Mechanism
- Treaty Mechanism

2. UN Committees on Human Rights
  - Human Right Under the Optional Protocol of ICCPR
  - UN Committee on Elimination of Racial Discrimination (CERD)
  - Committee against Torture
  - Committee on CEDAW Optional Protocol
3. Protection of Human Rights in International Litigation and Diplomatic Protection
4. State Responsibility for the Violation of International Human Rights
5. Concept and Implications of certain Human Rights as Obligation erga omnes
6. International Human Rights Enforcement Procedures
  - Thematic Procedures Comprising special rapporteur and working group on procedures under ICCPR, CERD, CAT and CEDAW and ILO conventions
7. Role of Advocates (NGO'S)
8. Remedies Available Under Thematic Mechanism
9. Monitoring Of Human Rights
  - a. International Institutions
  - b. Regional Institutions
  - c. National Human Rights Institutions

Reference Books:

1. Jack Donnelly Universal Human Rights in Theory and Practice Cornell Paperback, Cornell University press, (1989)
2. Daniel Moeckli, Sangeeta Shah, Sandesh Sivakumaran, Davi Harris, International Human Rights Law, 3<sup>rd</sup> Edition, OUP (2017)
3. Philip Alston and Ryan Goodman, International Human Rights, OUP (2012)
4. Azizur Rahman Chowdhury & Md. Jahid Hossain Bhuiyan (Eds.) An Introduction to International Human Rights Law, Brill (2010)
5. Olivier De Schutter, International Human Rights Law: Cases, Materials, Commentary, CUP (2014)
6. Malcolm M. Shaw, International Law, 8<sup>th</sup> Edition, CUP (2017)

7. Alina Kaczorowska, Public International Law: 4<sup>th</sup> Edition, Routledge (2010)
8. Samuel Moyn, The Last Utopia: Human Rights in History, Harvard University Press (2012)
9. T.S. Batra, Human Rights, A Critique Metropolitan Book Co. Pvt.Ltd., (1979)
10. Human Rights Year Books (various Issues) INSEC
11. Hurts Hannum, Materials on International Law, An US Criminal Law Procedure, International Law Institutes. USA (1998)
12. Human Rights extra Judicial, Summary or arbitrary execution fact sheet no. 11 UN (1998)
13. Peter Bachr, Lalaine Sadiwa and Jacqueline Smith ( Eds), Human Rights in developing countries Year Book 1996, Kluwer Law International (1996)
14. Circle of Rights : Economic, Social and Cultural Rights activism: A Training Research International Human Rights Internship Program. Washington 2000.
15. Human Rights Training Manual, National Police Academy, Nepal(2000)
16. David L. Bender and et.al., Civil Liberties Opposing viewpoint, USA
17. Fair Trial: Asian Human Right Commission, Hongkong(2000)
18. Sabitri Goonesekera, Children, Law and justice, A South Asian Perspective, Sage Publication (1998)
19. The Constitution of Nepal(2015)
20. National Human Rights Commission Act and Regulation,
21. Muluki Civil Code Act 2017
22. Muluki Criminal Code Act 2017

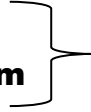
## Criminal Law & Justice

### First Year

S. N.	Course Code	Course Title	Contact Hours (Total)	Credit Hours	Full Marks			Total Full Marks	Pass Marks			Remarks
					University Exam	Internal Exam	Internal Term Paper		University Exam	Internal Exam	Internal Term Paper	
1	501	Legal Research	120	4	60	20	20	100	30	10	10	
2	502	Comparative Study of Legal System	120	4	60	20	20	100	30	10	10	
3	521	Criminal Law Cases and Materials	120	4	60	20	20	100	30	10	10	
4	522	Forensic Jurisprudence	60	2	30	10	10	50	15	5	5	
5	523	Juvenile Justice (Children in conflict of Law)	60	2	30	10	10	50	15	5	5	

**1. Legal Research**

**2. Comparative Legal System**



**1. These two subjects are common for all LL.M Programs**

**3. Criminal Law Cases & materials**

Full Marks: 100

Pass Marks: 50

Year: I

Nature: Optional (Criminal Law & Gender Justice)

Course Code: 521

**Course Objectives:**

The objective of this course is to provide

- A critical study on the existing criminal Legislation
- Knowledge on the Jurisprudence of criminal law & justice develop by the supreme court of Nepal along with cross reference of other countries

**Contents:**

Unit I: Criminal Library

- Elements of crime; Actus Reus, Mens Rea
- General defenses
- Inchoate offences: incitement, conspiracy & attempt
- Parties to crime
- Related cases

Unit II: offences against persons

- Homicide,
- Assault, battery false imprisonment,
- Human trafficking & kidnapping

Unit III: offences against property

- Theft, deception (cheating) LooT,
- Forgery & Fraud of documents, Arson
- Offences against cattle's animals

Unit IV: offences related to sex

- Marriage, Bigamy, Polygamy, child marriage
- Rape, incest
- Indecent assault, bestiality and other sexual offences.

Unit V: offences against the state

- Offences against the state, terrorism
- Public offences
- Bribery & corruption, counterfeiting
- Offences related to narcotic drugs
- Related cases

Unit VI: miscellaneous offences

- Defamation
- Offences related to road accidents & traffic regulation
- Arms & ammunitions
- Espionage
- Security agencies acts and related offences Related cases

References:

1. Eliot & wood, "criminal law cases & materials"
2. Jenet& James, 1995 "case & materials on criminal law". New Delhi Lawman (Ind) Pvt. Ltd.
3. J.W.C. Turner, 1998'Kenney's outline of Criminal Law', Cambridge
4. DeraldDHunt, 1970, 'California Criminal Law', concept (10<sup>th</sup>ed) Burgees Publishing
5. Joseph G. Cook & Paul Marcus, 1992, ;criminal law' Matthew Bender
6. J.C. Smith & Brian Hogan 1990,'criminal law cases & materials,' Butterworths, London.
7. MadhavPd.Acharya&Rijit B Pradhanaga, 2054 JiyuJyanSambandhiAparadh, (crime against life n human body), Kathmandu, RatnaPustakBhandar.
8. MulukiAin, 2020Nepal
9. States cases Act, 2049 BS & Regulation, 2055 BS, Nepal
10. PrabirBasu 2000 All India Criminal Law digest BinodPubilcation(p) Ltd.
11. Evidence Act, 2031, BS Nepal
12. Indian penal code,1860
13. Code of criminal procedure,1973,India
14. Criminal Muluki (Code Act, 2074) and Criminal Muluki Procedure ( Code Act,2074

## **4. Forensic Jurisprudence**

Full Marks: 50

Pass Marks: 25

Year: I

Nature: Optional (Criminal Law & Justice)

Course Code: 522

### Course Objectives:

Objectives of this course are to:

- Impart knowledge on Material evidence rather than confessions.
- Generate resource persons and professionals with the idea of Forensic Sciences.
- Help students to advocate for ‘victims of crime’ on the basis of Material evidences.
- Provide a platform for strengthening the continuous reforms and improvements in the Criminal Justice System.

### Contents:

- I. Introduction
  - Evolution/Concept of forensic Jurisprudence
  - Physical evidence, types and its evidences value
  - Examination of scene of crime
  - Chain of custody of physical evidences (preliminary examination)
  - Evidence acceptable to Courts
  - Forensic Laboratories of Nepal and its sections
- II. Scientific Examination of Physical Evidences
  - Blood, Semen, Body fluids
  - Hairs, fibres
  - Soil and Glass fractures
  - Finger prints/Foot prints
  - Ballistics, Arson
  - Questioned Documents
  - D.N.A. Profiling
- III. Post-mortem Examination: Determination of manner of death
  - Examination of Dead body

- Determination of time of death

IV. Medico-Legal Examination –

- Wounds and injuries
- Rape/Group rape
- Toxicology; Drugs and Poisons
- Road/ Air accidents
- Examination of drunkenness
- Examination of Insanity and mental state
- Examination of Torture Victim

V. Expert Opinion and Testimony

- Use of Statistics in Forensic science
- - Testimony of Investigator
- Objective of Prosecutor Examination
- Objective of Defense Examination
- Expert Opinion and Reliability
- Examination, Cross Examination and Reexamination

V. Leading Cases with reference to Nepal

VI. VII. Field Visits

References:

1. Richard Saferstein, 1995, (5th ed), 'Criminalistics; An introduction to forensic science', Prince Hall Int.
2. Modi, 1999, ( 22nd Ed.) Medical Jurisprudence and Toxicology, India, Butterworths
3. Ajaz Ahmed, 1996, 'Medical Evidence', Ashoka Law House,
4. Richard E Kohler & Thomas M.O'Maley, Criminal Justice Division; General Investigation Techniques, California State University, Sacramento.
5. Ajaz Ahmed, 1990, Expert Evidence, (5th ed), , (5th ed), Vinod Publications,
6. Evidence Act, 2031 BS, Nepal
7. State Cases Act, 2049 BS & Regulation, 2055BS, Nepal
8. Criminal Procedure Guidelines, 2058, CeIRRd, Kathmandu
9. Criminal Muluki ( Code Act, 2074) and Criminal Muluki Procedure ( Code Act, 2074)

## **5. Juvenile Justice (Children in conflict with Law)**

Full Marks: 50

Pass Marks: 25

Year: I

Nature: Optional (Criminal Law & Justice)

Course Code: 523

### Course Objectives:

The objective of this course is to:

- Provide a platform for competent and continuous study on the problem relating to 'children in conflict with law' and their accessibility to Justice.
- Promote advocacy on rights of children, divergent method of solving disputes and the methods of rehabilitation.
- Involve students in reforms and improvements of the 'Nepalese Justice system in relation to children'

### Contents:

#### I. National & International Policy & Legislative concern for Children

- Convention on the Rights of the Child, 1989 & related International Instruments
- Children Act 2048, Nepal
- Judicial intervention in relation to Justice for 'children in conflict with law'
- Child Abuse, Child Labor, Child marriage, Child Trafficking, Child custody, Dependent Children;

#### II. The Nature of Delinquency

- Childhood and Delinquency
- Perspectives (Theories)
- Stages and Extent of Delinquency

#### III. Causative Factors

- Home & Family Conditions

- - Socio-Economic Factors / Association with habitual offenders
- Female Delinquents / Street Children / Juvenile Gangs
- Destitute and Displaced Children

#### IV. Juvenile Justice Administration

- Juvenile Aid Police (Women and Child Police Cell - Nepal)
- Juvenile Courts (Juvenile Bench- Nepal)
- Correctional Institutions in prevention of delinquency
- Nepal & Abroad - Nepalese Legislation regarding Juvenile Justice in Comparison with International Instruments

#### V. Diversions - schemes and Best practices

- Concept and Development
- Pre-trial Settlement
- Settlement during Trial
- Post-trial Settlement
- Settlement by community mediation , Multi Agency Support

#### VII. Rehabilitation of Juveniles Nepal and Elsewhere

Note: Each student shall prepare case study on the areas specified by the faculty that will form a part of final examination.

#### References:

1. Walter Wadlington et al., 1983, 'Children in the legal system- Cases & Materials' Foundation Press Inc.
2. VU NGOC BINH, 1995, Children rights in National & International Law, The National Political Publishing House, Hanoi.
3. Niel Gilbert et al, 1989, 'Protecting your children from Sexual Abuse', Lexington Books, Tronoto
4. Walter C Reckless, 1970, 'The Crime Problem', Vakils, Feffer & Simons Pvt. Ltd, Bombay.
5. M.A. Bortner, 1988, 'Delinquency & Justice', McGraw- Hill Book Co.

6. Sue Titus Reid, 1996, 'Crime & Criminology' ( 8th Ed.) McGraw Hill, U.S. A
7. Lydia Voigt et. al., 1994, 'Criminology and Justice' McGraw - Hill , Ins. New York.
8. Child Rights Act, 2048, Nepal
9. Juvenile (Care and Protection) Justice Act, 2000 India
10. International Conference on Juvenile Justice & Human Rights, January 5- 10, 2003, Kathmand; Documents Compilation KSL.
11. Criminal Muluki (Code.Act,2074) and Criminal Muluki Procedure (Code Act,2074)

**Business in International Trade Law:**

**First Year**

S. N.	Course Code	Course Title	Contact Hours (Total)	Credit Hours	Full Marks			Total Full Marks	Pass Marks		Remarks
					University Exam	Internal Exam	Internal Term Paper		University Exam	Internal Term Paper	
1	501	Legal Research	120	4	60	20	20	100	30	10	10
2	502	Comparative Study of Legal System	120	4	60	20	20	100	30	10	10
3	511	Contract Law	120	4	60	20	20	100	30	10	10
4	512	Law on Intellectual Property	120	4	60	20	20	100	30	10	10

1. Legal Research  
2. Comparative Legal System

2. **These two subjects are common for all LL.M Programs**

3. Contract Law

Full Marks: 100

Pass Marks: 50

Year: I

Nature: Optional (Business & International Trade Law)

Course Code: 511

### Course Objectives

Objectives of this course are:

- To familiarize students with general principles of Contract Law, and
- To impart a knowledge of comparative and critical understanding of the Nepalese and Foreign Laws on Contract.

### Content

1. Nature of Contract Definition of Contract, Elements of a Valid Contract
2. Formation of Contract The offer, The Acceptance, Intention to Create Legal Relation
3. Consideration Necessity, Adequacy and Position in Nepal
4. Factors Tending to Defeat Contractual Liability
  - a) Minors
  - b) Corporations & Unincorporated Bodies
  - c) Persons of Unsound mind (Lunatic)
5. Void & Voidable Contracts
6. The Acquisition of Contractual Rights by Third Parties
7. Terms of Contract Exemption clauses & its limitation
8. Discharge of Contract: - Performance, Agreement, Lapse of Time, Frustration, Breach

9. Remedies for Breach of Contract:- Specific Performance, Quantum Meruit, Injunction, Damages. 10. Agency Creation of Agency, Authority
11. Bailment & Pledge Feature, Rights & Duties of Bailor&Bailee Concept of Pledge
12. Indemnity and Guarantee Feature, Nature of Surety's Liability, Termination of Surety's Liability 13. Partnership Creation of Partnership, Relation of Partners, Dissolution of Partnership
14. The Sale of goods Essential of Sale of Goods, Sale and Agreement to sell, Condition & Warranties, Implied Condition, Unpaid Seller.

#### Recommended & Reference Books

1. P.S. Atiyah, Atiyath on Sale of Good
2. Anson's Law of Contract
3. T.V.S. VenkateshaIyer, Law of Contracts & Tenders (Vol. 1 and 2)
4. Pollock and Mulla on Indian Contract Law
5. Poul Dobson, Charlesworth's Business Law, Sweets and Maxwell
6. Contract Act
7. Nepal Agency Act, 2014
8. Partnership Act
9. Muluki Criminal (code) Act, 2074&Muluki Criminal procedure (code) Act,2074
- 10.Muluki Civil (Code ) Act, 2074 &Muluki Civil Procedure (Code) Act,2074.

## **4. Law of Intellectual Property**

Full Marks: 100

Pass Marks: 50

Year: I

Nature: Optional (Business & International Trade Law)

Course Code: 512

### Course Objective

Objective Objectives of the course are:

- To impart comprehensive and analytical knowledge on Intellectual Property Laws
- To provide extensive knowledge to examine various philosophical and policy consideration in relation to Intellectual Property Rights.

Contents:

1. Concept of property

a) Various Theories of Property

b) Private Property Regime and Intellectual Property

2. Origin and Development of Intellectual Property

a) Patent

b) Design

c) Trademark

d) Copyright

3. Patent

a) Meaning of Patent

i) Invention

ii) Novelty and Utility

iii) Inventive Step

b) Statutory Rights

i) Application, Examination and Opposition

ii) Rights recognized – Term, Ownership, Assignment, License, Compulsory Licensing, Revocation

iii) Foreign Patents and Patent Cooperation Treaty

4. Design

a) Meaning of Design

i) Concept of Novelty and Originality

b) Statutory Rights

i) Application, Examination and Opposition

ii) Rights recognized – Term, Ownership, Assignment, License, Revocation

iii) Foreign Design and Hague Agreement on Design

5. Trademark a) Meaning of Trademark

i) Distinctiveness

ii) Similarity and Deceptive Similarity

b) Statutory Rights

i) Application, Examination and Opposition

ii) Rights recognized – Term, Ownership, Assignment, License, Revocation

iii) Foreign Trademarks and Paris Convention, Madrid Agreement on Marks

6. Copyright and Neighboring Rights recognized Term, Ownership, Assignment, Berne Convention

7. TRIPs and Intellectual Property Protection of Plant Varieties, Living Organisms, Protection of Indigenous and Traditional Knowledge and Technology

8. Dispute Settlement

a) Under Nepalese Laws

b) Under TRIPs

Recommended Books :

1.W.R. Cornish, Intellectual Property, Universal Law Publishing Co. Pvt. Ltd.

2.Catherine Colston, Principles of Intellectual Property Law, Cavendish Publishing Limited.

3.Patent Design and Trademark ACT

4.Copyright Act

5. Muluki Criminal (code) Act, 2074&Muluki Criminal procedure (code) Act,2074

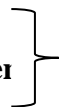
6. Muluki Civil (Code ) Act, 2074 & Muluki Civil Procedure (Code) Act.2074.

**International Law**

**First Year**

S. N.	Course Code	Course Title	Contact Hours (Total)	Credit Hours	Full Marks			Pass Marks			Remarks	
					University Exam	Internal Exam	Internal Term Paper	University Exam	Internal Exam	Internal Term Paper		
1	501	Legal Research	120	4	60	20	20	20	30	10	10	
2	502	Comparative Study of Legal System	120	4	60	20	20	20	30	10	10	
3	530	Public International Law	120	4	60	20	20	20	30	10	10	
4	531	International Environment Law	60	2	30	10	10	10	15	5	5	
5	532	International Human Rights Law	60	2	30	10	10	10	15	5	5	

1. Legal Research
2. Comparative Legal System



**3. These two subjects are common for all LL.M Programs**

### **3. Public International Law**

Full Marks: 100

Pass Marks: 50

Year: I

Nature: Optional (International Law)

Course Code: 530

Objectives of the Course:

1. To introduce the basic principles and rules of public international law.
2. To introduce and discuss the recent developments in public international law.
3. To prepare students for advanced courses and discourses on various areas of international law.

Course Outline

1. Introduction to International Law
  - 1.1. Evolution of International Law
  - 1.2. Theoretical Foundations of International Law
  - 1.3. Nature and Role of International Law
2. Sources of International Law
  - 2.1. Article 38 of the Statute of the International Court of Justice
    - 2.1.1. Treaties and Conventions
    - 2.1.2. Custom
    - 2.1.3. The General Principles of Law
    - 2.1.4. Judicial Decisions and Publications and Teachings
  - 2.2. The Relationship between the Sources of International Law
  - 2.3. Additional Sources of International Law
3. Subjects of International Law
  - 3.1. States as subjects of International Law
    - 3.1.1. Statehood
    - 3.1.2. Self Determination

- 3.1.3. Recognition
- 3.2. International Organizations as subjects of International Law
- 3.3. Individuals as subjects of International Law
  - 3.3.1. International Rights and Responsibilities
  - 3.3.2. International Claims
4. Relationship between International Law and Municipal Law
  - 4.1. Application (Domestication) of International Law in Municipal Courts
  - 4.2. Domestication of International Law in Nepal and the Treaty laws of Nepal
5. The Law of Treaties
  - 5.1. Formation of Treaties
  - 5.2. Reservations of Treaties
  - 5.3. Application of Treaties
  - 5.4. Interpretation of International Treaties
  - 5.5. Invalidation, Termination of Treaties
  - 5.6. Treaties and Jus cogens
6. Jurisdiction of State
  - 6.1. Civil Jurisdiction
  - 6.2. Criminal Jurisdiction
  - 6.3. Extraterritorial Jurisdiction
  - 6.4. Concurrent Jurisdiction
  - 6.5. Extradition
7. Immunities and Privileges of State and Diplomats
  - 7.1. State Immunity
  - 7.2. Diplomatic and Consular Relations Law
    - 7.2.1. Immunities and Privileges of International Organizations and their Officials
    - 7.2.2. Immunities and Privileges of Foreign Diplomats
8. International Aviation Law
  - 8.1. Air Law
  - 8.2. Applicable International Rules in Regard to Air Law
  - 8.3. Nepali Legislation Relating to Air Law
9. Law of Access to Sea and the Rights of the Land Locked Countries
  - 9.1. Law of the Sea and Land Locked Countries

- 9.2. United Nations Convention of the Law of the Sea
- 9.3. Transit Agreement Between Nepal and India
- 9.4. Rights of Landlocked Countries in GATT 94
10. State Responsibility
  - 10.1. Nature and Scope of State Responsibility
  - 10.2. The Elements of International State Responsibility
  - 10.3. The Substance of International State Responsibility
  - 10.4. Invocation of International State Responsibility
  - 10.5. Admissibility of Claims
  - 10.6. Diplomatic Protection
  - 10.7. Rule of Exhaustion of Local Remedies
  - 10.8. The ILC Articles on International Responsibility for Internationally Wrongful Acts
11. International, Regional and Bilateral Organizations and Institutions
  - 11.1. The UN System
  - 11.2. The WTO
  - 11.3. The World Bank and the International Monetary Fund
  - 11.4. SAARC
  - 11.5. BIMSTEC
  - 11.6. Bilateral Institutions
    - 11.6.1. Bilateral Trade Agreements
    - 11.6.2. Bilateral Investment Agreements 1
    - 11.6.3. Double Taxation Agreements

#### Recommended References

1. A. Cassese, International Law (Oxford: OUP 2001).
2. D. B. Hollis, ed., The Oxford Guide to Treaties, (Oxford: OUP 2012).
3. Harris, Cases and Materials on International Law (7th edn, 2010).
4. James Crawford, Brownlie's Principles of Public International Law, (Oxford: OUP 2012).
5. Jennings & Watts (eds), Oppenheim's International Law. Volume I: Peace (9th edn, 1992).
6. Lori F. Damrosch eds., International Law, Cases and Materials (New York: West Publishing 2001).
7. M. Evans (ed), International Law (Oxford: OUP 2010).

8. Malcolm N Shaw, International Law, (Cambridge: CUP 2008)
9. Merrills, International Dispute Settlement (4th edn 2005)
10. P. Allott, The Health of Nations: Society and Law Beyond the State (2002).
11. R. Higgins, Problems and Process: International Law and How We Use It (1994).
12. Rosenne, The Law and Practice of the International Court, 1920-2005 (2006).
13. W. M. Reisman, Systems of Control in International Adjudication and Arbitration. Breakdown and Repair. (1992).
14. Zimmermann et al, The Statute of the International Court of Justice: A Commentary (2006).

## **4. International Environmental Law**

Full Marks: 50

Pass Marks: 25

Year: I

Nature: Optional (International Law)

Course Code: 531

### Objectives of the Course:

1. To introduce the basic principles and normative standards of international environmental law.
2. To discuss recent developments in international environmental law.

### Course Outline

1. Introduction to International Environmental Law
  - 1.1. History and Development of International Environmental Law
  - 1.2. Nature and Scope of International Environmental Law
  - 1.3. The Nature and Definition of Environment
2. Sources and Principles of International Environmental Law
  - 2.1. General Sources of International Law
  - 2.2. Soft Law
3. Substantive International Environmental Law
  - 3.1. Atmospheric Protection
  - 3.2. Climate Change
  - 3.3. Trans boundary Water
  - 3.4. Biodiversity
  - 3.5. Hazardous Waste and Toxic Materials
4. Enforcement of International Law
  - 4.1. Concept, Nature and Scope of Liability in International Environmental Law
  - 4.2. International Environmental Litigation
  - 4.3. Enforcement of Environmental Law under the Law of the WTO, UNCLOS
5. Environmental and International Trade
6. Role of International Law in Protecting Environment

- 6.1. Multilateral Mechanisms for Environment Protection
- 6.2. Protection of Environment during Armed Conflict
- 6.3. Emerging Legal Principles and Issues

#### References

1. Birnie, P., Boyle, A., and Redgwell, C., International Law and The Environment (OUP: 2009).
2. Bodansky, D., Brunnee, J., and Hey, E (eds), The Oxford Handbook of International Environmental Law (OUP:2007).
3. Sands, P., Principles of International Environmental Law (CUP: 2003).
4. Francioni, F (ed), Environment, Human Rights and International Trade, (Hart Publishing: 2001).
5. Fitzmaurice, M., International Protection of the Environmental, 293 *Reuil des Cours* 13 (2001).
6. James Crawford, *Brownlie's Principles of Public International Law*, (Oxford: OUP 2012).
7. M. Evans (ed), *International Law* (Oxford: OUP2010).
8. Cottier, T. O. Nartova and S. S. Bigdeli *International Trade Regulation and the Mitigation of Climate Change* (Cambridge: CUP, 2009)
9. S. Coyle and K. Morrow *The Philosophical Foundations of Environmental Law* (Oxford: Hart, 2004), 212-215.
10. B. Hutter 'Socio-Legal Perspectives on Environmental Law: An Overview' in B. Hutter (ed.) *A Reader in Environmental Law* (Oxford: OUP, 1999)
11. N. de Sadeleer *Environmental Principles: from Political Slogans to Legal Rules* (Oxford: OUP, 2002)
12. Y. Dinstein *The Conduct of Hostilities under the Law of Armed Conflict* (Cambridge: CUP, 2010. 2nd edition)

## **5. International Human Rights Law**

Full Marks: 50

Pass Marks: 25

Year: I

Nature: Optional (International Law)

Course Code: 532

### Course Objectives:

1. To introduce the basic principles and rules of international human rights law.
2. To discuss various forms of human rights and international law governing protection of human rights.
3. To introduce basic procedural aspects of implementation and enforcement of international human rights law.

### Course Outline:

1. Introduction to Human Rights
  - 1.1. Nature of Human Rights
  - 1.2. Philosophical Foundations of Human Rights
  - 1.3. Human Rights and Cultural Relativism
  - 1.4. Evolution and Development of International Human Rights Law
  - 1.5. Nature of State Obligation for the Protection of International Human Rights
  - 1.6. Concept of State Responsibility in regard to International Human Rights under International Law
  - 1.7. Nature of International Obligation and Obligation erga omnes
2. Civil and Political Rights
  - 2.1. Introduction
  - 2.2. Nature of Civil and Political Rights
  - 2.3. International Law Governing the Protection of Civil and Political Rights
  - 2.4. Remedies for the Violation of Civil and Political Rights under International Law
3. Economic, Social and Cultural Rights

- 3.1. Introduction
  - 3.2. Nature of Economic, Social and Cultural Rights
  - 3.3. International Law Governing the Protection of Economic, Social and Cultural Right
  - 3.4. Remedies for the Violation of Economic, Social and Cultural Rights
  4. Development Rights
    - 4.1. Introduction
    - 4.2. Nature and Evolution of Development Rights
    - 4.3. Concept of Right to Development, Self Determination etc.
    - 4.4. International Law Governing the Protection of Development Rights
  5. Special Protection of Human Rights of Various Groups under International Law
    - 5.1. Protection of Women, Children, Minorities, Differently able under International Law
  6. Limitations on Human Rights
    - 6.1. Derogations From International Protection of Human Rights
    - 6.2 International Protection of Human Rights and State Sovereignty
  7. International Mechanisms of International Human Rights Enforcement
    - 7.1. Introduction to Treaty Bodies and International Organizations
    - 7.2. General Enforcement Procedures in International Treaty Bodies and International Organizations
  8. Emerging Concepts
    - 8.1. Terrorism and Human Rights
    - 8.2. Post Conflict Justice (Transitional Justice)
    - 8.3. Remedies to the Past Human Rights Violations
- References
1. Jack Donnelly, Universal Human Rights in Theory and Practice (Cornell University press: 1989)
  2. Henry J. Steiner, Philip Alston and Ryan Goodman, International Human Rights in Context: Law, Politics, Morals (OUP:2008).
  3. C. Gearty, Civil Liberties (OUP: 2007)
  4. Javid Rehman, International Human Rights Law (Pearson: 2010)
  5. Eric Barendt, Freedom of Speech (OUP: 2005)

6. Martha C. Nussbaum, Women and Human Development: The Capabilities Approach, (CUP: 2000)
7. Mark Weller (ed.), The Rights of Minorities. A commentary on the Europe, an Framework Convention for the Protection of National Minorities (OUP: 2005)
8. Naomi Roht-Arriaza, The Pinochet Effect: Transitional Justice in the Age of Human Rights (UPenn: 2005)
9. Malcolm Langford (ed.), Social Rights Jurisprudence: Emerging Trends in International and Comparative Law (CUP: 2008).
10. Thomas Pogge (ed.), Freedom from Poverty as a Human Right (Paris: UNESCO)
11. Olivier De Schutter International Human Rights Law: Cases, Materials, Commentary (CUP: 2010).
12. T. Meron, Human Rights and Humanitarian Norms as Customary Law (OUP: 1989)
13. Sarah Joseph, et. al., The International Covenant on Civil and Political Rights: Cases, Materials And Commentary, (OUP: 2004).
14. Patrick Thornberry, International Law and the Rights Of Minorities, (OUP: 1991).

**LL.M. Program**  
**Human Rights & Gender Justice**  
**Second Year**

S. N.	Course Code	Course Title	Contact Hours (Total)	Credit Hours	Full Marks			Pass Marks			Remarks
					University Exam	Internal Exam	Internal Term Paper	University Exam	Internal Exam	Internal Term Paper	
1	605	Feminist Jurisprudence	120	4	60	20	20	30	10	10	
2	606	Women's Human Rights	120	4	60	20	20	30	10	10	
3	607	Economic, Social and Cultural Rights	120	4	60	20	20	30	10	10	
4	608	Dissertation						100			50 pass mark

## **1. Feminist Jurisprudence**

Full Marks: 100

Pass Marks: 50

Year: II

Nature: Optional (Human Rights and Gender Justice)

Course Code: 605

### Course Objectives:

- To introduce students with basic principles and the concepts of emerging jurisprudence on feminism
- To develop their capacity of interpretation of legal instruments with feminist perspective, and
- To help the process of gender secularization of the Nepalese Law.

### Contents:

1. Foundations and concepts of Feminist Jurisprudence
  - Observation on the situation of Feminist Legal Thought
  - Feminist Theory as a Legal Theory
2. Controversies within Feminist Legal Theory
  - Feminist Discourse, Moral Values and the Law
  - Equality and Physical Difference between Men and Women
  - Pregnancy: Inherent Privilege or Obstacle to Development
  - Abortion: Pro-Choice or Pro-Life
  - Sexual Expression: Right or Pornography
  - Prostitution: Labor or Exploitation
3. Feminist Critical Theories
  - Theoretical Premises
  - Liberal Legalism
  - Rights: Dialects of Rights and Politics
4. Some other issues of Feminist Legal Theory

- Personality of women
- Marriage and divorce
- Statutory Rape
- Pregnancy
- Reproduction

5. Masculinity: Concept, Contend and Issues, and its impact on Women

6. Sexual Difference and Equality Theory

- The Equality Crisis:
- Gender Equality and Judiciary
- Men's Culture and Control Over Women's Sexuality
- Women's Culture: Mother of Humanity
- Women and Religious Values

Reconstructing Sexual Equality

- Development of Feminist Legal Theory
- Feminist Critique of Equality
- Equality as acceptance
- Acceptance not accommodation

• De-marginalization of Sex

• Deconstruction of Gender

- Difference in opinion about difference between men and women
- Women's voice and the critique of Possessive individualism
- Challenging the Gendered Structure of Wage Labour
- Refocusing the Debate
- 1) Form gender-neutrality to deinstitutionalizing gender
- ii) Deconstructing difference

7. Feminism, Marxism, Method and the State: Towards Feminist Jurisprudence

8. Technology and gender Issues

- Impacts of technology on traditional structure of society, convention power imbalance between men and women and laws.
- Impacts of Medical science and technology in birth control, contraception and abortion on women's lives and laws.

- Question of Objectification of Women: Medical Experimentation, Cosmetic Surgery, Sex Selective Abortion, FGM

#### 9. Sexuality and Laws

- Meaning and definition of sexuality
- Traditional Laws and control over sexuality of women
- Impact of Traditional Laws on development of Women's Personality
- Patriarchy: meaning, definition, and its efforts to subject women's personality through control over sexuality

#### Reference Books

1. J. Bridgeman and Susan Millns, Feminist Prospective on Laws, Sweet and Maxwell (1998)
2. Frances E. Olsen (Ed.), Feminist Legal Theory: Foundations and Outlooks, University of California at Los Angeles School of Law, New York University Press (1995)
3. Joanne Conaghan, Gender and Law, OUP (2013)
4. Martha E. Chamallas, Introduction to Feminist Legal Theory, Wolters Kluwer (2013)
5. Hilaire Barnett, Introduction to Feminist Jurisprudence, Cavendish Publishing (1998)
6. Gender and Equality and the Judiciary: Using International Human rights Standards to promote the Human Rights of Women and girl child at the National Level
7. Yubaraj Sangroula, Condemned to Exploitation: Trafficking of Women and Girls in Nepal, Kathmandu School of Law (2000)
8. David L. Bender et al, Abortion: Green haven Press Inc. (1991)
9. John E. Williams, et al; Measuring Sex Sterotypes A Multination Study, Sage Publication (1990)
10. Anne E. Beall and Robert J. Sternberg; The Psychology of Gender, The Gulford Press (1993)
11. Indira Jaisingh (ed.), Law of Domestic Violence, Universal Law Publication (2001)
12. Ratna Kapur and Brenda Cossman, Subversive Sites: Feminist Engagements with Law in India, Sage Publication (1996)

13. Doris Buss and Ambreena S. Manji, *International Law: Modern Feminist Approaches*, Hart Publication (2005)
14. Janice Richardson and Ralph Sandland, *Feminist Perspectives on Laws and Theory*, Cavendish Publishing (2000)
15. Susan Millns & Neol Whitty (Eds), *Feminist Perspectives on Public Law*, Cavendish Publishing (1999)
16. Maria Drakopoulou (Ed), *Feminist Encounters with Legal Philosophy*, Routledge (2013)
17. Franck Rudy Cooper & Ann C. McGingley, *Masculinities and the Law: A Multidimensional Approach*, New York University Press (2012)
18. Richard Collier, *Men, Law and Gender: Essays on the 'Man' of Law*, Routledge (2010)

## **2. Women's Human Rights**

Full Marks: 100

Pass Marks: 50

Year: II

**Nature: Optional (Human Rights and Gender Justice)**

Course Code: 606

### **Course Objectives:**

- To introduce students with emerging trends of gender justice and neo- approach to human rights.
  - To provide a critical knowledge of Convention on Elimination of all Forms of Discrimination against Women (CEDAW)
- To help progress in domestication of international instruments concerning human rights of women.

### **Contents:**

1. General Human Rights Instruments: Roles for advancement of Human Rights of Women
  - UDHR, ICCPR, ICESCR, CRC Convention on Suppression of Immoral Trafficking, Convention against Slavery.
  - Limitations of existing international human rights system.
  - The guarantees of non-discrimination on the basis of sex
  - Role of human rights treaty bodies
  - Relevance of the International practices to domestic advancement of women's human rights International Instruments for the
2. Role of Women's Specific Advancement of Women's human Rights.
  - Convention on Elimination of all forms of Discrimination against Women (CEDAW)
    - Provisions on equality and non-discrimination
    - State's responsibilities
    - Committee on the Elimination on discrimination against Women
    - General Recommendations of CEDAW Committee
    - Reports of state parties
  - Convention on Political Rights of Women

3. Invocation of the Convention or Similar Instruments in Domestic Courts  
(International and Domestic case study)

- Violence against women-sexual harassment.
- Legal capacity
- Discrimination in Political and Public life-citizenship and access to public office
- Discrimination in the family, community and state
- Discrimination in criminal justice-access to criminal justice

4. Gender Jurisprudence and Judiciary

- Roles of Judges
- Composition of judiciary
- Systematic Partiality
- Gender bias and legal analysis
- The meaning of "discrimination"
- Meaning of reasonableness

5. Regional Standard of Women's Rights

- Inter-American Convention of Human Rights
- European Convention on Human Rights
- African Charter
- SAARC Charter and Convention on Trafficking of Women

6. National Human Rights Institutions

- National Human Rights Commission
- National Women Commission

7. Situation of Domestication of CEDAW in Nepal

- Constitution
- Statutes
- State Policies and Practices
- Supreme Court Judgments

Reference Books

1. UN Conventions, ICCPR, ICESCR, UDHR, CEDAW, PRW and others.
2. Kristine Adams and Andrew Byrnes (Eds), Gender Equality and Judiciary, Common Wealth Secretariat (1999)
3. SAP-Nepal: Gender and Development Workshop (1993)

4. ILRR: Equal Rights to Daughters and Son (1996)
5. Yubaraj Sangroula and Geeta Pathak, Gender and Laws: Nepalese Perspective, Pairavi Publication (2002)
6. SAP-Nepal: Equal Property Rights for Man and Woman (1997)
7. Eve. S. Buzawa and Carl G. Buzawa, Domestic Violence, The Criminal justice Response, SAGE Publication (1996)
8. Mira Seth, Woman and Development, The Indian Experience, SAGE Publication (2001)
9. Niamh Reilly, Women's Human Rights: Seeking Gender Justice in a Globalizing Age, Polity Press (2009)
10. Rebecca J. Cook (Ed), Human Rights of Women: National and International Perspectives, University of Pennsylvania Press(1994)
11. Julie Peters and Andrea Wolper (Eds), Women's Rights, Human Rights: International Feminist Perspectives, Routledge (1995)
12. Anne Hellum and Henriette Sinding Aasen (Eds), Women's Human Rights: CEDAW in International, Regional and National Law, CUP (2013)
13. Marjorie Agosín, Women, Gender, and Human Rights: A Global Perspective, New Brunswick (2002)

### **3. Economic Social and Cultural Rights**

Full Marks: 100

Pass Marks: 50

Year: II

Nature: Optional (Human Rights and Gender Justice)

Course Code: 607

#### **Course Objectives:**

- To develop critical understanding of students on rights guaranteed by international conventions and treaties on Economic, Social and Cultural rights,
- To develop skills of using national, regional and international mechanism to protect Economic, Social and Cultural rights To help create an environment for rationalization of the domestic laws, and
- To help build capacity to apply international human rights instruments relating to Economic, Social and Cultural rights in the domestic situation.

Content:

1. Introduction

a. Historical and philosophical development of economic and social rights

b. Status of economic, social and cultural rights in international human rights law

c. Nature and bearer of ESC rights

2. International Covenant on Economic, Social and Cultural Rights and UNESCR Committee

a. Right to food

b. Right to housing

c. Right to education

d. Right to health

e. Other ESC rights

3. Economic and Social Rights in Regional Human Rights 3 Instruments

- a. African Charter on Human and Peoples Rights
- b. American Convention on Human Rights
- c. Declaration on the Basic Duties of Association of Southeast Asian Nations People's and Government
- d. Charter of Economic Rights and Duties of the States
- e. Cairo Declaration on Human Rights in Islam
- f. EU Social Charter

4. Economic, Social and Cultural Rights and Non-State Actors

- a. Multinational Companies

b. Human Rights Organizations

5. Justiciability of ESC rights and the Role of Courts

- a. Importance of judicial interpretation of ESC rights
- b. Forms of special remedies in cases of violations of ESC rights.
- c. Concept, methodology and importance strategic litigation for the implementation of ESC rights
- d. Fundamental Rights under the Constitution
- e. Directive Principles and state policies under the Constitution
- f. Selected case studies

i. Olga Tellis vs. Bombay Municipal Cooperation(India)

ii. Soobramoney vs. Minister of Health (South Africa)

iii. Nepalese judicial stand and case studies

6. Role of NHRIs in Enforceability of Economic, Social and Cultural Rights

7. Other thematic issues and their connection to ESC rights

- a. Right to development
- b. Labor law and right to work (including right at work)

Reference and Reading Materials

1. Philip Alston and Henry J. Steiner, International Human Rights in Context, Law Politics and Morals, Oxford (2008)

2. Gauri, EBV and Brinks, DM, (2001), Courting Social Justice: Judicial Enforcement of Social and Economic Rights in the Developing World, Cambridge.

3. Oliver De Schutter, International Human Rights Law, Cambridge University Press (2010)
4. Eibe Riedel, Gilles Giacca & Christophe Golay (Eds), Economic, Social, and Cultural Rights: Contemporary Issues and Challenges, OUP (2014)
5. Manisuli Ssenyonjo, Economic Social and Cultural Rights in International Law, Hart Publishing (2016)
6. Philip Alston and Ryan Goodman, International Human Rights, OUP (2012)
7. Jill Cottrell and Yash Ghai(Eds), Economic, Social and Cultural Rights in Practice: The Role of Judges in Implementing Economic Social and Cultural Rights, Interights (2004)
8. Christopher Mbazira, Litigating Socio-economic Rights in South Africa: A Choice Between Corrective and Distributive Justice, Pretoria University Law Press (2009)
9. Circle of Rights: Economic, Social and Cultural Rights activism: A Training Research International Human Rights Internship Program. Washington 2000.
10. The Constitution of Nepai 2015
11. National Human Rights Commission Act and Regulation
12. National Women Commission Act and Regulation

**Criminal Law & Justice:**

**Second Year**

S. N.	Course Code	Course Title	Contact Hours (Total)	Credit Hours	Full Marks			Pass Marks			Remarks	
					University Exam	Internal Exam	Internal Term Paper	University Exam	Internal Exam	Internal Term Paper		
					Total Full Marks							
1	624	Criminology and Penology	120	4	60	20	20	30	10	10	10	
2	625	Fair Trial (International Human Rights Law in Relation to Criminal Procedure)	120	4	60	20	20	30	10	10	10	
3	626	White Collar Crime	120	4	60	20	20	30	10	10	10	
4	608	Dissertation						100				50 pass mark

## **1.Criminology and Penology**

Full Marks: 100

Pass Marks: 50

Year: II

**Nature: Optional (Criminal Law & Justice)**

Course Code: 624

Course Objectives:

Objective of this subject is to:

- Impart knowledge on different theories of crime by conducting research on the exploration of crime problem and prevention thereon
- Develop a critical approach on the prevailing penal practices and explore alternatives to prison systems of Nepal
- Introduce the 'Victimological approach' in our Justice System, promote "Victim-support schemes' by identifying the areas for this purpose.

Contents:

### Part 1: Criminology

#### I. Schools of criminology

- Classical, positivist
- Crimino- biological theories
- Ecological theories/Chicago school
- Psychological theories

#### II. Sociological theories

- Theory of anomie, social control theories

- Sub-cultural theories, differential association theory
- Containment theory, differential association theory
- Home/family conditions

### III. Alternative Explanation of Crimes

- Economic Theory
- Conflict Theory
  
- Labeling Theory
- Radical Criminology

### IV. Organized crimes

### V. White collar crimes and economic crimes

### VI. Analysis of Crime trends with reference to Nepal

### VII. Strategies of 'crime prevention'

## Part 2: penology

### I. Peno-correctional theories

- Deterrent theory, retributive theory
- Preventive theory, Reformatory theory

### II Different forms of punishment

### III Sentencing of court

### IV Correctional system

- Development of prison system
- Nepalese prison system
- Alternative to prison system, probation, parole, open prisons
- Human rights activities in prison, community rehabilitation

### V. Treatment of offenders

- punitive, therapeutic & preventive approaches

## Part 3: Victimology

- a. Evolution of victimological Approaches
- b. Rights of Victims: compensation, Reparation
- c. Victim support schemes
- d. Comparative victim justice study:Nepal & elsewhere

Note: Each student shall prepare case study on the areas specified by the faculty which will form a part of final examination.

References:

1. Sue Titus Reid, 1996, crime & criminology (8 Ed) McGraw Hill USA 2. J Robert. Lilly et al; 1995 Criminological theory; 2 Ed, Sage publication
3. Lydia Vogit et al., 1994, 'Criminology and Justice', Mc Graw Hill Series,
4. Sutherland, Principle's of Criminology
5. V.V. Leelamma Devasia, 1992, 'Criminology, Victimology and Corrections', Ashish Publication House, India
6. V.N Paranjpe, 1994, (8th Ed.), Criminology and Penology 7. Shankar Kr. Shrestha, 2001, "A Step towards Victim Justice System', Kathmandu; Pairavi Prakashan
8. Patrick R Anderson & Donald J Newman, 1993, 'Introduction to Criminals, Mc Graw Hill Series,
9. David Bender & Bruno Leone, 1995, 'Crime and Criminals, Green Heaven Press
10. Mark L. Fisch, 'Criminology,' annual editions 97/98 and 98/99
11. Richard C. Monk, "Taking sides; Clashing views on Controversial Issues in Crime and Criminology', (4th Ed.)
12. Muluki Criminal (Code) Act, 2074 & Muluki Criminal Procedure (Code) Act, 2074
13. Muluki Civil (Code) Act, 2074 & Muluki Civil Procedure (Code) Act, 2074

## **2. Fair Trial (international human rights law in relation to criminal procedure)**

Full Marks: 100

Pass Marks: 50

Year: II

Nature: Optional (Criminal Law & Justice)

Course Code: 625

### **Course Objectives:**

The competency and independence of judiciary is ensured by fair trial. It must be viewed from national & international perspective. So the main objective of this course are to:

- Impact a comprehensive & analytical knowledge on 'international minimum human rights standards 'in relation to criminal proceedings.
- Enables the students to have a critical knowledge on evaluation of the existing pre-trial, trial & post-trial criminal justice system of Nepal.
- Enables the students to involve in continuous research in criminal justice system from human rights perspectives.

### **Contents:**

1. Minimum standards of fair trial: treaty obligations

- Introduction to international treaties applicable to fair trial
- Domestication of international minimum standards of fair trial in Nepal
- Treaty obligation of Nepal concerning fair trial

- State of rationalization of domestic statutes
- Development of human rights culture during pre-trial & trial stages
- State of trial by quasi- judicial body in Nepal

## II. Basic foundation on the concept of fair trial: due process principles

- Principles/elements of fair trial
- Presumption of innocence
- Double jeopardy, rights to silence
- Retrospectively and the principle of legal certainty
- Unrestricted and adequate access to legal defense
- Public hearing
- Substantive and procedural due process, & the concept of fair trial
- Scope of fair trial-pre trial stage and trial stage
- Challenges of fair trial; (in the context of balancing the public interest of safety and procedural safeguards to suspects and accused)

## III. Rights relating to arrest & detention

- International human rights law preventing arbitrary arrest (with reference to Nepal)
- Cautioning of suspects (Miranda rules)
- Right to be given reasons for arrest (with reference to practice in Nepal)
- Arrest on reasonable suspicion & grounds
- Detention in police custody
- Habeas corpus
- Ill treatment in the custody and its implication
- Access to legal advice in police custody

## IV. Entry Searches & seizure

- Minimum safeguards against illegal entry

- Minimum safeguard against search and seizure
- Practice of safeguards in Nepal

#### V. Rights against confessional (self-incrimination)

- Legality of confessions
- Implication of torture obtained illegally & by use of force

#### VI. General principles of bail

- Right to bail
- Grounds for refusal of bail
- Remedy for unreasonable denial of bail
- Bail law and its practices in Nepal
- Right to plea bargaining and reduction of sentence

#### VII. Torture Situation and remedy

- International obligations with reference to Nepal
- Domestication of international treatise and jurisprudence on torture with reference to Nepal.
- Definition of torture under torture compensation act of Nepal ➤ Remedy against torture under torture compensation act of Nepal

#### VIII. Fair trial procedure under Rome convention

- Investigation
- Prosecution
- Adjudication

#### IX. Post Trial situation & rights of prisoners

#### References:

1. Jack Donnelly, 1989, human rights in theory and practice, cornell university press

2. Hurst Hannum 1989, 'Materials on international human rights and us criminal law & procedure, USA
3. Fair Trial 2001, Asian Human Rights, commission, Hongkong
4. law relating to protection of human rights, 2002 modern law publication, India
5. Interpretation and enforcement of fundamental rights, Eastern Law House, India.
6. Democracy, Human Rights and Rule of Law, 2002, Butterworths, India
7. Ralph Crawshaw & leif Holmstorn, 2001, Essential Texts on Human Rights for the police; Kulwer Law International, UK
8. Ralph Crawshaw 1999, 'police human rights' Kulwer Law International, UK
  
9. Philip Setunga & Nick Chessman, 2001, Torture: A Crime Against Humanity, An Asian Human Rights Commission Publications
10. 'Criminal Procedure Guidelines', 2058, Kathmandu ; CeLRRD
11. Baseline Survey on Criminal Justice System of Nepal, 2003, CeLRRD
12. Muluki Criminal (Code) Act, 2074 & Muluki Criminal Procedure (Code) Act, 2074
13. Muluki Civil (Code) Act, 2074 & Muluki Civil Procedure (Code) Act, 2074. White Collar Crime

## **2. White Collar Crime**

Full Marks: 100

Pass Marks: 50

Year: II

Nature: Optional (Criminal Law & Justice)

Course Code: 626

### Course Objectives:

Objective of this subject is to:

- Impart knowledge on new forms of crime
- Develop a critical approach on the prevailing penal practices and explore alternatives to prevent white Collar Crime.

### Contents:

#### I. Corporate Crime

- Corporate Criminal Liability
- Intentional Harms to Shareholder
- Non Compliance of Company Laws
- Individual and Corporate Liability of Private Sector Corruption
- MNCs: Labor, Environment, Tax Evasion

#### II. Crime against Consumer

- Delivery of Substandard Food and Services
- Unfair Trade Practices: Anticompetitive Conducts

#### III. Environment Crimes

- Water, Air and Land Pollution Crime
- Atomic Pollution
- Hazardous Waste Management

#### IV. Securities, Corporate and Fiduciaries

- Share Fraud
- Accounting Fraud: ENRON CASE
- Breach of Former Director's Fiduciary Duties

#### V. Corruption

- Definition
- Forms

- Graft
- Bribe

#### VI. Medical Crime - Fee-splitting.

- Taking or offering kickbacks,
- Price-fixing.
- Fraudulent billing,
- Performing unnecessary operations, and
- Prescribing unnecessary medicines

#### VII. Cyber Crime

##### References:

1. Amnesty International, The Corporate Crime Principles, (2016) .
2. Steve Tombs and David Whyte, The Corporate Criminal: Why Corporations Must Be Abolished (Key Ideas in Criminology), Routledge (2015)
3. Sally S. Simpson, Corporate Crime, Law, and Social Control (Cambridge Studies in Criminology), CUP (2002)
4. Bruce Zagaris, Berliner, Corcoran and Rowe, International White Collar Crime: Cases and Materials, CUP (2015)
5. Bruce Zagaries, International White Collar Crime, CUP (2015)
6. Jonathan Clough, Principles of Cyber Crimes, CUP (2015)
7. William Blair, Richard Brent, and Tom Grant, Banks and Financial Crime: 7 The International Law of Tainted Money, OUP (2017)
8. The Constitution of Nepal (2015)
9. Muluki Ain 1963/10. Muluki Criminal Code Act, 2017
11. Competition Promotion and Market Protection Act (2007)
12. Consumer Protection Act 1998
13. The Electronic Transactions Act, 2008
14. Secured. Transactions Act, 2006
15. Companies Act, 2006
16. Bank and Financial Institution Act 2006
17. Securities Act 2006
18. Commodities Act 2017
19. The Public Procurement Act 2007

20. Insurance Act 1992
21. Environmental Protection Act, 1997
22. Other Applicable Laws

## Business in International Trade Law

### Second Year

S. N.	Course Code	Course Title	Contact Hours (Total)	Credit Hours	Full Marks			Total Full Marks	Pass Marks			Remarks
					University Exam	Internal Exam	Internal Term Paper		University Exam	Internal Exam	Internal Term Paper	
1	613	Banking Law	60	2	30	10	10	50	15	5	5	
2	614	Laws on Corporate Management	120	4	60	20	20	100	30	10	10	
3	615	International Trade Law & Arbitration	60	2	30	10	10	50	15	5	5	
4	616	Taxation (Income and Value Added Tax)	60	2	30	10	10	50	15	5	5	
5	617	Insurance	60	2	30	10	10	50	15	5	5	
6	608	Dissertation						100				50 pass mark

## **1. Banking Law**

Full Marks: 50

Pass Marks: 25

Year: II

Nature: Optional (Business & International Trade Law)

Course Code: 613

Objectives of the course are:

- To impart comprehensive and analytical knowledge on Law of Banking and Insurance Laws.
- To provide extensive knowledge to examine various philosophical and policy consideration in relation to Law of Banking and Insurance Laws,

Contents:

1. Evolution of Banking

a) Definition and Origin of Banking

b) Evolution and Development of Banking in Nepal

2. Types of Banks

a) Commercial Banks

b) Agricultural Development Banks

c) Development Banks

d) Cooperative Banks

e) Financial Institutions

3. Function of Banks

a) Account Operations

b) Lending and Investment Functions

c) Agency Functions

d) Remittances

4. Central Bank and Commercial Banks

a) Relation between Central Banks and Commercial Banks

b) Credit Control Mechanisms

5. Bankers Customers Relations

- a) Debtor and Creditor
- b) Trusteeship Relation
- c) Agency Relation
- d) Bailor Bailee Relation
- e) Opening of an Account

6. Merchant Banking and Mutual Funds

7. Financial Institution

a. Banking and non-banking functions of Financial Institution

b. Operation

8. Negotiable Instruments

a. Features of Negotiable Instruments

b. Types of Negotiable Instruments

c. Promissory Notes, Cheques, Bills of Exchange

d. Endorsement, Presentation and Dishonour of Negotiable Instruments

e. Letter of Credit: Definition, use, importance and International Practices

Books Recommended

- 1. Dr. Mukund Mahajan, Fundamentals of Banking in India
- 2. Tanna's Banking Law and Practices in India
- 3. S.N. Gupta, The Banking Law in Theory and Practice
- 4. Paget's Law of Banking
- 5. Umbrella Act for Bank and Financial Institution, 2004

## **2. Laws on Corporate Management**

Full Marks: 100

Pass Marks: 50

Year: II

Nature: Optional (Business & International Trade Law)

Course Code: 614

### **Course Objectives:**

Objectives of the course are:

- To provide students with understanding of the basic features of Company and its functions,
- To familiarize them with legal mechanism for operation and management of corporation
- To acquaint the student with the functioning of the Company under Companies Act of Nepal.

### **Contents:**

1. Introduction
  - a. Concept
  - b. Nature/feature
  - c. Types
2. Formation and Incorporation
  - a. Memorandum of Association and object
  - b. Clause of memorandum
  - c. Articles of Association
  - d. Amendment of \*\*\*
3. Exception on Corporate
  - a. Personality (Lifting of Corporate Veil)
4. History of Company
  - a. Development of Company Law in England
  - b. Development of Company Law in Nepal
5. Documents for Incorporation
  - a. Memorandum and Articles

- b. Agreement among Promoters
- c. Unanimous Agreement
  
- d. Liabilities of company on Pre-Incorporation of
- e. Agreement \*\*\*
- 6 Capital
- Shares Types, Allotments and Transfer
- a. b. Reduction of Capital and Buy-back Shares
- c. Increment in Capital
- d. Debentures
- e. Dividend and its distribution
- f. Prospectus: Promoters Duties & Liabilities
- 7. Management of the Company
- a. Board of Directors: Powers, Functions
- b. Duties/Obligations of Directors: Fuduciary, Statutory, Duty of Care and Skill, Liabilities and its Limitations
- C. Managng Directors: Appointments and qualification
- 8. Meetings
- i) General Meeting
- a) Types, Notice, Validity, quorum Proxies
- b) Power and Importance
- c) Matters requiring Special and General Resolution
- d) Liabilities Relating to General Meeting: Companies, Directors
  
- e) Shareholders Rights Relating to General Meeting
- f) Relation between Shareholders, Directors and the Company
- ii) Meetings of BOD
- 9. Amalgamation: Merger and Take-over, Amalgamation & Competitive Law
- 10. Insider Dealing
- 11. Oppression and Mismanagement
- 12. Joint Venture Companies
- a. Establishment and Concept of Multinational Companies
- b. Operational Provision of JVC

13. Criminal Liabilities: Company, Directors

14. Winding Up

a) Modes of Winding Up

- Voluntary
- Compulsory
- Order of the Court

b) Liquidators: Appointments, Powers, Functions, Duties and Liabilities

15. Controls Over the Management: Shareholders, Office, Company Board

16. Accounts and Audit

a. Accounts

- Preparation of Annual Accounts
- Rights of Shareholders and Liabilities of Company Relating to Accounts
- Liabilities Relating to Accounts and Audit
- Accounts of Holding Companies

b. Audit Types: Statutory, Internal, Cost, Social,

C Auditor Appointment, Powers, Functions, Duties, Liabilities, Qualification

17. Miscellaneous

a. Company Secretary: Appointment, Qualification, Responsibilities

b. Company Board: Composition, Authority and Functions

### Recommended Books & References

1. Davies, Paul L., Gower's Principles of Modern Company Law, Sweet and Maxwell, 6th Edition, 1997

2. J. M. Thomson: Palmer's Company Laws,

3. Pennington on Company Laws,

4. Gore Browne on Company Laws,

5. Avatar Singh: Company Laws,

6. Companies Act and Regulations,

7. Trilochan Gautam, Kampani Ain, 2053 Ra Kampani Sachiba Ko Digdarshan

8. Draft Bill on Competitive Law
9. Foreign Investment and Technology Transfer Act, 1992
10. Industrial Enterprises Act,
11. Dobson, Poul, Charlesworth's Business Law, Sweet and Maxwell,  
16th edition 1997

### **3. International Trade Law and Arbitration**

Full Marks: 50

Pass Marks: 25

Year: 11

Nature: Optional (Business & International Trade Law)

Course Code: 615

#### Course Objectives:

- a) To provide the students with advanced international trade law, trade regime and knowledge and attitude as to trade transactions.
- b) To make students conversant with recent trends and developments in the field of international trade law

#### Course contents

Group A: International Trade Law

1. Concept of International Trade Law
2. Sources of International Trade Law
3. Theories of Trade
4. The Law of the WTO
  - a. Introduction to the Multilateral Trading System
  - b. History and Evolution of GATT
  - c. Objectives and Functions of the WTO
  - d. Market Access: Trade Negotiations and Border Measures
  - e. Most Favoured Nation Principle
  - f. National Treatment Principle
  - g. Exceptions
  - h. Dispute Settlement Understanding
  - i. Sanitary and Phytosanitary Measures
  - j. Technical Barriers to Trade
  - k. WTO rules relating to agriculture
  - l. Trade Remedies

- m. Trade in Services
  - n. TRIPS
  - o. Developing Countries and the WTO
5. Regional Trade Agreements
- a. Philosophy and Purpose
  - b. SAFTA
  - c. SATIS
  - d. BIMSTEC
  - e. NAFTA
  - f. Bilateral Trade Agreements
  - g. Nepal-India Trade Agreement
  - h. Nepal-India Transit Agreement
6. Law Governing International Sale of Goods Contract and Vienna Convention on International Contract for Sale of Goods
- a. Formation of Contract
  - b. Obligations of Buyers and Sellers
  - c. Performance of Contract
  - d. Remedies for Breach of Contract
7. International Financial Transaction
- a. Transport Documents
  - b. International law of transportation of goods
  - c. Carrier's obligation and liabilities
  - d. Law and Principles governing multimodal transportation of goods.

#### Group B: Arbitration

- 1. Introduction to International Commercial Arbitration Basic principles of commercial arbitration
- 2. Jurisdiction of an arbitral tribunal
- 3. Judicial features of arbitral proceedings
- 4. Applicable law in arbitral proceedings
- 5. 6. Supervision of an arbitral tribunal by a formal court

7. Challenges and Enforcement of an arbitral award
8. Challenges and Enforcement of a foreign arbitral award
9. Comparative analysis between Nepali arbitration law and UNCITRAL Model Rules of Arbitration
10. Introduction to the arbitration process according to ICSID and ICC rules of arbitration.

#### Recommended Books & References

1. Donald A ball et. all, International Business, McGraw, Hill, Irwin, 2004
2. Dr Y.P. Pant, Problems and the Development of Smaller Countries
3. Hoyle, S.W., The International Trade
4. Jhon H. Willes, International Business law, Environments & Transactions, McGraw Hill Irwin, 2005.
  
5. Joy Cherian, Investment Contract and Arbitration
6. Lawrence S. Clark et. all, Law & Business the Regulatory Environment, McGraw Hill, inc, 1994
7. Leo Diarcy et. all, Schmitthoff's Export Trade: The Law & Practice of International Trade, Sweet & Maxwell, 10th ed, 2000
8. Poul Dobson, Charlesworth's Business Law, Sweet & Maxwell, 16th ed, 1997
9. R.Devid and T. Popeson, The Law of International Trade: A New Task For National Legislation or a New Mercatoria
10. Russel, Russel on Arbitration
11. Schmithoff C. M. (Ed), The Sources of The Law of International Trade
12. Michael J. Trebilcock and Robert Howse, The Regulation of International Trade, (Routledge: 2005)
13. Van den Bossche, The Law and Policy of the WTO (CUP:2005).

## **4. Taxation (Income Tax and Value Added Tax) Law**

Full Marks: 50

Pass Marks: 25

Year: II

Nature: Optional (Business & International Trade Law)

Course Code: 616

### Course contents

1. Introduction to Tax Law
2. Historical Perspective of Nepalese Tax
3. Interpretation of Taxing Statutes
4. Tax Avoidance and Counter-Tax Avoidance Measures
5. Income Tax
  - a) General Principles of Income Tax
  - b) Heads of Income and Calculation of Income under Different Headings
    - i) Employment
    - ii) Business
    - iii) Investment
  - c) Taxation of Individuals
  - d) Taxation of companies
- e) Income tax & Non-Profit Organization
6. Assessment & payment of income tax
7. International Aspect of Income Tax
8. Principle of Value Added Tax
9. Introduction of Vat in Nepal
10. Determination of Value of Value Added Tax
11. Value Added Tax Rate, Tax Exemption & Zero Rate
12. Payment, set- off & refund or Value Added Tax
13. Tax Authorities (Inland Revenue Office & the Inland Revenue Department)
14. Judicial Remedy in Taxation
  - Composition & Jurisdiction of the Revenue Tribunal

- The jurisdictions and the role of the supreme court in tax cases

Recommended books:

1. International Tax glossary, international bureau of fiscal documentation
2. Black law dictionary
3. Bindra, interpretation of statutes
4. Tax book on revenue law, Adrin Shipwright & Elizabeth Kceling
5. Tax freorm in Nepal: A comprehensive Review, Final Report; Harvard University, 1998
6. Rishikesh Wagle, value Added Tax & Income Tax law of Nepal Ratna pustak bhandar,2004
7. Alan A Tiat, Value Added Tax International; Practice & Problems, IMF
8. Victor Thourny(ed) Tax Law: Designing & Drafting, IMF
9. Rup Khadka, Nepalese Tax System, Sajha Prakashan

## **5. Insurance Law**

Full Marks: 50

Pass Marks: 25

Year: II

Nature: Optional (Business & International Trade Law)

Course Code: 616

### **Course Contents**

#### 1) Introduction

- a. Definition Nature & Function of Insurance
- b. Principles of Insurance
- c. Kinds of insurance

#### 2) Insurance Policy

- a. Elements of insurance Policy
- b. Duty of Disclosure and Non-disclosure
  
- c. Insurable Interest
- d. principal of good faith

#### 3) Claim

- a. The Doctrine of proximate cause
- b. Burden of proof
- c. Assignment of proceed of the policy
- d. Reinstatement
- e. Doctrine of Contribution & Subrogation

#### 4) Reinsurance policy

- a. Definition & importance of reinsurance policy
  - b. Claim procedure for Reinsurance
- 5) Agency in Insurance Transaction
- a. Relationship between principal & third Agent
  - b. Relationship between principal & the third Parties
  - c. Relationship between agent & the third parties
- 6) Insurance in Nepal
- a. The insurance board
  - b. Settlement of Dispute

Recommended Books:

1. Murthy & Sharma, Modern law of insurance in India
2. R.M. vats laws relating to insurance in India
3. E.R. Hardy Ivamy, General principles of Insurance law
4. Templeman, Principle of insurance.
5. Insurance Act of Nepal
6. Insurance Rules of Nepal

## International Law

### Second Year

S. N.	Course Code	Course Title	Contact Hours (Total)	Credit Hours	Full Marks			Pass Marks			Remarks
					University Exam	Internal Exam	Internal Term Paper	University Exam	Internal Exam	Internal Term Paper	
1	633	Settlement of International Disputes	120	4	60	20	20	30	10	10	
2	634	Law of Armed Conflict and International Criminal Law	120	4	60	20	20	30	10	10	
3	635	International Economic Law	120	4	60	20	20	30	10	10	
4	608	Dissertation									50 pass mark

## **1. Settlement of International Disputes**

Full Marks: 100

Pass Marks: 50

Year: IINature: Optional (International Law)

Course Code: 633

### **Objectives of the Course:**

1. To introduce the basic principles and rules of settlement of international disputes.
2. To discuss the procedural rules relating to settlement of international disputes in international courts, tribunals and arbitration.

### **Course Outline:**

1. Evolution and Development of Peaceful Settlement of International Disputes
2. International Law Governing Peaceful Settlement of International Disputes
  - 2.1. The United Nations System
  - 2.2. Inter-State Arbitration
  - 2.3. International Commercial/Investment Arbitration
  - 2.4. Role of Consent in Settlement of International Disputes
3. Jurisdiction of International Dispute Settlement Bodies and Arbitral Tribunals
  - 3.1. Jurisdiction under the Statute of the International Court of Justice, the United Nations Convention on the Law of the Sea
  - 3.2. Jurisdiction Under International Investment Treaties
    - 3.2.1. Concept of Investment
    - 3.2.2. Ratio Materiae
    - 3.2.3. Ratio personae
    - 3.2.4. Ratio temoris

4. Concept of Admissibility in International Dispute Settlement Bodies and Arbitral Tribunals
5. Justiciability and Arbitrability of a Dispute
6. Applicable Laws
7. Provisional Measures
8. Remedies in International Adjudication
9. Challenge of International decisions and recognition and enforcement of international decisions
10. Denial of Justice
11. Dispute Settlement according to Bilateral Investment Treaties
12. International Court of Justice
13. International Center for Settlement of International Disputes
  
14. International Tribunal for the Law of the Sea
15. settlement of International Disputes and the United Nations General Assembly and the Security Council
16. WTO Dispute Settlement Bodies and Processes

#### References

1. Brown, A Common Law of International Adjudication ( 2007).
2. C. McLachlan, L. Shore & M. Weiniger, International Investment Arbitration: Substantive Principles (2007).
3. C. Schreuer et al, The ICSID Convention: A Commentary (2nd ed, 2009).
4. Collier & Lowe, The Settlement of International Disputes (1999)
5. Eiriksson, The International Tribunal for the Law of the Sea (2000).
6. Fitzmaurice, The Law and Procedure of the International Court of Justice (1986).
7. Fouchard, Gaillard, Goldman on International Commercial Arbitration (1999, E. Gaillard & J. Savage).
8. Gray, Judicial Remedies in International Law (1987).
9. J. Lew, L. Mistelis & S. Kröll, Comparative International Commercial Arbitration (2003).
10. J. Paulsson, 'Arbitration Without Privity' (1995) 10 ICSID Rev-FILJ 232.
11. J. Paulsson, Denial of Justice in International Law (2005).

12. Merrills, International Dispute Settlement (4th edn, 2005).
13. Rosenne, The Law and Practice of the International Court, 1920-2005 (2006).
14. Sands et al, Manual on International Courts and Tribunals (2003).
15. Shany, The Competing Jurisdictions of International Courts and Tribunals (2003).
16. Z. Douglas, The International Law of Investment Claims (2009).
17. Zimmermann et al, The Statute of the International Court of Justice: A Commentary (2006).

## **2. Law of Armed Conflict and International Criminal Law**

Full Marks: 100

Pass Marks: 50

Year: II

Nature: Optional (International Law)

Course Code: 634

Objectives of the Course:

1. To introduce and discuss the basic principles and rules relating to law of armed conflict.
2. To introduce and discuss the basic principles and rules of international criminal law.
3. To introduce and discuss the basic principles and rules relating to enforcement of international criminal law and law of armed conflict.

Course Outlines:

1. Introduction to the International Law of Armed Conflict
  - 1.1. Nature of Armed Conflict
    - 1.1.1. International Armed Conflict
    - 1.1.2. Non-International Armed Conflict
  - 1.2. International Law Governing Use of Force
    - 1.2.1. Collective Security System and chapter VII of the UN Charter
    - 1.2.2. Concept of Self-Defence in International Law
    - 1.2.3. Humanitarian Intervention and the Responsibility to Protect
  - 1.3. Introduction to International Humanitarian Law
    - 1.3.1. Development of International Humanitarian Law
    - 1.3.2. Nature and Scope of International Humanitarian Law
    - 1.3.3. Basic Features and Standards of Hague Conventions
    - 1.3.4. Basic Features and Standards of Four Geneva Conventions and Additional Protocols
  - 1.4. United Nations Peace Keeping
  - 1.5. Principle of Distinction in International Humanitarian Law

- 1.6. Specifically Protected Persons and Objects
- 1.7. Means and Methods of Warfare
- 1.8. Treatment of Civilians and hors de combat
2. Introduction to International Criminal Law
  - 2.1. Development of International Criminal Law
  - 2.2. Nature and Scope of International Criminal Law
- 2.3 Introduction to Ad hoc International Criminal Tribunals 2.3
  - 2.3.1. Nuremberg Trials, Tokyo Trials, ICTR, ICTY
- 2.4. Nature and Scope of Jurisdiction
- 2.5. Concept of International Crime
  - 2.5.1. War Crimes, Crimes Against Humanity, and Genocide and their Elements
  - 2.5.2. Crimes Under International Treaties and other International Instruments
  - 2.5.3. Crimes Under Customary International Law
- 2.6. Individual Responsibility under International Criminal Law
  - 2.6.1. Conditions and Scope of Responsibility
  - 2.6.2. Conditions Excluding Responsibility (Defense)
- 2.7. International Criminal Court
  - 2.7.1. Jurisdiction
  - 2.7.2. Nature of Crimes
  - 2.7.3. Defence
  - 2.7.4. Protection of Victims and Witnesses
  - 2.7.5. Nature of Responsibility, Command Responsibility
- 2.8. Enforcement of International Criminal Law in Municipal Courts

#### References

1. Antonio Cassese, International Criminal Law (OUP: 2008).
2. William A. Schabas, An Introduction to the International Criminal Court, (CUP: 2007)
3. Mettraux, International Crimes and the Ad Hoc Tribunals (OUP: 2005).
4. William A. Schabas, Genocide in International Law (CUP, 2000).

5. William A. Schabas, *The International Criminal Court. A Commentary on the Rome Statute* (2010).
6. Antonio Cassese, Paola Gaeta, John R.W.D. Jones (eds) *The Rome Statute of the International Criminal Court: A Commentary*, (OUP: 2002).
7. Otto Triffterer (ed), *Commentary on the Rome Statute of the International Criminal Court*, (Verlag C.H. Beck: 2008).
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11. Knut Dormann, *Elements of War Crimes under the Rome Statute of the International Criminal Court Sources and Commentary*, (ICRC, CUP: 2003).
12. Christine Gray, *International Law and the Use of Force* (OUP: 2008).
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14. Yoram Dinstein, *The Conduct of Hostilities under the law of International Armed Conflict* (CUP, 2004).

### **3. International Economic Law**

Full Marks: 100

Pass Marks: 50

Year: II

Nature: Optional (International Law)

Course Code: 635

Objectives of the Course:

1. To introduce and discuss principles and rules of international economic law.
2. To introduce and discuss various regimes of international economic law according to various international organizations and systems.
3. To introduce and discuss basic substantive and procedural rules and principles relating to international trade, economic and financial systems.

Course Outlines:

1. Introduction to International Economic Law
  - 1.1. Economic Globalization
  - 1.2. Idea of Free and Trade and Economic Advantage
  - 1.3. Free Trade and Trade Restrictions
  - 1.4. Evolution of International Economic Law
  - 1.5. Nature and Scope of International Economic Law
2. Introduction to International Institutions
  - 2.1. The World Trade Organization
  - 2.2. International Monetary Fund
  - 2.3. The World Bank
  - 2.4. Relationship among the WTO, IMF and the World Bank
3. International Monetary Fund
  - 3.1. Understanding International Payments, Exchange Rates and Balance of Payments
  - 3.2. The Objectives of the IMF
  - 3.3. Powers and Authorities of the IMF

4. The World Bank
  - 4.1. The Objectives of the World Bank
  - 4.2. Powers and Authorities of the World Bank
5. The Law of the WTO
  - 5.1. Introduction to the Multilateral Trading System
  - 5.2. Market Access: Trade Negotiations and Border Measures
  - 5.3. Most Favoured Nation Principle
  - 5.4. National Treatment Principle
  - 5.5. Exceptions
  - 5.6. Sanitary and Phytosanitary Measures
  - 5.7. Technical Barriers to Trade
  - 5.8. Subsidies
  - 5.9. Trade Remedies
  - 5.10. Trade in Services
  - 5.11. TRIPS
  - 5.12. Developing Countries and the WTO
  - 5.13. Dispute Settlement Rules
6. International Investment Law
  - 6.1. Development of FDI
  - 6.2. Nature, Concept and Role of Bilateral Investment Treaties
  - 6.3. Treatment of Foreign Investment
  - 6.4. Expropriation
  - 6.5. Compensation

#### References

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15. Jhon H. Willes, International Business law, Environments & Transactions, (McGraw Hill Irwin: 2005).
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17. Leo Diarcy et. all, Schmitthoff's Export Trade: The Law & Practice of International Trade, (Sweet & Maxwell, 2008)
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21. Van den Bossche, The Law and Policy of the WTO (CUP:2005). 22. Zachery Douglas, The International Law of Investment Claims (CUP: 2009).
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