

Faculty of Law
Central Department of Law

Master of Law
LL.M.
Curriculum
1999



Curriculum Development Centre
Tribhuvan University
Kirtipur, Kathmandu
Nepal

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Master of Law
(LL.M.)

Effective from 1999

Office of the Dean
Faculty of Law
Tribhuvan University
Kathmandu, Nepal

Historical Background

The rationale behind the introduction of the LL.M. Course at the Faculty of Law from 1996 onward is to develop among the students the faculty of critical thinking, humanistic values and holistic perception as needed for the present day society. The programme, by virtue of the rich heritage of legal thoughts and traditions around us, aims to promote and disseminate the knowledge of law and of legal processes in the light of the country's socio-cultural perspectives and development goals. To this end, the programme is designed to produce manpower possessed of the essential skill, competence and integrity for assuming responsible roles in such a way that they make positive contributions in the area of the administration of justice and the functioning of a just, dynamic and democratic society. The kind of legal education that this course envisages to impart is of a nature that can fairly inculcate in the minds of the students a strong sense of responsibility towards the society and a great sense of respect for humanity and at the same time develop in them the highest standards inter alia of professional behaviors and a spirit of dedication for the welfare of the people and the betterment of their life style.

When the first elementary school for legal training (Sresta Pathshala as it was locally known) was started in Nepal in 1905, its main objective was to produce a bunch of clerical level trained manpower to work for the administration of justice. By way of upgrading the status of as well as the access to legal education the Law College (then affiliated to Patna University in India) was established in Kathmandu in 1954 with aims to produce law graduates who are needed to take up specific jobs in the government and to work as high level legal professionals and practitioners.

This college was de-affiliated from Patna University and was placed under Tribhuvan University (TU) in 1959. In 1971, the National Education System Plan (NESP) was introduced with the objective of producing necessary competent manpower of different levels and in different areas in order to meet the country's manpower needs for its development goals. In the process of implementation of the NESP the Institute of Law was established in 1972 and it was made responsible for formulating plans and policies to promote the cause of legal education in the country and also to undertake academic activities in the legal sector. Accordingly, the Institute started Two-Year Certificate and further Three-Year Diploma courses in law, which involved five years' legal education after matriculation.

In 1984 when TU undertook the task of making overall structural changes and readjustments, the Institute of Law was converted into the Faculty of Law. The prevailing semester system of examination was also superseded by the annual examination system, the CL in Law got

renamed as Proficiency Certificate Level in Law (PCL) and the DL in Law as Bachelor in Law (B.L.). Even as in the years when it was running as the Institute of Law, the Faculty of Law at present has been getting engaged in improving, developing and promoting the legal education system and expanding research activities in Nepal.

With the restoration of the multiparty system of democracy in Nepal in 1990, TU started restructuring the higher education sector in Law in the form of 3-year Bachelor Level and 3-year LL.B programs after graduation. Consequently, PCL has been already phased out with BL to stay for some years to come and courses in LL.B. and 2 year LL.M. have been started since 1996.

Master of Laws (LL.M.) Programme

Need

The Faculty of Law has started 2-year Master of Law (LL. M.) Programme for those who want to take a career as jurists, academicians, legal scholars, Legal consultants and likewise, legal professionals, This programme is designed to make the students oriented towards research so that they can play a more constructive role in the development of the Law and the legal system in Nepal's new democratic set-up

The need for this LL.M. programme is crucial for achieving the goal of legal excellence backed by a body of highly trained jurists, scholars and lawyers of national standing as well as of international status in Nepal. By way of rationalizing this step, it may be noted here that, until recently, all the advanced degree holders in law have been educated and got trained in foreign countries of course, without relevant research background and that they lack a firm grounding in Nepal's legal tradition or in its relation to law in other countries.

Objectives

The main objectives of the LL.M. programme are:

- to impart legal knowledge from socio-cultural and development goals;
- to produce manpower equipped with necessary skill, competence and integrity;
- to inculcate in students a sense of responsibility towards the society, the nation and the world and of respect for human life;
- to develop a base of legal excellence with international and indigenous base;
- to promote research by the faculty and the students in order to understand the insights of law and justice;
- to prepare legal scholars, jurists and academicians to enter the professions of law teaching, research, judicial and government services and legal consultants for public and private enterprises.

Duration

This is a whole-time two-year course meant only for those who are not in employment or engaged in any trade, profession, business or occupation.

Academic Year

The academic year of the LL.M. Course shall be as determined and declared by LL.M. Management Committee in each year as per the rules of TU.

Entry Requirement

The entry requirement for LL.M. Course is B.L. or LL.B. Pass with compulsory entrance test.

Scheme for LL.M. Course Study

Course No.	Title	Area	Full Marks	Periods Per Year	
First Year					
Law	601	Comparative Jurisprudence	Compulsory	100	125
	602	Research Methodology	Compulsory	100	125
	603	Seminar	Specialization/Optional	100	125
	604	Constitutional Law I	Specialization/Optional	100	125
	605	Commercial Law I	Specialization/Optional	100	125
	606	International Law	Specialization/Optional	100	125
Second Year					
	701	Nepalese Legal System	Compulsory	100	125
	702	Constitutional Law II	Specialization/Optional	100	125
	703	Commercial Law II	Specialization/Optional	100	125
	704	International Human Rights and Humanitarian Law	Specialization/Optional	100	125
	706	Thesis	Compulsory	200	

In the first year's LL.M. programme, a student is required to offer three compulsory subjects and any one of the subjects of specialization as per his/her choice, knowledge and interest. However, in the second year, a student is required to offer two compulsory subjects and the second part of the same specialization subject which he/she had opted in the first year LL.M.

Methods of Teaching and Guest Lectures

The method of teaching includes lectures, discussions, case study, tutorial, self-study, question-answer, research, workshop, seminars, etc. The main features of the teaching method include inter-disciplinary approach, and Socratic and cooperative (participatory) method. The LL.M. Management Committee or the Convenors of different subjects may, with the consent of the Head of Central Law Department, invite or welcome eminent legal personalities of Nepal and from abroad as guest lecturers or as resource persons.

Library

Nepal Law Campus, TU., has its own library. The collection of relevant textbooks, reference books, law journals and periodicals is increasing day by day for upgrading the quality of legal education including LL.M. In order to help the teachers and students, the LL.M. Management Committee has established relations with the following libraries:

1. Tribhuvan University Central Library
2. Supreme Court Library
3. Nepal Bar Association Library
4. Library of Ministry of Law and Justice
5. Central Law Library
6. American Centre, American Library, USIS

7. The British Council Library

Journal

The Faculty of Law has so far published a number of issues of a journal under the title "Nepal Law Review" since the days when it was running as the Institute of Law. Although it was stopped for a few years due to resource crunch, now it is expected that the journal will be again published regularly keeping in view the need of the LL.M. classes and Ph.D. research work under the Faculty. Besides, Nepal Law Campus is also trying to publish a separate law journal.

Research Activities

The Research Branch of the Faculty of Law is also sponsoring some research projects annually which will help the teachers and the students. The other programmes of the research branch among others is to enroll Ph.D. scholars and to organize seminars, workshops and interaction programmes.

Examination

- i) There shall be written examination at the end of each academic year in the courses prescribed except for Seminar and Thesis Writing. While the 'Legal Research' will carry 50 marks for written examination and 50 marks for internal evaluation, the 'Seminar' will carry 50 marks for final Seminar Report and 50 marks for internal performance. The 100 and 50 marks examination shall have four and two hour duration respectively. Minimum pass marks in each subject shall be 50 percent.
- ii) No students shall be allowed to proceed from first year to the second year unless he/she has passed one subject in the first year examination

Evaluation:

Central level annual examination for both the first year and second year courses is the basic criterion for the evaluation of the performance of students. The students have to pass each paper as prescribed in the course separately. A student who passes two years of study is graded on the basis of two year's average marks as follows:

75	percent and above	Distinction
60	percent and above	First Division
50	percent and above	Second Division

Comparative Jurisprudence

Course Title: Comparative
Jurisprudence

Period per Week: Two
Duration of the Period: Two
Hours.

Course No.: Law 601

Prerequisite for the Course: B. L. /LL. B.
Pass with at
least 2nd
Division.

Full Marks: 100
Pass Marks: 50
Nature of the Course:
Compulsory

Duration of the Course: One Year
[125 Hrs.]

The Year: First Year
Level: LL. M.

Course Description

This is a compulsory course for the students of LL. M. First Year. It introduces theories of Jurisprudence, Critical Study of Basic Jurisprudential Concepts, Social Dimension of Law, Political Dimension of Law, Law and Development and Issues and Trends in Jurisprudence.

Objectives

1. The general objective of this course is to introduce to the students the general trends and contemporary issues in Jurisprudence. How law is being fashioned in contemporary juristic philosophy forms the core concern of this course. It focuses on the subject of law in the contemporary society, particularly in the context of the Nepalese society, and aims to develop a critical faculty among the students. It studies law, legal ideology and legal behavior by refashioning them towards the growing needs of a changing society.
2. Its specific objective is to produce quality human resources equipped with skill, competence and integrity required for assuming new roles in a democratic society, in respect of administration of justice, legal research and promoting the rule of law, for a just and dynamic society.

Unit No. I

Objectives	Contents	Time allotted	Inst. Tech.	Inst. Mat.	Eva. Tech.
To enable the students to understand different theories of Jurisprudence	<u>Theories of Jurisprudence:</u> a. Analytical School since its Emergence to Present. b. Historical School and its Ideology c. Advent of Realism and its impact. d. Natural Law Theory then and now. e. Brief Highlight on	30	Lecture, Paper presentation by students, Questions - Answers and Discussions	Chalk Board OHP Chart and Ill ustration	By Q A and presentation of write-ups

	Sociological and Social School [Details are covered in Unit III & IV.]				
<i>Reading Materials</i>					
M. D. A. Freeman, Lloyd's Introduction to Jurisprudence, Elbs 6 th ed., (1994).					
Wayne Morrison, Jurisprudence: from Greeks to Post-Modernism, Lawman India Ltd., (1997).					
Jeffrie G. Murphy & Jules L. Coleman, Philosophy of Law, Oxford University Press, Delhi, (1997).					
J. W. Harris, Legal Philosophies, Butterworth, London, (1980).					
Roger Cotterrell, The Politics of Jurisprudence, Butterworth, London, (1989).					
Edger Bodenheimer, Jurisprudence, Universal Book Traders, 2 nd Indian Rep., (1997).					

Unit No. II

To enable the students to get acquainted with a Critical Study of Basic Jurisprudential Concepts	Critical Study of Basic Jurisprudential Concepts: a. Analysis of Rights and Duties. b. Theories on Balance of Interests. c. Critical Examination of Values: theory of justice; sanctity of person and property; social welfare; equality; rule of law; sovereignty and right to self-determination.	15	-do-	-do-	-do-
<i>Reading Materials</i>					
Roscoe Pound, Introduction to the Philosophy of Law, Yale University Press / Universal Law Pub., 2 nd Rep., (1998).					
John Rawls, a theory of Justice, Oxford University Press, (1972).					
R. W. M. Dias, Jurisprudence,					
Desmond S. King, The New Rights, The Dosey Press, Chicago, (1987).					
Ronald Dworkin, Taking Rights Seriously, Universal Book Traders, First Indian Rep., at 150-205, (1996).					

Unit No. III

To enable the students to get acquainted with Social Dimension of Law	Social Dimension of Law a. Social Engineering b. Law and Social Control c. Participatory Law Making Process. d. PIL, ADR and Role of Court.	20	-do-	-do-	-do-
<i>Reading Materials</i>					
Friedman, Law in Changing Society, Sweet & Maxwell / Universal Book Traders, 2 nd ed., (1997).					
R. Cotterrell, The Sociological Concept of Law, 10 J. L. & SOC., at 241, (1983).					
David M. Trubek, <i>Back to the Future: The Short Happy of the Law and Society Movement</i> , 18 Florida State Univ. L. REV. 1, at 1, (1990).					
Ellen S. Cohen & Susan O. White, <i>Legal Socialization Effect on Democratization</i> , INTERNATIONAL SOCIAL SCIENCE JOURNAL, UNESCO, at 151-172, (1997).					
Joseph Raz, The Authority of Law, Clarendon Press, Oxford, at 163-179, (1979).					
Julius Stone, Human Law & Human Justice, Stanford University Press, Stanford, at 322-355, (1968).					

Unit No. IV

To make the students	Political Economy [Political Dimension of Law]	15	-do-	-do-	-do-
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familiar with Political Dimension of Law.	<ul style="list-style-type: none"> a. Ideology of Law. b. Law, Economics and Politics. c. Political-Criminal Nexus. d. Parliament, Executive and Judicial Structural-Functionalism. 				
<p><i>Reading Materials</i></p> <p>Yash Ghai & et. al., The political Economy of Law a Third World Reader, at 177-212, (1987).</p> <p>James Dreze & Amartya Sen, Introduction to the Political Economy of Hunger, in Arther Hussain & et. al., (eds.), The Political Economy of Hunger, Oxford University Press, Delhi, at 13-45, (1999).</p> <p>Amartya Sen & Bernard Williams, (eds.), Utilitarianism & Beyond, Cambridge University Press, at, (1999).</p> <p>James Foster & Amartya Sen, On Economic Inequality, Clarendon Press, Oxford, at 195-219, (1997).</p> <p>Sara Joseph, Political Theory & Power, E. J. Brill, New York, at 49-84, (1988).</p> <p>Richard J. Pierce Jr., <i>A Comment on Imperfect Alternatives: Choosing Institutions in Law, Economics & Public Policy</i>, 83 CAL. L. REV. 3, at 941-951, (1995).</p> <p>Richard A. Posner, <i>Overconig Law</i>, Harvard University Press, Cambridge, at 387-470, 91995).</p> <p>Jeffrey Rosen, <i>Overcoming Posner</i>, [Book Review on Overcoming Law] 105 YALE L. J. 2, at 581-610, (1995).</p>					

Unit No. V

To help the students acquire knowledge on relationship between Law and Development.	<p>Law and Development</p> <ul style="list-style-type: none"> a. Relationship between Law and Development. b. Effective Government, Transparency and Government Procurement. c. Environment Jurisprudence / Trade Jurisprudence /Consumer Jurisprudence / Labor Jurisprudence / Tax Jurisprudence and Communication Jurisprudence. 	15	-do-	-do-	-do-
<p><i>Reading Materials</i></p> <p>World Bank, <i>World Development Reports</i>, Oxford University Press, 1992-1998.</p> <p>Joseph E. Stiglitz, <i>The Role of Government in Economic Development</i>, in Burno Michael & Boris Pleskobic, (eds.), Annual World Bank Conference on Development Economics, (1996).</p> <p>Surendra Bhandari, <i>World Trade Organization and Developing Countries</i>, Deep & Deep Pub., India, at 288-352 / 430-438, (1998).</p> <p>E. F. Schumacher, <i>Small is Beautiful</i>, Vintage, (1993).</p> <p>Michael Conant, <i>The Constitution & the Economy</i>, University of Oklahoma Press, Norman, at 3-26, (1991).</p>					

Unit No. VI

To help the students get informed about and equipped with an understanding of the issues	<p>Issues and Trends in Jurisprudence:</p> <ul style="list-style-type: none"> a. Law v. Morality / Cognitivism v. Non-cognitivism / Formalism v. Pragmatism / Determinacy v. 	30	-do-	-do-	-do-
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and trends in jurisprudence	Indeterminacy / Semanticism v. Interpretivism.				
	b. Liberalism, neo-liberalism and Post-liberalism.				
	c. Feminism, Critical Legal Movement and Post-Modernism.				
	d. Jurisprudence in Nepalese Perspective.				
	e. Future of Law.				

Reading Materials

Oliver Wendell Holmes, *The Path of Law*, Rep. in 110 HARV. L. REV. 5, at 991-1009, (1997).
 Bertrand Russell, *Logic & Knowledge Essays*, ed., by Robert Charles, Routledge, London, at 365-381, (1994).
 Kent Greenwalt, *Too Thin & Too Rich: Distinguishing Features of Legal Positivism*, Robert P. George, ed. *Autonomy of Law*, Clarendon Press, at 36-62, / 133-177, (1993).
 Robert S. Summers, Lon L. Fuller, Stanford University Press, at 16-41, (1984).
 Nicos Stavropoulos, *Objectivity in Law*, Clarendon Press, Oxford, (1996).
 J. M. Balkin, *Understanding Legal Understanding: The Legal Subject & the Problem of Legal Coherence*, 103 Yale L. J., at 105-176, (1993).
 Stanley Fish, *Almost Pragmatism: The Jurisprudence of Richard Posner, Richard Rotry & Ronald Dworkin*, in Michael Brint & William Weaner, (eds.), *Pragmatism in Law and Society*, at 47-82, (1991).
 William Twining, John Austin, Stanford University Press, California, at 178-205, (1982).
 Brian Bix, *Law Language & Legal Determinacy*, Clarendon Press, at 36-62 / 133-177, (1993).
 H. L. A. Hart, *The concept of Law*, Clarendon Press, 2nd ed., at 124-154, (1994).
 Scott Brewer, *Exemplary Reasoning: Semantics, Pragmatics and the Rational Force of Legal Argument by Analogy*, 109 HARV. L. REV. 5, at 923-1028, (1996).
 Karl-Heinz Ladeur, *Post-Modern Constitutional Theory: A Prospect For the Self-Organizing Society-The Future of Liberalism after the End of History*, 60 MODERN LAW REVIEW 5, at 617-629, (1997).
 John P. McCormic, *Habermas' Discourse Theory of Law: Bringing Anglo-American and Continental Legal Traditions?* 60 Modern Law Review 5, 734-743, (1997).
 Guy Paul Land, *Judicial Process & The Decline of Twentieth Century American Liberalism*, 16 Harv. J. OF Legis. 2, at 283-300, (1979).
 Richard A. Posner, *The Problematics of Legal and Moral Theory*, 111 Harv. L. Rev. 7, at 1637-1717, (1998).
 John Austin, *A Positivistic Conception of Law*, in Fienberg & Gross (eds.), *Philosophy of Law*, Wadsworth Pub. Co., California, at 26-37, (1980).
 H. L. A. Hart, *Positivism & Separation of Law From Morals*, 71 HARV. L. REV., at 593-629, (1958) / *Id.*, at 49-67.
 Lon L. Fuller, *Positivism & Fidelity to Law-A Reply to Prof. Hart, Id.*, at 630 / *Id.*, at 68-88.
 Joseph Raz, *Ethics in Public Domain*, Clarendon Press, Rev. ed., at 97-124, (1996).
 Stephen Guest, *Ronald Dworkin*, 2nd ed., Edinburg University Press, at 1-38 / 235-253, (1997).
 James Boyle, (ed.), *Critical Legal Studies*, Darmouth, Sydney, (1992).

Textbooks

1. M. D. A. Freeman, *Lloyd's Introduction to Jurisprudence*, 6th ed., (1994).
2. Wayne Morrison, *Jurisprudence from Greek's to Post-Modernism*, Lawman India Ltd., (1997).
3. Friedman, *Law in a Changing Society*, Sweet & Maxwell / Universal Book Traders, 2nd ed., (1997).
4. Yash Ghai et. al., *The Political Economy of Law a Third World Reader*, Oxford University Press Delhi, (1987).
5. James Boyle, (ed.), *Critical Legal Studies*, Darmouth Sydney, (1992).

References

1. J. W. Harris, *Legal Philosophies*, Butterworth, London, (1980).
2. John Rawls, *A Theory of Justice*, Oxford University Press, (1972).
3. Joseph Raz, *The Authority of Law*, Clarendon Press, Oxford, (1979).
4. H. L. A. Hart, *The Concept of Law*, Clarendon Press, 2nd ed., (1994).
5. O. H. Holmes, *The Path of Law*, Rep. in 110 Harv. L. Rev. 5, (1997).
6. Nicos Stavropoulos, *Objectivity in Law*, Clarendon Press, (1996).

1928

legal research	research.				
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Reading Materials

Unit No. III

To impart knowledge on doctrinal, empirical and sociological research.	Styles of Legal Research:		-do-	-do-	-do-
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Reading Materials

Upendra Baxi, Socio-Legal Research: A Programshrift, ICSSR, at 19-50, (1975).
S. N. Jain, *Doctrinal & non-doctrinal research*, 17 J.I.L.I, at 376-436, (1975).

Unit No. IV

To make student acquainted with the technique of scientific legal research	Scientific Legal Research: i. General Rules of Legal Research. ii. Uniform Rule of Citation. iii. Methods of scientific Research		-do-	-do-	-do-
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Reading Materials

Jain, Indian Legal Materials,
Williams, Learning the Law,
Pollock, Fundamentals of Legal Research,
Price & Bither, Effective Legal Pesearch,
Roalfe, How to Find out Law,

Unit No. V

To impart to students knowledge on methods and designs of legal research	Methods of Research: Formulation of Research Design: i. Stages of Research ii. Hypothesis, Operationalization & Variables		-do-	-do-	-do-
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Reading Materials

Bailey, Methods of Social Research,
Friedmann & Macaulay, Law & Behavioural Survey,

Unit No. VI

To introduce the approaches on investigation survey.	Approaches to Investigation Survey: i. Idea of Survey-universe, population, ii. Strategy for Sampling iii. Questionnaire, Interview Schedules		-do-	-do-	-do-
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	iv. Scaling & others				
<i>Reading Materials</i>					
Chatterjee et. al., Impact of Social Legislation, Minerva Associates, (1971).					
Podgercki, Law & Society, (1974).					

Unit No VII

To acquaint the students with the technique of data analysis	Data Analysis: i. Analysis of aggregate data methods ii. Coorelations, time discussions, selections.		-do-	-do-	-do-
<i>Reading Materials</i>					

Unit No. VIII

To familiarise the students with the methods of making a case study and with its significance for legal research.	Case Studies: i. Concept of case study ii. How to do a case study ?		-do-	-do-	-do-
To impart knowledge of and information of impact on the legal actions.	Impact of Legal Action: i. Operationalization of impact, legal action ii. Symbolic & instrumental legislation iii. Methods of studying impact iv. Measuring impact.		-do-	-do-	-do-
<i>Reading Materials</i>					

Unit No. IX

To impart knowledge on behavioural analysis of judicial decisions.	Jurimetry: i. Uniformities in Judicial Behaviour ii. Scalogram, factor analysis iii. Voting Behaviour & Opinion Writing iv. Sentencing Studies.		-do-	-do-	-do-
To impart know how and skill on preparation of project report.	Preparation of Project Report: i. General Idea of Project Report ii. Methods of Preparation		-do-	-do-	-do-

Test Books	References Materials
✓ 1. Aubert, Sociology OF Law, (1969).	✓ 1. H. Degroot Morris, Statistics & the Law, USA, (1986).
✓ 2. Biley, Methods of Social Research,	✓ 2. Kerlinger Fred N., Foundations of Behavioural Research, Prism Books, Banglore, (1995).
✓ 3. Upendra Baxi, Socio-Legal Research: A Programshrift, Icssr, (1975).	✓ 3. Khanzode, V. K., Research Methodology, APW Pub., (1995).
✓ 4. Chatterjee & et. al., Impact of Social Legislation, Miverva Asso., (1975).	✓ 4. Kothari C. R., Research Methodology: Methods and Techniques, Wishaw Prarashan, 12 th Rep. (1996).
✓ 5. Feld Benjamin & et. al., A Guide to Legal Research, Oceana Pub. Inc., (1966).	✓ 5. Mohisin S. M., Research Methods in Behavioural & Social Science, Orient Longman rep. (1989).
✓ 6. Friedman & Macaulay, LAW & Behavioural Sciences, (1967).	✓ 6. Nalwa Vanit, The ABC OF Research for Behavioural & Social Science, Wiley Eastern Ltd., New Delhi, (1992).
✓ 7. Ghosh B. N., Social Science Methods & Social esearch, Sterling Pub. Pvt. Ltd., (1992).	✓ 7. Podgerdki, Law AND Society, (1974).
✓ 8. Gibaldi, Joseph, Mla Handbook for Writers of Research Papers, Affiliated East-West ;Pub. Ltd, New Delhi, (1995).	✓ 8. Pollock, Fundamentals of Legal Research.
✓ 9. Goode William J. & Hatt Paul R., Methods in Social Research, Mc Graw Hill, (1985).	✓ 9. Price & Bither, Effective Legal Research.
	✓ 10. Roalfe, How to find The Law.
	✓ 11. Sharma B.A. V. & et. al., Research Methods in Social Sciences, Sterling Pub. Pvt. Ltd.
	✓ 12. The blue book a uniform system of citation, 16 th ed., (1997) or any recent. Compiled by editors of the Columbia Law Review, the Harvard Law Review, the University of Pennsylvania Law Review and the Yale Law Journal.
	✓ 13. The ILI, Legal Research & Methodology, N. M Tripathi Pvt. Ltd., Bombay, (1983). or CJILI Vol. 24, Nos. 2, 3, &4. (1982 Apr-Dec.)
	✓ 14. Tunkel, Victor, Legal Research, (Handbook) Law Finding & Problem Solving, Universal Book Traders, First Rep. (1994).
	✓ 15. Wasby S., <i>Some Problems of Conceptualization and Measurement</i> , 5 LAW & SOC. REV. 41, (1970).

1952
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Constitutional Law I

Course Title: Constitutional Law I
(Constitutionalism)

Period per Week: 2 Periods
Duration of the Period: Two Hours.
Full Marks: 100

Course No. Law 604

Pass Marks: 50

Prerequisite for the Course: B.L/LL.

Nature of the Course: Specialization
/Optional

Duration of the Course: One Year
(120 Hrs.)

The Year: First Year
Level: LL. M.

Course Description: Constitutional Law I (Constitutionalism) critically focuses the on institutional part (the structural and functional aspects) of constitutional law. It deals with major issues of constitutionalism such as the formation of the government, interrelation in between the three wings of the government, separation of power, check and balance, emergency, amendment, interpretation, election, dissolution, constitutional bodies, constitutional monarchy, parliament, judiciary, constitutional history of institutional development and modern trends, etc. This course basically focuses on the provisions meant for ensuring effective functioning of limited government and so it can as well be termed "constitutionalism".

Objectives: The objectives of the course are:

- To produce creative and critical minds for good governance of the country;
- To give the learners knowledge about institutional and functional aspects of constitutional law in depth and in comparative perspectives so that they could be an effective support to executive, legislative and judicial wings of the government for improving the quality of their decisions.
- To produce specialized constitutional experts who can help citizens in getting their problems solved through legal institutions.
- To produce competent manpower capable enough to work at the policy making level and get actively involved more in the analysis, evaluation and reform of the existing laws and in the creation of new laws and institutions than in the application aspect only.

Unit No. I

Objectives	Contents	Time allotted	Inst. Tech.	Inst. Mat.	Eva. Tech.
To impart in depth critical knowledge about the theoretical concept of constitutional law and	Constitution and Constitutionalism 1. Critical analysis of source, scope and nature of Constitution as a politico-legal document	8 periods /16 hrs	Lecture, discussions, question answers, case analysis	Textbooks and reference books	Identification of success stories and instances of failures in the process of Nepalese constitutional

<p>constitutionalism and its operational modalities in the context of UK (where there is unwritten constitution) and INDIA, USA and Nepal (where there are written constitutions)</p> <p>To acquaint the students with a critical knowledge about the concept of limited government and of different mechanisms to ensure constitutionalism.</p>	<p>2. Critical analysis of advantages and disadvantages of written and unwritten constitutions, unitary and federal constitutions, flexible and rigid constitutions.</p> <p>3. Concept of constitutionalism and its operational modalities in the context of U.K /unwritten constitution and Nepal, India or USA/written constitutions.</p> <p>4. Legal and Political constitutionalism</p> <p>5. Problems and prospects of ensuring effective constitutionalism in Nepal.</p>				<p>sm. Critical analysis of the reasons behind such failures and successes</p>
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Unit No. II

<p>To understand the increasing relevance of Preamble in modern constitutionalism</p>	<p>Preamble</p> <p>1. Constitutional status of preamble</p> <p>2. Preamble, Basic structure and Interpretation of constitution</p>	<p>2 periods 4 hrs</p>	<p>Lecture, discussions, question answers, analysis of relevant cases from India and Nepal.</p>	<p>Textbooks, reference materials and cases.</p>	<p>Analysis of preambles in the constitution of Nepal and of India</p>
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Unit No. III

<p>To give a critical idea of separation of powers and the doctrine of check and balance as it is applied in USA, India, UK and Nepal.</p>	<p>Separation of Powers with Doctrine of Check and Balance</p> <p>1. Separation of powers and check and balance in U.S constitution: relevant provisions, interpretations and applications.</p> <p>2. Separation of powers and check and balance in India</p>	<p>6 periods/ 12 hrs</p>	<p>Lecture, discussions, question answers, analysis of relevant cases from USA, India and Nepal.</p>	<p>Textbooks, reference materials and cases.</p>	<p>Discussion on hypothetical problems of violation of separation of powers and the remedies available for such problems under the constitutional law of Nepal</p>
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	and U.K constitution: relevant provisions, interpretations and applications. 3. Separation of Powers and check and balance in Nepalese constitution: relevant provisions, interpretations and applications.				
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Unit No. IV

To give a critical knowledge about the changing dimensions of the concept and content of the Rule of Law and its enforcement through constitutional mechanisms in different countries.	<p>Rule of Law</p> <ol style="list-style-type: none"> 1. Critical analysis of the concept and content of the Rule of Law. 2. Rule of Law and parliamentary sovereignty in UK. 3. Rule of Law, basic structure theory and judicial supremacy. 4. Rule of Law and the constitution of Nepal. 5. Institutions responsible for enforcement of Rule of Law. 	4 periods/ 8 hrs	Lecture, discussions, question answers, case analysis	Textbooks, reference materials and cases.	Assessment of Rule of Law situation in Nepal and identification of problem areas and constraints in enforcement of Rule of Law in Nepal.
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Unit No. V

To give a critical idea of the executive wings of the Government. To study their roles and limitations from the point of view of constitutional, organizational and functional point of view.	<p>Executive</p> <ol style="list-style-type: none"> 1. Constitutional monarchy: theory and practice in UK 2. Constitutional monarchy in Nepal: constitutional mandate, problems in institutionalization of constitutional monarchy in Nepal and their solutions. 3. The formation of the cabinet government and its relation with the Crown. 4. The collective responsibility of the cabinet and its 	8 periods/ 16 hrs	Lecture, discussions, question answers, case analysis	Textbooks, reference materials, articles and cases.	Assessment of functioning of constitutional monarchy in Nepal under the new constitution and its comparison with the Monarchy in the past.
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	<p>accountability to the parliament.</p> <p>5. The role and responsibility of the Prime Minister in the constitutional set-up of Nepal.</p> <p>6. Dissolution of parliament as a prerogative of the executive</p>				
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Unit No. VI

<p>To give a critical idea of the legislative wings of the Government with special focus on parliament as a final body to decide the law, policy and money matters of the government.</p> <p>To study their role and limitations from the point of view of constitutional, organizational and functional point of view.</p>	<p>Legislature</p> <ol style="list-style-type: none"> 1. Role and responsibility of the National Assembly and the House of Representatives 2. Parliamentary control over executive 3. Privileges of parliament 4. Dissolution of parliament 5. Defection in parliament 6. Committee system in parliament and its comparison with the committee system of UK 7. The role of the opposition 8. Critical analysis of the role of the speaker. 	<p>8 periods/ 16 hrs</p>	<p>Lecture, discussions, question answers, case analysis, discussions on political behaviors</p>	<p>Textbooks, reference materials, articles and cases.</p>	<p>Assessment of functioning of parliamentary system in Nepal under the new constitution, and its comparison with the functioning of parliamentary system in UK.</p>
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Unit No. VII

<p>To give a comprehensive and critical knowledge about the constitutional role of the judiciary (specially Supreme Court) in enforcing constitutional limitations, fundamental rights and directive principles of state policy.</p>	<p>Judiciary</p> <ol style="list-style-type: none"> 1. Independence of judiciary: theory and practice. 2. Judicial review and democracy 3. Power to enforce fundamental and legal rights 4. Scope of judicial review in Nepal (constitutional amendments, legislation and administrative action) and its comparison with the scope of judicial review in 	<p>12 periods/ 24 hrs</p>	<p>Lecture, discussions, question answers, case analysis, discussion of political behaviors</p>	<p>Text books, reference materials, articles and cases.</p>	<p>Comparative analysis of scope of judicial review in Nepal and UK and discussion on the reasons behind the difference.</p>
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To make a performance evaluation of the Supreme Court with a critical analysis of the cases decided by it.	<p>UK</p> <p>5. Political question doctrine and its application in India, USA and Nepal</p> <p>6. Public Interest Litigation and judicial activism: constitutional mandate and its interpretations (comparison with the practice in India and USA)</p> <p>7. Contempt of court</p> <p>8. Extra-ordinary, ordinary and advisory jurisdiction of the Supreme Court.</p>				
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Unit No. VIII

<p>1. To give a critical knowledge about the constitutional regulations, limitations and registration of political parties.</p> <p>2. To give a critical idea about the Constitutional Bodies under the scheme of the constitution of Nepal and the jurisprudential basis for their creation as autonomous bodies.</p> <p>3. To give essential knowledge about the process and limitations on constitution amending power.</p>	<p>Miscellaneous</p> <p>1. Political Parties: constitutional requirements, limitations and immunities.</p> <p>2. Constitutional Bodies: problems and prospects of their independence and their relation with other wings of the government (special focus on Abuse of Authority Investigation Commission as an Ombudsman and Election Commission)</p> <p>3. Procedural and substantive limitations on power of constitutional amendment in Nepal (with special reference to and comparison with Basic Structure theory of India). Constitutional amendments through judicial interpretation and development of</p>	10 periods/ 20 hrs	Lecture, discussions, question answers, case analysis, discussion of political behaviors	Text books, reference materials, articles and cases.	<p>Assessment of behavior of political parties in the context of constitutional vision and identification of provisions which need to be reformed.</p> <p>Assessment of practical problems faced by these bodies in realizing constitutional independence</p> <p>Identification of provisions requiring amendments and see how far they are consistent with basic structure of the constitution of Nepal.</p> <p>Assess the constitutional provisions of Emergency and see if it can work in the geo-</p>
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4. To give a critical and comparative idea of emergency provisions in India, USA and Nepal	conventions 4. Emergency power in Nepal and its comparison with Indian and US system.				political context of Nepal.
5. To give a general and critical idea about the provisions dealing with election of members of parliament	5. General election, Mid-term election, By-election and election on failure of government under Article 42(2)				Assessment of constitutional arrangement for declaration of elections. Critical analysis of the prevailing system of election and discussion on alternatives

Unit No. IX

To give an idea about the new trends in constitutional development in democratic countries (including Nepal) of the world and make an assessment of their relevance for Nepal.	Modern Trend and Development of Constitution	2 periods/ 4 hrs	Lecture, discussions, question answers, case analysis, discussions on political behaviors	Journals, Textbooks, reference materials, articles and cases.	Assess how far Nepalese constitution has kept track of the new trends of constitutional development around the world.
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Recommended Reading Materials

- ✓ 1. The Constitution and Constitutional Law of Nepal --- Top Bahadur Singh
- ✓ 2. Commentary on the Nepalese Constitution --- Dhungel and others.
- ✓ 3. Constitutional law of Nepal --- Edited by Kanak Bikram Thapa and Bharat Uprety (pub. by FREEDEAL)
- ✓ 4. Modern Constitutions --- K.C. Wheare.
- ✓ 5. Constitutional Law of India --- V. N Shukla.
- ✓ 6. Constitutional Law of India --- M.P. Jain
- ✓ 7. Constitutional Law of India --- H.M. Seervai.
- ✓ 8. Constitutional Law of India --- D.D Basu.
- ✓ 9. Law and Constitution of Britain --- Sir Ivor Jennings
- ✓ 10. Cabinet Government --- Sir Ivor Jennings
- ✓ 11. Parliament --- Sir Ivor Jennings
- ✓ 12. The Law of the Constitutions --- Sir Ivor Jennings
- ✓ 13. Modern Constitutional Law --- C.F. Strong
- ✓ 14. Constitutional Law --- Wade and Phillips.
- ✓ 15. Constitutional Law of England -- Ridges.
- ✓ 16. Comparative Constitutions --- Hood & Phillips.
- ✓ 17. World Constitutions --- A.C. Kapoor.
- ✓ 18. An Introduction to the Study of the Law of the Constitution --- A.V. Dicey.
- ✓ 19. Constitutional Law --- Stone, Seidman, Sunstein and Tushnet
- ✓ 20. Constitutional Law --- Gerald Gunther
- ✓ 21. The students are also required to study the following materials:
 - a. The research articles published in different journals of Nepal and abroad.
 - b. The materials supplied by the teacher in the class.
 - c. Cases prescribed by the teacher in the class.

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Commercial Law - I

Course Title: Commercial Law - I

Course No. Law 605

Prerequisite for the course: Eligibility to join LL.M. 1st Year

Time required for the completion of the course: 125 Hours
Periods per week: 6 Periods
Length of one period: 60 Minutes

Full Marks : 100

Pass Marks : 50%

Nature of the course :

Specialization / Optional

Duration of the course: First year

Course Description

- Formation, operation and regulation of companies.
- Roles of shareholders, directors, and other organs and officers of the company.
- Workers, participation in management.
- Voting process.
- Prevention of mismanagement of a company.
- Prevention of oppression of Minority shareholders.
- Company contracts.
- Corporate finance : Company Capital, Corporate Securities, Dividend, Bonus Shares, Right Issue, Insider Trading, Accounts and Auditing.
- Mergers, Acquisition and Liquidation of Companies.
- Corporate Powers and Liabilities.
- Social responsibilities of Corporations/Companies, and MRTP Issues.
- Public Securities sales (Securities Exchange Regulation)

Objectives

- To familiarize the students with the basic issues of contemporary Company/Corporation Law and enable them to suggest the best solution to tackle those issues.
- To impart a comparative and critical knowledge of the commercial law of Nepal as compared to the Laws of EU, India, U.K./USA. and others as relevant.
- To enable the students to make a critical appreciation of leading cases.

The topics which cover the basic areas of the L L.B. course will not be repeated in the class. So the students are at least expected to be familiar with the general principles of Company/Corporation law, Contract Law and Property Law.

Unit No. I

Objectives	Contents	Time allot.	Inst. Tech.	Inst. Mat.	Eva. Tech.
To enable the students to understand and explain the theoretical and practical aspects of formation, operation and regulation of companies critically and comparatively.	Formation, operation and Regulation of companies	16	Lecture, Question-Answer, Paper presentation, Group-Discussion, Case Analysis	Statutes, cases, Books, Articles, Reports and Notes	Oral questions, paper presentation, written examination.

Unit No. II

To make the students able to understand and examine the various roles of shareholders, directors and other organs and officers of the company in the operation and regulation of modern companies.	Role of shareholders and Directors and other organs and officers of the company	16	do	Do	do
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Unit No. III

To make the students able to examine and explain how employees and workers of modern companies participate in corporate management.	Workers' participation in the management of a company	6	do	do	do
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Unit No. IV

To make the students able to understand and explain the voting process undertaken during the general meetings of private/public companies.	Voting process	6	do	do	do
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Unit No, V

To acquaint the students with the prevailing legal practices for the prevention of mismanagement of companies.	Prevention of mismanagement of a company	6	do	do	do
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Unit No. VI

To help the students find various legal preventive	Prevention of oppression of	6	do	do	do
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measures to be adopted for the protection of minority shareholders.	minority shareholders				
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Unit No. VII

To enable the students to find the status, capacity and liability of the companies and Directors in their Corporate Contracts.	Company contracts	6	do	do	do
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Unit No. VIII

To give the students a thorough understanding of various aspects of corporate finance in which they will make an examination of contemporary corporate practices in dealing with company capital, corporate securities dividend, bonus shares, rights issue, insider trading, accounts and auditing of the corporate funds.	Corporate finance: Company capital, corporate securities, Dividend, Bonus Shares, Right issue, Insider Trading, Accounts and Auditing.	24	do	do	do
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Unit No. IX

To make the students able to explain the modern trends of corporate mergers, acquisition and liquidation of companies; show the drawbacks of the Nepalese company law in this regard, and also suggest ways and means for its improvement.	Mergers, Acquisition and liquidation of companies.	12	do	do	do
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Unit No. X

To help the students get a thorough understanding of also acquire an expressive power on incorporation aspects, <u>ultra vires</u> , doctrine, powers, duties and liabilities of board and shareholders, the rule in <u>Royal British Bank V. Turquand</u> and the doctrine of indoor management.	Corporate powers and liabilities.	10	do	do	do
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Unit No. XI

To enable the students to understand the philosophy of modern corporation and make an evaluation of corporate social responsiveness as a modern dilemma. They will also be well versed in MRTTP issues.	Social Responsibilities of Companies/Corporations, and MRTTP issues.	6	do	do	do
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Unit No. XII

To make the students able to understand and examine the modern law and practice of securities exchange business.	Public Securities Sales	11	do	do	do
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<u>Prescribed Textbooks</u>	<u>Recommended Reference Materials</u>
<u>Acts (up to date)</u>	1. Datta on the Company Law (Orient Law House, New Delhi)
1. The Company Act, 2053 (1997)	2. Ramaiya; A : Guide to Companies Act (in parts) (Wadhwa & Company, New Delhi)
2. The Corporation Act, 2021 (1964)	3. Bhandari, M.C. : Guide to Company Law Procedure (in Parts)
3. The Contract Act, 2023 (1967)	4. Fox D. & Bowen, M : The Law of Private Companies (Sweet & Maxwell, London)
4. The Securities Exchange Act, 2040 (1983) and Regulations.	5. Boyle & Birds Company Law (Universal Law Publishing Co. Pvt. Ltd., Delhi)
5. The Consumer Protection Act, 2054 (1998)	6. Hirani, M.H. The Company Law Related to Social Responsibility of Company Directors (APH Pub. Corp., New Delhi)
<u>Books (Latest edn.)</u>	7. Hicks, A & Goo, S.H. Cases & Materials on Company Law (U.K.)
1. Gower's Principles of Modern Company Law. (Sweet & Maxwell, London)	8. Morse, G., Company Law (Sweet & Maxwell)
2. Palmer's Company Law (in vols)	9. Mayson, et. al., Company Law.
3. Pennigton, R. R., Company Law (Butterworth's)	10. Blake, A. & Bond, H.J.: Company Law (U.K.)
4. Butter worth's Company Law (London)	11. Bourne N.: Company Law (U.K.)
5. Palmer's Corporate Insolvency (in vols.) (Sweet & Maxwell, London)	12. Saharay, H.K.: Company Law.
	13. Jacoby N. H. : Corporate Power and Social Responsibility (Macmillan Pub. New York)
	14. Other materials to be supplied by the concerned Teacher including Articles, Cases and Reports.

1996

International Law

Course Title: International Law

Course No.: Law 606

Prerequisite for the Course: B.L /

LL.B
with
Second
Division

Period per Week: Two periods/
4 hrs / week

Duration of the Period: Two Hours.

Full Marks: 100

Pass Marks: 50

Nature of the Course: Specialization
/Optional

Duration of the Course: One Year
(125 Hrs.)

The Year: First Year
Level: LL. M.

Course Description: The Course is designed to impart to the students the basic knowledge and information about international law in such a way as to inculcate in them an understanding of the importance of the law and at the same time to equip them with an analytical approach for resolving problems concerning national/international matters. This course is optional for students of the Master of Laws programme.

Objectives:

- To acquaint the students with the concepts and status of International Law.
- To enable them to make a critical appraisal of the functioning of the laws.
- To enable them to evaluate problems in the field and thereby seek solutions.

Unit No. I

Objectives	Contents	Time allotted	Inst. Tech.	Inst. Mat.	Eva. Tech.
To familiarize the students with the origin, development, sources, theories and subjects of International Law.	origin, development & sources of international Law. - Origin & Development of Intl. Law. - Development in Pre- & Post-UN era. - Sources of intl. law, Article 38 of ICJ - Theories of Intl. Law. - Subjects of Int.Law.	4 hrs.	Lecture/s eminar	Primary sources : Documents, Multilateral conventions, Secondary Sources : Treatise on the topic by eminent scholars such as a) Burns H., Weston & et.al, International Law & World Order, Saint Paul MN, West Publishing Co., 1980, b) Louis Henkin & et.al, International Law, Saint Paul	Oral / written / Home Assignment

				<p>MN, West Publishing Co., 1987.</p> <p>c) Higgins R., The Development of International Law through the Political Organs of the United Nations, Oxford University Press London 1969 (Reprint).</p> <p>e) Sorensen M. A Manual Of international Law.</p> <p>Schwarzerberge G., A Manual of International law.</p>	
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Unit No. II

<p>To acquaint the students with the concepts, conclusions, applications interpretations, & different consequences of treaty aspects so that they acquire adequate skill and expertise to work as negotiators in the future.</p>	<p>Law of Treaties. Concepts- Pacta Sunt Servanda, -Rebus sic Stantibus & Jus Cogens. Conclusion- Application Rights & duties of the parties Rules of Interpretation of treaty. Amendment, Modification and termination of Treaties. Depository, Corrections and Registration of Treaty. Law of Treaties & Nepalese Constitution.</p>	<p>20 hrs.</p>	<p>Lecture/ seminar</p>	<p>Primary sources : Vienna Convention on law of Treaties, May 23 1969. Secondary Sources : Treatise of the topic by eminent scholars such as MacNair A.D. Law of Treaties, Stevens and Son's 1961. Sinclair, I.M., The Vienna Convention on Law of treaties, Manchester University Press, 1973. Elias T.O, The Modern law of treaties, Oceana, Dobbs NY, 1974. Rosenne, S, Breach of Treaty, Cambridge University Press London, 1990.</p>	<p>Oral / written / Home Assignment</p>
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Unit No. III

<p>To impart essential knowledge to the students about the Law</p>	<p>Diplomatic & Consular Relations.- Diplomatic envoys- Type- Appointment - Receptions -</p>	<p>10 hrs.</p>	<p>Lecture/ seminar</p>	<p>Primary Sources : Vienna Convention on Diplomatic Relations, April</p>	<p>Oral / written / Home Assignment</p>
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<p>& Practice on Diplomatic & Consular Relations,</p>	<p>positions – Functions – Inviolability – Extraterritoriality The Retinue of Diplomatic Envoys – Termination of Diplomatic Mission, Diplomatic Privileges – Consular relation – Introduction- Appointment- Functions – position – Privileges & termination. Critical study of the Nepalese Act on the subject.</p>		<p>16, 1961. Vienna Convntion on Consular Relation, 1963. Secondary Sources : Luke T. Lee, Consular Law and Practice, Clarendon Press, Oxford, 1991.. oppenheim, International Law, Longman, London, 1970. O'Connel, International law, Steve & Sons, London 1970</p>	
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Unit No. IV

<p>To impart knowledge & information to students about the genesis and legal provisions on different aspects of law of the sea and to enable them to analytically and rationally assess the provisions of law of the sea. This will help them formulate their viewpoints independently on different issues connected with the law of the sea, like those of transit, trade, economic relations & resources.</p>	<p>Law of The Sea, History & general principles of LOS. Territorial Sea and Contiguous zone. Continental Shelf. Exclusive economic zone. Open Seas. Conservation and Preservation & rationale use of resources of the sea. Landlocked states. Settlement of sea bed disputes. A glimpse of International economic, trade, transit & water resources law.</p>	<p>20 hours</p>	<p>Primary Sources: 1958 UN Convention on territorial Sea and contiguous zone. 1958 UN Convention on Continental Shelf. Preservation and Conservation of living resources of the sea. 1958 UN Convention on High seas. UN Convention on the law of the sea, 10 Dec. 1982. Secondary Sources: O'Connel, Law of the Sea(Vols 2), Oxford University Press, London 1982. R.P.Anand, Origin and Development of Law of the sea, N. M. Tripathi Bombay, 1982.</p>	<p>Oral / written / Home Assignment</p>
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Unit No. V

<p>To familiarise the students with the law</p>	<p>Law of the Air- Nature, Meaning, Sources, Four Freedoms of Air,</p>		<p>Primary Sources : Chicago Convention of</p>	<p>Oral / written / Home</p>
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and practice of International Air Law & help them analyse and advise on Carriers liability in the context of International and National Legislation.	Chicago Convention of 1944, Warsaw Convention and Carrier's Liability, Launcher's Liability under Space Law, Status of Air Law in Nepal.		1944, Warsaw Convention Secondary Sources: MacNair, Air Law, Stevens & Sons, London, 1964. Shawcross and Beaumont, Air Law, Vol 1, Butterworths, London, 1977.	Assignment
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Unit No. VI

To familiarize the students with different aspects of the settlement of disputes specially with the working of the ICJ.	Settlement of Disputes: Types of Settlement of disputes. Amicable – non-amicable. Amicable- Mediation- Consultation – Arbitration (Including International Commercial Arbitration in brief) – Good Offices – Judicial Settlement – ICJ- Introduction , Composition, Powers & Functions of The ICJ. Dispute Settlement Mechanism under the LOS and WTO.		Primary Sources : -The statute of the ICJ & its rules of procedure. Secondary Sources Green L.C. International Law through the Cases, Cambridge University press London, 1951. Merrills, International Dispute Settlement, Cambridge University Press, 1991. Shahabuddeen, M. Precedent in the World Court, Cambridge University Press London, 1996.	Oral / written / Home Assignment
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<u>Prescribed Textbooks</u>	<u>Recommended Reference Materials</u>
1. Burns H., Weston & et.al, International Law & World Order, Saint Paul MN, West Publishing Co., 1980,	1. Higgins R., The Development of International Law through the Political Organs of the United Nations, Oxford University Press London 1969 (Reprint).
2. Louis Henken & et.al., International Law, Saint Paul MN, West Publishing Co., 1987.	2. Sorensen M, Manual Of international Law, London, 1968
3. Schwarzerberge G., A Manual of International Law, Stevens and Sons Ltd./ London, 1967.	3. MacNair A.D. Law of Treaties, Stevens and Sons 1961.
4. Vienna Convention on law of Treaties, May 23 1969.	4. Vienna Convention on Diplomatic Relations, April 16, 1961.
5. Sinclair, I.M., The Vienna Convention on Law of treaties, Manchester University Press, 1973.	5. Vienna Convntion on Consular Relation, 1963.
6. Elias T.O, The Modern law of treaties, Oceana, Dobbs NY, 1974.	6. 1958 UN Convention on territorial Sea and Contagious zone.
7. Rosenne, S, Breach of Treaty, Cambridge University Press London, 1990.	7. 1958 UN Convention on Continental Shelf.
8. Luke T. Lee, Consular Law and Practice, Clarendon Press, Oxford, 1991.	8. Preservation and Conservation of living resources of the sea.
9. Oppenheim, International Law, Longman, London, 1970.	9. 1958 UN Convention on High seas.
10. O'Connel, International law, Stevens & Sons, London 1970	10. UN Convention on the law of the sea, 10 Dec. 1982.
11. Shaw, Malcolm N., International Law, Cambridge University Press, Cammbridge 1997.	11. -The statute of the ICJ & its rules of procedure.
12. O'Connel, Law of the Sea(Vols 2), Oxford University Press, London 1982.	12. Laughterpacht, World Court.
13. R.P. Anand, Origin and Development of Law of the sea, N. M. Tripathi Bombay, 1982.	13. Schwelbel, Stephen M., Justice in International Law, Cambridge University Press, Cambridge, 1994
14. - Klabbers, Jan: The Concept of Treaty in International Law, Kluwer Law International, The Hague, London, Boston, 1996	14. - Millar, Georgette, Liability in International Air Transport, Kluwar, The Netherlands, 1994.
15. Green L.C. International Law through the Cases, Cambridge University Press London, 1951.	15. -McWhinney, Adward, Freedom of the Air, Sijhoff, Leyden 1968.
16. Shahabuddeen, M. President in the World Court, Cambridge University Press London, 1996.	16. -Wassenbergh, H.A., Aspect of Air Law and Civil Air Policy, in the seventies, Nijhoff, The Hague, 1970

2028

Nepalese Legal System

Course Title: Nepalese Legal System
Course No.: Law 701
Prerequisite for the Course: Eligibility to join LL.M. Second Year.
Duration of the Course: One Year [125 Hrs.]
Period per Week: Two
Duration of each Period: Two Hours
Full Marks: 100
Pass Marks: 50
Nature of the Course: Compulsory
The Year: Second Year
Level: LL. M.

Course Description

This is a compulsory course for the students of LL. M. Second Year. the course contains concept of legal system, analysis of Nepalese legal history, reception of law and philosophy of Nepalese legal system.

Objectives

- I. The general objective of this course is to introduce to the students the general concept of legal system, its process of evolution, its underlying philosophy, the nature of reception, the law-making process, the judicial process and the law-enforcing process, and finally the distinctive features of the Nepalese legal system.
- II. The specific objective is to produce quality manpower possessed of the skill, competence and integrity that are essential for assuming new roles in a democratic society, with respect to administration of justice, legal research and promoting the rule of law for a just and dynamic society.

Unit No. I

Objectives	Contents	Time Allot.	Inst. Tech.	Inst. Mat.	Eva. Tech.
To impart knowledge on the concept of legal system.	Concept of Legal System: a. Notion and Criteria of a Legal System. b. Autonomy of a Legal System. c. Kinds and Sources of Legal System.	20	Lecture, Paper presentation by students, Questions - Answers and Discussion.	Chalk Board OHP Chart and Illustration	By Question-Answer and written presentation

Unit No. II

To make students familiar with the Major	Major Legal System: a. Common Law Family, b. Civil Law Family,	25	-do-	-do-	-do-
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Legal Systems of the World and enable them to make comparisons between them.	c. Socialist Family, d. Religious Family, e. Comparison between Major Families.				
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Unit No. III

To acquaint the students with the history and the philosophic base of Nepalese Legal System.	Legal History and Philosophy of Nepalese Legal System: a. Place of Hindu Philosophy in Nepalese Legal System. b. History of Nepalese Legal System. - Written & Unwritten Laws. - Administration of Justice including law making, adjudication and enforcement. - Public and Private Law. - Social Harmony and Solidarity.	35	-do-	-do-	-do-
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Unit No. IV

To acquaint the students with the present Nepalese Legal System.	Existing Nepalese Legal System: a. Characteristics b. Reception c. Legal Process - Law Making Process - Judicial Process - Enforcement Process	25	-do-	-do-	-do-
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Unit No. V

To enable the students to identify the proper model of Nepalese Legal System.	Model of Nepalese Legal System: a. Basic tenets b. Identity, Existence, Structure, Content and Autonomy. c. Future of Nepalese Legal System.	20	-do-	-do-	-do-
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Prescribed Textbooks	Recommended Reference Materials
1. R. David & E. C. Brierly, Major Legal System of the World Today,	1. P. N. Sen, Principles of Hindu Jurisprudence, Allahabad Law Agency, (1984).
2. Henry J. Abbrahm, Judicial Process, Oxford University Press, Delhi, (1975).	2. Joseph Raz, The Concept of Legal System, Clarendon Press, Oxford, 2 nd ed., Rep. (1997).
3. Michael Bogdan, Comparative Law, Kluwer, Norstedts Juridik Tano, (1994).	3. U. Baxi, The Crisis of Indian Legal System, Vikas Pub. House Pvt. Ltd. (1982).
4. Surya P. S. Dhungel & et. al., The Legal System of Nepal, Laws Pub., Delhi, (1986).	4. Julius Stone, Social Dimensions of Law and Justice,
5. Glandon M. A. & et. al., Comparative Legal Traditions, West Pub. Co. Minnesota, (1985).	5. Dhurbar Singh Thapa, <i>Nepalko Kanoon Ppranali Ek Sanchhipta Vivechhana</i> , 6 Nyayadoot 1.
6. Bishal Khanal, <i>The Concept Received But the Content Ignored: A Dilemma With the Legal System of Nepal</i> , 12 NLR 1, (1998).	6. Laxman P. Aryal, <i>Competent Judges Alone Can Keep Judiciary From Tarnishing Its Image</i> , 28 Essays on Const. L., (1998).
7. Amber P. Pant, <i>Jurisprudential Study on Some Fundamental Aspects of Legal System</i> , 1 Justice, at 141-146, (1991).	7. Ganesh Raj Sharma, <i>Independence of the Judiciary</i> , 26 Essays on Const. L., (1998).
8. Dhana Bajra Bajracharya, LICHHAVI KALKA AVHILEKH, T.U. & Nepal-Asiyali Study Centre, (2030).	8. Bishal Khanal, <i>Emmerging Problem of Establity in Structural Set up of Judiciary in Nepal</i> , 19 Essays on Const. L., (1995).
9. Dr. Jagadish Chandra Regmi, <i>Nepalko Vaid Anik Parampara</i> , (2036).	9. Dr. Dilli Raman Regmi, <i>Ancient Nepal</i> , K. L. Mukhopadhaya, Culcutta, ().
10. Dhana Bajra Bajracharya & Tek Bahadur Shrestha, <i>Shahakalka Avilekh</i> , T. U. & Nepal-Asiyali Study Centre(2038).	10. Dr. Dilli Raman Regmi, <i>Medieval Nepal</i> , Vol. I & II, Firma K. L. Mukhopadhaya Culcutta, (1965 /66 respectively).
	11. Imman Singh Chemjong, <i>History and Culture of Kirat People</i> , Part I and ii (1966)

2049

Constitutional Law - II

Course Title: Constitutional Law - II
(Civil Liberties)

Course No.: Law 702

Prerequisite for the Course: B.L / LL.B

Duration of the Course: One Year
(120 Hrs.)

Period per Week: 2 periods

Duration of each Period: Two Hours.

Full Marks: 100

Pass Marks: 50

Nature of the Course: Specialisation
/Optional

The Year: Second Year

Level: LL. M.

Course Description: The course on Constitutional Law - II (Civil Liberties) deals with fundamental rights and their enforcement and investigates the relation of fundamental rights with basic structure, emergency, directive principles of state policy, legal rights, etc. The course contains the definition and interpretation of important fundamental rights in the constitution of Nepal, and their comparison with similar rights in India, USA and UK as well as a probe into the scope of change, enforcement and interpretation of fundamental rights in the modern context. It also includes the study of interrelation between fundamental rights and directive principles. As fundamental rights have to be seen in the context of institutional arrangement, this course also deals with the different techniques available for enforcement of the fundamental rights. The relation of fundamental rights with executive, legislature and judiciary may be analyzed. In fact fundamental rights have to be so extensively studied that one year would be necessary for full coverage. So Constitutional Law II (Civil Liberties) will mainly focus on Fundamental Rights. This course may also be called "Civil Liberties".

Objectives:

- To produce creative and critical minds for good governance of the country;
- To give in-depth knowledge about civil liberties/fundamental rights in comparative perspectives.
- To produce constitutional experts on civil liberties and to enable them to help citizens for getting their problems solved through legal institutions.
- To produce competent manpower capable enough to work at the policymaking level and to get actively involved not only in the application aspect but also, or even more, in the analysis, evaluation and reform in the existing interpretations of provisions related to civil liberties in the constitutional Law of Nepal.

Unit No. I

Objectives	Contents	Time allotted	Inst. tech.	Inst. mat.	Eva. Tech.
<p>To give in-depth and critical knowledge about the theoretical concept of civil liberties/rights.</p> <p>To give an in-depth idea about the constitutional status of fundamental rights and its relation with Directive Principles of State Policy and the concept of Basic structure.</p>	<p>General</p> <p>6. Critical analysis of meaning, sources and scope of civil liberty (Fundamental Rights as a part of civil liberties)</p> <p>7. Fundamental Rights and Legal Rights</p> <p>8. Fundamental Rights as limitation on State/Definition of State</p> <p>9. Fundamental Rights and Directive Principles of State Policy (comparison and relation)</p> <p>10. Fundamental Rights and Basic Structure</p> <p>11. Suspension of fundamental rights in emergency</p>	6 periods/ 12 hrs	Lecture, discussions, question answers, case analysis	Text books, cases, research articles and reference books	<p>Identification and classification of civil liberties (based on Hofeild's analysis) from the existing legal regime of Nepal.</p> <p>Exercise to identify the fundamental rights that may have the status of Basic structure.</p> <p>Exercise to identify the instruments and agencies of the State.</p>

Unit No. II

To give a critical idea of the concept of equality as understood and interpreted by the courts in Nepal with comparative references to equality in USA, India and UK.	<p>Equality</p> <p>1. Equality as conceived in Art. 11 of the constitution of Nepal.</p> <p>2. Equality as conceived in Art. 14 to 18 of the constitution of India. (Reasonable Classification / Arbitrary Power / Protective Discrimination, etc.)</p> <p>3. Equality as conceived in XIVth/Vth Amendment of US constitution. (Rational basis test, suspect classifications, etc.)</p>	8 periods/ 16 hrs	Lecture, discussions, question answers, analysis of relevant cases from USA, India and Nepal.	Textbook s, reference materials and cases.	Discussion on hypothetical problems of violation of right to equality and the remedies available.
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Unit No. III

To provide critical knowledge about the changing dimensions of the concept and content of the	<p>Life and Liberty</p> <p>6. Right to Life and Personal Liberty in Nepal. (Contents of Life and Personal Liberty, Procedural safeguards, preventive detention</p>	8 periods/ 16 hrs	Lecture, discussions, question answers, case analysis	Text books, reference materials and cases.	Assessment of constitutional protection of Life and Personal liberty in Nepal and identification of problem areas
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<p>term Life and Personal Liberty and its enforcement through constitutional mechanisms in different countries.</p> <p>To make a comparative analysis of procedural safeguards provided by different constitutions.</p>	<p>etc.) Its relation with Right to Equality and other freedoms.</p> <p>7. Right to Life and Personal Liberty in India. (Contents of Life and Personal Liberty, Procedural safeguards etc.)</p> <p>8. Life and Liberty under Vth Amendment of US Constitution. (Substantive and procedural due process)</p>				<p>and constrains in enforcement.</p>
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Unit No. IV

<p>To give a critical idea of freedom of speech as a basic right for democracy. To help the students find how this right has developed over a period of time in India and USA and see how far it is relevant for Nepal.</p>	<p>Speech and Press</p> <p>7. Freedom of Speech and Press in the constitution of Nepal. (content of speech, reasonable restrictions, etc)</p> <p>8. Freedom of Speech in India (content and restrictions)</p> <p>9. Freedom of Expression in First Amendment of the US Constitution. (symbolic speech, obscenity, hate speech, kinds of restrictions, etc)</p>	<p>8 periods/ 16 hrs</p>	<p>Lecture, discussions, question answers, case analysis</p>	<p>Text books, reference materials, articles and cases.</p>	<p>Case studies of violations of freedom of speech in Nepal. Verification of constitutionality of ordinary laws dealing with restrictions on freedom of speech.</p>
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Unit No. V

<p>To give a critical idea of the freedom and its relevance in the context of mixed economy, privatization and liberalization.</p>	<p>Profession, Occupation, Industry or Trade</p> <p>9. Freedom of Profession, Occupation, Industry or Trade in Nepal. (definition of profession, occupation, etc, state monopoly and reasonable restrictions)</p> <p>10. Freedom of Profession, Occupation, Industry or Trade in India. (definition of profession, occupation, etc,</p>	<p>4 periods/ 8 hrs</p>	<p>Lecture, discussions, question answers, case analysis</p>	<p>Text books, reference materials, articles and cases.</p>	<p>Identification of interrelation between freedom of occupation with right to property, life and equality.</p>
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	state monopoly and reasonable restrictions)				
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Unit No. VI

To make a critical study of procedural safeguards for an accused and compare it with the due process requirements in the USA.	Criminal Justice 1. Constitutional rights regarding criminal justice in the constitution of Nepal. 2. Study relevant cases from US and India (dealing with double jeopardy, self-incrimination, right to counsel, legal aid etc.)	8 periods 16 hrs	Lecture, discussions, question answers, case analysis	Text books, reference materials articles and cases.	Case analysis and discussion
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Unit No. VII

To have the students study the importance of disclosure of public information in good governance.	Information 1. Right to Information in the constitution of Nepal.	1 period 2 hrs	Lecture, discussions, question answers, case analysis	Textbooks, reference materials, articles and cases.	Analysis of possible limitations on disclosure requirements in the interest of state security.
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Unit No. VIII

To provide comprehensive and critical knowledge about the relevance of fundamental right to property in the context of distributive justice and socio-economic reform.	Property 9. Right to Property in the Constitution of Nepal. (Police power, eminent domain) 10. Right to Property in India (constitutional development) 11. Property and due process in US constitution	6 periods/ 12 hrs	Lecture, discussions, question answers, case analysis, discussion of political behaviors	Textbooks, reference materials, articles and cases.	Analysis of constitutional changes in India with regard to right to property and its relevance in Nepal.
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Unit No. IX

To enable the students to have a critical and comparative idea about the freedom of religion and the concept of secular state.	Religion 2. Right to religion under the constitution of Nepal (restrictions, conversions, Hindu Kingdom, functional secularism). 3. Freedom of religion in USA and India (concept of secular state)	5 periods/ 10 hrs	Lecture, discussions, question answers, case analysis, discussion on political behaviors	Textbooks, reference materials, articles and cases.	Assessment of behavior of political parties in the context of constitutional vision and identification of provisions which need to be reformed.
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Unit No. X

<p>To provide a comprehensive idea about privacy as a modern constitutional right which is essential for safeguarding human dignity. To give an insight into the idea of privacy as a penumbral right in India and USA.</p>	<p>Privacy 1. Right to privacy in the Constitution of Nepal and its comparative analysis with right to privacy in US and India.</p>	<p>4 periods 8 hrs</p>	<p>Lecture, discussions, question answers, case analysis</p>	<p>Textbooks, reference materials, articles and cases.</p>	<p>Analysis of Annapurna Rana's Case.</p>
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Unit No. XI

<p>To give the students an in-depth knowledge about the remedies available to the citizens and make them able to explore how they can get the fundamental rights safeguarded.</p>	<p>Constitutional Remedies 1. Extra-ordinary remedies for the enforcement of fundamental rights (comparative perspective with special focus on Nepal and India). 2. Public Interest Litigation, Judicial Activism and its limitations in Nepal (with relevant references to Indian experience). 3. Public Interest Litigation in US</p>	<p>4 periods 8 hrs</p>	<p>Lecture, discussions, question answers, case analysis</p>	<p>Textbooks, reference materials, articles and cases.</p>	<p>Analysis of cases and its impact on behaviors of political wings of government.</p>
<p>To give the students an idea about the new trends in constitutional development in democratic countries of the world (including Nepal) and make an assessment of their relevance for Nepal.</p>	<p>Modern Trends in Development of Civil Liberties</p>	<p>2 periods/ 4 hrs</p>	<p>Lecture, discussions, question answers, case analysis, discussion on political behaviors</p>	<p>Journals, Textbooks, reference materials, articles and cases.</p>	<p>Assess how far Nepalese constitution has kept track with the new trends of constitutional development around the world.</p>

Recommended Reading Materials

- ✓ 1. Commentary on the Nepalese Constitution --- Dhungel and others.
- ✓ 2. Constitutional law of Nepal --- Edited by Kanak Bikram Thapa and Bharat Uprety (pub. by FREEDEAL)
- ✓ 3. Constitutional Law of India --- V. N Shukla.
- ✓ 4. Constitutional Law of India --- M.P. Jain
- ✓ 5. Constitutional Law of India --- H.M. Seervai.
- ✓ 6. Constitutional Law of India --- D.D Basu.
- ✓ 7. Constitutional Law --- Wade and Phillips.
- ✓ 8. Constitutional Law of England -- Ridges.
- ✓ 9. Comparative Constitutions --- Hood & Phillips.
- ✓ 10. World Constitutions --- A.C. Kapoor.
- ✓ 11. An Introduction to the Study of the Law of the Constitution --- A.V. Dicey.
- ✓ 12. Constitutional Law --- Stone, Seidman, Sunstein and Tushnet
- ✓ 13. Constitutional Law --- Gerald Gunther
- ✓ 14. The students are also required to study the following materials:
 - a. The research articles published in different journals of Nepal and other countries.
 - b. The materials supplied by the teacher in the class.
 - c. Cases prescribed by the teacher in the class.

2066

Commercial Law - II

Course Title : Commercial Law - II

Course No.: Law 703

Pre-requisite for the course: Eligibility
to join
LL.M. Ist
Year
Course

Full Marks : 100

Pass Marks: 50%

Nature of the course:

Specialization/
Optional

Duration of the course: 125 Hours

Periods per week: 6 Periods

Length of one period: 60 Minutes

The Year: Second Year

Level: LL. M.

Course Description

- Privatisation
- Foreign Investment
 - a) Joint Venture
 - b) Multinational Contract
 - c) Multinational Corporations/Foreign Companies (Industry/Banking)
 - d) Transfer of Technology
- Commercial Arbitration and Conciliation
 - a) UNCITRAL Model
 - b) ICC Model
 - c) European Model
 - d) National Rules
 - e) Conciliation of Commercial Disputes
- WTO's Impact on Business Activities

Objectives

The objective of this course is to familiarize the students with the modern trends of Law relating to the four areas privatisations/foreign investment, commercial arbitration and the WTO regime of into which the course content is divided. Though these areas are recently emerging as challenges in the global context, the thrust of the course is on the existing Nepalese Law taught on a comparative basis with the relevant foreign and international models.

Unit No. I

Objectives	Contents	Time allot.	Inst. tech.	Inst. mat.	Eva. Tech.
To make the students able to examine the rationale and procedure of	Privatization	20	Lecture, Question-Answer, Paper Presentation, Case Analysis,	Statutes, cases, Books, Articles, Notes, Reports	Oral Questions, Paper Presentation, Written

Privatization.			Group Discussion		Examination
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Unit No. II

To make the students able to : - understand and examine the impact which the globalisation of trade, finance and firm structure has been making on law both internationally and domestically. - evaluate the different approaches to domestic regulation of transnational business including the problems in banking and securities regulation and - interpret the regulation of intellectual property and the bearing of trade and competition issues on the transfer of technology.	Foreign Investment a) Joint Venture b) Multinational Contract c) Multinational Corporations/ Foreign Companies (Industry/Banking) e) Transfer of Technology	40	do	do	do
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Unit No. III

To enable the students to have an understanding and examination of domestic and international arbitration and conciliation as the means of settling commercial disputes which they will come	Commercial Arbitration and Conciliation a) UNCITRAL Model b) ICC Model c) European Model d) National Rules e) Conciliation of Commercial Disputes	40	do	do	do
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across through many international models and rules of arbitration and conciliation.					
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Unit No. IV

To provide to the students an understanding of the legal framework and substantive law of WTO, and its dynamics against the background of a diversity of national interests and economic policies.	WTO's Impact on Business Activities	25	do	do	do
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Prescribed Textbooks (Latest Editions)	Recommended References (Latest Editions)
<p>Acts</p> <ol style="list-style-type: none"> 1. The Company Act, 2053 (1997) 2. The Contract Act, 2023 (1967) 3. The Foreign Investment and Transfer of Technology Act, 2049 (1992) 4. Industrial Enterprises Act, 2049 (1992) 5. Arbitration Act, 2038 (1981) 6. Privatization Act, 2050 (1993) 7. Patent, Design and Trade Market Act, 2022 (1965) 8. Copyright Act, 2022 (1965) <p>International Instruments (Latest Only)</p> <ol style="list-style-type: none"> 1. The WTO Agreements 1994 2. Convention Establishing the WIPO, 1967 3. Paris Convention 1967, 1971, (1883) 4. Berne Convention 1886 5. Rome Convention 1961 6. Washington Treaty on Intellectual Property in respect of Integrated Circuits, 1989 7. UNCITRAL Arbitration Rules 1976 8. UNCITRAL Model Law on International Commercial Arbitration 1985 9. Convention on Recognition and Enforcement of Foreign Arbitration Awards (New York, 1958) 10. ICC Rules of Arbitration 1998 (ICC, Paris) 11. ICC Rules of Conciliation 1988 (ICC, Paris) 12. ICSID Rules of Procedure for Arbitration (ICSID Basic Documents, 1985) 13. Model Rules on Arbitral Procedure 1958 (2) (International Law Commission Year 	<ol style="list-style-type: none"> 1. Privatization, Policies, Methods and Procedure (ADB, Manila, 1985) 2. Chandra S. et. al. : Privatization of Public Enterprises (Wadhawa & Com. Law Pub. New Delhi, 1997) 3. Narayanan P. : Intellectual Property law (Eastern Law House, Delhi) 4. Wallace, C.D. : Legal Control of Multinational Enterprises (Hague) 5. Vernon, R. : Sovereignty at Bay : The Multinational Spread of U.S. Enterprises. 6. Turner, L. : Multinational Companies and the Third World (New York, 1973) 7. Swami, D : Multinational Corporations and the World Economy (New Delhi, 1980) 8. Nabhi's Manual For Foreign Collaboration & Investment in India, (New Delhi) 9. Singhania, D. C. : Foreign Collaboration & Investment : Law & Procedure (New Delhi) 10. Sangal, P. S. : National and Multinational Companies : Some Legal Issues (New Delhi, 1981) 11. Mathijsen, P.S.R.F. : A Guide to European Law (6th ed. London, 1997) 12. Butterworths Company Law Handbook (10th ed. 1995, London) 13. Gower's Principles of Modern Company Law. 14. Russel on Arbitration (21 ed., Sweet & Maxwell, London, 1996) 15. Chowdhury & Saharay : Law of

Book)	
✓ 14. Washington Convention on the Settlement of Investment Disputes Between States and Nationals of other states 1966	Arbitration & Conciliation (Eastern Law House, New Delhi, 1996)
✓ 15. UNCITRAL Conciliation Rules 1980	✓ 16. Carr & Kidner : Statutes & Conventions on International Trade Law (CPL, London, 1993)
✓ 16. London Court of International Arbitration Rules, 1985	✓ 17. Kwatra, G.K. : The New Arbitration & Conciliation Law of India (The Indian Council of Arbitration, New Delhi, 1996)
✓ 17. ICSID Rules of Procedure for the Institution of Conciliation and Arbitration Proceedings.	✓ 18. Marrielle K. : International Contract (Sweet & Maxwell, 1996)
✓ 18. Other UN (UNIDO, UNCTAD, UNCITRAL)	✓ 19. Pustun Pradhan : Copy Right in Nepal (CEDA, 1998)
Documents on TNCs, Transfer of Technology and others & EU Documents.	✓ 20. Procedural Manual For Foreign Investment (Dept. of Industry, HMG)
✓ 19. Other materials to be supplied by the concerned Teacher.	✓ 21. American Arbitration Association International Arbitration Rules (reproduced in A. Redfern and M. Hunter: Law and Practice of International Commercial Arbitration, 2 nd ed. 1991)
	✓ 22. Hirsch Moshe: The Arbitration Mechanism of the International Centre for the Settlement of Investment Disputes, (International Arbitration Law Library, Martinus Nijhoff Pub. London, 1993)
	✓ 23. Gaja G. (ed.) International Commercial Arbitration, New York Convention (Dobbs Ferry, Oceana Pub., New York, 1978)
	✓ 24. Dahal M.K. (ed.) : Impact of Globalization in Nepal (NEFAS, 1998)
	✓ 25. Arbitration Journal (U.S.)
	✓ 26. American Journal of Comparative Law.
	✓ 27. ICCA Year Book on Commercial Arbitration (International Council for Commercial Arbitration)

2109 2110

2995

International Human Rights and Humanitarian Law

Course Title: International Human Rights and Humanitarian Law

Full Marks : 100

Course No. Law 704

Pass Marks : 50

Prerequisites for the course : B.L / LL.B. with at least Second Division

Nature of the Course: Specialization /Optional

Duration of the course: – 1 Yr. / 120 hrs.

Period Per week : Two periods/ 4 hrs / week

Year: Second Year

Length of one period : 120 Minutes
Level: LL. M.

Course Description:

The Course is designed to impart basic knowledge and information to the students on the Law of Human Rights and International Humanitarian Law, to inculcate in them the importance of the law and thereby equip them with the skill required to make an analytical approach to the study and find solutions to the problems of this branch of International law. This course is optional for students of the Master of Laws program.

Course Objectives:

- To acquaint the students with the concepts and status of International Human Rights and Humanitarian Law.
- To enable them to make a critical appraisal of the functioning of the laws.
- To sensitize them to the sufferings of mankind and help them to devise ways and means for the protection of the values, dignity and worth of human beings.
- To prepare them for Human Rights advocacy so as to create a just society of nations based on the foundations of Human Rights, Democracy, Rule of Law and Development.

Unit No. I

Objectives	Contents	Time Allot.	Inst. Tech.	Inst. mat.	Eva. Tech.
To acquaint the students with the origin, development & purpose of IHL. & to impart to them knowledge & information about the nature &	a) Origin, development & purpose of IHL.	4 hrs.	Lecture/ seminar	a) Françoise Bory, Origin and Development of IHL, ICRC, Geneva, 1982. b) Yves Sandoz ,	Oral / written / Home Assignment

sources of IHL.				International Dimensions of IHL, Dordrecst, Martines Nijhoff publishers 1988.	
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Unit No. II

To acquaint the students with the concept of IHL & human rights in time of peace & conflict & to enable them to analyze strained relations & thereby to suggest measures to ease unruly/worse/conflict situations.	I) Peacetime & wartime Humanitarian International & Human Right concepts. II) Peacetime HL Refugee Law : Origin, definition & development- Acceptance of refugee- principle of non-refoulement- Rights, duties, protection, IDP- return or resettlement- reunion of families- torture & Legal Status of Refugees in Nepal.	10 hrs.	Lecture/ seminar	a) Brownlie, Basic Documents on Human rights, Oxford, Clarendon Press 1995. b) R.C. Hingorani(ed.), Humanitarian law, Oxford IBH, New Delhi 1987. c) Guy S Goodwin-Gill, The refugee in International Law, Clarendon Press London 1983.	Oral / written / Home Assignment
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Unit No. III

To impart to the students knowledge about the legal provisions of the Geneva conventions of 1949 & their protocols.	Humanitarian Law and Human Rights. a) Humanitarian Intl. Law-Nature Sources of IHL, the protection of civilian persons in time of war, the amelioration of the condition of the wounded & sick in the armed forces in the field, the amelioration of the condition of the wounded & shipwrecked members armed forces & treatment of prisoner of war.	26 hrs.	Lecture/ seminar	a) R.C. Hingorani(ed.), Humanitarian law, Oxford IBH, New Delhi 1987 b) M.K. Balachandran & et.al.(eds), Introduction to International Humanitarian Law, ICHLR, New Delhi 1997. c) Geneva Convention for the Amelioration of the condition of the wounded & sick in the arm	Oral / written / Home Assignment
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				<p>forces in the field., August 12, 1949.</p> <p>d) Geneva Convention for the Amelioration of the condition of the wounded & sick & shipwrecked members of the arm forces at sea of August 12, 1949</p> <p>e) Geneva Convention relative to treatment of prisoners of war of August 12, 1949 .</p> <p>Geneva Convention relative to the protection of civilian person in time of war of August 12, 1949.</p> <p>f) Hingorani, R.C., Prisoners of War, N M Tripathy, Bombay, 1970.</p>
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Unit No. IV

<p>To impart to the students essential knowledge & information about the origin, development & working of International Human Rights Law & enable them to assess the contributions made by the UN in the field of Human Rights.</p>	<p>Human rights- Origin & development in pre - and Post - UN era; Recent trends in Human rights - Generation of Human Rights, First, Second & Third.</p>		<p>Lecture/ seminar</p>	<p>a) Sohn & Buergenthal, International Protection of Human Rights, Bobbs Merrill Co Inc. New York 1973.</p> <p>b) Newman & Weissbrodt, International Human Rights Law and policy, 1996,</p> <p>c) Karel Vasak (ed), The International Dimensions of Human Rights, Vols 2, Greenwood Press, Westford, 1982.</p> <p>d) Richard Falk,</p>	<p>Oral / written / Home Assignment</p>
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				Human Rights & State Sovereignty, Holmes & Meier Publishers Inc., New York 1981.
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Unit No. V

<p>To make students aware of the legal provisions on the implementation of IHL & Human Rights Law under national, regional & international bodies and to make them capable of analyzing and suggesting measures toward effective implementation of the laws.</p>	<p>Implementation of IHL & IHRTS Law through various agencies. -Human Rights Implementation through national, regional & international mechanism. (Legislative, executive & Judicial) - NHRC - Role of Legal Profession, NGOs & Media -UNHCHR, Interntional Criminal Court.</p>	<p>Lecture/ seminar</p>	<p>a) Gerard Niungeko, The implementation of IHL & the principle of Sovereignty, Intl. review of the Red-Cross, March-April 1991. b) Yves Sandoz , Implementing International HRL in International Dimensions of HL, Dordrecst, Martines Nijhoff publishers 1988. Pages 259-282 c) David Weissbrodd & Peggy, L Hicks, Implementation of HRTS & HI in situation of arm conflict, International Review of Red Cross, March-April, 1993. e) Hurst Hannum(ed), Guide to International HRTS practice, Philadelphia, UP'nia Press1986 f) L.K. Upadhyaya, Towards the developement and implementation of HRTS law in Nepal, Washington DC, CIES, 1996. (Memeograph)</p>	<p>Oral / written / Home Assignment</p>
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Unit No. VI

<p>To impart to the students knowledge about Nepal's participation in The Multilateral Treaty Regime and to enable them to evaluate the pros & cons of the treaties to which Nepal is a party.</p>	<p>International HL & HRts vis-à-vis Nepal. - A study of Intl. intruements on Intl. HRts & Humanitarian law of which Nepal is a party. -Review of Nepalese legislation on IHL & HRts.</p>		<p>Lecture/ seminar</p>	<p>-HMG/N, MOLAJ, Nepal treaty Series, Complete Set. -UN, UN treaty Series (Relevant Volumes only) -League of Nations, LNTS (Relevant Volumes only) -Sita Shrestha, Nepal & the UN, New Delhi,</p>	<p>Oral / written / Home Assignment</p>
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TEXT BOOK

Prescribed Textbooks

1. Francoise Bory, Origin and Development of IHL, ICRC, Geneva, 1982.
2. Yves Sandoz, International Dimensions of IHL, Dordrecst, Martines Nijhoff publishers 1988.
3. Brownlie, Basic Documents on Human rights, Oxford, Clarendon Press 1995.
4. Hingorani(ed.), Humanitarian law, Oxford IBH, New Delhi 1987.
5. Guy S Goodwin-Gill, The refugee in International Law, Clarendon Press London 1983.
6. Balachandran & et.al.(eds), Introduction to International Humanitarian Law, ICHLR, New Delhi 1997.
7. Hingorani, Prisoners of War, N M Tripathy, Bombay, 1970.
8. O'Flaherty, Human Rights & the UN, Sweet & Maxwell, London 1996.
9. Sohn & Buergenthal, International Protection of Human Rights, Bobbs Merrill Co Inc. New York 1973.
10. Theodor Meron : Human Rights and Humanitarian Norms as Customary law, Clarendon Press, Oxford, 1989.
11. Newman & Weissbrodt, International Human Rights Law and policy, 1996,
12. Richard Falk, Human Rights & State Sovereignty, Holmes & Meier Publishers Inc., New York 1981.
13. Gerard Niungeko, The implementation of IHL & the principle of Sovereignty, Intl. review of the Red-Cross, March-April 1991.
14. Yves Sandoz, Implementing International HRL in International Dimensions of HL, Dordrecst, Martines Nijhoff publishers 1988. Pages 259-282
15. David Weissbrodd & Peggy, L Hicks, Implementation of HRTS & HI in situation of arm conflict, International Review of Red Cross, March-April, 1993.
16. Hurst Hannum(ed), Guide to International HRTS practice, Philadelphia, UP'nia Press 1986./ Second edition 1992
17. L.K.Upadhyaya, Towards the development and implementation of HRTS law in Nepal, Washington DC, CIES, 1996, (Memeograph).

Recommended Reference Materials

1. Durga Das Basu, Human Rights in Constitutional Law, Printace Hall of India Pvt. Ltd., New Delhi 1994.
2. James C. Hathaway, The Law of Refugee Status, Butterworths, Toronto, 1991.
3. Geneva Convention for the Amelioration of the condition of the wounded & sick in the arm forces in the field., August 12, 1949.
4. Geneva Convention for the Amelioration of the condition of the wounded & sick & shipwrecked members of the arm forces at sea of August 12, 1949 .
5. Geneva Convention relative to treatment of prisoners of war of August 12, 1949 .
6. Geneva Convention relative to the protection of civilian person in time of war of August 12, 1949.
7. Karel Vasak (ed), The International Dimensions of Human Rights, Vols 2, Greenwood Press, Westford, 1982.
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1136

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