

Syllabus for
B.A.LL.B. Fifth Semester



Mid-West University

Faculty of Law

B.A.LL.B. Program

2020

Mid-West University

Faculty of Law

Surkhet

Program: B.A.LL.B.

Course Framework:

Fifth Semester

S.N	Course Code	Course Name	Credit Hour	Feature
1.	LAW 451	Criminal Law and Procedure (Comparative Study: Nepal, India, UK, China)	3:00	Theoretical
2.	LAW 452	Principles of Constitutionalism and Democracy	3:00	Theoretical
3.	LAW 453	Public International Law	3:00	Theoretical
4.	LAW 454	International Humanitarian Law	3:00	Theoretical
5.	LAW 455	Legal Research	3:00	Theoretical
6.	LAW 456	Clinical Practice: Drafting of Criminal Case Documents	3:00	Practical
7.	LAW 457	Clinical Practice: Drafting of Civil Cases Documents	3:00	Practical
	Total Seven Subjects		21:00	5- Theoretical 2- Practical

Criminal Law and Procedure (Comparative Study: Nepal, India, UK, China) (LAW451)

Types of Course: Theoretical (Compulsory)

Credit: 03: 00

S.N	Course Code	Course Title	Course Outlines
1.	LAW 451	Criminal Law and Procedure (Comparative Study: Nepal, India, UK, China)	A. Introduction a. General Introduction of Crime, Criminal Law and Legal procedure, B. General Defense (Nepal) a. Infancy b. Insanity c. Drunkenness and Drug Taking d. Self Defense (Private Defense) e. Necessity f. Duress and Coercion g. Consent h. Mistake h. Superior Order i. Inevitable accident C. Inchoate Offences (Nepal, India, UK, China) a. Incitement b. Conspiracy c. Attempt D. Comparative Study of General Principle of Criminal Justice E. Aggravative Factor and Mitigative Factor for Gravity of Crime a. Aggravative Factor and Mitigative Factor for Gravity of Crime F. Offence Against Person in Nepal, India, UK, and China a. Homicide b. Abortion (offence against fetus protection) c. Assault and Battery d. False Imprisonment e. Offence relating person mislaid f. Kidnapping and Hostage taking

			g. Transportation and Trafficking in Human Baings G. Offence Relating to Sex in Nepal, India, UK, and China a. Rape b. Incest c. Custodical sex d. Unnatural Sex offences (Homo Sexuality, Bestiality) e. Pedophile f. Sexual Harassment H. Offence Relating Marriage in Nepal, India, UK, and China a. Unconsent marriage b. Incest marriage c. Child marriage d. Polygamy marriage e. Transaction marriage I. Offence Relating to Medical Case and Treatment a. Offence Relating to Medical Case and Treatment in Nepal, India, UK, and China J. Offence Against State and Society in Nepal, India, UK, and China a. Offence against state b. Offence against public peace c. Offence relating to disobey the public authority's authority d. Offence against public justice e. Offence against public interest, health, security, and ethic f. Offence relating to arms and ammunition g. Offence relating to explosive substance h. Offence against national and public resources K. Offence Relating to Property in Nepal, India, UK, and China a. Banking offence b. Offence relating to Theft and dacoit c. Offence relating to Cheating, criminal fraudulent and extortion d. Offence relating to currency e. Offence relating to ticket f. Offence relating to measurement and weigh
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			g. Offence relating to document h. Offence relating to criminal trespass and criminal persecution L. Other Offences In Nepal, India, UK, and China a. Offence relating to animal b. Offence relating to narcotic drug c. Offence relating to Motoring d. Offence relating to Bribery and corruption
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RECOMMENDED BOOKS

Principles of Constitutionalism and Democracy (LAW452)

Types of Course: Theoretical (Compulsory)

Credit: 03: 00

S.N	Course Code	Course Title	Course Outlines
2.	LAW 452	Principles of Constitutionalism and Democracy	A. Constitutionalism and Democracy a. Meaning of Constitutionalism and democracy b. Objective and Principles of Constitutionalism c. Elements of Constitutionalism d. Traditional and Modern concept of Constitutionalism e. Various forms of Constitutionalism • Political Constitutionalism • Economic Constitutionalism • Legal Constitutionalism • Social/Cultural/Socialist Constitutionalism B. Development of Constitutionalism and Politics system a. Authoritarianism – Dictatorship b. Democracy – Commonism c. Political culture and Constitutionalism C. Limited Government – Concept – Limitations on Government Power, a. Concept of limited government b. Limitations on Government Power, c. Historical evolution of constitutional government d. Conventions of constitutionalism e. Written constitutions and constitutionalism f. Separation of power and constitutionalism g. Rule of Law and constitutionalism h. Fundamental Rights and constitutionalism i. Judicial Review and constitutionalism j. State structure and constitutionalism

			D. Forms of government and constitutionalism a. Parliamentaryism b. Presidentialism c. Semi-presidentialism E. Constitutional adjudication a. Introduction to constitutional adjudication b. Interpretation of Constitutional Adjudication c. A historical overview, with reference to Marbury v Madison. F. Constitutionalism in practice (USA, UK, India and China) G. Constitutionalism in the context of Nepal a. Historical development of the constitutionalism in Nepal b. Constitutionalism-Democracy Dilemma H. State of emergency and Constitutionalism I. Failure of Constitutionalism a. Militant democracy b. Constitutional erosion c. Abusive constitutionalism d. Populism
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RECOMMENDED BOOKS

Introduction to Public International Law (LAW453)

Types of Course: Theoretical (Compulsory)

Credit: 03: 00

S.N	Course Code	Course Title	Course Outlines
3.	LAW 453	Critical Study of Public International Law	A. General Introduction a. Definition and Nature of International Law b. Historical Development of International Law c. Relation Between International Law and Municipal Law; Monism and Dualism d. Definition, Nature, and Importance of Public International Law e. Public and Private International Law f. Concept of monism and dualism B. Sources of International Law a. Treaties, Customs, General Principles of Law, b. Judicial Decisions and ICJ Practice, c. General Assembly Resolutions d. other sources of International Law C. Principles of Public International Law a. Principle of Jus Cogens b. Principle of Erga Omnes c. Principle of Pactasunt Servanda D. International Treaties and Ratification Process a. Meaning, Types, and importance of International Treaties b. Mode of Expression of state consent c. Signature, Party, and ratification Process d. Termination of Treaties E. State Responsibility a. Concept and Nature of State Responsibility b. Forms of State Responsibility c. Concepts of the Invasion of Affected State and Reparation d. Treatments of Aliens

			e. Contractual Liability f. Expropriation of Foreign Property and Related Issues g. Doctrine of Exhaustion of Local Remedy and Calvo F. Nationality a. Meaning and Importance b. Modes of Acquiring and Losing Nationality c. Statelessness and Double Nationality d. Aliens and Their Status and Expulsion of Aliens e. Asylum and State of Refugees f. Domicile and nationality G. Recognition a. Meaning and Theories of Recognition b. Recognition of State and Government c. De facto, De jure and Ad hoc Recognition d. Conditional and Implied Recognition e. Legal Effects of Recognition f. Withdrawal of Recognition and Non-Recognition H. Blocked a. Meaning and definition of blocked b. Characteristics of blocked c. Validity of blocked d. Breach of blocked I. Neutrality a. Meaning of neutrality b. Neutrality, neutralisation, non-alignment, neutralism c. Neutrality under the UN charter d. Rights and duties of neutral countries J. Law of the Sea and water a. Territorial Sea, Contiguous Zone/ Exclusive Economic Zone, Continental Shelf, and High Sea b. Rights of landlocked country on sea c. Water law K. State Territory and Jurisdiction
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			a. Meaning of state Territory b. State Jurisdiction: Territorial jurisdiction, Personal Jurisdiction, Universal Jurisdiction Jurisdictional immunities of States L. Settlement of Disputes a. Meaning and Types of Dispute b. Traditional or Coercive Means of Settlement of Disputes c. Retorsion, Reprisal, Pacific Blockade, Intervention in Various Forms d. Peaceful Means of Dispute Settlements-Negotiations, Inquiry, Good Offices, Mediation and Conciliation e. Settlement of Disputes by the Mechanism of International Organization, f. Settlement of Dispute ● PCIJ ● ICJ, Composition, Powers, Jurisdiction, Hearing, Procedures, Enforcement of its Decisions ● Regional Courts ● Non-judicial and Arbitrational Process M. Domestication of International Law in Nepal N. Nepalese Judiciary on International Law
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RECOMMENDED BOOKS

International Humanitarian Law (LAW 454)

Types of Course: Theoretical (Compulsory)

Credit: 03: 00

S.N	Course Code	Course Title	Course Outlines
4.	LAW 454	International Humanitarian Law	A. Introduction to International Humanitarian Law a. History and Development of International Humanitarian Law b. Sources of International Humanitarian Law c. Application of International Humanitarian Law d. International Humanitarian Law and Human Rights B. Rules of Conduct of Hostilities, a. Means and Methods of Warfare b. General Limitations on the Means and Methods of Warfare c. Law of Armed Conflict: Distinction; Proportionality; Necessity d. Law of Armed Conflict: Prohibited Weapons Indiscriminate Use of Weapons; Superfluous Injury and Unnecessary Suffering C. Concept of Combatants and Prisoners of War D. Peacekeeping and Peace Enforcement Operation a. Meaning of peacekeeping, peace building and peace enforcement operation b. UN Charter and peacekeeping c. Applicability of IHL to peacekeeping and peace enforcement operation E. Terrorism and International Humanitarian Law F. Protected Persons and Property a. Wounded, The Sick, The Shipwrecked b. Prisoners of War c. Medical, Religious and Relief Personnel d. Protection of Civilians

			e. Protection of Women f. Protection of Children g. Protection of Refugees and Internally Displaced Persons h. Protection of Cultural Property, G. Implementation of International Humanitarian Law and Institutional Mechanisms, a. Basic issues involved in Implementation of International Humanitarian Law b. Implementation of Law At National Level c. Grave Breaches of Geneva Conventions and Additional Protocols d. Accountability and Criminal jurisdiction e. Protecting Power System f. ICRC g. War Crimes Tribunals, H. Contemporary Issues in International Humanitarian Law Issue relating to cyber warfare, Drone attacks and new weapon technologies would be discussed in the framework of International Humanitarian Law I. International Humanitarian Law in South Asia J. Critical Appraisal of International Humanitarian Law
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RECOMMENDED BOOKS

Legal Research (LAW 455)

Types of Course: Theoretical (Compulsory)

Credit: 03: 00

S.N	Course Code	Course Title	Course Outlines
5.	LAW 455	Legal Research	A. Introduction a. Introduction to Research and Legal Research b. Importance of Legal Research c. Scope of Legal Research d. Nature of Legal Research e. Types of Research f. Difference between Legal Research and Other Research g. Research as a tool of obtaining scientific knowledge h. Difference between Common sense vs, Scientific Knowledge B. Approaches of Legal Research a. Historical b. Analytical c. Comparative d. Doctrinal e. Non-doctrinal f. Other C. Methodology of Research a. Research Design b. Universe and Sampling c. Nature and Sources of Data d. Types of Data e. Data collection and Tabulation f. Data Interpretation and Presentation D. Jurimetrics a. Jurimetrics Research E. Case Research a. Background of Development and Behavioral Approach

			• Types of authority: Primary and Secondary Authority • The Foundation • The court system and hierarchy of courts b. Case law organization • The official and unofficial versions • The organization of reported cases • Subject Access c. Case Law Location Methods • Table of cases methods • Defendant word methods • Topic methods • Location methods in Nepali kanon patrika • Location in all India reporters • Location Method in American law reporter F. Legislative Research a. Constitution • Constitution law location methods • Topic methods • Descriptive methods • Finding and updating constitutional provisions • Finding and Updating Interpretive Cases b. Research on statutes • Organization of statutes • Official sources (Rajpatra and Ainsangraha in Nepal) • Unofficial sources • Popular Name Methods • Table Methods
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			• Topic Methods • Descriptive Word Methods • Finding and Updating statutes in Nepal G. Secondary Source Research - Secondary source Organization - Hierarchy of Secondary authority - Opinion of persons heading Institutions - Law in journals Articles - Research Reports - Treaties - Legal Encyclopedias - Legal Dictionaries H. Proposal Writing and Report Writing - Process of Research Project Development - Types of Proposal - Format of Proposal - Types of Report - Format of Report I. Technicalities in Research - Rules of citation - Computer assisted Legal Research
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RECOMMENDED BOOKS

Clinical Practice: Drafting of Criminal Case Documents (LAW 456)

Types of Course: Practical (Compulsory)

Credit: 03: 00

S.N	Course Code	Course Title	Course Outlines
6.	LAW 456	Clinical Practice: Drafting of Criminal Case Documents	A. Grammar and Meaning a. Some definition of grammatical terms b. Punctuation • When to use a comma • When to use a semi colon • When to use a colon • When use a dash • When to use a possessive apostrophe • When to use a hyphen • When and where to use question marks • How to recognize and punctuate relative clause B. Formation of Paragraph a. Paragraph development according to topics b. Definition c. Classification d. Process e. Illustration f. Cause and effect g. Comparison and contrast h. Induction i. Deduction C. Formation of Block of Paragraphs a. Facts group b. Law group c. Analysis groups D. Legal Writing Styles

			a. Writing in clearly b. Use periodic sentences cautiously, vary your sentence structure c. Use connectors carefully d. Language as connectors e. Commas as connectors f. Replace vague g. Say it affirmatively h. Use expletives sparingly i. Put modifiers where they belong j. Avoid archaic languages k. Make general assertions l. Use logical developments E. Writing Reasoning a. Placing facts into fact categories b. Using fact categories in legal analysis c. Writing a case analysis d. Analogizing e. Synthesizing F. Things to Consider While Drafting a. Technicalities of Paper, ink, margin, spacing etc b. Technicalities of formality, closure, signature c. Other legal Technicalities G. Drafting Pre Trial Documents a. Documents from First Instance Report (FIR) till Prosecution Letter H. Drafting Trial Documents a. Documents from Prosecution Letter till Decision of Court I. Drafting Trial Documents a. Documents from Verdict of Court to Decision Implementation J. Other Documents
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			a. Letter of Appeal, Document Disposition Record From, <i>Tarik, Myad</i> etc.
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RECOMMENDED BOOKS AND LAWS

1. Country Criminal Procedures Code, 2074
2. Gyanendra Bahadur Shrestha, Kanooni Likhat Ka Masyoudaharu,
3. Gyanendra Bahadur Shrestha, Procedural law, Pairavi Prakasshan
4. Judicial Administration Act, 2049
5. Supreme, High and District Court Regulation

Clinical Practice: Drafting of Civil Case Documents (LAW 457)

Types of Course: Practical (Compulsory)

Credit: 03: 00

S.N	Course Code	Course Title	Course Outlines
7.	LAW 457	Clinical Practice: Drafting of Civil Case Documents	A. Grammar and Meaning a. Some Definitions of Grammatical Terms b. Punctuation • When to Use a Comma • When to Use a Semi-Colon • When to Use a Colon • When Use a Dash • When to Use a Possessive Apostrophe • When to Use a Hyphen • When and Where to Use Question Marks • How to Recognize and Punctuate Relative Clauses B. Formation of Sentence a. Formation of Sentence C. Formation of Paragraph a. Paragraph Development According to Topics b. Definition c. Classification d. Process e. Illustration f. Cause and Effect g. Comparison and Contrast h. Induction i. Deduction D. Formation of Block of Paragraphs a. Fact Group (Definition, Analysis and Conclusion) b. Law Groups (Definition, Analysis and Conclusion)

			c. Analysis Groups (Definition, Description and Conclusion) E. Legal Writing Styles a. Writing It Clearly b. Use Periodic Sentences Cautiously, Vary Your Sentence Structure c. Use Connectors Carefully d. Language as Connectors e. Commas as Connectors f. Replace Vague Connecting Words with Specific Words g. Use Expletives Sparingly h. Put Modification where they Belong i. Avoid Archaic Language j. Don't Make Impossible Comparisons k. Make General Assertions First l. Put Your Ideas into Appropriate Order m. Prefer Chronological Development n. Use Logical Development F. Writing Reasoning a. Placing Facts into Fact Categories b. Using Fact Categories in Legal Analysis c. Writing a Case Analysis d. Analyzing e. Synthesizing G. Drafting of Commercial and Corporate Documents Drafting of Litigation Documents and Practical Exercises a. Civil Cases will be Given Each Year Differently b. Students will have to Complete One Case in Each of Civil Case c. Facilitation of Drafting will be Associated with Clinical Work d. Student will present their Case in Simulation Court president over by a Panel
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			e. Students must work under guidance of lawyers in assigned law firms
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RECOMMENDED BOOKS

1. Gyanendra Bahadur Shrestha, Procedural law, Pairavi Prakasshan (Nepali)
2. Gretrude Block, Effective Legal Writing, 1992, Foundation Press,
3. Judicial Administration Act
4. Muluki Ain, Adalati Bandobasta Ko Mahal
5. Nepal Kanoon Patrikas, Supreme Court of Nepal
6. Rebati Raman Khanal, Mashuda Bidhi, Saja Prakashan (Nepali)
7. Summary Procedure Act, 2028
8. Supreme (2049), Appellate (2048) and District Court (2052) Regylations
9. Muluki Criminal Code, 2074 & Muluki Criminal Procedure Code, 2074
10. Muluki Civil Code, 2074 & Muluki Civil Procedure Code, 2074
11. नियम संग्रह एक परिचय (मुल दफा सहित) ज्ञान्द्रबहादुर श्रेष्ठ, पैरवी प्रकाशन, काठमाडौं (२०५६)