

Syllabus for BALLB Seventh Semester



Mid-Western University

School of Law

BA LLB Program

2022

COURSE FRAMEWORK

Program: BALLB

Semester: Seventh

S. No	Course CodeNo	Course Name	Credit Hour	Feature
1.	LAW 471	Advance Jurisprudence	3:00	Theoretical
2.	LAW 472	Company Law	3:00	Theoretical
3.	LAW 473	Law of Evidence	3:00	Theoretical
4.	LAW 474	International Law on Environment and Natural Conservation	3:00	Theoretical
5.	LAW 475	Private International Law	3:00	Theoretical
6.	LAW 476	Clinical Work: Outreach Program and Research on Situation of Application of Law	1.5.00 Cr.	Practical
	Six Subjects		16.5 Cr	5- Theoretical 1- Practical

Advance Jurisprudence (LAW 471)

Types of Course: Theoretical (Compulsory)

Credit: 03: 00

Objectives of this course are:

- i. To introduce students with Classical Legal Thoughts and their Applicability in order to address the contemporary legal problems,
- ii. To develop critical understanding of modern concepts of jurisprudence,
- iii. To expose contemporary approaches of jurisprudence, and
- iv. To prepare students to interpret laws of Nepal in accordance with the need of the time

S. N.	Course Code	Course Title	Course Outlines
	LAW 471	Advance Jurisprudence	1. Legal Problems of Developing Countries, With Emphasis on Nepalese Situation 2. Legal Thoughts A) Theories on Law and Morality B) Theories on Historical Evolution of Law -By Karl Von Savigny, Henry Maine, Hegel, Herbert Spencer C) Theories on Determination of Law by Sociological Forces - By Ihering, Erlich , Roscoe Pound , Leon Duguit, Karl Marx D) Theories of Determination of Law by Judicial Process: - American Realism: Justice Holmes - Scandinavian Realism: Hagerstrom - Application of Realism in Nepal - Realism vs. Judicial Activism 3. Recent Issues and Trends of Jurisprudence A) Development and Law: Theories of Jurisprudence - Law as an instrument of development and human security: - Public Interest, Social Justice and law, Autonomous Local Self-governance, Concept of Welfare State and Right to Well being B) Feminism and Jurisprudence: C) Ethnic Relations and Law D) Law, Science and Technology: - Interaction between Legal Principles and Procedures and Scientific Research and Development.

			- Law Regulating Issues like Cloning, DNA Research, Insemination, Plant Grafting, Organ Transplantation and Biological Weapons E) . Concept of Rights and Correlations - Claims, Power, Liberty and Immunity. - Rights and Interests, Principle of Utility - Protection of Interest of Individual and Groups - Protection of Rights and Interests Created by International and Regional Human Rights Instruments 4 . Concept of Justice A) Equality and Impartiality B) Access to Fair Justice and Fairness of Procedures C).Justice for Offenders and Justice for Victims D) Distributive vs. Corrective Justice E) Mechanism of Distributive Justice with Reference to Nepal F) Concept of Judicial Activism and Self-restraint 4. Some Recent Approaches of Jurisprudence A) Cognitive vs. Non-cognitive B) Formalism vs. Pragmatism C) Universalism vs. Cultural Relativism D) Post Modernism E) Alternative Lawyering 6. Introduction of Modern Institutional Approaches to Justice A) Alternative Dispute Resolution B) Conflict Resolution Through Negotiation, Mediation and Arbitration C) Justice Through Commissions, i.e. Human Rights Commission, UN Treaty Bodies and International Tribunals
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RECOMMENDED BOOKS

1. Bhimarjun Acharya, A Misconception on Nepalese Legal System and Jurisprudence, 2001, Nepal Law Review, Vol. 14, Nepal Law Campus.
2. Bhimarjun Acharya, Indigenizing the Nepalese Legal System: Cases for Debate, 2001, Essays on Constitutional Law, Vol 34-35, Kathmandu
3. Bhimarjun Acharya, System of Alternative Dispute Resolution, Nayadoot, Vol. 147, Nepal Bar Association.
4. CeLRRd, Baseline Survey on Juvenile Justice System of Nepal, 2010.
5. CeLRRd, Counter Corruption Legal Framework, (Research Document), (2000)
6. David Boucher and Paul Kelly (eds.), Social Justice From Home to Walzer, Routledge,

London (1998).

7. Dr. S.R. Myneni, Jurisprudence (Legal Theory) 2nd ed, reprint 2007.

8. Dr. Yubaraj Sangroula, Jurisprudence: The Philosophy of Law, 2010; Kathmandu School of Law

9. George C. Christie, Jurisprudence, West Publishing,

10. Yubaraj Sangroula – Condemned to Exploitation, Trafficking of Girls and Women, KSL, 2001

11. Muluki Criminal (Code) Act, 2074 & Muluki Criminal Procedure (Code) Act, 2074

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

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a. Part 4 of the Constitution of Nepal: Directive Principles

b. Part 3 of the Constitution of Nepal: Fundamental Rights

c. UN Declaration of Right to Development

d. Vienna Action programs on Human Right

Company Law (LAW 472)

Types of Course: Theoretical (Compulsory)

Credit: 03: 00

Objectives of this course are:

- To provide students with understanding of the basic concept, principles, features and function of Company.
- To familiarize them with the legal provisions mentioned in the Company Law of Nepal.

S. N.	Course Code	Course Title	Course Outlines
	LAW (472)	Company Law	1. Introduction a) Concept, Meaning and Essential characteristics of Company b) Nature and kinds of Company c) History and Development of Company Law in Nepal 2. Registration and Incorporation of Company 3. Articles of Association 4. Organs of the Company a. Board of Directors Meetings, Powers, Functions, Duties/Obligations, Liabilities, Limitations, Immunities b. General Meeting Meetings, Types, Power and Importance of General Meeting, Notice of General Meeting, Validity of General Meeting. 4. Formation, Promotion and Incorporation of Companies Promoters: a) Position, duties and liabilities, Mode and consequences of incorporation Uses and abuses of the corporate firm, Lifting of corporate veil, Theory of Corporate personality 5. Capital a. Shares (Types, Allotments, Transfer, Buy-back of Shares) b. Debentures c. Dividends d. Prospectus

			6.Winding up of Companies a) Kinds, Consequences and reasons of winding up of companies. b) Modes of Winding Up (Voluntary, Compulsory, Order of the Court) b. Liquidators (Appointment, Powers, Functions, Duties, Liabilities) 7. Amalgamation (Merger and Take Over) 8. Corporate Governance and Corporate Social Responsibilities 9. Regulatory Bodies over the Companies a. Company Registrar Office b. Company Board c. Inland Revenue Office d. Court 10. Concept and Nepalese Provision of Insolvency 11. Insider Dealing 12. Oppression and Mismanagement 13. Criminal Liabilities
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RECOMMENDED BOOKS

1. Avatar Singh: Company Law, 17th Edition ,
2. Paul L. Davies & L.C.B.Gower : Gower's Principles of Modern Company Law , Sixth Edition
3. Black's Law Dictionary , 11th Edition
4. Bharat Raj Upreti, Company Law, New Edition.
5. Morse Geoffrey, Charlesworth and Morse: Company Law, 16th Ed., Sweet and Maxwell(1996)
6. *Nepal Kanoon Patrika*

Law of Evidence (LAW 473)

Types of Course: Theoretical (Compulsory)

Credit: 03: 00

Objectives of this course are:

The law of Evidence has its own significance among Procedural Laws. The knowledge of law of Evidence is indispensable for a lawyer for establishment of claims and the related rules and principles on contemporary basis. The course is designed to acquaint the students with the rules of evidence in relation to relevancy of facts and proof. In addition, they are introduced to law relating to production of evidence.

S. N.	Course Code	Course Title	Course Outlines
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1.	LAW 473.	Law of Evidence	1.Introduction a. Meaning of Evidence b. Nature Scope of the Law of Evidence 2. Types of Evidence a. Original and Hearsay Evidence - Direct and Circumstantial Evidence - Primary and Secondary Evidence - Oral, Documentary and Real Evidence - Exhibits and Their Evidential Value b. Basic Concepts of Forensic Science - Physical Evidence - Scientific Evidence - Medical Evidence 3. Facts in Issue and Relevant Fact 4. Facts which Need not to be Proved a. Formal Admission b. Judicial Notice 5. Deposition and Testimony a. Admission and Confession b. Statement on the Spot c. Dying Declaration d. Special Statements by Person on Particular Occasions e. Facts Recorded in Public Documents f. Facts Recorded in Books of Account g. Facts Published in Books or Articles
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			h. Statement Given by Witness in Other Cases i. Document Prepared at Time of Investigation j. Certificate, Report and Special Kinds of Statistics. 6. Expert Reports and Opinions 7. Burden of Proof (With Reference to the Provisions of Evidence Act of Nepal) 8. Estoppel 9. Plea of Alibi 10. Procedure Relating to Collecting Evidences 11. Witnesses a. Meaning of Witnesses b. Privileges and of witnesses, c. Examination and Cross-Examination of Witnesses
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RECOMMENDED BOOKS

1. Avtar Singh: Principles of the Law of Evidence, Central Law Publications, 24th Edition.
2. Rajit Bhakta Pradhananga, Nepali Praman Kanoonko Samanya Parichaye, Kathmandu: Bhirkuti Academic Publications, 2061 B.S
3. Gyaindra Bahadur Shrestha, Praman Kanoon 2031: Ek Sangchipta Tippani (In Nepali), Kathmandu: Pairavi Prakasan, 2068 B.S
4. Adrian Kean, The Modern Law of Evidence, 6th ed. Oxford University Press, 2006
5. Alan T aylor, Principles of Evidence, 2nd ed. Cavendish Publishing Limited, 2000.
6. Dr. Yubraj Sangroula, Criminal Jurisprudence in Nepal-The Process and Challenges in Development National Workshop on Criminal Justice System in Nepal 1997.

International Law on Environment and Natural Conservation(LAW 474)

Types of Course: Theoretical (Compulsory)

Credit: 03: 00

Objectives of this course are:

- i) To provide students with a basic knowledge on the Environment and Conservation law
- ii) To familiarize students with the concept of environmental and pollution control mechanisms
- iii) To aware them with national and international initiations on the issue of environmental protection and pollution control

S. N.	Course Code	Course Title	Course Outlines
	LAW 474	International Law on Environment and Natural Conservation	1.Introduction a. Environment and Environmental Law b. Concept and Importance of Conservation Law 2. Environmental Pollution a. Concept of Environmental Pollution b. Sources and consequences of pollution c. Categories of Environmental Pollution • Air Pollution • Water Pollution • Noise Pollution • Land Pollution • Industrial Pollution • Prevention and Control of Pollution 3. Environmental Protection

			a. Concept of Environment Protection b. Protection and Preservation of Natural Ambience c. Protection and Preservation of Water System 4. Ecosystem, Climate Change and Carbon Trade 5. Bio-diversity and Conservation Law 6. Environment Degradation 7. Heritage and Site Conservation 8. Energy Crisis and Energy Conservation 9. Pollution and Waste Management 10. Crisis/Disaster Management 11. Environmental Impact Assessment (EIA) • Meaning and Development of Environmental Impact Assessment • Practice of Environmental Impact of Assessment in Nepal 12. Environment and Development a. Meaning and Concept of development and Its impact on environment b. Conflict between Environment and Development 13. Concept of sustainable development (Principles of integration, polluter pay principle, precautionary principle, interpenetrated equity) 14. International Laws on Environmental Protection a. Stockholm Declaration on the Human Environment
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			b. The Rio Declaration on Environment and Development c. Convention on Climate Change d. Vienna Convention for the Protection of Ozone Layer e. Montreal Protection on Substance that Deplete Ozone Layer 15. National Laws on Environmental Protection (The Constitutional and Statutory Provision) 16. International Conservation Law a. Convention on Biological Diversity b. Ramsar Convention on Wetlands c. Convention on International Trade in Endangered Species of Wild Flora and Fauna d. Convention to Combat Desertification e. International Water Laws f. Framework Convention on Climate Change 17. Judicial Activism and Environment: Public Interest Litigation for environmental protection and Conservation: Landmark Judgements
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RECOMMENDED BOOKS:

1. Environment related Acts and Regulations
2. Stockholm Declaration on the Human Environment

3. The Rio Declaration on Environment and Development
4. Convention on Climate Change
5. Vienna Convention for the Protection of Ozone-Layer
6. Batabaran Kanun Ruprekha, Binod Prasad Sharma
7. Genereal Outline of Environmental Law, Agni Prasad Thapaliya

Private International Law

(LAW 475)

Types of Course: Theoretical (Compulsory)

Credit: 03: 00

Objectives of this course are:

- i) To familiarize students with the general concept of the Private International Laws; and
- ii) To provide them general skills about using general principles and rules developed in Private International Law.

S. N.	Course Code	Course Title	Course Outlines
	LAW 475	Private International Law	1. Introduction a. Meaning, Nature and Scope of Private International Law b. Origin and Development of Private International Law c. Difference Between Public and Private International Law 2. Jurisdiction a. Introduction b. Type of Jurisdiction: jurisdiction <i>in personam</i>, Jurisdiction <i>in rem</i> c. The situation when a court assumes jurisdiction d. Forum Shopping and Doctrine of Furum Non Convenience 4. Doctrine of Renvoi (Introduction, Developed Theories, Evolving Trend) 5. Personal Connecting Factors a. Introduction b. Domicile - types and general rules c. Nationality d. Habitual Residence 6. Family Law Related Matters a. Marriage and Choice of Law Rules

			b. Divorce c. Children 7. Law of Property a. Introduction: types, transfer <i>inters vivos</i> and intestate succession b. Immovables: jurisdiction and choice of law c. Transfer of Tangible Movables: various theories on choice of laws d. Assignment of Intangible Movables (<i>Choses in Action</i>): - Introduction, - Choice of law rules - assignability, validity of assignment e. Intestate Succession 8. Choice of Law in Contract a. Proper Law b. Formation of Contract- material validity, formal validity and Capacity. c. Interpretation and Discharge of Contract d. Limitations - public policy, mandatory rule 9. Foreign Judgments a. Rationale for Recognizing Foreign Judgement b. Conditions for Recognition c. Conclusiveness of Foreign Judgments d. Defenses 10. Substance and Procedure a. Introduction, Problem and Reason for Classification b. Action ability and Proper Parties c. Limitation d. Evidence e. Remedy 11. Experiences on Application of the Private International Law in Nepal.
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RECOMMENDED BOOKS:

1. Jonathan Hill, Jaffery on the Conflict of Laws (London, 1997)
2. Month P.M. Cheshire's Private International Law (London, 1974)
3. Paras Diwan, Private International Law, 1998

Clinical Work: Outreach Program and Research on Situation of Application of Law (LAW 476)

Types of Course: Practical (Compulsory)

Credit: 03: 00

Objectives of this course are:

- i. To expose students to the ground reality of awareness about law among the people
- ii. Prepare students work for building legal awareness among people
- iii. Make students engage in research and make them prepare recommendation based research articles

S. N.	Course Code	Course Title	Course Outlines
	LAW 476	Clinical Work: Outreach Program and Research on Situation of Application of Law	A. Concept of Social Engineering a. Expose students to Familiarize with the legal institutions, factual reality of society B. Problem of Indetermination of Law and Fact a. Pick an Issue pertinent in society which has a relation with law and jurisprudence. Find the gap through analysis of issue. C. Field Research and Presentation a. Research related to Enjoyment of Right to Education, Health, Language, and Adequate Living Standard by People in Rural and Slum Areas b. Presentation of Findings Showing Weakness of Laws and their Enforcement c. Preparation of Research Articles (term paper) by Students