

FAR WESTERN UNIVERSITY

FACULTY OF LAW

Course Title: Law of Corporate Finance

Level: B.A, LL. B.

Course Code No: Law 500

Credit: 3 Credits (48 hours)

Full Marks: 100

Pass Mark: 50%

Semester: VIII

Nature: Compulsory

Course Description:

This course is prepared and prescribed by Far Western University Faculty of Law to the VIII Semester B.A. LL.B. level students. This is an optional course designed to provide and enable the students to have clear knowledge and skills in the subject. Being an integrated, multi-disciplinary and practical course by nature the Faculty of Law has expected that after the completion of the course, the students will be well equipped with the basic knowledge of corporate financing and will attain the desired legal knowledge and understanding as well as practical skills of lawyering, including legal advocacy, and conveyancing. After graduating Bachelor of Arts and Bachelor of Laws, the graduates would be able to enter any profession like law teaching, law practice, legal office or admit to LL.M. course and proceed towards carrier progression.

Course objectives:

The main Objectives of this course are:

- to familiarize the students with the historical aspects of company, Company Law and Corporate Finance,
- to acquaint them with raising and maintenance of company capital, raising loans or issuing debentures,
- to impart them with corporate gains like dividends and bonus shares,
- to enable them to understand about accounts and audit of company, and also dissolution of company, and
- to provide them knowledge to make critical appreciation of leading company cases of Nepal particularly to the aspect of corporate finance.

Course details:

Unit I: Raising and Maintenance of Company Capital

1. Meaning and Kinds of Share Capital

a. Face value of Shares and Application



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- 1.2. Allotment of Shares
- 1.3. Issue of Shares at premium
- 1.4. Shares with different rights and corresponding rights of shareholders
- 1.5. Return of Shares with the Company Registrar's Office (CRO)
- 2. Public Issue of Shares/Securities**
 - 2.1. Meaning and Methods of Public offering
 - 2.2. Dealing of Securities
 - 2.3. Share Certificate
- 3. Payment, Alteration, Reduction and Protection of Share Capital**
 - 3.1. Lien on Shares
 - 3.2. Payment of amount for Shares
 - 3.3. Payment amount of Shares held jointly
 - 3.4. Alteration of Share Capital
 - 3.5. Reduction of Share Capital
 - 3.6. Procedures for obtaining approval of court to reduce share capital
 - 3.7. liability of shareholders in respect of reduced share capital
 - 3.8. Directors' responsibility in case of loss of net worth of Company
- 4. Purchase by company of its own shares**
 - 4.1. Prohibition on Purchase by company of its own shares and
 - 4.2. Exceptions conditions and Procedure on purchase by company of its own shares
 - 4.3. Prohibition on providing loan or financial assistance by company to purchase its own shares, and its exceptions
5. Prohibition on issue or sale of shares at discount and its exception
6. Issuance of Preference shares and its conditions

Unit II: Raising Loans or Issuing Debentures

1. Company's Power to raise loan and Debenture
 - 2.1.1. Meaning, nature and types of loans and Debentures
 - 2.1.2. Difference between Share and Debentures
 - 2.1.3. Procedures for issuing Debentures
 - 2.1.4. Meaning of Debenture Trustee, its appointment and Dismissal
 - 2.1.5. Agreement between Debenture Trustee and Company

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- 2.1.6. Right and liabilities of Debenture Trustee
- 2. Transacting of Shares or Debenture

- 2.2.1. Sale and Pledge of Shares and Debentures
- 2.2.2. Transmission of Shares or Debentures
- 2.2.3. Refusal to register share or Debentures
- 2.2.4. Shareholder and Debenture holder register
- 2.2.4. Inventory Shares, Debentures and Loans
- 2.2.5. Ownership of Shares and Debentures

Unit III: Dividends

- 3.1. Meaning of Dividend, Determination of the Amount of Dividend and Distribution of Dividend
- 3.2. Interim Dividend
- 3.3. Bonus share

Unit IV: Accounts and Audit of Company

- 4.1. Accounts and Records of Company
- 4.2. Accounts of Company
- 4.3. Annual Financial Statement
- 4.4. Report of Board of Directors
- 4.5. Inspection of Books of Account
 - 4.5.1. Audit of Company
 - 4.5.2. Appointment of Auditor
 - 4.5.3. Qualifications and Disqualifications of Auditor
 - 4.5.4. Functions and Duties of Auditor
 - 4.5.5. Removal of Auditor
 - 4.5.6. Audit Committee
 - 4.5.7. Formation, Functions, Duties and Powers of Audit Committee

Unit V: Dissolution of Company

- 1. Meaning and kinds of Dissolution or liquidation of company
 - 5.1.1. Voluntary liquidation
 - 5.1.2. Deregistration
 - 5.1.3. Liquidation of Insolvent company

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2. Voluntary Liquidation of Company
 - 5.2.1. Conditions of voluntary liquidation of company
 - 5.2.2. Proceeding of voluntary liquidation
 - 5.2.3. Appointment of Liquidator and Auditor
 - 5.2.4. Powers and Duties of Liquidator
 - 5.2.4. Application of Insolvency Act, 2063
 - 5.2.5. Voluntary Deregistration
 - 5.2.6. Action against Liquidator, Director, Employee or Shareholder
3. Compulsory Deregistration of Company
 - 5.3.1. Deregistration of company not commencing business
 - 5.3.2. Compulsory Deregistration of Defunct Company
4. Special Arrangement of Deregistration
5. Restoration of registration of a deregistered company

Prescribed Cases

1. Bhuminanda Sharma Dawadi v HMG, 062/5/6, *Some Landmark Precedents of the Supreme Court on Commercial Law*, 1st ed., (1959-2005), Supreme Court, 2006.
2. Khem Chandra Chaurasia v H.M.G. Dept. of Industries, **NKP** 2065/507.
3. Piyus Raj Panday v. Tax Office Kathmandu, **NKP** 2040/901
4. Prakash Bahadur Singh et.al, v Nepal Match Co.et.al., **NKP** 2045/655.
5. Prakash Shrestha v HMG Nepal, **NKP** 2061/687.
6. Purusottam Acharya v. Boris and Restaurant Pvt. Ltd., **NKP** 2044/934.
7. Surya Narayan Das v Dairy Development Corporation Head Office, Kathmandu, **NKP** 2045/419.
8. Sushilrani v Hotel Jaya International, **NKP** 2040/901.
9. Tarini Prasad Adhikari v. G.M. Surya Bahadur, **NKP** 2065/1093.
10. Tej Raj Pant v. Board of Directors, Timber Corporation et.al., **NKP** 2044/895.

Reading Materials

Acts

1. Companies Act, 2063
2. Insolvency Act, 2063
3. Securities Act, 2063



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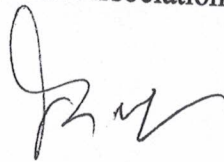
4. Some Landmark Precedents of the Supreme Court on Commercial Law

Recommended Readings

1. Freran, Eilis, *Company Law and Corporate Finance*, Eastern Book Company, Lucknow (2003)
2. Gautam, Trilochan, *Company Ain 2063 Ra Company Sachibko Karya Sampadan*, Bikraant Book House Pvt. Ltd. Ghattaghar, Bhaktapur (3rd ed. 2066).
3. *Gower's Principles of Moder Company Law*, Latest Edition, London.
4. Bird, John et.al, *Company Law*, Jordans Publishing Ltd; U.K. (1995).
5. Karki, Bharat B. (Dr. Prof.), *Teacher's Guide for the LL.B. Course on Company and Corporation Law*, Faculty of law, T.U.,
6. Neupane, Avtar, *Company Law*, (Nepali version), Commercial Law Society, Kathmandu (2063)
7. Sen, A.K., *Commercial law*, Eighteenth Edition, The World Press Pvt. Ltd., Caltutta (1985)
8. Shiwakoti, S. & Shrestha, S. (ed.), *Company Cases and Supreme Court* (Gyangun Kanoon Academy), (Nepali version).
9. Shukla M.C., *Mercantile Law*, latest Edition, New Delhi.
10. Singh Avatar, *Company Law*, Latest Edition, Delhi.
11. Uprety, B.R. *Company Law*, (Nepali version), Free deal, Kathmandu, 2064 (2007).
12. Uprety, B.R., *An Introduction of Insolvency Law* (in Nepali) FNCCI/CFG Project.

Journals

1. *Annual Survey of Nepalese Law*, Nepal Bar Council
2. *Business Law Journal*
3. *Kanoon*, Lawyers Club, Nepal
4. *NJA Journal*, National Judicial Academy
5. *Nepal Bar Council Law Journal*, Nepal Bar Council, Nepal
6. *Nepal Law Review*, Nepal Law Campus, Faculty of law T.U.
7. *Nyayadoot*, NBA, Nepal
8. *Supreme Bar Journal*, Supreme Court Bar Association



आठौं सेमेस्टरकालागि निर्धारित पाठ्यक्रम

Compulsory Area:

FAR WESTERN UNIVERSITY
FACULTY OF LAW



Course Title: Administrative Law

Level: B.A. LL. B.

Semester: VIII

Course code: Law 460

Full Marks: 100

Pass Mark: 50%

Credit: 3 (48 hrs.)

Nature: Compulsory

Course Description: Transparency and good governance has been the fundamental goal of today's administration system. This course expects to prepare the human resource for effective, transparent, and accountable public administration. Thus, this course deals with the theoretical understanding of administrative law, classification of administrative authority, delegated legislation and its limitation, Quasi-judicial bodies, administrative discretion, Principle of natural justice, ombudsman and anti-corruption measures, remedy against government action and modern trends in administrative law.

Objectives: The objectives of the course are as follows:

- Understanding the various aspect and dimension of legal foundation of modern administration.
- Understanding the judicial role and scope in relation with governmental function in various aspect as to secure the rights of private citizen or to examine the legitimacy of governmental actions.
- to develop the sense of establishing the common values of good governance throughout the governmental offices by ensuring the measures of accountability, transparency, governmental responsibility as well as ensuring fair and efficient mechanism for redressing.
- Prepare the student as a potential and competent human resource to materialize the fundamental aspect of administrative justice and good governance.

Course Detail:

Unit I: Theoretical understanding on administrative law

8hrs

- 1.1. Meaning and Nature of administrative law
- 1.2. Need and Signification
- 1.3. Scope of administrative law
- 1.4. Sources of administrative law
- 1.5. Fundamental principles of administrative law
- 1.6. *Droit Administratif*: its scope and influences

Unit II: classification of administrative authority

4hrs

- 2.1. Meaning, need and importance of classification of power
- 2.2. Administrative power: Nature, scope and legitimacy
- 2.3. Delegated legislation
- 2.4. Administrative adjudication

Unit III: Delegated Legislation, its constitutionality and limitation

6hrs

- 3.1. Delegated Legislation: meaning and importance
- 3.2. Nature and constitutionality of conditional, delegation and sub-delegation
- 3.3. Scope and limitation
- 3.4. Controlling mechanism over delegated legislation:
 - 3.4.1. Legislative Scrutiny and committee process
 - 3.4.2. Judicial control over delegated legislation
 - 3.4.3. Miscellaneous limitation, e.g., consultation, approval and publication

Unit IV: Quasi-judicial Bodies

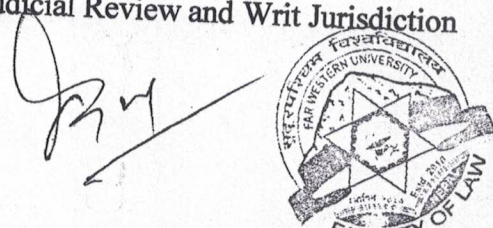
6hrs

- 4.1. Meaning and rationality of administrative adjudication
- 4.2. Nature and procedure of administrative adjudication
- 4.3. Constitutionality and its scope
- 4.4. Various tribunal under administrative setup
 - 4.4.1. Administrative Court: formation and jurisdiction
 - 4.4.2. Depth Recovery Tribunal: formation; jurisdiction and procedure
 - 4.4.3. Revenue office, forest office, CRO, Land Reform Office
 - 4.4.4. Local government: judicial committee
 - 4.4.5. limitation over quasi-judicial bodies:
 - 4.4.5.1. Duty to act judicially: Openness/fairness/impartiality/ accessibility/ expertise
 - 4.4.5.2. Principle of Natural justice: Mandatory rules to adjudication
 - 4.4.5.3. Finality of Jurisdiction: supremacy of regular court
 - 4.4.5.4. Judicial Supervision as watchdog

Unit V: Administrative Discretion

5hrs

- 5.1. Meaning and nature of Administrative Discretion
- 5.2. Scope and importance
- 5.3. Limitation and controlling over administrative discretion
 - 5.3.1. Political and structural accountability
 - 5.3.2. Constitutional limitation
 - 5.3.3. Judicial Control: Extra Ordinary Jurisdiction, Judicial Review and Writ Jurisdiction



- 5.3.4. Abuse of discretion
- 5.3.5. Failure to exercise discretion
- 5.3.6. Application of natural justice
- 5.3.7. Scope of ombudsman over discretionary power

Unit VI: Principle of Natural Justice

5hrs

- 6.1. Meaning and scope of the application of natural justice
- 6.2. Limbs of natural justice:
 - 6.2.1. Right to be heard / *audi alteram partem*
 - 6.2.2. Freedom from bias/ *nemo judex causa sua*
 - 6.2.3. Due process
 - 6.2.4. Reasoned decision
 - 6.2.5. Natural justice as limitation over administrative actions and adjudication

Unit VII: Ombudsmen, anti-corruption measures and building transparency and accountability.

6hrs

- 7.1. Ombudsmen: meaning, nature and scope
- 7.2. CIAA: Constitutional position, authority, complains and power of investigation, role and efficacy to institutionalize integrity system in government
- 7.3. NIC: introduction, scope and authority and role and power to ensure transparency in governance
- 7.4. National Vigilance Center: authority, scope and function, monitoring and investigation and role to ensure good governance and accountability

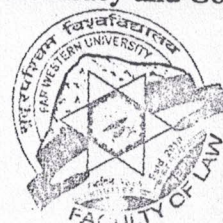
Unit VIII: Remedy against Government: Modern trends and development (5hrs)

- 8.1. Judicial Remedy: Judicial Review, Writ jurisdiction and PIL
- 8.2. Tortious liability of government
- 8.3. Injunction Relief
- 8.4. Citizen charter
- 8.5. Scrutiny and remedy against official misconduct
- 8.6. Civil action against police personal and civilian review board
- 8.7. Internal Review: Handling complain and departmental action

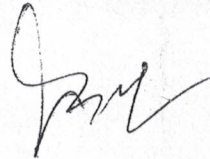
Reading materials:

Books

1. Kehseb Dahal, **Administrative Law**, 2065, Distributors Pairavi Prakashan, Kathmandu.
2. Dwarika Nath Dhungel and Achyut B. Rajbhandary, **Introducing Good Governance in The Public Administration of Nepal**, 2004, Centre for Studies on Democracy and Good Governance, Lalitpur



3. H. W. R. Wade and C. F. Forsyth, **Administrative Law**, 2000, Oxford University Press, New Delhi
4. Michael Allen, Brain Thompson and Bern Adette Walsh, **Cases and Materials on Constitutional and Administrative Law**, 1995, Lawman India Pvt. Ltd., New Delhi.
5. Cecil Carr, *Delegated Legislation, Parliament: A survey*, 1960, Hart Publication, London.
6. Brian Jones and Katharine Thompson, Garner, **Administrative Law**, 1996, Butterworths, London
7. Dr. Albert Fiadjoe, **Public Law Text, Cases and Materials**, 1996, Cavendish Publishing Limited, London,
8. S. N Jain and M P Jain, **Principle of Administrative Law**, 2005, Wadha Publication.
9. Carol Harlow and Richard Rawlings, **Law and Administration**, 3rd ed. Cambridge University Press.
10. **The Citizen and the Administration**, 1961, Stevens & Sons Limited.
11. V. G. Ramachandran, **Administrative Law**, 2nd ed. Eastern Book Company, Lucknow.



FAR WESTERN UNIVERSITY
FACULTY OF LAW

Course Title: Clinical Law-I (Conveyancing)

Level: B.A., LL.B.

Semester: VIII

Course Code: Law 465

Full Marks: 100

Pass Marks: 50%

Credit: 3 (48 hrs.)

Nature: Compulsory

Course Description: University is the place where philosophy and theories on the particular discipline are taught. Law faculty is the place where students are instructed in the legal philosophy and legal theories in particular. But, law being a applied subject, students should have the practical knowledge on the court procedure, client dealing, advocacy skill, and other process relating to justice dispensation. This course aims at providing practical skill to legal documents. Clinical Law (Conveyancing) as simulation course is to impart knowledge on drafting of different conveyancing documents.

Course Objectives

- equip students with practical skill of drafting legal documents.
- impart knowledge to the students about the advocacy skill
- provide theoretical knowledge lies behind every legal documents.
- inculcate students about skill of evaluating evidentiary values of the deeds.

Course details:

Class teacher shall teach theory and practical skill of drafting the documents as follows;
Loan Deed, Mortgage Deed, Rental Agreement, Lease Deed or agreement, Consent Paper, Service Contract, Partnership Deed, Memorandum of company and Article of association. Guarantee deed, Separation of Coparcener or Reunion, Adoption, Exchange Deed, Sale Deed, Gift and Will Deed, Partition deed, Consent Paper, Power of Attorney (general and authorized), Promissory Note and Indenture etc, and Documents to be submitted to municipality and Rural municipality. Drafting of statute of organizations, Writ petitions.

Teaching method:

This course shall be taught or conducted by an experienced teacher having teaching and professional experience. The class may be assigned to experienced lawyer having at least 10 years of law profession. Any senior and experienced teacher may be designated In-charge of the course by Programme coordinator. Programme Coordinator ultimately shall be responsible to carry out the programme in accordance with the instruction of the Faculty of Law.

Evaluation process: Evaluation process of the subject shall be as follows:

Out of 100 marks;

Internal evaluation 40 Marks.

Final evaluation 60 Marks.

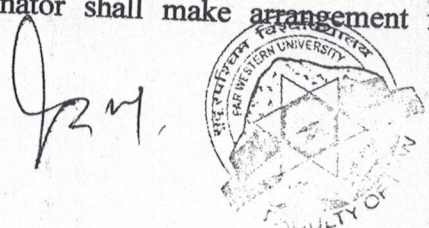
Out of 40 marks allocated for internal evaluation;

Class attendance-10 marks.

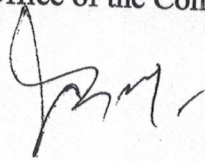
Class activities 10 marks.

Pleading – 20 marks.

Out of 60 marks allocated for final evaluation, 20 marks shall be allocated for Viva-Voce. The Viva-Voce shall be conducted by three-member committee made out of experienced law teachers lawyers, court officers, including government attorney. Rest of the 40 marks shall be allocated for the final evaluation of the case file (Misil) submitted by the students. Controller of the Examinations in coordination of the Programme Coordinator shall make arrangement for



evaluation of the Moot file (Misil). After completion of all above procedures, Programme coordinator shall submit the Marks file to the Office of the Controller of the Examination.



FAR-WESTERN UNIVERSITY
FACULTY OF LAW

Course Title: Moot court (Civil Case)

Level: B.A. LL. B.

Semester: VIII

Course code: Law 470

Full Marks: 100

Pass Mark: 50%

Credit: 3 (48 hrs.)

Nature: Compulsory

Course Description: This course is designed to make the students practically skilled lawyers. The course contains three main components namely preparing Legal documents to be submitted to the court in civil matters, preparing students for hearing (interviewing the clients), and participation in trial proceedings. All these components are designed to provide practical knowledge to the students.

Course objectives: The objectives of this exercise are;

- to provide students practical knowledge and skills to preparing a civil case and writ petition,
- to impart knowledge for the preparation of oral argument or advocacy through mock session,
- to provide knowledge about techniques of client interviewing and prepare appellate briefs, applications for bail, injunction, review, appeal and execution of judgments, consent paper, power of attorney, letter of acceptance (sakarmana) etc.

Teaching Procedure: The class teacher shall provide a civil case to the students and guide students how to prepare all documents to be submitted in the court in a civil case. The students shall prepare all relevant documents under the supervision of class teacher. Upon completion of a case file (*Misil*) the teacher shall guide the student to file the documents orderly and to prepare *Tayadati* of documents.

Upon preparation of the case file (*Misil*) the class teacher, through the administration, shall notify the students to present in the pleading procedure. For that purpose, the teacher shall organize a mock court for hearing purpose where teacher shall guide students how to put their claim, and counter claim, logic and counter logic before the court. All the students in the class shall compulsorily participate in the pleading procedure. All the students in the class shall plead from the side of claimant and defender both. After completion of pleading, the students shall have to submit a moot court file (*Misil*) to the Programme coordinator within the prescribed date.

Evaluation process: Evaluation process of the subject shall be as follows:

Out of 100 marks;

Internal evaluation 40 Marks.

Final evaluation 60 Marks.

Out of 40 marks allocated for internal evaluation;

Class attendance-10 marks.

Class activities 10 marks.

Pleading – 20 marks.

Out of 60 marks allocated for final evaluation, 20 marks shall be allocated for Viva-Voce. The Viva-Voce shall be conducted by three-member committee made out of experienced lawyers, court officers, and government attorney including law teachers. Rest of the 40 marks shall be allocated for the final evaluation of the case file (*Misil*) submitted by the students. Controller of the Examinations in coordination of the Programme coordinator shall make arrangement for evaluation of the Moot file (*Misil*). After completion of all above procedures, Programme coordinator shall submit the Marks file to the Office of the Controller of the Examination.



FAR WESTERN UNIVERSITY
FACULTY OF LAW

Course Title: Private International Law

Level: B. A, LL. B.

Course Code: 475

Credit Hours: 3 (48 hrs.)

Full Marks: 100

Pass Marks: 50%

Semester VIII

Nature: Compulsory

Course description: Private International Law covers conflicts between different nationality. The field of Private International law, also known as Conflict of Laws, is concerned with those problems arising from dispute implicating the laws of more than a single jurisdiction. Since the municipal laws of no two countries are same, they come in conflict with each other when a party or relevant fact in a private law dispute has connection with another country. The involvement of the foreign element is the necessary in the conflict. Disputes stemming from such foreign elements may touch upon almost any areas of private law, such as, law of obligations (contract), property law, international commercial law, securities law, matrimonial disputes, dispute involving succession and inheritance etc. The rules related to Private international are mostly found in decided cases in the national jurisdictions. Some rules are incorporated in Local laws for example, the separate chapter of Private International Law in Muluki Civil Code 2074. Specially, these areas of law cover a broad area of law containing statutory laws, precedents and established practice that seek to address the following three major issues:

- Which courts have jurisdiction over the dispute (Determination of jurisdiction).
- What should be the substantive and procedural law applicable? (Determination of applicable law/choice of law)
- How foreign court proceedings and foreign judgments can be recognized and enforced? (Enforcement of foreign judgments).

Course Objectives:

Students will be able:

- to make students understand the basic nature and application of private international law in national law.
- to increase capability of the students to analyze the provision of national legal system in which national courts deal with private law issues that arise in cross-border context.
- to develop an appreciation of the role courts can play in absence of statutory laws with respect to conflict of laws in questions.
- to analyze current trends and development in the field of private international law.

COURSE DETAILS:

Unit I: Introduction

- 1.1. Definition, Nature and, Scope of Private International Law
- 1.2. Foreign element
- 1.3. Difference between public and private international law
- 1.4. Historical Development and Current Theories

Unit II: Jurisdiction

- 2.1. The rules determining the jurisdiction of national courts
- 2.2. The jurisdictional competence of national courts
 - 2.2.1. Actions in rem



- 2.2.2. Actions in personam
- 2.3. Limitation on exercise of jurisdiction
- 2.4. Immunity from suites
- 2.5. Jurisdiction of the Nepalese Courts
- 2.6. Domicile; domicile of origin, domicile of choice, domicile of dependent person
- 2.7. Nepalese provisions on nationality, domicile and residence.

Unit III: The Choice of Law

- 3.1. Connecting factors and foreign element
- 3.2. The law applicable to the dispute in conflict cases
- 3.3. Characterization/Classification
- 3.4. Renvoi: Partial and total renvoi
- 3.5. Application of renvoi
- 3.6. Exclusion of Foreign Law
 - 3.6.1. Revenue Law
 - 3.6.2. Penal Law
 - 3.6.3. Foreign Proprietary Legislation
 - 3.6.4. Foreign Laws Repugnant to public policy

Unit IV: Recognition and Enforcement of Foreign Judgments

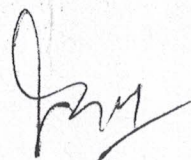
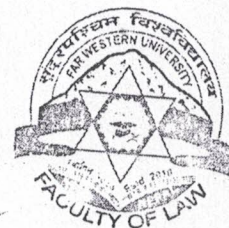
- 4.1. Recognition of foreign judgments
- 4.2. Enforcement of foreign judgments
- 4.3. Execution of foreign judgments
- 4.4. Limitations to enforcement of foreign judgments
- 4.5. Enforcement of foreign judgments in Nepal

Unit V: Family Law

- 5.1. Marriage:
 - 5.1.1. Formalities of marriage
 - 5.1.2. Capacity to Marry.
 - 5.1.3. Consent of Parties
 - 5.1.4. Polygamous Marriage
- 5.2. Divorce, Nullity and Judicial/Legal Separation
- 5.3. Presumption of Death and Dissolution of Marriage
- 5.4. Children: Legitimacy, legitimation, and Adoption
- 5.5. Guardianship
- 5.6. Nepalese rules regarding Marriage Divorce and Children

Unit VI: Law of Property

- 6.1. The Distinction Between Movables and Immovables
- 6.2. Jurisdiction and applicable law over immovable properties
- 6.3. Succession, Matrimonial Property and Trusts
- 6.4. The transfer of Tangible Movables
- 6.7. The Assignment of Intangible Movables

6.7.1. Debt

6.7.2. Negotiable instruments

6.7.3. Shares and Securities

6.8. Nepalese Provision on Property

Unit VII: Contracts and International Commercial Arbitration

7.1. Applicable law in contractual disputes

7.1.1. The proper law of contract

7.1.2. Non-Contractual Obligation

7.1.3. Arbitration

7.1.4. Law governing arbitration

7.1.5. Actionability of Arbitral Awards

BOOKS

- Cheshire, North and Fawcett, *Private International Law*, (Oxford: Oxford University Press, 2010).
- Dicey, Morris and Collins, *Conflict of Laws*, (London: Sweet and Maxwell, 2010).
- Dr. T. Padma and K.P.C. Rao, *The Principle of Private International Law*, (Hyderabad-2: Alt publications, 2010)
- Dr. Lokendra Sharma, *Private International Law*, (Kathmandu: 'M' Law House, 2011)
- Paras Diwan and Peeyush Diwan, *Private International Law*, (New Delhi: Deep & Deep Publications, 1998)
- Select Essays on Private International Law, edited by Prof. Lakshmi Jambholkar, Universal Law Publishing Co. New Delhi, India, 2011

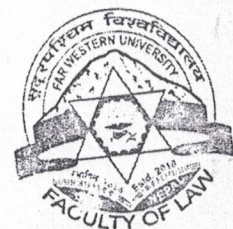
CASE

- *Dr. Puskar Raj Pandey v Sabina Pandey*, NKP 2068 Decision No. 8572, Page No. 327.
- *Mariya Victoria Subirana Sotriguez v. Department of Immigration*, Writ No. 066-WO-0540 of the Year 2010/11

MISCELLANEOUS

- Hague Conference Materials on Private International Law.
- New York Convention on Recognition and Enforcement of Foreign Arbitral Awards.
- UNICTRAL Model Law on Cross Border Insolvency.

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**FAR-WESTERN UNIVERSITY
FACULTY OF LAW**

Couse Title: Professional Ethics and Lawyering Skills

Level: B. A, LL. B.

Semester: VIII

hrs.)

Course Code: Law 480

Full Marks: 100

Pass Marks: 50%

Credit: 3(48

Nature: Compulsory

Course Description: The primary objectives of the of the law schools or faculty in the Universities is to produce skilled legal human resources. Law universities produce human resources as per the need of the country. Law profession is provided the constitutional guarantee to defend the rights of the accuses charged for an offence. This course aims at producing skilled law practitioners including legal human resources necessary for the governmental and non-governmental legal sector. Students in this course shall be taught about the ethics of the law professional and skills of the lawyer need to have. Besides, students shall be given the knowledge about the Nepal Bar Council, its function and role in making the law profession respectful and fair. Moreover, students will have knowledge about the code of conduct of the lawyer, advocacy skills, law firm management skills, client interviewing, and presentation skills.

Course objectives

The objectives of this course are:

- to provide the basic knowledge of various aspects of professional ethics essential in the legal profession,
- to provide students communication, presentation skill and advocacy skills,
- to familiarize students with public interest lawyering, legal aid, para-legal services, legal literacy, Notary Public, law firm management and court practice as well.

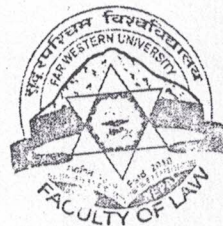
Unit 1: Professional Ethics (10 hrs)

- 1.1. Meaning and nature of professional ethics
- 1.2. Principles of legal ethics and professional ethics
- 1.3. International standard of the legal professionals (lawyers, judges and public prosecutors)
- 1.4. Professional responsibility for lawyers towards, client, opposite party, court, society and state
- 1.5. Judicial mannerism
 - 1.5.1. Court decorum of the court room
 - 1.5.2. Dress code
 - 1.5.3. Language
- 1.6. Bar-bench relations

Unit 2: Code of Conduct of Lawyer in Nepal (5 hrs)

- 2.1. Code of conduct of the lawyer
- 2.2. Complaint procedures
- 2.3. Investigation and other disciplinary action
- 2.4. Punishment
- 2.5. Code of Conduct of Notary Public

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Unit 3: Legal Profession and legal education in Nepal (10 hrs.)

- 3.1. History of Nepalese Legal profession
- 3.2. Contribution and Importance of legal profession in the Nepali society
- 3.3. Legal profession under Supreme Court Regulation, 2013
- 3.4. Legal Profession under Nepal Professional Lawyer Act 2025 & Its Regulations
- 3.5. Nepal Bar Council Act, 2050 (1993) & Regulation 2051
 - 3.5.1. Establishment and formation of Bar Council
 - 3.5.2. Functions, powers and duties of the council
 - 3.5.3. Disciplinary Committee and other committee
 - 3.5.4. Examination of Legal Practitioner
 - 3.5.5. Legal Practitioners to be Registered
 - 3.5.6. The Right to Legal Profession
 - 3.5.7. Unauthorized persons barred from law practice and profession
- 3.6. Legal education in Nepal
 - 3.6.1. History of Legal education
 - 3.6.2. Nepal Bar Council and Legal education.

Unit 4: Advocacy Skills (8 hrs)

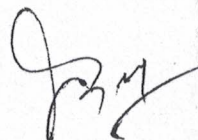
- 4.1. Communication skills for lawyers
- 4.2. Client **Interviewing and legal counseling**
- 4.3. **Not taking the case**
- 4.4. Organisation of argument
- 4.5. Oral argument
- 4.6. Presentation skill
- 4.7. Concept and rule of advocacy
 - 4.7.1. Art of advocacy
 - 4.7.2. Trial advocacy skill (pre-trial stage and post-trial stage)

Unit 6: Public Interest, Lawyering Skills and Legal Aid (10 hrs)

- 6.1. Concept, Development and Practices of Public interest Lawyering
- 6.2. Legal aid
 - 6.2.1. Concept and meaning and principles of legal aid
 - 6.2.2. Role of Nepal Bar Association, Courts, Civil Society organizations and Legal Aid Committee
 - 6.2.2 Mandatory Pro-Bono
- 6.3. Legal literacy
- 6.4. Concept of Para- legal services and its important

Unit 7: Law Firm Management and Accountancy of Lawyers (5 hrs)

- 7.1. Organisational structure (private firm, partnership, company)
- 7.2. Technical aspects
- 7.3. Human resource aspects
- 7.4. Administrative procedure
- 7.5. File management
- 7.6. Client management (confidential)
- 7.8. Information management



- 7.9. Financial management (income tax)
- 7.10. Time management

Leading Cases:

1. Mithilesh Kumar Singh vs. Prime minister and council of Minister, NKP. 2055, Decision No. 6623
2. Advocate Harihar Dhal vs. Man Bhadur Gurung, NKP 2050, Decision No. 4684)
3. Rabilal Chaudary vs. Nepal Bar Council. NKP 2053, Vol. 10 P, 711; Tuelmaya Chakradhar vs. Advocate Shambhu Thapa, NKP 2053.
4. Advocate Naryan Koirala Vs. Syangja District, NKP 2058 Vol. 9/10 P. 542
5. Bhimeshin Das Pokhrel VS. Nepal, Government, 2067)
6. Related case: Advocate Lila Mani Poudel vs. Council of Minister and Others, NKP 2060 Vol. 5/6, P.354

Reading Materials:

A. Prescribed Materials:

I. Text Books

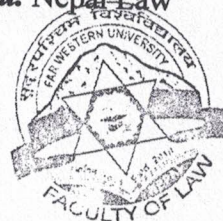
1. Rai, Kailash. *Legal Ethics*, CLP, 2007 (7th Ed) Code of Conduct, India.
2. Selby, Hug. *Advocacy (Preparation and Preference)* India.
3. Gupta, S.P Gupta. *Professional ethics and Accountancy for Lawyers Bench Bar Relation*, India: Central Law Agency
4. Rao, Dr. Padma. *Professional Ethics & professional Accounting System*, India: Alt Publication
5. Aryal, Keshav Raj. *Professional Ethics and Lawyering Skills*, Nepal
6. Shrestha, Gyanendra Bahadur, *Professional Ethics , Drafting and Lawyering Skills*, Kathmandu: Pairabi Publication
7. Dahal and Dahal, *Professional Ethics & Lawyering Skills*.

II. Statutes and Rules:

1. Constitution of Nepal enacted in 2015 and previous Constitutions.
2. Nepal Bar Council Act 2050 B.S.
3. Supreme Court Regulation, 2049 B.S.
4. Appellate Court Regulation, 2048 B.S.
5. District Court Regulation, 2052 B.S.

B. References:

1. Legal Aid *Manual*, Nepal Bar Association
2. *Lawyers Manual*, Nepal Bar Association
3. *Bio monthly- Law Magazine*, Lawyers' Club Kathmandu
4. *Bio monthly- Journal Nayadoot*, Nepal Bar Association
5. *Lawyer Bulletin*, Nepal Bar Council
6. *Kanoon Tarjuma Digdarsan, Nepal Law Commission.*
7. *Kanoon Tarjuma Sambanddhi Abdharanatmak Pachaharu.* Nepal Law Commission



Optional Area:

**FAR WESTERN UNIVERSITY
FACULTY OF LAW**

Course Title: Fiscal Law

Level: B.A., LL. B.

Semester: VIII

Course Code: Law 485

Full Marks: 100

Pass Marks: 50%

Credit: 3 (48 hrs.)

Nature: Optional

Course description: This course explains about the concept meaning of government finance, fiscal policy of the government, fiscal policy in the federal state, implementation of the fiscal policy, constitutional and legal provisions on the financial and fiscal policy, government loan, expenditure, guarantee and audit.

Course Objective:

Followings are the Main Objectives of This Course:

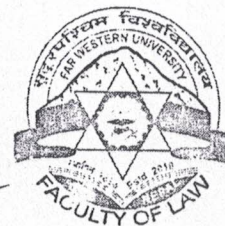
- To impart knowledge on laws relating to implementation of fiscal policies and collection of revenues
- To study laws relating to government's income and expenditure and legal devices for audit and control
- To study laws relating to implementation of fiscal policies
- To study laws relating to collection of revenues
- To acquaint student on the existing phenomena of fiscal crimes
- To acquaint them with the existing legal provisions against fiscal crime in Nepal

Unit I. Introduction to Fiscal Law (5Hrs.)

- 1.1. Meaning and Nature of Fiscal Law
- 1.2. Concept of Public Finance
- 1.3. Fiscal Power of the State
- 1.4. Historical Development of Fiscal Law in Nepal
- 1.5. Fiscal Policies of Nepal

Unit II. Fiscal Provisions Under the Constitution of Nepal (6Hrs.)

- 2.1. Concept of Fiscal Federalism
- 2.2. Concept of Revenue and Expenditure
- 2.3. Federal Financial Procedure
- 2.4. Province Financial Procedure
- 2.5. Local Financial Procedure
- 2.6. Division on Fiscal Matters under Nepal's Federalism
- 2.7. State Obligation and Directive Principles and Policies
- 2.8. Power of State for Revenue Collection
- 2.9. Guarantee of Debt



Unit III. Law Relating to the Implementation of Fiscal Policies (13Hrs.)

- 3.1.Laws of Income Tax
- 3.2.Laws of Value Added Tax
- 3.3.Law of Custom Duty
- 3.4.Law of Excise Duty
- 3.5.Law of Property Tax
- 3.6.Other Revenue Related Acts (Land Revenue, Stamp Duty)
- 3.7.Laws on Fiscal Federalism
 - 3.7.1. National Natural Resources and Fiscal Commission Act 2074.
 - 3.7.2. Intergovernmental Fiscal Arrangement Act, 2074 (2017)

Unit IV. Law Relating to Government Loan, Guarantee, Expenditure and Audit (9Hrs.)

- 4.1.Law of Government Expenditure
- 4.2.Laws Relating to Treasury Bills (Rashtra Rin)
- 4.3.Law of Government Expenditure
- 4.4.Laws Relating to the Audit of Government Expenditure
 - 4.4.1. Fiscal Procedures & Financial Accountability Act, 2076
- 4.5.Power and Function of Auditor General

Unit V. Introduction to Fiscal Crime (6Hrs)

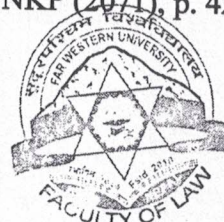
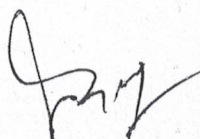
- 5.1.Nature and Kinds of Fiscal Crime
- 5.2.Corruption and Abuse of Authority
 - 5.2.1. Meaning and Definition of Corruption and Abuse of Authority
 - 5.2.2. Forms of Corruption (Graft, Bribe, Pillaging of State Property, Extortion of Public Fund)
- 5.3.Crime of Tax Evasion

Prescribed Cases (5Hrs.)

1. Bishwonath Jajodiya Vs. Office of Value Added Tax, Lazimpat, Kathmandu, Collection of Revenue Tribunal Decision. Vol. 1 2059. VAT. Appeal Case No. 101/958, D.N. 52, Year 2059.
2. Hasan Mohammad Vs. His Majesty's Government of Nepal Case. Custom Evasion of Rice, Collection of Revenue Tribunal Decision. Vol. 1, Year 2059, Appeal Case No. 18, D.N. 14.
3. Suresh Kumar Aggrawal Vs. VAT Department. VAT Case, Collection of Revenue Tribunal Decision, Vol.1, Year 2060, VAT Appeal Case No. 78/754, D.N. 94.
4. Surya Tobacco Company Pvt. Ltd. Et.al. Vs. Inland Revenue Office, Bara et. al. 7 NKP (2067), p. 1075
5. Pitamber Prasad Acharya et.al. Vs. Ministry of Finance et.al. 4 NKP (2071). p. 422.

Reading Materials

1. Constitution of Nepal (2072 B.S.)



2. Income Tax Act 2058 and Rules 2059
3. Value Added Tax Act 2052 and Rules 2053
4. Custom Duty Act
5. Excise Duty Act
6. Corruption Prevention Act and Regulations
7. Stamp Duty Act
8. Property Tax Act
9. Finance Acts and Rules
10. Dhungel, Laxmi Narayan, Tax Laws in Nepal, First Ed. (2078) Kathmandu
11. Adhikari, Chandra Mani, Taxation in Nepal, Kathmandu, PairaviPrakashan (2056)
12. Bista, Bal Govinda, Public Finance and Budget Management in Nepal, Kathmandu; PairaviPrakashan (2056)
13. Singh, S.K. The Fiscal System of Nepal, Kathmandu: Ratna Pustak Bhandar (1977).
14. Neupane, Awatar. Fiscal Law. Kathmandu: Corporate Legal Research Center (2017)
15. Khanal, Shambhu Prasad. (Dr.) Fiscal Law. Kathmandu: Pratyush Publications. (2071).
16. M.G. Chittkara, Corruption 'N' Cure, India
17. Kandel, Puspa Raj. Tax Laws & Tax Planning in Nepal. Kathmandu: Buddha Academic Publishers and Distributors. (2003)
18. Shrestha, Bijay. Revenue Jurisprudence: Principles and Practices. Kathmandu: LumantiPrakashan. (2046)
19. CeLLRD/TAF Counter Corruption Legal Framework, 2000

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**FAR WESTERN UNIVERSITY
FACULTY OF LAW**

Course Title: Forensic Medicine
Level: B.A., LL. B.
Semester: VIII
Course code: Law 490

Full Marks: 100
Pass Marks: 50%
Credit: 3 (48 hrs.)
Nature: Optional

Course Description:

This course aims to familiarize students with the application of knowledge of medical science for the purpose of law and justice. Students will get empowered through this subject by increasing their awareness on various skills of creative, scientific, and objective reasoning and logic framing at courts during advocacy. Traditional evidences such as witness or confession alone cannot meet the need of justice in modern context. Hence, arises need for discussion, familiarity, and application of forensic aspects of legal practice in our courts and justice delivery. The course acquaints students with medical aspects of legal practice such as- introduction to forensic medicine; legal provisions; autopsy; asphyxia; wounds and injuries; special medico-legal examination; medical negligence; and interrelation between human rights & forensic medicine.

Course Objectives:

The course aims to:

- a. Acquaint students with basic concepts of forensic medicine; medico-legal importance of autopsy, asphyxia, injuries; toxicology; special medico-legal examinations; and medical negligence.
- b. Familiarize students with relevant Nepalese legal provisions, litigation, examination, cross examination and re-examination process and case laws.
- c. Inculcate the knowledge of medical science among students for identifying truth and justice delivery.
- d. Produce lawyers who can frame logics founded on objectivity and scientific basis and contribute for further efficacy strengthening of our judicial system.
- e. Aware students with limitations of medical practice and role of law to maintain just medico-legal system.

Course Details:

Unit 1. Introduction (6 hours)

- 1.1 Concept and Definition of Forensic Medicine
- 1.2 Scope or Fields of Forensic Medicine
- 1.3 History of Forensic Medicine
- 1.4 Legal Provisions Related to Forensic Medicine



Unit 2. Death and Autopsy (6 hours)

- 2.1 Definition and Types of Death
- 2.2 Purpose and Types of Autopsy
- 2.3 Role of Forensic Expert in Death investigation
 - a. General Identification
 - b. Personal Identification
- 2.4 Principles and Procedures of Autopsy

Unit 3. Asphyxia (9 hours)

- 3.1 General Concept of Asphyxia
- 3.2 Symptoms of Asphyxia
- 3.3 Causes of Asphyxia
 - 3.3.1 Suffocation
 - 3.3.2 Smothering
 - 3.3.3 Choking
 - 3.3.4 Traumatic Asphyxia
 - 3.3.5 Hanging
 - 3.3.6 Strangulation
 - 3.3.7 Drowning

Unit 4. Injuries (6 hours)

- 4.1 Concept and Medico-Legal Importance
- 4.2 Types of Injuries
- 4.3 Documentation and Reporting of Injuries
- 4.4 Homicidal, Suicidal & Self-Inflicted Injuries: Differences

Unit 5. Special Medico-Legal Examinations (6 hours)

- 5.1 Examining of Domestic / Gender Based Violence
- 5.2 Examination in Rape Offence
- 5.3 Intoxication and Insanity Examination
- 5.4 Examination of Bones
- 5.5 Clinical Features of Poisoning

Unit 6. Medical Negligence (6 hours)

- 6.1 Concept, Elements and Rationale of Liability for Medical Negligence
- 6.2 Medical Negligence versus Medical Malpractice
- 6.3 Law, Medical Ethics and Remedies on Medical Negligence
- 6.4 Security of Health Professionals & Institutions
- 6.5 Judicial Views on Medical Negligence

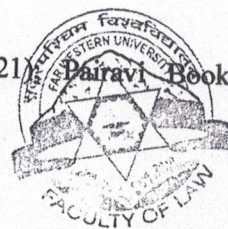
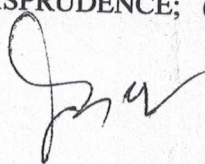
Unit 7. Forensic Medicine & Human Rights (6 hours)

- 7.1 Medical Examination of Detainees
- 7.2 Investigation of Custodial Deaths
- 7.3 Extra-Judicial Killings and Disappearances
- 7.4 Exhumation and Identification of Dead Bodies
- 7.5 Forensic Medicine and Mass Disaster

Prescribed and Recommended texts:

Books

1. Dr. Ramesh Parajuli; FORENSIC JURISPRUDENCE; (2021) Paravi Book House,



- Kathmandu, Nepal.
2. Eakraj Acharya, *Chikitsa Bidhisashtra*; Hisi Offset Printers, Jamal (2059 B.S.), Kathmandu, Nepal.
 3. Dr. K.S. Narayan Reddy, *The Essentials of Forensic Medicine And Toxicology* (2017) Jaypee Brothers Medical Publishers, India.
 4. Apurba Nandy, *Principles of Forensic Medicine Including Toxicology*. (2007) New Central Book Agency, India.
 5. C.K. Parikh, *Parikh's Textbook of Medical Jurisprudence, Forensic Science and Toxicology* (6th ed. 1999) CBS Publishers & Distributors, India.
 6. Prof. R.K. Sharma, *Fundamentals of Forensic Science and Toxicology (Medical Jurisprudence)* (2006)
 7. Moitra & Kaushal, *Medical Jurisprudence and Toxicology 2* (2nd ed. 2001).
 8. A.J Chapman, *Death and Deduction - A Reasoned Approach to Forensic Pathology*, 238 (1st ed. 2001).
 9. P. Jaising Modi, *Modi's Medical Jurisprudence and Toxicology* 320 (B V Subramanyam, 22nd ed. 1999).

Articles/Journals:

1. Dr. Ramesh Parajuli, *Forensic Science and Its Historical Development in Nepali Justice Administration*, Prosecution Journal, Office of the Attorney General of Nepal, Vol. 4, (2018), pp 259-282.
2. "Offences Relating to Medical Treatment under Muluki Criminal (Code) Act, 2074 B.S. NJA Journal 2018, Vol. 12, No. 1, National Judicial Academy, Nepal, p. 143
3. "Medical Negligence under Muluki Penal (Code) Act, 2074 B.S." NBC Law Journal 2017, Nepal Bar Council, p. 237
4. "Liabilities for Medical Negligence: A Critical Analysis of Nepalese Law with Special Emphasis on Consumer Protection Act" Nepal Journal of Legal Studies; V. 1; Issue 1; Nepal Law Campus (2016) p.143
5. "Medical Negligence: Law, Statistics and Challenges in Nepal, NJA Journal 2013, Volume 6. No. 1 National Judicial Academy, Nepal.
6. "Medical Malpractice: An emerging Challenge in Nepalese Medical Legal Sector, NBC Law Journal 2011/12 (2013) Nepal Bar Council.

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FAR WESTERN UNIVERSITY

FACULTY OF LAW

Course Title: International Trade Law

Level: B.A. LL.B.

Course Code No: Law 495

Semester: VIII

Full Marks: 100

Pass Marks: 50%

Course: 3 Credit (48 Semester:

Nature: Optional

Course description:

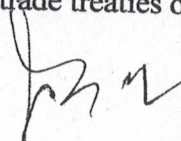
This course is prepared and prescribed by Far Western University Faculty of Law to the Eighth Semester B.A., LL.B. level of students. This is an optional course designed to provide and enable the students to have clear knowledge and skills in the subject. Being an integrated, multi-disciplinary and practical course, the Faculty of Law has expected that students will be well-equipped with the basic knowledge of international trade law after the completion of the course. After graduating Bachelor of Arts and Bachelor of Laws at a time the graduates would be able to enter any profession like law teaching, law practice, legal office or admit to LL.M. course and proceed towards carrier progression.

So far as this course of International Trade Law is concerned it is a very important and lucrative course in the professional market. Thus, the scope of Corporate Lawyer needs no explanation.

Course Objectives:

Followings are the Main Objectives of This Course:

- To impart to the students 'the basis knowledge about national and international trade law, regime
- To impart to the students' knowledge of international trade with the help of United Nations, UNICTRAL, UNCTAD papers and the WTO.
- To familiarize the students with the compatibility of Nepalese Trade regime with international trade regime particularly developed by the WTO and other agencies.
- To enable the students to analyze provisions of the Nepalese laws on business transactions and international trade
- To impart the knowledge on the existing trade treaties of which Nepal is a Party.

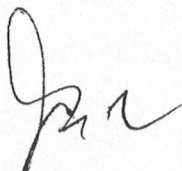


Unit I: International Trade Law

- 1.1. Meaning, Nature, Importance and Definition of International Trade Law
- 1.2. Genesis and evolution of International Trade Law.
- 1.3. Scope and Sources of International Trade Law
- 1.4. Unification and Harmonization of International Trade Law
- 1.5. Introduction of Nepalese Trade Law
- 2. INCO Terms in International Trade**
 - 2.1. Purpose and Practice of INCO terms
 - 2.2. INCO terms 2010, in international Sales and subsequent developments
- 3. Standard Form of Contract in International Trade**
 - 3.1. Nature and Kinds of Standard Form of Contract
 - 3.2. Use of Standard Form of Contract in International Trade
- 4. Transnational Companies**
 - 4.1. Meaning of TNCs and Joint Venture
 - 4.2. Role of TNCs in International Trade
 - 4.3. TNCs and Joint Venture in Nepal
 - 4.4. Provisions of Foreign Investment and Technology Transfer Act, 2075
- 5. Financing of International Trade**
 - 5.1. Bill of Exchange
 - 5.2. Direct Payment
 - 5.3. Documentary Credits
 - 5.4. Nepalese Negotiable Instruments Act, 2034 Provisions
- 6. Foreign Exchange**
 - 6.1. Importance of Foreign Exchange in International Trade
 - 6.2. Foreign Exchange Restrictions
 - 6.3. Provisions of the Foreign Exchange (Regulation) Act 2019

Unit II: International Sale of Goods

- 2.1 Historical Development of International Sales of Goods
- 2.2 Importance of Unified International Sales of Goods.
- 2.3 UNCITRAL Convention
- 2.4 Rights and Obligations of the Seller



2.5 Rights and Obligations of Buyer

2.6 Risk of Loss

2.7 Remedies for Breach of Contract

2.8 Sale of Goods Contract Provisions under Nepalese Civil Code Act, 2078\

Unit III: Law Relating to International Carriage of Goods

3.1 International Transportation of Goods by Multi Model Transportation, Ship and Aircraft

3.2 Nepalese Multi-model Transportation of Goods Act, 2063

3.3 Charter Party

3.4 Bill of Lading

3.4.1 Meaning, Definition and Functions of Bill of Lading

3.4.2 Kinds and Characteristics of Bill of Lading

3.5 Rights and Duties of Shipper and Carrier with particular reference to the UN Convention on Carriage of Goods by Sea (Hamburg Rules)

3.6 Transportation of Goods Contract provisions under Nepalese Civil Code Act, 2074

Unit IV: World Trade Organization (WTO), Other International Trade Related Organizations and Regional Trade Organizations

4.1 Role of the GATT up to 1994 in the Field of International Trade

4.2 Introduction of World Trade Organization (WTO)

4.2.1 Genesis, Principles, Functions, and Scope of WTO

4.2.2 Organs and working of WTO

4.2.3 WTO Agreement, Declarations and Decisions

4.2.4 Settlement of Disputes Under WTO Set-up

4.2.5 Nepal's Accession to WTO

4.2.6 Special and Differential Treatment of LDCs

4.3 Regional Trade Organizations

4.3.1 European Union (EU), Its Origin, Development and Role in International Trade

4.3.2 Association of South East Asian Nations (ASIAN), BRICs and other in the development of International Trade

4.3.3 NAFTA (North American Free Trade Agreement)

4.3.4 SAPTA (SAARC Preferential Trading Agreement) and SAFTA (South Asian Free

Trade Area), BIMSTEC, APEC (Asia Pacific Economic Cooperation)



- 4.3.5 Conditions of Least Developed and Land-Locked Countries in International Trade
- 4.4 Other International Trade Related Organizations
- 4.4.1 UNCTAD, UNCITRAL, IMF, World Bank, ADB and its Role of the Field of International Trade Law
- 4.4.2 International Chamber of Commerce (ICC) and UNDRIT's role in the development of International Trade Law.

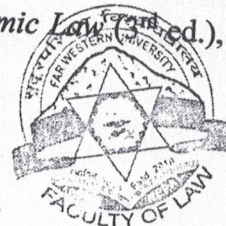
UNIT V: Settlement of International Commercial Disputes

- 5.1 Arbitration, Judicial Settlement, Negotiation, Good Offices, Mediation, Conciliation or Injury.
- 5.2 UNCITRAL Rules on International Commercial Arbitration
- 5.3 UNCITRAL Model Law.
- 5.4 UNCITRAL Conciliation Rules
- 5.5 MIGA Rules
- 5.6 ICSID Rules
- 5.7 OAAC Rules
- 5.8 International Chamber of Commerce Rules on International Commercial Arbitration and other ADR
- 5.9 Nepalese Arbitration Act 2055 and Rules
- 5.10 Recognition and Enforcement of Foreign Arbitral and Awards in Nepal
- 5.11 New York Convention on the Recognition and Enforcement of Foreign Arbitral Award 1958

Reading Materials:

- Arbitration Act 2055.
- Foreign Investment and Transfer of Technology Act 2075
- Myneni, S.R. (Dr.). *International Trade Law*, Allahabad Law Agency, Matura Road Faridabad (Haryana) Reprint 2010
- Prof. Gabriel Moens and Prof. Gillies Peter. *International Trade and Business: Law, Policy, and Ethics*, Cavendish Publishing, (Australia), Pvt. Ltd. Sydney, Re-printed 2000.
- Quereshi, Asif H. & Zeigler, Andreas R. *International Economic Law* (3rd ed.), London: Sweet & Maxwell, (2011)

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- Bossche, Peter Van den & Lion, Werner. *The Law and Policy of the World Trade Organization* (3rd ed.), Cambridge: Cambridge University Press, (2012)
- Brack, D. (edr). *Trade and Environment: Conflict or Compatibility*, London: Royal Institute of International Affairs.
- Carr, Indira and Stone, Peter. *International Trade Law*. London: Routledge. (2013)
- Chuah, Jason C.T. *Law of International Trade* (4th ed.), London: Sweet & Maxwell. (2009)
- Holloway, David & Daren, Timson-Hunt and others, *Export Trade; The Law and Practice of International Trade*. London: Sweet & Maxwell (2012)
- Koul, A.K. *Legal Framework of UNCTAD in World Trade*, Leyden (1997)
- Krueger, Anne. (edr), *The WTO as an International Organization*. New Delhi: Oxford University Press, (2001), (Second Impression)
- Qureshi, Asif H. *The World Trade Organization: Implementing International Trade Norms*, Manchester: Manchester University Press (1996)
- Adhikari, Chandra Mani. *World Trade Organization and Nepal (In Nepali)*. Kathmandu: PairaviPrakashan, (2062)
- Karki, Bharat B. (Prof. Dr.), "A Comparative Analysis of Some of the Important Rules of Commercial Arbitration in existence" a paper presented in the Silver Jubilee International Conference on Settlement of International Commerical Disputes on 13-15 October, 2003 at Quala Lumpur, Malaysia, RCA, later published in *Nyayadoot*
- Karki, Bharat B. (Prof. Dr.), "Nepal's Membership of the World Trade Organization challenges and opportunities", Liu Guofu (ed.), *Legal Relevance and Good Governance: Comparative Law Study in the Asia Pacific Region*, Shantou University Law Services, China (2008).
- Trebilcock, M.J. and Howse, R. *The Regulation of International Trade* (2nd ed.). London & New York: Routledge. (2001)

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**FAR WESTERN UNIVERSITY
FACULTY OF LAW**

Corse Title: Law of Sea and International Rivers

Level: B.A., LL. B.

Semester: VIII

Course Code: Law 5001

Full Marks: 100

Pass Marks: 50%

Credit: 3 (48 hrs.)

Nature: Optional

Course description:

The Sea because of its richness has been the prime concern of the countries all over the world. The minerals and aquatic animals available in the seabed and ocean floor have been pivotal to the national economy of many coastal states. Fisheries has also been an important basis for the economy in the coastal states and each of the state wishes to exploit natural resources from the seabed and ocean floor for its economic benefit. The landlocked and geographically disadvantaged states equally interested to have right to passage or transit through the sea and international rivers for their transnational business purpose. Considering importance of the law of sea, this course is designed, and the course is expected to provide knowledge to the students about the evolution of law of sea, territorial sea, contiguous zone, continental self, and High Sea. The course includes some important features of the law of the sea, recent evolution of international law on trans-boundary rivers and just and reasonable utilization of these resources for mutual benefits through mutual co-operation.

Course objectives: This course on law of sea and international rivers aims at:

-to familiarize students about the classical and modern concept of the laws of the sea and international rivers with analytical perspectives.

-to impart knowledge on the rights of Landlocked and geographically disadvantaged states in the territorial water of coastal states, including contiguous zone and EEZ as well.

To provide knowledge on the Indo-Nepal River Agreements and their unequal nature.

Unit I: Introduction (4 hrs.)

- 1.1. Meaning, Nature and Scope of the Law of the Sea
- 1.2. Evolution of the Law of the Sea
- 1.3. Sources of the Law of the Sea

Unit II: Territorial Sea (5 hrs)

- 2.1 Legal status and breadth of territorial Sea
- 2.2 Delineation
- 2.3 Straits bays, gulf, and archipelagic zone
- 2.4 Right of innocent passage i territorial water.

Unit III: Contiguous Zone, Exclusive Economic Zone and Continental Shelf, and (10 hrs.)

- 3.1 Concept, meaning and scope
- 3.2 Delineation and measurement
- 3.3. Rights of land locked and Geographically Disadvantaged states.
- 3.5. Duties of coastal states regarding the Land locked and geographically disadvantaged states.

Unit IV: High Seas (7 hrs)

- 4.1. Concept, meaning and scope
- 4.2. Freedom of the high seas
- 4.3. Sea Piracy



- 4.4. International sea-bed authority, its power and functions in connection of maritime environment.
- 4.5. Settlement of disputes

Unit V: International Rivers (10 hrs)

- 5.1. Definition and concept of development of law of international rivers.
- 5.2. Rights and duties of co-riparian states
- 5.3. Principles of utilization of international rivers
- 5.4. Freedom of navigation in international rivers
- 5.5. Principle and practice in regard to pollution control

Unit VI: Mutual Co-operation in the Field of Rivers between Nepal and India (12 hrs)

- 6.1. Sharada Barrage Agreement (1920)
- 6.2. Koshi Agreement (1954)
- 6.3. Gandak Agreement (1959)
- 6.4. Mahakali Treaty
- 6.5. Problems regarding the Indo-Nepal river agreements
- 6.6. International, regional and bi-lateral dispute resolution mechanisms.

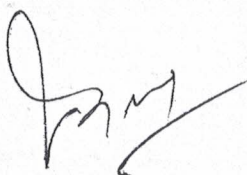
Reading Materials:

A. Prescribed Materials:

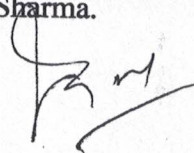
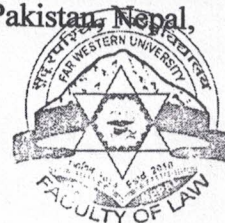
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8. I. A. 1994, *Starke's. International Law*, Oxford, New Delhi.
9. League of Nations Treaty Series.
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**FAR WESTERN UNIVERSITY
FACULTY OF LAW**

Course Title: Medial Law

Level: B. A, LL. B.

Credit: 3 (48 hrs.)

Course Code: 505

Full Marks: 100

Pass Marks 50%

Semester: VIII

Nature: Optional

Description: The course examines the key ethical and legal principles related to mass communications. It enhances the knowledge of freedom of speech and press, and major legal constructs and court decisions affecting public relations, journalism and advertising. The aim of the course is to assist students in identifying Legal issues of Media and the related law to Media. It explores on constitutional regime and the role of media, where students will get core idea of the Right to information and Media and Defamation and Right to privacy. The course is dealt with Media crimes and institutional mechanism to control it, so the students will also get knowledge of recent trends of cybercrimes and other challenges of the Media law in fast developing technology.

Course Objectives: The main objectives of the course are:

- to make the students understand the basic nature and application of Media Law.
- to make the students analyze the rights and limitation of the media.
- to find out issues of privacy law and role of media
- to analyze currents trends and development in the field of Media law.

Course Details:

Unit I: Introduction of the Media law,

- 1.1. Scope and subject matter of Media law
- 1.2. Development of media in Nepal
- 1.3. Recent trend of media law
- 1.4. Challenges of Media law

Unit II: Freedom of opinion and Mass Media

- 2.1. Freedom of opinion and expression
- 2.2. Right to communication
- 2.3. Right to Information
- 2.4. Right to Privacy
- 2.5. Privileges of parliament and reporting right of mass media
- 2.6. General Emergency and Mass Media

Unit III: Contempt of court and mass media

- 3.1. Meaning and concept of contempt of court
- 3.2. Civil and criminal contempt of court
- 3.3. Sanction for contempt of court
- 3.4. Contempt and freedom of expression



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3.5. Contempt of court and Nepalese law

Unit IV: Media Crimes:

4.1. Defamation

4.2. Defamation Generally

4.3. Libel or slander

4.4. Reputation

4.5. Publication and justification

4.6. Absolute and qualified privilege

4.7. Fair comment

- a) Obscenity, indecency
- b) Hate speech and Blasphemy
- c) Cyber Crime

Unit V: Copyright and Mass Media

5.1. Definition of creation and copy right over creation

5.2. Qualifying requirements for copyright protection

5.3. The ownership of copyright

5.4. Exception to copyright

5.5. Infringement of copyright, liabilities, and defenses

5.6. Copyright and digital media

Unit VI: Information and Privacy

6.1. Kinds of Classified Information

6.2. Punishment for disclosure of classified information'

6.3. Defenses against disclosures (Whistle Blowing)

6.4. News information through direct and indirect source

6.5. Confidentiality of sources of information and responsibility of journalist

6.6. Right to privacy and Investigative journalism

Unit VII: Institutional Mechanism

7.1. National Information Commission:

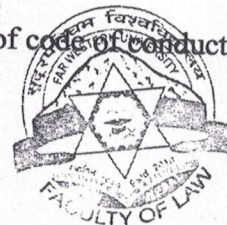
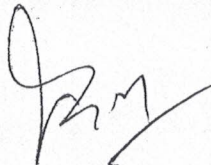
7.2. Composition of NIC

7.3. Judicial Power and Functions

7.4. Press Council

- a) Composition of Press Council and its Powers and functions
- b) Code of conduct of journalists
- c) Disciplinary actions and sanctions against violation of code of conduct

7.5. Federation of Nepalese journalist



7.6.Court and Media

Leading Cases:

1. Advocate Madhav Kumar Basnet vs. Ministry of Information and Communication (2056 Writ no 3638)
2. Gopal Shiwakoti vs. Ministry of Finance, **NKP** 2051 vol. 4 p 255
3. Thir Prasad Pokhrel vs. Harihar Birahi, **NKP** 2049 vol. 8 P 770
4. Madan Mani Dixit vs. His Majesty's Government, Cabinet Secretariat et all, **NKP** 2035 Vol 20 P 167
5. CDO office Kathmandu vs. Editor of Nirmal Weekly Journal, **NKP** 2039 Vol. 15 P 9
6. Mrs. Sumitra Gupta vs. Cabinet Secretariat, **NKP** 2046 P 850
7. Rajendra Singh Rathore vs. Ministry of Communication et all, **NKP** 2045 P 390
8. Ram Prasad Upadhyaya vs. His Majesty's Government, **NKP** 2027 Vol 12 P 258

Reading materials:

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Statutes/ Acts

1. Constitution of Nepal
2. Copyright Act 2059 (2002)



3. Libel and Slander Act 2016 (1959)
4. Right to Information Act 2064 (2007)
5. National Broadcasting Act 2049 (1993)
6. The Electronic Transaction Act, 2063 (2008)
7. Patent Design and Trademark Act 2022 (1965)
8. Press and Publication Act 2048 (1991)
9. Press Council Act 2048 (1992)
10. Cinemas (production, Demonstration and Distribution) Act 2026
11. Journalist Code of Conduct 2073 (2017)



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