

परिदृश्य (Vision)

व्यावसायिक, प्रभावकारी र जनविश्वास प्राप्त संस्थाको रूपमा स्थापित भई कानून शासन प्रवर्द्धन गर्नु महान्यायाधिवक्ताको कार्यालयको परिदृश्य हुनेछ ।

परिलक्ष्य (Mission)

फौजदारी मुद्दाको अनुसन्धानमा नेतृत्वदायी भूमिका, स्वच्छ र प्रभावकारी अभियोजन तथा सुदृढ प्रतिरक्षा प्रणाली एवं व्यवसायिक कानूनी राय प्रदान गर्ने संस्थाको रूपमा विकास गर्नु महान्यायाधिवक्ताको कार्यालयको परिलक्ष्य हुनेछ ।

मूल्य (Values)

- स्वच्छ सुनुवाइ
- कानूनको शासन
- कानून र न्यायका मान्य सिद्धान्तहरूको अबलम्बन
- मानव अधिकार र व्यक्तिगत स्वतन्त्रताको सम्मान, संरक्षण र प्रवर्द्धन
- सार्वजनिक हितको संरक्षण
- पीडितमैत्री र न्यायमा सहज पहुँच
- व्यावसायिक स्वायत्ता र उन्मुक्ति
- निरन्तर सुधार र सिकाई
- नैतिकता र सदाचार
- लैङ्गिकमैत्री र विविधताको सम्बोधन
- समावेशिता



Office of the Attorney General
Singhadarbar, Kathmandu
Nepal



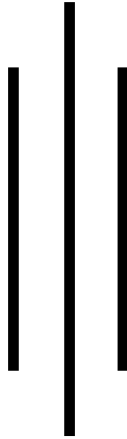
Standard and Syllabus of Specialization Training



Office of the Attorney General
Singhadarbar, Kathmandu
Nepal

Standard and Syllabus of Specialization Training

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Office of the Attorney General
Singhadarbar, Kathmandu
Nepal

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Office of The Attorney General



Ram Shah Path, Kathmandu, Nepal

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Message from Attorney General

Office of the Attorney General has been conducting various programs for professional development of Government Attorneys and institutional reform. The recent approach, for professional development in Office of the Attorney General, is subject matter of Specialization. In order to establish Office of the Attorney General as a professional, effective and trustworthy institution to promote the scenario that advances rule of law, qualified government attorneys are required. Among these various approaches, specialization process is the one which promotes the capacity development of attorneys. It is also a program projected by Second Five Year Strategic Plan of Office of the Attorney General. The specialization training will provide specialized knowledge for conceptual clarity and practices including case law on the related subject. This training will train for comparative studies of good practices adopted by various countries. It will help for reasonable analysis of judicial interpretations and established precedents. This training expects to help Attorneys to effectively administer pleading, defending, case management and other work performances.



The globalization influences public administration of the nation. Eventually, it affects law and Justice Sector too. New laws are being promulgated. New natures of disputes are arising during Judicial Practices. In the private sectors, practitioners have started a trend of specific discipline. In alignment with it, for defending and representing state party, government attorneys had to have specific specialization trainings for their competency. It is felt that the institutional necessity which was required has been fulfilled. Trainings conducted so far have indicated that these trainings will give substantial results in institutional reforms.

The Government Attorneys are not merely a civil servant but also a professional. Professionalism incorporates Independence and Immunity. We need Knowledgeable, skillful and competent Government Attorneys in work performance. In order to exercise Professional Independence, fearlessness in work performance is equally required. The key aspect of acquiring this fearlessness is competency on the subject matter. This training of specialization assures to enhance the professional competency of Government Attorneys and it certainly provides special assistance in their private lives. Constant study, research and professional integrity are needed for its continuity.



Office of The Attorney General Nepal



Ram Shah Path, Kathmandu, Nepal

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The Office of the Attorney General has set forth criteria for conducting process of specialization objectively. Government Attorneys specialization training has been initiated on the basis of work experience, higher educational degree in law, involvement in writing research articles and specialized training. It is also an attempt for intellectual discourse.

This publication, till date, includes specialization of nine different subjects namely Constitutional Law, Organized Crime Prevention Law, Tax and Revenue Law, Banking and Commercial Law, Corruption Prevention Law, Electronic Transaction Crime Prevention Law, Service law, Government and Public Property Protection and Gender and Juvenile Justice. This publication aims to make it easier for the Government Attorneys to select the subject to enter to enroll in specialization process on the basis of their knowledge, skills, experience, interests and institutional requirement. I cordially call upon all Government Attorneys to participate in the process of specialization for their professional development. I would also extend my sincere gratitude to all who have been involved during the preparation of this publication.

(Agni Prasad Kharel)

Attorney General

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Government Attorney's Specialization Standard, 2075

Preamble: Whereas, it is expedient to make provisions, for effective government representation and defense; Government Attorney had to have training of specialization, the Office of Attorney General has laid down this standard.

1. **Short Title and Commencement:** (1) This Standard may be called as “Government attorney Specialization Standard, 2075”.
(2) This Standard shall come into force from 15 Jestha 2074.
2. **Definition:** In this Standard, unless the subject or the context means otherwise: -
 - (a) **“Government Attorney”** means the Attorney General, Deputy Attorney General, Joint Attorney, Deputy Attorney, District Attorney, Deputy District Attorney, and the word shall also represent Gazetted officer of Government Attorney groups of Nepal Judicial Service.
 - (b) **“Specialized Government Attorney”** means the government attorney who has gained a Standard determined special qualification, experience, and knowledge and has listed in section 8 of the standard.
 - (c) **“Management Committee”** means the management committee of the Office of the Attorney General.
 - (d) **“Training provider Authority”** means National Judicial Academy, Judicial Service Training Centre, Prosecution Training Centre and other National and Foreign institutions established according to the law which provide training on Law and Justice.
3. **Government Attorney to be Specialized:** (1) Government Attorney shall be specialized for the effective work performance of the Government Attorney.
(2) While specialization of the government attorney according to the sub clause (1) the following specific area shall be considered:
 - (a) Constitutional Law,
 - (b) Organized Crime Prevention Law,
 - (c) Banking and Commercial offence related Law,
 - (d) Tax and Revenue Law,
 - (e) Corruption Prevention Law,
 - (f) Service related Law,
 - (g) Government and Public Property Protection Law,
 - (h) Cyber Crime Prevention Law,
 - (i) Other Subjects as specified time to time by the Management Committee.
4. **Qualification and Experience for Specialization:** (1) Government Attorney shall have the following qualification, experience, and training for the specialization.
 - a) Postgraduate degree in law from a recognized university,
 - b) Worked as a government attorney for at least 5 years,
 - c) Completion of training for specialization as per the syllabus mention under section 5.
 - (2) Notwithstanding anything contained in sub-clause (1) (b), government attorney having a post-graduate degree in law in the related field of specialization, with three-year experience as government attorney will be qualified for specialization.
 - (3) Notwithstanding anything contained in sub-clause (1) (c), government attorney having Doctorate (Ph.D.) degree along with working experience of three years shall be qualified for specialization in the field of his/her field of doctorate.

- (4) While nominating participants for the training as per the sub-clause (1) (c) his/her qualification, experience and interest should be considered.
- (5) Each government attorney shall be eligible for maximum in two subjects for the specialization.
- 5. Syllabus of Training:** (1) For conducting the training to prepare specialized Government Attorney in accordance with clause (4) sub-clause (1) (c) the management committee shall have to approve the syllabus.
 - (2) The structure of syllabus, in accordance with sub-clause (1), shall be as follows:
 - a) Training shall consist of at least 30 sessions,
 - b) The time of each session shall be one and half hour,
 - c) Training shall include the related principles of subject, judicial practice on such subjects and comparative study on the practice of various countries,
 - d) Participants of the training shall prepare to present research article in any field mentioned in the syllabus during the period of training,
 - e) The training shall be conducted only by the qualified trainer as according to the qualification mentioned in sub-section 6.
 - (3) The Office of the Attorney General shall form Syllabus Preparation Committee, for preparing the draft of syllabus, with involvement of expert on related subject
- 6. Qualification of Trainer:** (1) The expert will be a trainer in training for the specialization of the Government Attorney shall have the following qualification:
 - (a) The person who holds or had held the designation of Attorney General or Deputy Attorney General,
 - (b) Professor of the concerned subject of a recognized university,
 - (c) Any person who has obtained a post-graduate in law degree and involved in teaching, research and law practice of the concerned subject for 10 years or more,
 - (d) Any person who has obtained the doctorate in the concerned subject,
 - (e) Any person who has title of senior advocate or advocate for at least fifteen years practicing law in Supreme Court and established as distinguished expert in the concerned subject,
 - (f) Any person who has been listed as a specialized government attorney.
 - (2) Notwithstanding anything contained in sub-clause (1), a person who is popular enough as a special law expert in related subject can be invited as a trainer.
- 7. Training conduct:** (1) The Attorney General Office shall carry out essential coordination with other training providing institutions to conduct training on approved syllabus by management committee on determined specialization sectors.
 - (2) While conducting the training from the training institutions, the program coordinator will not nominate more junior than the position of participant i.e. government attorney.
- 8. Evaluation of Training:** (1) Evaluation of training shall be done on following grounds:
 - a) 30 marks for attendance,
 - b) 30 marks for participation,
 - c) 10 marks for discipline,
 - d) 40 marks for the research article.

- (2) While evaluating the training pursuant to sub-clause (1), research article under clause (d) shall be evaluated by the expert committee of three members formed by the management committee and evaluation of other subjects of training shall be carried by the coordinator of the program.
 - (3) As pursuant to the sub-section (1), the participants scoring at least 80 will be awarded the certificate of participation.
- 9) Approval of list:** (1) Among the government attorney's qualified, on the subject wise basis, according to clause 4, the management committee shall approve and publish the list of specialized government attorneys.
- (2) Government attorneys listed in the approval list shall commence his/her service as a specialized government attorney in the concerned field.
- 10. Amendment of Standard:** The management committee shall amend the standard as per the necessity.

1. Constitutional Law

1. Constitutional Law

Organization of the Curriculum

Curriculum Goal: To produce specialized Government Attorneys in Constitutional Law field.

Curriculum Objective of the session: Government Attorneys trained according to this curriculum will be:

- Aware of fundamental principles of system of governance of the state and federal governance system.
- Acquainted with fundamental principles and practices of constitutional law.
- Aware about the principles propounded and jurisprudence laid down by courts in constitutional disputes.
- Able to properly use and invoke the principles of constitutional law, judicial practices and jurisprudences on behalf of the Government of Nepal in constitutional disputes.

Subjects incorporated in the Curriculum

The subjects included in the curriculum, prepared to specialize the government attorney by focusing in their professionalism, shall include 40% theoretical and 60% professional and practical aspects in each and every training session.

Subjects included in the curriculum

1. Introduction of Governance System
2. Federalism
3. State structure and Separation of Power
4. Interrelationship between Federal, Provincial and Local level
5. Dispute likely to arise between various levels of government
6. Constitutionalism
7. Fundamental Principles of Constitutional Law
8. Major Principles considered in Constitutional interpretations
9. Constitutional Provisions on Citizenship
10. Fundamental Rights 1: Civil and Political Rights 1
11. Fundamental Rights 2: Civil and Political Rights 2
12. Fundamental Rights 3: Right to Justice
13. Fundamental Rights 4: Economic and Social Rights
14. Social Justice and Inclusion
15. Directive Principles and State Policies
16. Judicial Review of Legislation
17. Writ
18. Habeas Corpus
19. Certiorari and Mandamus
20. Quo-warranto and Prohibition
21. Public Interest Litigation (PIL)
22. Electoral system
23. Principles and process of law making
24. Delegated legislation

25. Constitutional Bodies 1
26. Constitutional Bodies 2
27. Head of the State
28. Financial Procedures
29. Powers of Emergency
30. Amendment of the Constitution
31. Constitutional Court and Constitutional Bench
32. Implementation of the orders of the Supreme Court and its impacts
33. Independence of Judiciary
34. Nepalese Constitutional Jurisprudence
35. Provision Regarding Case Withdrawal and Exemption
36. Provisions regarding Attorney General
37. Political Parties and Disputes related to parties
38. Constitutionalization of International Law
39. Constitutional Council and Parliamentary Hearing
40. Constitution Building Process

Session 1

Introduction to System of Governance

Objective of the session of session:

At the end of this session, the participants:

- Will be introduced with the existing major governance system of in the world.
- Will gain knowledge about fundamental values of parliamentary system and practice.
- Will be able to analyze the principle propounded by the Supreme Court on dispute of dissolution of Parliament.

Subjects included in this Unit

- Introduction to various governance systems
- Fundamental aspects of parliamentary system of governance
- Comparative study of parliamentary and presidential system of governance
- Practice of mixed governance system
- Exercise of executive power in parliamentary system and the role of Prime Minister
- Prime Minister's recommendation for the dissolution of parliament in parliamentary system
- Vote of Confidence to the Prime Minister and vote of No Confidence

- Dissolution of House of Representatives and provincial assembly in the Constitution of Nepal
- Judicial perspective in dispute related to dissolution of parliament

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Session 2

Federalism

Objective of the Session:

At the end of this session, participants:

- Will be familiar about the concept and the basis of formation of federalism,
- Will be introduced about the practice of federalism in Nepal.

Subjects included in the Unit

- Concept of Federalism
- Theories of Federalism
- Basis for formation of federalism
- Asymmetric and Symmetric federalism
- Practices of federal states (India and Unites States of America)
- The federal governance system, basis and principles of federalism adopted by the Constitution of Nepal
- Federalism, dispute transformation and political stability
- Federal system of governance and management of diversity
- Practice / challenges and opportunity of federalism in Nepal
- The outcomes achieved from the practice of federalism.

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- K.C. Wheare, Federal Government

- Ronald W. Watts, Comparing Federal Constitutions (3rd ed). McGill Queen's University Press, London, 2008.

- Constituent Assembly, Report of the State Restructuring Committee, 2066.

Session 3

Organization of State and Distribution of State Powers

Objective of the Session:

At the end of this session, the participants:

- Will be aware of the arrangement of the state structure, basis for division of power in federalism,
- Will be introduced about the arrangement of Nepalese federalism and the practices of other federal states.

- Distribution of State Power in the Constitution of Nepal and challenges in its implementation
- Practices of other states that have adopted federal governance system (India, United States of America, South Africa etc.)

Subjects included in the Unit:

- Fundamental features of unitary and federal system
- Principles of distribution of power in federal structure
- Residual Power and condition of its uses.
- Job enrichment report
- Uses of State Power in Federal, Provincial and Local level.
- The comparative study of uses of State Power in Federal Governance System (Nepal and India)

Reference Materials

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Session 4

Interrelationship between Federation, Province and Local Level

Objective of the Session:

At the end of the session, the participants:

- Will be introduced about Constitutional Provision on function and power of federal, provincial and local level government and the concurrent lists
- Will be familiar about foreign federal practices on distribution of power.

Subjects included in the Unit

- Essence of Cooperation, coordination and coexistence
- Function and Power of Federal Government
- Function and Power of Provincial Government
- Function and Power of Local Government

- Implementation of concurrent and autonomous lists
- Legislative, Judicial and Executive relationship between various levels of government
- Interrelation between Federal and Province
- Interrelation between Federal, Province and Local Level
- Interrelation between Federal and Local Level
- Interrelation among the Provinces
- Interrelation between Province and Local level
- Interrelation among the Local Level
- Coordination Mechanism
- Foreign Practices (Contextual)

Reference Materials

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Session 5

Disputes Likely to Arise between Various Levels of Government

Objective of the Session:

At the end of the session, the participants:

- Will be informed about the nature of dispute arise during the exercise of function and power by various federal units, inter-state trade and the use of natural resources.

Subjects included in the Unit:

- Dispute regarding Power and Function.
- Use of natural resources
- Implementation of tax laws
- Inter-State Trade
- Inter-State Council and Constitutional responsibility
- Foreign Federal Practices (India, United States of America)

- Federal, Provincial and Local Level Dispute Settlement Mechanism in Nepal (Political and Legal Mechanism)

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- McCulloch v. Maryland 17 US 316-1819

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- Chemical Waste Management v. Hunt, 504 U.S. 334 (1992)
- Mahadayi water dispute: Goa, Karnataka + Maharashtra
- Vansadhara Water Dispute: Odisha + Andhra Pradesh
- Krishna Water Dispute: Maharashtra, Karnataka, Telangana and Andhra Pradesh
- Cauvery Water Dispute: Kerala, Pudecherry, Tamil Nadu and Karnataka - two agreements in 1892 and 1924 between Madras Presidency (TN) and Kingdom of Mysore (Kar.)
- Ravi Beas Dispute: Punjab, Haryana, Rajasthan and Himachal Pradesh.
- V. Niranjan, Interstate Trade and Commerce: The Doctrine of Propersanality Reaffirmed, Indian Journal of Constitutional Law, 2008
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Session 6

Constitutionalism

Objective of the session:

At the end of the session the participants:

- Will be introduced about the General principles and values of constitutionalism.
- Will be introduced about implementation and adjudication of principle of Constitutionalism in Nepal and enable them to defend on such disputes.

Subjects included in the Unit:

- Concept and development of constitutionalism
- Basic values and types of constitutionalism
- neo-constitutionalism and Modern values of constitutionalism
- Constitutionalism and Nepalese Constitutional Development
- Constitution of Nepal and Constitutionalism
- Comment on adjudication of the Constitution of Nepal from the perspective of constitutionalism
- Judicial perspective on Constitutionalism

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- Balkrishna Neupane v. Vice President et. al. NKP 2066 vol 4 Decision number 8117
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- Sagar KC v. Office of the Prime Minister and the Council of Ministers, NKP 2070 decision 9300

Session 7

Fundamental Principles of Constitutional Law

Objective of the session:

At the end of the session, the participants:

- will be informed about the principles of constitutional law
- Enable them to defend on such disputes.

Subjects included in the Unit

- Principle of Constitutional Supremacy
- Constitutional Supremacy and Parliamentary Supremacy
- The role of Supreme Court in maintaining Constitutional Supremacy
- Principle of Rule of Law and Dicey's Concept
- New Concept on Rule of Law
- Lord Bingham's Eight Principles of Rule of Law
- Principles of Joseph Raz
- Interrelation between Rule of Law and democracy
- Orders of the Supreme Court for maintaining Rule of Law
- Principle of Separation of Power and Check and Balance

- Principle of Separation of Power and Check and Balance in the Constitution of Nepal
 - Judicial perspective on the principle of Separation of Power and Check and Balance

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- Rhishikhesh Shah v. His Majesty's Government, NKP 2026 vol 1 decision no. 514
- Achyut Krishna Kharel v. Home Ministry et. al. NKP 2055 vol 11 decision no. 6624
- Bharatmani Jangam v. Parliamentary Secretariat, NKP 2057, vol 9/10 decision no. 7030
- Ravi Raj Bhandari v. PM Manmohan Adhikari et. al., NKP Golden Jubilee Birth Anniversary Special Issue, 2052 page 88
- Rajeev Parajuli v. Royal Commission on Control of Corruption et. a. writ number 118 of year 2062, order date 2062/11/1
- Chandra Kanta Gyawali v. Office of the Prime Minister and Council of Ministers et. al. order on the writ against the order to remove difficulties, NKP 2075 vol 1 page 108
- Sarvagya Ratna Tuladhar v. National Panchayat NKP 2035 decision no. 1197
- Balkrishna Neupane v. Vice President et. al. NKP 2066 vol 4 decision no. 8117
- Puspa Kamal Dahal v. Counstitutional Council et. al. NKP 2068 vol 7 decision no. 8406
- Sanjay Kumar Shah v. Speaker of the House et. al. NKP 2070 vpl. 8 decision no. 9040
- Tulsi Simkhada v. Secretariat of the Constituent Assembly, NKP 2070 vol 1 decision no. 8943
- Meera Dhungana v. Office of the Prime Minister and the COuncil of Ministers et. al. NKP 2073 vol 3 decision no. 9551

Session 8

Major Principles applicable in constitutional interpretation

Objective of the session:

At the end of this session participants,

- Will be introduced about the conceptual aspects on the applicability of Principles for constitutional interpretation.
- Enable them to defend on such disputes on the basis of Judicial Principles.

Subjects included in the unit:

- Doctrine of colorable legislation
- Doctrine of eclipse
- Doctrine of necessity
- Doctrine of political question
- Doctrine of acquiescence and latches
- Doctrine of constitutional silence
- Doctrine of common right and reason
- Doctrine of fraud on the constitution
- Doctrine of harmonious interpretation
- Doctrine of implied power and prohibition
- Doctrine of pith and substance
- Doctrine of ripeness

- Doctrine of severability
 - Doctrine of waiver
 - Doctrine of repugnancy
 - Doctrine of Submission
 - Doctrine of Pleasure
 - Doctrine of Judicially manageable discoverable standard
- Reference Materials:**
- Upendra Baxi, The Indian Supreme Court and Politics, Eastern Book Company, 1980
 - Upendra Baxi, Law, Politics and Constitutional Hegemony: The Supreme Court, Jurisprudence and demoprudence, 2016
 - H.M. Seervai, Constitutional Law of India
 - M.P. Jain, Indian Constitutional Law
 - Dr. J. N. Pandey, Constitutional Law of India, Central Law Agency, 2001
 - Bhaikaji v. State of M.P., AIR 1955 SC 781
 - Deep Chand v. State of U.P., AIR 1959 SC 648
 - Basheshher Nath v. Income Tax Commissioner, AIR 1956 SC 269
 - Mahendra Lal Jain v. State of U.P., AIR 1963 SC 1019
 - A.K. Gopalan v. State of Madras, AIR 1950 SC 27: 1950 SCJ 174
 - Ramesh Thappar v. State of Madras, AIR, 1950 SC 124
 - Baker v. carr, 369 US 186, 1962
 - Radheshyam Adhikari v. Secretariat of council of ministers and others, NKP 2048 No 12 Decision No. 4430
 - Dilip Kumar Yadav v. CIAA, N.K.P 2067 Decision No. 8484
 - Gopal Shiwakoti V. Ministry of Finance and others, NKP 2051 Decision No 4895
 - Hariprasad Nepal V. Prime Minister Girija Prasad Koirala, NKP 2052 (Special volume)
 - Baburam Poudel V. secretariat of council of ministers, NKP 2051 Decision No 4875
 - Rajib Parajuli V. Royal commission for corruption control, S. C Bulletin Special 2062 Page No 47
 - Chitra Bahadur KC v. Prime Minister Sher Bahadur Deuba, 2059's writ no. 3542
 - Balkrishna Neupane v. legislative parliament et.al, NKP 2068 vol.4 Decision No 8588
 - Indraman Karmacharya v. His Majesty's government, NKP 2052 vol. 1 Decision no 5044
 - Pushpakamal Dahal v. constitutional council et.al, NKP 2067 vol. 7 Decision no. 8406
 - Chandrakant Gyawali v. council of ministers et.al, NKP 2064 vol. 8 Decision no. 7875
 - Sarkari wakil Digidarshan (Government Attorneys' Guide) (Third Edition), Office of Attorney General, Nepal.
 - Kamlesh Dwivedi v. council of ministers et.al, NKP 2064 vol. 7 Decision no. 8766

Session 9

Constitutional provisions on citizenship

Objective of the Session:

At the end of this session participants will:

- Be able to apply the provisions related to concept of citizenship, grounds for the acquisition of citizenship and constitutional and legal provisions related

to the Nepalese citizenship during their designated work performance.

- Be informed about Supreme Court perspective on the dispute related to citizenship.

Subjects included in the unit:

- Concept of citizenship

- International provisions related to citizenship
 - International treaty provisions and state party
 - Dual citizenship and Statelessness
 - Citizenship by Descent
 - Citizenship by birth
 - Naturalized citizenship
 - Citizenship in the name of mother
 - Citizenship of Third Gender
 - Termination of citizenship
 - Foreign practices related to Citizenship (United Kingdom, United States of America and India)
 - Citizenship related constitutional and legal provisions and their adjudication
 - Judicial perspective on the dispute related to citizenship
- Reference Materials:**
- Surya Prasad Dhungel et al., Commentary on Nepalese Constitution, Delf, Kathmandu, 1998.
 - State of Bihar v. Kumar Amar Singh, AIR 1955 SC 282
 - Order on Sunil babu Panta's Writ, NKP 2065 vol. 4 Decision No 7958
 - Order on Sunil babu Panta's Writ, NKP 2074 vol. 9 Decision No 9875
 - Sabina Damai v. Prime Minister and office of council of ministers et.al, NKP 2066 vol. 2 Decision No. 8557
 - Order on Sajda sapkota's Writ, NKP 2073 vol. 7 Decision No. 9627
 - Sandesh singh v. District Administration office, Morang et.al, NKP 2074 vol. 7 Decision No. 9841
 - Bipana Basnet v. Prime Minister and office of council of ministers et.al, NKP 2075 vol. 8 Decision No. 10066
 - Aarika K.C. v. DAO Kathmandu et.al., NKP 2075, vol 10 Decision no. 10113
 - Cases related to citizenship, Forum for Women, Law and Development.
 - Constituent Assembly, Report of the Fundamental Rights and Directive Principles Committee, 2066
 - Chandrakant Gyawali et. al., Citizenship in Nationality, Equality and statelessness, 2064

Session 10

Fundamental Rights 1: Civil and political Rights 1

Objective of the Session:

At the end of this session participants:

- Will be able to apply the concept, developed jurisprudence and judicial perspective of civil and political rights as fundamental rights in work place.

Subjects included in the unit:

- Conceptual aspects of fundamental rights
- Basic features of fundamental rights
- Civil and political rights and state's positive and negative obligation
- Development of civil and political rights
- Right to freedom and limitation, its basis and reason.

- Emergency and Suspension of Fundamental Rights
- Foreign practices on right to freedom (UK, USA and India)
- Representative orders of European Court of Human Rights (if possible)
- Fundamental Rights and new dimensions of civil liberty
- Secularism and Religious Freedom
- Right to property and judicial perspective
- Right to freedom and judicial perspective
- Abandonment of Fundamental Rights
- Fundamental rights and duties of citizen

Reference materials:

- Bhimarjun Acharya, Fundamental Rights in the World Constitutions. Pairavi Book
- Gyan Bahadur Basnet, The Crisis for Civil Liberties and Human Rights. Gyan Bahadur Basnet, 2008.
- Dr. Haribansha Tripathi, Fundamental Rights and Judicial Review, Pairavi Prakashan, 2002.
- F.A. Hayak, The Constitution of Liberty. Routledge Classics, London, 2006.
- Surya Prasad Dhungel et al., Commentary on Nepalese Constitution, Delf, Kathmandu, 1998
- V.N. Shukla's Constitution of India, Eastern Book Company, 2001.
- Justice (Rtd) K S Puttaswamy v. Union of India, 2017
- Mohd. Hanif Quareshi v. State of Bihar, AIR 1958 SC 713
- Vishaka v. State of Rajasthan, AIR 1997 SC 7488, 752
- State of West bangal v. Anwar Ali Sarkar, AIR, 1952 SC 75
- Constituent Assembly, Report of the Fundamental Rights and Directive Principles Committee, 2066
- Bikash Lakai v. Prime minister and office of council of ministers et.al, NKP 2070 vol. 10 Decision No 9069
- Iman singh Gurung v. Secretariat of council of ministers et.al, NKP 2049 vol. 7 Decision No 4597
- Raju Prasad Chapagain v. Secretariat of council of ministers et.al, NKP 2057 Writ No. 2986 Decision Date 2060/5/11
- Yagyamurti Banjade v. Durgadas Shrestha et.al, NKP 2027 vol. 1 Decision No. 547
- Padam bahadur Bhandari v. Ministry of defense et.al, NKP 2063 vol. 8 Decision No. 7747
- Rishikesh Shah v. His Majesty's government, NKP 2026 vol. 1 Decision No. 514
- Paras Mani Bhattarai v. Prime minister and office of council of ministers et.al, NKP 2075 vol. 3 Decision No. 9984
- Rajendra Ghimire v. Prime minister and office of council of ministers et.al, NKP 2066 vol. 3 Decision No. 8101
- Writ petition filed by Nanda Kumari Rawal, NKP 2050 Decision No. 4721
- Writ petition filed by Madhav Kumar Basnet (Right relating to land) (2058 B.S. Writ No. 2746 Decision date: 2058/6/4)
- Writ petition filed by Mithilesh Kumar singh, NKP 2056 Page no. 478.

Session 11

Fundamental Rights 2: Civil and Political Rights 2

Objective of the Session:

At the end of this session participants:

- Will be able to apply the concept, developed jurisprudence and judicial perspective of civil and political rights as fundamental rights during work performance.

Subjects included in the unit:

- Right to equality and substantive equality
- Limitation on right to equality
- Right to equality and justiciable classification
- Equality before law and equal protection by law
- Positive discrimination, substantive equality and reservation
- Foreign practices related with right to equality (UK, USA and India)

- Judicial perspective on right to equality
- Reference materials:**
- Bhimarjun Acharya, Fundamental Rights in the World Constitutions, Pairavi Book, Kathmandu
 - Dr. Haribansha Tripathi, Fundamental Rights and Judicial Review, Pairavi Prakashan, 2002.
 - Fisher, Louis. Constitutional Rights: Civil Rights and Civil Liberties. USA: McGraw Hill Inc, 1995.
 - V.N. Shukla's Constitution of India, Eastern Book Company, 2001.
 - Stone, Richard. Civil Liberties and Human Rights. Oxford University Press, 2012.
 - Surya Prasad Dhungel et al., Commentary on Nepalese Constitution, Delf, Kathmandu, 1998
 - Brown v. Board of Education of Topeka, 347 U.S. 483 (1954).
 - Manuka Gandhi v. UoI, AIR 1978 SC 597
 - Dr. L.M. SINGHVI, Dr. Subhas G C. Kashyap, P.N. BHATT, Fundamental Rights and Constitutional Amentments .
 - Constituent Assembly, Report of the Fundamental Rights and Directive Principles Committee, 2066
 - Man Bahadur B.K. v. Ministry of law and justice et.al, NKP 2049 vol. 12 Decision no. 4670
 - Meera Dhungana v. Ministry of law and justice et.al, NKP 2052 vol. 6 Decision no 6013
 - Writ petition filed by Meera Dhungana, NKP 2064 Decision no. 7854
 - Reena Bajracharya v. Royal Nepal Airline corporation et.al, (2054 B.S. writ no 2812 Decision date 2057/2/26, NKP 2057 vol. 5 decision no. 6898
 - Sapana Malla Pradhav. Prime minister and office of council of ministers et.al, NKP 2053 vol. 2 Decision no. 6140
 - Suman Panta v. Department of Immigration et.al, (Same sex marriage and related to entrance permission) NKP 2074 vol. 12 decision no. 9921
 - Sunilbabu Panta v. Prime minister and office of council of ministers, NKP 2065 vol. 4 Decision no 7958
 - Sagar K.C. v. Education Ministry et.al., NKP 2071 vol. 12 Decision no 9300
 - Tek Bahadur Raika v. Prime minister and office of council of ministers, NKP 2065 vol. 5 Decision no 7961
 - Premkumari Nepali v. National women commission et.al, NKP 2070 vol. 1 Decision no. 8945
 - Sambhuprasad Sanjel v. Ministry of Culture, Tourism and Civil Aviation et.al, NKP 2064 Decision no. 7876
 - Chandrakant Gyawali v. Prime Minister and office of council of ministers, NKP 2061 vol. 11 Decision No. 7459

Session 12

Fundamental Rights 3: Right relating to Justice

Objective of the Session:

At the end of this session participants:

- Will be introduced about the conceptual aspects of right relating to justice.
- Will be Able to defend cases, on the basis of foreign practices and judicial perspective, in disputes of right relating to justice.

Subjects included in the unit:

- Arrest Warrant.
- No punishment beyond the law,
- Legal counseling with lawyers
- Present before adjudicating authority within 24 hours of the arrest
- Right against self-incrimination
- Principle of double jeopardy

- Legal assistance
 - Fair trial
- Reference Materials:**
- Bharat Raj Upreti et.al, Constitutional law of Nepal (Nepal ko Sambvaidhanik Kanoon) (Second birth), Freedeal, 2054
 - Surya Prasad Dhungel et al., Commentary on Nepalese Constitution, Delf, Kathmandu, 1998.
 - Husseinara Khatoon v. Home Sec, State of Bihar,
 - Ram Bahadur Hamal v. Department of prison management and others, (Fair hearing), NKP 2067 vol. 4 Decision no. 8345
 - Balkrishna KC v. District police office, Dailekh, (Principle of double jeopardy), NKP 2067 vol. 9 Decision no. 8459
 - Yagyamurti Banjade v. Durgadas Shrestha et.al, (consultation with lawyer) NKP 2027 vol. 1 Decision No. 547
 - Chandra Bahadur Nepali v. His Majesty's Government (self-incrimination) NKP 2051 vol. 9 decision no. 4968
 - Government of Nepal on behalf of Charimaya Tamang v. Uttam Lama (Retrospective effect), NKP 2061 vol. 9 Decision no. 7432
 - Order issued in the writ petition filed by Lilamani Poudel, (Legal aid) NKP 2060 vol. 5/6 decision no. 7214
 - Gobind Bahadur Batala v. Prime minister and office of council of ministers et.al, NKP 2068 vol. 6 Decision no. 8638 (Fair trial and principle of double jeopardy)

Session 13

Fundamental Rights 4: Economic and Social rights

Objective of the Session:

At the end of this session participants:

- Will be able to adopt the concept, developed jurisprudence and judicial perspective of economic and social rights as fundamental rights during work performance.

Subjects included in the unit:

- Economic and social rights
- Positive rights and obligation of the state
- Socio-economic rights as fundamental rights
- Directive principles and policies of the state and socio-economic rights
- Relationship between civil and political rights & economic and social rights.
- Socio-economic rights in present constitution of Nepal and its implementation.
- Reference Materials:
- Bhimarjun Acharya, Fundamental Rights in the World Constitutions. Pairavi Book
- D.D. Basu, Comparative Constitutional Law. Lexis Nexis, Butterworths Wadhwa, Nagpur, 2010.
- David M.O. Brien, Constitutional Law and Politics - 2. WW Norton and Company, New York, 2005.
- Dr. Haribansha Tripathi, Fundamental Rights and Judicial Review, Pairavi Prakashan, 2002.
- V.N. Shukla's Constitution of India, Eastern Book Company, 2001.
- Surendra Bhandari, Constitutional Design and Implementation Dynamics, Himal Innovative Development and Research, Kathmandu, 2016.
- Surya Prasad Dhungel et al., Commentary on Nepalese Constitution, Delf, Kathmandu, 1998.
- DAV Collage v. State of Panjab AIR 1971 SC 1737
- TMA Pai Foundation v. State of Karnataaka (2002) 8SCC 481

- Constituent Assembly, Report of the Fundamental Rights and Directive Principles Committee, 2066.
- Sushil Raj Pyakurel v. Secretariat of the council of ministers et.al, 2050 B.S. Writ no. 0302 Decision Date 2054/4/10
- Order issued in the writ relating to food, NKP 2074 vol. 9 Decision no. 9876,
- Writ petition filed by Bajjudin Miya, NKP 2066 vol. 6 Decision no. 8169
- Writ Petition filed by Prakash Mani Sharma, NKP 2065 Decision No. 7954
- Prakash Mani Sharma v. Prime Minister and office of council of ministers et.al, NKP 2068 vol. 1 Decision no. 8540
- Order issued in the writ by Amrita Thapa (Implementation of fundamental rights)
- Pradhosh Chhetri v. Secretariat of council of ministers et.al, NKP 2061 vol. 7 Decision no. 7412
- Raju Prasad chapagain v. Prime minister and office of council of ministers et.al, NKP 2074 vol. 4 Decision no. 9790
- Bhupendra Bahadur Tamang Theeng v. Prime minister and office of council of ministers et.al, NKP 2074 vol. 9 Decision no. 8967 (Food Sovereignty)
- Tejman Shrestha v. Secretariat of parliament et.al, NKP 2068, SC Bulletin 2072 Ashad 1
- Dumare Kami v. Prime minister and office of council of ministers et.al, Decision date: 2074/12/14 (Free labour related)

Session 14

Social Justice and Inclusion

Objective of the Session:

At the end of this session the participants:

- Will be able to comment on the application of Nepalese legal provisions on social justice, inclusion and inclusiveness.

Subject included in this unit:

- Social justice as Neo-constitutionalism
- Conceptual aspects of social justice
- State's guardianship towards weak and marginalized community
- Social Justice and Social Security
- Concept of Inclusion
- Diversity Management and Pluralism
- Constitutional and legal provisions for the promotion of inclusiveness
- Positive effects from the implementation of inclusion
- Challenges in practice of inclusion
- Judicial perspective on practice of inclusion

Reference Materials:

- Surendra Bhandari, Constitutional Design and Implementation Dynamics, Himal

Innovative Development and Research, Kathmandu, 2016.

- Takis Fotopoulos, Towards an Inclusive Democracy: The Crisis of the Growth Economy and the Need for a New Liberatory Project, Bloomsbury Publishing, 1997.
- Mandal Commission Case, AIR 1993 SC 477
- Davendra vs UoI, AIR 1965 SC 1430
- Constituent Assembly, Report of the Fundamental Rights and Directive Principles Committee, 2066
- Mohan Mainali, Inclusive Democracy
- Order issued in the writ by Radhika Giri, NKP 2067 vol. 12 Decision no. 8527
- Order issued in the writ by Prakash Chandra Dhimal, NKP 2067 vol. 8 Decision no. 8432
- Writ Petition filed by Chandrakant Gyawali, NKP 2063 Decision no. 7643
- Writ Petition filed by Rupak Dhakal, NKP 2063 Decision no. 7678

Session 15

Directive principles and state policies

Objective of this unit:

At the end of the session participants:

- Will be able to use the Directive principles and state policies, its relationship with fundamental rights and judicial perspective in the course of performance of their designated work.

Subjects included in this unit:

- Conceptual aspects
- Fundamental Features of directive principles and state policies
- Relationship, Similarity and Difference between fundamental rights & directive principles and state policies
- Principle of harmonious construction of constitution
- Directive principles of state and judicial review
- Judicial perspective on directive principles and state policies
- Implementation of the directive principles and state policies

Reference Materials:

- Shailja Chander, V. R. Krishna Iyer, Justice V.R. Krishna Iyer on Fundamental Rights and Directive Principles, Deep & Deep Publishing Company, 1992.
- Surya Prasad Dhungel et al., Commentary on Nepalese Constitution, Delf, Kathmandu, 1998.
- V.N. Shukla's Constitution of India, Eastern Book Company, 2001.
- Constituent Assembly, Report of the Fundamental Rights and Directive Principles Committee, 2066
- Writ Petition filed by Yogi Narahari Nath, NKP 2053 vol. 1 Decision no. 6127
- Surya Dhungel v. Godawari Marble, NKP 2052 (Golden Jubilee special volume), NKP 2054
- Writ Petition filed by Prakash Mani Sharma, NKP 2054 vol. 6 Decision no. 6391
- Madhav Kumar Basnet, Directive Principles and Policies of the State, Agrasarathi Study and Research Center, Kathmandu, 2065

Session 16

Judicial Review

Objective of this unit:

At the end of this session participants:

- Will be informed about the Principles of judicial review and the interpretations of Supreme Court and will be able to apply those subjects in their designated work performance.

Subjects included in this unit:

- Judicial review on Constitutional supremacy and parliamentary supremacy

- Doctrine of Ultra vires/Intra vires in constitutionality test of legislations
- Other principles of judicial review
- Major models of judicial review
- Constitutional provisions regarding constitutionality test of law
- Foreign practices (India, United Kingdom and United States of America)
- Theories applied in the test of constitutionality

- Applicant's responsibility in constitutionality test
- Theories propounded by Supreme Court and judicial perspective

Reference Materials:

- Bhimarjun Acharya, Comparative System of Judicial Review, A.K. Books and Educational Enterprises Pvt. Ltd., Kathmandu, 2012.
- Surya Prasad Dhungel et al., Commentary on Nepalese Constitution, Delf, Kathmandu, 1998.
- De Smith's Judicial Review, Sweet & Maxwell, 2013.
- H.M. Seervai, Constitutional Law of India
- M.P. Jain, Indian Constitutional Law
- C K Jha, Judicial Review of Legislation,
- Anirudh Prasad, Chandra Sen Pratap Singh, Judicial Power and Judicial Review: An Analysis of the Supreme Court in Action, Eastern Book Company, 2012.
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- Sylvia Snowiss, Judicial Review and the Law of the Constitution. Yale University Press, Delhi, 1996.
- Soli J. Sorabjee, Gopalan to Golaknath and beyond : A Tribute to M K Nambyar, Indian Journal of Constitutional Law, 2007
- Dr. Hari Bansha Tripathi, Fundamental Rights and Judicial Review in Nepal, Prakashan, Kathmandu, Pairavi 2002.
- Rabindra Nath Bose v. UoI, AIR 1970 SC 470
- Constituent Assembly, Report of the Judicial System Committee, 2066
- Research based study of the law declared void and repealed by the Supreme Court, Ministry of Law, Justice and Parliamentary affairs, 2069
- Order issued in the writ petition filed by Bhimshen Pokhrel, NKP 2070 Decision no. 8940
- Writ petition filed by Rajib Bastola, NKP 2063 vol. 6 Decision no. 7709
- Writ petition filed by Somkant Mainali, NKP 2063 vol. 4 Decision no. 7676
- Writ petition filed by Rabindra Shrestha, NKP 2073 Decision no. 9538

Session 17

Writ

Objective of the Session:

At the end of this session participants:

- Will be aware about the concept of writ, its theories and its application in Nepal and while defend on writ petitions they will be able to apply these concept and principles.

Subjects included in this unit:

- Conceptual aspect of Writ
- Alternative remedy and writ
- Ground for issuance of interim order
- Interim order and Interlocutory order and their remedy
- Principles applied in Writ

- Writ Jurisdiction of Supreme Court and High Court
- Dual Writ in equivalent subjects and its relevancy
- Limitations of Writ (Expressed limitation and latent limitation)
- Writ against judiciary
- Difference between pleading in Writ and litigious case
- Remedy against Writ and Nepalese practice

Reference Materials:

- B.P. Banerjee, Writ Remedies. Haryana: Lexis Nexis, 2015.

- Shashi Adhikary Raut, Judicial Activism. Legal Aid and Consultancy Centre, Lalitpur, 2013.
- Surya Prasad Dhungel et al., Commentary on Nepalese Constitution, Delf, Kathmandu, 1998.
- V.G. Ramachandran's Law of Writs, Eastern Book Company, 2006.
- Constituent Assembly, Justice system committee's report, 2066
- Special volume of Nyay Chautari, Writ, Judges society Nepal, 2069 Kartik
- Bisheshwor Prasad koirala v. Nepal Government, NKP 2016 vol. 8 Decision no. 56
- Annapurna Rana v. Kathmandu District Court, NKP 2055 vol. 8 Decision no, 6588
- Ramdev Yadav v. Prime minister and office of council of ministers et.al, NKP 2068 Decision no 8665
- Shree Prasad Upadhyaya v. Secretariat of council of ministers et.al, NKP 2055 vol. 8 Decision no. 7925 (Writ against announcement of House of Representative)
- Madhurdas Pradhan v, Land Revenue office, Lalitpur, S.C Bulletin 2066 Full volume 405

Session 18

Habeas Corpus

Objective of the session:

At the end of this session participants:

- Will be able to apply; the development of Habeas Corpus writ, grounds of its issuance, its scope and judicial verdict propounded by the Nepalese Supreme court; in their work area.

Subjects included in this unit:

- Concept of personal liberty
- Legal detention and illegal detention
- Development of writ of Habeas corpus
- Issues considered while testing legitimacy of detention
- Grounds for the issuance of order of Habeas corpus
- Emergency period and Habeas corpus
- Preventive detention and Habeas corpus
- Judicial perspectives presented in the writ of Habeas corpus by Supreme Court

Reference Materials:

- B.P. Banerjee, Writ Remedies. Haryana: Lexis Nexis, 2015.
- Bhimarjun Acharya, Comparative System of Judicial Review, A.K. Books and Educational Enterprises Pvt. Ltd., Kathmandu, 2012.

- R. Chakraborty, (ed). Prem's Habeas Corpus: Fundamental Rights and Other Writs, Ashoka Law House, New Delhi, 2006.
- V.G. Ramachandran's Law of Writs, Eastern Book Company, 2006.
- Surya Prasad Dhungel et al., Commentary on Nepalese Constitution, Delf, Kathmandu, 1998.
- ADM Jabalpur v. Shiv Kant Shukla, AIR 1976 SC 1276
- Sunil Batra v. Delhi Administration (1980) 3 SCC 488, AIR 1980 SC 1579
- Special volume of Nyay Chautari Writ, Judges society Nepal, 2069 Kartik
- Yagya Murti Banjade v. Durgadas Shrestha et.al, NKP 2027 vol. 1 Decision no. 547
- Writ Petition filed by Iman singh Gurung, NKP 2049 vol. 7 Decision no. 4597
- Writ by Ambar Bahadur Gurung, NKP 2049 vol. 1 Decision no. 4450
- Writ Petition filed by kanakmani Dixit, Writ Petition filed by Chudamani Sharma
- Writ Petition filed by C.K Raut, NKP 2071 vol. 8 Decision no. 9229

- Writ petition filed by Rajib Parajuli, S.C. Bulletin Special volume 2062 Page no 47
- Writ petition filed by Ramesh Nath Pandey, NKP 2063 No 2 Decision no. 7645
- Sewa Ram and others v. Eastern regional administration office et.al, NKP 2070 vol. 3 Decision no. 8976

Session 19

Certiorari and Mandamus

Objective of the session:

At the end of this session, participants:

- Will be able to apply; the nature of certiorari and writ of mandamus, their development, scope and grounds, and judicial perspective of the Supreme Court of Nepal; in performance of their designated work.

Subjects included in the Unit:

- Judicial Test of Executive Function
- Introduction of Certiorari
- Grounds for issuance and non-issuance of certiorari
- Legal, fair and reasonable decisions and judicial examination
- Introduction of mandamus
- Conditions for issuance and non-issuance of mandamus
- The difference between certiorari and mandamus, as well their grounds
- Perspective of the Supreme Court

Reference Materials:

- B.P. Banerjee, Writ Remedies. Haryana: Lexis Nexis, 2015.
- Bhimarjun Acharya, Comparative System of Judicial Review, A.K. Books and Educational Enterprises Pvt. Ltd., Kathmandu, 2012.
- Shashi Adhikary Raut, Judicial Activism. Lalitpur: Legal Aid and Consultancy Centre, 2013.
- V.G. Ramachandran's Law of Writs, Eastern Book Company, 2006.
- Surya Prasad Dhungel et al., Commentary on Nepalese Constitution, Delf, Kathmandu, 1998.
- Dr. Hari Bansha Tripathi, Fundamental Rights and Judicial Review in Nepal. Kathmandu: Pairavi Prakashan, 2002.
- Special volume of Nyay Chautari, Writ, Judges society Nepal, 2069 Kartik
- Prabhu Krishna Koirala v. Prime Minister and Office of Council of Ministers and others , NKP 2069 Decision Number 8420

Session 20

Quo-Warranto and Prohibition

Objective of the session:

At the end of this session, participants:

- Will be able to apply; the nature of quo-warranto and writ of prohibition, their development, scope and grounds, and judicial perspective of the Supreme Court of Nepal; in performance of their designated work.

Subjects included in the Unit:

- Concept of Quo-warranto

- Grounds for issuance and non-issuance of quo-warranto
- Concept of Prohibition
- Grounds for issuance and non-issuance of prohibition
- Grounds for issuance of injunction
- Difference between prohibition and injunction
- Judicial Perspective of Supreme Court on Prohibition and Injunction.

Reference Materials:

- B.P. Banerjee, Writ Remedies. Haryana: Lexis Nexis, 2015.
- Bhimarjun Acharya, Comparative System of Judicial Review, A.K. Books and Educational Enterprises Pvt. Ltd., Kathmandu, 2012 .
- Surya Prasad Dhungel et al., Commentary on Nepalese Constitution, Delf, Kathmandu, 1998.
- V.G.Ramachandran's Law of Writs, Eastern Book Company, 2006.
- P.L. Lakhanpal v. A. N. Ray, Chief Justice of India, AIR 1975 Del 66
- Special volume of Nyay Chautari, Writ, Judges society Nepal, 2069 Kartik
- Om Prakash Aryal v. Lok Man Singh Karki and others, NKP 2074 vol. 11 Decision Number 9710

Session 21**Public Interest Litigation****Objective of the session:**

At the end of the session, participants will be acquainted with:

- The concept of public interest litigation, role played by the court in its development and scope of it.
- The judicial perspective developed regarding public interest litigation and foreign practices.

Subjects included in the Unit:

- Concept of the public interest litigation
- Areas of public interest
- The question of locus standi in public interest litigation
- Applicant's obligation in public interest litigation
- Class Interest Litigation, Social Action Litigation
- Politics of Public Interest Litigation
- Judicial activism and self-restraint
- Role of a government attorney in defending on public interest litigation
- Foreign Practices regarding public interest litigation (Britain, United States of America and India)
- Comment on respective orders of judiciary on dispute of Public Interest Litigation

Reference Materials:

- Anuj Bhuwania, Courting the People : Public Interest Litigation in Post
- Emergency India, Cambridge University Press, 2017.
- Shashi Adhikary Raut, Judicial Activism. Legal Aid and Consultancy Centre, Lalitpur, 2013.
- V.G. Ramachandran's Law of Writs, Eastern Book Company, 2006.
- Sangeeta Ahuja, People, Law and Justice
- K L Bhatia, Judicial Review and Judicial Activism, Deep And Deep Publications, New Delhi, 1997
- S P Sathe, Judicial Activism in India
- Dr. Hari Bansha Tripathi, Public Interest Ligation, NJA Law Journal
- Special volume of Nyay Chautari, Writ, Judges society Nepal, 2069 Kartik
- Writ petition of Radhe Shyam Adhikari , NKP 2048 vol. 12 decision Number 4430
- Writ petition of Bhimsen Pokhreal, NKP 2070 vol. 1 Decision Number 8940
- Writ petition of Bishnu Prasad Pandey , NKP 2053 vol. 3 Decision Number 6159
- Writ petition of Achyut Prasad Kharel (liability of the applicant)
- Writ petition of Bal Krishna Naupane (Tanakpur)
- Dhananajaya Khanal v. Prime Minister and Council of Ministers and others, NKP 2063 Decision Number 7727

- Jit Kumari Pagyani v. Prime Minister and Council of Ministers and others, NKP 2065 Decision Number 6973

- Tulsi Sinkhada v. Prime Minister and Council of Ministers and others, NKP 2074 Vol. 3, Decision Number 9788

Session 22

Electoral System

Objective of the session:

At the end of the session, participants:

- Will be introduced about the electoral system of Nepal, importance of election in democracy, role and responsibility of the Election Commission and the principles propounded by the Supreme Court in electoral disputes.

Subjects included in the Unit:

- Electoral system in democratic practice
- Fundamental principles of Election
- Introduction, merits and demerits of First Past the Post electoral system
- Introduction, merits and demerits of Proportional electoral system
- Introduction, merits and demerits of Single Transferable Vote electoral system
- Democracy and fair election
- Responsibilities of Election Commission
- Perspective of the Supreme Court in election related disputes
- Practices of other foreign countries regarding election

Reference Materials:

- The format of the electoral system, International Idea
- Birendra Kumar Mishra, Electoral System
- Constituent Assembly, Report of the Committee on Determining the Form of the Legislative Organ
- Writ Petition by ChandraKanta Gyawali (related to Local Level Election)
- The precedents of Constituent Assembly Court 2065 and 2071, Supreme Court
- Bikash Lakai v. Office of the Prime Minister and Council of Ministers and others, NKP2070 vol 10 Decision Number 9069
- Writ Petition by Mihir Kumar Thakur (regarding Good Governance in Election Commission)
- Chandra Kanta Gwayali v. Government of Nepal, NKP 2074, vol 2 (Regarding Local Level Election)
- Chandra Kanta Gwyali v. Government of Nepal, NKP 2074 , vol 7
- Chandra Kanta Gyawali, Electoral System and Federal System of Governance in the World

Session 23

Law-making principles and law-making processes

Objective of the session:

At the end of the session, participants:

- Will be introduced with the fundamental principles of lawmaking, law drafting, responsibilities of federal units in law making under federalism and judicial perspectives and can be apply them in performance of their designated work.

Subjects Included in the Unit:

- Basis of lawmaking
- Process of laws drafting
- Legislative process
- Fundamentals principles of laws drafting
- The basic steps in the process of laws drafting
- Kelsen's principle and categorization of laws

- Legislative wisdom and judicial review
- Responsibility of federal, provincial and local level in making of laws
- Judicial perspective

Reference Materials:

- Mohan Banjade, Legislative Process, Nepalese Constitutional Law, Fedrel, 2054
- The Conceptual Aspects of Law Making, Nepal Law Commission
- Law Formulation Directives, Nepal Law Commission
- Constitution of Nepal Part 9 and 15

- Local Governance Operations Act, 2074
- Chapters on Legislative Process in the Rules of the Parliament
- Shyam Krishna Maske v. Prime Ministers and Council of Ministers, NKP 2068 vol 4 Decision Number 8589
- A Study of Laws Declared Void by the Supreme Court, Ministry of Law, Justice and Parliamentary Affairs
- Status of Implementation of Directive Orders issued by the Supreme Court, National Judicial Academy, Nepal

Session 24

Delegated Legislation

Objective of the session:

At the end of the session, participants:

- Will be acquainted with the concepts and principles of delegated legislation, its limitations, Nepalese practice and judicial perspectives and can be apply them in performance of their designated work.

Subjects included in the Unit:

- The concept of delegated legislation
- The principles of delegated legislation
- Legislative control over delegated legislation
- Judicial control over delegated legislation
- Nepalese practice on delegated legislation (along with Challenges and Problems)
- Principles propounded by the Supreme Court regarding delegated legislation.
- Ordinance - fundamental legislation or delegated?

Reference Materials:

- N.M. Tripathi, Delegated legislation in India, Indian Law Institute, 1964.

- P. Sheshadri, Parliamentary control over delegated legislation (with special reference to U.K and India), Printed by the Director, Dept. of Publications & Press, Osmania University, 1974.
- Wade and Forsyth, Administrative Law,
- C.K. Takwani, Lectures on Administrative Law, Eastern Book Company, 2010
- S.P. Sathe, Administrative Law
- Madhav Kumar Basnet, NKP 2063 vol 2 Decision Number 7646
- Writ petition by Binod Dhungel, NKP 2063 vol 3 Decision Number 7660
- Puspa Neupane v. Legislative Parliament and others , NKP2067 vol 10 Decision Number 8471
- Nagendra Prasad Koirala v. Public Service Commission et.al., NKP 2068 vol 3 Decision Number 8570
- Krishna Prasad Sapkota v. Office of the Prime Minister and Council of Ministers et.al., NKP 2066 vol 11 Decision Number 8259

Session 25

Constitutional Bodies-1

Objective of the session:

At the end of the session, participants;

- Will be aware of the constitutional organs established by the Constitution of Nepal and their scope and role.

Subjects included in the Unit:

- The grounds for the establishment of constitutional bodies
- The fundamental characteristics of constitutional bodies
- Relationship between constitutional bodies and executive
- Relationship between constitutional bodies and legislation & parliamentary committee.
- The provision and role of the constitutional body in Nepalese Constitutional development
 - a) Commission for Investigation of Abuse of Authority
 - b) Election Commission
 - c) Public Service Commission
 - d) Auditor General

Reference Materials:

- Constituent Assembly, Report of the Committee on Determining the Structure of Constitutional Bodies.
- Tika Ram Acharya, Public Management Resource Materials Regarding Constitutional Body, 2065
- Badri Bahadur Karki v. CIAA, NKP 2058, vol 5,6 Decision Number 70001
- Indira Dhakal v. Public Service Commission NKP 2070, vol 4 Decision Number 8992
- Om Prakash Aryal v. Constitutional Council, (Lok Man Singh Karki)
- Sunil Ranjan Singh v. Election Commission (Election Rules)
- Surya Towako v. Auditor General (Audit)
- Annual Report of respective Constitutional Bodies

Session 26

Constitutional Bodies-2

Objective of the session:

At the end of the session, participants:

- Will be aware of the constitutional organs established by the Constitution of Nepal and their working areas and role.

Subjects included in the Unit:

- The constitutional bodies and their jurisdictional scope as established by the Constitution of Nepal.
 - a) National Human Right Commission
 - b) National Natural Resources and Fiscal Commission
 - c) Other Commissions (Women, Dalit, Inclusion, Indigenous, Tribal, Madhesi, Muslim, Tharu commission etc.)

- The disputes on functions and action of the constitutional bodies and court perspective on such.

Reference Materials:

- Constituent Assembly, Report of the Committee on Determining the Structure of the Constitutional Body 2066
- Constituent Assembly, Report of the Committee on Natural Resources, Economic Rights and Revenue Distribution, 2066
- The Paris Principles Relating to the Status of National Institutions 1993
- Om Prakash Aryal v. National Human Right Commission, NKP 2070 vol 1

- Order on the Writ Petition by Bhojraj Aire, NKP 2056, vol 6 Decision Number 6745

- Annual Report of respective Constitutional Bodies.

Session 27

Head of the Nation

Objective of the session:

At the end of the session, participants:

- Will be acquainted with the difference between the Executive and Constitutional Head of the State, Constitutional provisions regarding Head of the State, Relationship between government and the head of the state and relevant judicial perspectives.

Subjects included in the Unit:

- Executive and Constitutional Head of the State
- The role of the Constitutional Head of the State
- The responsibilities entrusted to the President by the Constitution of Nepal
- Relationship between the Constitutional President and the Council of Ministers
- Judicial perspectives on Constitutional Presidents' function of other countries
- Judicial review on the functions of the Head of the State
- Orders issued by the Supreme Court regarding the Commander General

- Order to remove difficulties and Judicial perspective

Reference Materials:

- David Brien, Constitutional Law and Politics, Vol. 1. New York: WW Norton and Company, 2005.
- Shree Krishna Subedi v. Office of the President, NKP 2069, vol 12 Decision Number 8926
- Chandra Kanta Gawalyali v. Office of the President, NKP 2075, vol 1 Decision Number 0007
- Hari Prasad Nepal v. PM Girija Prasad Koirala et. al., NKP Golden Jubilee Birth Anniversary Special Issue, 2052 page 88
- Ravi Raj Bhandari v. PM Manmohan Adhikari et. al., NKP Golden Jubilee Birth Anniversary Special Issue, 2052 page 1
- Chitra Bahadur K.C v. Prime Minister Sher Bahadur Dewa and others, Writ Number 3542 of the year 2059.

Session 28

Financial Procedure

Objective of the session:

At the end of this session, participants:

- Will be acquainted with financial procedures in federal system, budget making process and methods of distribution of resources and provisions made by the constitution.

Subjects Included in the Unit:

- Constitutional provision regarding financial procedure
- Process of budget making
- Inter-governmental financial management
- Distribution of resources

- Financial procedure of federal, provincial and local levels
- Taxing power (federal, provincial and local level)
- Fiscal equalization
- Right to take loan
- Process of approaching foreign assistance
- Principles propounded by the Supreme Court regarding revenue and taxation
- Judicial Review on financial laws and ordinances

Reference Materials:

- Constituent Assembly, Report of the Committee on Natural Resource, Economic Rights and Revenue Distribution.
- Man Bahadur Sunar v. Tax Office Mahendranagar, NKP 2058 vol 3,4 decision no. 6984
- Kamlesh Dvivedi v. Mistry of Finance and others, NKP 2067 vol 9 decision no. 8452
- Surya Tobacco v. Office of the Auditor General and others
- Ministry of Finance v. K.T.R. Nambiyar, NKP 2066, Vol. 9 decision no. 8214
- Kashiram Gurung v. Office of the Prime Minister and Council of Ministers et.al.,NKP 2069, Vol. 4 decision no. 8814

Session 29

Emergency Power

Objective of the session:

At the end of the session, participants:

- Will be acquainted with the constitutional provisions relating to use of emergency power, effects on fundamental rights and bases of its application and its limits to control.

Subjects Included in the Unit:

- Conditions for the use of Emergency Power
- Applicability of fundamental right in emergency
- Emergency and preventive detention
- Limitation to freedom during emergency and compensation
- Derogable and Non-derogable Rights
- Practices of foreign countries regarding judicial review on emergency
- Orders issued by Nepalese judiciary regarding emergency situation

Reference Materials

- O.P. Gouba, Constitutionalism in a Changing Society. New Delhi: Gitanjali Publishing House, 1984.
- J.C. Johary, Comparative Politics. New Delhi: Sterling Publishing Pvt. Ltd., 1980.
- Surya Prasad Dhungel et al., Commentary on Nepalese Constitution, Delf, Kathmandu, 1998.
- Constituent Assembly, Report of Constitutional Committee, 2066
- Constituent Assembly, Report of Fundamental Rights and Directive Principles Committee
- Writ of Dambar Singh Gadai (Hearing of old writ during the time of emergency situation)
- Writ of Madan K.C (Decision date: 2058/8/14)
- ADM Jabalpur v. Shiv Kanta Shukla, AIR 1975

Session 30

Amendment of Constitution

Objective of the session:

At the end of this session, participants:

- Will be aware about the basic principles of the constitutional amendment, practices developed by Indian Judiciary and decisions made by the Supreme Court of Nepal regarding amendment of the constitution.

Subjects Included in the Unit:

- Basic Structure Doctrine
- Rights regarding constitution making and amendment
- Interpretation of the Indian Judiciary regarding the basic structure of Constitution

- Judicial Review of constitutional amendments
- Commentary of the decisions of the supreme court of Nepal regarding writ petitions on amendment of the Interim Constitution of Nepal

Reference Materials

- D.D. Basu, Comparative Constitutional Law. Nagpur: Lexis Nexis, Butterworths Wadhwa, 2010.
- Surya Prasad Dhungel et al., Commentary on Nepalese Constitution, Delf, Kathmandu, 1998.
- Bharat Raj Uprety and others (ed), Constitutional Law of Nepal. Freedeal, Kathmandu, 1997.
- Constituent Assembly, Concept Note and Report Regarding Preliminary Draft of Constitutional Committee, 2066
- Keshavananda Bharati v. State of Kerala, AIR 1975 SC 1961 (1973) 4 SCC 225
- Indira Neharu Gandhi v. Raj Narayan, AIR, 1975, SC 2299
- Minerva Mills v. Union of India,(1980) 3 SCC 625
- Decision in writ petition by Achyut Prasad Kharel (first and third amendment thereof)
- Decision in writ petition by Bijaya Raj Shakhya, NKP 2067 vol. 9 Decision No: 8457
- Decision in writ petition by Subodhman Napit, NKP 2067 vol. 6, Decision NO. 8385
- Decision in writ petition by Balkrishna Neupane
- Decision in writ petition by Bharatmani Jangam, NKP 2066 Page 562

Session 31

Constitutional Court and Constitutional Bench

Objective of the session:

At the end of this session, participants:

- Will be able to discuss about the foreign practices of constitutional court and constitutional bench and role played by such court regarding the interpretation of the constitution and dissolution of the federal dispute.

Subjects Included in the Unit:

- Structure and procedure of foreign country having constitutional court
- Practice of other states having Constitutional Court
- Formation and Jurisdiction of Constitutional Court
- Procedures regarding operation of Constitutional Bench
- Differences between the working procedure of general benches and constitutional bench

- Representative order/decisions of constitutional bench

Reference Materials:

- Kashiraj Dahal, Constitutional Democracy: Constitution Making, Practices and Experience
- Constituent Assembly, Report of the Committee on Judicial System, 2066
- Chandra Kant Gyawali v. Council of Minister et al, NKP 2075 vol. 1, Constitutional Bench Part, Decision No. 0007
- Decision on writ petition by Amrit Prasad Shrestha, NKP 2075, vol. 1 Constitutional Bench Part
- Decision on writ petition by Sabitri Shrestha, NKP 2075 vol. 1 Constitutional Bench Part, Decision No. 0002
- Decision on writ petition by Prakash Mani Sharma, NKP 2075 vol. 1

Constitutional Bench Part, Decision No. 0003

- Decision on writ petition by Madhav Kumar Basnet, NKP 2075 vol. 1

Constitutional Bench Part, Decision No. 0004

Session 32

Execution of Order of Supreme Court and its Impacts

Objective of the Session:

At the end of this session, participants:

- Will be aware about the implementation of important order of the Supreme Court and its impacts.

Subjects Included in the Unit:

- Impact on law making
- Protection of individual freedom
- Execution of Fundamental Right
- Socio-economic Transformation
- Transitional Justice
- Establishment of Rule of Law
- Attempt to keep within constitutional limits
- Directives to execute law.

Reference Materials:

- A Study of Laws Declared null and Void by the Supreme Court, Ministry of Law, Justice and Parliamentary Affairs
- Investigative Study relating to Status of Implementation of Directive Orders issued by the Supreme Court, National Judicial Academy, Nepal
- Decision on writ petition Meera Dhungana v. Prime Minister and Council of Ministers et al
- Decision on the writ petition by Rajendra Prasad Dhakal NKP 2064 vol. 2 Decision No. 7817
- Report Regarding Implementation of Decisions of Supreme Court published by Office of Prime Minister and Council of Ministers

Session 33

Independence of Judiciary

Objective of the Session:

At the end of this session participants;

- Will be acquainted with the principles of independence of Judiciary, provision made by Constitution of Nepal and Judicial Practices.

Subject Included in the Unit:

- Basic Principles of Independence of Judiciary
- Norms and Values of Independent Judiciary
- Pre-condition and elements of independent judiciary
- Contempt of Court and Judicial Independence

- Practices of other States to maintain judicial independence
- Provisions of the Constitution of Nepal regarding independence of judiciary
- Code of conduct of Judges
- Independence of Judiciary and responsibility of Government Attorney
- Court Perspective

Reference Materials

- M. P. Singh, SECURING THE INDEPENDENCE OF THE JUDICIARY-THE INDIAN EXPERIENCE

- Bhimarjun Acharya, Comparative Systems of Judicial Review, AK Books Publication, 2012.
- Basic Principles of Independence of Judiciary, 1985.
- Sylvia Snowiss, Judicial Review and the Law of the Constitution. Yale University Press, 1996.
- International Principles on the Independence and Accountability of Judges, Lawyers and Prosecutors
- Advocate on Record v. UoI, (1993) 4 SCC 441
- Kashiraj Dahal, Constitutional Democracy: Constitution Making, Practice and Experience
- Bangalore Principles on Code of Conduct of Judges, 2002
- Code of conduct of Judges
- Dr. Ananda Mohan Bhattarai, Judicial Conduct and Code of Conduct of Judges, National Judicial Academy, 2070
- Constituent Assembly, Report of the Committee on Judicial System, 2066
- Rajiv Parajuli v. Royal Commission for Corruption Control, SC Bulletin Special Issue 2062 Page 47
- Sarbhagya Ratna Tuladhar v. National Panchayat, NKP 2035, Decision No 1197
- Tirtha Koirala v. Ministry of General Administration et al, NKP 2052 Golden Jubilee Birth Anniversary Special Issue 192
- Decision in writ petition by Madhav Kumar Basnet, NKP 2067 vol. 4, Decision No. 8667
- Amber Bahadur Raut v. Home Ministry et al, NKP 2068, vol. 7 Decision No. 8642
- Supreme Court v. Jana Aastha Saptahik, NKP 2070 vol. 11, Decision No. 9080
- Rajib Bastola v. Office of Prime Minister and Council of Ministers et al, NKP 2063 vol. 6, Decision No 7709

Session 34

Nepalese Constitutional Jurisprudence

Objective of the Session:

At the end of this session, participants:

- Will be able to analyze the chronological development of Constitutional and Constitutional Jurisprudence of Nepa
- Will be able to analyze the role of judiciary in Constitutional development of Nepal

Subjects Included in the Unit:

- Era of Pradhan Nyayalay
- Constitutional interpretation by judiciary during Panchayat System
- Period of Parliamentary Reign
- Constitutional Provision of Transition
- Constitutional Transformation
- Constitutional interpretation in federal system of governance

- Events of constitutional deviation and respective orders of the Supreme Court

Reference Materials:

- S.K. Chaturvedi, Nepal: Internal Politics and Its Constitutions, Inter-India Publications, 1992.
- Ram Kumar Dahal, Constitutional and Political Developments in Nepal, Ratna Pustak Bhandar, 2001.
- Surya Dhungel and others, Commentary on the Nepalese Constitution, DeLF, 1998.
- Surendra Bhandari, Court, Constitution and Global Policy,
- Narendra Prasad Pathak, Supreme Court in Constitutional Disputes Part 1, 2, 3, 4

- Mukunda Regmi, Interpretive Commentary of the Constitution of the Kingdom of Nepal (Part 1 and 2)
- Top Bahadur Singh, Nepalese Constitutional History
- Yagyamurti Banjade v. Durga das Shrestha, NKP 2027 vol. 1, Decision NO. 547
- Sarbagya Ratna Tuladhar v. National Panchayat, NKP 2035 decision No 1197
- Anar Singh Karki v. Bagmati Special Court of the year 2042 (Regarding Retrospective effect)
- Rajib Parajuli v Royal Commission for Corruption Control, Supreme Court Bulletin Special Issue 2062 Page 48
- Puspa Kamla Dahal v. Constitutional Council et al, NKP 2068 Decision No 8406
- Rajendra Prasad Dhakal v. Office of Prime Minister and Council of Ministers et al, NKP 2064 vol 2 Decision No 7817
- Chandra Kant Gyawali v. Head of Council of Ministers et al, NKP 2075 Constitutional Bench Part, vol 1 Decision no 0007

Session 35

Provision Regarding Case Withdrawal and Exemption

Objective of the session:

At the end of this session, participants:

- Will be able to discuss the concept of case withdrawal and provision regarding exemption and judicial perspectives on such issues.

Subjects Included in the Unit:

- Conditions for withdrawing Criminal cases
- Constitutional and Legal provisions regarding case withdrawal
- Conditions for decreasing or exempting from punishment
- Constitutional and Legal provisions regarding exemption from punishment
- Comparative study of case withdrawal and exemption of foreign countries (India, USA and UK)

- Judicial perspective on case withdrawal and exemptions

Reference Materials:

- Directives regarding case withdrawal and exemption
- Dibi Lama Case, NKP 2051 vol 7 Decision No 4940
- Writ of Gopi Bahadur Bhandari, NKP 2069 vol 1 Decision No 8789
- Writ of Sabitri Shrestha, NKP 2075, Constitutional Bench Part, vol 1 Decision No 0002
- Writ of Prakash Mani Sharma, NKP 2075, Constitutional Bench Part, vol 1 Decision No 0003
- Writ of Madhav Kumar Basnet, NKP 2075, Constitutional Bench Part, vol 1 Decision No 0004

Session 36

Provision regarding Attorney General

Objective of the Session:

At the end of this session, participants will be able to discuss about:

- Constitutional provisions regarding constitutional obligation of Attorney General and judicial practices.

- Constitutional obligation of Chief Attorney and their interrelation with Attorney General

Subjects Included in the Unit:

- Constitutional Obligation of Attorney General as:
 - a) Chief Legal Advisor of Government

- b) Chief Prosecutor
- c) Monitor of Human Rights
- d) Regulator towards Law Practitioner
- e) Guardian of Victims
- Interrelation between Chief Attorney and Attorney General
- Other responsibility of the Attorney General

Reference Materials:

- Badri Bahadur Karki v. CIAA, NKP 2058 vol 5 and 6, Decision No 7001
- Narendra Bahadr Chand v. CIAA, Supreme Court Bulletin 2058 Decision Date: 2059/2/13

- Suntali Dhimi v. District Government Attorney Office Achham et al, NKP 2068 vol 1, Decision No 8541
- Narayan Singh Rajput v. Office of Attorney General et al, NKP 2070 vol 1 Decision No 8949
- Constituent Assembly, Report of Judicial System Committee, 2066
- Research Report on Structure and Function of Attorney General in Federal System of Governance, Office of the Attorney General

Session 37

Political Parties and dispute regarding parties

Objective of the Session:

At the end of this session, participants:

- Will be introduced with the provision of Constitution of Nepal regarding registration and abandonment of political party and judicial practices and able to implement them during performance of designated work.

Subjects Included in the Unit:

- Political party in democratic system of governance
- Constitutional provision regarding political party
- Provision regarding political party in Constitution of other countries
- Dispute regarding registration of political party
- Dispute regarding abandonment of party
- Disputes occurring in election process
- Perspective of the Supreme Court on disputes of Political Party and election

Reference Materials:

- D.D. Basu, Comparative Constitutional Law. Lexis Nexis, Butterworths Wadhwa, Nagpur, 2010.
- J.C. Johary, Comparative Politics. Sterling Publishing, New Delhi, 1980.

- C.F. Strong, Modern Political Constitutions. ELBS, London, 1975.
- Kashiraj Dahal, Constitutional Democracy: Constitution Making, Practices and Experience
- Constituent Assembly, Report of Constitutional Committee, 2066
- Gopal Gurung v. Election Commission, NKP 2052 vol 1 Decision No 5030
- Khagendra Jung Gurung v. Election Commission, NKP 2048 vol 2, 3, 4 Decision No 4270
- Prabhu Narayan Chaudary v. Election Commission, NKP 2056 vol 7 Decision No 6748
- Balkrishna Neupane v. Secretariat of the Council of Ministers et al, NKP 2055 vol 10 Decision No 6607
- Writ of Baburam Bhattarai, NKP 2054 vol 6 Decision No 6394
- Writ of Rajendra Lohani, NKP 2058 vol 7,8, Decision No 7029
- Writ of Gunjaman B.K (regarding election of Bharatpur Metropolitan City)
- Decisions of the Constituent Assembly Court

Session 38

Constitutionalization of International Law

Objective of the Session:

At the end of this session, participants:

- Will be introduced with constitutional provision regarding treaty, its ratification and judicial practice regarding treaties and able to implement them during performance of designated work.

Subjects Included in the Unit:

- Constitutional provision of Nepal
- Rights of bilateral and multilateral treaty
- Procedures of treaty ratification
- Constitutional provision of foreign countries regarding ratification of treaties (India and USA)
- Rights to conclude treaties and contracts in federal system
- Disputes which may arise in treaty ratification
- Provisions of treaty and judicial review of domestic laws
- Judicial Perspective

Reference Materials:

- J.C. Johary, Comparative Politics. Sterling Publishing, New Delhi, 1980.
- C.F. Strong, Modern Political Constitutions. ELBS, London, 1975.

- Pravakar Adhikari, An Overview of Constitutional and Legal Provision of Nepal concerning Internationalization of International Law, Nepal Law Review vol 21, 2009
- Constituent Assembly, Report of Constitutional Council, 2066
- Tanakpur Case, Bal Krishna Neupane, Supreme Court Bulletin 2049 year 1 vol 11
- Order issued in writ petition of Gyanraj Rai, 2057, Writ No 2651, Decision Date 2058/15/8
- Dinesh Kumar Sharma, NKP 2063 vol. 9 Decision No 7757
- Arun Kumar Chaudary v. Office of Council of Ministers et al, NKP 2064 vol. 9 Decision No 7803
- Jyoti Paudel v. Office of Prime Minister and Council of Ministers, Supreme Court Bulletin 2066, Full Volume, 423 Decision No 8282.
- Bal Krishna Neupane v. Office of Prime Minister and Council of Ministers et.al., NKP 2054, Vol. 1 Decision No 6313

Session 39

Constitutional Council and Parliamentary Hearing

Objective of the Session:

At the end of this session, participants:

- Will be introduced with constitutional provisions regarding Constitutional Council and Parliamentary Hearing, its relevancy and judicial practices and able to implement them during performance of designated work.

Subjects Included in the Unit:

- Concept of Constitutional Council
- Importance of Parliamentary Hearing

- Practice of Parliamentary Hearing in foreign countries (including USA)
- Constitutional and legal provisions of Nepal
- Remarkable issues regarding practice of parliamentary hearing
- Practice, reason and relevance of Parliamentary Hearing
- Judicial Perspective

Reference Materials:

- Surya Prasad Dhungel et al., Commentary on Nepalese Constitution, Delf, Kathmandu, 1998.
- Constituent Assembly, Report of Constitutional Committee, 2066
- Puspa Kamal Dahal v. Constitutional Council et al, NKP 2068 Decision No 8406

- Subodh Man Napit v. Office of Prime Minister and Council of Ministers, NKP 2067, Decision No 8385
- Yubraj Karki v. Office of Prime Minister and Council of Ministers et al, 2073 Writ No 073- WO-0111, 073-WO-0139

Session 40**Constitution Making Process****Objective of the session:**

At the end of this session, participants:

- Will be introduced about procedures and methods of Constitution making
- Will be able to interpret the constitutional provisions in the light of background and discussions made on constitutional dispute during constitution making.

Subjects Included in the Unit:

- Principles of Constitution making
- Procedures of Constitution making
- Inter-relationship of political change and constitution making
- Method of Constitution making adopted by different States (including India, USA, South Africa)
- Discussion during Constitution making and its record
- Descriptive commentary of Constitution and its use in interpretation of Constitution
- Constitution making process in Constitutional Development of Nepal
- Approaches made by the first constitutional assembly for the constitution making
- Use of Doctrine of Necessity
- Discussions and dilouges during making process of the present constitution

Reference Materials:

- D.D. Basu, Comparative Constitutional Law, Lexis Nexis, Butterworths Wadhwa, Nagpur. 2010.
- Constitution Making Process in South Africa
- Constitution Assembly Debate (India), 1949
- Federalist Paper (America)
- O.P. Gouba, Constitutionalism in a Changing Society, Gitanjali Publishing House, New Delhi, 1984.
- C.F. Strong, Modern Political Constitutions, ELBS, London, 1975.
- H.M. Seervai, Constitutional Law of India
- M.P. Jain, Indian Constitutional Law
- Kashiraj Dahal, Constitutional Democracy: Constitution Making, Practices and Experience
- Bhimarjun Acharya, Constitution making process in Nepal
- Samvidhan Sabha Darpan (First Constituent Assembly), Secretariat of Legislative Assembly
- Mukunda Regmi, Nepalese Constitutional History (Part 1 and 2)
- Top Bahadur Singh, Nepalese Constitutional History
- Reports of various committees of Constituent Assembly

2. Tax and Revenue Law

2. Tax and Revenue Law

Goal of the Syllabus: To prepare the specialized government attorney on the revenue and tax law.

Objective of the Syllabus:

The government attorney who has obtained the training under this syllabus shall have knowledge on the following subjects-

1. Theoretical and practical aspects of the revenue and non-tax revenue administration.
2. Legislation and Implementation of direct and indirect tax.
3. Principles propounded by the Supreme Court in regard to tax disputes.

Structure of the Syllabus:

This syllabus has been prepared to produce specialized government attorneys and to enhance their professional development. The subject matter under this syllabus shall cover 40% theoretical and 60% professional and practical knowledge.

Subjects included in the curriculum

1. Revenue Administration and structure of revenue
2. Non-tax revenue and operation
3. Legal Provision on Revenue Administration -1
4. Legal Provision on Revenue Administration -2
5. Provision of Revenue Administration in Nepal
6. Grounds for taxation and its calculation
7. Provisions relating to tax exemption
8. Quantification, Allocation and Characterization of Amount
9. International taxation system, and adjustment foreign tax
10. Tax planning and fraud
11. Long-Term contract and income calculation
12. Tax accounting and tax auditing
13. Special Provision relating to Natural Person and Entities
14. Assessment of Net Profit from Property and Liability
15. Tax assessment and collection
16. Capital Gain Tax
17. Inter-relation between Income Tax Act and other Acts
18. Provision regarding the appeal over the assessment of income tax and related principles propounded by the Supreme Court
19. Concept and Principle of Value Added Tax, and Provision related to Transaction and Rate
20. VAT details, payment and tax deduction
21. Refund of Value Added Tax
22. Audit and Assessment of Value Added Tax
23. Bill and Receipt, Debit/Credit Note, Purchase Book, Sales Book, Stock Book and Tax Recovery
24. Provision relating to appeal over Value Added Tax assessment and Principles propounded by Supreme Court

25. Custom Amount Assessment and Recovery
26. Object Classification System (Harmonized System)
27. Customs Clearance Process and ASYCUDA
28. Declaration of Goods and Customs Clearance
29. Customs Tariff Determination, Provision of appeal over decision of customs and Principles propounded by the Supreme Court
30. Excise Duty, License, Physical Control and Self Disposal System
31. Excise Duty Determination and Remission of Shortfall and Loss
32. Principles Propounded by Supreme Court in relation to Excise Duty
33. Revenue Leakage Control and Provision of Foreign Exchange Control

Session 1

Revenue administration and revenue structure

Objective of the Session:

At the end of this session, participants:

- shall be acquainted with organizational structure of revenue administration in Nepal and scope of revenue

Subjects Included in the Unit:

- Organizational structure
- Revenue administration (Tax and Non-tax)
- Types of Revenue

Reference Materials:

- Constitution of Nepal
- Income Tax Act, 2058

- Value Added Tax Act, 2052
- Revenue Act, 2064
- Excise Duty Act, 2058
- Tax Law Design and drafting, editor-Victor Thrurohji, published by International Monetary Fund
- Tax Laws and Tax planning in Nepal - Dr. Pushpa Raj Kandel, Published/ Distributed by Buddha Academic Publishers and Distributors Pvt Ltd, 2003
- Principles of Taxation Law, Pawan Kumar Ojha, Pairavi Publication, 2053

Session 2

Non-tax Revenue Administration and Operation

Objective of the Session:

At the end of this session, participants:

- Shall be acquainted with scope, operation and management of non-tax revenue.

Subjects Included in the Unit:

- Definition and concept of non-tax revenue
- Non-tax revenue
- Non-tax revenue rate assessment
- Collection of non-tax revenue
- Challenge in non-tax revenue collection

Reference Materials:

- Constitution of Nepal
- Income Tax Act, 2058
- Tax Law Design and drafting, editor-Victor Thrurohji, published by International Monetary Fund
- Tax Laws and Tax planning in Nepal - Dr. Pushpa Raj Kandel, Published/ Distributed by Buddha Academic Publishers and Distributors Pvt Ltd, 2003
- Principles of Taxation Law, Pawan Kumar Ojha, Pairavi Publication, 2053

Session 3

Legal Provision on Revenue Administration – 1

Objective of the Session:

At the end of this session, participants:

- shall be acquainted with constitutional and legal provision on revenue administration, tax related law making process and tax to be levied by the federal, state and local level

Subjects Included in the Unit:

- Constitutional and legal provision on Revenue administration
- Tax related law making process
- Fiscal management of federal, state and local level

Reference Materials:

- Constitution of Nepal
- Income tax act, 2058
- Tax Law Design and drafting, editor-Victor Thurohji, published by International Monetary Fund
- Tax Laws and Tax planning in Nepal - Dr. Pushpa Raj Kandel, Published/ Distributed by Buddha Academic Publishers and Distributors Pvt Ltd, 2003
- Principles of Taxation Law, Pawan Kumar Ojha, Pairavi Publication, 2053

Session 4

Legal Provision on Revenue Administration – 2

Objective of the Session:

At the end of this session, participants:

- Shall be acquainted about the role of the National Natural Resources Commission, Inter-governmental fiscal management and construction of the tax laws.

Subjects Included in the Unit:

- Provision of National Natural Resources and Fiscal Commission
- Inter-governmental fiscal management
- Construction of tax laws

Reference Materials:

- Constitution of Nepal

- Income Tax Act, 2058
- Inter-governmental Fiscal Management Act, 2074
- Tax Law Design and drafting, editor-Victor Thurohji, published by International Monetary Fund
- Tax Laws and Tax planning in Nepal - Dr. Pushpa Raj Kandel, Published/ Distributed by Buddha Academic Publishers and Distributors Pvt. Ltd., 2003
- Principles of Taxation Law, Pawan Kumar Ojha, Pairavi Publication, 2053

Session 5

Provision on Nepalese Tax Administration

Objective of the Session:

At the end of this session, participants:

- Shall be acquainted with concept of tax and revenue administration, and theoretical and legal aspects of tax.

Subjects Included in the Unit:

- Definition and objective of tax
- Types of tax

- Principles of taxation
- Theoretical aspects and Features of ideal tax
- Constitutional and legal provision of revenue administration
- Central, province and local level fiscal management

Reference Materials:

- Income Tax Act, 2058
- Income Tax Regulation, 2059
- Income Tax Directives, 2066
- Tax Law Design and drafting, editor- Victor Thurohji, published by International Monetary Fund
- Tax Laws and Tax planning in Nepal - Dr. Pushpa Raj Kandel, Published/

- Distributed by Buddha Academic Publishers and Distributors Pvt Ltd, 2003
- Corporate Taxation Issues in Nepalese Perspective- Dr. Puspa Kandel, Bhawana Prakasan, 2001
- Principles of Taxation Law, Pawan Kumar Ojha, Pairavi Publication, 2053

Session 6

Grounds for taxation and its calculation

Objective of the Session:

At the end of this session, participants:

- Shall be acquainted with concept and legal provisions on grounds for taxation, person liable to pay tax, taxable income.

Subjects Included in the Unit:

- Grounds for taxation and tax payable by person
- Heads of Tax
- Assessed Income
- Taxable income
- Amount to be included in the income (Heading basis)

Reference Materials:

- Income Tax Act, 2058

- Income Tax Regulation, 2059
- Income Tax Directives, 2066
- Tax Law Design and drafting, editor- Victor Thurohji, published by International Monetary Fund
- Tax Laws and Tax planning in Nepal - Dr. Pushpa Raj Kandel, Published/ Distributed by Buddha Academic Publishers and Distributors Pvt Ltd, 2003
- Corporate Taxation Issues in Nepalese Perspective- Dr. Puspa Kandel, Bhawana Prakasan, 2001
- Principles of Taxation Law, Pawan Kumar Ojha, Pairavi Publication, 2053

Session 7

Provisions relating to tax exemption

Objective of the Session:

At the end of this session, participants:

- Will be acquainted with basic of personal benefits and professional tax exemption.

Subjects Included in the Unit:

- Concept of the tax exemption
- Tax exemption in the income
- Tax exemption to institution (condition for tax exemption)
- Professional exemption and benefits

Reference Materials:

- Income Tax Act, 2058
- Income Tax Regulation, 2059
- Income Tax Directives, 2066

- Tax Law Design and drafting, editor- Victor Thurohji, published by International Monetary Fund
- Tax Laws and Tax planning in Nepal - Dr. Pushpa Raj Kandel, Published/ Distributed by Buddha Academic Publishers and Distributors Pvt. Ltd. 2003
- Corporate Taxation Issues in Nepalese Perspective- Dr. Puspa Kandel, Bhawana Prakasan, 2001
- Principles of Taxation Law, Pawan Kumar Ojha, Pairavi Publication, 2053

Session 8

Quantification, Allocation and Characterization of Amount

Objective of the Session:

At the end of this session, participants:

- Will be acquainted with the tax payment provision and evaluation of transferred property.

Subjects Included in the Unit:

- Market value determination of transferred property
- Conditions deemed for the payment
- Indirect payment
- Joint investment
- Division of Income from Price Transferring between concerned persons

Reference Materials:

- Income Tax Act, 2058

- Income Tax Regulation, 2059
- Income Tax Directives, 2066
- Tax Law Design and drafting, editor- Victor Thurohji, published by International Monetary Fund
- Tax Laws and Tax planning in Nepal - Dr. Pushpa Raj Kandel, Published/ Distributed by Buddha Academic Publishers and Distributors Pvt Ltd, 2003
- Corporate Taxation Issues in Nepalese Perspective- Dr. Puspa Kandel, Bhawana Prakasan, 2001
- Principles of Taxation Law, Pawan Kumar Ojha, Pairavi Publication, 2053

Session 9

International taxation system and adjustment foreign tax

Objective of the Session:

At the end of this session, participants:

- Will be acquainted with provision related to taxable and exemption of international tax

Subjects Included in the Unit:

- International Taxation
- Double tax avoidance agreement
- Double tax adjustment provision
- Double Tax Avoidance Agreements to which Nepal is party

Reference Materials:

- Income Tax Act, 2058
- Income Tax Regulation, 2059

- Income Tax Directives, 2066
- Tax Law Design and drafting, editor- Victor Thurohji, published by International Monetary Fund
- Tax Laws and Tax planning in Nepal - Dr. Pushpa Raj Kandel, Published/ Distributed by Buddha Academic Publishers and Distributors Pvt Ltd, 2003
- Corporate Taxation Issues in Nepalese Perspective- Dr. Puspa Kandel, Bhawana Prakasan, 2001
- Principles of Taxation Law, Pawan Kumar Ojha, Pairavi Publication, 2053

Session 10

Tax planning and fraud

Objective of the Session:

At the end of this session, participants:

- Will be acquainted with the concept of tax leakage and tax planning in accordance with legal provisions

Subjects Included in the Unit:

- Tax planning
- Feature of tax planning
- Tax evasion and fraud
- Tax avoidance

Reference Materials:

- Income Tax Act, 2058
- Income Tax Regulation, 2059
- Income Tax Directives, 2066
- Tax Law Design and drafting, editor- Victor Thrurohji, published by International Monetary Fund

- Tax Laws and Tax planning in Nepal - Dr. Pushpa Raj Kandel, Published/ Distributed by Buddha Academic Publishers and Distributors Pvt Ltd, 2003
- Corporate Taxation Issues in Nepalese Perspective- Dr. Puspa Kandel, Bhawana Prakasan, 2001
- Principles of Taxation Law, Pawan Kumar Ojha, Pairavi Publication, 2053

Session 11

Long-Term contract and income calculation

Objective of the Session:

At the end of this session, participants:

- Will be acquainted with tax calculation procedures for the contract concluded for more than a year.

Subjects Included in the Unit:

- Concept of contract
- Long-term contract
- Income calculation

Reference Materials:

- Income Tax Act, 2058
- Income Tax Regulation, 2059
- Income Tax Directives, 2066

- Tax Law Design and drafting, editor- Victor Thrurohji, published by International Monetary Fund
- Tax Laws and Tax planning in Nepal - Dr. Pushpa Raj Kandel, Published/ Distributed by Buddha Academic Publishers and Distributors Pvt Ltd, 2003
- Corporate Taxation Issues in Nepalese Perspective- Dr. Puspa Kandel, Bhawana Prakasan, 2001
- Principles of Taxation Law, Pawan Kumar Ojha, Pairavi Publication, 2053

Session 12

Tax accounting and tax auditing

Objective of the Session:

At the end of this session, participants:

- Will be acquainted with the ways to record the income and expenditure

Subjects Included in the Unit:

- Cash Account
- Accrual Account
- Mixed Accounting system
- Balance sheet and profit and loss account

Reference Materials:

- Income Tax Act, 2058

- Income Tax Regulation, 2059
- Income Tax Directives, 2066
- Tax Law Design and drafting, editor- Victor Thrurohji, published by International Monetary Fund
- Tax Laws and Tax planning in Nepal - Dr. Pushpa Raj Kandel, Published/ Distributed by Buddha Academic Publishers and Distributors Pvt Ltd, 2003

- Corporate Taxation Issues in Nepalese Perspective- Dr. Puspa Kandel, Bhawana Prakasan, 2001

- Principles of Taxation Law, Pawan Kumar Ojha, Pairavi Publication, 2053

Session 13

Special Provision relating to Natural Person and Entities

Objective of the Session:

At the end of this session, participants:

- Will be familiar with special provision relating to natural person, entities, banking and insurance enterprises and retirement saving fund.

Subjects Included in the Unit:

- Natural Person
- Entities
- Banking and Insurance Business
- Retirement Fund
- Retirement Benefits

Reference Materials:

- Income Tax Act, 2058

- Income Tax Regulation, 2059
- Income Tax Directives, 2066
- Tax Law Design and drafting, editor- Victor Thurohji , published by International Monetary Fund
- Tax Laws and Tax planning in Nepal - Dr. Pushpa Raj Kandel, Published/ Distributed by Buddha Academic Publishers and Distributors Pvt Ltd, 2003
- Corporate Taxation Issues in Nepalese Perspective- Dr. Puspa Kandel, Bhawana Prakasan, 2001
- Principles of Taxation Law, Pawan Kumar Ojha, Pairavi Publication, 2053

Session: 14

Assessment of Net Profit from Property and Liability

Objective of the Session:

At the end of this session, participants:

- Will be familiar with special provision relating to assessment of net profit from property and liability.

Subjects Included in the Unit:

- Profits, expenses and loss from the property and liability
- Disposal of property and liability
- Involuntary disposal of property or liability with substitution
- Disposal upon amalgamation of property

Reference Materials:

- Income Tax Act, 2058

- Income Tax Regulation, 2059
- Income Tax Directives, 2066
- Tax Law Design and drafting, editor- Victor Thurohji , published by International Monetary Fund
- Tax Laws and Tax planning in Nepal - Dr. Pushpa Raj Kandel, Published/ Distributed by Buddha Academic Publishers and Distributors Pvt Ltd, 2003
- Corporate Taxation Issues in Nepalese Perspective- Dr. Puspa Kandel, Bhawana Prakasan, 2001
- Principles of Taxation Law, Pawan Kumar Ojha, Pairavi Publication, 2053

Session 15

Tax assessment and collection

Objective of the Session:

At the end of this session, participants:

- Will be familiar about the process of tax return, tax assessment and recovery of the tax.

Subjects Included in the Unit:

- Income tax return
- Tax payment
- Tax assessment
- Advance tax and Installment
- Tax adjustment and refund
- Dues, Interest and Fine
- Arrear of tax and Recovery

Reference Materials:

- Income Tax Act, 2058
- Income Tax Regulation, 2059
- Income Tax Directives,2066

- Tax Law Design and drafting, editor-Victor Thurohji , published by International Monetary Fund
- Tax Laws and Tax planning in Nepal - Dr. Pushpa Raj Kandel, Published/ Distributed by Buddha Academic Publishers and Distributors Pvt Ltd, 2003
- Corporate Taxation Issues in Nepalese Perspective- Dr. Puspa Kandel, Bhawana Prakasan, 2001
- Principles of Taxation Law, Pawan Kumar Ojha, Pairavi Publication, 2053

Session 16

Capital Gain Tax

Objective of the Session:

At the end of this session, participants:

- Will be familiar with the national and international provisions relating to capital gain tax.

Subjects Included in the Unit:

- Concept and definition of capital gain tax
- National and international practices of capital gain tax
- Prevailing legal provision of capital gain tax

Reference Materials:

- Income Tax Act, 2058
- Income Tax Regulation, 2059

- Income Tax Directives,2066
- Tax Law Design and drafting, editor-Victor Thurohji , published by International Monetary Fund
- Tax Laws and Tax planning in Nepal - Dr. Pushpa Raj Kandel, Published/ Distributed by Buddha Academic Publishers and Distributors Pvt Ltd, 2003
- Corporate Taxation Issues in Nepalese Perspective- Dr. Puspa Kandel, Bhawana Prakasan, 2001
- Principles of Taxation Law, Pawan Kumar Ojha, Pairavi Publication, 2053

Session 17

Inter-relation between Income Tax Act and other Acts

Objective of the Session:

At the end of this session, participants:

- Will be familiar about process of coordination for tax exemption provisioned by the Income Tax Act and other Acts.

Subjects Included in the Unit:

- Income Tax Act
- Finance Act
- Periodic Tax Recovery Act

- Special Acts (Industrial Enterprise Act, Bonus Act, Labour Act, Electricity Act and other Acts)
- Interpretation rules of taxation laws

Reference Materials:

- Income Tax Act, 2058
- Income Tax Regulation, 2059
- Income Tax Directive, 2066
- Tax Law Design and drafting, editor-Victor Thurohji, published by International Monetary Fund

- Tax Laws and Tax planning in Nepal - Dr. Pushpa Raj Kandel, Published/ Distributed by Buddha Academic Publishers and Distributors Pvt Ltd, 2003
- Corporate Taxation Issues in Nepalese Perspective- Dr. Puspa Kandel, Bhawana Prakasan, 2001
- Principles of Taxation Law, Pawan Kumar Ojha, Pairavi Publication, 2053
- Income Tax law, Past and Present, Bishwodeep Adhikari

Session 18

Provision regarding the appeal over the assessment of income tax and related principles propounded by the Supreme Court

Objecti

ve of the Session:

At the end of this session, participants:

- Will be familiar about the provision related to the appeal on the amended tax assessment, and analysis and interpretation of the Supreme Court in regard to income tax.

Subjects Included in the Unit:

- Administrative review over income tax assessment.
- Appeal over administrative review.
- Provision relating to bailment in regard to review and appeal.
- Condition where application is entertained by Supreme Court

- Provision regarding the defense towards application and appeal
- The principles propounded by Supreme Court, at least five cases, relating to income tax.

Reference Materials:

- Income Tax Act, 2058
- Income Tax Regulation, 2059
- At least five precedent/ principles propounded by Supreme Court relating to income tax.
- Revenue
- Tribunal Decision Collection, Volume 3, page 1-409
- hikari

Session 19

Concept and Principle of Value Added Tax, and Provision related to Transaction and Rate

Objective of the Session:

At the end of this session, participants:

- Will be familiar about the concept of VAT, cancellation of registration, tax levying and exemption conditions, and transaction and rate system

Subjects Included in the Unit:

- Concept and definition
- Registration and Cancellation
- Conditions of tax levying and exemption in VAT
- Transaction venue and import

- Double taxation system

Reference Materials:

- Income Tax Act, 2058
- Income Tax Regulation, 2059
- Income Tax Directive, 2066
- In Introduction to Value Added Tax- Shambhu Man Shrestha Published By Himalay Book Stall,2062
- Corporate Taxation Issues in Nepalese Perspective- Dr. Puspa Kandel, Bhawana Prakasan, 2001

- Tolley's Value Added Tax 1995-96, by Robert Warren and Nicholas Bowen Barrister, Tolley Publishing Company Limited
- Principles of Taxation Law, Pawan Kumar Ojha, Pairavi Publication, 2053
- Performance of Value Added Tax in Nepal, Subedi, Shantaraj, Published by Jamuna Subba

Session 20

VAT details, payment and tax deduction

Objective of the Session:

At the end of this session, participants:

- Will be familiar about the provision relating to tax details and payment, and tax exemption.

Subjects Included in the Unit:

- Tax Details
- Tax payment
- Tax Exemption and Tax Adjustment
- Partial Tax Exemption
- Proportional Tax Exemption
- Condition where tax can't be exempted

Reference Materials:

- Value Added Tax Act, 2052
- Value added Tax Regulation, 2053
- Value Added Tax Directives, 2069

- In Introduction to Value Added Tax- Shambhu Man Shrestha Published By Himalaya Book Stall, 2062
- Corporate Taxation Issues in Nepalese Perspective- Dr. Puspa Kandel, Bhawana Prakasan, 2001
- Tolley's Value Added Tax 1995-96, by Robert Warren and Nicholas Bowen Barrister, Tolley Publishing Company Limited
- Principles of Taxation Law, Pawan Kumar Ojha, Pairavi Publication, 2053
- Performance of Value Added Tax in Nepal, Subedi, Shantaraj, Published by Jamuna Subba

Session 21

Refund of Value Added Tax

Objective of the Session:

At the end of this session, participants:

- Will be familiar about provisions regarding the refund of Value Added Tax and international practices.

Subjects Included in the Unit:

- Concept
- Regular and Special Tax refund
- Tax refund in regard to diplomatic benefits
- Tax refund on the project operated by foreign assistance
- International practices

Reference Materials:

- Value Added Tax Act, 2052
- Value added Tax Regulation, 2053

- Value Added Tax Directives, 2069
- In Introduction to Value Added Tax- Shambhu Man Shrestha Published By Himalay Book Stall, 2062
- Corporate Taxation Issues in Nepalese Perspective- Dr. Puspa Kandel, Bhawana Prakasan, 2001
- Tolley's Value Added Tax 1995-96, by Robert Warren and Nicholas Bowen Barrister, Tolley Publishing Company Limited
- Principles of Taxation Law, Pawan Kumar Ojha, Pairavi Publication, 2053
- Performance of Value Added Tax in Nepal, Subedi, Shantaraj, Published by Jamuna Subba

Session 22

Audit and Assessment of Value Added Tax

Objective of the Session:

At the end of this session, participants:

- Will be familiar about the subjects relating to tax assessment, payment, selection of taxpayer, audit and punishment.

Subjects Included in the Unit:

1. Self-tax assessment and payment
2. Selection of taxpayer
3. Tax audit (Full Audit, Rapid Audit, General Audit, and Refund Audit)
4. Amount, Interest and Fine

Reference Materials:

1. Value Added Tax Act, 2052
2. Value added Tax Regulation, 2053

3. Value Added Tax Directives, 2069
4. In Introduction to Value Added Tax- Shambhu Man Shrestha Published By Himalay Book Stall, 2062
5. Corporate Taxation Issues in Nepalese Perspective- Dr. Puspa Kandel, Bhawana Prakasan, 2001
6. Tolley's Value Added Tax 1995-96, by Robert Warren and Nicholas Bowen Barrister, Tolley Publishing Company Limited
7. Principles of Taxation Law, Pawan Kumar Ojha, Pairavi Publication, 2053

Session 23

Bill and Receipt, Debit/Credit Note, Purchase Book, Sales Book, Stock Book and Tax Recovery

Objective of the Session:

At the end of this session, participants:

- Will be able to know about the provisions relating to bill and receipts, debit/credit notes, books and tax recovery.

Subjects Included in the Unit:

1. Bills and Receipts
2. Summery tax
3. Debit/Credit Note
4. Purchase, sales and Stock Book
5. Tax Recovery
6. Auction Sales and Case Filing
7. Provision of tax recovery from non-resident person through agent

Reference Materials:

- Value Added Tax Act, 2052
- Value added Tax Regulation, 2053

- Value Added Tax Directives, 2069
- In Introduction to Value Added Tax- Shambhu Man Shrestha Published By Himalay Book Stall,2062
- Corporate Taxation Issues in Nepalese Perspective- Dr. Puspa Kandel, Bhawana Prakasan, 2001
- Tolley's Value Added Tax 1995-96, by Robert Warren and Nicholas Bowen Barrister, Tolley Publishing Company Limited
- Principles of Taxation Law, Pawan Kumar Ojha, Pairavi Publication, 2053
- Performance of Value Added Tax in Nepal, Subedi, Shantaraj, Published by Jamuna Subba

Session 24

Provision relating to appeal over Value Added Tax assessment and Principles propounded by Supreme Court

Objective of the Session:

At the end of this session, participants:

- Will be acquainted with the provisions relating to appeal over Value Added Tax assessment and principles propounded by Supreme Court in relation to Value Added Tax.

Subjects Included in the Unit:

1. Administrative review over Value Added Tax assessment
2. Appeal over administrative review
3. Provisions relating to bailment on review and appeal
4. Condition where application is entertained by Supreme Court

5. Provision regarding the defense on application and appeal
6. The principles propounded by Supreme Court, at least five cases, relating to Value Added Tax.

Reference Materials:

- Constitution of Nepal
- Value Added Tax Act, 2052
- Value added Tax Regulation, 2053
- Value Added Tax Directives, 2069
- At least five principles propounded in cases by Supreme Court
- Performance of Value Added Tax in Nepal, Subedi, Shantaraj, Published by Jamuna Subba

Session 25

Custom Amount Assessment and Recovery

Objective of the Session:

At the end of this session, participants:

- Will be acquainted with the provisions relating to custom amount assessment, recovery and interrelation with World Customs Organization.

Subjects Included in the Unit:

1. Concept and Definition
2. Custom Area Determination
3. Custom amount assessment and recovery
4. Provision relating to customs exemption
5. Demurrage Charge
6. World Customs Organization

Reference Materials:

- Customs Act, 2064
- Tax Law Design and drafting, editor-Victor Thurohji, published by International Monetary Fund
- Tax Laws and Tax planning in Nepal - Dr. Pushpa Raj Kandel, Published/ Distributed by Buddha Academic Publishers and Distributors Pvt Ltd, 2003
- Corporate Taxation Issues in Nepalese Perspective- Dr. Puspa Kandel, Bhawana Prakasan, 2001
- Principles of Taxation Law, Pawan Kumar Ojha, Pairavi Publication, 2053

Session 26

Object Classification System (Harmonized System)

Objective of the Session:

At the end of this session, participants:

- Will be acquainted with the provisions relating to title of object, sub-title and

maintaining code number under the harmonized system.

Subjects Included in the Unit:

- Concept

- Title, Sub-title
- Object classification system
- Rule of Interpretation and grounds for amendment

Reference Materials:

- Custom Act, 2064
- Tax Law Design and drafting, editor-Victor Thurohji , published by International Monetary Fund

- Tax Laws and Tax planning in Nepal - Dr. Pushpa Raj Kandel, Published/ Distributed by Buddha Academic Publishers and Distributors Pvt Ltd, 2003
- Corporate Taxation Issues in Nepalese Perspective- Dr. Puspa Kandel, Bhawana Prakasan, 2001
- Principles of Taxation Law, Pawan Kumar Ojha, Pairavi Publication, 2053

Session 27

Customs Clearance Process and ASYCUDA

Objective of the Session:

At the end of this session, participants:

- Will be acquainted with the provisions relating to customs clearance procedure and ASYCUDA.

Subjects Included in the Unit:

- Rule of Origin and World Customs Organization
- National Treatment
- ASYCUDA WORLD
- Electronic payment
- Bar code
- Single Entry system

Reference Materials:

- Customs Act, 2064
- Tax Law Design and drafting, editor-Victor Thurohji , published by International Monetary Fund
- Tax Laws and Tax planning in Nepal - Dr. Pushpa Raj Kandel, Published/ Distributed by Buddha Academic Publishers and Distributors Pvt. Ltd, 2003
- Corporate Taxation Issues in Nepalese Perspective- Dr. Puspa Kandel, Bhawana Prakasan, 2001
- Principles of Taxation Law, Pawan Kumar Ojha, Pairavi Publication, 2053

Session 28

Declaration of Goods and Customs Clearance

Objective of the Session:

At the end of this session, participants:

- Will be acquainted with the procedures relating to declaration of goods in customs, and clearance and examining procedures.

Subjects Included in the Unit:

- Concept and Development
- Declaration of Goods
- Procedure (Green, Yellow and Red Channel)
- Customs fraud, smuggling
- Electronic Clearing System
- Post Clearance Audit
- Role of Customs Agent

Reference Materials:

- Customs Act, 2064
- Tax Law Design and drafting, editor-Victor Thurohji , published by International Monetary Fund
- Tax Laws and Tax planning in Nepal - Dr. Pushpa Raj Kandel, Published/ Distributed by Buddha Academic Publishers and Distributors Pvt Ltd, 2003
- Corporate Taxation Issues in Nepalese Perspective- Dr. Puspa Kandel, Bhawana Prakasan, 2001
- Principles of Taxation Law, Pawan Kumar Ojha, Pairavi Publication, 2053

Session 29

Customs Tariff Determination, Provision of appeal over decision of customs and Principles propounded by the Supreme Court

Objective of the Session:

At the end of this session, participants:

- Will be acquainted with the provision relating to Customs Tariff Determination, Provision of appeal over decision of customs' office and Principles propounded by the Supreme Court.

Subjects Included in the Unit:

- Provision of application over customs tariff determination
- Appeal over decision of Custom Evaluation Committee
- Appeal over decision relating to other customs
- Provision relating to bailment in regard to review and appeal

- Condition where application is entertained by Supreme Court
- Provision regarding the defense on application and appeal
- The principles propounded by Supreme Court, at least five cases, relating to determination of custom tariff and customs.

Reference Materials:

- Customs Act, 2064
- At least five cases where Supreme Court propounded principles related to determination of custom value and decision regarding customs

Session: 30

Excise Duty, License, Physical Control and Self Disposal System

Objective of the Session:

At the end of this session, participants:

- Will be acquainted with the provision relating to concept of excise duty, licensing, inspection and regulation.

Subjects Included in the Unit:

- Concept and definition
- Taxable goods and services under excise duty
- License, renewal of license and registration
- Goods and Services requiring license/permission
- Physical Control System
- Self-Disposal System
- Monitoring and Control

Reference Materials:

- Excise Duty Act, 2058
- Excise Duty Regulation, 2059
- Excise Duty Directives, 2073
- Tax Law Design and drafting, editor-Victor Thurohji, published by International Monetary Fund
- Tax Laws and Tax planning in Nepal - Dr. Pushpa Raj Kandel, Published/ Distributed by Buddha Academic Publishers and Distributors Pvt Ltd, 2003
- Corporate Taxation Issues in Nepalese Perspective- Dr. Puspa Kandel, Bhawana Prakasan, 2001
- Principles of Taxation Law, Pawan Kumar Ojha, Pairavi Publication, 2053

Session 31

Excise Duty Determination and Remission of Shortfall and Loss

Objective of the Session:

At the end of this session, participants:

- Will be acquainted with payment of determined excise duty and remission for shortfall and loss.

Subjects Included in the Unit:

- Excise Duty details and payment
- Excise Duty determination and Recovery
- Excise Duty sticker
- Shortfall and its impacts on Income Tax and VAT
- Remission of Loss

Reference Materials:

- Excise Duty Act, 2058

- Excise Duty, Regulation, 2059
- Excise Duty Directives, 2073
- Tax Law Design and drafting, editor- Victor Thurohji , published by International Monetary Fund
- Tax Laws and Tax planning in Nepal - Dr. Pushpa Raj Kandel, Published/ Distributed by Buddha Academic Publishers and Distributors Pvt Ltd, 2003
- Corporate Taxation Issues in Nepalese Perspective- Dr. Puspa Kandel, Bhawana Prakasan, 2001
- Principles of Taxation Law, Pawan Kumar Ojha, Pairavi Publication, 2053

Session 32

Principles Propounded by Supreme Court in relation to Excise Duty

Objective of the Session:

At the end of this session, participants:

- Will be acquainted with the provisions related to the appeal over the determination of excise duty, and analysis and interpretation of the Supreme Court in regard to excise duty.

Subjects Included in the Unit:

- Administrative review over Excise Duty Determination
- Appeal over administrative review
- Provision relating to Bailment during appeal and review
- Condition where application is entertained by Supreme Court

- Provision regarding the defense of application and appeal
- The principles propounded by Supreme Court, at least five cases, related to Excise Duty.

Reference Materials:

- Constitution of Nepal
- Excise Duty Act, 2058
- Excise Duty, Regulation, 2059
- Excise Duty Directives, 2073
- At least five cases in which Supreme Court propounded principles related to Excise Duty.

Session 33

Revenue Leakage Control and Provision of Foreign Exchange Control

Objective of the Session:

At the end of this session, participants:

- Will be acquainted with the provision related to revenue leakage control and foreign exchange control.

Subjects Included in the Unit:

- Revenue leakage offence

- Provision related to investigation, prosecution, and defense of revenue leakage
- Foreign exchange offence
- Provision related to investigation, prosecution and defense of foreign exchange offence

Reference Materials:

- Revenue Leakage (Investigation and Control) Act, 2052
- Tax Law Design and drafting, editor-Victor Thurohji, published by International Monetary Fund
- Tax Laws and Tax planning in Nepal - Dr. Pushpa Raj Kandel, Published/ Distributed by Buddha Academic Publishers and Distributors Pvt Ltd, 2003
- Corporate Taxation Issues in Nepalese Perspective- Dr. Puspa Kandel, Bhawana Prakasan, 2001
- Principles of Taxation Law, Pawan Kumar Ojha, Pairavi Publication, 2053

3. Laws relating to Banking and Commercial Offence

3. Laws relating to Banking and Commercial Offence

Curriculum Goal:

- To prepare specialized government attorneys in the field of banking offences.
- Government attorneys who have obtained training on the basis of this course will have following theoretical and practical knowledge.

Curriculum Objective of the session:

At the end of the course, participants will have knowledge on following things:

1. Basic principles, risk, establishment, operation, management and regulation of banking and financial institutions.
2. Banking offences, nature and jurisdiction.
3. Civil and criminal liability in banking and financial institutions as well as departmental liability, departmental action and disciplinary action.
4. Debt, debt limitation, debt policy, management of debt risk, collateral valuation, withhold of collateral, debt recovery process, guarantee and counter guarantee and letter of credit.
5. Banking offences and debt recovery, auction, banking offences and corruption, peculation, money laundering; extradition and Mutual Legal Assistance Act.
6. Legal arrangements on dishonor of Cheque and banking offences, competition, promotions and market protection and liquidation. The participants will further learn about international legal provisions on competition and liquidation and foreign exchange.
7. Banking offences and court practices.
8. Will be able to apply the Principles, court practices and jurisprudence of Banking Offences and Commercial law during effective litigation and defense relating to the cases of banking offence in Supreme Court beyond the Nepal Government.

Subjects incorporated in the Curriculum

The session shall be conducted being centered on 40% theoretical and 60% professional and practical matters in these subjects included under the course started for specialization of government attorney based on their professional development. There are 3 session and each session consists of 1 hour and 30 minutes. The sessions will continue for 15 days.

Subjects included in this syllabus

1. Introduction of Bank and Financial Institution & Banking System.
2. Bank and Financial Institution & its management
3. Introduction of Banking Offence
4. Scope and jurisdiction of Banking Offence
5. Banking System and Criminal liability
6. Investigation of the cases relating to Banking Offence
7. Prosecution of the cases relating to Banking Offence
8. Amount and fine in Banking Offence and recovery
9. Theoretical Study of Credit Lending
10. Offence relating to Credit Lending and debt recovery

11. Collateral valuation and its management
12. Offence relating to Banking Service
13. Offence relating to Banking Service
14. Inter-Bank relationship and Banking Offence
15. Other Offences relating to Banking -1
16. Other Offences relating to Banking -2
17. Other Offences relating to Banking -3
18. Other Offences relating to Banking -4
19. Banking Offence and crime relating to Co-operative
20. Institutional Criminal Liability
21. Practice of Corporate Bench in Banking Offence -1
22. Practice of Corporate Bench in Banking Offence -2
23. Provision of Guarantee -1
24. Provision of Guarantee -2
25. Letter of Credit
26. Provision of Security
27. Negotiable Instrument
28. Study of legal arrangement relating to Competition, Promotion and Market Protection
29. Study of provisions relating to the liquidation
30. Study of provisions relating to the contract-1
31. Study of provisions relating to the contract-2
32. Mediation in dispute resolution

Session 1

Introduction of Banking and Financial institution and System

Objective of the Session:

At the end of the course, participants will be;

- Introduced about Banking and Financial Institutions,
- Familiar about Basic norms and practices of Banking Systems.

Subjects included in this Unit

- Meaning and definition of Bank,
- Development of Banking System,
- Basic norms and practice of Banking System,
- Types of Banks,
- Introduction of Bank and Financial Systems,
- Right, duties and functions of Bank and Financial Institutions,

- Legal and prohibited activities of Bank and Financial Institutions,
- Relationship between Nepal Rastra Bank and Banking and Financial Institutions,
- Challenges of Banking and Financial Institutions,
- Court Practices.

Reference Materials:

- Tannan, M.L. 27th edition, Banking Law and Practice in India.
- M.L., Tannan, 27th edition, Banking law and Practice in India
- Nepal Rastra Bank Act, 2058
- Banking and Financial Institutions Act, 2073
- Nepal Rastra Bank Directives
- Gupta, S.N., The Banking Law in Theory and Practice

- E.P. Ellinger,, Ellinger's Modern Banking law 4th Edition.
- Cranston Ross, Principles of Banking law.
- Hriday Bir Singh, Banking & Insurance 1st Edition
- Choudhary R.N. Banking laws.

Session 2

Banking and Financial institution and its managerial aspects

Objective of the Session:

At the end of the course, participants will be;

- Acquainted with merger of banks, dissolution and termination, shareholders, Board, employee and policy level, depositors, debtors and valuator; and service providers in Banking Systems.

Subjects included in this Unit

- Creditors
- Shareholders
- Board Members (Existing and Invited)
- Managerial level (Executive and working level employees)
- Depositors
- Debtors
- Stakeholders
- Responsibilities of authorities involved in Banking and Financial Institutions

- Theoretical study of Merge and to be merged
- Dissolution and termination of Banking and Financial Institutions,
- Court Practices.

Reference Materials:

- Mark Hop good QC, Paget's Law of Banking 13th edition,
- Modern Banking System of Nepal, Yogendra Regmi
- Companies Act ,2058
- Nepal Rastra Bank Act, 2058
- Directives of Nepal Rastra Bank,
- Banking and Financial Institutions Act, 2073
- Banking Offense and Punishment Act,2064.

Session 3

Introduction of Banking Offense

Objective of the Session:

At the end of the course, participants will be;

- Introduced about Banking Offence and its nature
- Aware about the impact of such offences in Banking and Financial Institutions

Subjects included in this Unit

- Definition and meaning of Banking Offense
- Presence of Actus reus and Mens rea in Banking Offence and its role.
- Nature of Banking Offence
- Types of Banking Offence

- Impact of Banking offences in Banking and Financial Institutions
- Important provisions of Banking Offence and Punishment Act, 2064
- Court Practices.

Reference Materials:

- National Criminal Code, 2074
- National Civil Code, 2074
- Banking Offense and Punishment Act, 2064
- Hope Good QC, Mark, Paget's Law of Banking, Londn, Edinburgh and Dublin: Butterworths, 1996

- Nepal Rastra Bank, Bank Supervision Department Baluwatar V. Rubi Joshi et.al, Case: Banking Offence, N.K.P 2073, Volume 5, D.N.9608

- Nepal Rastra Bank, Bank Supervision Department Baluwatar V. Indraraj Humagain et.al Joshi, Case: Banking Offence, N.K.P 2073, Volume 7, D.N.9645

Session 4

Areas and Limitation of Banking Offense

Objective of the Session:

At the end of the course, participants will;

- Get the knowledge about investigation, prosecution and jurisdiction of case procedures of Banking Offense, and jurisdiction of various judicial institutions dealing with Banking Offences.

Subjects included in this Unit

- Scope of Banking Offense
- Jurisdiction of Banking Offence
- Banking Offence and Jurisdiction of Nepal Rastra Bank
- Banking Offence and Jurisdiction of Debt Recovery Tribunal
- Banking Offence and Jurisdiction of High Court (Commercial Bench)

- Court Practices.

Reference Materials:

- Judicial Administration Act, 2073
- High Court Regulation, 2073
- Nepal Rastra Bank Act, 2058
- Banking Offence and Punishment Act, 2064
- Banking and Financial Institutions Act, 2073
- N.K.P 2067, Volume 1, D.N.8302, Nepal Government V. Dipak Basyal et.al ,Case: Fraud
- N.K.P 2067, Volume 2, D.N.8321, Nepal Government V. Madan Sharma, Case: Fraud

Session 5

Banking System and Criminal Liability

Objective of the Session:

At the end of the course, participants will;

- Aware about liabilities and criminal liabilities in Banking and Financial Institutions and departmental action and disciplinary action of it.

Subjects included in this Unit

- Meaning and concept of Liability
- Issues of Criminal Liabilities
- Issues of Civil Liabilities
- Responsibilities of Banking and Financial Institutions for Civil and Criminal Liabilities
- Departmental and Disciplinary action
- Principle Double jeopardy relating to Departmental action upon and criminal liability
- Corporate Good Governance

- Court Practices.

Reference Materials:

- Mark Hop good QC, Paget's Law of Banking 13th edition,
- Act Relating to Institutions Acting as Financial Intermediary, 2055 (1999)
- Foreign Exchange Act,2019
- Nepal Rastra Bank Act, 2058
- Directives of Nepal Rastra Bank
- Prevention of Corruption Act, 2059
- Banking and Financial Institutions Act, 2073
- The Electronic Transaction Act, 2063
- Assest (Money) Laundering Prevention Act, 2064
- Prevention of Organized Crime Act,2070
- National Criminal Code, 2074

- N.K.P 2069, Volume 4, D.N.8814, Kashiram Gurung V. Prime Minister and Council of Ministers ,Case: Fraud

- N.K.P 2067, Volume 7, D.N.8409, Nepal Government V. Gyanendra Bista, Case: Fraud

Session 6

Investigation of cases relating to Banking offences

Objective of the Session:

At the end of the course, participants will be;

- Aware about First Information Report (FIR), investigation, limitation, special procedure to be undertaken during investigation, challenges found in investigation of Banking Offence; legal, policy level, institutional and managerial measures to minimize those challenges.

Subjects included in this Unit

- Provision of FIR in Banking Offences
- investigation can be done with detention
- Provision of Special Investigation Team
- Asking for information
- Assist in Investigation
- Investigation and Privacy maintenance
- Summon notice submission
- Withhold of property and bank account of nationals and non-nationals
- Investigation Officer and his responsibility

- The developed procedures to be applied in investigation of Banking Offence cases.
- Challenges in investigation of Banking Offence cases
- Policy-level, legal, institutional and managerial measures to solve the challenges in investigation procedure
- Court Practices.

Reference Materials:

- Banking Offense and Punishment Act , 2064
- Nepal Rastra Bank Act, 2058
- Banking and Financial Institutions Act, 2073
- Program on Recovery of Debts of BFI Act, 2058 and Regulation, 2051
- National Civil Code,2074, provisions relating to Contract
- Evidence Act, 2031
- Power delegated by Attorney General
- National Criminal Code, 2074
- Crime Investigation Regulation, 2075

Session 7

Prosecution of cases relating to Banking Offenses

Objective of the Session:

At the end of the course, participants will be;

- Aware about provisions related to prosecution in case of banking offence, legal and practical aspects to be applied while prosecution; problems, and challenges regarding prosecution of Banking Offence and its solution.

Subjects included in this Unit

- Provision for establishment of events and limitation in cases of Banking Offense,

- Provision regarding prosecution of cases of Banking Offense,
- Degree of offence of each individual involved,
- Provision relating to Claim and its usage,
- Legal and practical aspects to be concerned during prosecution of Banking Offences,
- Provisions regarding witness evidence and its presentation,
- Provisions regarding crime ratio and punishment of Banking Offences,

- Condition of institutional support and co-ordination during prosecution and expectation,
- Problems and Challenges of prosecution and its solutions,
- Court Practices.

Reference Materials:

- Banking Offense and Punishment Act , 2064
- Nepal Rastra Bank Act, 2058

- Banking and Financial Institutions Act, 2073
- Program on Recovery of Debts of BFI Act, 2058 and Regulation, 2051
- National Civil Code,2074, provisions relating to Contract
- Evidence Act, 2031
- Power delegated by Attorney General
- National Criminal Code, 2074
- Crime Investigation Regulation, 2075.

Session 8

Provision of amount value and fine relating to Banking Offenses and recovery

Objective of the Session:

At the end of the course, participants will be;

- Aware about provisions related to amount value determination, amount recovery and fine; and informed about procedure of criminal litigation.

Subjects included in this Unit:

- Determination of amount value in Banking Offences
- Withhold the Property
- Provisions regarding fine recovery
- Amount Value confiscation
- Amount Value recovery
- Banking Offence and auction (Banking and Non- Banking Property)

- Banking Offence and Debt Recovery
- Court Practices.

Reference Materials:

- Banking Offense and Punishment Act , 2064
- National Civil Code,2074, provisions relating to Contract
- Nepal Government V. Indra Bahadur Nepali, Case: Banking Offence, N.K.P 2069, Volume 5, D.N.8826
- Dayaprasad Ghimire V. Nepal Government, Case: Fraud, N.K.P 2072, Volume 1, D.N.9329.

Session 9

Theoretical study of Credit Lending

Objective of the Session:

At the end of the Session, participants will be;

- Acquainted with existing laws, credit policy, areas of credit demand, possibility and limitation of Credit.

Subjects included in this Unit:

- Meaning and definition of Credit
- Types of Credit and principles of Credit Lending
- Existing laws and policies regarding Credit

- Demand areas, probability and limitation of Credit
- Regulations, directives and standards of Credit of Banking and Financial Institutions.
- Court Practices.

Reference Materials:

- M.L., Tannan, 27th edition, Banking law and Practice in India,

- Mark Hop good QC, Paget's Law of Banking 13th edition,
- Cranston Ross, Principles of Banking law
- Banking Offense and Punishment Act , 2064
- National Civil Code,2074
- Nepal Rastra Bank Act, 2058
- Banking and Financial Institutions Act, 2073
- Recovery of Debts of BFI Act, 2058 and Regulation, 2051
- National Civil Code,2074, provisions relating to Contract,
- N.K.P 2068, Volume 9, D.N.8688, Case: Corruption, Nepal Government V. Pradip K.C,
- N.K.P 2063, Volume 5, D.N.7707, Case: Corruption, HMG V. Dayanidhi Pankaj.

Session 10

Offence relating to credit lending and Recovery

Objective of the Session:

At the end of the course, participants will;

- Have knowledge about the offences relating to a person who avail or provide loan, credit providing Bank or Financial Institution, collateral against the debt, withhold and sanction of the collateral, arrangement of debt recovery, risk evaluation of Credit, collateral evaluator.

Subjects included in this Unit:

- Unauthorized loan avail and provide.
- Misuse of loan
- Acquire of assets and amount by borrower.
- Make activities with fraud or mislead to the bank or financial institution or cooperatives or any unions.
- Derive excess, low or false valuation and prepare financial description
- Collateral against loan, documents of collateral, withhold the collateral and sanction
- Other offences relevant to debt recovery.
- Court Practices.

Reference Materials:

- M.L., Tannan, 27th edition, Banking law and Practice in India,

- Mark Hop good QC, Paget's Law of Banking 13th edition,
- Cranston Ross, Principles of Banking law
- E. P. Ellinger, Ellinger's modern Banking law
- Modern Banking System of Nepal, Yogendra Regmi
- Banking Offense and Punishment Act , 2064
- Security Transaction Act, 2063
- Nepal Rasta Bank Act, 2058
- Banking and Financial Institutions Act, 2073
- Bank and Financial Institutions Debt Recovery Act, 2058 and Regulation, 2059
- National Civil Code, 2074 (provisions relating to Contract)
- N.K.P 2063, Volume 6, D.N.7719, Case: Corruption, Nepal Government V. Mohan Krishna Gurung et.al.
- N.K.P 2060, Volume 11, D.N.7295, Case: Certiori, Krishna Gopal Tandan et.sl V. Nepal Rastra Bank et.al.
- N.K.P 2074, Volume 4, D.N.9718, Case: Corruption, HMG V. Laxmi Prasad Acharya et.al.

Session 11

Collateral Valuation and its Management

Objective of the Session:

At the end of the course, participants will;

- Have information about Collateral, its valuation, quality of assets and valuator of Security/collateral.

Subjects included in this Unit:

- Meaning, definition and quality related issues of Security
- Valuation of Securities and its procedure, standards and grounds
- Field visit of Security and reporting
- Roles of the office, evaluator and the officials in security valuation
- Meaning and calculation techniques of Distress Value and Fair Market Value of Security
- Selection of valuator and duties and regulation abide by him/her
- Study of Offences related to security valuation
- Court Practices.

- Mark Hop good QC, Paget's Law of Banking 13th edition,
- Banking Offense and Punishment Act , 2064
- Nepal Rasta Bank Act, 2058
- Directives issued by the Nepal Rastra Bank
- Banking and Financial Institutions Act, 2073
- Bank and Financial Institutions Debt Recovery Act, 2058 and Regulation, 2059
- National Civil Code, 2074 (provisions relating to Contract)
- Directives and Standard adopted by various Banks for guarantee valuation
- Cranston Ross, Principles of Banking Law

Reference Materials:

Session 12

Offence relating to Banking Service - 1

Objective of the Session:

At the end of the course, participants will be;

- Informed about offences related to the banking services such as; operation of account, collect and accept the deposit, avail and provide deposit disburse, interest rate in deposit and credit, cheque, voucher, banking liquidity etc.

Subjects included in this Unit:

- Open an account and demand cash payment in an unauthorized manner
- Unauthorized withdrawal or payments
- Not to misuse of resources, means and assets of bank
- To make loss by making alteration in the account or ledger or by committing forgery or fraud.
- To carry out and cause to carry out irregular economic or financial transaction
- Carry out the transaction of Dhukuti
- Illegal banking transaction

- To create artificial lacking of banking liquidity
- Other offences relating to the baking services
- Court practices

Reference Materials:

- M.L., Tanna, 27th edition, Banking law and Practice in India,
- Mark Hop good QC, Paget's Law of Banking 13th edition,
- Banking Offense and Punishment Act , 2064
- Security Transaction Act, 2063
- Nepal Rasta Bank Act, 2058
- Banking and Financial Institutions Act, 2073
- Bank and Financial Institutions Debt Recovery Act, 2058 and Regulation, 2059
- Directives issued by the Nepal Rastra Bank

Session 13

Offence relating to Banking Offence -2

Objective of the Session:

At the end of the course, participants will;

- Have information about the electronic transaction and offences take place through Electronic means (automated teller machine (ATM Machine), E-Banking, Wire transfer, Card).

Subjects included in this Unit:

- Obtain or make payment by way of abuse or unauthorized use of electronic means.
- Services provided through electronic means (ATM Machine, POS Machine, E-

Banking, Wire Transfer, Debit and Credit cards and services of similar nature)

- Mobile Banking and Offence
- Court Practices.

Reference Materials:

- Banking Offense and Punishment Act , 2064
- Electronic Transaction Act, 2063
- National Criminal Code, 2074
- Nepal Rasta Bank Act, 2058
- Banking and Financial Institutions Act, 2073
- Directives issued by Nepal Rastra Bank

Session 14

Inter- Banking relation and Banking Offence

Objective of the Session:

At the end of the course, participants will;

- Have information about Any Branch Banking System, Clearance, Good For Payment and theoretical and legal arrangement of consortium relation

Subjects included in this Unit:

- Any Branch Banking System,
- Clearance,
- Good For Payment
- Inter-Banking lending
- Inter-Banking deposit and payment

- Other Inter-Banking relations
- Court Practices.

Reference Materials:

- Mark Hopgood QC, Paget's Law of Banking 13th edition,
- Banking Offense and Punishment Act , 2064
- National Criminal Code, 2074
- Nepal Rasta Bank Act, 2058
- Banking and Financial Institutions Act, 2073
- Directives issued by Nepal Rastra Bank

Session 15

Other offences relating to Banking - 1

Objective of the Session:

At the end of the course, participants will be;

- Acquainted with Banking Offence; and provision of offence and punishment determined by various Special acts.

Subjects included in this Unit:

- Offence against the Act to Provide for Enhancement of the Circulation of Nepalese Currency, 2014(1957)
- Offence against the Nepal Rastra Bank Act, 2058

- Offence against the Bank and Financial Institution Act, 2073
- Offence against the Secured Transaction Act, 2063
- Court practices related with Banking Offence and above mentioned issues

Reference Materials:

- National Criminal Code, 2074
- National Civil Code, 2074
- Banking Offense and Punishment Act , 2064

- Act to Provide for Enhancement of the Circulation of Nepalese Currency, 2014(1957)
- Security Transaction Act, 2063
- Banking and Financial Institutions Act, 2073
- Negotiable Instrument Act. 2034
- Companies Act, 2063 (including 1st amendment)
- N.K.P 2062, Volume 5, D.N.7534, Case: Corruption, Nepal Government V. Bimal Kumar Thapa et.al.
- N.K.P 2043, Volume 11, D.N.2900, Case: Fraud, Sarwagya Muni Bajracharya V. Krisna Prasad Shrestha et.al.
- N.K.P 2070, Volume 1, D.N.8950, Case: Cheque Bounce, Maheswor Lal Shrestha V. Bishnu Maharjan et.al.
- N.K.P 2069, Volume 12, D.N. 8927, Case: Cheque Bounce, Karna Bahadur Chand V. Karam Singh Bhandari.
- N.K.P 2070, Volume 1, D.N. 8948, Case: Bank Fraud, Nepal Government V. Madhusudan Puri et.al.
- N.K.P 2064, Volume 8, D.N. 7872, Case: Certiorari, Piyus Bahadur Amatya V. Nepal Government.

Session 16

Other offence relating to Banking - 2

Objective of the Session:

At the end of the course, participants will be;

- Informed about Banking Offence; and provision of offence and punishment determined by various Special acts.

Subjects included in this Unit:

- Offence against the Foreign Exchange (Regulation) Act, 2019 (1962)
- Offence against the Employees Provident Fund Act, 2019(1962)
- Offence against the National Insurance Corporation Act, 2025(1968)
- Offence against the Citizens Investment Trust Act, 2047(1991)
- Offence against the Insurance Act, 2049(1993)

- Offence against the Act Relating to Institutions Acting as Financial Intermediary, 2055 (1999)
- Court Practices.

Reference Materials:

- Foreign Exchange (Regulation) Act, 2019 (1962)
- Employees Provident Fund Act, 2019(1962)
- National Insurance Corporation Act, 2025(1968)
- Citizens Investment Trust Act, 2047(1991)
- Insurance Act, 2049(1993)
- Act Relating to Institutions Acting as Financial Intermediary, 2055 (1999)

Session 17

Other Various Banking Offences - 3

Objective of the Session:

At the end of the course, participants will be;

- Informed about Banking Offences and Corruption; Banking offence and departmental action in peculation; banking

offence and penalization; declaration of disqualification in banking offences and classification of punishment.

Subjects included in this Unit:

- Banking Offences and Corruption,

- Banking Offences and Fraud,
- Banking Offences and peculation,
- Banking Offences and departmental action,
- Banking Offences and penalization,
- Declaration of disqualification in banking offences,
- Court Practice.

Reference Materials:

- Banking Offences and Punishment Act, 2064,
- Prevention of Corruption Act, 2059,
- Nepal Rastra Bank Act, 2058,
- National Civil Code, 2074,
- Debt Recovery Act of Banking and Financial Institutions, 2058,
- Negotiable Instrument Act, 2034.

Session 18

Various Banking Offences - 3

Objective of the Session:

At the end of this session, the participants will be knowledgeable on:

- Banking offences and property consolidation, study of principles and legal provisions concerning confiscation of illegally obtained property.
- Extradition and Mutual Legal Assistance in banking offence.

Subjects included in this Unit:

- Banking Offences and Money Laundering,
- Banking Offences and Organized Crime,
- Banking Offences and Extradition,
- Banking Offences and Mutual Legal Assistance,
- Banking Offences and withhold, Restraining or Confiscation of illegally obtained property,

- Court practice.

Reference Materials:

- Mark Hop good QC, Paget's Law of Banking 13th edition.
- Banking Offences and Punishment Act, 2064,
- Money Laundering Act, 2064,
- Extradition Act, 2070,
- Organized Crime Prevention Act, 2070,
- Mutual Legal Assistance Act, 2070,
- Kasurjanya sampati rokka, jafat tatha kabja sambandhi Ain, 2070
- Civil Code, 2070,
- Debt Recovery Act of Banking and Financial Institutions, 2058,
- Negotiable Instrument Act, 2034,
- Directives of FATF.
- Directives of Nepal Rastra Bank.

Session 19

Banking Offences and Co-operative related Offences

Objective of the Session:

At the end of the session, the participants will be;

- Informed about the theoretical and practical aspects of co-operatives; simultaneously they will be acquainted with the co-operative related offences,

punishment for such offences and court practices relating to same.

Subjects included in this Unit:

- Concept, meaning and definition of co-operative,
- Principles of co-operative,
- Characteristics of co-operative,

- Arrangements on financial transaction undertaken by co-operatives and co-operative banks,
- Regulation and Directives of co-operative,
- Duties of co-operative,
- Offences related to co-operative and its punishment,
- Investigation and Prosecution of offences related to co-operative,
- Judicial decisions and Practices of offences related to co-operative,
- Analytical study on Co-operative Act, 2073.

Reference Materials:

- Cooperatives: Principles and Practices in the 21st Century, Kimberly A Zeuli and Robert Cropp. Extension, 2004.

- Cooperative Movement in India, G.R. Madan, Mittal Publication, 2007.
- PROBLEMS AND PROSPECTS OF THE COOPERATIVE MOVEMENT IN INDIA UNDER THE GLOBALIZATION REGIME, XIV International Economic History Congress, Helsinki 2006, Session 72 .
- Co-operative Act, 2073
- Directives of Nepal Rastriya Bank (NRB),
- Directives, standards and co-operative manual issued by co-operative,
- Other various relevant legal provisions related to co-operative department,
- Other relevant laws relating to the cooperatives.
- Judicial interpretation and established precedent concerning co-operative.

Session 20

Institutional Criminal Liability

Objective of the session:

At the end of this session, the participants will have knowledge on:

- Legal person and duties; differences between legal and natural person; principles of institutional responsibility; responsibility of institution itself, collective accountability and criminal liability of office holding executive power or departmental chief; and lifting of corporate veil.

Subjects included in this Unit:

- Meaning of legal and natural person and their differences,
- Legal person and their duties,
- Meaning and concept of institutional criminal liability,
- Responsibilities bared by institution itself,

- Responsibilities of authorities holding executive power,
- Responsibilities of head of department or office,
- Collective responsibility and accountability,
- Doctrine of Lifting of Corporate Veil and its exception,
- Cases related to banking offences and companies,
- Court Practices.

Reference Materials:

- Companies Act, 2063,
- Banking Offences and Punishment Act, 2064,
- National Criminal Code, 2074,
- Directives of Nepal Rastriya Bank,
- Banking and Financial Institution Act, 2073.

Session 21

Practice of Commercial Bench for the matter concerning banking offences...1

Objective of the session:

At the end of this session, the participants will be;

- Informed about the formation, functions, duties and rights of Commercial Bench.

Subjects included in this Unit:

- Importance of commercial bench,
- Formation of commercial bench,
- Rationale of commercial bench,
- Jurisdiction,
- Problems and challenges concerning commercial bench,

- Methods to make commercial bank influential
- Court practices.

Reference materials:

- Banking Offences and Punishment Act, 2064,
- Judicial Administration Act, 2073,
- High Court Regulation, 2073,
- Decisions and notices issued by Nepal Government regarding formation of commercial bench.

Session 22

Practice of Commercial Bench for the matter concerning banking offences...2

Objective of the Session:

At the end of this session, the participants will be:

- Informed about proceeding and hearing of cases which is proceeded and heard by the commercial bench of High Court and court practices.

Subjects included in this Unit:

- Investigation of case,
- Prosecution,
- Confinement and application over confinement,

- Witness Examination,
- Decision,
- Appeal,
- Court practices.

Reference materials:

- Banking Offences and Punishment Act, 2064,
- Judicial Administration Act, 2073,
- High Court Regulation, 2073,
- Decisions and notices issued by Nepal Government regarding allocation of commercial bench.

Session 23

Provision on Guarantee ...1

Objective of the Session:

At the end of this session, the participants will be:

- Acquainted with the theoretical concept of guarantee, existing laws and court practices.

Subjects included in this Unit:

- Concept and definition of Guarantee,
- Principles of Guarantee,
- Types of Guarantee,
- Counter Guarantee,

- Relation of Guarantee in debt,
- Procedure to be fulfilled for Guarantee,
- Conditions for revoking or non-revoking of Guarantee,
- Existing legal provisions on Guarantee,
- Court practice.

Reference Materials:

- Mark Hop good QC, Paget's Law of Banking 13th edition.
- E. P. Ellinger, Ellinger's modern Banking law.

- Banking Offences and Punishment Act, 2065,
- Security Transaction Act, 2063,
- National Civil Code, 2074,
- Directives of Nepal Rastriya Bank.
- Directives of various banks regarding Guarantee.

Session 24

Provision on Guarantee ...2

Objective of the Session:

At the end of the course the participants will be:

- Informed about guarantor's obligation, related prevailing laws and court practices.

Subjects included in this Unit:

- Liabilities of borrower over debt,
- Liabilities of joint family members over debt,
- Third party liability over debt,
- Liability of promoters and board of members of company,
- Liability of guarantor in banking offences,

- Study on existing laws concerning guarantee,
- Court practices on guarantee.

Reference Materials:

- Mark Hop good QC, Paget's Law of Banking 13th edition.
- E. P. Ellinger, Ellinger's modern Banking law.
- Kabin Dhungel v. Debt Recovery Appeal Tribunal, N.K.P 2068, Vol. 4, Decision No. 8605,
- Banking Offences and Punishment Act, 2064,
- Security Transaction Act, 2063.

Session 25

Letter of Credit

Objective of the Session:

At the end of the course, the participants will be:

- Knowledgeable regarding letter of credit, obligations under letter of credit, procedure applied and court practices.

Subjects included in this Unit:

- Definition, Types and various aspects of Letter of Credit,
- Procedure relating to opening of letter of credit, its amendment, revocation, examination and classification of documents and study of breach of clauses of letter of credit,
- Liability under Letter of Credit
- Scam of Letter of Credit and Banking offences,

- Court Practices.

Reference materials:

- Mark Hop good QC, Paget's Law of Banking 13th edition,
- UCP 500,
- UCP 600,
- Nepal Rastriya Bank Act, 2058,
- Banking Offences and Punishment Act, 2064,
- Banking and Financial Institutions Act, 2073,
- Security Transaction Act, 2063,
- Nepal Government v. Bharat Bahadur Basnet N.K.P 2069, Vol. 2, Decision No. 8767 and various other relevant precedents.

Session 26

Arrangement on security

Objective of the Session:

At the end of the course, the participants will be:

- Informed about security and along with that its transaction, offences and

punishment, relationship with banking offence and court practices.

Subjects included in this Unit:

- Meaning and concept of security,
- Institutional and professional arrangement on security,
- Arrangement on security market,
- Regulation, monitoring, supervision and examination on functions of security,
- Internal transaction of security and offences relating to security transaction and punishment for such offences,
- Investigation and registration of cases related to security,

- Its Impact in security market,
- Relationship in between Banking offences and security,
- Court Practices.

Reference materials:

- Banking Offences and Punishment Act, 2064,
- Security Act, 2063,
- Various other existing laws concerning security,
- Judicial precedent concerning securities and internal transaction.

Session 27

Negotiable Instrument

Objective of the session :

At the end of the course, the participants will be:

- Informed about the meaning, concept, types, legal provisions and court practices of negotiable instrument.

Subjects included in this Unit:

- Concept and definition of Negotiable Instrument,
- Types of Negotiable Instrument,
- Parties of Negotiable Instrument and their rights and duties,
- Negotiable instrument, Darpit, and submission,
- Dishonor of negotiable instruments and its reasonable time,
- Underlined cheque and its negotiation,
- Approval and clearance of negotiable instrument,
- Cheque bounce and cheque dishonor,
- Offences relating to negotiable instruments and provision for punishment,
- Major legal provisions in Negotiable Instrument Act, 2034,

- Problems, challenges and solutions concerning negotiable instruments,
- Court Practices.

Reference Materials:

- Banking and Negotiable Instrument, AC Kapoor.
- Banking Offences and Punishment Act, 2064,
- Negotiable Instrument Act, 2034,
- Karna Bahadur Chand v. Karam Singh Bhandari, N.K.P 2069, Vol.12, Decision No. 8927 (Case relating cheque dishonor),
- Maheshwor Lal Shrestha v. Bhishnu Maharjan, N.K.P 2070, Vol. 1, Decision No. 8950 (Case relating to cheque dishonor),
- Shree Krishna Pariyar v. Kathmandu District Court, et.al. N.K.P 2073, Vol. 1, Decision No. 9529,
- Nepal Government v. Durga Karki, N.K.P 2072, Vol. 6, Decision No. 9452.
- E. P. Ellinger, Ellinger's modern Banking law.
- Chaudhary R.N. Banking Laws.

Session 28

Study on legal provisions concerning competition, promotions and protection of market

Objective of the Session:

At the end of the course, the participants will be:

- Knowledgeable on theoretical aspects, prevailing laws and court practices of competition, promotions and protection of Market.

Subjects included in this Unit:

- Concept and Principles of Competition, Promotions and Protection of market,
- Actions against fair competition,
- Offences relating to actions against fair competition and provisions for punishment,
- Arrangements for investigation of offences relating to actions against fair competition and registration of petition on same,
- Major provisions of Competition, Promotions and Market Protection Act, 2063,

- Competition Promotions and good governance,
- Problems, challenges and solutions relating to competition promotions and market protection,
- Court Practices.

Reference materials:

- COMPETITION AND EFFICIENCY AS ORGANISING PRINCIPLES FOR ALL ECONOMIC AND REGULATORY POLICYMAKING, OECD, Paul Crampton, 2003.
- OECD (2017), Competition Assessment Toolkit: Volume 1. Principles,
- Competitive Promotions and Market Protection Act, 2063,
- Public Procurement Act, 2063,
- Public Procurement Regulation, 2064,
- Good governance (management and operation) Act, 2064,
- Decisions of Supreme Court.

Session 29

Study on arrangement of liquidation

Objective of the Session:

At the end of the course the participants will be:

- Acquainted with principles and conceptual aspects of liquidation along with government attorneys' concerned subject and court practices.

Subjects included in this Unit:

- Concept, introduction, and definition of liquidation,
- Principles of liquidation,

- Liquidation and Concerned areas of government attorneys,
- Action and Procedure of liquidation,
- Court Practices regarding liquidation,
- Major provisions of Liquidation Act, 2063,
- Problems in liquidation administration and its solutions.

Reference Materials:

- Liquidation Act, 2063,
- National Civil Code, 2074,
- Directives of Nepal Rastra Bank,
- Interpretation of Court and precedents

Session 30

Study of legal provisions of Contract1

Objective of the Session:

At the end of the course, the participants will be:

- Aware of principles, practical knowledge and court practices regarding contract.

Subjects included in this Unit:

- General Introduction of Contract,
- Development of Contract law,
- Types of Contract,
- Essential elements of Contract,
- Emergence/ Initiation of Contract,
- Capable persons to perform Contract
- General Principles of Contract,
- Court Practices relating to banking and financial institutions and contract.

Reference Materials:

- National Civil Code, 2074,
- BharatrajUpreti, kararkanoon,
- J.C. Smith Contract 11th edition
- Law of contracts, Amit Bajaj &Puneet Bajaj
- Anson's Law of Contract 28th edition, J. Beatson
- Contract Law- Prof. Richard Stone
- Cheshire and fifoot's Law of Contract 8th edition, G.C. Chesire et al
- Introduction to the Law of Contract, Stephen A. Smith 6th edition
- Contract Law : The Fundamentals, Ryan Murry, Second Edition (2014)

Session 31

Study of legal provisions concerning Contract....2

Objective of the Session:

At the end of the course, the participants will be:

- Aware of principles, practical knowledge and court practices regarding contract execution and its remedies.

Subjects included in this Unit:

- Contract and Third Party,
- Sectoral dimensions of Contract,
- Fulfillment of contractual obligations,
- Breach of Contract,
- Termination of Contract,
- Remedies against breach of contract,
- Contract and offences in banking service, their relation and limitations,
- Provisions of Contract in Civil Code, 2074,

- Court Practices concerning Contract.

Reference Materials:

- National Civil Code, 2074,
- BharatrajUpreti, KararKannon,
- J.C. Smith Contract 11th edition
- Law of contract, Amit Bajaj &Puneet Bajaj
- Anson's Law of Contract 28th edition, J. Beatson
- Contract Law- Prof. Richard Stone
- Cheshire and fifoot's Law of Contract 8th edition, G.C. Chesire et al
- Introduction to the Law of Contract, Stephen A. Smith 6th edition.
- Contract Law: The Fundamentals, Ryan Murry, Second Edition (2014).

Session 32

Arbitration in dispute resolution

Objective of the Session:

At the end of the course, the participants will be:

- Aware about introduction, purpose, importance, and essential elements of arbitration, along with legal provisions and court practices of such.

Subjects included in this Unit:

- Introduction of Arbitration,
- Purpose and Importance of arbitration,
- Essential elements of Arbitration,
- Qualification and recruitment procedure of arbitrator,
- Cases to be resolved from arbitration,
- Court's jurisdiction in cases solved from arbitration,
- Court Practices.

- Analytical study of Arbitration Act, 2055.

Reference Materials:

- Russel on Arbitration, 23rd Edition, David St. John Sufton et al.
- Law of International Commercial Arbitration, A. K. Bansal
- Law of Arbitration, Sambhu Dayal Sing et.al].
- Das's Arbitration Act.
- Commercial and Consumer Arbitration Statutes and Rules, M.J. Chapman.
- Arbitration Act, 2055,
- International Financial Transaction Act, 2054.

4. Laws relating to prevent Organized Crime

4. Laws relating to prevent Organized Crime

Curriculum Goal:

To prepare specialized government attorneys in the field of Organized Crime Prohibition Law.

Curriculum Objective of the session:

- To provide specialized knowledge relating to the concept of crime and to provide information on essential elements and nature of organized crime.
- To provide information about the features of organized crime.
- To provide specialized information about the nature, involvement, purpose and impact of organized crime and other crimes.
- To provide special knowledge on national and international law related to organized crime.
- To provide information about legal and institutional mechanism for the prevention of the organized crime in other countries.
- To provide specialized knowledge about the legal provisions of the Organized Crime Prevention Act and its major arrangements in relations to the investigation, prosecution and judicial function.
- To prepare specialized manpower that can effectively carry out investigation, prosecution, pleading and other related activities related to organized crime.

Model incorporated in the Curriculum

The session shall be conducted being centered on 40% theoretical and 60% professional and practical matters in these subjects included under the course started for specialization of government attorney based on their professional development.

Subjects Incorporated in this curriculum

1. Conceptual Aspect of Crime, Criminal Participation & Jurisprudential Aspect of Organized Crime
2. Organized Crime and its Basic Features
3. International efforts against organized crime and approach of the UN system
4. Similarities and Differences between Traditional Crime, Group Crime and Organized Crime
5. Nature of Organized Crime: Local, Transnational, Regional and International
6. Major provisions of the United Nations Convention against Organized Crime and its implementation status
7. Transnational Organized Crime and Treaty and Agreements on Extradition and Mutual Legal Assistance
8. Major Features of United Nations Convention against Organized Crime and Nepalese Law: A Comparative Study
9. Nepalese Laws addressing the Organized Crime and its Implementation Status
10. Techniques used by organized criminal groups in Nepal and its impact
11. International efforts to control the organized narcotic drugs related crime and Nepalese law
12. Organized Human Trafficking and Transportation Crime and Nepalese Law
13. Human Smuggling and Organized Crime
14. Involvement of organized criminal groups in cybercrime and use of the technology
15. Organized Crime and Corruption
16. Organized crime and money laundering

17. Challenges and solutions of investigating crime related to organized money laundering crime
18. Status, challenges and solutions while prosecuting the money laundering-related organized crime cases
19. Judicial practice and areas of reform in money laundering-related organized crime cases
20. Cooperation and coordination to control financial investment in the money laundering and terrorism
21. Role, current status and areas of improvement of the Financial Information Unit in the investigation and control of crimes related organized money laundering
22. Terrorism and arms trafficking: An analysis of organized crime jurisprudence
23. Wildlife crime and its use by organized criminal groups
24. Impact of organized crime on theft, transportation and export of valuable goods
25. Organized crime observed on tax evasion, banking crime and financial institutions
26. Organized Crime in Nepal: Current Status, Challenges and Reforms in Investigation and Prosecution
27. Organized crime investigation technique and skills and required resources
28. Challenges and solutions in regard to the protection of victims and witnesses of organized crime

Session 1:
Conceptual Aspect of Crime, Crime Participation & Jurisprudential Aspect of Organized Crime

Objective of the Session:

To provide special knowledge about the conceptual aspects of crime and the jurisprudential aspect of the organized crime.

Subjects included in this Unit:

- Essential elements of crime
- Criminal Acts and its essential elements
- Criminal intentions and types of crime
- Participation in crime and its differences: single participation, group participation and organized participation
- Organized crime on the basis of the elements of crime and its nature.
- Supreme Court's view on crimes and essential elements of crime.

Reference materials:

- Prof. Dr. Rajit Bhakta Pradhananga (2073), An Introduction To The Criminal Law, Kathmandu (3rd edition), Lumbini Prakashan

- Criminal obligation, Participation in Crime and Incomplete Crime in Modern Law: A Discussion, Supreme Court Bar Journal, Year 5, Number 5, (2068), pp 1-26.
- Criminal Intentions in the Proposed Criminal Code: An Analytical Remarks, Supreme Bar Journal, Year 6, Number 6, (2069), pp 1-40.
- Siezal, Dina, Henk Vande Bunt and Damian Zaitch (eds.), (2003), Global Organized Crime: Trends and Development, (Dordrech, The Netherlands: Kluwar Academic Publications).
- Adamoli Sabrina at. al., (1998), Organized Crime Around the World (Helsinki: HEUNI).
- Bill to Amend and Unify Prevailing Laws Related to Criminal Offences, 2067, Section-Wise Interpretative Commentary, Lalitpur: National Judicial Academy, 2070

Session 2:

Organized Crime and its Basic Features

Objective of the Session:

- To provide knowledge about the conceptual aspects of crime
- To provide knowledge about the features of organized crime.

Subjects included in this Unit:

- Definition of organized crime
- Basic features of organized crime
- Concepts of the organized crime
- Scope and nature of the organized crime

Reference materials:

- The UN Convention Against Transnational Organized Crimes, 2000
- Organized Crime Prevention Act, 2070
- Organized Crime: An Introduction (Source Material), National Judicial Academy, Nepal (2608)
- Prof. Dr. Rajit Bhakta Pradhanga and Balram Raut (2011), Nepalese Experience

of Organized Crime: An Appraisal, Nepal Law Review (2011), Volume 21, pp 7-37.

- United Nations Center for International Crime Presentation Forum on Crime and Society, Volume 1, Number 2, December 2001
- Siezal, Dina, Henk Vande Bunt and Damian Zaitch (eds.), (2003), Global Organized Crime: Trends and Development, (Dordrech, The Netharlands: Kluwar Academic Publications).
- Adamoli Sabrina at. al., (1998), Organized Crime Around the World (Helsinki: HEUNI).
- Bill to Amend and Unify Prevailing Laws Related to Criminal Offences, 2067, Section-Wise Interpretative Commentary, Lalitpur: National Judicial Academy, 2070

Session 3

International efforts against organized crime and approach of the UN system

Objective of the Session:

- To provide knowledge about international efforts against organized crime,
- To provide knowledge about the approach of UN system.

Subjects included in this Unit:

- Development scenario of concept of Organized Crime.
- Models of Organized Crime
- Major Offences occurred Internationally as organized crime.
- Approach to organized crime in the UN system.
- Conceptual development of organized crime in Nepal and Present Situation.

Reference materials:

- The UN Convention Against Transnational Organized Crimes, 2000
- Organized Crime Prevention Act, 2070

- Organized crime: An introduction (Resource material), National Judicial Academy, Nepal (2608)
- United Nations Center for International Crime Presentation Forum on Crime and Society, Volume 1, Number 2, December 2001
- Siezal, Dina, Henk Vande Bunt and Damian Zaitch (eds.), (2003), Global Organized Crime: Trends and Development, (Dordrech, The Netharlands: Kluwar Academic Publications).
- Adamoli Sabrina at. al., (1998), Organized Crime Around the World (Helsinki: HEUNI).
- Bill to Amend and Unify Prevailing Laws Related to Criminal Offences, 2067, Section-Wise Interpretative Commentary, Lalitpur: National Judicial Academy, 2070

Session 4

Similarities and Differences between Traditional Crime, Group Crime and Organized Crime

Objective of the Session:

- To provide jurisprudential and legal knowledge on the similarities and differences between traditional crime, group crime and organized crime.

Subjects included in this Unit:

- Essential elements and stages of traditional crime, group crime and organized crime.
- Differences, stage of crime and liability in traditional offenses with individual involvement and traditional offenses committed by the group.
- Prevailing legal provision and Supreme Court's view on traditional offenses with individual involvement and traditional offenses committed by the group.
- Conditions where traditional offenses may or may not be considered as an organized crime.
- Differences and inter-relations between traditional crime, group crime and organized crime.
- Differences between modern organized crime and traditional organized crime.
- Supreme Court's view on organized crime.

Reference materials:

- Constitution of Nepal, 2072
- National Criminal Code, 2074
- National Criminal Procedure Code, 2074
- Organized Crime Prevention Act, 2070
- The UN Convention Against Transnational Organized Crimes, 2000
- Prof. Dr. Rajit Bhakta Pradhanga (2068), Criminal Liability, Participation in the Crime, and Inchoate crimes in Modern Criminal Law Jurisprudence: A discussion, Supreme Court Bar Journal, Year 5, Volume 5, pp 1-26
- Siezal, Dina, Henk Vande Bunt and Damian Zaitch (eds.), (2003), Global Organized Crime: Trends and Development, (Dordrech, The Netharlands: Kluwar Academic Publications).
- Adamoli Sabrina at. al., (1998), Organized Crime Around the World (Helsinki: HEUNI).
- Bill to Amend and Unify Prevailing Laws Related to Criminal Offences, 2067, Section-Wise Interpretative Commentary, Lalitpur: National Judicial Academy, 2070

Session 5

Nature of Organized Crime: Local, Transnational, Regional and International

Objective of the Session:

- To provide knowledge on local, transnational, regional and international nature of the organized crime

Subjects included in this Unit:

- International nature of organized crime.
- Regional nature of organized crime.
- Transnational nature of organized crime.

- Local nature of organized crime (in different countries)
- Nature of the organized crime in Nepalese context.

Reference materials:

- The UN Convention Against Transnational Organized Crimes, 2000
- Organized Crime Prevention Act, 2070

- Organized Crime: An Introduction (Resource material), National Judicial Academy, Nepal (2068)
- United Nations Center for International Crime Presentation Forum on Crime and Society, Volume 1, Number 2, December 2001
- Bill to Amend and Unify Prevailing Laws Related to Criminal Offences, 2067, Section-Wise Interpretative Commentary, Lalitpur: national judicial Academy, 2070

Session 6

Major provisions of the United Nations Convention against Organized Crime and its implementation status

Objective of the Session:

- To provide knowledge about the major provisions of the United Nations Convention against Organized Crime.
- To provide knowledge about the implementation status of the convention

Subjects included in this Unit:

- Major provisions of the United Nations Convention against Organized Crime.
- Implementation status of the convention

Reference materials:

- The UN Convention Against Transnational Organized Crimes, 2000
- Organized Crime: An introduction (Resource material), National Judicial Academy, Nepal (2068)
- United Nations Center for International Crime Presentation Forum on Crime and Society, Volume 1, Number 2, December 2001

Session 7

Transnational Organized Crime and Treaty and Agreements on Extradition and Mutual Legal Assistance

Objective of the session:

To provide knowledge on impact of transnational organized crime, and to provide jurisprudential and legal knowledge on mutual legal assistance, extradition and treaty and agreement to control the organized crime.

Subjects included in this Unit:

- Meaning and nature of transnational organized crime.
- Impact of transnational organized crime at national and international level.
- The offenses related to the transnational organized crime.
- National and international efforts to prevent transnational organized crime and its implementation status (the major provisions of the Convention against Transnational Organized Crime, Conventions against the Terrorism, and the international and regional conventions related to human trafficking and transportation).

- Relations between extradition and human rights
- Extradition and refugees
- Extradite or prosecute principle (Aut dedare, aut judicare Rule)
- Implementation status of Nepalese laws on extradition and mutual legal assistance.
- Provisions related to Extradition and Mutual Legal Assistance Act, 2070

Reference Material:

- Constitution of Nepal
- National Ain, 2020
- National Criminal Code Act, 2074
- Organized Crime Prevention Act, 2070
- Research based Study on Impact of Organized Crime Law, Office of the Attorney General, Nepal, Criminal Criminology Research Center, 2074
- Mutual Legal Assistance Act, 2074
- Extradition Act, 2070
- United Nations Convention against Organized Crime, 2000.

Session 8

Major Features of United Nations Convention against Organized Crime and Nepalese Law: A Comparative Study

Objective of the session:

- To know about the compatibility of Nepalese law with the United Nations Convention against Organized Crime.

Subjects included in this Unit:

- Major provisions of the Organized Crime Prevention Act, 2070
- Comparison of those provisions with the UN Convention against Organized Crime, 2000

Reference Material:

- The UN Convention against Transnational Organized Crimes, 2000

- Organized Crime Prevention Act, 2070
- Organized Crime: An Introduction (Resource material), National Judicial Academy, Nepal (2068)
- Research based Study on Impact of Organized Crime Law, Office of the Attorney General, Nepal, Criminal Criminology Research Center, 2074
- Bill to Amend and Unify Prevailing Laws Related to Criminal Offences, 2067, Section-Wise Interpretative Commentary, Lalitpur: National Judicial Academy, 2070

Session 9:

Nepalese Laws addressing the Organized Crime and its Implementation Status

Objective of the session:

- To provide legal knowledge regarding the features and major provisions of the Organized Crime Prevention Act, 2070.

Subjects included in this Unit:

- Background of Organized Crime Control Act, 2070
- Major Objective of the session of Organized Crime Control Act, 2070
- Major features of Organized Crime Control Act, 2070

- Major provision on extraterritorial jurisdictional rights, and freezing, seizure and confiscation of property

Reference Material:

- Constitution of Nepal, 2072
- Organized Crime Prevention Act, 2070
- Bill to Amend and Unify Prevailing Laws Related to Criminal Offences, 2067, Section-Wise Interpretative Commentary, Lalitpur: National Judicial Academy, 2070

Session 10:

Techniques used by organized criminal groups in Nepal and its impact

Objective of the session:

- To gain an understanding of the techniques used by organized criminal groups in Nepal, its effect and the nature of the offense of the organized criminal group.

Subjects included in this Unit:

- Identification of advanced techniques used by organized criminal groups while committing crime.
- Provide information about the hierarchical structure of organized criminal group and information and communication media/mechanism.

- Role of information and communication in maintaining order and discipline as per the hierarchical structure of organized criminal group.
- Challenges to implement the provision related to information interception, as provided by the Organized Crime Prevention Act
- Misuse of technology by organized criminal group; Modus Operandi
- Challenges in identifying and operating the information technology in observing/studying the activities of the criminals groups in micro-level.

Reference Material:

- Organized Crime Prevention Act, 2013(2070)
- Electronic Transaction Act, 2008 (2063)
- Revenue Investigation and Punishment Act, 1995(2052)
- World Heritage and Wildlife Conservation Act, 1972(2029)
- International Trade Control Act of Endangered Wildlife and Plants Act, 2016(2073)
- The Prevention of Corruption Act, 2002 (2059)
- Nepal Rastriya Bank Act, 2001 (2058).

Session 11:**International efforts to control the organized narcotic drugs related crime and Nepalese law****Objective of the session:**

- To gain knowledge about the involvement of organized criminal groups in drug related crimes, along with the prevailing Nepalese legal provisions to control it.

Subjects included in this Unit:

- Provisions of international treaty and agreement to control illegal narcotic drug trafficking and abuse.
- Nepalese legal arrangements to control and prevention of narcotic drug trafficking, prior to 1976 (2033)
- Role of Narcotic Drug Prevention Bureau in narcotic drug cases
- Impact of organized criminal groups on narcotic drug trafficking in Nepal
- Impact and nature of organized criminal groups on drug trafficking and drug abuse
- Legal provisions to control the organized crime in Narcotic Drug (Control) Act, 1976 (2033) and Drug Act, 1978(2035).
- Supreme Court's perspective on organized narcotic drug related crime.

Reference Material:

- UN Convention on Drugs, the Single UN Convention, 1961
- United Nations Convention on Psychotropic Substances, 1971
- The amended Protocol, 1972 to the United Nations Convention on Drugs, 1961
- United Nations Convention on the Illegal Trafficking of Drugs and Psychotropic Substances and Trafficking, 1988
- International Drug Control Board (INCB)
- Drug Control and Punishment Act, 1975(2032)
- Narcotic Drug (Control and Punishment) Act, 1976(2033)
- Drug Act, 1978(2035)
- Prof. Dr. Rajit Bhakta Pradhananga and Narayan Prasad Paudel (2012), Nepal Law Review, 2012, Volume 23, Page 7-22.
- Precedents established in the Narcotic Drug relating case; N.K.P 2071, Volume 5, Decision. No. 9164 (Nepal Government Vs. Raju Lama)

Session 12:**Organized Human Trafficking and Transportation Crime and Nepalese Law****Objective of the Session:**

To gain special knowledge about the involvement of organized criminal groups in

crimes related to human trafficking and transportation and existing Nepalese legal provision to control it.

Subjects included in this Unit:

- Nature and structure of organized human trafficking and transportation crimes
- International legal provisions to control and prevent the human trafficking and transportation
- Nepalese past commitments and legal provisions to control human trafficking and transportation
- Impact of organized criminal groups on human trafficking and transportation in Nepal
- Nature of organized criminal groups in human trafficking and transportation
- Legal provisions to control the human trafficking and transportation
- Supreme Court's view on the cases of human trafficking and transportation, which are organized crime in nature

Reference Materials:

- Provisions to control organized crime in Convention Against Slavery, 1926
- The United Nations Convention on International Relations, Organized Crime Control in 1930
- The United Nations Convention on the Prevention of Human Trafficking and

Exploitation in Prostitution, organized crime control in 1949

- UN Protocol on status of refugees and human trafficking, 1967, the provision to control the organized crime.
- The provisions regarding organized crime control on Palermo (human trafficking and transportation prohibition and control, particularly of women and children) convention 2000
- The provision to control the organized crime in United Nations Global Initiative to Fight Human Trafficking, 2007
- The Human Trafficking and transportation(Control) Act, 2063
- Mahesh Sharma Poudel and Hari Prasad Joshi (2071), Human Trafficking and Trafficking Offenses, Prevention of Crime Against Women and Children, Resource material, Office of the Attorney General
- Precedent established in the Human Trafficking Case of Goma Devi Panchkot vs. the Government of Nepal, N.K.P. 2072, Volume 1, Decision Number 9333
- Precedent established in the Human Trafficking Case of Som Bahadur Tamang Vs. Government of Nepal, N.K.P. 2073, Volume 9, Page 1719, Decision Number 9677

Session 13:

Human Smuggling and Organized Crime

Objective of the Session:

To gain special knowledge of human smuggling and organized crime

Subjects included in this Unit:

- Definition of human smuggling
- Differences between human trafficking and human smuggling
- Methods of human smuggling and challenges to control
- Impacts of organized crime in human smuggling

- Nepalese laws on human smuggling control

Reference Materials:

- United Nations Convention against Transnational Organized Crime, 2000
- Provisions related to control of organized crime in Slavery Convention, 1926
- Provisions related to control of organized crime in Convention for the Suppression of the Traffic in Persons and of the

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| <p>Exploitation of the Prostitution of Others, 1949</p> <ul style="list-style-type: none"> • Provisions related to control of organized crime in Protocol Relating to the Status of Refugees, 1967 • The provisions regarding organized crime control on Palermo (human trafficking and transportation prohibition and control, | <p>particularly of women and children) convention 2000</p> <ul style="list-style-type: none"> • Provisions related to control of organized crime in United Nations Global Initiative to Fight Human Trafficking (UN.GIFT), 2007 • Human Trafficking and Transportation (Control) Act, 2064 |
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Session 14:

Involvement of organized criminal groups in cybercrime and use of the technology

Objective of the Session:

- To gain knowledge of the nature of crime committed by organized criminal groups through electronic means and the current status of misuse of advanced technology by organized criminal groups to commit crime.

Subjects included in this Unit:

- How organized criminal groups misuse electronic means to accomplish their criminal objective.
- What kind of electronic tools and means do organized criminal groups use to accomplish their criminal objective
- Use of cybercrime by the organized criminals to expand their network, along with regulate and control the members of its network.
- United Nations Proposal on Controlling the Misuse of Electronic Information Technology in Organized Crime Expansion, 1990
- Efforts and Practices of European Union and American to control organized crime
- Legal provisions related to control of organized crime by the use of electronic transactions, as provided by the regional conventions of Asia-Pacific Economic Cooperation Organization, the

Commonwealth of Nations, the Gulf Cooperation Council, and African Union.

- The changing nature of cybercrime and its use in the expansion of organized crime networks
- Basic things to consider while investigating and prosecuting such crimes
- Implementation status of the Electricity Transaction Act, 2063 to control the organized crime

Reference materials:

- The Budapest Convention on Cybercrime, 2001
- Regional Conventions of The Commonwealth Nations, the Asia-Pacific Economic Cooperation Organization (APEC), the Commonwealth Nations Organization, the Gulf Nations Organization, the African Union's Regional Convention on Electric Transactions,
- Computer crime, Internet crime, information crime, communication crime and study materials crime related to technology
- American model law on cyberspace crime
- Proposals adopted by the United Nations, International Economic Cooperation and Development Organization, G4 Group
- Electronic Transaction Act, 2063

Session 15

Organized Crime and Corruption

Objective of the Session:

- To provide legal knowledge and information regarding the involvement of organized crime groups in corruption and its international standards and efforts.

Subjects included in this Unit:

- Definition, purpose and essential elements of corruption
- Relationship between corruption and organized crime
- Forms of corruption conducted in an organized manner
- Major areas of corruption used by the organized criminal group
- A legitimate investment method of assets acquired through corruption or criminal activity and the condition where it is not identified.
- Corruption and criminal market (investment in real estate, stock, etc.).

Reference material:

- Constitution of Nepal 2072
- Corruption (Prevention) Act 2059
- Organized Crime Prevention Act 2070
- Money laundering Prevention act 2064
- Annual monuments published by the Commission on Investigation of Abuse of Authority
- Prof. Dr. Ranjit Bhakta Pradhanaga et al(2067), Issues seen in the formulation and implementation of corruption control strategies, An Analysis, Kanun, pg. 3-17
- Prof. Dr. Rajit Bhakta Pradhananga and Balram P. Raut (2008), Corruption: Concept, Theory and Judicial Practices in Nepal, Nepal Bar Council Law Journal
- UN Convention Against Corruption, 2003

Session 16

Organized crime and money laundering

Objective of the session:

- To provide legal knowledge about the organized crime and money laundering, along with international standards and efforts, and Supreme Court's perspective on it.

Subjects included in this Unit:

- Meaning and definition of money laundering
- Correlation between organized crime and money laundering.
- Methods of money laundering
- Areas of money laundering
- Impact of money laundering on national economy
- National and international efforts to prevent money laundering
- Comparative study of the practices to control the organized crime and offense related to money laundering

- Co-relation between Organized Crime Prevention Act, 2070 and Money Laundering Prevention Act, 2064
- Supreme Court's Perspective regarding the money laundering.

Reference Material:

- Constitution of Nepal, 2072
- Organized crime Prevention Act, 2070
- Money Laundering Prevention Act, 2064
- Mutual Legal Assistant Act, 2070
- Extradition Act, 2070
- Money Laundering Prevention Magazine, Vol.1, Year 1, 2069, Government of Nepal, Ministry of Finance, Department of Money Laundering
- E.P. Ellinger, Ellinger's Modern Banking Law, p.94

Session 17:

Challenges and solutions of investigating crime related to organized money laundering crime

Objective of the session:

- To develop specialized knowledge and skills for the investigation of organized money laundering crime

Subjects included in this Unit:

- Basic issues while investigating organized money laundering crime
- Areas of crime investigation
- Comparative study of crime investigation method and system
- Step-wise investigative processes in relation to the freezing, seizure and confiscation of property

- Key issues and challenges observed in crime investigation
- Ways to address the problem

Reference Material:

- UN Convention on Transnational Organized Crime, 2000
- Organized crime Prevention Act, 2070
- Money Laundering Prevention Act, 2064
- Mutual Legal Assistant Act, 2070
- Extradition Act, 2070

Session 18:

Status, challenges and solutions while prosecuting the money laundering-related organized crime cases

Objective of the session:

- To develop specialized knowledge and skills for the prosecution of money laundering-related organized crime cases.

Subjects included in this Unit:

- Basic issues while prosecuting organized money laundering crime
- Comparative study of investigation method and system of prosecuting money laundering related organized crime
- Fundamental aspects while prosecuting the money laundering related organized crime

- Major issues and challenge that may be observed in crime prosecution.
- Ways to address the problem

Reference Material:

- UN Convention on Transnational Organized Crime, 2000
- Organized crime Prevention Act, 2070
- Money Laundering Prevention Act, 2064
- Mutual Legal Assistant Act, 2070
- Extradition Act, 2070

Session 19:

Judicial practice and areas of reform in money laundering-related organized crime cases

Objective of the session:

- To improve the weakness observed in the investigation and prosecution of money laundering-related organized crime and to make investigation and prosecution effective.

Subjects included in this Unit:

- Fundamental aspects while investigating and prosecuting the organized crime related to money laundering
- Prevailing condition of investigation and prosecution and areas of improvement

- Existing practice and areas of improvement of organized crime related to money laundering
- Areas of reforms in the relevant legislation
- Problems and areas of improvement in judicial practice of organized crime related to money laundering.

Reference Materials:

- United Nations Convention against Transnational Organized Crime, 2000
- Organized crime Prevention Act, 2070
- Money Laundering Prevention Act, 2064
- Mutual Legal Assistant Act, 2070
- Extradition Act, 2070

Session 20:

Cooperation and coordination to control financial investment in the money laundering and terrorism

Objective of the session:

- To gain knowledge about the control of financial investment in the money laundering and terrorism activities.

Subjects included in this Unit:

- Step-wise structure in regard to financial investment on money laundering and terrorism activities.
- Areas of financial investment on money laundering and terrorism activities.
- Nature and interrelation of financial investment in organized crime, money laundering and terrorist activities
- Need of cooperation and coordination in crime related to financial investment in money laundering and terrorist activities.
- Responsibility of coordinating and member state of international and regional cooperation

- Practices to prevent and control financial investment in money laundering and terrorist activities
- Efforts to prevent and control financial investment in money laundering and terrorist activities in Nepal
- Areas of cooperation, coordination and reform of related investigation bodies in current Nepalese scenario

Reference Materials:

- United Nations Convention against Transnational Organized Crime, 2000
- Organized crime Prevention Act, 2070
- Money Laundering Prevention Act, 2064
- Mutual Legal Assistant Act, 2070
- Extradition Act, 2070
- E.P. Ellinger, Ellinger's Modern Banking Law, p.g. 94

Session 21:

Role, current status and areas of improvement of the Financial Information Unit in the investigation and control of crimes related organized money laundering

Objective of the session:

- To provide specialized knowledge on the role of Financial Information Unit in the investigation and control of organized money laundering crimes

Subjects included in this Unit:

- Role of Financial Information Unit in the investigation and control of organized crime related to money laundering

- Nature of Financial Information Unit and the current state of information flow in Nepal
- Role and practice of Financial Information Unit for the investigation and control of financial investment in organized money laundering and terrorist activities
- Current status of information on financial investment in the organized money

laundering and terrorist activities and its reform areas.

- Areas of cooperation and coordination and improvement of Financial Information Unit with the concerned agencies in relation to the receipt of information.

Reference Materials:

- United Nations Convention against Transnational Organized Crime, 2000
- Organized Crime Prevention Act, 2070
- Money Laundering Prevention Act, 2064
- Mutual Legal Assistant Act, 2070
- Extradition Act, 2070

Session 22:

Terrorism and arms trafficking: An analysis of organized crime jurisprudence

Objective of the session:

- To inform about various aspects of crime related to terrorism and arms trafficking and to provide special knowledge about its relation and attraction of organized crime groups.

Subjects included in this Unit:

- Nature of terrorism
- Purpose of terrorism
- Forms of terrorism
- Causes of terrorism
- Use of weapons in terrorism
- International counterterrorism arrangements
- Relationship between terrorism and organized crime
- Methods of selling weapons to terrorist groups
- Arrangements and efforts to control terrorism in Nepal

Reference material:

- Convention for the Suppression of Unlawful Seizure of Aircraft, 1970

- Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, 1973
- International Convention against the Taking of Hostages, 1979
- International Convention for the Suppression of Terrorist Bombings, 1997
- United Nations Convention on Organized Crime, 2000
- SAARC Regional Convention on the Suppression of Terrorism, 1987
- United Nations Convention Against Organized Crime, 2000
- Tokyo Convention on Offences and Certain other Acts Committed on Board Aircraft, 1963
- The Hague Convention on Hijacking of Aircraft 1970
- Terrorist and Disruptive Activities (Prevention) Act, 1985, India
- Terrorism Act, 2000, England
- Money Laundering Prevention Act, 2064
- Crime against State and Punishment Act, 2046
- Public Security Act, 2046

Session 23

Wildlife crime and its use by organized criminal groups

Objective of the session:

- To provide special knowledge about the relationship between wildlife crime and organized crime.

Subjects included in this Unit:

- Wildlife listed as protected wildlife

- Reasons for the protections
- Causes of wildlife crime
- Areas of wildlife crime
- Nature of wildlife crime
- Involvement of organized group in wildlife crime

- Transportation of wildlife
- Legal provisions related to national parks and wildlife
- Supreme Court's Perspective on wildlife crime cases

Reference Material:

- Study Report on the implementation status of the case related to the offense under the National Park and Wildlife Protection Act, 2029, Office of the Attorney General, prepared on 2071/07/27

- Special Issue of First National Conference of Government Attorney, 2073, Office of the Attorney General
- National Parks and Wildlife Conservation Act, 2029
- An Act to Regulate and Control International Trade in Endangered Wild Fauna and Flora, 2073
- Precedent Established in Illicit selling of Rihno's horn case in Surya Bahadur Pun Vs. Government of Nepal, NKP 2069, Vol.3, Decision number 8784

Session 24:

Impact of organized crime on theft, transportation and export of valuable goods

Objective of the session:

- To provide knowledge about the criminal nature of organized criminal groups in the theft, transportation and business of valuable goods.

Subjects included in this Unit:

- Illegal trade of gold, horn of rhinoceros, illegal collection of herbs including Yarsagumba, theft and export, and the nature of transactions, adopted by organized criminal group to fulfill their objective.
- Engagement of organized criminal groups in crime of theft of antique and archaeological items.
- Impact of organized criminal group on theft and export along with negotiable instruments related offense.
- Challenges in control and law enforcement of prohibited goods, wildlife,

herbs, pesticides, due to theft and export by the organized criminal groups.

- Modus Operandi of theft and export of valuable goods by the organized criminal groups.
- Nature of valuables goods, its changing nature, and impact of the expansion of the organized crime network.
- Effectiveness and implementation of prevailing Nepalese laws to control the organized crime.

Reference Materials:

- Organized Crime Prevention Act, 2070
- Customs Act, 2064
- Revenue Leakages (Investigation and Control) Act, 2052
- Wildlife Conservation Act, 2029
- Prevention of Corruption Act, 2059
- Nepal Rastra Bank Act, 2058

Session 25

Organized crime observed on tax evasion, banking crime and financial institutions

Objective of the session:

- To gain knowledge about the nature of organized criminal group in tax evasion,

banking crime and financial sector crime, and the impact of organized crime groups in Nepal.

Subjects included in this Unit:

- Introduction to the areas of revenue leakage
- Affiliation and coordination of organized criminal groups with the customs, security agencies, tax administration related bodies
- Involvement of organized criminals in the banking sector and owning the shares
- The inter-relationship between bank scams and organized criminal groups and its impact in Nepal
- The nature of the coordination between tax administration system, tax administration officials and criminal group.
- Modus Operandi of organized criminal group in the revenue and tax administration.

- Modus Operandi of criminal group members in the banking sector.
- Impacts of organized crime group on tax evasion, banking offenses and financial institutions, and the effectiveness of the law and implementation status.

Reference material:

- Customs Act, Income Tax Act, Value Added Tax Act, Excise Duty Act, Nepal Rastra Bank Act, Banking and Financial Institution Act, Revenue Leakage (Investigation and Control) Act, Company Act, Organized Crime Prevention Act.
- Cases related to abuse of the Value Added Tax Act and fake VAT bills
- Cases of money laundering by banks and financial institutions.

Session 26:**Organized Crime in Nepal: Current Status, Challenges and Reforms in Investigation and Prosecution****Objective of the session:**

- To provide specialized knowledge on practices and challenges on the investigation and prosecution of organized crime.

Subjects included in this Unit:

- Practice regarding the investigation and prosecution
- Special investigation bodies
- Interpol
- Nepal Central Investigation Bureau
- Drug Control Bureau
- Valley Crime Investigation Division
- Mistakes observed in the investigation of organized crime
- Mistakes observed in the prosecution of organized crime

- Practical challenges faced during the investigation and prosecution of organized crime
- Improvements required in the investigation and prosecution of organized crime.

Reference Material:

- Investigative Studies on Assessment of Impact of Organized Crime Law, Office of the Attorney General, Criminal Investigation Center, 2074
- Organized Crime Prevention Act, 2070
- Bipin Adhikari and Kiran Poudel (edit) (2070), Government Attorneys in Crime Investigation and Prosecution, Nepal Constitution Foundation, Kathmandu.

Session 27:**Organized crime investigation technique and skills and required resources****Objective of the session:**

- To provide specialized knowledge about organized crime investigation technique and required skills and resources.

Subjects included in this Unit:

- Investigation bodies and tiers

- Formation of special investigation teams and procedures.
- Controlled delivery
- Undercover operation

- Resources and human resources required to conduct controlled delivery and undercover operation
- Investigation process
- Special provisions on investigation.
- Skills and resources required to investigate organized crime.

Reference Material:

- Investigative Studies on Assessment of Impact of Organized Crime Law, Office of the Attorney General, Criminal Investigation Center, 2074
- United Nations Convention against Transnational Organized Crime, 2000
- Organized Crime Prevention Act, 2070

Session 28:

Challenges and solutions in regard to the protection of victims and witnesses of organized crime

Objective of the session:

- To provide specialized knowledge about the challenges and solutions in regard to the protection of victims and witnesses of organized crime

Subjects included in this Unit:

- Concept of victim and witness protection.
- Purpose victim and witness protection.
- Issues on Victims protection
- Rights of the victim.
- Protection of victims and witnesses.
- Special arrangements for the protection of victims and witnesses.
- Use of fictitious names for the purpose of the statement given by witness.
- Use of audio visual.

- Special arrangements for statement given by witness and cross-examination.

Reference Material:

- Victim Manual, 2070, Office of the Attorney General
- United Nations Convention against Transnational Organized Crime, 2000.
- Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 1985
- Investigative Studies on Assessment of Impact of Organized Crime Law, Office of the Attorney General, Criminal Investigation Center, 2074
- United Nations Convention against Transnational Organized Crime, 2000
- Organized Crime Prevention Act, 2070

5. Laws relating to prevent Cyber Crime

5. Laws relating to prevent Cyber Crime

A syllabus prepared for the attorneys regarding the cyber laws

Syllabus goal: to prepare specialized attorneys on the subject of cyber crime related laws

Objective of the syllabus: the trained attorneys shall be acquainted with:

1. Cyber laws and its fundamental aspects.
2. Existing Legal provision of other states regarding cyber laws and international laws
3. Existing laws regarding cyber crimes control, its provisions and application
4. The investigation process, prosecution, judicial process and case procedure on cyber crime control.
5. Various aspects of the interrelationship between cyber laws and organized crime
6. Judicial perspective of courts on cyber crime related cases
7. The areas to reform on cyber crime control after identifying its challenges and difficulties
8. Prosecution along with the evaluation of objective evidences to direct the investigation of cyber crime and plead such a case in front of court.

Pattern of training syllabus:

The subjects included in the curriculum, prepared to specialize the government attorney by focusing in their professionalism, shall include 40% theoretical and 60% professional and practical aspects in each and every training session.

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1. Introduction to Computer
2. Computer Hardware, Software, Operating System and its use in Nepal
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7. Usage of Digital Signature, IT ethics and culture in Information and Communication Technology
8. National Policies on Cyber Regulation
9. National Laws on Cyber Regulation
10. Comparative Study of Cyber Crime Legislations

11. International Laws (Budapest convention, UNCITRAL Model etc.), regional conventions and policies on Cyber Regulation
12. International Laws (UN convention, European convention) on Cyber Regulation
13. Institutions for Cyber law enforcement of Nepal
14. Cyber crime and its Investigation, Prosecution and Adjudication System in Nepal
15. Online Media / Social Media and piracy in Nepal
16. Online media, future and prosecution in Nepal
17. E-Commerce and E-Governance in Nepal
18. E-Attorney Project and future plan of OAG IT sector
19. Nature and types of Cyber Crimes
20. Challenges in Cyber Crime Investigation
21. Cybercrimes and their Relation with financial Crime
22. Cybercrimes and their Relation with Other Crimes
23. New Trend of Cyber Crime
24. VoIP and Call Bypass
25. VoIP and Call Bypass investigation and major cases
26. Computer and Data Security
27. Electronic Evidence / Digital Evidence
28. Investigation Status of Cybercrimes and its Challenges in Nepal
29. Prosecution of Cybercrimes and its Challenges in Nepal
30. Cybercrimes and the Areas of International Cooperation
31. Cybercrimes and Human Rights
32. the role of attorney in cybercrime relating to plead and defense
33. the challenges in the investigation and prosecution of cybercrimes and the role of the attorney.
34. Panel discussion: the challenges in investigation and prosecution of cybercrimes and the role of the attorney.

Session 1

Introduction to Computer

Objective of the session:

- At the end of this session participants will be familiar about the general knowledge of computer, the history of computer and its type and effects.

Subjects included in this Unit:

- Introduction of Computer / Electronic Devices
- History of Computer
- Types of Computer
- Functions of Computer
- Use of computer and its pros and cons
- Use of computer and Security Systems

Reference Material

- Cyber laws, Premier publishing company, 2008
- Fundamentals of Computer -Er. Shankar N Adhikary & Dilli Prasad Sharma, published by Buddha Publication
- Information Technology law-Dr.S.R. Myneni, Asian law house 1st Edition, 2013
- Cyber Laws-K. Mani , Kamal Publishers, 2008
- K Pardurangan e-Justice, Practical guide for the Bench and the Bar

Session 2

Computer Hardware, Software, Operating System and its use in Nepal

Objective of the session:

- At the participants will be informed about the Hardware, software and Operating system of the computer and its uses in Nepal.

Subjects included in this Unit:

- Introduction of Hardware and Software
- Software technology
- Operating System and Types of Operating System
- Usage of computer in the context of Nepal

Reference Material

- Computer law, Edited by Chris Reed, 2000
- Fundamentals of Computer -Er. Shankar N Adhikary & Dilli Prasad Sharma, published by Buddha Publication
- Cyberspace and the cyber law – Narayan Prasad Sharma, published by Koselee Prakashan, 2015
- Cyber Laws-K. Mani, Kamal Publishers, 2008
- K Pardurangan e-Justice, Practical guide for the Bench and the Bar

Session 3

Origin, Development and Use of Internet

Objective of the session:

- In this session, the participants will be informed about the introduction, origin, use and development of internet.

Subjects included in this Unit:

- Introduction to Internet and Internet Domain Name System

- Country Code Top Level Domain Administration and Operations
- Domain name dispute and its resolution
- Internet of Things (IoT)
- Origin and development of Internet
- Internet and services of Internet
- Internet supplier and owner.
- World Wide Web (WWW) and Internet
- Virtual reality
- Internet Jurisdiction
- Use of Internet and It's advantages, limitations and threat

Reference Material

- Information Technology law- Dr.S.R.Myneni, Asian law house 1st Edition, 2013
- Fundamentals of Computer -Er. Shankar N Adhikary & Dilli Prasad Sharma, published by Buddha Publication
- Cyber Laws-K. Mani , Kamal Publishers, 2008
- Internet Law, By Chris Reed, Universal Law Publishing Co., Second Edition 2010.

Session 4

Information Technology and Lawyer

Objective of the session:

- In this session, the participants will be informed about the use of Information Technology and its role in lawyer's functions.

Subjects included in this Unit:

- Information/Communication Technology and Law
- ICT for Lawyers
- Technology and the involvement of Lawyers in legal Profession

Reference Material

- Information Technology and Lawyers by Arno R. Lodden & Anja Oskamp, Springer Publication, 2006
- Information Technology Law-S.R. Myneni, Asian law House
- The Lawyer's Guide to Social Networking, John G. Browning, Thomson Reuters, South Asian Edition, 2012

Session 5

Intranet and Network protocols in ICT

Objective of the session:

- In this Session, the participants will be familiar about the intranet, extranet, Network protocol.

Subjects included in this Unit:

- Introduction to Network
- Introduction to Intranet
- Introduction to IT and ICT
- Network Protocols
- How data travel in the internet

- Use of Intranet, its benefits and limitations
- Extranet

Reference Material

- Fundamentals of Computer -Er. Shankar N Adhikary & Dilli Prasad Sharma, published by Buddha Publication
- Information Technology Law-S.R. Myneni, Asian law House

Session 6

Cyber jurisprudence

Objective of the session:

- In this Session, the participants will familiar about the Cyber Jurisprudence and its origin.

Subjects included in this Unit:

- Introduction of cyber jurisprudence
- Evolution of cyber jurisprudence in Nepal
- Nature and prevalence of cyber cases in the Kathmandu valley

Reference Material

- Cyber Jurisprudence: Theories, Concepts and Principles by S J Tubrazy, Kindle Edition, 2016
- Cyber Jurisprudence; Evolution of Cyber Laws By Shahid Jamal Tubrazy on www.academia.edu
- <http://www.legalservicesindia.com/article/1987/Cyber-Jurisprudence-An-Internalisation-In-Indian-Matrix.html>
- Some Cyber Crime cases of Kathmandu Valley.
- Atal Jain, Cyber Crime, Issues, Threats and Management

Session 7

Usage of digital signature, IT ethics and culture in Information and

Communication Technology

Objective of the session:

- In this session, the participants will familiar about the digital signature and its uses along with culture and ethics required in Communication Technology.

Subjects included in this Unit:

- Communication Media
- Electronic data interchange
- Public key infrastructure
- Electronic/digital Signature
- Electronic signature certificate
- Digital signature certificate
- Difference between electronic signature and digital signature
- GEA, GIF, G2G, G2B and G2C
- IT ethics and culture

Reference Material

- Computer Law, edited by Chris Reed third edition, 1996
- A Practical approach to Cyber Laws, by K. Mani's, Kamal Publication, 2008
- Cyber Law and Crime by Barkha and U. Rama Mohan third edition Asian Law House 2011
- Electronic signatures in Law by Stephen Mason, Lexis Nexis UK, 2003
- Cyber Law Simplified by Vivek Sood, Tata McGrawHill Publishing company, 2003
- Internet Law, By Chris Reed, Universal Law Publishing Co., Second Edition 2010.

Session 8

National Policies on Cyber Regulation

Objective of the session:

- In this session, the participants will be informed about the National Policies which regulate the electronic transaction and Control cyber the crimes.

Subjects included in this Unit:

- Key features of the IT Policy 2015 (2072)
- Key features of the relevant Chapters of the Criminal Code and Civil Code, 2017 (2074)

- Introduction to Electronic Transaction Act, 2063
- Electronic Transaction Rules, 2064
- Main Provisions of IT Bill, 2075

Reference Material

- Criminal Code and Civil Code, 2017 (2074)
- IT Policy 2015 (2072)
- Electronic Transaction Act, 2063
- IT Bill 2075

Session 9

National Laws on Cyber Regulation

Objective of the session:

- In this session, the participants will be informed about the existing laws which regulate the electronic transaction and Control the cyber crimes.

Subjects included in this Unit:

- Key features of the Electronic Transaction Act, 2006 (2063)

- Key features of the Telecommunication Act, 1997 (2053)
- Cybercrime and Electronic Transaction Act, 2063
- Cybercrime and penal system.

Reference Material

- Electronic Transaction Act, 2006 (2063)
- Telecommunication Act, 1997 (2053)
- Electronic Transaction Rules, 2064

Session 10

Comparative Study of Cyber Crime Legislation

Objective of the session:

- In this session, the participants will be informed about cyber laws of various countries.

Subjects included in this Unit:

- India
- Japan
- Sri Lanka
- USA
- UK
- Australia

Reference Material

- <https://repub.eur.nl/pub/94604/PROOF-Qianyun-Wang-BW-1-.pdf> access on 16th Dec 2018
- technical.cloudjournals.com/index.php/IJACSIT/article/download/Tech-160/pdf

- Law of Cyber Crime (India & Abroad) by D.K. Ganguly, Dwivedi law agency
- <https://pdfs.semanticscholar.org/d468/4f20a55b13a1271dc3e63834e0a9a229e037.pdf> access on 3rd Nov 2019
- https://www.academia.edu/21451805/Comparative_Analysis_of_Various_National_Cyber_Security_Strategies access on 3rd Nov 2019
- Comparative analysis of cyber privacy law in India and in the United States of America by Geetika Sood Facta Universitatis Series: Law and Politics Vol. 12
- Chaubey, R.K. (2009), An Introduction to Cyber Crime & Cyber Law, Kamal Law House, Calcutta.

Session 11

International Laws (Budapest convention, UNCITRAL Model etc.), regional conventions and policies on Cyber Regulation

Objective of the session:

- In this session, the participants will be informed about the international laws, i.e. Budapest convention and UNCITRAL model and other, which regulate and control the cyber crimes.

Subjects included in this Unit:

- Key features of European Convention on Cybercrime, 2001 (aka Budapest Convention)
- Key features of UNCITRAL Model Law on E-Commerce, 1996
- Key features of League of Arab States Convention on Combating Information Technology Offences (2010)
- Arab League Model Cyber Law
- Commonwealth Model Law on Computer and Computer related crime
- Key features of African Union Convention on Cyber Security and Personal Data Protection (2014)
- The OECD Policy Guideline on Online Identity Theft (2008)

Reference Material

- Information Technology Law, By Dr. S.R. Myneni First edition Asian Law house 2013
- <http://faculty.smu.edu/pwinship/arb-24.htm> access on 16th Dec 2018
- <https://www.coe.int/en/web/cybercrime/th-e-budapest-convention> access on 16th Dec 2018
- <https://rm.coe.int/16800cce5b> access on 16th Dec 2018
- League of Arab States Convention on Combating Information Technology Offences (2010)
- African Union Convention on Cyber Security and Personal Data Protection (2014)
- OECD Policy Guideline on Online Identity Theft (2008)
- Essentials of Information Technology Law by Sujata Pawar & Yogesh Kolekar, Indian Notion Press, 2015

Session 12

International Laws (UN convention, European convention) on Cyber Regulation

Objective of the session:

- In this session, the participants will be informed about the UN convention and European convention and its provisions to regulate and control the cybercrimes.

Subjects included in this Unit:

- Key features of UN Convention on the Use of Electronic Communications in International Contracts, 2005
- Key features of Protocol on Xenophobia and Racism committed through computer

systems Supplementing the European Convention on Cybercrime, 2001

Reference Material

- https://www.uncitral.org/pdf/english/texts/electcom/06-57452_Ebook.pdf Access on 16th Dec 2018
- http://www.uncitral.org/uncitral/en/uncitral_texts/electronic_commerce/2005Convention.html Access on 16th Dec 2018

Session 13

Institutions for Cyber law enforcement of Nepal

Objective of the session:

- In this session, the participants will be informed about the institutions involved in execution of law relating to electronics transaction and its role.

Subjects included in this Unit:

- Ministry of Science and Technology
- Ministry of Information and Communication Technology

- Nepal Telecommunications Authority
- Department of Information Technology
- National Information Technology Centre (NITC) and the Government Integrated Data Center (GIDC)
- Nepal Telecom and other telecom companies
- IT Service provider institutions

Session 14

Cybercrime and its Investigation, Prosecution and Adjudication System in Nepal

Objective of the session:

- In this session, the participants will be informed about the cybercrime; and investigation and prosecution of cybercrime.

Subjects included in this Unit:

- Cybercrime and its features
- Investigation, prosecution and judicial procedure of Cyber crime in Nepal
- Nepal Police (Cyber Crime Investigation Bureau, Digital Forensic Lab, etc.)
- Office of the Attorney General (OAG)
- Controller of Certifying Authority
- IT tribunal and the IT Appellate Tribunal
- Computer Association of Nepal (CAN Federation)
- Lapses in investigation
- Lapses in prosecution
- Overall trend of judiciary in adjudicating cyber cases, controlling standards (if any)

- How can we ensure better conviction in cyber cases?
- Nepal CERTs and Cyber security Coordination
- Case Study

Reference Material

- Electronic Transaction Act, 2063
- Electronic Transaction Rule, 2064
- Cybercrime and Our Judicial Practices – an analysis, Ratna Bahadur Bagchand, Pratipadan 2073, National Judicial Academy.
- Report on Status of Crime under the Electronic Transaction Act, 2063, Attorney General Office of Nepal
- Babu Ram Aryal v. Information and communication ministry et.al. Writ no. 0268, 2069
- <https://doit.gov.np/en/spage/computer-ert>
- http://occ.gov.np/pages/details/function_roles_of_occ

Session 15

Online Media / Social Media and Piracy in Nepal

Objective of the session:

- In this session, the participants will be informed about the existing online Medias in Nepal as well as they will be acquainted with the piracy and threat of online media.

Subjects included in this Unit:

- Regulation of Cyber space
- Evolution of online media in Nepal
- Concept and extent of online piracy
- Legal Status of online media in Nepal
- Social media & defamation
- Threat on online Media and piracy
- Online Media Operation Directive, 2073

Reference Material

- Bodhi: An interdisciplinary journal vol. 2, no. 1, serial no. 2, 2008 by department of languages and mass communication Kathmandu University, Dhulikhel

- Cyber Laws By Dr. Gupta and Agrawal Premier Publishing Company, 2008
- The Lawyer's Guide to Social Networking- John G. Browning, South asian edition, 2012
- <https://visitskc.wordpress.com/2011/04/30/online-media-in-nepal-a-profile-study/>
- https://www.sroc.info/wp-content/uploads/2018/02/OECD_study_-_piracy.pdf
- Constitution of Nepal, 2072
- Adhikary, S. (2005). Online journalism in Nepal (Unpublished M.A. Thesis). Tribhuvan University.
- Acharya, B. (2007) . Online news portals in Nepal: An exploratory study (Unpublished M.A. Thesis). Purvanchal University.

Session 16

Online media future and prosecution in Nepal

Objective of the session:

- In this session participant will impart the knowledge about future and challenges of online media in Nepal. Introduced them about the problems arise during prosecution of online media related case under Electronic Transaction Act, with that knowledge they will reasonably prosecute the cases relating to online media.

Subjects included in this Unit:

- Issue of prosecution under Electronic Transaction Act over online news
- Challenges and future of online media in Nepal
- Provisions of Online media in IT Bill 2075

Reference Material

- Bodhi: An interdisciplinary journal vol. 2, no. 1, serial no. 2, 2008 by department of languages and mass communication Kathmandu University, Dhulikhel
- Adhikary, S. (2005). Online journalism in Nepal (Unpublished M.A. Thesis). Tribhuvan University.
- Freedom of Expression on Internet in Nepal by Freedom Forum with the funding from International Freedom of Expression Network (IFEX)
- Acharya, B. (2007) . Online news portals in Nepal: An exploratory study (Unpublished M.A. Thesis). Purvanchal University.
- IT Bill 2075

Session 17

E-Commerce and E-Governance in Nepal

Objective of the session:

- In this session, the participants will be familiar about e-commerce and e-governance and role of e-governance in ruling governance system

Subjects included in this Unit:

- Concept of e-Commerce and e-Governance
- Types of e-commerce
- Dispute resolution mechanism on e-commerce
- Relation between e-commerce and e-Governance
- Consumer protection on cyber space

- Means of payment on e-commerce
- Role of e- Governance in governance system
- The E-Government Master Plan

Reference Material

- Cyber Laws by Dr. Gupta and Agrawal Premier Publishing Company, 2008
- A Practical approach to Cyber Laws, By K. Mani's, Kamal Publication, 2008
- Cyber Law Simplified by Vivek Sood, Tata McGraw-Hill Publication, 2003
- The E-Government Master Plan

Session 18

E-Attorney Project and future plan of OAG IT sector

Objective of the session:

- At the end of the session participants will aware about the E-attorney projects in Office of the Attorney General as well as they will be gain the knowledge about future planning of IT sector of Office of the Attorney General.

Subjects included in this Unit:

- Introduction to the E-Attorney Project
- Ongoing projects of the OAG in the IT Sector

Reference Material

- Annual Planning of OAG, IT Department, 2075
- Strategic Plan of OAG (2072-2077)

Session 19

Nature and types of Cyber Crimes

Objective of the session:

- At the participants will be familiar with the nature, jurisdiction and types of cybercrime.

Subjects included in this Unit:

- Introduction of cyber crimes
- Nature of cyber criminality
- Recent trends in cybercrimes

- Various types of cybercrimes (financial crimes, cyber pornography, online gambling, forgery and email spoofing, cyber defamation, web defacement, data diddling, denial of service, virus attacks, cyber terrorism, cyber vandalism etc.)
- Jurisdiction of Cyber Crime

Reference Material

- Information Technology Law Fourth Edition, Routledge Publication 2012
- Cyber Crime, Key issues and debates By Alisdair A.Gillespie First Edition 2016
- Computer Laws Edited By Chris Reed, Third Edition Universal Law Publishing, 1996
- Information Technology Law By Dr. S.R. Myneni First Edition, Asian Law House, 2013
- Cyber Law Simplified by Vivek Sood, Tata McGraw-Hill Publication, 2003
- Legal Jurisdiction over malware –related crimes: From theories of jurisdiction to solid practical application-2012 Computer law & security review by R. Rahman
- People vs. World Interactive Gaming Corp., et al. (QDS: 22310325, 1999 N.Y. Misc. Lexis 425 (Sup. Ct. N.Y.Co., July 24, 1999)Cited from http://www.internetlibrary.com/cases/lib_case65.cfm
- Macquarie Bank Inc v Berg [1999] NSWSC 526. Cited from <https://wikijuris.net/cyberlaw/jurisdiction>

Session 20

Challenges in Cyber Crime Investigation

Objective of the session:

- In this session participants will be aware about the challenges in the investigation of the cybercrime.

Subjects included in this Unit:

- Cybercrime investigation
- Steps of cybercrime investigation
- Hacking, ethical hacking and call detail records (CDR)
- Live Data Acquisition and Time Line Event
- Difficulties in investigating cybercrimes
- Computer Forensics

Reference Material

- Cyber Laws By Dr. Gupta and Agrawal Premier Publishing Company, 2008
- A Practical approach to Cyber Laws, By K. Mani's, Kamal Publication, 2008
- Cyber Law and Cyber Crimes First Edition Snow White Publication, 2012
- Essentials of Information Technology Law by Sujata Pawar & Yogesh Kolekar, Indian Notion Press, 2015
- Cyber Laws & Crimes- Barkha & U. Rama Mohan, 3rd Edition, Asian Law House, 2017

Session 21

Cybercrimes and their Relation with financial Crime

Objective of the session:

- In this session participants will be familiar about the relationship in between the financial crime and the cybercrime.

Subjects included in this Unit:

- Cybercrime and Financial crimes
- Sale of illegal articles
- Cybercrime and Intellectual property related crime

- Case study

Reference Material:

- A Practical approach to Cyber Laws, By K. Mani's, Kamal Publication, 2008
- Cyber Laws By Dr. Gupta and Agrawal Premier Publishing Company, 2008
- Information Technology Law By Ian J. Lloyd Fourth Edition Oxford University

Session 22

Cybercrimes and their Relation with Other Crimes

Objective of the session:

- In this session, participants will be informed about the relationship between cybercrime and organized crime including other crimes.

Subjects included in this Unit:

- Child pornography and Cyber crime
- Terrorism and Cyber crime
- Other forms of organized crime

Reference Material:

- Optional protocol to the UN Convention on the Right of the child on the sale of children, child prostitution & child pornography (OPSC)-2000

- Cyber laws, Premier publishing company, 2008
- Cyber Crime, Key issues and debates By Alisdair A.Gillespie First Edition, 2016
- Law of Cyber Crime (India & Abroad) by D.K. Ganguly, Dwivedi law agency
- Essentials of Information Technology Law by Sujata Pawar & Yogesh Kolekar, Indian Notion Press, 2015
- Cyber Laws- K. Mani, Kamal Publishers, 2008
- Yvonne Jewker and Majid yas hand book of Internet Crime, willan Publishing
- Joshi Nayan, Electronic Evidence p.g. 184,187,188

Session 23

New Trend of Cyber Crime

Objective of the session:

- In this session participants shall do effective prosecution after getting knowledge about the new trends and methods of the cybercrimes.

Subjects included in this Unit:

Emerging trend of Global Cyber crime

- Internet cyber crime
- Social media
- Advanced persistent attacks
- Ransomware
- Attacking the internet of Things
- DDos of through botnet assisted malware
- Continued data theft
- Hacking
- Dark web(Dark net)
- Crypto currency
- Phishing
- Stolen identities
- Emerging trends of cybercrime in Nepal
- Identity theft

- Phishing
- Extortion
- Unlawful Publication / Distribution
- Threat calls using technologies
- Business Email compromise
- Social Networking Sites (Social Media)
- Ransomware
- Email threats
- Cyber Stalking
- Hacking
- Cyber Bullying
- Fraud Using Technologies
- VOIP (call bypass)

Reference Material:

- <https://ictframe.com/contemporary-issues-in-cyber-security-law-of-nepal/>
- <https://www.lawctopus.com/wp-content/uploads/2018/05/Brochure-Edited-Book-Cyber-Law.pdf>
- विद्युतीय कारोबार एन २०६३ सम्बन्धी कसूरहरूको अवस्था सम्बन्धी प्रतिवेदन, महान्यायाधिवक्ताको कार्यालय, २०७४

- Essentials of Information Technology Law by Sujata Pawar & Yogesh Kolekar, Indian Notion Press, 2015
- Cyber Laws- K. Mani, Kamal Publishers, 2008
- The Lawyer's Guide to Social Networking, John G. Browning, Thomson Reuters, South Asian Edition ,2012
- Thomson Reuters, South Asian Edition ,2012
- Joshi Nayan, Electronic Evidence, p.g. 193

Session 24

VoIP and Call Bypass

Objective of the session:

- In this session participant will be familiar about the concept of VOIP and call by pass as well as differences in between.

Subjects included in this Unit:

- Concepts of Voice over the Internet Protocol (VoIP) and Call Bypass or Bypass Fraud
- Vishing (Voice+phishing)

- Differences between VoIP and Call Bypass
- Some Cases of VOIP and Call Bypass

Reference Material:

- <https://transnexus.com/whitepapers/introduction-to-voip-fraud/>
- Cyberspace and the cyber law – Narayan Prasad Sharma, published by Koselee Prakashan, 2015
- <https://transnexus.com/whitepapers/introduction-to-voip-fraud/>

Session 25

VoIP and Call Bypass investigation and major cases

Objective of the session:

- In this session participants will be familiar about the mode and methods of VoIP and Call Bypass related cybercrime, difficulties in investigation on such cases and damage incurred from Call Bypass.

Subjects included in this Unit:

- Modus operandi and major cases of Call Bypass
- Difficulties in investigating Call Bypass
- Losses or harms incurred from Call Bypass

- Can Call Bypass be legalized?
- Some major cases

Reference Material:

- <https://thehimalayantimes.com/kathmandu/man-arrested-operating-illegal-call-bypass-system/>
- Cyberspace and the cyber law – Narayan Prasad Sharma, published by Koselee Prakashan, 2015
- http://bswan.org/bypass_fraud_evolves.asp

Session 26

Computer and Data Security

Objective of the session:

- In this session participants will be known about the condition of computer security,

data security and cyber security and its challenges.

Subjects included in this Unit:

- Network Security

- Data Security
- Data Security Principle
- End-point security
- E-payment system and Payment Gateway
- Security Measures
- Legal Provisions
- Areas to take Precautions
- Challenges to the security

Reference Material:

- Cyber Law and Crime By Barkha and U. Rama Mohan third edition Asian Law House 2011
- <https://www.weblinknepal.com/blog/4/online-payment-gateway-in-nepal.html> access on 12 March 2019
- Information Technology Law- S.R. Myneni, Asian Law House
- Information Technology Law- Diane Rowland & Elizabeth Macdonald, Cavendish publishing Ltd, 1997

Session27

Electronic Evidence / Digital Evidence

Objective of the session:

- In this session participants will be familiar about the introduction, nature, characteristics of electronic/digital evidence and international rules to present such evidences.

Subjects included in this Unit:

- Introduction
- Electronic form of evidence
- Transmission of electronic record
- Characteristics of electronic evidence
- Electronic records and its proof
- International admissibility rules
- Documentation of digital evidence
- Value of e-evidence or digital evidence and its presentation in the court

Reference Material:

- <https://www.nij.gov/topics/forensics/evidence/digital/Pages/welcome.aspx>
- Electronic evidence- By Stephen & Deniel Seng, Institue of Advanced Legal Studies, fourth Deition, 2017
- E-Discovery- By Amelia Phillips, Delmar Cengage Learning, First edition, 2013
- <https://www.udemy.com/digital-forensics-and-electronic-evidence>
- Electronic evidence- By Dr. Gupta and Agrawal Premier Publishing Company, 2008
- Electronic evidence- By Nayan Joshi, Kamal Publishers, 2014

Session 28

Investigation Status of Cybercrimes and its Challenges in Nepal

Objective of the session:

- In this session participants will be familiar about the condition and challenges of cybercrime investigation.

Subjects included in this Unit:

- Pitfalls in investigation
- Challenges of cybercrime investigation

Reference Material:

- Cyber Law and Crime By Barkha and U. Rama Mohan third edition Asian Law House 2011

- Essentials of Information Technology Law by Sujata Pawar & Yogesh Kolekar, Indian Notion Press, 2015
- <https://ictframe.com/cyber-law-and-its-challenges-in-nepal/>
- Kent, K., Chevalier, S., & Grance, T. (2006). Guide to Integrating Forensic Techniques into Incident.
- Agarwal, Ankit & Megha Gupta, Ms & Saurabh Gupta, Mr & Gupta, Yatendra & Gupta, Chandra. (2011). Systematic Digital Forensic Investigation Model. International Journal of Computer Science and Security. 2011-118.
- Nelson, B., Phillips, A., & Steuart, C. (2016). Guide to Computer Forensics and Investigations: Processing Digital Evidence. 5th ed. Boston: Cengage Learning.

Session 29

Prosecution of Cybercrimes and its Challenges in Nepal

Objective of the session of the unit:

- In this session participants will be familiar about the condition and challenges of cybercrime prosecution as well as court perspective on it.

Subjects included in this Unit:

- Cooperation of the victim and witnesses in prosecution
- Challenges to criminal justice system
- General attitude of judiciary in deciding cyber cases

- How can the prosecution regime be strengthened?
- Case Study

Reference Material:

- <https://ictframe.com/cyber-law-and-its-challenges-in-nepal/>
- Decision of Court on Some cases of Cyber crime
- Essentials of Information Technology Law by Sujata Pawar & Yogesh Kolekar, Indian Notion Press, 2015

Session 30

Cybercrimes and the Areas of International Cooperation

Objective of the session:

- In this session participants will be familiar about the International assistance and cooperation regarding the investigation and collection of evidences of the cybercrimes.

Subjects included in this Unit:

- Mutual legal assistance
- Extradition
- Joint investigation

- Evidence collection and acquisition
- Interagency cooperation
- Exchange of information and experiences

Reference Material:

- <https://www.unodc.org/e4j/en/organized-crime/module-11/key-issues/mutual-legal-assistance.html> access on 12 March 2019
- <https://ngm.com.au/cybercrime-mutual-legal-assistance/> access on 12 March 2019

Session 31

Cybercrimes and Human Rights

Objective of the session:

- In the participants will be familiar about the measures to maintain privacy during the investigation and prosecution in accordance with international human rights values.

Subjects included in this Unit:

- Rights to privacy and its scope
- Crime investigation and privacy protection measures
- Role of service providers in privacy rights' protection
- Legal provision regarding privacy rights protection
- Data Protection and compensation

- Social Networking Sites in relation to Human rights.
- Art. 19 of Universal Declaration of Human Rights

Reference Material:

- Information Technology Law By Ian J. Lloyd Fourth Edition Oxford University
- Cyber Rights Defencing free speech in the Digital Age By Mike Godwin
- Issues in Cyber Space- Jan Samoriski
- Shreya Singhal v. Union of India, AIR 2015, SC 1523
- Personal Privacy related Act, 2075
- UDHR, 1948
- Internet Law, By Chris Reed, Universal Law Publishing Co., second edition, 2010

Session 32

The role of Government Attorney during pleading and defending the cases relating to cyber crime

Objective of the session:

- In this session participants will be familiar about the measures for effective pleading and defending the cases relating to cybercrimes.

Subjects included in this Unit:

- Pleading in the cases of cyber crime
- Presentation of evidences
- Art of advocacy
- Measures to make effective defense
- Coordination with other institutions

Session 33

The challenges incur during investigation and prosecution of cybercrimes and the role of the government attorneys on such.

Objective of the session:

- In this session participants will be familiar about the challenges incur in investigation and prosecution of cybercrimes and solutions to settle such issues.

Subjects included in this Unit:

- Problems in Investigation
- Challenges of prosecution
- Solutions to address the challenges

6. Gender and Juvenile Justice

6. Gender and Juvenile Justice

Syllabus for specialization on Gender and Juvenile Justice

Goal of course: To prepare specialized government attorney related to Gender Justice and Juvenile Justice.

Objective of the session of course: At the end of the course, participants will have knowledge on following things:

- Concept, fundamental principles and International practices of Gender Justice and Juvenile Justice.
- Legal Provisions, doctrines propounded by Supreme Court and precedents relating to Gender Justice and Juvenile Justice.
- Can give directives for crime investigation as per the concept of Gender Justice and Juvenile Justice.
- Can prosecute the cases relating to Gender and Juvenile Justice along with effective representation of government party and defend such case.

Subjects included in this Unit:

This syllabus has been prepared to produce specialized government attorneys and to enhance their professional development. The subject matter under this syllabus shall cover 40% of theoretical and 60% professional and practical knowledge.

Subject to be included:

Index:

1. Concept of Gender Justice
2. International Documents related to Gender Justice and Nepal's Commitment
3. National policies, laws and mechanism on Gender Justice
4. Gender Justice on National Code
5. Gender Justice and Citizenship
6. Rights of Victim of Crime
7. Legal provisions related to the Protection of Witness
8. Procedural provisions for the protection and Promotion of Gender Justice
9. Identification of Victim of Crime
10. Access to Justice of Women, Children and Targeted Group
11. Human Trafficking and Transportation Control
12. Prevention of Sexual Harassment in work place and Act against Abortion
13. Offence related to Witchcraft and offence related to Marriage
14. Offence against Domestic Violence and its Controlling Measures
15. Sexual Violence and Gender Justice
16. The Role of Prosecutors in Gender Justice
17. National Civil Code along with Civil Procedure Code and Gender Justice
18. The Role of Prosecutors in dealing with Suspected Women
19. Rehabilitation and Socialization of Victim Women at a Crime
20. Concept on Juvenile Justice
21. National Legal Provision of Juvenile Justice

22. Diversion
23. Rehabilitation
24. Juvenile Delequency
25. Communication with Children
26. Child Psychology
27. Child Reform Home
28. Sentencing toward Children and implementation
29. Child Rights, International Instruments and National Commitments
30. Juvenile Court and Juvenile Bench
31. Crime against Children and Protection of child victim
32. Problem and solution on investigation, prosecution and hearing of women involved case (Panel Discussion)
33. Problem and solution mechanism of juvenile justice (Panel Discussion)

Session 1

Concept of Gender Justice

Objective of the session :

At the end of the session, the participants shall:

- Know about the conceptual aspects of Gender Justice
- Be able to state the fundamental subjects/topics of gender justice
- Be acquainted with the judicial perspective on gender justice

Subjects included in this Unit

- Concept of equality and types of equality
- Gender justice and gender equality
- Various perspectives on gender justice
- Feminist Jurisprudence on Gender Justice
- Patriarchal Values and Legitimized Discrimination
- Fundamental subjects and aspects of gender justice
- Present situation of Gender Justice
- Identification of problems and solutions

Reference Materials

- Constitution of Nepal
- Gender Justice, *Srot Sangalo*, National Judicial Academy (NJA)
- Source Materials on Human Rights in Judicial Administration, National Judicial Academy, Part 2

- Compilation of Landmark Judgments related to Gender Justice, NJA, 2066
- Krishnajiwi Ghimire, Gender Justice and Aspects of Judicial Administration, 2075 (n}lĒs Gofu, Gofu k|zf;gsf cfofdχ, (@)&%)
- Annapurna Rana v. Kathmandu District Court NKP 2055 Vol.5 DN. 6588
- Meera Dhungana v. Law and Justice Ministry and others, NKP 2052 Vol.6 DN. 6013
- Reena Bajracharya v. RNAC, NKP 2056 Vol. 5 DN 6898
- Advocate Prakash Mani Sharma v. Ministry of Women and Children, NKP 2065 Vol. 8 DN. 2005
- Basundhara Thapa v. HMG, NKP 2060 Vol. 5 DN. 7217
- Meera Dhungana v. Office of Prime Minister and Council of Ministers, NKP 2064 Vol. 6 DN. 7854
- Chanda Bajracharya v. Parliament Secretariat and others, NKP 2053 Vol 7 DN. 6223
- Collection of International Human Rights Instruments to which Nepal is a State party, Ministry of Foreign Affairs, 1998

- Control the crime against women and children (theoretical concept, law and judicial perspective)
- Gender Justice, Citizenship and Development, Edited by Maitrayee Mukhopadhyay and Navsharan Singh, Jointly published -2007) by Zubaan, an imprint of Kali for Women, and the International Development Research Centre
- Gender Justice, Development, and Rights, Maxine Molyneux and Shahra Razavi
- Surendra Bhandari, Court, Constitution and Global Public Policy
- Supreme Court of Nepal on Gender Equality and Access to Justice, Himal Innovative Development and Research, 2018
- Sandra Walklate, Gender, Crime and Criminal Justice, William Publishing, 2001
- Jaya Sagada, Vedna Jivan Christine Forsth, Feminism in the subcontinent and beyond, challenging laws

Session 2

International Documents related to Gender Justice and Nepal's Commitment

Objective of the Session:

At the end of this session, the participants will

- Know about the international treaties and conventions and national commitment which promotes gender justice.
- Introduce the obligation of state party regarding implementation of provision of treaty and conventions.

Subjects included in this Unit:

- Fundamental aspects of International laws related to Gender justice.
- International Instruments on Gender Justice and major issues on Convention on elimination of all forms of Discrimination Against Women (CEDAW) 1979
- Commitment of Nepal on International conventions regarding Gender Justice and provision of Nepal Treaty Act, 2047
- International Instruments on Gender Justice and Supreme Court.

Reference Materials:

- Universal Declaration on Human Rights, 1948
- International Covenant on Civil and Political Rights, 1966
- Convention on Rights of Child, 1989
- Convention on Elimination of all forms of discrimination against women, 1979

- Nepal Treaty Act, 2047
- Punyawati Pathak v. Manmohan Adhikari et al. NKP 2062, Volume 8 Decision no: 7585
- Meera Gurung v. Department of immigration NKP 2051, Volume 2 Decision no. 4858
- Prakashmani Sharma v. Office of the Prime Minister and Council of Ministers NKP 2065 volume 8 Decision no 8001
- Supreme Court of Nepal on Gender Equality and Access to Justice, Himal Innovative Development and Research, 2018
- Gender Justice, Citizenship and Development, Edited by MaitrayeeMukhopadhyay and Navsharan Singh, Jointly published -2007) by Zubaan, an imprint of Kali for Women, and the International Development Research Centre
- Gender Justice, Development, and Rights, Maxine Molyneux and Shahra Razavi
- Sandra Walklate, Gender, Crime and Criminal Justice, William Publishing, 2001

Session 3

National policies, laws and mechanism on gender justice

Objective of the session:

The participants at the end shall:

- Know about National policies, laws and mechanism on gender justice.
- Be introduced about developed judicial perspective on this subject.
- To be implemented such subject while performing the designated work.

Subjects included in this Unit:

- Constitutional provision on gender justice.
- Nepalese legal provision on gender justice.
- Policies on gender justice.
- Fundamental parts on National policies relating to gender justice.
- Strategies and policies on gender justice authorized by Five Year Plan.
- Role of Supreme Court in policy making on this issue.

Reference Materials:

- Journal of Supreme Court Bar Year 5 Volume 5 2068, Supreme Court Bar Association
- Krishna GB Ghimire, Gender Justice and Dimensions on justice administration 2075
- Meera Dhungana v. Ministry on Law and Justice NKP 2052 Decision no 6013
- Dil Bahadur Bishwakarma v. Office of Prime Minister and Council of Ministers etal NKP 2062 Decision no 7531
- Sapana Malla Pradhan v. Law and Justice Ministry et.al., NKP 2065, vol. 11, Decision no. 8083
- Current National Planning.
- Supreme Court of Nepal on Gender Equality and Access to Justice, Himal Innovative
- Development and Research, 2018

Session 4

Provision of Gender justice on National Code

Objective of the session:

The participants shall know about:

- Have knowledge on the provisions of gender justice in National Penal Code and National Criminal Procedure Code.
- Implementing the provisions during investigation, prosecution and justice administration.

Subjects included in this Unit:

- Women's rights protective provisions in National Penal Code (Crime relating to rape, Marriage, and abortion etc.)
- Women's rights protective provisions in National Criminal Procedure Code

Reference Materials:

- National Penal Code, 2074
- National Criminal Procedure Code, 2074
- Report on the national workshop on Justice for Women and Children, 2075, Office of the Attorney General
- Achyut Prasad Kharel v. Office of Prime Minister and Council of Ministers etal NKP 2067 Volume 6 Decision no: 8384
- Laxmi Devi Dhikta v. Office of Prime Minister and Council of Ministers et.al NKP 2067 Volume 9 Decision no: 8464

Session 5

Gender Justice and Citizenship:

Objective of the session:

At the end of the session participants will be:

- Competent to evaluate on the provision of citizenship on the basis of conceptual aspects of gender justice.
- Introduced about the Supreme court's perspective on citizenship issues.

Subjects included in this Unit:

- Principle on Citizenship.
- Types of Citizenship (by Decents, by Birth, by Naturalize, non-resident and Honorary)
- Basis of obtaining citizenship and review on those provisions with the vision of gender justice.
- Comparing citizenship provisions obtaining in neighboring countries and in Nepal.
- Supreme court's perspective on citizenship issues.

Reference Materials:

- Constitution of Nepal 2072
- Nepal Citizenship Act 2063
- Lokraj Parajuli, Citizenship arrangements, Constitutional Law Source Materials, Office of Attorney general, Nepal

- Bipana Basnet v. Office of Prime Minister and Council of Minsters etal, NKP 2075 Volume 8 Decision no: 10066
- Aarika K.C. v. District administration Office etal, NKP 2075 Volume 10 Decision no: 10113
- Sabina Damai v. Office of Prime Minister and Council of Minsters etal, NKP 2068 Volume 2 Decision no: 8557
- Sajda Sapkota NKP 2073 Volume 7 Decision no: 9627
- Bipana Basnet NKP 2075 Volume 8 Decision no: 10066
- Sandesh Singh NKP 2074 Volume 7 Decision no: 9841
- Chandrakant Gyawali v. NKP 2062 Volume 11 Decision no: 7044
- Achyut Prasad Kharel v. Office of Prime Minister and Council of Minsters etal, NKP 2062 Volume 4 Decision no: 7533
- Nakkali Maharjan v. Nepal Government, NKP 2065 Volume 11 Decision no: 8035
- Collection of International Instruments on Human Rights to which Nepal is a party, Minister of Foreign Affairs, Kathmandu 1998

Session 6

Rights of Victim of Crime

Objective of the session:

The participants at the end will be:

- Informed about legal provisions on Rights of Victim of Crime.
- Introduced them about activities to execute the rights of crime victim during investigations, prosecution and adjudication of justice.

Subjects included in this Unit:

- Basic values and principles of Victim of Crime.
- International legal system with the protection to Victim of Crime.
- Constitutional and legal rights of victim of crime.
- Protection of victim during investigation, prosecution and hearing.

- Importance of protection of Victim of Crime.
- Protection of Victim in regards to gender justice.
- Role of Supreme Court in Protection and Promotion of Victim of Crime.
- Role of Prosecutors of Victim of Crime.

Reference Materials:

- Constitution of Nepal 2072
- The Crime Victim Protection Act 2075
- National Criminal Code 2074
- National Criminal Procedural Code 2074
- Organised Crime (Prevention) Act 2070
- Human Trafficking and Transportation (Control) Act 2064
- Blaming witch (Crime and Punishment) Act, 2072
- Guidelines for maintaining confidentiality in handling of special cases.

- Basic Principles of Justice for Victims of Crime and Abuse of Authority Declaration, 1949
- International Criminal Court, Rome Statute, 1198
- United Nations Convention against Corruption, 2003
- Nepal Government v. Bishnu Kapri et.al., NKP 2075 Volume 11 Decision no: 10144
- Pawan Kumar Yadav v. Nepal Government, NKP 2067 Volume 11 Decision no: 8498
- Jyoti Lamsal Paudyal v. Nepal Government, NKP 2067 Volume 11 Decision no: 8507
- Shankar Kumar Shrestha, Victim Relief, Pairavi Publication
- Ramdevi Parajuli, Rights of Victim of Crime, Dimensions of Justice Administration

Section 7

Legal provisions related to the Protection of Witness:

Objective of the session :

The participants at the end of the session will be:

- Informed about the subject of importance and justification of Witness Protection,
- Sensitive during administration and execution of the provision on Protection of Witness.

Subjects included in this Unit:

- Constitutional and legal provision on Protection of Witness.
- New values developed regarding Protection of Witness.
- The Efforts for Assisting and Protecting Witness.
- General knowledge of International Conventions and treaties regarding Protection of Witness.
- Judicial perspective of Supreme Court on this subject.

- Problems observed in Protection of Witness and influence in administration of justice.
- Responsibility of Prosecutors.

Reference Materials:

- Constitution of Nepal, 2072
- Human Trafficking and Transportation (Control) Act 2064
- National Criminal Procedural Code, 2074
- Organised Crime (Prevention) Act, 2070
- Guidelines for maintaining confidentiality in handling of special cases, 2064
- Basic Principles of Justice for Victims of Crime and Abuse of Authority Declaration, 1949
- International Criminal Court, Rome Statute, 1198
- United Nations Convention against Corruption, 2003

- United Nations Convention against Transnational Organised Crime 2000
- Jyoti Lamsal Poudyal v. Nepal Government, NKP 2067 Volume 11 Decision no: 8507
- Uma Tamang v. Nepal Government, NKP 2070 volume 11 Decision no: 9078

Session 8

Procedural Provisions for the protection and promotion of gender justice

Objective of the session:

At the end of this session, the Participants will:

- Know about the procedural provisions for gender justice.
- Introduce the Procedure for maintaining the privacy of the party in camera hearing and special cases.

Subjects included in this Unit:

- Camera Hearing
- Confidentiality of the party
- Video conference
- Continuous hearing
- Psycho-socio counseling
- Legal Aid
- Protection of Victim of Crime
- Participation in Judicial proceedings

Reference Materials:

- National Criminal Procedural Code, 2074
- District Court Regulation, 2075
- Guidelines for maintaining confidentiality in handling of special cases, 2064
- The Crime Victim Protection Act, 2075

- The Individual Privacy Act, 2075
- National Criminal Procedural Regulation, 2075
- Crime Investigation Regulation, 2075
- Sapana Pradhan Malla v. Office of Prime Minister and Council of Minister etal NKP 2064 Volume 9 Decision no 7880, Page 1208
- Uma Tamang v. Nepal Government, NKP 2070 Volume 11 Decision no: 9078
- Jyoti Poudyal Lamsal v. Office of Prime Minister and Council of Minister etal, NKP 2066 Volume 12 Decision no 8282
- Jyoti Poudyal Lamsal v. Office of Prime Minister and Council of Minister etal, NKP 2067 Volume 11 Decision no 8507
- Concept of Camera Hearing and its method of Implementation, National Judicial Academy
- Circular issues by Office of Attorney General regarding the Continuous hearing.

Session 9

Identification of Victim of Crime:

Objective of the session:

The participants at the end, will be:

- Introduced about impact on justice administration by identification of Victim of Crime
- Conscious to identify the crime of victim while investigating and prosecuting the crime

Subjects included in this Unit:

- Importance of identification of victim.
- Identification of Victim of Crime for Protection and Security of crime victim,

Participation in judicial proceedings, Compensation and Rehabilitation

- Guidelines in International Instruments for Identification of Victim of Crime
- Problems arising during identification of Victim of Crime
- Challenges and Problems occurring in identification of the victim of crime on Human Trafficking and Transportation.
- Procedural and Legal Aspects for identification of victim of crime and its implementation status.

- Solutions to the problems occurring in identifying the victim of crime.

Reference Materials

- The Crime Victim Protection Act, 2075
- National Criminal Procedural Code, 2075
- <https://aspe.hhs.gov/report/identifying-victims-human-trafficking-inherent-challenges-and-promising-strategies-field>
- <https://aspe.hhs.gov/report/study-hhs-programs-serving-human-trafficking-victims/what-are-challenges-identifying-victims>

- Second Five Year Strategic Plan by Office of Attorney General
- Shankar Kumar Shrestha, Victime Relief, Pairavi Publication
- Order in Writ of Devaki Pokhrel
- United Nations Convention against Transnational Organised Crime 2000
- <https://www.baliprocess.net/regional-support-office/policy-guides-on-identification-and-protection-of-victims-of-trafficking/>
- Trafficking in Persons in Nepal National Report, National Human Right Commission(NHRC), 2018

Session 10

Access to Justice for Women and Children

Objective of the session:

The participants, at the end, will be:

- Introduced the Concept of Access to Justice
- Familiar about the measures to Increase Access to Justice of women, children and target group.

Subjects included in this Unit:

- Conceptual aspects of Access to Justice
- Indicators for Access to Justice
- Status on Access to Justice
- Legal Provisions to inforce access to justice
- Access to Justice Commission and the action it has performed
- Order issued by Judiciary for Easy Access to Justice for Women and Children
- Role of prosecutor in Access to Justice
- Problems insights while inforcing Access to Justice
- Measures applied to solve the problem

Reference Materials:

- Constitution of Nepal

- The Act Relating to Children 2075
- National Criminal Procedural Code, 2075
- National Civil Procedural Code, 2075
- The provision in court related regulation
- Fourth Five Year Strategic Plan of Judiciary
- Second Five Year Strategic Plan of Office of Attorney General
- Strategy of Access to Justice Commission
- Directives to Victim and Witness assistance
- Manifesto issued by Conference of Government Lawyers
- Santosh Kumar Mahato's Order regarding establishment of Juvenile Court
- Directives for maintaining confidentiality in handling of special cases, 2064
- Recommendations of Justice JS Verma Commission
- Uma Tamang v. Nepal Government, NKP 2070 volume 11 Decision no: 9078
- Jyoti Poudyal v. Nepal Government regarding Fast Track Court

Session 11

Human Trafficking and Transaction Control

Objective of the session:

- To introduce them about the values carried by law related to Human Trafficking and

Transportation along with its implementation status.

Subjects included in this Unit:

- Background of Human Trafficking offence
- Major causes and objectives of Human Trafficking
- Constitutional and legal provisions against Human Trafficking
- Major provision of Laws regarding Human Trafficking and Transportation
- Elements of Human Trafficking and Transportation offence
- Types and nature of Human Trafficking and Transportation offence
- Comparative study of legal provision of foreign countries regarding Human Trafficking and Transportation (UK, India, USA and China)
- The existing scenario of Human Trafficking and Transportation offence
- The principles interpreted and justified by the Judiciary during implementation of this act
- Introduction of human smuggling offence
- Interrelationship between Human Trafficking and human smuggling offence
- Challenges faced during criminal investigation in case of Human Trafficking and Transportation
- Role of prosecutors in the investigation, prosecution and sanction process in case of Human Trafficking and Transportation

Reference material

- Constitution of Nepal
- Human Trafficking and Transportation (control) act, 2064
- Human Trafficking and Transportation (control) regulation, 2065
- Prosecution policy and guidance from the Office of Attorney General
- Annual report of Attorney General Office
- Nubu Yangcho v. Nepal Government, NKP 2075, vol 10, Decision no. 10118

- Nepal government vs. Prakash ojha, NKP 2073- vol 6, Decision no. 9621
- Nepal government vs. Som bahadur Tamang, Supreme Court Bulletin 2073 Poush 1 Page 37
- Yogh bahadur lama vs. Nepal government, NKP 2073-vol no.1, Decision no. 9525
- Lok bahadur k Decision no. karki vs. Nepal government, NKP 2072- vol no. 2, Decision no. 9346
- Shyam bhanarup bahadur Chhetri vs. Nepal government, NKP 2068- vol no. 12 Decision no. 873
- Nepal government vs. Khem raj Pandey, NKP 2066- vol no. 6 Decision no.8166
- Ful mati Shrestha (Maharjan) vs. His majesty Government, NKP 2066- vol no. 8
- Uttam lama vs. His Majesty Government, NKP 2061- vol no. 9
- His Majesty Government, NKP 2061- vol no. 9
- His Majesty Government vs. raj Tamang, NKP 2064- vol no. 4
- Crimes against human dignity and Nepalese law, Office of Attorney General, Nepal
- Trafficking in persons in Nepal National Report, National Human Rights Commission (NHRC), 2018
- Smuggling and Trafficking human beings: The phenomenon, the markets that drive it and the organization that promote it, European journal on criminal policy and research 9 (2): 163-195=June 2001
- United Nations transnational organized crime and its Protocols
- Dr. Ishita Chaltherje, Gender Justice and Feminist Jurisprudence Central Law Publicatioins, p.g. 365

Session 12

Prevention of Sexual Harassment in work place and Act Against abortion

Objective of the Session:

Participant in the end of session will be

- Introduced about the legal provision related sexual misconduct at the work place
- Informed about the offence against abortion.

Subjects included in this Unit:

- Introduction on sexual misconduct and harassment at the workplace
- Concept, Generation Gender Bias, Unseen barriers
- Subject matter covered by the law against sexual misconduct in work place
- Institutional efforts to prevent sexual misconduct in work place
- Judicial perspective
- Challenge and application of legal provision of sexual misconduct in work place
- Locus standi for sexual misconduct in work place and areas of improvement
- Things to be considered by the prosecutors during investigation, prosecution and proceedings in the crime against abortion

Reference material

- Constitution of Nepal
- Prevention of sexual misconduct in work place, 2071

- Sharmila Parajuli vs. Ministry Secretariat including Cabinet Secretariat, NKP 2061-vol no. 10 Decision no. 7449
- Prakash Mani Sharma vs. Prime Minister including Council of Ministry, NKP 2065 Decision no. 7995
- Prakash Manishama vs. Prime Minister and Council of Ministry, NKP 2065 Decision no. 8005
- Crimes against human dignity and Nepalese law, Office of the Attorney General, Nepal
- Vishaka and others vs. state of Rajasthan and others, 1997
- Discrimination (employment and occupation) convention, 1958
- Universal declaration of human right, 1959
- International affiliation on economic, social and cultural rights 1966
- Convention on right of child, 1959
- The convention on elimination of all forms of discrimination against women, 1959
- Alok Bhasin, Sexual Harrasment at work place
- Michael Lonnolly, Townshend smith on Discrimination Law, Text, cases, and materials p.g. 35-63

Session 13

Offence related to witch craft and offence related to marriage

Objective of the session:

Participants at the end of session will be:

- Informed about legal provision related witch craft offence and offence relating to marriage
- Competent to investigate and prosecute offence against witch craft, child marriage

and polygamous marriage with regards to values rendered by the laws.

Subjects included in this Unit

- Offence against witch craft
- Legal provision regard to this
- Judicial perspective
- Legal provision regarding child marriage and polygamous marriage

- Things to be considered during investigation in regard to these crime
- Things to be considered during prosecution and proceedings in regard to these crime

Reference material

- Charges of witchcraft (crime and punishment) act, 2072
- National criminal code, 2074
- Resma Thapa vs. Home ministry, NKP 2062- vol no. 2 Decision no. 7498
- Crime against human dignity and Nepalese law, Office of the Attorney General, Nepal
- Sanju Mahato vs. Nepal government, NKP 2074- vol no. 8 Decision no. 9861
- His Majesty government vs. case of polygamous marriage including indris Miya, NKP 2044- vol no. 2 page no. 259 Decision no. 3011
- Respondent: including Deepak Pandey vs. plaintiff: through F.I.R of Saraswati Pandey (Adhikari) in His majesty government, NKP 2063- vol no. 5 Decision no. 7694
- Respondent: Ashok Thapa in favor of Dhana bahadur Thapa vs. Nepal government in response of F.I.R from Kalpana Thapa in the case of polygamous marriage, NKP 2059- vol no. 11-12 page no. 787 Decision no. 7158
- Respondent: Ramji prasad Upadhaya vs. Nepal government in response of F.I.R from Saraswati Upadhaya, NKP 2070- vol no. 1 Decision no. 8951
- Nepal government in response of Narendra kumar Katuwal F.I.R vs. respondent: Kumar Thapaliya, NKP 2064 Decision no. 7884
- Respondent: including Kamal Mohan Chapaghai vs. Nepal government in response of Dev Chapaghai F.I.R, NKP 2068- vol no. 11 Decision no. 8716
- Nepal government vs. Shiva prasad Pandey, year 2071 Assar 24 Supreme Court Bulletin vol no. 14, 2071 Kartik 2nd, Full mark 536 (069-CR-908)
- Nepal government vs. including Raj Gurung, Supreme Court Bulletin 2071 vol no. 21- Falgun 1, Full mark 543page no. 29 (065-CR-545)

Session 14

Offence against Domestic Violence and its controlling measures

Objective of the session:

Participants in the session will be:

- Conceptually clear about domestic violence and offences related with it.
- Informed about the provisions of national and international laws regarding the subject matter.

Subjects included in this Unit

- Conceptual aspects of domestic violence
- Nature and features of domestic violence
- Feminist perspectives gender and violence
- Nepalese law in the prevention of domestic violence and its condition of implementation

- Information on the provision of the international conventions on human right against domestic violence
- Institutional efforts to reduce domestic violence
- Role of supreme court to minimize domestic violence
- Problem faced during the prevention of domestic violence and the measures for its solution

Reference material

- The convention on the elimination of all form of discrimination against women, 1959

- Convention against torture and other cruel inhuman or degrading treatment, 1989
- Crime against human dignity and Nepalese law, Office of Attorney General Office
- Declaration on end of violence against women, 1993
- Domestic violence (crime and punishment) act, 2066
- Domestic violence (crime and punishment) regulation, 2067
- Report of united nations special rapporteur on violence against women (1994-2003)
- Human right in administration of justice, National Judicial Academy, 2071
- Meera Dhungana vs. Law and Ministry of Justice including Marital rape
- Jeet Kumari Pangenani vs. including Prime Minister and Ministry of Council, NKP 2065- vol no. 6 Decision no. 7973
- Dil bahadur Vishwakarma vs. including Prime Minister and Ministry of Council, NKP 2062- vol no. 4 Decision no. 7531
- Jyoti Paudel vs. including Prime Minister and Ministry of Council, NKP 2066- vol no. 12 Decision no. 8282
- Nepal government vs. Radhika Shrestha, NKP 2071 Decision no. 242
- Regina vs. R.... (1992) 1 AC 599
- Peoples vs. Liberta, 64 NY 2nd (1984)

Session 15

Sexual Violence and Gender Justice

Objective of the session:

Participants in the end of session will be:

- Introduced about sexual violence, especially of laws on sexual offences
- Acquainted with the theoretical concept undertaken by such law and pragmatic challenges while implementing them.

Subjects included in this Unit

- Introduction about sexual offence
- Types of sexual offence
- Rape
- Marital rape
- Rape took place in detention center
- Offence relating to attempt to rape
- Rape within incest
- Provision included by National criminal code
- Unnatural sex
- Investigation and prosecution in offence related to rape
- Judicial perspective
- Special arrangements for hearing (continuous hearing)

- Criminal investigation, prosecution and hearing along with role of prosecutors in protection of victim

Reference material

- National Penal code, 2074
- National criminal procedure code, 2074
- Resource Material of National Code, Office of the Attorney General, Nepal
- Sandeep Nepali vs. Nepal government, NKP 2075- vol no. 12 Decision no. 10148
- Jeet Kumari Pangenani vs. Prime Minister including Ministry of Council, NKP 2065- vol no. 6 Decision no. 7973Kha
- Sapana Malla Pradhan vs. including Ministry of Law and Justice, NKP 2065- vol no. 11 Decision no. 8038
- Raju prasad Chapaghani vs. Nepal government, NKP 2073- vol no. 2 Decision no. 9547
- Ghana shyam Tamoli vs. Nepal government, NKP 2051- vol no. 3
- His Majesty government vs. Deepak Bhandari, NKP 2059- vol no. 5 and 6

- His Majesty government vs. Rajesh KC, NKP 2060- vol no. 5 and 6
- His Majesty government vs. Tulsi Wakkhyo, NKP 2063- vol no. 10
- Rakesh Kumar Singh vs. His Majesty Government, NKP 2064- vol no. 1
- Prakash Rawal, NKP 2075- vol no. 3 Decision no. 9981
- Lakpha Sherpa vs. Nepal government, NKP 2073 vol no. 9 Decision no. 9684
- Delhi swaar vs. Nepal government, NKP 2075- vol no. 3 Decision no. 9969
- Bam bahadur Chhetri vs. Nepal government, NKP 2075- vol no. 5 Decision no. 10019
- Molhusen Hendrick vs. Nepal government, NKP 2069- vol no. 7 Decision no. 8860
- Deepak Rawal vs. Nepal government, NKP 2075- vol no. 5 Decision no. 10007
- Bhim bahadur Pokharel vs. Nepal government, NKP 2063- Decision no. 7682

Session 16

The role of prosecutors in Gender Justice

Objective of the session:

At the end of the session participants will be:

- Introduced about the responsibility and role of government prosecutors in criminal investigation, prosecution and judicial proceedings to maintain gender justice.

Subjects included in this Unit

- Gender sensitivity in crime investigation
- Gender orientation in crime prosecution
- Gender friendly behavior and communication
- Demand for Continuous hearing
- Protection for victims' and suspect's right

- Institutional efforts done through the Office of Attorney General
- Areas of improvement

Reference material

- Crime victim's protection act, 2075
- National criminal procedure code, 2074
- Victim and witness assistance directives
- Second five-year strategic plan of Attorney General's Office
- Declaration passed by the National Conferences of Government Prosecutors
- Circulars issued from the Office of the Attorney General for continuous hearing

Session 17

National civil code along with civil procedure code and gender justice

Objective of the session:

At the end of session participants will be:

- Introduced about the special provision regarding protections of women's right in National civil code and civil procedure code
- Able to apply these issues during performance of the designated work.

Subjects included in this Unit

- Provision regarding protections of women's right

- Partition share, inheritance and divorce
- The procedural provision to exercise of those right
- Supreme court's perspective

Reference material

- National criminal procedure code, 2075
- National civil procedure code, 2075
- Provision regarded to court rules
- Sapana Pradhan Malla vs. Ministry of Law and Justice, NKP 2053- vol no. 2 Decision no. 6140

- Sapana Pradhan Malla vs. Prime Minister including Ministry of Council, NKP 2064- vol no. 8 Decision no. 7997
- Lilly Thapa vs. Prime Minister including Ministry of Council, NKP 2062- vol no. 9 Decision no. 7588
- Meera Dhungana vs. Prime Minister including Ministry of Council, NKP 2061- vol no. 4 Decision no. 7357

Session 18

To behave with Suspected Women and the Role of Prosecutors

Objective of the session:

At the end of session participants will be:

- Introduced about the behavior towards suspected women during crime investigation, prosecution and judicial proceedings and role of prosecutors in regards of this.
- Able to apply these issues during performance of the designated work.

Subjects included in this Unit

- Rights of suspect and fair hearing
- Things to be considered during the arrest of suspected women along with crime investigation, prosecution and judicial proceedings
- Sensitivity should applied during the crime investigation in case of women suspect

- Gender friendly communication and behavior
- The issues to be disclosed in the statement
- Subject to maintain the parties' privacy
- Provisions of special protection in judicial procedure

Reference material

- National criminal procedure code, 2075
- National civil procedure code, 2075
- Provision regarded to court rules
- Rules for criminal investigation, 2075
- Resource Material of fair hearing, Office of Attorney General
- United Nation Minimum Standards for the Treatment of Prisoners, 1955
- Fundamental principle for the treatment of prisoners, 1990

Session 19

Rehabilitation and Socialization of victim women of crime

Objective of the session:

At the end of session participants will be:

- Introduced about the conceptual aspects of rehabilitation and socialization of women crime victim.
- Able to implement these issues, as per the values of restorative justice, in crime investigation, prosecution and judicial proceedings.

Subjects included in this Unit

- Concept about restorative justice
- Socialization and social adjustment
- Provision regarding the socialization and rehabilitation in crime investigation
- Implementation status of those legal provisions
- Judicial perspective
- Problem and solution measure overviewed in rehabilitation and socialization of crime victim women

- Role of prosecutors regards to subject matter

Reference material

- Constitution of Nepal
- Crime Victim Protection Act, 2075
- Act Relating to Children, 2075
- Human Trafficking and transportation (control) act, 2064
- Domestic violence (crime and punishment) act, 2066
- Restorative justice and national law, study report, National Judicial Academy, Nepal

- Restorative justice and Diversion in Nepalese Juvenile Justice System, Office of the Attorney General, Nepal
- Kesari raj Pandit, Restorative Justice
- Crime against women and children, Resouce Material, Office of Attorney General, Nepal
- Guidance for victim protection, Office of Attorney General, Nepal
- Basic principles on the use of Restorative Justice Programmes in Criminal Matters, ECOSOC resolution 2002/12

Session 20

Concept of Juvenile Justice

Objective of the session:

At the end of session participants will be:

- Informed about the conceptual aspect of Juvenile Justice
- Introduced about concept of juvenile justice and international instruments regard to this.

Subjects included in this Unit

- Conceptual aspects of Juvenile Justice
- Basic Principles of Juvenile Justice
- Objective of the juvenile justice
- Models of juvenile justice
- Doctrine of parent patriae
- Juvenile Justice system and criminal justice system
- Reason for the separation of juvenile justice system from other justice system
- Provision regarding juvenile justice system in international instruments (convention for the rights of the child, Tokyo rules, Beijing rules, Riyadh guidance etc.)

Reference material

- Collection of important Decisions of the Supreme Court on child right related cases, 2070
- Human rights in Justice Administration, Resource Material, part- 2
- Government Attorney Guidelines, 2063
- Juvenile Justice, Resources Material, Office of Attorney General, Nepal
- Juvenile Justice Guidelines, Counselling Committee for Child Justice
- Juvenile Delinquency, Edited by Prof. Laxmi prasad Mainali and Rom Thapa, Juvenile Justice Coordination Committee and Tribhuvan University Faculty of Law, 2017
- Ved Kumari, The Juvenile Justice in India from Welfare to Rights, Oxford University Press, 2010
- Mamta Rao, Law relating to Women and Children, Eastern Book Company, 2008
- Gus Martin, Juvenile Justice Process and System, Sage Publications, 2005

- Laxmi Prasad Mainali, Juvenile Justice System in Nepal, Pairavi Prakashana, 2016
- Samuel M. Davis, Rights of Juveniler, South Asian Edition.

Session 21

National legal provisions related to Juvenile Justice:

Objective of the session:

At the end of this session the participants will be:

- Informed about the National Legal provisions for the Juvenile Justice.
- Able to implement the Juvenile Justice Procedure

Subjects included in this Unit:

- Guidelines in the Constitution regarding Juvenile Justice,
- Provisions set by the Act relating to Children,
- Provisions in the National Criminal (Procedure) Code,
- Issues incorporated in the Juvenile Justice procedure,
- Issues to be considered during criminal investigation and prosecution by prosecutors,
- Judicial Perspective

Reference Materials:

- Constitution of Nepal
- Act relating to Children, 2075 B.S.
- National Criminal (Procedure) Code, 2074 B.S.
- Juvenile Justice Procedural Rules, 2064 B.S.
- Resource materials of Juvenile Justice, Office of Attorney General, Nepal
- Juvenile Delinquency, Edited by Prof. Dr. Laxmi Prasad Mainali and Rom Thapa, Juvenile

- Laxmi Prasad Mainali, Juvenile Justice System in Nepal, Pairavi Prakashan, 2016
- Bal Krishna Mainali vs. Home Ministry, 2053 B.S. Wo no. 3505, Date of decision: 2058/4/23,
- Ashish Adhikari vs. Bak District Court, 2057 B.S. Wo no. 3390, Date of decision: 2057/12/2,
- Ashish Adhikari vs. Dhankuta District Court, 2057 B.S. Wo no. 3505, Date of decision: 2058/8/28,
- Tara Devi Khannal vs. Ilam District Court, 2058 B.S. Wo no. 21, Date of decision: 2058/10/22,
- Saubhagya Shah vs. District Administration office, Kathmandu, 2065-WH- 0007, Date of decision: 2065/7/18,
- Ashish Adhikari vs. Ministry of Home Affairs and others, 2058 B.S., Wo no. 70, Date of decision: 2058/12/13,
- Ashish Adhikari vs. Ministry of Home Affairs and others, 2058 B.S., Wo no. 105, Date of decision: 2059/5/3,
- Ka Kumar Choudhari v. Nepal Government, criminal case no. 2715 of 2059, orde r date: 2064/2/28

Session 22

Diversion

Objective of the session:

At the end of this session the participants will be:

- Introduced about the concept of the diversion,
- Acquainted with the provisions of national law regarding the diversion.

Subjects included in this Unit:

- Concept of diversion,
- Standard of diversion,
- Preconditions of diversion,
- Guidance Principles of diversion,
- Phases of diversion,
- Diversion in Nepalese law (Crime investigation, Prosecution and Judicial proceedings),
- Effects of diversion in Juvenile justice system,
- Judicial perspective,
- Role of the prosecutors.

Reference Materials:

- Act Relating to Children, 2075 B.S.
- Juvenile Justice Procedure Rules, 2064 B.S.
- Materials related to juvenile justice, Office of Attorney General,
- Restorative Justice and Diversion in Nepal's juvenile Justice System, Office of Attorney General,
- Ved Kumari, The Juvenile Justice in India from welfare to rights, Oxford University Press, 2010
- Mamta Rao, Law relating to women and children, Eastern Book Company, 2008
- Gus Martin, Juvenile Justice Process and System, Sage Publications, 2005
- Juvenile Delinquency, Edited by Prof. Dr. Laxmi Prasad Mainali and Rom Thapa, Juvenile Justice
- Laxmi Prasad Mainali, Juvenile Justice System in Nepal, Pairavi Prakashan, 2016

Session 23

Restorative Justice

Objective of the session:

At the end of this session the participants will be:

- Introduced about the concept of restorative justice,
- Informed about the provisions of national law regarding restorative justice.

Subjects included in this Unit:

- Concept of restorative justice, The difference between the punitive justice system and the restorative justice system.
- the restorative justice,
- Provision of restorative justice in Nepalese law,

- Effects of retrospective justice in Juvenile Justice System,
- Judicial Perspective,
- Role of the Prosecutor.
- Fundamental Principles of restorative justice system,
- Underlying principles of restorative justice,
- The stages of restorative justice implementation Process of

Reference Materials:

- The Act Relating to Children, 2075 B.S.
- Juvenile Justice Procedural Rules, 2064 B.S.

- Materials related to juvenile justice, Office of Attorney General,
- Restropective Justice and Diversion in Nepal's juvenile Justice System, Office of Attorney General,
- Ved Kumari, The Juvenile Justice in India from welfare to rights, Oxford University Press, 2010
- Mamta Rao, Law relating to women and children, Eastern Book Company, 2008
- Gus Martin, Juvenile Justice Process and System, Sage Publications, 2005
- Juvenile Delinquency, Edited by Prof. Dr. Laxmi Prasad Mainali and Rom Thapa, Juvenile Justice
- Laxmi Prasad Mainali, Juvenile Justice System in Nepal, Pairavi Prakashan, 2016

Session 24

Juvenile Delinquency

Objective of the session:

At the end of this session the participants will be:

- Sensitive on the the subject of Juvenile Delinquency,
- Reasonably behave, as per the values of the Juvenile Justice, during investigation, prosecution and judicial proceedings of the juvenile delinquency.

Subjects included in this Unit:

- Fundamental Principals and Values relating to Juvenile Delinquency,
- Essential elements of juvenile delinquency and misconduct,
- Delinquency, misconduct and adult crime,
- National and international laws and policies related to Juvenile Delinquency,
- Judicial Perspective
- Role of the Prosecutor,
- Problems and Solutions.

Reference Materials:

- The Convention on the Rights of the Child, 1989,
- The Act Relating to Children, 2075 B.S.,
- Juvenile Justice Guidance, Juvenile Justice Coordination Committee 2073 B.S.,
- Kishor Silwal : "Juvenile Justice System in Nepal: An Overview" Nepal law Review vol.18, no 1 and 2 (2005)
- Peter C. Kratcoski & Lucille Kratcoski, Juvenile Delinquency, Printicehall Ink., New Jersey, 1979
- A Research book on Critical Analysis of Juvenile Justice System in Nepal. 1st Ed Kathmandu
- Forum for Protection for Protection of Peoples Rights, Nepal (2007)
- Juvenile Delinquency, Edited by Prof. Dr. Laxmi Prasad Mainali and Rom Thapa, Juvenile Justice Coordination Committee and Tribhuvan University Faculty of Law, 2017

Session 25

Communication with children

Objective of the session:

At the end of this session the participants will be:

- Identified the issues to be considered whild collecting information and data from children

- Able to use the child- friendly communication skills while taking testimonies or information and data from children who have involved in criminal activities or have been a victim of crime

Subjects included in this Unit:

- Concept of communication

- Means of communication
- Objective of the communication
- Child-friendly communication skills and child psychology
- The subject matters to be considered while taking testimonies of children and information and data from children
- Effects of child friendly communication

- Subject matters to be considered by government attorneys

Reference Materials:

- Human rights in Justice Administration, National Judicial Academy
- Communicating with Children, Principles and Practices to Nurture, Inspire, Excite, Educate and Heal, UNICEF, 2011

Session 26
Child Psychology

Objective of the session:

At the end of this session the participants will be:

- Introduced about the basic aspects of child psychology
- Behave towards children as per the child psychology during investigation and prosecution and judicial proceedings

Subjects included in this Unit:

- Concept of child development
- Stages of child development
- Introduction to child psychology
- Basic aspects of child psychology
- Precautionary measures to be adopted, in accordance with child psychology, during investigation or other proceedings

Reference Materials:

- Handbook of Child Psychology, Editors: Nancy Eisenberg, Publisher: Wiley,
- Handbook of Developmental Psychology, Edited by Jaan Valsinerand
- Kevin . Connolly, SAGE Publications,
- Juvenile Delinquency, Edited by Prof. Dr. Laxmi Prasad Mainali and Rom Thapa, Juvenile Justice Coordination Committee and Tribhuvan University Faculty of Law,2017
- NailJ. Salkind (ed), Child Development, Gale Group, New York, 2002

Session 27
Child reform home

Objective of the session:

At the end of this session the participants will be:

- Introduced about the structural organization, functions, duties and responsibilities of the child reform home
- Effectively implement the provision in which children will be sent to the child reform home during investigation.

Subjects included in this Unit:

- Introduction to child reform home
- Functions of Child reform home
- Process of operation and management of child reform home.

- Matters to be considered while transferring accused to the child reform home
- Responsibilities of child reform home
- Decisions of court regarding the transfer of accused to child reform home
- Precaution to be undertaken by the government attorney
- Judicial perspective

Reference Materials:

- Materials related to juvenile justice, Office of the Attorney General, Nepal
- Bal Krishna Mainali Vs. Home ministry et. al, 2056 B.S. , Writ no. 3505, decision date: 2058/04/23

- Ashish Adhikari Vs. Banke District Court, 2057 B.S. Writ no: 3390, decision date: 2057/12/2
- Ashish Adhikari Vs. Dhankuta District Court, 2057 B.S. Writ no. 3685, Decision Date: 2058/1/28
- Taradevi Khanal Vs. Ilam District Court , 2058 B.S., Writ no. 21, Decision date: 2065/ 07/18
- Ashish Adhikari Vs. Home Ministry et al., 2058 B.S., Writ no. 70, Decision date: 2058/12/13
- Ashish Adhikari Vs. Home Ministry et al., 2058 B.S., Writ no. 105, Decision date: 2059/ 05/03
- 'Ka' Kumar Chaudhary Vs. Nepal Government, 2059 B.S., Criminal Appeal; Number 2715, decision date: 2064/ 02/ 28
- Udaya Shankar Mandal v. Surkhet District Court, NKP 2075, vol. 1, Decision no. 9930

Session 28

Determination and implementation of punishment to children

Objective of the session:

At the end of this session the participants will be:

- Introduced about the issues to be considered, while determining punishment and execution of such punishment, for children who involve in offence, and coordinate to implement such provision

Subjects included in this Unit :

- Principles of determination of punishment
- Legal provisions related to the determination of punishment
- Objectives to prioritize children involve cases and implied separate punishment.
- Matters to be considered while determining punishment to children

- Privacy of the party
- Judicial perspective regarding determination of punishment to children

Reference Materials:

- National Penal Code, 2074 B.S.
- Criminal Offences (Sentencing and Execution) Act, 2074 B.S.
- Criminal Offences (Sentencing and Execution) Rules, 2074 B.S.
- The Act Relating to Children, 2075 B.S.
- Sentencing Guidelines, Supreme Court
- Juvenile Delinquency, Edited by Prof. Dr. Laxmi Prasad Mainali and Rom Thapa, Juvenile Justice Coordination Committee and Tribhuvan University Faculty of Law, 2017

Session 29

Child Rights, International Treaties & Conventions and National Commitment

Objective of the session:

At the end of this session the participants will be:

- Introduced to the provisions of child rights as provided in international instruments
- Informed about the national commitments on international conventions regarding the rights of children.

- Introduced to the constitutional and legal provisions regarding the rights of children, and active to protect the rights of children during investigation of crime and punishment thereof.

Subjects included in this Unit :

- Conceptual development of rights of children
- Features of the UN Treaties on rights of children

- Principles incorporated by the UN treaties on rights of children \
 - Conventions on right of children and Nepal's commitment
 - Laws prohibiting child labor
 - Guardianship of minor
 - Provisions for the protection of rights of children in Nepal
 - Perspective of judiciary on rights of children propounded by court.
- Reference Materials:**
- Constitution of Nepal
 - Convention on Rights of the Children, 1989 A.D.
 - The Act relating to the Children, 2075 B.S.
 - Act to prohibit and Control child labor, 2059 B.S.
 - Juvenile Justice Procedures Rules
 - Som Prasad Paneru Vs. Prime Minister and Office of the Council of Ministers et al, Writ of the year 2061 B.S., Writ no. 3215, date of decision: 2063/05/25
 - Tilottam Paudel Vs. District Administrative Office et al, Writ of the year 2057 B.S., writ Appeal number 174,, date of decision: 2058/ 04/25
 - Sabin Shrestha Vs. Prime Minister and Office of the Council of Ministers et al., writ of the year 2062 B.S., Writ number 71, date of decision: 2062/ 08/ 30
 - Bibek Chalise Vs. Saraswoti Chalise, N.K.P. 2061, Decision number 7391

Session 30

Juvenile Court and Juvenile Bench

Objective of the session:

At the end of this session the participants will be:

- Acquainted with the concept of Juvenile court.
- Informed about Juvenile bench's jurisdiction and work performance process.

Subjects included in this Unit

- Specialized Court's concept
- Juvenile Court's concept
- Juvenile Court's Importance and Reason
- Juvenile Bench's Structure and Jurisdiction
- Judicial perspective on Juvenile Court
- Juvenile Bench Operation Process
- Juvenile Justice Procedure
- Positive aspects reflected by operation of Juvenile Bench

- Problems seen during implementation and solution measures
- Public Prosecutor's representation in Juvenile bench

Reference Materials

- The Act Relating to Children, 2075
- Juvenile Justice Procedure Rules,
- Guidance of Juvenile Justice, Juvenile Justice Coordination Committee
- Juvenile Bench Handbook, Juvenile Justice Coordination Committee
- Santosh Kumar Mahato v. Prime Minister and Council of Ministers Office including (Related with Formation of Juvenile Court)
- Kalyan K.C. v. District Administration Office including, Kathmandu, Year 2066 Writ No. 0025 Decision Date : 2066|6|25
- Balkrishna Mainali v. Prem and NKP Decision Number : 7629

Session 31

Crime against Juvenile and Victim Juvenile's Protection

Objective of the session:

At the end of this session the participants will be:

- Introduced about the Crime against Juvenile and the measures to be adopted for protection of victim Juvenile

Subjects included in this Unit

- Crime against Juvenile
- Investigation and Prosecution of crime against juvenile
- Justice adjudication procedure of Crime against Juvenile
- Why crime against juvenile is considered heinous crime
- Provisions laid down by Children's Act
- Things to be considered during Investigation and prosecution on crime against Juvenile

- Protection of Crime Victim Juvenile
- Involvement of crime Victim Juvenile in judicial proceedings
- Role of the Prosecutor in Investigation, prosecution and Adjudication of Justice procedure on Crime against Juvenile

Reference Materials

- The Act Relating to Children, 2075
- Crime Victim Protection Act, 2075
- National Penal Code 2074
- Juvenile Delinquency, Edited by Prof. Dr. Laxmi Prasad Mainali and Rom Thapa, Juvenile Justice Coordination Committee and Tribhuvan University Faculty of Law, 2017

Session 32

Problems and Solution ideas witnessed where women are involved case's investigation, prosecution and hearing (Panel Discussion)

Objective of the session:

At the end of this session the participants will be:

- Identified the problems and proposed the solution measures regarding crime against Women or women involved criminal cases (investigation, prosecution and hearing procedure) based on subjects learned during training.

Subjects included in this Unit

- Organizing team shall shed light and give short statement on Implementation situation of Gender Justice.

- The participants shall be divided in three groups to discuss on problematic topics.
- Each group shall be focus, discuss and present their conclusion on the problem (Crime against Womens' (investigation, prosecution and hearing procedure) given by the organizing team.
- Based on the presentation and discussion, the panel members and the person presiding shall give suggestion and guidance.

Session 33

The problems seen in Juvenile Justice and its solution ideas (Panel Discussion)

Objective of the session :

- The participants are expected to understand the problems observed during Investigation, prosecution and hearing procedure relating to Crime against Juvenile or Juvenile involved cases and suggest possible solutions based on the lessons learned during the training.

Subjects included in this Unit

- The organizing group shall shed light and give short statement on Implementation of Juvenile Justice.

- The participants shall be divided in three groups to discuss on problematic topics.
- Each group shall be focus, discuss and present their conclusion on the problem (Crime against Juvenile (investigation prosecution and hearing procedure) given by the organizing team.
- Based on the presentation and discussion, the panel members and the person presiding shall give suggestion and guidance.

7. Laws relating to Protect Government and Public property

7. Laws relating to Protect Government and Public property

Goals of Syllabus

- To prepare specialized attorneys on the subject of Government and Public property related Laws

Objective of Syllabus:

At the end of the course, participants will have knowledge on following things:

- Concept of property, types of property, fundamental concepts and principles of Government and Public property,
- About Possession and Ownership,
- Acquisition, transfer, lease and other related subjects on governmental and public property
- National and international legal provisions, principles, established precedents and the newly developed values regarding Governmental and public property
- Requisition of Guthi land, Property of Nepal Trust and other related subjects
- Role of federal, state and local level government regarding Government and public property.

Framework:

The subjects included in the curriculum, prepared to specialize the government attorney by focusing in their professionalism, shall include 40% theoretical and 60% professional and practical aspects in each and every training session.

Subjects included in this Unit:

1. Concept of Property
2. Constitutional provisions and Practices regarding Property Rights
3. Government, Public, Community and Private Property
4. History on Nepalese Land Administration
5. Rights over traditional land system of Nepal
6. Provisions regarding *Raikar* and *Birta* system in Nepal
7. Provisions regarding *Guthi* in The *Guthi* Corporation Act
8. Provisions regarding Landowner, tenant and land ceiling
9. Provisions regarding transformation of land administration
10. Existing provisions on land survey and measurement
11. Provisions on re- survey and measurement
12. Provisions on land registration and record
13. Provisions for the registration of omitted land
14. Registration and preservation of government and public land

15. Transfer of ownership, transfer of title, registration, *Dakhel Kharej* and amendment of deed concerning house and land
16. Provisions relating to withhold and release of house and land
17. Provisions regarding land acquisition
18. Policies concerning land administration
19. Authorities involved in land administration and its record management
20. Preservation of Government Property and Public Property and Heritage
21. Institutional arrangements regarding the preservation of Public and Government property
22. Concept of Company and Preservation of property of the companies having government ownership or investment
23. Property related laws in Civil Code -1
24. Property related laws in Civil Code -2
25. Property related laws in Civil Code -3
26. Property related laws in Civil Code -4
27. Provisions incorporated in Civil Code concerning government and public property
28. State Party Civil Cases
29. Preservation of property owned by Public Corporation
30. Legal provisions regarding the preservation of property of various industries and factories owned or invested by government
31. Role of federal, state and local level on the preservation of government, public and community property
32. Provisions concerning Civil Procedure
33. Old (traditional) deeds used on transaction relating to property
34. Functions, duties and rights of the commission formed for the distribution of land

Session 1

Concept of property

Objective of the session:

At the end of this course, the participants will be:

- Informed about the concept of property, its types, acquisition, usage and termination.
- Informed about the limitations, liability and restrictions on property rights.

Subjects included in this Unit:

- Concept of Property
- Meaning and definition of Property
- Principles of property
- Types of property
- Concept of ownership and possession and its differences
- Acquisition, usage and termination of property

- Limitations and restrictions on property rights
- Personal obligation on property
- Traditional and new concept on property

Reference materials:

- Jurisprudence: Legal Theory, Nomita Aggawal, Central law Publication.
- Salmond on Jurisprudence Sir John Willam Salmond, Sweet and Maxwell.
- Laxmi Prasad Kharel, Property law in Nepal Comparative study of Muluki Civil Code
- Gunanidhi Neupane, सम्पत्ति कानून, Pairavi Prakashan, 2072
- Gyaindra Bahadur Shrestha, सम्पत्ति कानून, Pairavi Prakashan, 2072
- Land Revenue Act, 2034(1978)

- Land (Survey and Measurement) Act, 2019(1963)
- The National Civil Code, 2074(2017)
- The National Civil Procedure Code, 2074(2017)
- Jagadish Acharya v. Gopal Dahit, N.K.P 2075, Vol. 1 Decision No. 9933
- Khadga Prasad Paiyaag v. Gopa Kirati, N.K.P 2051, Vol. 5, Decision No. 4919

Session 2

Constitutional provisions and Practices regarding Property Rights

Objective of the session:

The participants will be:

- Informed about the Constitutional provisions of Nepal and India on property rights and its practice

Subjects included in this Unit:

- Government of Nepal Act, 2004 (1948)
- Interim Government of Nepal Act, 2007
- Constitution of Kingdom of Nepal, 2015
- Constitution of Nepal, 2019
- Constitution of Kingdom of Nepal, 2047
- Interim Constitution of Nepal, 2063
- Constitution of Nepal
- (Only on the matters related to property rights, constitutional remedies and jurisdiction of the courts, provided by the mentioned constitution)
- Constitutional provision of India on Right to Property and its' practice

Reference materials:

- Government of Nepal Act, 2004
- Interim Government of Nepal Act, 2007
- Constitution of Kingdom of Nepal, 2015
- Constitution of Nepal, 2019
- Constitution of Kingdom of Nepal, 2047
- Interim Constitution of Nepal, 2063
- Constitution of Nepal
- संवैधानिक कानून, Fridel
- संवैधानिक कानून, Surendra Bhandari
- संवैधानिक कानून, Gopal Sharma
- संवैधानिक कानून, Kashiraj Dahal
- Constitutional Law of India, V.N Shukla
- Commentary on the Nepalese Constitution Law, Surya Dhungel et.al
- Constitutional Law of India, D.D Basu

- Laxmi Prasad Kharel, Property law in Nepal Comparative study of Muluki Civil Code
- Mahanta Lal Shrestha v. Office of the Prime Minister and Council of Ministers, NKP 2073, Vol. 12, Decision No. 9735
- Ramdev Yadav v. Office of the Prime Minister and Council of Ministers, NKP 2068, Vol. 8, Decision No. 8665
- Shanti Shrestha v. Malpot Karyalaya, Parsa, NKP 2064, Vol. 2, Decision No. 7813
- Shivalal Pode v. Kathmandu District Court, NKP 2064, Vol. 5, Decision No. 7852
- Ramkrishna Niraula v. CIAA, NKP 2061, Vol. 7, Decision No. 7404
- Durga Laxmi Nirwan Sewa Proprietor v. Illam Municipality, NKP 2061, Vol. 12, Decision No. 7469
- Roman Bahadur Karki v. Department of Inland Revenue, NKP 2061, Vol. 7, Decision No. 7406
- Laxmi Narayan Maharjan v. HMG, NKP 2058, Vol. 1 /2, Decision No. 6979
- Mithilas Kumar Singh v. Office of the Prime Minister and Council of Ministers, NKP 2056, Vol. 7, Decision No. 6746
- Gauri Shankhar Rajput v. Singheshwor Roy Yadav, NKP 2053, Vol. 7, Decision No. 6232
- Nanda Kumari Rawal v. HMG, Department of Industry NKP 2050, Vol. 4, Decision No. 4721
- Krishna Prasad Gautam v. Tara Gaun Development Committee, NKP 2041, Vol. 8, Decision No. 2075

Session 3

Government, Public, Community and Private Property

Objective of the Session:

At the end of this course, the participants will be:

- Informed about the concept, types, similarities and differences between government, public, community and private property

Subjects included in this Unit:

- Concept of government and public property
- Concept of community and private property
- Types of government and public property (According to Forest Act, Land Revenue Act, Land (Survey and Measurement) Act, National Parks And Wildlife Conservation Act)
- Similarities and differences between government and public property

- Similarities and differences between community and private property

Reference materials:

- Land Revenue Act, 2034(1978)
- Land (Survey and Measurement) Act, 2019
- Forest Act, 2049(1993)
- National Parks and Wildlife Conservation Act, 2029(1973)
- Aquatic Animal Protection Act, 2017(1960)
- The National Civil Code, 2074(2017)
- The National Civil Procedure Code, 2074(2017)
- The National Criminal Code, 2074(2017)
- Naritram Rana v. Office of the Prime Minister and Council of Ministers, N.K.P 2066, Vol. 12, Decision No. 8280
- Khadga Prasad Paiyag v. Bhupal Kirati, N.K.P 2051, Vol. 5, Decision No. 4919

Session 4

History on Nepalese Land Administration

Objective of the session:

At the end of this course, the participants will be:

- Aware about the history of Nepal's land administration.

Subjects included in this Unit:

- Land administration before unification of Nepal
- Land administration after unification of Nepal
- Provisions concerning land administration in Muluki Ain, 1910
- Provisions on sanad, ain, sawal etc.
- Various records, facts and examinations of land measurement carried out in interval of time
- Athshatha, *Ekharpi*
- Provision on *establishment of Madesh/Pahad maal* in 1993

- Practices of land survey and measurement
- Arrangement concerning *talukdari*
- Provisions relating to land administration in *Muluki Ain, 2020*

Reference materials:

- *Muluki Ain, 2020*
- *Muluki Ain, 1910*
- नेपालको इतिहास: Surya Bikram Gyawali
- नेपालको ऐतिहासिक रुपरेखा: Balchandra Sharma
- नेपालको कानूनी इतिहास: Bishal Khanal
- नेपालको कानूनी इतिहास: Rewati Raman Khanal
- नेपालको कानूनी इतिहास जग्गा रजिष्ट्रेशन पद्धतिहरु र नेपालमा यसको प्रयोग, Keshav Sharma
- जग्गा जमिन तथा भूमि सम्बन्धित कानून, Subash Nembang

- नेपालको कानूनी प्रणाली र हिन्दु विधिशास्त्र:
Gyaendra Bahadur Shrestha
- *Madesh Malko sawal*
- Different provisions on *sadan, ain, sawal* etc

Session 5

Rights over the traditional land system of Nepal

Objective of the Session:

At the end of this course, the participants will be:

- Informed about the rights over the traditional land system of Nepal

Subjects included in this Unit :

- *Kipat*
- *Jimindari and Talukdari*
- *Ukhada*
- *Mahaajani*
- *Raikar*
- *Jot/Jirayat*
- *Jagir/ Khangi*
- *Jirayat or Sir Jirayat*
- *Rajya Rajauta*
- *Kharka/ Kharchari*
- *Bitauri*
- *Jhora*

Reference materials:

- Act related to Ukhada Act, 2021(1964)
- Pasture Land Nationalization Act, 2031(1974)
- Act Relating to Land of *Jhora* Area, 2028(1971)
- *Rajya Rajauta* (Petty States and Rulers) Act, 2017(1961)
- सम्पत्ति कानून: Gyaendra Bahadur Shrestha
- सम्पत्ति कानून: Prof. Gudnidhi Neupane
- Property Law in Nepal: Laxmi Prasad Kharel
- नेपालको कानूनी इतिहास: Rewati Raman Khanal
- जग्गा जमिन तथा भूमि सम्बन्धित कानून, Subash Nembang

Session 6

Provisions regarding *Raikar* and *Birta* system in Nepal

Objective of the session:

At the end of this course, participants will be:

- Informed about the *Raikar* and *Birta* system.

Subjects included in this Unit :

- a) *Raikar*:
 - Meaning and Introduction to Raikar system
 - Legal provisions, Judicial perspective
- b) *Birta*:
 - Meaning and Introduction
 - Types of *Birta*
 - Rights, Duties and Limitations of *Birta*-owner and Tenant
 - Abolition of *Birta* and its consequences

Reference Materials:

- *Jagga Ra Jagga Kamauna Ko Lagi Khada Gareko Ain*, 2013
- The Lands Act, 2014
- The Lands Act, 2021(1964)
- Act Prohibiting the Charging and Taking of Amount (*Bhatti Charsa* etc.) by *Birta*-holder on *Birta*, 2015(1958)
- *Birta* Abolition Act, 2016(1959)
- Land (Survey and Measurement) Act, 2019(1963)
- Land Administration Act, 2024
- Land Revenue Act, 2034(1978)
- सम्पत्ति कानून: Gunanidhi Neupane
- सम्पत्ति कानून: Gyaendra Bahadur Shrestha

- *Kajimananda Bajracharya v. Krishna Bahadur Maharjan*, NKP 2070, Vol. 2, Decision No. 8962

Session 7

Provisions regarding *Guthi* in The *Guthi* Corporation Act

Objective of the session:

At the end of this course, the participants will be:

- Informed about the concept, types, features, operation and legal provisions regarding tenants of *Guthi* land

Subjects included in this Unit:

- Concept of *Guthi*
- Types and Features of *Guthi*
- Operation of *Guthi*
- Functions, duties and rights of board members of *Guthi* corporation
- Various provisions concerning *Guthi* which are not incorporated in *Guthi* Corporation Act (*Swargadwari, Resunga, Devghat, etc.*)

- Provision relating to Tenancy of *Guthi* land

Reference materials:

- Constitution of Nepal
- The *Guthi* Corporation Act, 2033(1976)
- Ancient Monument Preservation Act, 2013 (1956)
- Land Administration Procedures, 2063
- Land Administration Directives, 2058
- सम्पत्ति कानून: Gyaendra Bahadur Shrestha
- Prakash Mani Sharma v. Nepal Government, NKP 2064, Vol. 10, Decision No. 7885
- Tulsi Maya Maharjan v. Pancha Narayan Maharjan, NKP 2072, Vol. 12, Decision No. 9504
- Kanchha Ratna Tuladhar v. Maya Devi Tuladhar, NKP 2043, Decision No. 2856

Session 8

Provisions regarding Landowner, Tenant and ceiling

Objective of the session:

At the end of this course, participants will be:

- Informed about the land ceiling, acquisition of land beyond the ceiling, acquisition of the tenant rights, and about the rights and duties of the tenant.

Subjects included in this Unit:

- Landowner and tenant
- Rights and duties of landowner and tenant
- Announcement of Land Records (including Inventory No. 7)
- Ceiling on land, acquisition and distribution of land beyond ceiling
- Acquisition, transfer and termination of rights of tenant,

- Division of land between landowner and tenant
- Record of landowner and tenant (Including the provisions of Schedule 1,2,3,4)
- Function, duties and rights of Land Reform Officer

Reference materials:

- The Lands Act, 2021
- Land Rules, 2021(2064)
- Land Administration Directives, 2058
- Land Administration Procedure, 2062
- Land Reform Directives, 2060
- सम्पत्ति कानून: Gyaendra Bahadur Shrestha
- सम्पत्ति कानून: Prof. Gunanidhi Neupane
- Property Law in Nepal: Laxmi Prasad Kharel

Session 9

Provisions regarding transformation of land administration

Objective of the session:

At the end of this course, the participants will be:

- Informed about the transformation in the traditional land administration.

Subjects included in this Unit :

- End of *Talukdari* system
- Documents and Records from *Talukdari*
- Management of Land record and Land administration maintained by Government authority or Government offices
- Arrangement of collection of revenue by government authority or government office and auction of land for non-payment of revenue
- Abolition of *Rajya Rajauta* and its consequences

- Registration of *Kharka* land and its consequences
- *Raptidun Bikash Chhetraiko Jaminko (Bikri Bitaran) Bewastha Ain, 2024*

Reference materials:

- Land Administration Act, 2024(1996)
- *Rajya Rajauta* (Petty States and Rulers) Act, 2017(1961)
- Pasture Land Nationalization Act, 2031(1974)
- *Raptidun Bikash Chhetraiko Jaminko (Bikri Bitaran) Bewastha Ain, 2024*
- Compilation of Land Related Acts, 2072, Department of Land Reformation and Management
- Compilation of Land Related Rules, Department of Land Reformation and Management

Session 10

Existing provisions on land survey and measurement

Objective of the session:

At the end of this course, the participants will be:

- Informed about the existing legal provisions regarding land survey and measurement.

Subjects included in this Unit:

- Introduction to Land Survey and measurement
- Legal provisions on Land Survey and Measurement
- Technical aspects of Land Survey and Measurement
- Procedure to prepare landownership registration record after survey and measurement
- Process to update map records
- Weaknesses while updating Land Survey and Measurement
- Irregularities in Land Survey and Measurement

- Land Measurement Procedures
- Problems and solutions in Land Survey and Measurement
- Judicial Perspective

Reference materials:

- Land (Survey and Measurement) Act, 2019(1963)
- Land Measurement Regulation, 2058
- Land Administration Directives, 2058
- Land Administration Procedure, 2062
- *Prakash Ravi Pradhan v. Sunmaya Shrestha*, NKP 2072, Vol. 12, Decision No. 9507
- *Satish Chandra Lal Kayastha v. Ananda Prasad Upadhyaya Aryal*, NKP 2049, Vol. 3, Decision No. 4495
- *Pitamber Upadhyaya v. Land Revenue Office Banke*, NKP 2046, Vol. 7, Decision No. 3883

Session 11

Provisions on re- survey and measurement

Objective of the session:

At the end of this course, participants will be:

- Informed about the legal provisions on re-survey and measurement of land

Subjects included in this Unit:

- Objective and Importance of re-survey and measurement
- Legal provisions on re-survey and measurement
- Technical aspects of re-survey and measurement
- Procedure to prepare landownership registration record after re-survey and measurement
- Land re-survey and Measurement Procedures

- Process to update map records
- Weaknesses on re-survey and measurement
- Irregularities in Land re-survey and measurement
- Process to rectify errors and amend maps
- Action against authority for committing irregularities in land survey and measurement and re-survey
- Problems and solutions
- Judicial Perspective

Reference materials:

- Land (Survey and Measurement) Act, 2019(1963)
- Land Measurement Regulations, 2058
- Land Administration Procedure, 2062
- Land Administration Directives, 2058

Session 12

Provision on land registration and record

Objective of the session:

At the end of this course, the participants will be:

- Informed about the existing legal provisions regarding Land Registration and Record.

Subjects included in this Unit:

- Introduction to land registration and provisions on land registration
- Provision regarding the amendment and correction of registration
- Temporary registration
- Establishment of rights
- Registration of Government and Public Land
- Process of decision making in land registration
- Appeal over decision made on land registration

- Provisions regarding the rectification of serious errors made during the operation of Land Revenue Office
- Functions, rights and duties of Chief Officer of Land Revenue Office
- Appeal on decision made by Land Revenue Office
- Problems and Solutions
- Judicial Perspective

Reference materials:

- Land (Survey and Measurement) Act, 2019 (1963)
- Land Revenue Act, 2034(1978)
- Land (Survey) Rules, 2058(2001)
- Land Revenue Rules, 2036
- *Krishna Bijayananda v. CIAA*, NKP 2074, Vol. 8, Decision No. 9866
- *Bauwalal Shah v. Bishwonath Shah Rauniyar*, NKP 2066, Vol. 5, Decision No. 8145

- *Devsharan Pandit v. Bauwalal Shah*, NKP 2066, Vol. 12, Decision No. 8278
- *Rampukar Mandal v. Shahdev Mandal*, NKP 2055, Vol. 3, Decision No. 6526
- *Khadka Prasad Paiyang v. Jhapa District, Ban Sudridikaran, Uchha*
- *Stariya Aayog*, NKP 2051, Vol. 5, Decision No. 4919
- *Krishna Bahadur Manandhar v. Shyamwa Poda*, NKP 2042, Vol. 4, Decision No. 2324
- *Navaraj Mishra v. Medjamel*, NKP 2030, Vol. 1, Decision No. 719

Session 13

Provisions for the registration of omitted land

Objective of the session:

At the end of this course, participants will be:

- Informed about the legal provisions related to registration of omitted land

Subjects included in this Unit:

- Introduction to registration of omitted land
- Jurisdiction for registration of omitted land and decision making process
- Omitted Land registration committee
- Proof to be taken into consideration for registration of omitted land
- Weaknesses in the registration of omitted land
- Possible irregularities during the registration of omitted land
- Actions against the irregularities

- Conversion into *Raikar*
- Registration of *Birta* land
- Registration of *Ukhada* land
- Registration of *Guthi* land
- Judicial Perspective

Reference materials:

- Policies Related to registration of omitted land, 2054
- Omitted land registration Procedure, 2069
- Land Administration Directives, 2058
- Land Administration Procedure, 2062
- *Nepal Government v. Sitaram Tripathi*, NKP 2074, Vol. 9, Decision No. 9873
- *Digamber Chaudhary v. Baidyanath Jha*, NKP 2067, Vol. 7, Decision No. 8417

Session 14

Registration and preservation of government and public land

Objective of the session

At the end of this course, participants will be:

- Informed about the provisions related to registration and preservation of government and public land

Subjects included in this Unit :

- a) Registration and preservation of government and public land
 - Provisions of Land Revenue Act, 2034(1978)
 - Provisions of Land (Survey and Measurement) Act, 2019(1963)
 - Provisions of Forest Act, 2049(1993)

- Registration of government or public land in the name of individual shall be void
- b) Provision on preservation of government and public land
 - Constitution of Nepal
 - Local Administration Act, 2028(1971)
 - Local Government Operation Act, 2073
 - Arrangement of adjustment of records in Land Acquisition Act, 2034
 - Provisions of Public Roads Act, 2031(1974)

- c) Problems and solution
- d) Judicial Perspective

Reference materials:

- Constitution of Nepal
- Land Revenue Act, 2034(1978)
- Land (Survey and Measurement) Act, 2019(1963)
- Forest Act, 2049(1993)
- Local Administration Act, 2028(1971)
- Local Government Operation Act, 2073
- Land Acquisition Act, 2034(1977)
- Public Roads Act, 2031(1974)
- Preservation of Government and Public Land Directives
- Land Administration Directives, 2058
- Land Administration Procedure, 2062
- *Krishnaram Bijayananda v. CIAA, Ktm.*, NKP 2074, Vol. 8, Decision No. 9866

- *Gangadhar Shah et.al. v. Rundhi Khanga Khatwa*, NKP 2073, Vol. 2, Decision No. 9543
- *Durgadutta Sigdel v. Nepal Government*, NKP 2068, Vol. 3, Decision No. 8583
- *Pushpa Neupane v. Legislative Parliament*, NKP 2067, Vol. 7, Decision No. 8471
- *Prakashmani Sharma v. Office of the Prime Minister and Council of Ministers*, NKP 2067, Vol. 7, Decision No. 8416
- *Narottam rana v. Office of the Prime Minister and Council of Ministers*, NKP 2066, Vol. 12, Decision No. 8280
- *Hedambaraj Parajuli v. Taranath Gautam*, NKP 2064, Vol. 12, Decision No. 6479
- *Hedambaraj Parajuli v. Head of Gandaki Zone*, NKP 2054, Vol. 11, Decision No. 6459

Session 15

Transfer of ownership, transfer of title, registration, *Dakhel Kharej* and amendment of deed concerning house and land

Objective of the session:

At the end of this course, participants will be:

- Informed about the legal provisions regarding the transfer of ownership, approval of registration of deed, transfer of title, registration, de-registration, cancellation and amendment of deed concerning house and land.

Subjects included in this Unit:

- Transfer of ownership and approval of deeds
- Introduction and process of transfer of title
- *Dakhel Kharej*
- Conditions for *Dakhel Kharej*
- Provision regarding amendment
- Amendment on dual registration
- Classification of deeds
- Introduction to inheritance
- Inheritance and Succession order of inheritance

- Conditions of acquisition of Inheritance by Nepal Government
- Provisions of Inheritance to be acquired by Local Level
- Provision of inheritance of property of the foreigner who died in Nepal
- Acquisition of inheritance by Nepal Government
- Problems and solutions
- Judicial Perspective

Reference materials:

- The National Civil Code, 2074(2017) and The National Civil Procedure Code, 2074(2017)
- Land Administration Directives, 2058
- Land Administration Procedure, 2062
- *Bali Tamang v. HMG*, NKP 2044, Vol. 3, Decision No. 3040
- *Ramkant v. HMG*, NKP 2036, Vol. 1, Decision No. 1238

Session 16

Provisions relating to withhold and release of house and land

Objective of the session:

At the end of this course, participants will be:

- Informed about the withhold and release of house and land by Land Revenue Office, conditions for withholding house and land, types of withhold and the process of releasing the withhold.

Subjects included in this Unit:

- General Information on withhold and release of house and land by Land Revenue Office
- Conditions for withholding house and land
- Types of withhold:
 - a) Withholding land beyond ceiling
 - b) Withholding Government levy
 - c) Withholding fines
 - d) Withholding for the purpose of collection of tax
 - e) Withholding through banks and financial institutions
 - f) Withholding during judicial proceedings

g) Withholding during investigation

- Legal provisions on withhold and release of land
- Provisions relating to withhold and release of land in *Muluki* Civil Code, 2074
- Judicial Perspective

Reference materials:

- The National Civil Code, 2074 (2017) and The National Civil Procedure Code, 2074 (2017)
- The National Criminal Code, 2074 (2017) and The National Criminal Code, 2074(2017)
- Land Revenue Act, 2034 (1978)
- Land Acquisition Act, 2034 (1977)
- Recovery of Debts of Banks and Financial Institution Act, 2058 (2002) and its Rules
- Land Revenue Rules, 2036
- Land Administration Directives, 2058
- Land Administration Procedure, 2062

Session 17

Provisions regarding Land Acquisition

Objective of the session:

At the end of this course, the participants will be:

- Informed about the legal provisions regarding land acquisition and cross off/adjustment.

Subjects included in this Unit:

- Concept of land acquisition
- Constitutional provisions on land acquisition
- International practice on land acquisition
- Legal provisions on land acquisition
- Problems and solutions
- Judicial Perspective

Reference materials:

- Constitution of Nepal
- Land Acquisition Act, 2034(1977)
- Land Acquisition Act, 2018(1961)
- Immovable Property Requisition Act, 2013(1956)
- Highway (Construction Provision) Act, 2021(1964)
- Public Roads Act, 2031(1974)
- [The] Kathmandu Valley Development Authority Act, 2045(1988)
- *Ratna rajya Bajracharya v. CIAA*, NKP 2068, Vol. 12, Decision no. 8737
- *Nirmala Shrestha v. Manikadevi Shrestha*, NKP 2067, Vol. 6, Decision No. 8402

- *Karamhussain Khaa v. Ministry of Home Affairs*, NKP 2066, Vol. 9, Decision No. 8230
- *Netraraj Pandey v. Office of the Prime Minister and Council of Ministers*, NKP 2066, Vol. 6, Decision No. 8170
- *Gyanprasad Manandhar v. The Timber Corporation*, NKP 2066, Vol. 1, Decision No. 8058
- *Prem Bahadur Maharjan v. Office of the Prime Ministry*, NKP 2061, Vol. 10, Decision No. 7448
- *Thechar Kumari Rawat v. Ministry of Housing and Physical Infrastructure*, NKP 2058, Vol. 1/2, Decision No. 6977
- *Indra Kumari Gautam v. Council of Ministers*, NKP 2058, Vol. 1 /2, Decision No. 6970

Session 18

Policies concerning land administration

Objective of the session

At the end of this course, the participants will be:

- Informed about the policies related to land administration

Subjects included in this Unit:

- Directive principles, policies and obligations of the State under Constitution (Laws related to Land)
- National Land Use Policy, 2072
- Policies relating to registration of government land and granting lease, 2071

- Policies relating to the registration of omitted land, 2054

Reference materials:

- Constitution of Nepal
- National Land Use Policy, 2072
- Policies relating to registration of government land and granting lease, 2071
- Policies relating to registration of omitted land, 2054

Session 19

Authorities involved in land administration and its record management

Objective of the session:

At the end of this course, participants will be:

- Informed about the institutions involved in land administration and its record management

Subjects included in this Unit:

- Land-Revenue Office
- District Administration Office
- Land Reform Office
- Survey Office
- Guthi/Trust Office
- Record Management
- Legal provisions on preservation of record

- Authority responsible for preservation of record
- Problems and solutions
- Judicial Perspective

Reference materials:

- Land Revenue Act, 2031(1978)
- The Lands Act, 2021(1964)
- The *Guthi* Corporation Act, 2033(1976)
- Right to Information Act, 2064(2007)
- The Privacy Act, 2075(2018)
- Act related to Privacy of documents, 2039
- Rules for Demolishing Governmental Documents, 2027

Session 20

Preservation of Government property, Public property and Heritage

Objective of the session:

At the end of this course, the participants will be:

- Informed about the legal provisions concerning government property, public property and heritage.

Subjects included in this Unit:

- Road and Road border
- Forest and Forest boundary
- National Park and wildlife reservation and conservation area and its boundary
- Area reserved for hydroelectric and irrigation projects
- Ponds, lakes, wetlands, rivers and its area thereof,
- Mines, Minerals and the area thereof,

- Ancient monuments and Archaeological objects
- Problems and solutions
- Judicial Perspective

Reference Materials

- Forest Act, 2049(1993)
- National Parks and Wildlife Conservation Act, 2029(1973)
- Electricity Act, 2049(1992)
- Ancient Monument Preservation Act, 2013(1956)
- Mines & Minerals Act, 2042(1985)
- Public Roads Act, 2031(1974)
- Highway (Construction Provision) Act, 2021(1964)

Session 21

Institutional arrangements regarding the preservation of Public and Government property

Objective of the session:

At the end of this course, the participants will be:

- Informed about the role of *Guthi* Corporation and Office of the Nepal Trust in management and preservation of government and public property

Subjects included in this Unit:

- Role of *Guthi* Corporation in management and preservation of government and public property
- Judicial Perspective
- Role of Office of the Nepal Trust
- Legal provisions incorporated in Nepal Trust Act
- Various departments involved in the management of government and public property: Office of the Auditor General, Pashupati Area Development Fund, Bouddhanath Area Development Committee and other related committees thereof and various agencies, and the

role of *Swargadwari, Resunga, Devghat etc.*

- Suggestions identified from the report of Auditor General regarding public and government properties
- Problems and solutions
- Judicial Perspective

Reference materials:

- The *Guthi* Corporation Act, 2033 (1976)
- *Pashupati* Area Development Trust Act, 2044 (1987)
- Lumbini Development Trust Act, 2042 (1985)
- Nepal Trust Act, 2064
- *Ministry of Land Reform and Management v. Prerana Raya Laxmi Singh*, NKP 2075, Vol. 3, Decision No. 9963
- *Bhupa Bahadur Khatri Chhetri v. Council of Ministers*, NKP 2056, Vol. 3, Decision No. 6685

Session 22

Concept of Company and Preservation of property of the companies having government ownership or its investment

Objective of the session:

At the end of this course, the participants will be:

- Informed about the concept of the company and the legal provisions for the preservation of the property of the companies having government ownership or its investment

Subjects included in this Unit:

- Concept of company
- Share and debenture; and rights and duties of shareholder and debenture holder
- Memorandum of Association (MOA) and Article of Association (AOA)

- Functions, duties and rights of Annual General Meeting
- Functions, duties and rights of Board of Members
- Companies owned or invested by the government in Nepal
- Management and preservation of the Companies owned or invested by the government in Nepal
- Problems and solutions
- Judicial Perspective

Reference materials:

- Companies Act, 2063

Session 23

Property related laws in Civil Code -1

Objective of the session:

At the end of this course, the participants will be:

- Informed about the legal provisions on property, ownership and possession of property; and the use of property in Muluki Civil Code, 2074

Subjects included in this Unit:

- Chapter-1 General provisions relating to property

- Chapter-2 Provisions relating to ownership and possession
- Chapter-3 Provisions relating to use of property
- Problems and solutions
- Judicial Perspective

Reference materials:

- The National Civil Code, 2074(2017)
- सम्पत्ति कानून, Gyaendra Bahadur Shrestha
- सम्पत्ति कानून, Gunanidhi Neupane

Session 24

Property related laws in Civil Code -2

Objective of the session:

At the end of this course, the participants will be:

- Informed about the arrangements regarding land cultivation, Possession and Registration, usufruct, and servitude of land in the *Muluki* civil code.

Subjects included in this Unit:

- Chapter-4 Provisions Relating to Cultivation, Possession and Registration of Land
- Chapter-7 Provisions Relating to Usufruct
- Chapter-8 Provisions Relating to Servitudes
- Problems and solutions

- Judicial Perspective

Reference materials:

- The National Civil Code, 2074(2017)

- सम्पत्ति कानून, Gyaendra Bahadur Shrestha

- सम्पत्ति कानून, Gunanidhi Neupane

Session 25

Property related laws in Civil Code -3

Objective of the session:

At the end of this course, the participants will be:

- Informed about the provisions regarding *Guthi* in *Muluki Civil Code, 2074*

Subjects included in this Unit :

- Part-6 Provisions concerning *Guthi* in Civil Code, 2074

- Problems and solutions

- Judicial Perspective

Reference materials:

- Constitution of Nepal
- The National Civil Code, 2074(2017)
- सम्पत्ति कानून, Gyaendra Bahadur Shrestha
- सम्पत्ति कानून, Gunanidi Neupane

Session 26

Property related laws in Civil Code -4

Objective of the session:

At the end of this course, the participants will be:

- Informed about donations and pre-emption of immovable property

Subjects included in this Unit:

- Part-10 Provisions on Gift and Donation
- Part-11 Provisions on acquisition and transfer of property

- Part-13 Provisions on pre-emption of immovable property

- Problems and solutions

- Judicial Perspective

Reference materials:

- The National Civil Code, 2074(2017)
- सम्पत्ति कानून, Gyaendra Bahadur Shrestha
- सम्पत्ति कानून, Gunanidi Neupane

Session 27

Provisions incorporated in Civil Code concerning government and public property

Objective of the session:

At the end of this course, the participants will be:

- Informed about the legal provisions of *Muluki Civil Code, 2074 and Muluki Criminal Code, 2074* on Public and Government property

Subjects included in this Unit:

- Chapter-5 of Civil Code: Provisions concerning government, public and community property

- Chapter-8 of Criminal Procedure Code, 2074(2017): Offence against national or public property

Reference materials:

- The National Civil Procedure Code, 2074(2017)
- The National Criminal Procedure Code, 2074(2017)
- सम्पत्ति कानून, Gyaendra Bahadur Shrestha
- सम्पत्ति कानून, Gunanidi Neupane

Session 28

State Party Civil Cases

Objective of the session:

At the end of this course, the participants will be:

- Informed about the legal provisions on complaints, inquiries and evidence collection, filing cases and defend in the state party civil cases

Subjects included in this Unit:

- State party civil cases
- Complaints, inquiries and evidence collection in Civil cases where state is a party
- Decision as to whether or not government related civil cases to be filed and filing of such cases
- Witness testimony and examination of evidence

- Provision for pleading and defending
- Provisions including application, appeal, review, revision
- Role of government attorney in various civil cases other than state cases
- Problems and solutions
- Judicial Perspective

Reference materials:

- The National Civil Code, 2074(2017)
- The National Civil Procedure Code, 2074(2017)
- Prosecutor's Manual
- *Bange Lama v. CIAA*, NKP 2065, Vol. 6, Decision 8639
- *Tej Bahadur Nepali v. Ministry of Land Reform and Management*, NKP 2065, Vol. 1, Decision No. 7919

Session 29

Preservation of property owned by Public Corporation

Objective of the session:

At the end of this course, the participants will be:

- Informed about the preservation of the property owned by public corporation

Subjects included in this Unit:

- Introduction to Public corporation
- Public corporations in Nepal
- Management of property owned by public corporation
- Protection of property owned by public corporation.
- Weakness identified in Auditor General's report
- Problems and solution

- Judicial Perspective

Reference materials:

- Corporations Act, 2021(1964)
- Nepal Water Supply Corporation Act, 2046(1989)
- Nepal Airlines Corporation Act, 2019(1963)
- Nepal Electricity Authority Act, 2041(1984)
- Annual report of the Auditor General
- Balgovinda Bista, सार्वजनिक संस्थान व्यवस्थापन
- Annual progress report of government and public corporations, Ministry of Finance, Government of Nepal

Session 30

Legal provisions regarding the preservation of property of various industries and factories owned or invested by government.

Objective of the session:

At the end of this course, the participants will be:

- Informed about the preservation of the property of factories and industries owned or invested by the government; and the problems, challenges and solutions for its preservation

Subjects included in this Unit :

- Industries and Factories owned or invested by the government
- Preservation of properties of Industries and Factories owned or invested by the government

- Problems and solutions
- Judicial Perspective

Reference materials:

- Corporations Act, 2021(1964)
- Balgovinda Bista, सार्वजनिक संस्थान व्यवस्थापन
- Annual progress report of government and public corporations, Ministry of Finance, Government of Nepal
- Annual progress report, 2074 of government and public corporations, Ministry of Finance, Government of Nepal

Session 31

Role of federal, state and local level government on the preservation of government, public and community property

Objective of the session:

At the end of this course, participants will be:

- Informed about the role of federal, state and local level government on protection of government, public and community property

Subjects included in this Unit:

- Concept of federal governance system
- Rights of the Federal, Provincial and Local level government
- Role of federal, state and local level government on management of government, public and community property

- Role of federal, state and local level government on preservation of government, public and community property

- Problems and solutions
- Judicial Perspective

Reference materials:

- Constitution of Nepal
- The National Civil Code, 2074(2017)
- The National Criminal Procedure Code, 2074(2017)
- Local Government Operations Act, 2073
- Local Administration Act, 2028(1971)

Session 32

Provisions concerning Civil Procedure:

Objective of the session:

At the end of this course, participants will be:

- Informed about aware of the provisions of Civil Procedure.

Subjects included in this Unit:

- General Principles on Civil Procedure Laws
- Jurisdiction

- Limitation
- Locus standi
- Arrangement on petition and rejoinder
- Presentation of Evidence and Examination
- Case hearing and Decision
- Application/Petition and Appeal
- Execution of judgement

Reference materials:

- कार्यविधि कानून, Gyaendra Bahadur Shrestha
- प्रमाण कानून, Prakash Wosti
- प्रमाण कानून, Laxmi Prasad Dahal
- प्रमाण कानून, Rajitbhakta Pradhananga
- The National Civil Procedure Code, 2074(2017)
- *Durga Prasad Upadhyaya v. Thulo Laxmi Prasad Paudel*, NKP 2055, Vol. 1 Decision No. 6498
- *Pushpa Maharjan v. Kathmandu Nagar Panchayat*, NKP 2043, Vol. 4, Decision No. 2680

- *Ram Bahadur Nepali v. Ministry of Forest and Land Conservation*, NKP 2048, Decision No. 4252
- *Prakash Narayan Singh v. Aakriti Advertising*, NKP 2071, Vol. 2, Decision No. 9111
- *HMG v. Bimal Kumar Thapa*, NKP 2062, Vol. 5, Decision No. 7534
- *Bijaya Kumar Shahi v. hari Prasad Paudel*, NKP 2070, Vol. 5, Decision No. 9008
- *Samjhadevi Kewatin v. Ministry of Land Reform and Management*, NKP 2059, Vol. 11/12, Decision No. 7153

Session 33

Old (Traditions) Deeds used on transaction relating to property:

Objective of the session:

At the end of this course, participants will be:

- Informed about Old (Traditional) Deeds used on transaction relating to property and nature of such deeds

Subjects included in this Unit:

- Old (traditional) deeds
- Deeds used in the transaction of property and its nature
- Required procedure for deed
- Letters used in old (traditional) deeds

- Information on formalities, stamp, etc. in old (traditional) deeds
- Study of old (traditional) deeds (Pragmatic Knowledge)

Reference materials:

- कार्यविधि कानून, Gyaendra Bahadur Shrestha
- नेपालको कानूनी इतिहास, Rewati raman Khanal

Session 34

Functions, duties and rights of the commission formed for the distribution of land

Objective of the session:

At the end of this course, the participants will be:

- Informed about the functions, duties and rights of the commission formed for the distribution of land

Subjects included in this Unit:

- *Sukumbasi Samasya samadhan Aayog* (Landless Commission)
- *Basobas Aayog* (Settlement Commission)
- Commission for Forest Area Improvement
- Functions, duties and rights of various commissions
- Legal provisions

- Formation Orders
- Problems and solutions
- Judicial Perspective

Reference materials:

- Various orders for formation of commission
- *Indu Niraula v. Distruct Forest Office, Morang*, NKP 2067, Vol. 6, Decision No. 8394
- *Tej Bahadur Nepali v. Ministry of Land Reform and Managment*, NKP 2065, Vol. 1, Decision No. 7919
- *Bhim Bahadur Khatri v. Tulsi Maya Khatri*, NKP 2063, Vol. 12, Decision No. 7798

8. Laws relating to Prohibit Corruption

8. Laws relating to Prohibit Corruption

Objective of course: To prepare specialized government attorney related to corruption prohibition laws.

Objective of the Session: At the end of the course, participants will have knowledge on following things:

- Introduction, Scope, Nature of the corruption offence and the principles applied in such offence.
- United Nations Convention against Corruption Control and other International and Regional treaties against the corruption.
- Provisions of foreign countries in regards to Corruption Control, essential decisions and precedents of the such foreign courts
- Constitutional and Legal Provision relating to corruption prohibition, essential decisions and precedents of Supremen Court of Nepal
- Jurisdiction, Role and Limitation of Commission for the Investigation of Abuse of Authority in corruption prohibition.

Training syllabus method

This syllabus has been prepared to produce specialized government attorneys and to enhance their professional development. The subject matter under this syllabus shall cover 40% of theoretical and 60% professional and practical knowledge.

Subjects included in this Syllabus

1. Concepts relating to the crime of Corruption
2. Types of Corruption
3. United Nations Convention against Corruption Control
4. International laws relating to Corruption Control -1
5. International laws relating to Corruption Control -2
6. Comparative study of foreign laws regarding Corruption Control
7. Judicial Practices of foreign courts on Corruption offence
8. Good Governance and Corruption
9. Interrelationship between Corruption and Development
10. Interrelationship between Corruption and Politics
11. Policy Level corruption- Impact and Control
12. Relation and Limitation of corruption and Financial Offence
13. Corruption in Public Property
14. Procedures relating to Public Procurement and Corruption
15. Concept, aspects and control relating to Private Sector Corruption and role of Government Attorney in its prevention
16. Transparency of NGO in Foreign Aid and Corruption
17. Corruption control and prevention Laws in Nepal
18. Corruption in various level and its prevention and control

19. Commission for the Investigation of Abuse of Authority (CIAA) as Ombudsman
20. Corruption Offence : 1- Acquisition of illegal assets
21. Corruption Offence : 2- Bribe and Graft
22. Corruption Offence : 3- Red Hand and Sting Operation
23. Corruption Offence : 4- Fraud Academic Certificate
24. Corruption Offence : 5- Miscellaneous
25. The Investigation provision regarding corruption offence
26. The prosecution, Decision and appeal of corruption offence related cases
27. Evidence Presentation, evaluation and witness protection in corruption offence related cases and role of Government Attorney thereof
28. Plead and defence in corruption offence related cases
29. Analytical Study of the district court and appeal court decision on corruption offence related cases
30. Coordination and cooperation in between the adjudicating institutions of the corruption controlling law
31. Role and Limitation of civil society and mass media on corruption control

Session 1

Concepts relating to the crime of Corruption

Objective of the session:

- To inform government attorneys about the definition, scope, nature and various principles of corruption to ensure effective litigation and defense of case related to corruption.

Subjects included in this Unit:

- Definition regarding the crime of corruption
- Scope of crime relating to corruption (government, non-government and private)
- Causes and effects of corruption
- General Principles related to corruption (concept of mal-intention)
- Corruption commit under the veil of organized structure
- Relation and limitation of corruption and impeachment

Reference materials:

- Corruption around the World: Causes, Consequences, Scope and Cures, www.imf.org

- GENERAL PRINCIPLES AFFECTING THE SCOPE OF CORRUPTION OFFENCES: JURISDICTION, CORPORATE LIABILITY, ACCOMPLICES AND INCHOATE OFFENCES, <https://icclr.law.ubc.ca/wp-content/uploads/2017/06/Chapter-3-2017-1.pdf>
- Constitution of Nepal
- Prevention of corruption Act, 2059
- Commission for the Investigation of Abuse of Authority Act ,2048
- Commission for the Investigation of Abuse of Authority Rules,2048
- Crime, Corruption and development, D.Narasimha Reddy, 2001
- Dimension of Crime and Corruption in India, Ranga Kaarthikey an D.R, 2005
- Political Corruption and State crime, Clapton peoples and James E.Suttone, (2017)

Session 2

Types of Corruption

Objective of the session:

- To inform government attorneys about various types of corruption to ensure effective case litigation and defense in cases related to corruption.

Subjects included in this Unit :

- Political or Grand Corruption
- Petty Corruption
- Individual Corruption
- Institutional Corruption
- Systemic or Systematic Corruption
- Primary or Secondary Corruption
- Public and Private Corruption
- Corruption according to rule and Corruption against rule
- Professional corruption and Amateur Corruption

- Bureaucratic corruption and Political Corruption
- Incomplete crime relating to corruption

Reference materials:

- Grand Corruption in Third world Development, George moody- sutart, (1992)
- Greed, Corruption and Modern State, Susan Rose-Ackerman, poul Langues, (2015)
- Petty Corruption-facilitating payments and grease money, Antonio Argandona, 2017
- The Many Faces of Corruption, Campos J.E/Pradhan Sanjay, 2007

Session 3

United Nations Convention against Corruption Control (UNCAC)

Objective of the session:

- To make Government Attorneys aware about United Nations Convention against Corruption Control to ensure effective prosecution and litigation of case related to corruption.

Subjects included in this Unit:

United Nations Convention against Corruption (UNCAC), 2002

- General Provisions
- Preventive Measures
- Public Procurement and Management of Public Finances
- Measure Relating to The Judiciary and Prosecution Services
- Private Sector Corruption
- Measure to Prevent Money Laundering
- Criminalization and Law Enforcement
- Criminal Liability of Legal Persons
- Participation and Attempt of Corruption
- Freezing, Seizure and Confiscation

- Protection of Witness, Expert and Victims
- Co-operation with Law Enforcement Authorities and Others
- International Co-operation
- Asset Recovery
- Technical Assistance and Information Exchange

Reference materials:

- https://www.unodc.org/documents/brussels/UN_Convention_Against_Corruption.pdf
- The Relevancy and Effectiveness of the United Nations Convention Against Corruption (https://papyrus.bib.umontreal.ca/xmlui/bitstream/handle/1866/9037/BrunelleQuaishi_Ophelie_2011_memoire.pdf)
- The International Legal Framework against Corruption: Achievements and challenges: Jan Wouters, Ryngaert and Ann Sofie Cloots,

Session 4

International Law regarding Corruption Prevention (1)

Objective of the session:

- To make Government Attorneys inform about treaties and agreements of International and Regional level relating to Corruption to ensure effective prosecution and litigation of case related to corruption.

Subjects included in this Unit:

- Organization for Economic Co-Operation and Development (OECD) 1997 and its miscellaneous recommendations
- Inter-American Convention against Corruption (OAS Convention), 1996
- The African Union Convention on Preventing and Combating Corruption (AU Convention), 2003

- The Southern African Development Community Protocol against Corruption ('SADC Protocol'), 2001
- The Economic Community of West African States Protocol on the Fight against Corruption ('ECOWAS Protocol') 2001

Reference materials:

- United Nations Handbook on Practical Anti-Corruption Measures for Prosecutors and Investigators, 2004
- The International Legal Frame work against Corruption: Achievements and challenges: Jan Wouters, Ryngaert and Ann Sofie Cloots,

Session 5

International Laws regarding Corruption Control (2)

Objective of the session:

- To make government attorneys aware about treaties and agreements of International and regional level related to corruption to ensure effective prosecution and litigation of case related to corruption.

Subjects included in this Unit

- Anti-Corruption Initiatives in International /Regional Institutions
 - European Union
 - Council of Europe
 - World Bank
 - Transparency International
 - The International Chamber of Commerce and The ICC Rules on

Combating Corruption ('ICC Rules), 1977

- Emerging concepts about Corruption Prevention
 - SARS: State Asset Recovery System
 - Corruption and Good Governance
 - Corruption and Human Rights
 - Corruption in the Private Sphere
 - Corruption and Its Extra Territorial Jurisdiction

Reference materials:

- Hand book of Global Research and Practice in Corruption, Adam Graycar, Russella G Smith (2011)
- International Drivers of Corruption a Tool for Analysis, 2012 (DECD)

Session 6

Comparative study of legal provisions relating to prevention of Corruption of various countries

Objective of the session:

- To make government attorneys inform about legal provisions of various Countries regarding Corruption Prevention to ensure effective prosecution and litigation of case related to corruption.

Subjects included in this Unit :

- Legal Provisions, Implementation status and exemplary initiations taken by the following countries are to be studied in this session:
 - India
 - Sri Lanka
 - UK
 - USA
 - Indonesia
 - Sweden

- Japan
- Malaysia

Reference materials:

- The Prevention of Corruption Act 1988(India)
- United Kingdom Bribery Act of 2010
- American Anti-Corruption Act (AACA), 2011
- Commission to Investigation Allegations of Bribery or Corruption, 1994
- The Swede dish Penal Code
- The Japanese Criminal Code 1907
- The Penal Code of Indonesia 1999
- The Eradication of the Criminal Act of Corruption 1999
- Arthur Massiut Q.C. Paul H. Loher International Corruption

Session 7

Judicial Practice of Foreign Courts regarding offence of Corruption

Objective of the session:

- To make Government Attorneys aware about important decisions and principles established by foreign courts to ensure effective prosecution and litigation of case related to corruption.

Subjects included in this Unit :

- Foreign judgments and principles regarding corruption related offences Improve this translation
- Judicial practices of court of Denmark, Sweden, Norway, Finland, Singapore, US, Malaysia, India

- Policy-level practices, legal provisions and institutional practices to minimize offence of corruption in aforementioned countries
- Progressive and exemplary judicial practices that can be followed by Nepal

Reference materials:

- Count performance Around the world: A Comparative Perspective, Moorria Dakolias (1999)
- Arthur Massiut Q.C. Paul H. Loher International Corruption

Session 8

Good Governance and Corruption

Objective of the session:

- To make Government Attorneys conceptually clear about the role of Good Governance in corruption control and

relationship between corruption and Good Governance system to further improve prosecution and litigation of corruption issues.

Subjects included in this Unit :

- Introduction of Good Governance
- Pre-requisites and conditions of Good Governance
- Good Governance and transparency
- Autonomy, Good Governance and corruption
- Voluntary Offenses
- Areas of increased corruption in Nepal
- Basis for measurement of good governance and corruption

Reference materials:

- Good Governance: Delivering Corruption-Free Public Services, N.BaskaraRao, (2013)
- Corruption and Good governance in Asia G.T.Haokip, (2013)
- Corruption Perceptions Index- Transparency International
- Good governance administration and management Act, 2064
- The Prevention of Corruption Act, 2059
- CIAA Act 2048, and Rules 2059

Session 9

Interrelation between Corruption and Development

Objective of the session:

- To make government attorneys conceptually clear about the inter-relation between corruption and development to ensure effective prosecution and litigation of case related to corruption.

- Impact of corruption on social transformation
- Poverty and corruption
- Impact of corruption on social development and social transformation

Reference materials:

- Why Development Failed in Nepal? Devendra Raj Pandey

Subjects included in this Unit :

- Impact of corruption on development projects

Session 10

Interrelation between Politics and Corruption

Objective of the session:

- To inform Government Attorneys about political corruption its various dimensions with an aim to ensure effective prosecution and litigation of corruption cases.

Reference materials:

- Political Corruption: An Introduction to the Issues, Inge Amundsen,(1999)
- Prevention of corruption act, 2059
- CIAA, 2048 and other related laws and regulations
- *Nepal Kanoon Patrika*
- Foreign Supreme Courts' including India Judgement collection
- Articles of Dr. Narayan Manandhar
- *Corruption Perception Index* (वार्षिक स्मारिकाको संगालो)
- Resource Material of World Bank and Asian Development Bank
 - हरिबहादुर थापा र देवेन्द्रराज पाण्डेयको पर्दा पछाडिको न्याय

Subjects included in this Unit :

- Meaning of political corruption
- Different forms of political corruption
- Interrelation between political corruption and Bureaucratic corruption
- Effects of political corruption on the politics and economy of the country
- Impeachment and corruption
- Effectiveness and Access of Institutions responsible for corruption control
- Analysis of precedents established in the subject matter

Session 11

Policy level corruption: Impact and Control

Objective of the session:

- To provide information about policy level corruption and its nature, area and scope to ensure effective prosecution and litigation of case related to corruption.

Subjects included in this Unit:

- Definitions and patterns of policy level corruption
- Policy level corruption and good governance
- Political corruption
- Areas of policy level corruption which are yet to be addressed

- International law and laws of other countries regarding the policy level corruption
- Challenges and possible reforms

Reference materials:

- Crime and Corruption in Organizations (2016), Gower Publishing, London
- Corruption, Anti-Corruption and Governance, Dan Hough (2013)
- Bad Governance and Corruption R.Rose and C. Peiffer (2010)

Session 12

Relation and Limitation of Corruption and Financial crime

Objective of the session:

- To inform Government Attorneys about the nature of financial crimes associated with the crime of corruption and ways in which they are committed to ensure effective prosecution and litigation of corruption cases.

Subjects included in this Unit:

- Concept of Corruption and Financial crimes
- Various aspects of Financial crime (Money laundering, Banking offense, custom offenses, Human Trafficking, Terrorist Financing, Fraudulent,

Extortion Organized crime, etc.), relation of corruption with these crimes and limitation

- Limitation and relation of corruption with other crimes (arms and ammunitions, Narcotic Drugs, Black Marketing, Hoarding, Adulteration)
- Analysis of precedents of Supreme Court regarding the issue

Reference materials:

- Concerned Nepal Laws
- Related laws of India, UK and US
- Judicial Practices of Nepal and foreign countries

Session 13

Corruption relating to Public property

Objective of the session:

- To make Government Attorneys well informed about theoretical aspects and precedents relating to the offence of public property to ensure effective prosecution and litigation of case related to corruption.

Subjects included in this Unit :

- Emerging concepts on usage of Public property and its management
- Corruption related acts against public property
- Corruption in areas of land administration

- Corruption during re-allocation and regulation of Government Budget
- Other Corruption related acts against Public
- Comparative study of international practices on preservation and protection of Public property.
- Problems identified during prosecution and adjudication of crimes relating to Corruption of Public property
- Comparative study on judicial understanding and court practices
- Land (Survey and Measurement) Act, 2019
- The Lands Act, 2021 and Regulation
- Land Revenue Act, 2034 and Regulation
- The Effort to preserve lands of Government, Public and Guthi
- Land Use Act, 2076
- The Prevention of Corruption Act, 2059
- Commission for the Investigation of Abuse of Authority Act, 2048
- Good Governance (Management and Operation) Act, 2064
- Judicial Practices of Nepal

Reference materials:

Session 14

Procedures relating to Public Procurement and Corruption

Objective of the session:

- To conceptually clear government attorneys about of nature of corruption done through the public procurement and legal provisions relating to the prevention and control thereof to ensure effective prosecution and litigation of case related to corruption.

Subjects included in this Unit:

- Features of Public Procurement Act and importance of its implementation
- Public Tender and quality measurement
- Public Construction, service procurement and consultation services
- Variation in public Construction

- Expenditure management in public procurement and bill payment system
- Reasons for non-completion of projects in set forth time in Nepal
- Identification of patterns of corruption during public construction and procurement

Reference materials:

- Public Procurement Act, 2063
- Public Procurement Regulation, 2064
- Procurement Guidelines issued by the world Bank and ADB Standard Bidding Document
- Gupta MP, Competitive Bidding (Procedures and Practices), 1998

Session 15

Concept of Corruption in Private areas and role of Government Attorney in its prevention

Objective of the session:

- To inform government attorneys about the legal and structural arrangements and areas of improvement in relation to corruption control in private sector to ensure effective prosecution and litigation of case related to corruption.

Subjects included in this Unit :

- Corruption in government and private sector

- Corruption in public/ government sector
- Corruption in private sector
- Difference in corruption of public and private sector
- Methods of commission of corruption in private sector
- Preventive legal and policy level measures to control corruption in private sectors

- Institutional measures to prevent corruption in private sector
 - Institutional arrangements for the control of corruption in private sector
 - International practice on the control of corruption and lesson to be embraced by Nepal
 - Article 12 and 15 of UNCAP
 - Judicial perspective regarding control of corruption in private sector
 - Role of government Attorneys
 - Problems and measures to solve
- Reference materials:**
- The Prevention of Corruption Act, 2059
 - Commission for the Investigation of Abuse of Authority Act, 2048
 - Good Governance (Management and Operation) Act, 2064
 - Principles of propounded Precedents
 - Company Act, 2063
 - Associations Registration Act, 2034
 - Private Firm Registration Act, 2014
 - Partnership Act, 2020
 - The Industrial Enterprises Act, 2073
 - Competition Promotion and Market Protection Act, 2063
 - Consumer Protection Act, 2054
 - United Nations Convention Against Corruption, 2002
 - United Nations Handbook on Practical Anti Corruption Measures for Prosecutors and Investigators, 2004
 - The International Legal Framework against Corruption : Achievement and Challenges: Jan Wouters, Ryngaert and Ann Sofie Cloots

Session 16

Non-governmental Organization in Transparency of Foreign Aid and Corruption

Objective of the session:

- To inform government attorneys about the various aspects of corruption commits, because of misuse of foreign aid and lack of transparency thereof; to ensure effective prosecution and litigation of case related to corruption

Subjects included in this Unit :

- Meaning, importance, relevancy and scope of Foreign Aid
- Arrangements for the utilization of foreign aid and prospective area of misuse of it.
- Mode of Acquisition and Expenditure; transparency and accountability of foreign aid by non-governmental organizations
- Regulatory arrangements of NGO and effectiveness
- Impact of foreign aid on anti-corruption activities

- Precedents of Supreme Court in related topic

Reference materials:

- EXPLORING THE IMPACT OF FOREIGN AID ON CORRUPTION: HAS THE “ANTICORRUPTION MOVEMENT” BEEN EFFECTIVE?, Nicholas CHARRON (<https://onlinelibrary.wiley.com/doi/abs/10.1111/j.1746-1049.2010.00122>)
- Ramni Taneja, Foreign Direct Investment and Globalization
- Foreign Aid Policy of Nepal, 2059
- Development Aid Policy, 2071
- Economic Legal provisions for Public Procurement and construction
- Foreign judgments relating to corruption control and precedents published in Nepal Kanoon Patrika.

Session 17

Laws related to prevention and control of corruption in Nepal

Objective of the session:

- To inform government attorneys about constitutional and national legal arrangements on corruption prevention and control to ensure effective prosecution and litigation on cases related to corruption.

Subjects included in this Unit:

- State policy regarding the economic and administrative arrangements envisaged by the constitution,
- Establishment, Function, Duty and Power of Commission for Investigation of Abuse of Authority as a Constitutional body

- Provisions of prohibited acts and punishment by prevention of corruption Act
- Expected offence
- Provision regarding supervision of Corruption

Reference materials:

- Constitutions of Nepal
- Prevention of Corruption Act, 2017
- Special Court Act, 2059
- Good Governance (Management and Operation) Act, 2064
- Commission for the Investigation of Abuse of Authority Act, 2048 and regulation, 2059

Session 18

Corruption in various levels and its prevention and control

Objective of the session:

- To make government attorneys conceptually clear about the jurisdiction, institutional arrangement of corruption control in provincial level and coordination between state and province regarding corruption control to ensure effective prosecution and litigation of case related to corruption.

Subjects included in this Unit :

- Principal- agent or agency models; new public management perspectives; and neo-institutional economics frameworks
- Bureaucratic and Participatory Populism and corruption
- Multidisciplinary forms of corruption in different levels of government in federal set up

- Arrangements for corruption control in civil servants of local and provincial structure (Regional Offices)
- Role of National Vigilance Center in Federalism
- Coordination and cooperation in between Center, Province and local level in corruption prevention.

Reference materials:

- Constitution of Nepal
- Prevention of Corruption Act, 2017
- Commission for the Investigation of Abuse of Authority Act, 2048 and regulation, 2059
- Good Governance (Management and Operation) Act, 2064
- Precedents

Session 19

CIAA in the role of Ombudsman

Objective of the session:

- To inform Government Attorneys about role of Commission for Investigation of

Abuse of Authority, its working areas and Limitation for corruption prevention and control; to ensure effective

prosecution and litigation of case related to corruption.

Subjects included in this Unit:

- Meaning and concept of ombudsman
- Scope and limitation of Commission for Investigation of Abuse of Authority
- Provisions relating to arrange Misconduct and prohibited acts
- Provisions on delegation of Power by CIAA
- Judgments of Supreme Court regarding the jurisdiction of CIAA

Reference materials:

- Origin and Development of Ombudsman System Around the Globe:
http://shodhganga.inflibnet.ac.in/bitstream/10603/167036/8/08_chapter%203.pdf
- Commission for the Investigation of Abuse of Authority Act, 2048
- Commission for the Investigation of Abuse of Authority Regulation, 2059
- Commission for the Investigation of Abuse of Authority Procedure, 2073
- Various judgments of Supreme Courts relating to subject matter

Session 20

Offense relating to Corruption (1) - Acquisition of illegal assets

Objective of the session:

- To provide theoretical information along with principles established by court regarding the offence related to acquisition of illegal assets to the government attorneys to ensure effective prosecution and litigation of case related to corruption.

Subjects included in this Unit:

- Concept and meaning of illegal property
- Acquisition of illegal property, and its areas and nature
- Offense relating to illegal property and legal provisions
- Comparative study of Standard and Basis of property evaluation (income and expenditure)
- Offence of illegal property acquire, expected offence and burden of proof
- Provision relating to property details and limitation and impact of illegal property
- Relation of illegally acquired property offence with other crimes
- International practices related to the investigation and prosecution of offence related to acquisition of illegal assets and its uses.
- Evaluation of illegally acquired property in Malaysia

- Comparative study and analysis of judicial practice and perspective

Reference materials:

- On the Comparative Study of Corruption, Franklin E.Zamring / David T. Johnson (2007)
- Investigating Crypto Currencies, Wiley, (2018)
- Constitution of Nepal
- Prevention of Corruption Act , 2059
- National Penal Code, 2074
- Money Laundering Prevention Act, 2064
- Various judgment of Supreme Court regarding the subject matter
- Najir sangraha published by Office of Attorney General
- Commission for the Investigation of Abuse of Authority Procedure, 2073
- Nepal Government v. Jaya Prakash Gupta, NKP 2064, Vol. 11, Decision no. 8622
- Nepal Government v. Ishwor Prasad Pokhrel, NKP 2066, Vol. 8, Decision no. 8200
- Nepal Government v. Chiranjivi Wagle, NKP 2067, Vol. 12, Decision no. 8519
- Nepal Government v. Ramagya Chaturbedi, NKP 2068, Vol. 6, Decision no. 8630

- Nepal Government v. Achyut Krishna Kharel, NKP 2068, Vol. 8, Decision no. 8667
- Lilaraj Goutam v. Nepal Government, NKP 2069, Vol. 2, Decision no. 8770
- Nepal Government v. Khum Bahadur Khadka, NKP 2069, Vol. 5, Decision no. 8832
- Nepal Government v. Ananda Prasad Khanal, Criminal Appeal no. 3310 of 2062
- Nepal Government v. Yubraj Sharma, NKP 2069, Vol. 5, Decision no. 8886
- Nepal Government v. Ganesh Aryal et.al., 063-CR-0650
- Nepal Government v. Birendra Kumar Singh, NKP 2072, Vol. 3, Decision no. 9366
- Nepal Government v. Achyut Krishna Kharel, NKP 2072 Vol. 6, Decision no. 9415
- Nepal Government v. Gokarna Poudel, NKP 2072, Vol. 8, Decision no. 9446
- Nepal Government v. Harekrishna Bhagat, NKP 2072, Vol. 7, Decision no. 9433
- Nepal Government v. Badri Nath Shrestha, NKP 2072, Vol. 8, Decision no. 9449
- Nepal Government v. Ishwor Pd. Pokhrel, NKP 2072, Vol. 9, Decision no. 9461
- Nepal Government v. Bharat Pd. Bhattarai, NKP 2072, Vol. 11, Decision no. 9492
- Nepal Government v. Umesh Kmr. Singh, NKP 2072, Vol. 12, Decision no. 9505
- Nepal Government v. Bharat Pd. Ghimire, NKP 2073, Vol. 2, Decision no. 9545
- Nepal Government v. Mahendra raj Goutam, NKP 2074, Vol. 1, Decision no. 9751

Session 21

Offence relating to Corruption (2) – Bribe and Graft

Objective of the session:

- To provide detailed information to Government Attorney's about the concepts and principles of Graft and bribe related offences to ensure effective prosecution and litigation of case related to corruption.

Subjects included in this Unit:

- Introduction and concepts of Bribe/Graft
- Forms of Bribe/Graft (money/ asset/ Crypto-Currency)
- Criminal process and procedure of Bribe/Graft
- Legal provisions relating to Bribe/ Graft
- Comparative study of international legal practices relating to Bribe/ Graft
- The Challenges in Investigation, Prosecution and legal adjudication of Bribe/ Graft
- Comparative study of Court practice and Judicial Perspective

Reference materials:

- On the Comparative Study of Corruption, Franklin E.Zamring /David T. Johnson (2007)
- Investigating Crypto Currencies, Wiley, (2018)
- Constitution of Nepal
- Prevention of corruption Act, 2059
- National Penal Code, 2074
- Money Laundering Prevention Act, 2064
- Najir sangraha published by Office of Attorney General
- CIAA Procedure, 2073
- Bishnu maya Limbuni v. Dronacharya et.al., NKP 2021, Decision no. 236
- Malika Pd. Shrestha v. Nepal Government, NKP 2045, Vol. 5, Decision no. 3471
- Dwarika Choulagai v. Nepal Government, Supreme Court Bulletin, Year 15, Vol. 2 Baisakh 2063, no. 332

- Shiva Bdr. Swar v. Nepal Government, Supreme Court Bulletin, Year 18, Vol. 21 Falgun 2066, no. 423
- Thalesh Purve v. Nepal Government, Supreme Court Bulletin, Year 18, Vol. 21 Baisakh 2066, no. 423
- Tanka nath Dhakal v. Nepal Government, Supreme Court Bulletin, Year 18, Vol. 18 Baisakh 2066, no. 420
- Birendra Kumar Karna v. Nepal Government, NKP 2069, Vol. 10, Decision no. 8897
- Pradip Adhikari v. Department of Industry, NKP 2067, Vol. 4, Decision no. 8340

Session 22

Offence relating to Corruption (3) – Red Hand and Sting Operation

Objective of the session:

- To give credible information to government attorneys on Sting Operation/ Red hand related corruption, to ensure effective prosecution and litigation of case related to corruption.

Subjects included in this Unit:

- Introduction of Red Hand/ Sting Operation
- Methods of Red Hand / Sting Operation
- Procedure of Red Hand / Sting Operation and validity of such procedure (Searched same currency from two people, search deed, searched from residence, car, table, third party)
- Legal provision of Red Hand/ Sting Operation and comparative study of international practices.
- Targeted person of Red Hand/ Sting Operation, relation of head of the office on such issue and his/her responsibility

- Court practices and perspective in Red Hand/ Sting Operation
- Role of investigating officer and prosecutor in Red Hand/ Sting Operation and areas of reform

Reference materials:

- Constitution of Nepal
- The Prevention of Corruption Act, 2059
- National Penal Code, 2074
- Money Laundering Prevention Act, 2064
- Various judgment of Supreme Court regarding the subject matter
- Najir sangraha published by Office of Attorney General
- Commission for the Investigation of Abuse of Authority Procedure, 2073
- On the Comparative Study of Corruption, Franklin E.Zamring /David T. Johnson (2007)
- Investigating Crypto Currencies, Wiley, (2018)

Session 23

Offence relating to Corruption (4) – Fake educational certificate

Objective of the session:

- To provide credible information to government attorneys on concepts and court judgments of fake educational certificate to ensure effective prosecution and litigation of case related to corruption.

Subjects included in this Unit :

- Introduction, concept, scope and forms of fake educational certificate
- Relation between public authority position and fake educational certificate
- Area and usage related with fake educational certificate

- Legal provisions related to fake educational certificate and its implementation
 - Study and analysis of preparation, submission of fake educational certificate and condition to not gain benefit from such certificate
 - Fake educational certificate and condition of retirement of personnel
 - Comparative study of court practice and judicial perspective on this subject matter
- Reference materials:**
- Prevention of corruption Act, 2059
 - NKP 2065, DN 7974, Pg.1207 (Tara RajBhandari Karki V. Nepal Government)
 - NKP 2068, DN 8697 (Pramila Rai V. Nepal Government)
 - Jay Narayan Acharya V. Nepal Government, Date of Decision : 2074/10/18
 - Judgement of Bhakta Singh
 - Judgement of Padam Pokhrel
 - Najir sangraha published by Office of Attorney General
 - Sudarshan Thapa v. Nepal Government, NKP 2064, Vol. 3, Decision no. 7825
 - Ramesh Kumar Basnet v. Nepal Government, NKP 2055, Vol. 3, Decision no. 6338
 - Nepal Government v. Phoolraj Sharma, Supreme Court Bulletin, Year 18, Vol. 20, 2066 Magh, no. 422, p.g. 28
 - Ganesh Pd. Bhusal v. Nepal Government, Supreme Court Bulletin, Year 18, Vol. 20, 2066 Magh, no. 422, p.g. 23

Session 24

Offence relating to Corruption – Miscellaneous

Objective of the session:

- To provide credible information to government attorneys on important principles and court judgments of other forms of the corruption, except above-mentioned forms of corruption, to ensure effective prosecution and litigation of case related to corruption.

Subjects included in this Unit:

- Concepts of other corruption related offences and illegal harm and losses
- Scope of other corruption related offences and emerging issues of offences of corruption
- Other corruption related offences and legal provisions thereof
- Attempt, Abettor and corruption done by organized group and additional punishment; its theoretical aspects
- Offences related to corruption not addressed by the prevention of corruption act
- International practice related to other corruption related offences and new uses

- Comparative study of judicial Practice and perspective regarding to other corruption related offences.

Reference materials:

- Prevention of corruption Act, 2059
- Mukuli Criminal Code, 2074
- The Straggle Against Corruption: A Comparative Study, R. Johnson (2004)
- Dimension of Crime and Corruption in India, Dr. A Ranga Reddy / D.R. Kaarthikeyan
- Corruption around the World: Causes, Consequences, Scope and Cures, www.imf.org
- GENERAL PRINCIPLES AFFECTING THE SCOPE OF CORRUPTION OFFENCES: JURISDICTION, CORPORATE LIABILITY, ACCOMPLICES AND INCHOATE OFFENCES, <https://icclr.law.ubc.ca/wpcontent/uploads/2017/06/Chapter-3-2017-1.pdf>
- Crime, Corruption and development, D.Narasimha Reddy, 2001

- Dimension of Crime and Corruption in India, RangaKaarthikey an D.R, 2005
- The Many Faces of Corruption, Campos J.E/Pradhan Sanjay, 2007
- Hand book of Global Research and Practice in Corruption, Adam Graycar, Russella G Smith (2011)
- International Drivers of Corruption a Tool for Analysis, 2012 (DECD)
- *Bhrastachaar sambandhi najirko sangaalo*
- Yadav Lamichhane v. Special Police Department, NKP 2046, Vol. 6, Decision no. 3849
- Special Police Department v. Ishwori Pd. Baiju, NKP 2046, Vol. 11, Decision no. 3986
- Narbahadur Budhathoki v. Nepal Government, NKP 2047, Vol. 8, Decision no. 4197
- Bijayanath Bhattarai v. Nepal Government, NKP 2066, Vol. 7, Decision no. 8194
- Purnaprasad Wagle v. Nepal Government, Supreme Court Bulletin, Year 18, Vol. 19, 2066 Magh, no. 421
- Narendrabahadur Kurungwang v. Nepal Government, Supreme Court Bulletin, Year 18, Vol. 19, 2066 Magh, no. 421
- Sarjan Pande v. Nepal Government, Supreme Court Bulletin, Year 18, Vol. 15, 2066 Mansir, no. 417
- Tulsiram Pande v. Nepal Government, NKP 2067, Vol. 5, Decision no. 8381
- Nepal Government v. Chandeshowr Raya Yadav, NKP 2074, Vol. 6, Decision no. 9827

Session25

Provision for investigation of corruption related offence

Objective of the session:

- To provide important information to government attorneys on authority for investigation, investigation officer and procedures for investigation of Corruption related offences; to ensure effective prosecution and litigation of case related to corruption.

Subjects included in this Unit:

- Provision to initiate the information of crime commission and process of investigation.
- Preliminary and detail investigation
- Abate the complaint and its consequences
- Various methods and procedures of evidence collection in investigation
- Challenges during investigation and possible reforms
- Situation of failure of State Party cases

- Dimensions that must be adopted for effective investigation

Reference materials:

- National criminal procedure code, 2074
- Sarkari wokil digdarsan, 2074
- Corruption Prevention Act, 2059
- Commission for the Investigation of Abuse of Authority Act, 2048
- Commission for Investigation of Abuse of Authority Rules, 2059
- Commission for Investigation of Abuse of Authority Procedure, 2073
- De-Cteching Corruption in Developing Countries Identifying cause/strategies for action, Bertram I, Spector (2012)
- Investigation and Prosecution of Corruption Offense; Materials for the making course, OECD (2012)
- Hand book of Global Research and Practice in Corruption, Adam Graycar, Russella G Smith (2011)

- United Nations Handbook on Practical Anti-Corruption Measures for Prosecutors and Investigators, 2004

Session 26

Decision, prosecution and appeal of Corruption related cases

Objective of the session:

- Provide information to government attorneys about the provision of authority to decide whether the corruption related cases will be proceed or not proceed, process to decide, preparation of Charge sheet and filing; to ensure effective prosecution and litigation of case related to corruption.

Subjects included in this Unit:

- Legal and constitutional provision for authority to decide whether the corruption related cases will be proceed or not proceed and prosecution; and procedure
- Basis and relevancy of authorities beyond Attorney General in deciding (corruption related cases will be proceed or not proceed), prosecution and appeal of corruption related cases
- Status of participation of Government Attorneys in past and present for corruption related case litigation

- Practice of foreign states on prosecution of corruption cases
- Positive aspects of prosecution and appeal of corruption cases in Nepal and identified problem and reform areas

Reference materials:

- Corruption Prevention Act, 2059
- Sarkari wokil digdarsan, 2074
- Dil Bahadur Lama: Nkp 2051 DN 4940 pg.504
- Akhtiyaar durupayog anusandhan aayog abhiyojan niti, 2075
- Effective Means of Investigation and Prosecution of Corruption-export seminar OECD (2010)
- Investigation and Prosecution of Corruption Offense; Materials for the making course, OECD (2012)
- National criminal procedure code, 2074
- United Nations Handbook on Practical Anti-Corruption Measures for Prosecutors and Investigators, 2004

Sessions 27

Presentation, examination of evidences and witness protection in Corruption related cases and Role of Government Attorneys

Objective of the session:

- To provide information on legal provisions regarding procedures presentation, examination and preservation of evidence to government attorneys along with their role in this process to ensure effective prosecution and litigation of case related to corruption.

Subjects included in this Unit:

- Collection and importance of digital evidence (Digital Forensic, Mobile Forensic, Computer Forensic, Network

- Forensic, Data Based and E-mail Forensic, Video, Voice record, CD record) in corruption cases
- Role and responsibility of Government Attorneys in proper presentation of evidence in Corruption cases
- Points to be considered by Government Attorneys in examination of evidence of corruption related cases
- Sensitivity of evidence in corruption cases and bases and importance of evidence preservation

- Areas to be reformed for proper protection and preservation of evidence in Corruption cases

Reference materials:

- Evidence Act, 2031
- National Criminal Procedure Code, 2074
- Sarkari wokil digdarsan, 2074
- Guide To Computer Forensics and Investigation, Bill Nelson Amerlia Philips Frank, Enfinger and ChritopherSteauart, (2016)

- Computer Forensics Principles and Practices, Linda Volonino, Reynaldo Anzaldua, and Jana Godwin (2006)
- Forensic Discovery, Dan Farmer and Wielsevenem (2005)
- Real Digital Forensics Computer Security and Incidental Response Jones K.J. And Bestlich r And Rose C.W. (2006)

Sessions 28

Plead and defense of Corruption related cases

Objective of the session:

- To produce competitive Government Attorney by providing information about the issues to be adopted for effective litigation, plead and defence the cases related to corruption.

Subjects included in this Unit:

- Formation of specialized Government Attorneys group in Corruption and basis for development and importance
- Prior preparation for litigation and defense of corruption cases
- Litigation skill and litigation management
- Importance of motivation to Government Attorneys for litigation of Corruption cases

Reference materials:

- National Criminal Procedure Code, 2074
- Sarkari wokil digdarshan, 2074
- THE ART OF ADVOCACY A HANDBOOK FOR NON-PROFIT ORGANIZATIONS (<https://www.habitat.ca/files/4752180162832249.pdf>)
- Art of Advocacy preparation of the case, David B. Baum (1997)
- The art of advocacy , LLoydpaul Stryker (1954)
- Lawyers Desk Book, Dana Shilling, (2018)

Session 29

Analytical study of Judgments of Initial and Appeal Courts in Corruption related cases

Objective of the session:

- To inform government attorneys about the similarities and substantial difference between judgments of Special Court and Supreme Court regarding famous Corruption related cases to ensure effective prosecution and defence of case related to corruption.

Subjects included in this Unit:

- Role and expectation of Court in Prevention of Corruption
- Analysis of decisions of initial and appeal courts in following cases:

- Case of *Chiranjaibi Wagle*
- Case of *Khumbahadur Khadka*
- Case of *Ramagya Chaturbedi*
- Case of *Jay Prakash Gupta*
- Case of *Murari Babu Karki*
- Case of *Ishwor Pokhrel*
- Recent principle in judgment provided by Judicial Review in Corruption cases

Reference materials:

- Nkp 2067, Vol. 12, DN 8519
- Nepal Government V. Murari Bahadur Karki, Date of Decision: 2069/02/03

- Nkp 2069, Vol. 5 DN.8832 pg.771
- Nkp 2068 DN.8630
- Nkp 2072, Vol. 8 DN.9446
- Nkp 2072, Vol. 9, DN.9461
- *Mahanyayadhiwaktako Karyalayabataa Prakaasit Bishayagat Najirko Sangalo*

Session 30

Coordination and Co-operation of authorities that implement laws relating to Corruption prevention

Objective of the session:

- To provide information about identity of stakeholders in corruption prevention activities; areas, subjects and methods of cooperation and assistance in Corruption related cases with intend to ensure effective prosecution and litigation of case related to corruption.

Subjects included in this Unit:

- Identity of concerned institutions and its assistance to Government Attorneys during defense of Corruption cases and areas of cooperation
- Importance of coordination and cooperation between concerned authorities in Corruption related cases and its effect on litigation

- Method, legal basis and accountability of coordination and cooperation
- Develop and manage the method of Coordination

Reference materials:

- Constitution of Nepal
- Good Governance (Management and Operation) Act, 2064
- *Sarkari Wokil Sambandhi Niyamawali, 2055*
- Commission for Investigation of Abuse of Authority (CIAA) Act, 2048
- Commission for Investigation of Abuse of Authority Procedure, 2073
- Commission for Investigation of Abuse of Authority Rules, 2059
- *Sarkari Wokilharuko Dosro Rastriya Sammelan Bisheshanka, 2075*

Sessions 31

Role and limitation of Civil Society and Mass Media in prevention of Corruption

Objective of the session:

- To inform government attorneys about the role of Civil Society, Mass Media and Non – governmental organizations and its limitation regarding Corruption; to ensure effective prosecution and defend the cases related to corruption.

Subjects included in this Unit:

- Introduction of Civil Society and Mass Medias and its obligation towards the society and nation
- Non-Governmental Organizations and Anti-Corruption Reforms,
- The Role of Media in Anti-Corruption,
- Anti-Corruption Education,
- *Lokpaal Bill* of India and progressive attempts of other countries Civil Society

Reference materials:

- Constitution of Nepal
- Corruption Prevention Act, 2059
- Commission for Investigation of Abuse of Authority Act, 2048
- Commission for Investigation of Abuse of Authority Rules, 2059
- Right to Information Act, 2064 and Rules
- *Nepal Sarkarko Suchana tatha Sanchaar Niti*
- Commission for Investigation of Abuse of Authority Procedure, 2073
- www.csd.bg/files/5en.pdf
- <https://www.oecd.org/site/adboecdantico rruptioninitiative/meetingsandconference s/42877292.pdf>
- www.lawjournals.org/download/200/3-5-42-591.pdf

9. Service Related Law

9. Service Related Law

Goals of Syllabus

- To prepare specialized attorneys on the subject of Service related Laws

Objective of Syllabus:

- Will be informed about the legal provisions related to terms and conditions of service related laws of the employees involved in Civil Service and Public Service Institutions
- Will be able to properly represent in the disputes of educational qualification, career development and departmental action and other relevant issues of Civil and Public Service
- Will be informed about the Concept of Trade Union and Rights of Trade Union in the Civil Service,
- Will be acquainted with the Principles and Process for the determination of Educational Competency in Civil and Public Service
- Will be introduced with the rules of interpretation for the interpretation of service related laws,

Framework:

The subjects included in the curriculum, prepared to specialize the government attorney by focusing in their professionalism, shall include 40% theoretical and 60% professional and practical aspects in each and every training session.

Subjects complied in this Unit

1. Introduction to Civil Service Laws
2. Interpretation of Service Related Laws and Supreme Court's Perspective
3. Public Service and Public Service Commission
4. Nature of Disputes related to Employees
5. Terms and Conditions of Civil Service
6. Educational Qualification
7. Equality and Positive Discrimination
8. Promotion and Career Development in Civil Service and Public Service
9. Promotion Process
10. Moral Conduct of Civil Servants and Employees of Public Service
11. Departmental action
12. Procedures of Departmental Action and Fair Trial
13. Study leave, Nomination for a Study and Training
14. Transfer of Employees
15. Code of Conduct of Police/Armed Police Force Employees and Punishment
16. Departmental action against Police Employees
17. Code of Conduct of Nepal Army and Departmental Action
18. Court's perspective regarding departmental action carried out against Employees
19. Removal and Termination from Service
20. Disputes related to Upgrade, Title of Post and Posting of Employees of Health Services

21. Basic Information related to Writ
22. Defending disputes related to the Employees of concerned Service
23. Disputes related to Education Act, Teachers Service Commission Rules and Education Regulations-1
24. Disputes related to Education Act, Teachers Service Commission Rules and Education Regulations-2
25. Division of Service Group
26. Nature of Writ on Terms and Conditions of Service and Court's perspective
27. Session 27: On Leave
28. Retirement, Gratuity, Pension & other facilities and Calculation of Tenure and Service Period
29. Educational Qualification, Equivalency and Affiliation
30. Question regarding the Unconstitutionality of the law and Service related Laws
31. Tenure Indicated and Non-Indicated Appointment in Public Service and Disputes
32. Civil Service and Trade Union
33. Administrative Court and Disputes related to service
34. Disputes related to Age Calculation

Session-1

Introduction to Civil Service Laws

Objective of the session:

- To provide basic knowledge about the terms and conditions on the laws related to the employees of civil service and public service
- To inform them about the introduction and definition of laws and its scope and nature with regard to appointment, transfer, promotion, facilities, conduct and departmental action against civil servants or government employees
- To inform them about the scope of civil service and public service
- To provide information on general principle of laws applicable to the Human resource of Public Service, definition and scope of laws related to the public service, theoretical difference between civil service & government service and the labor laws
- Subjects included in this Unit:
- In this session, the resource person shall include following subjects:
- Meaning and Definition of Service related laws,
- Principle, nature and scope of the laws related to civil service and other public service,
- Comparative study on Public service, civil service and Labour Laws,
- Foreign practices on laws related to civil service and public service

Reference Materials:

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- Ozaki, M., et. al. 1986. "Labour Relations in the Public Service: Developing Countries." ILO, Geneva.
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(CSSA) Country Reports.

- J. Grawel Kamwel vs. Labor Court et. al., Certiorari Mandamus et. al., NKP 2065, Volume 2, Decision No. 7934

Session -2

Interpretation of Service Related Laws and Supreme Court's Perspective

Objective of the session:

- To provide basic information to Government Attorneys' about Interpretation of service related laws,
- To clarify the need and importance of interpretation of service related laws,
- To introduce them with the rules of interpretation for the interpretation of service related laws,
- To inform them about Supreme Court's important judgments on the interpretation of Service related laws.

Subject included in this Unit:

- Meaning and definition about the rules of interpretation on service related laws,
- Principles and Rules of Interpretation,
- Situation of Interpretation of Rules and its' Implementation,
- Important Judgments on Interpretation of Laws of service related Laws.
- Reference Materials:
- Interpretation of Laws Act, 2010 (1954)

- Interpretation of Statutes, Maxwell, 2nd edition, 1976, Sweet and Maxwell, London
- Recruitment Principles, Civil Service Commission United Kingdom,
- (<http://civilservicecommission.independent.gov.uk/wp-content/uploads/2015/05/RECRUITMENT-PRINCIPLES-FINAL.pdf>)
- Shiva Kumar Basnet vs. Public Service Commission et al, NKP 2064, Volume 10, Decision No. 7894
- Top Bahadur Bhusal vs. Ministry of Education and Sports, NKP 2070, Volume 3, Decision No. 8974
- Kamalarani Yadav vs. Janakpur Cigarette Industry, NKP 2066, Volume 3, Decision No. 8106
- Kul Bahadur Limbu vs. Ministry of Tourism and Civil Aviation, NKP 2067, Volume 6, Decision No. 8392

Session-3

Public Service and Public Service Commission

Objective of the session:

- To inform them about the inter-relationship between public service and public service commission and about the role of Public Service Commission for the selection, appointment, transfer, promotion and action against human resource of public service and related legal provisions,
- To inform them about international practices on human resource

management in public service with examples on some national practices,

- To provide basic information about the role of Public service commission in selection and promotion of Public service employees in accordance with general principles,

Subject included in this Unit:

- Legal and Constitutional Provisions of Public service in relation to Selection, Promotion and Departmental action

- Role of Public Service Commission in selection process and inform them about Public trust
- Development, Effect and Scope of Public Service Commission

Reference Materials:

- Constitution of Nepal, Part 23
- Public Service Commission Act, 2066 (2010); Regulation 2067
- Constitution of India, 1949, Art. 315 to 323
- Constitution Reform and Governance Act, 2010 of England, Chapter I
- Recruitment of Personnel, David G. Carnevale and Steven Housel, A HANDBOOK OF PUBLIC PERSONNEL ADMINISTRATION

- Madhunidhi Tiwari, सार्वजनिक प्रशासनका केही पक्षहरू, (2060), Publisher: Kanti Tiwari, Kathmandu
- Study Material for public administration, IGNOU notes for pub ad UPSC civil service exam., <https://www.scribd.com/document/219786185/Public-Administration-Unit-48-Union-Public-Service-Commission-Selection-Commission>
- Administrative Law, Mark Elliott and Jason N. E. Varuhas, 5th ed. 2017, Oxford University Press
- *Madhwesh Kumar Pathak vs. Public Service Commission et al*, NKP 2070, Volume 6, Decision No. 9018
- *Maheshwor Shrestha et. al. vs. Public Service Commission*, 2062, Writ no. 2786, Decision Date 2062/11/5

Session-4

Nature of Disputes related to Employees

Objective of the session:

- To provide basic information on nature and types of disputes related to employees,
- To provide information about the nature and types of disputes related to employees in the context of Nepal,
- To train them about the disputes filed in Administrative court and Supreme court wherein employees of public service are involved and its related relevant laws and Supreme court's perspective,
- To impart knowledge on basic aspects of consideration while representing the writ related to Employees,
- To learn about the conditions for the issuance or non-issuance of writ,
- To learn about the Supreme Court's perspective on it.

Subject included in this Unit:

- Subjects and scope of disputes related to service,
- Appeal and Writ jurisdiction on service related disputes,
- Conditions for Issuance and Non Issuance of writ,
- Supreme Court's Judgments on disputes related to Public Service.

Reference Materials:

- Civil service Act, 2049 (1993); Civil Service Rules, 2050 (1993)
- Nepal Health Service Act, 2053(1997); Nepal Health Service Rules, 2055 (1999)
- Police Act 2012 (1955); Police Rules, 2049 and 2071
- Armed Police Force Act, 2058(2001); Armed Police Force Rules, 2060 (2003) and 2071
- Division of Groups and Class of various service groups

- *Rajiv Raheja, Supreme Court on Service Law*, Capital Law House, 1st ed. 2011
- *Shiva Kumar Basnet vs. Public service commission et. al.*, NKP 2064, Volume 10, Decision No. 7894
- *Shanta Bahadur Gurung vs. Nepal government, Prime Minister and Council of Minister*, NKP 2064, Volume 4, Decision No. 7839
- *Kul Bahadur Limbhu vs. Ministry of Tourism and Civil Aviation*, NKP 2067, Volume 6, Decision No. 8392

Session-5

Terms and Conditions of Civil Service

Objective of the session:

- To provide basic information about the terms and conditions of Civil Service and Public service,
- To train them on the major terms and conditions of Civil and Public service such as selection and recruitment, transfer, promotion, facilities and retirement related provisions, legal provisions thereof & principles to be applied during alteration/amendment of such laws,
- To impart knowledge on the amendment of terms and conditions of service related laws and its effect; and the principle to be applied during the interpretation of such provisions,
- To impart knowledge with regard to Supreme Court's important judgments on the terms and conditions of civil service,
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- Subjects included in this Unit:
- Terms and Conditions of Civil Service and Public service (Selection, Recruitment, Transfer, Promotion, Facilities and Retirement and so on)
- Alteration in Service related laws and its Effect
- Supreme Court's interpretation on laws related to terms and conditions of Civil Service

Reference Materials:

- Civil service Act, 2049 (1993); Civil Service Rules, 2050 (1993)
- Nepal Health Service Act, 2053(1997); Nepal Health Service Rules, 2055 (1999)
- Police Act 2012 (1955); Police Rules, 2049 and 2071
- Armed Police Force Act, 2058(2001); Armed Police Force Rules, 2060 (2003) and 2071
- Rajiv Raheja, Supreme Court on Service Law, Capital Law House, 1st ed. 2011
- Nijamati Keshab Raj Pandey, प्रशासकिय कानून, Fourth Edition, 2074
- Dr. Shambhu Prasad Khanal, प्रशासकिय कानून
- Rules related to Division of Groups and Class of various service groups
- *Sarada Devi Poudel vs. Nepal Government, Ministry of General Administration*, NKP 2073, Volume 9, Decision No. 9682
- *Jibraj Gautam vs. HMG, Council of Ministers, Singhadurbar et. al.*, NKP 2061, Volume 7, Decision No. 7403
- *Kabiraj poudel et. al. vs. Prime Minister and Ministers of council*, NKP 2065, Volume 7, Decision No. 7984

Session 6 Educational Qualification

Objective of the session:

- To provide basic knowledge about principles on determination of the educational qualification required for civil and public service post; process on determination of educational qualification,
- To provide theoretical and practical knowledge regarding the grounds and standards for determining minimum educational qualification and additional educational qualification to any post;
- To train them about educational qualification and equivalents, process for determination of equivalents and Supreme Court's perspective on such,
- To conceptually clarify them about the determination of the educational qualification for effective representation of such disputes.
- Subject included in this Unit:
- Meaning of Educational Qualification and Additional Educational Qualification required for public service,
- Reasons and Standards for determining Educational Qualification,
- National and International Practices on Equivalency Determination Process,

- Supreme Court's Perspective on determining educational qualification and Equivalency

Reference Materials:

- Civil service Act, 2049 (1993),
- Civil Service Rules, 2050 (1993),
- Nepal Health Service Act, 2053(1997),
- Nepal Health Service Rules, 2055 (1999)
- Relevant rules and regulations on Class division of various service groups
- Edward Cary, Civil Service, Merit System and Merit System,
- Dr. Madhunidhi Tiwari, सार्वजनिक प्रशासनका विविध पक्षहरू, 2060
- Rajiv Raheja, Supreme Court on Service Law, Capital Law House, 1st ed. 2011
- *Shambhu Prasad Dahal vs. HMG, Council Secretariat et. al*, NKP 2056, Volume 2, Decision No. 6663
- *Renu Adhikari vs. Prime minister and Council of Ministers, Singhadarbar et.al*, NKP 2063, Volume 6, Decision No. 7710
- *Mira Rana vs. Radio Prevalence Development Committee*, NKP 2066, Volume 2, Decision No. 8074
- *Jibraj Gautam vs. HMG, Ministry Council Secretariat et. al*, NKP 2061, Volume 7, Decision No. 7403

Session 7 Equality and Positive Discrimination

Objective of the session:

- To provide basic information related to meaning of equality, formal equality and substantial equality,
- To conceptually clarify the concept of equality, equal treatment, equal opportunity, equality in career

- development and their exception in public service,
- To provide theoretical knowledge on formal equality and substantial equality or equality in result and relevancy of positive discrimination in these matter along with the introduction about constitutional and service related laws thereof,

- To provide information about developed values, international practices and court's perceptions on positive discrimination and reservations,

Subject included in this Unit:

- Meaning of Equality & Concept, definition, meaning and scope of Positive Discrimination
- Equality of opportunity and its' exception,
- National and international values related to equality, positive discrimination and reservation,
- Supreme Court's judgments on positive discrimination and reservation.

Reference Materials:

- Civil service Act, 2049 (1993)
- Civil Service Rules, 2050 (1993)
- Nepal Health Service Act, 2053(1997)
- Nepal Health Service Rules, 2055 (1999)
- MP Jain (2017, Indian Constitutional Law, 8th ed. Lexis Nexis, India
- V.N. Sukla (2017), Constitution of India, 13th ed. Eastern Book Company,
- D. L. Keir and F. H. Lawson, Cases in Constitutional Law,

- Dr. J. N. Pandey, The Constitutional Law of India, 48th ed. 2011, Central Law Agency,
- *D. S. Nakara vs. Union of India*, AIR, 1983, SC 130,
- *Suneel Jatley vs. State of Hariyana*, AIR 1983, SC 473
- *Balaji and others vs. State of Mysore*, AIR, 1963, SC 649
- *Dr. Mingmar Geljen Sherpa vs. Nepal Government et. al.*, NKP 2071, Volume 11, Decision No. 9277
- *Umashankhar Sharma vs. Prime Minister and Minister of Council Office et. al.*, NKP 2067, Volume 5, Decision No. 8366
- *Bajrakishor Yadav vs. Public Service Commission, Anamanagar Kathmandu*, NKP 2066, Volume 11, Decision No.8264
- *Radhika Giri vs. Public Service Commission, Anamnagar Kathmandu et. al.*, NKP 2067, Volume 12, Decision No. 8527

Session 8

Promotion and Career Development in Civil Service and Public Service

Objective of the session:

- To provide basic information to Government Attorney about the concept of promotion and career development in Civil service and Public Service,
- To train them about the types and methods of promotion and career development,
- To develop concept on national and other state's legal provisions and practices regarding promotion & basis and process for career development,
- To familiarize with national legal provisions on promotion and career development,

- To provide information about the importance of work performance, experience and educational qualification and its' interrelationship with promotion & judicial practices on the subject,
- To inform them about the similarities and differences between promotion, special promotion and layer upgrade and enable them to defend cases in relation to such.

Subject included in this Unit:

- Concept of Promotion, Other national practices, legal provision on promotion in Public Service of Nepal,
- Legal provisions on promotion, special promotion and layer upgrade,

- Theoretical Issues and legal interpretations on promotion, special promotion and layer upgrade,
- Educational qualification, evaluation of work performance and experiences,
- Developed values, practices and Supreme Court Judgments on Promotion Procedures

Reference Materials:

- Civil service Act, 2049 (1993), Chapter 4
- Civil Service Rules, 2050 (1993), Chapter 10
- Madhunidhi Tiwari, सार्वजनिक प्रशासनका केही पक्षहरू, 2060, Publisher Kanti Tiwari, Kathmandu
- Jack Rabin, Thomas vocino, W. Bartley Hildreth and Gerald Miller (1994), Handbook of Public Personnel Administration, Marcel Dikker Inc. New York
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American Democracy, John Hompkin University Press, Baltimore

- Rupert McNeil, A new approach to recruitment and promotion in the Civil Service,
<https://quarterly.blog.gov.uk/2018/07/03/a-new-approach-to-recruitment-and-promotion-in-the-civil-service/>
- *Kabiraj Poudel et. al vs. Office of Prime Minister and Council of Ministers*, NKP 2065, Volume 7, Decision No. 7984
- *Rambabu Bhandari et. al vs. Office of Prime Minister and Council of Ministers*, NKP 2069, Volume 3, Decision No. 8782
- *Dr. Thakur Raj Adhikari vs. Nepal Government, Office of Prime Minister and Council of Ministers*, NKP 2069, Volume 4, Decision no. 8815
- *Ratneswor Prasad Sharma et. al vs. Nepal Government, Office of Prime Minister and Council of Ministers*, NKP 2074, Volume 3, Decision no. 9783

Session 9

Promotion Process

Objective of the session:

- To train them on practices from other states and their legal provisions related to promotion procedures,
- To inform about the existing legal provisions on promotion procedures of those involved in Civil Service and Public Service,
- To inform about promotion committee and the procedure for the establishment of promotion committees formed under different Service groups;
- To inform them about promotion procedure, publication of promotion name list, complaint mechanism against promotion and action taken against employees under different service groups,

- To inform them about the role of Public Service Commission on promotion procedure.

Subject included in this Unit:

- Types of promotion and Principles on promotion,
- Procedural legal provisions on promotion,
- Method, Process and Practices for the establishment of promotion committee,
- Interpretation and Legal Principles from Supreme Court on complaint against promotion and publication of promotion list.

Reference Materials:

- Civil service Act, 2049 (1993), Chapter 4
- Civil Service Rules, 2050 (1993), Chapter 10
- Nepal Health Service Act, 2053(1997), Chapter 4

- Nepal Health Service Rules, 2055 (1999), Chapter 8
- PERSONNEL ADMINISTRATION, Jack Rabin et.al (editors), Marcel Dekker, New York
- Dr. S. B. M. Marume, Public Personnel Administration, International Journal of Business and Management Invention, Volume 5 Issue 6|| June. 2016, [https://www.ijbmi.org/papers/Vol\(5\)6/H0506046054.pdf](https://www.ijbmi.org/papers/Vol(5)6/H0506046054.pdf)
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- *Sampat Ghimire vs. Public Service Commission et. al*, NKP 2067, Volume 12, Decision No. 8518
- *Balram Khatri et. al vs. Prime Minister and Council of Ministers et. al*, NKP 2067, Volume 11, Decision No. 8498
- *Lokraj Poudel et. al. vs. Bebasthakiya Samsad Sachibalaya et. al*, NKP 2068, Volume 11, Decision No. 8709
- *Mira Rana vs. Radio Nepal et. al*, NKP 2066, Volume 2, Decision No. 8074
- *Shivkumar Basnet vs. Public Service Commission et. al*, NKP 2064, Volume 10, Decision No. 7894
- *Shrimati Renu Adhikari vs. Office of the Prime Minister and Council of Ministers, Singhdurbar et. al, Subject: Certiorari et. al*, NKP 2063, Volume 6, Decision No. 7710
- *Dr. Dipendra Shrestha et. al vs. Ministry of Health and Population, Ramshahpath, Kathmandu et. al*, NKP 2075, Volume 3, Decision No. 9968
- *Krishna Prasad Wagle vs. Registrar, Appellate Court, Butwal et. al*, NKP 2075, Volume 1, Decision No. 9934
- *Sharmila Maharjan et. al vs. Public Service Commission Office, Anamnagar, Kathmandu et.al*, NKP 2074, Volume 10, Decision No. 9886

Session -10

Moral Conduct of Civil Servants and Employees of Public Service

Objective of the session:

- To impart information about the Moral Conduct of Civil servants and employees of different services
- To impart knowledge about the interrelationship between Ethics and Moral Conduct
- To inform about the breach of conduct & the process, method and action for its remedy and consequences thereof
- To inform them about Supreme Court's perspective on sanction made against code of conduct of Civil Servants

Subject included in this Unit:

- Theory and practical aspects on Ethics and moral conduct of Civil Servants,

- Conceptual development and practices,
- Breach of Conduct and Remedies,
- Method, Process and Consequences on action taken upon complaint.

Reference Materials:

- Civil service Act, 2049 (1993), Chapter 7
- Code of Conduct of Civil Servants, 2065
- Sample Code of Ethics of Civil Servants, <http://www.aalep.eu/sample-code-ethics-civil-servants>
- Civil Service Code: Standard and Behaviour, <https://www.sipo.ie/en/Codes-of-Conduct/Civil-Servants/Civil-Service-Code-of-Standards.pdf>
- IMPLEMENTING EFFECTIVE ETHICS STANDARDS IN

- GOVERNMENT AND THE CIVIL SERVICE', Transparency International, <https://www.oecd.org/mena/governance/35521740.pdf>
- PUBLIC SERVICE (VALUES AND PRINCIPLES) ACT, 2015 (Kenya), kenyalaw.org/.../Acts%20and%20Regulations/
 - *Krishna Poudel vs. Ministry of Finance et. al.*, NKP 2064, Volume 10, Decision No. 7886
 - *Lekhnath Poudel vs. Administrative Court et. al.*, NKP 2061, Volume 8, Decision No. 6429
 - *Yogendra Prasad Yadav vs. Public Service Commission*, NKP 2059, Volume 5,6, Decision No. 6310
 - *Ramchandra Shrestha vs. kshetriya Sajha Bikash Karyalaya*, NKP 2046, Volume 8, Decision No. 4195
 - *Purusottam Shrestha vs. Panchayat and Ministry of Local Development*, NKP 2042, Volume 12, Decision No. 2578

Session 11 Departmental action

Objective of the session:

- To provide basic information about the concept, scope and principles of departmental action,
- To train about the types and procedures (Absence, Repeal, Retirement and Dismissal, etc.) of departmental action
- To familiarize them on departmental action and Court's Proceedings and clarify on the differences between the two.
- To conceptually clarify them on Supreme Court's perspective on departmental action and Court's Proceedings

Subject included in this Unit:

- Concept, principles, legal provisions and practices on departmental action.
- Legal provisions and procedures regarding departmental action in Public Services of Nepal,
- Types of departmental action, rules and principles to be followed while observing departmental action,
- Court's practice and perspectives regarding departmental action.

Reference Materials:

- Civil Servants Act, 2049 (1993), Chapter 9

- Civil Servants Rules, 2050 (1993), Chapter 15
- Keshav Raj Pandey, केशव राज पाण्डेय, Fourth Edition, 2074
- Dr. Sambhu Prasad Khanal, प्रशासकीय कानून
- Dr. J. N. Pandey, The Constitutional Law of India, 48th ed. 2011, Central Law Agency,
- Lloyd G. Nigro and J. Adward Kellough (1986), The New Public personnel Administration, (Chapter Eight, Public Employees: Rights and Responsibilities) 7th edition (2014), Wadsworth Cengage Learning,
- A GUIDEBOOK FOR DEPARTMENTAL INQUIRIES UNDER THE PUNJAB CIVIL SERVANTS (EFFICIENCY AND DISCIPLINE) RULES, 1999 ://regulationswing.punjab.gov.pk/system/files/GuideBook_ED_1999%281%29.pdf
- *Lekhnath Paudel vs. Administrative Court, Singhadurbar et al.*, NKP 2061, Decision No. 7429
- *Ram Prasad Sitaula vs. Timber Corporation of Nepal*, NKP 2064, Volume 2, Decision No. 7816
- *Gulab Singh Thakur vs. Madhyamanchal Kshetriya Prahari Karyalaya Nepalgunj*

et.al, NKP 2045, Volume 6, Decision No. 3476

- *Shankar Kumar Bhandari vs. Nepal Bank Ltd. et al*, NKP 2064, Volume 12, Decision No. 7906

- *Prakash Yadav vs. Administrative Court, Kathmandu et al.*, NKP 2063, Volume 6, Decision No. 7715

Session 12

Procedures of Departmental Action and Fair Trial

Objective of the session:

- To conceptually clarify about the process of departmental action and principle of fair trial
- To inform about the principles to be followed while taking departmental actions (Principles of Natural Justice, Right to hearing, Procedural fairness, Reasonable Decision, Jurisdiction, Right to appeal, etc.)
- To clarify about the procedures, authority, Right to hearing and process on departmental action in Public Service of Nepal
- To introduce them with the consequences of procedural errors while taking departmental action
- To inform them about the Supreme Court's perspective regarding the departmental action

Subject included in this Unit:

- Procedures of departmental action and the principles of fair trial
- Right to hearing, Methods and Process for Notice
- Contents required in Notice
- Mandatory Procedures
- Consequences of procedural errors,
- Court's perspective on right to hearing

Reference Materials:

- Civil Servants Act, 2049 (1993), Chapter 9
- Civil Servants Rule, 2050 (1993), Chapter 15
- Keshavraj Pandey, प्रशासकिय कानून, Fourth Edition, 2074

- Dr. Sambhu prasad Khanal, प्रशासकिय कानून
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- Ms. Mausami Sharmah, Exception to the Principles of Natural Justice, LAW MANTRA, <http://journal.lawmantra.co.in/wp-content/uploads/2015/05/22-new.pdf>
- *Mukesh Basnet vs. Armed Police Force Headquarter*, NKP 2070, Volume 7, Decision No. 9037
- *Madhav Prasad Chaulagain vs. Ministry of Health and Population*, NKP 2069, Volume 2, Decision No. 8769
- *Shankar Kumar Bhandari vs. Nepal Bank Ltd. et al*, NKP 2064, Volume 12, Decision No. 7906
- *Prakash Yadav v. Prashashakiya Adalat, Kathmandu et al.*, NKP 2063, Volume 6, Decision No. 7715
- *Krishna Prasad Paudel vs. Nepal Police Headquarters, Naxal, Kathmandu et al.*, NKP 2066, Volume 4, Decision No. 8120
- *Indira Jha vs. District Administrative Office, Dhanusha*, NKP 2065, Volume 2, Decision No. 7930
- *Devendra Kumar Subba vs. Ministry of Commerce and Supplies*, NKP 2074, Volume 10, Decision No. 9893

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- *Ram Prasad Sitaula et. al. vs. Timber Corporation of Nepal*, N.K.P. 2064, Volume 2, Decision No. 7816

Session 13

Study leave, Nomination for a Study and Training

Objective of the session:

- To impart knowledge among government attorneys' regarding study leave and about types and nature & necessity of study and training in civil service and other public services,
- To train them about the procedures, principle of selection and standards for nominating employees working under Public service for a study and training,
- To inform them about grounds, process and procedure of selection for study leave, study and training in service related laws of Nepal; and to make them competent to defend on such.

Subject included in this Unit:

- Concept of Study leave, Types and nature of study and trainings,
- Types of Study leave; Grounds & standards for nominating employees in study and trainings,
- Nepalese Legal provisions for nominating employees in study and trainings
- Supreme Court's perspective for nominating employees in study and trainings

Reference Materials:

- Civil Servants Act, 2049 (1993), Chapter 6
- Civil Servants Rules, 2050 (1993), Chapter 8 & 9
- Nepal Health Service Act, 2053(1997), Chapter 5

- Nepal Health Service Rules, 2055 (1999), Chapter 7
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- *Chhabilaal Paudel vs. Commission for Investigation of Abuse of Authority*, NKP 2069, Volume 3, Decision No. 8795
- *Madhav Prasad Chaulagain vs. Ministry of Health and Population*, NKP 2069, Volume 2, Decision No. 8769
- *Jagadish Prasad Chauhan vs. Nepal Bank Limited*, N.K.P. 2069, Volume 1, Decision No. 8752
- *Jayaram Adhikari vs. Office of Council of Ministers*, NKP 2073, Volume 12, Decision No. 9734
- *Dr. Santosh Paudel vs. Nepal Government, Ministry of Health et.al.*, NKP 2074, Volume 4, Decision No. 9793

Session 14

Transfer of Employees

Objective of the session:

- To inform government attorneys' about the concept of transfer of an employee of civil service and other public service,
- To provide basic knowledge about the necessity, grounds and standards of transfer for an employee,
- To inform them about the officers involved in employees transfer, tenure of transfer, grounds of transfer before fulfilling the tenure and schedule; and facilities to be received by employees,
- To train them on legal provisions regarding complaints and review against Transfer,
- To update them about Supreme Court's perspective on transfer of employee and to make them competent to defend on such

Subject included in this Unit:

- Concept and Principle of Transfer
- Objective of the session of Transfer (experience in geographical area, development of work efficiency and experience)
- Criteria, schedule, process of Transfer and the authority
- Complaint upon Transfer and Response
- Supreme Court's perspective

Reference Materials:

- Civil Servants Act, 2049 (1993), Chapter 4
- Civil Servants Rules, 2050 (1993), Chapter 6

- Nepal Health Service Act, 2053(1997), Chapter 4
- Nepal Health Service Rules, 2055 (1999), Chapter 5
- Madhuni Tiwari, *सार्वजनिक प्रशासनका केही पक्षहरू*, 2060, Publisher Kanti Tiwari, Kathmandu,
- Laxmi Datta Kalauni, 'कर्मचारी सरुवा: सांगठनिक तथा व्यक्तिगत स्वार्थका मञ्जुधारमा प्रशासन', Volume 10, Ministry of General Administration, Singhadurbar Kathmandu
- Professor Pushkar Bajracharya and Dr. Clive Grace, *The Nepal Civil Service and Re-structuring of State, An Option Paper*, Ministry of General Administration/UNDP,
- http://www.np.undp.org/content/dam/nepal/docs/projects/UNDP_NP_PREPARE_the-nepal-civil-service-and-re-structuring-of-the-state.pdf
- Maniram Dhakal vs. Ministry of General Administration, Writ No. 2073-WO-931, Decision Date: 2074/3/6
- Menaka Hamal vs. Ministry of General Administration et. al., Writ No. 066-WO-270, Decision Date: 2068/1/6
- Prativa Kumari Singh vs. Ministry of Health and Population, NKP 2072, Volume 12, Decision No. 9511
- Raj Narayan Thakur vs. Ministry of Health and Population, Writ No. 073-WO-0567, Decision Date: 2074/4/1
- Maheshwor Kumar Kunwar et.al. vs. Health Service Department, NKP 2053, Volume 8, Decision No. 6247

Session 15

Code of Conduct of Police/Armed Police Force Employees and Punishment

Objective of the session:

- To introduce government attorneys' about code of conduct of police employee

- To provide basic information about the similarities and differences between the code of conduct of the police employee and of other services

- To train them about the punishment on breach of conduct committed by police employee
- To clarify them with different kinds of punishments and its relevancy for the breach of Conduct committed by Police employee

Subject included in this Unit:

- Concept of Code of Conduct and Nature of Code of conduct within Police service,
- Difference between the Code of conduct of police employee and of other services
- Legal provisions on Code of conduct
- Supreme court's perspective on Code of conduct

Reference materials:

- Police Act, 2012 (1955), Part 4
- Armed Police Force Act, 2058 (2001), Part 3,4,5

- Police Rules, 2071, Part 9
- Armed Police Force Rules, 2072, Part 11
- *Hemraj Jaisi vs. Mid Western Regional Police Office, Surkhet and others*, NKP 2070, Volume 4, Decision No. 8998
- *Ali Akhtar Miya vs. Police Headquarter et.al.*, 2070, Writ No. WO-0505, Decision Date 2072/5/23
- *Ganesh Bahadur Dura et.al. vs. Nepal Government, Office of Prime Ministers and Council of Ministers et.al.*, NKP 2073, Volume 4, Decision No. 9579
- *Manoj Kumar Dev vs. Ministry of Home Affairs, Singhadurbar, Kathmandu and others*, NKP 2063, Volume 7, Decision No. 7732
- *Narayan Prasad Sapkota vs. Ministry of Home Affairs et.al*, Supreme Court Bulletin, Year 15, Jestha 2063, Issue 335, Page 8

Session 16

Departmental action against Police Employees

Objective of the session:

- At the end of the session, Government Attorneys' will be informed about the interrelation between the departmental action and Court proceedings of Police employees as well as inform them about the procedure for departmental action, authority, Right to Hearing and clarification, Documents (krf{ v8f), Principle of natural justice and it's exception.

Subject included in this Unit:

- Process of departmental action upon police employees,
- Right to hearing and clarification,
- Principle and Implementation of Natural Justice,
- Process to form the Documents (krf{ v8f) and Involved authority,

- Supreme court's perspective and practices on departmental action against employees

Reference materials:

- Police Act, 2012 (1955)
- Police Rules, 2071
- *प्रहरी सेवाको पदमा नियुक्ति र बढुवा गर्दा अपनाउनुपर्ने सामान्य सिद्धान्त, २०६९* [General Principles to be adopted during appointment and promotion of police employees, 2069]
- *Rekham Bahadur Shahi vs. Nepal Police Headquarter, Naxal, Kathmandu et.al.*, NKP 2075, Volume 2, Decision No. 9962
- *Pramananda Chaudhary vs. District Administrative Office, Morang*, NKP 2075, Volume 1, Decision No. 9938
- *Rajendra Bista vs. Ministry of Home Affairs et.al.*, NKP 2074, Volume 2, Decision No. 9769

- *Ganesh Bahadur Dura and others vs. Nepal Government, Office of Ministers and Council of Ministers et.al.*, NKP 2073, Volume 4, Decision No. 9579
- *Shankar Pandit vs. Nepal Police Headquarter and others*, NKP 2072, Volume 9, Decision No. 9466
- *Naresh Dagaura vs. Armed Police Force Head Quarter, Halchowk et.al.*, NKP 2072, Volume 9, Decision No. 9464
- *Chiranjibi Kharel vs. Nepal Police Headquarter, Naxal*, NKP 2072, Volume 2, Decision No. 9347
- *Mansingh Bohara vs. Commissioner for Office of the Metropolitan Police et.al.*, NKP 2071, Volume 6, Decision No. 9178

Session 17

Code of Conduct of Nepal Army and Departmental Action

Objective of the session

- To introduce Government Attorneys' with Code of conduct of military personnel
- To provide basic information about the similarities and differences between the code of conduct of the military personnel and employees of other services
- To train about punishment on breach of conduct to military personnel
- To familiarize them with different kinds of punishments and its relevancy for the breach of Code of Conduct committed by military personnel
- To clarify about the different kinds of punishments and its relevancy for the breach of Conduct committed by Military personnel
- To introduce them with departmental action made against military personnel for breach of Code of Conduct and introduce them with court's perspective towards it and to make them competent to defend on such.

Subject included in this Unit:

- Code of conduct of Nepal Army
- Conditions for breach of Code of Conduct, Process of departmental action and Principles of Hearing
- Jurisdiction of Special Court Martial and Subjects of appeal

Reference Materials:

- Army Act, 2063 (2006) B.S, part 7,8,9,10
- Court Martial Rules, 2064 (2008)
- *Sainik Sewa Niyamawali, 2069* (Army Service Rules, 2069)
- *Sainik Prabidhik Sewa Niyamawali, 2019* (Military Technical Service Rules, 2019)
- *Nepali Sainik Biman Sambhar Samuha Niyamawali, 2042* (Nepalese Military Aircraft Maintenance Group Rules, 2042)
- *Sainik (Hawai Pariwohan) Niyamawali, 2030* (Military Air Transport Rules, 2030 B.S)
- *Sainik Upacharika Niyamawali, 2049* (Military medical Manuals, 2049)
- *Sainik Kalyankari Kosh Niyamawali, 2065* (Military welfare fund regulation, 2065)
- George H. Prugh, Code of Conduct for the Armed Force, Columbia Law Review, 1956
- Standards of Conduct for Department of the Army Personnel, https://www.loc.gov/rr/frd/Military_Law/pdf/AR_600-50_01-28-1988.pdf
- The New French Code of Military Justice Major George C. Ryker
- *Lieutenant Ramji Thapa vs. Nepali Jangi Adda Bhadrakali*, NKP 2070, Volume 5, Decision No. 9010

- *Sushma Gautam et.al. vs. Directorate of Recruitment and Selection, Jungi Adda, Bhadrakali et.al.*, NKP 2073, Volume 8, Decision No. 9663
- *Bhim Kumar Wantawa and others vs. Government of Nepal Defense Ministry and others*, NKP 2065, Volume 10, Decision No. 8020
- *Radha Krishna Khadka vs. Government of Nepal Defense Ministry and others*, NKP 2065, Volume 10 Decision No. 8027
- *Krishna saran Maskey vs. Government of Nepal, Defense Ministry and others*, NKP 2073, Volume 7, Decision No. 9328

Session 18

Court's perspective regarding departmental action carried out against Employees

Objective of the session:

- To train government attorneys' about the concept, necessity and relevance of departmental action carried out against employees,
- To inform them about the nature and types of departmental action carried out against employees of different services,
- To conceptually clarify them about the process and principles to be followed (Principle of natural justice along with principle of Fair trial, Right to hearing, reasonable decision, right to appeal, etc.) during departmental action,
- To inform them on the differences between departmental action and court proceedings,
- To familiarize them with Supreme Court's perspective on court proceedings and departmental action and to make them competent to defend on such,

Subject included in this Unit:

- Concept and Importance of departmental action,
- Types of departmental action,
- Authority involved in departmental action,
- Steps and process of departmental action,

- Process and Principles to be followed during departmental action,
- Appeal upon departmental action,
- Court's perspective and practices upon departmental action.

Reference material:

- Mark Elliot and Jeson Varuhas (2017). *Administrative Law: Text and Materials*, 3rd ed. Oxford University Press
- Barnes, J; Douglas, R, 2015, *Lexis Nexis Questions and Answers- Administrative Law*
- Timothy Endicott (2015), *Administrative Law*, 3rd ed. Oxford University Press
- Hamid Khan (2013), *Principles of Administrative Law: A Comparative Study*,
- Amartya bag, *Guidelines and procedure of inquiry in case of misconduct by government employees in India*, <https://blog.ipleaders.in/procedure-inquiry-misconduct-by-government-employees/>
- *Ram Prasad Sitaula vs. Timber Corporation of Nepal*, NKP 2064, Volume 2, Decision No. 7816
- *Gulab Singh Thakur vs. Madhyamanchal Kshetriya Prahari Karyalaya Nepalgunj et.al*, NKP 2045, Volume 6, Decision No. 3476

Session 19

Removal and Termination from Service

Objective of the session:

- At the end of the session, the Government attorneys' will be acquainted with the nature of the crime with moral turpitude, condition for dismissal from the service, applied procedures, process, court's perspective & practices for the dismissal; and shall apply in the course of performance of their designated work.

Subject included in this Unit:

- Types and Nature of Crime with moral turpitude
- Conditions of dismissal from service
- Process of dismissal
- International practices related to moral turpitude
- Concept of moral turpitude and its' effect in service

Reference Material:

- Mark Elliot and Jeson Varuhas (2017). Administrative Law: Text and Materials, 3rd ed. Oxford University Press
- Barnes, J; Douglas, R, 2015, LexisNexis Questions and Answers- Administrative Law
- Timothy Endicott (2015), Administrative Law, 3rd ed. Oxford University Press

- Hamid Khan (2013), Principles of Administrative Law: A Comparative Study,
- Dr. Shambhu Prasad Khanal, प्रशासकीय कानून
- Keshav Raj Pande, प्रशासकीय कानून, Fourth Edition, 2074, Part 9
- *Rajendra Kumar KC vs. Ministry of Forest and Soil conservation*, NKP 2072, Volume 11, Decision No. 9498
- *Yogendra Giri vs. Ministry of Health and Population*, NKP 2072, Volume 8, Decision No. 9458
- *Tara Bahadur Rana Magar vs. Ministry of Health and Population*, NKP 2072, Volume 7, Decision No. 9436
- *Laxman Lama vs. Armed Police Force Head Office*, NKP 2071, Volume 8, Decision No. 9234
- *Ramkumar Ranapaheli vs. Nepal Government, Ministry of Home Affairs*, NKP 2070, Volume 11, Decision No. 9072
- *Mukesh Basnet vs. Armed Police Force Head Office*, NKP 2070, Volume 7, Decision No. 9037
- *Hemraj Jaisi vs. Mid Western Regional Police Office, Surkhet and Others*, NKP 2070, Volume 4, Decision No. 8998

Session 20

Disputes related to Upgrade, Title of Post and Posting of Employees of Health Services

Objective of the session:

- To impart knowledge to the Government Attorneys' about group, sub group, level and post of the employees of health services,
- To conceptually clarify them about the Career development (Promotion and

Upgrade, etc.) of the employee of health services,

- To train them about similarities and differences between the Promotion and Upgrade and Supreme Court's perspective,

Subject included in this Unit:

- Formation of health service, group and sub group division
- Concept and legal provision related to the Promotion, Upgrade and Title of Post
- Differences between promotion and layer upgrade, Supreme Court's Perspective

Reference Materials:

- *Nepal Health Service Act, 2053(1997), Chapter 3 and 4*
- *Nepal Health Service Rules, 2055 (1999), Chapter 2 and 8*

- *Rambabu Bhandari et.al. vs. Prime Minister and Office of Council of Ministers, NKP 2069, Volume 3, Decision No. 8782*
- *Dr. Thakur Raj Adhikari vs. Rambabu Sharan Jaiswal, NKP 2069, Volume 4, Decision No. 8815*
- *Bijaya Kranti Shakya et.al. vs. Office of Prime Minister and Council of Ministers et.al., NKP 2068, Volume 4, Decision No. 8591*

Session 21:

Basic Information related to Writ

Objective of the session:

- To clarify about the theoretical concept (Meaning, Conceptual Development, Constitutional and Legal provision related to Writ), types of writ to the Government Attorney,
- To provide basic information about major principles of writ, conditions of Issuance and Non-issuance of writ,
- To train them about the matter to be incorporated in written response,
- To conceptually clarify the role of government attorney in the precedents filed against Government of Nepal, things to be keep in mind while defending and and to make them competent to defend on such.

Subject included in this Unit:

- Meaning, concept and Historical development of writ
- Types and conditions for issuance and non-issuance of writ
- Major principles related to writ

- Constitutional and legal provision related to Writ
- Matter to be incorporated in written response
- Role of government attorneys' in Writ filed against Nepal Government

Reference Materials:

- Constitution of Nepal
- Supreme Court Act, 2048 (1991)
- Supreme Court Rules
- High Court Rules
- District Court Rules
- *Rebati Raman Khanal*, रिट निवेदन सिद्धान्त र व्यवहार
- *Top bahadur Singh*, नेपालको संविधान र संवैधानिक कानून
- MP Jain (2017), Indian Constitutional Law, 8th ed. Lexis Nexis, India
- V.N. Sukla (2017), Constitution of India, 13th ed. Eastern Book Company
- D. L. Keir and F. H. Lawson, Cases in Constitutional Law
- Dr. J. N. Pandey, The Constitutional Law of India, 48th ed. 2011, Central Law Agency

Session 22

Defending disputes related to the Employees of concerned Service

Objective of the session:

- To inform Government Attorneys' about the principles laid down by Supreme Court with regard to Interpretation of Laws on Terms and Conditions of service,
- To update them about the Supreme Court's perspective on disputes related to Terms and Conditions of service,
- To inform them about the Supreme Court's important interpretations on disputes related to Terms and Conditions of service,
- To make them clear about the principle to be considered, practice and the strategy to be adopted while defending the dispute related to the terms and conditions of service and to make them competent to defend on such.

Subject included in this Unit:

- Principle of interpretation of law on Terms and Conditions of service
- Supreme court's perspective on disputes related to Terms and Conditions of service
- Important Interpretation of Supreme Court on dispute relating to the terms and of service

- Subjects to be considered while defending the dispute related to the terms and conditions of service and strategy to be adopted while defending the dispute

Reference Materials:

- कर्मचारी सम्बन्धी विवादमा सर्वोच्च अदालतको दृष्टिकोण सम्बन्धमा अनुसन्धानमूलक अध्ययन प्रतिवेदन, Office of the Attorney General
- *Ram Prasad Sitaula vs. Timber Corporation of Nepal*, NKP 2064, Volume 2, Decision No. 7816
- *Gulab Singh Thakur vs. Madhyamanchal Kshetriya Prahari Karyalaya Nepalgunj et.al*, NKP 2045, Volume 6, Decision No. 3476
- *Dhruba Prasad Rijal vs. Civil Personnel* Supreme Court Bulletin, Year 15, Volume 9, Bhadra 2063, Issue 340
- *Suresh Prasad Yadav vs. Office of the Prime Minister and Council of Ministers et.al.*, Supreme Court Bulletin 2068, Year 15, Volume 24)
- *Prabesh Ram Bhandari et.al. vs. Ministry of Federal Affairs*, NKP 2073, Volume 5, Decision No. 9593

Session 23

Disputes related to Education Act, Teachers Service Commission

Rules and Education Regulations-1

Objective of the session:

To train Government attorneys' about the main provisions of Education Act as mentioned below:

- Department of Education, District Education Office and District Education Committee,
- Educational qualification, Training, Teacher Service Commission,

Recommendation Process, Teaching License,

- School Management Committee, Provisions regarding merger of Schools,
- Teachers' union, Teachers' Conduct

Subject included in this Unit:

- Structure and Objective of the session of Education Act,2028
- Major subjects of Education Act,2028

- Legal provision relating to the establishment and operation of Institutional and Community school
 - Provision relating to Teaching License
 - Condition for Transfer of Teachers, conditions where Salary and allowance shall not be received and the tenure of service shall not be counted
 - Supreme Court's interpretation on such issues
- Reference Material:**
- Constitution of Nepal
 - Education Act, 2028 (1971)
 - *Brish Bahadur Rai vs. Ministry of Education and Sports*, NKP 2067, Volume 10, Decision No. 8481
 - *Amrita Bhattarai vs. Teacher Service Commission et.al.*, 2073-WO-1189, Decision Date: 2074/6/2
 - *Ghanashyam Bhusal et.al. vs. Teacher Service Commission et.al.*, 2073-WO-1193, Decision Date: 2074/6/2
 - *Aastha Ale vs. Teacher Service Commission et.al.*, 2073-WO-1228, Decision Date: 2074/6/2

Session 24

Disputes related to Education Act, Teachers Service Commission

Rules and Education Regulations-2

Objective of the session:

To train Government attorneys' about the main provisions of Education Act as mentioned below:

- Department of Education, District Education Office and District Education Committee,
- Educational qualification, Training, Teacher Service Commission, Recommendation Process, Teaching License,
- School Management Committee, Provisions regarding merger of Schools,
- Teachers' union, Teachers' Conduct

Subject included in this Unit:

- Structure and Objective of the session of Education Act,2028
- Major subjects of Education Act,2028
- Legal provision relating to the establishment and operation of Institutional and Community school

- Provision relating to Teaching License
- Condition for Transfer of Teachers, conditions where Salary and allowance shall not be received and the tenure of service shall not be counted
- Supreme Court's interpretation on such issues

Reference Material:

- Education Act, 2028 (1971)
- *Brish Bahadur Rai vs. Ministry of Education and Sports*, NKP 2067, Volume 10, Decision No. 8481
- *Amrita Bhattarai vs. Teacher Service Commission et.al.*, 2073-WO-1189, Decision Date: 2074/6/2
- *Ghanashyam Bhusal et.al. vs. Teacher Service Commission et.al.*, 2073-WO-1193, Decision Date: 2074/6/2
- *Aastha Ale vs. Teacher Service Commission et.al.*, 2073-WO-1228, Decision Date: 2074/6/2

Session 25

Division of Service Group

Objective of the session:

- To inform Government Attorneys' about the concept of service group; objective

- and relevance for the division of service group in Public Service,
- To familiarize them with the specialization and cluster; and inform

them about the grounds for specialization and division of Service Groups,

- To inform them about various Public service and Groups,
- To clarify them about civil service and groups, Group alteration and grounds for alteration,
- To update about the view of supreme court related to the Change of service group and and to make them competent to defend on such.

Subject included in this Unit:

- Concept of Service group in public service, Objective and relevancy of division of Service group
- Specialization and Cluster of civil service, and grounds for specialization and division of Service Groups
- Various Public services and Groups' under it
- Groups of Civil service and Public service; group alteration and grounds for alteration,
- Supreme court's perspective regarding Service Group Alteration

Reference Materials:

- Civil Service Act, 2049 (1993), Chapter 2
- Civil Service Rules, 2050 (1993), Chapter 2, 3 and 4
- Nepal Administrative Services (Formation, Groups, Class Division and Appointment) Rules, 2050

- Nepal Economic Planning and Statistics Service (Formation, Groups, Class Division and Appointment) Rules, 2051
- Nepal Forest Service (Formation, Groups, Class Division and Appointment) Rules, 2051
- Nepal Judicial Services Formation, Groups, Class Division and Appointment) Rules, 2051
- Nepal Education Services (Formation, Groups, Class Division and Appointment) Rules, 2050 (1993)
- Nepal Foreign Service Rules, 2068
- Special Group Personnel Administration and Management Rules, 2065(2008)
- Nepal Engineering Services (Formation, Groups, Class Division and Appointment) Rules
- *Udayaraj Poudel vs. Nepal Government, Office of the Prime Ministers and Council of Ministers*, NKP 2072, Volume 1, Decision No. 9321
- *Yubaraj Subedi vs. Office of the Prime Minister and Council of Ministers*, NKP 2069, Volume 10, Decision No. 8898
- *Shyam Kumar Ojha vs. Supreme Court, Office of Promotion Committee*, NKP 2069, Volume 6, Decision No. 8838
- *Sunita Aryal et.al. vs. Public Service Commission*, NKP 2069, Volume 5, Decision No. 8829
- *Raskamal Dangol et.al. vs. Office of the Prime Minister and Council of Ministers et.al.*, NKP 2068, Volume 10, Decision No. 8699

Session 26

Nature of Writ on Terms and Conditions of Service and Court's Perspective

Objective of the session:

The Objectives of the session are:

- To conceptually clarify them about the subject matter and nature of writ on Terms and Conditions of service (Appointment, Posting, Transfer, Promotion, Educational Qualification

etc., Leave, alteration in conditions of service, departmental action, age and Retirement and Facilities etc.),

- To clarify them with the points to be considered while defending Writ on Terms and Conditions of service and to make them competent to defend on such.

Subject included in this Unit:

- Dispute related to Service,
- Nature of Writ related to Service,
- Nature, Scope, Implementation and Practices of writ filed by the employees,
- Conditions of writ lodged on Terms and Conditions of Services, Promotion, Action
- Jurisdiction of Administrative court, limitation and its remedies,
- Court practices and judicial perspectives on Writ concerning Terms of Service.

Reference Materials:

- Constitution of Nepal
- Civil Service Act, 2049 (1993)
- Civil Service Rules, 2050 (1993)
- Nepal Health Service Act, 2053(1997)
- Nepal Health Service Rules, 2055 (1999)
- Rules on Division of Different Service Groups

- Mazhar Ilyas Nagi (2005), Civil Service Laws: A Study of Terms and Conditions of Civil Servants and Litigation in Service Matters, Volume 2
- Oliver Peter Field (1939), Civil Service Law, University of Minnesota Press,
- *Prabeshram Bhandari et.al. vs. Ministry of Federal Affairs*, NKP 2073, Volume 5, Decision No. 9593
- *Rajendra K.C. vs. Ministry of Forest and Land conservation et.al.*, NKP 2072, Volume 11, Decision No. 9498
- *Dr. Mingmar Goljen Sherpa vs. Nepal Government, Office of the Prime Minister and Council of Ministers*, NKP 2071, Volume 11, Decision No. 9277
- *Bhupal Bahadur Pandey vs. Ministry of Physical Infrastructure and Transportation*, NKP 2065 B.S., Volume 7, Decision No. 7989

Session 27

On Leave

Objective of the session:

The Objective of the session are:

- To inform them about the concept and types of leave and its conditions for conversion,
- To train them about the leave procedures and approving authority,
- To clarify them about the duration of leave approval, and consequences in case of non-approval,
- To update them with the Supreme Court's Judgment and to make them competent to defend on such.

Subject included in this Unit:

- Concept of Leave and related Legal Provisions
- Types of Leave, Approving Authority and Process of Leave Approval
- Conditions for Leave Conversion and non-conversion
- Consequences in case of non-approval of leave

- Important Interpretations from Supreme Court on the issue of Leave.

Reference Materials:

- Civil Service Act, 2049 (1993), Chapter 10
- Civil Service Rules, 2050 (1993), Chapter 9
- Nepal Health Service Act, 2053 (1997) Chapter 11
- Nepal Health Service Rules, 2055 (1999) Chapter 7
- *Dr. Santosh Paudel vs. Nepal Government, Ministry of Health and Population*, NKP 2074, Volume 4, Decision No. 9793
- *Rajendra K.C. vs. Ministry of Forest and Soil Conservation, Singhadurbar et.al.*, NKP 2072, Volume 11, Decision No. 9498
- *Mukesh Basnet vs. Nepal Armed Police Force Headquarter*, NKP 2070, Volume 7, Decision No. 9037

- *Kumar Prasad Pokhrel vs. Nepal Airlines Corporation et.al.*, NKP 2069, Volume 8, Decision No. 8875
- *Chhabilal Paudel vs. Commission for the Investigation of Abuse of Authority (CIAA)*, NKP 2069, Volume 3, Decision No. 8795
- *Bhim Prasad Lamichhane vs. District Education Office, Humla*, NKP 2067, Volume 11, Decision No. 8496
- *Shiva Prasad Chaudhary vs. Survey Department, Minbhawan*, NKP 2067, Volume 7, Decision No. 8419

Session 28

Retirement, Gratuity, Pension & other facilities and Calculation of Tenure and Service Period

Objective of the session:

The Objective of the session are:

- To introduce Government Attorneys' with the process and condition regarding retirement of Public officials & employees,
- Employee personal details and the role of Department of Civil Personnel Records,
- To inform them about the retirement benefits and for that purpose acquaint them with legal provisions to calculate tenure and service period,
- To train them about the facilities received by successor and those who are entitled, in case of the death of civil servant while in service,
- To update them about Supreme Court's perspective on the calculation of the period of employment and age of employee and to make them competent to defend on such.

Subject included in this Unit:

- Conditions and Process for retirement of Civil Servants and Public Officials
- Legal Provisions and Practices concerning Age calculation
- Facilities received by employees
- Calculation of service period
- Employee's Personal Details and Role of the Department of Civil Personnel Records
- Supreme Court's perspective on Retirement, Calculation of tenure and service period and age calculation

Reference Materials:

- Civil Service Act, 2049 (1993), Chapter 6
- Civil Service Rules, 2050 (1993), Chapter 12 and 13
- Nepal Health Service Act, 2053 (1997) Chapter 7
- Nepal Health Service Rules, 2055 (1999) Chapter 11
- Acts and Rules on facilities of different service groups and authorities
- *Sharda Devi Paudel vs. Nepal Government, Ministry of General Administration et.al.*, NKP 2073, Volume 9, Decision No. 9682
- *Ram Bahadur Singh vs. Nepal Government, Ministry of General Administration et.al.*, NKP 2070, Volume 4, Decision No. 9000
- *Jagadev Shah Kanu vs. Department of Civil Personnel Records et.al.*, NKP 2066, Volume 6, Decision No. 8151
- *Kulbahadur Limbu vs. Ministry of Culture, Tourism and Civil Aviation*, NKP 2067, Volume 6, Decision No.8392
- *Janak Prasad Kamat vs. Office of the Prime Minister and Council of Ministers, Singhdurbar, Kathmandu*, NKP 2074, Volume 9, Decision No. 9877
- *Ganesh Bahadur Khatri vs. Ministry of Home Affairs*, NKP 2068, Volume 9, Decision No. 8676

Session 29

Educational Qualification, Equivalency and Affiliation

Objective of the session:

The Objective of the session are:

- To inform government attorneys' about the determination of educational qualification, grounds and process for determination of educational qualification for the appointment in Civil and Public Post,
- To familiarize them with the concept of equivalency and affiliation of educational qualification,
- To inform them about process for determining equivalency and affiliation, formation of equivalency determination committee and its role,
- To clarify about the determination of educational qualification and the role of Public Service Commission,
- To update them with Supreme Court's perspective on Educational Competency, equivalency and affiliation and to make them competent to defend on such.

Subject included in this Unit:

- Determination of Educational Qualification during the appointment in Civil Service and Public Post
- Grounds and process for determining Educational Qualification
- Legal provision related to Equivalency and Affiliation of Educational Qualification
- Role of Public Service Commission for determining Academic Qualification,
- Process for determining Affiliation and Equivalency
- Equivalency Determination Committee
- Supreme Court's perspective on Determination of Affiliation and Equivalency and relevant precedents

Reference Materials:

- Civil Service Rules, 2050 (1993), Chapter 3, 15 and Rule 127
- Acts and Rules on Division of Different Service Groups
- Nepal Health Service Act, 2053 (1997) Chapter 3, 4
- Nepal Health Service Rules, 2055 (1999) Chapter 15 and Schedule 6 & 7
- Alikhan Baimenov and Max Everest-Phillips, Meritocracy for Public Service Excellence, <http://www.undp.org/content/dam/undp/library/capacity-development/English/Singapore>
- Michael Young, The Rise of the Meritocracy: A Philosophical Critique, https://www.sheffield.ac.uk/polopoly_fs/1.155163!/file/philosophicalcritique.pdf
- *Jitendra Yadhav vs. Public Service Commission*, NKP 2070, Volume 8, Decision No. 9041
- *Renu Adhikari vs. Office of the Prime Minister and Council of Ministers et.al.*, NKP 2063, Volume 6, Decision No. 7710
- *Harisharan Karki et.al. vs. Ministry of Law, Justice and Parliamentary Affairs*, NKP 2059, Decision No. 7068
- *Shiv Kumar Basnet vs. Public Service Commission et.al.*, NKP 2064, Volume 10, Decision.No.7894
- *Dhruba Raj Pradhan vs. Public Service Commission*, NKP 2062, Volume 6, Decision No. 7552
- *Dr. Ashok Chandra Shrestha vs. Public Service Commission et.al.*, NKP 2062, Volume 6, Decision No. 7501

Session 30

Question regarding the Unconstitutionality of the law and Service related Laws

Objective of the session:

The Objective of the session are:

- To provide conceptual knowledge to Government Attorneys' on constitutionality of law & Doctrine of Ultra Virus,
- To familiarize them with Presumption of Constitutionality, Onus to prove Unconstitutionality and the Principle of Judicial restraint in policy matters
- To provide basic knowledge on Interpretation of Laws and Principle of Severability and train them about Principle of Colorable Legislation,
- To update them about the Supreme Court's perspective on constitutionality issue of Service laws and to make them competent to defend on such.

Subject included in this Unit:

- Concept of Constitutionality of Law and Doctrine of Ultra Virus
- Presumption of Constitutionality, Onus to prove Unconstitutionality and the Principle of Judicial restraint in policy matters
- Principle of Severability
- Principle of Colorable Legislation
- Supreme Court's perspective on the question of constitutionality of the law related to service.

Reference Materials:

- Constitution of Nepal
- Interpretation of Laws Act, 2010 (1954)
- Civil Service Act, 2049 (1993)
- Civil Service Rule, 2050 (1993)
- Nepal Health Service Act, 2053 (1997)
- Nepal Health Service Rules, 2055 (1999)

- MP Jain (2017), Indian Constitutional Law, 8th ed. Lexis Nexis, India
- V.N. Sukla (2017), Constitution of India, 13th ed. Eastern Book Company,
- D. L. Keir and F. H. Lawson, Cases in Constitutional Law,
- Dr. J. N. Pandey, The Constitutional Law of India, 48th ed. 2011, Central Law Agency,
- *D. S. Nakara vs. Union of India*, AIR, 1983, SC 130,
- *Suneel Jatley vs. State of Hariyana*, AIR 1983, SC 473
- *Balaji and others vs. State of Mysore*, AIR, 1963, SC 649
- *Public Service Commission, Central Office, Kamalpokhari vs. Shiva Kumar Basnet*, NKP 2072, Volume 7, Decision No. 9427
- *Dr. Dipendra Shrestha and others vs. Nepal Government, Ministry of Health and Population*, NKP 2075, Volume 3, Decision No. 9968
- *Janak Prasad Kaamat vs. Prime Minister and office of Council of Ministers*, NKP 2074, Volume 9, Decision No. 9877
- *Shambhu Prasad. Sanjel and others vs. Ministry of Culture, Tourism and Civil Aviation*, NKP 2064, Volume 9, Decision No. 7876
- *Gaj Bahadur Bam vs. Office of Prime Minister and Council of Ministers*, NKP 2064, Volume 6, Decision No.7855
- *Murari Prasad Koirala vs. Office of Prime Minister and Council of Ministers*, NKP 2063, Volume 6, Decision No. 7708

Session 31

Tenure Indicated and Non-Indicated Appointment in Public Service and Disputes

Objective of the session:

The Objective of the session are:

- To inform about the nature and position (lien) of executive positions nominated or appointed by the Government of Nepal, the positions representing the Government of Nepal, the positions of the heads and members of the committees formed under the Development Committee Act,
- To conceptually clarify about the process and standards to be followed while appointing executive positions nominated or appointed by the Government of Nepal, the positions of the heads and members of the committees formed under the Development Committee Act and the positions representing the Government of Nepal with tenure indicated and non-indicated in Public positions;
- To update them with Supreme Court's perspective on the appointment, discharge, alternation and Procedures taken in such positions and to make them competent to defend on such.

Subject included in this Unit:

- Information regarding the executive positions nominated or appointed by the Government of Nepal, the positions representing the Government of Nepal, the nature of the posts and the positions of the heads of the committees constituted under the Act of Development Committee,

- Procedures and Standards to be followed during such appointments,
- Supreme Court's perspective on the appointment, discharge, alternation and Procedures taken in such positions

Reference Materials:

- Development Board Act, 2013 (1956)
- Orders on the formation of different developmental committees,
- *Prof. Dr. Ashok Ratna Bajracharya vs. Nepal Government, Office of Prime Minister and Council of Ministers*, NKP 2074, Volume 1, Decision No. 9743
- *Praweshram Bhandari et.al. vs. Ministry of Federal Affairs and General Administration*, NKP 9593, Volume 5,
- *Binit Kumar Jha vs. Nepal Government, Office of Prime Minister and Council of Ministers*, NKP 2072, Volume 10, Decision No. 9478
- *Rameshwor Yadhav vs. Nepal Government, Office of Prime Minister and Council of Ministers*, NKP 2069, Volume 9, Decision No. 8889
- *Dr. Santa Bahadur Gurung vs. Nepal Government, Office of the Prime Minister and Council of Ministers*, NKP 2064, Volume 4, Decision No.7839
- Writ. No.068-WO-0599, *Suresh Prasad Yadhav vs. Nepal Government, Office of the Prime Minister and Council of Ministers et. al.*, (Supreme Court Bulletin 2068 B.S. Volume 24)
- *Birju Ranjeet vs. Ministry of Education and Sports*, NKP 2062, Volume1, Decision No. 7484

Session 32

Civil Service and Trade Union

Objective of the session:

The Objective of the session are:

- To inform about the concept of Trade Union and the rights of the Trade Union in civil service,
- To conceptually clarify about International Labor Organizations and trade union rights of Public Officials,
- To clarify the legal provisions of Trade Union in Civil Service Act and other service related laws,
- To update them with Supreme Court's perspective on disputes related to Trade Union and to make them competent to defend on such.

Subjects included in this Unit:

- Concept of Trade Union and the Rights of the Trade Union in Civil service
- International Labor Organizations and trade union rights of Public Officials
- Legal provisions of Trade Union in Civil Service Act and other service related laws

- Supreme Court's perspective on the disputes of Trade Union
- Reference Materials:
- Constitution of Nepal
- Civil Service Act, 2049 (1993)
- Civil Service Rule, 2050 (1993)
- Nepal Health Service Act, 2053 (1997)
- Nepal Health Service Rules, 2055 (1999)
- *Swosti Paudel Acharya vs. Ministry of Health and Population*, NKP 2072, Volume 11, Decision No. 9495
- *Shova Chandra Mishra vs. Ministry of Health and Population*, NKP 2072, Volume 5, Decision No. 9410
- *Shova Chandra Mishra vs. Ministry of Health and Population*, NKP 2072, Volume 3, Decision No. 9373
- *Bindeswor Prasad Patel vs. Ministry of Forest and Soil Conservation*, NKP 2069, Volume 1, Decision No. 8750

Session 33

Administrative Court and Disputes related to service

Objective of the session:

The Objectives of the session are:

- To inform them about the concept of Administrative court, comparative study, formation of administrative court in Nepal and its jurisdiction.

Subjects included in this Unit:

- Concept and International practices on Administrative Court,
- Formation of Administrative Court and its Objective,
- Jurisdiction of Administrative Court and its procedures,
- Reinstatement in service and Facilities

Session 34

Disputes related to Age Calculation

Objective of the session:

The Objectives of the session are:

- To inform them about the principles propounded by the Supreme Court relating to Age Calculation of public servants

Subjects included in this Unit:

- Concept and International practices related to Age calculation,

- Process and Legal Provisions on Age Calculation,
- Challenges and Way Forward on Age Calculation,
- Supreme Court's Perspective on Age Calculation
- Provision relating to age for Enrollment and Retirement in Service,
- Role of Department of Civil Personnel Reco

Government Attorney's Specialization Standard, 2075

Preamble: Whereas, it is expedient to make provisions, for effective government representation and defense; Government Attorney had to have training of specialization, the Office of Attorney General has laid down this standard.

1. **Short Title and Commencement:** (1) This Standard may be called as “Government attorney Specialization Standard, 2075”.
(2) This Standard shall come into force from 15 Jestha 2074.
2. **Definition:** In this Standard, unless the subject or the context means otherwise: -
 - (a) **“Government Attorney”** means the Attorney General, Deputy Attorney General, Joint Attorney, Deputy Attorney, District Attorney, Deputy District Attorney, and the word shall also represent Gazetted officer of Government Attorney groups of Nepal Judicial Service.
 - (b) **“Specialized Government Attorney”** means the government attorney who has gained a Standard determined special qualification, experience, and knowledge and has listed in section 8 of the standard.
 - (c) **“Management Committee”** means the management committee of the Office of the Attorney General.
 - (d) **“Training provider Authority”** means National Judicial Academy, Judicial Service Training Centre, Prosecution Training Centre and other National and Foreign institutions established according to the law which provide training on Law and Justice.
3. **Government Attorney to be Specialized:** (1) Government Attorney shall be specialized for the effective work performance of the Government Attorney.
(2) While specialization of the government attorney according to the sub clause (1) the following specific area shall be considered:
 - (a) Constitutional Law,
 - (b) Organized Crime Prevention Law,
 - (c) Banking and Commercial offence related Law,
 - (d) Tax and Revenue Law,
 - (e) Corruption Prevention Law,
 - (f) Service related Law,
 - (g) Government and Public Property Protection Law,
 - (h) Cyber Crime Prevention Law,
 - (i) Other Subjects as specified time to time by the Management Committee.
4. **Qualification and Experience for Specialization:** (1) Government Attorney shall have the following qualification, experience, and training for the specialization.
 - a) Postgraduate degree in law from a recognized university,
 - b) Worked as a government attorney for at least 5 years,
 - c) Completion of training for specialization as per the syllabus mention under section 5.
 - (2) Notwithstanding anything contained in sub-clause (1) (b), government attorney having a post-graduate degree in law in the related field of specialization, with three-year experience as government attorney will be qualified for specialization.
 - (3) Notwithstanding anything contained in sub-clause (1) (c), government attorney having Doctorate (Ph.D.) degree along with working experience of three years shall be qualified for specialization in the field of his/her field of doctorate.