

Varendra University
Department of Law and Human Rights

Syllabus of LL.M (Final)

Master of Laws -LLM (Final)

1. Introduction

LL.M. Program includes a list of all courses offered for LL.M. (final) degree.

2. Length of the Program:

The duration of the LL.M. program will be *one year* for the candidates who have completed a 4-year LL.B. (Honors) degree from any reputed university or institute recognized by the Government of Bangladesh. But those who have completed a 2 year LL.B. degree under the National University Bangladesh (i.e. an LL.B. pass degree) will, however be required to complete *a one year* LL.M. Preliminary for admission into the LL.M.(Final) program.

3. Courses offered (Outline):

Each semester LL.M. (integrated) students will be required to take four courses.

Semester I

Course Code	Course Name	Credits
LAW-511	Muslim Law of Succession	3
LAW-512	Private International Law	3
LAW-513	Human Rights	3
LAW-514	Law of International Organizations	3
	Total Courses 4	Total Credits 12

Semester II

Course Code	Name of Course	Credits
LAW-521	International Trade Law	3
LAW-522	Intellectual Property Law	3
LAW-523	Law of the Sea	3
LAW-524	International Humanitarian Law	3
	Total Courses 4	Total Credits 12

Semester III

Course Code	Course Name	Credits
LAW-531	Judiciary and Comparative Judicial Activism	3
LAW-532	International Environmental Law	3
LAW-533	Refugee and Migration Law	3
LAW-534	Research Monograph and Viva-Voce	3
	Total Courses 4	Total Credits 12

LL.M. (Final): COURSE CONTENTS

Course Code: LAW-511
Muslim Law of Succession
Marks: 100

Introduction:

Defining succession and inheritance, Source, Schools, its relationship to Marriage, Divorce, Acknowledgement of Paternity, Substitution, and Representation.

Sources:

The Qur'an, The *Sunnah*, *Sunnah* of the *Khulafaur Rashedun*, *Fatwa* of a companion, Deducing the Law from its Sources, Revealed Laws Preceding the *Snari'ah* of Islam, Commands and Prohibitions, *Naskh*, *Ijma*, *Qiyas*, *Istidlal*, *Istihsan*, *Istisah*, *Istishab*, *Ijtihad*, *Siyasat Shari'ah*, *Takhayyur*, *Talfiq*, *Fatwa*, Urf, Conflict of Evidences.

Schools:

Sunni — Hanafi, Maliki, Shafei, Hanbal; Shia — Ithna Ashari.

General Rule:

Administration of Estate, Sunni Law of Inheritance — Inner Family, Primary heirs, Secondary heirs — Lucky Unlucky kinsman, Principles of *Umariyyatan*, *rnariyya* and *Mimbariyya* giving rise to *Awl*, *Radd*, Grandmother, Grandfather- Doctrine of Ali (R), Zaid (R)-further reform of Zaid (R). Outer Family. Shia Law of Inheritance-Class system, Meaning of Child, Childless Widow, *Awl*, *Radd*, Representation, exception to the general rule of degree in a particular class, Comparison between Sunni and Shia school of law.

Reforms in the Muslim World:

Orphaned Grandchildren-Obligatory Bequest-Court, Mufti and Abu Zahra System. Grandson and Granddaughter-Egypt, Tunisia, Bahrain, Iraq, Palestine, Yemen. Grandson-Morocco, Syria, Jordan, Kuwait, Algeria, Libya. Rule of Representation-Bangladesh, Pakistan. Husband and Wife-Radd in all Muslim Countries; Grandfather-Egypt, Syria, Daughter-Tunisia and Iraq; Outer Family-Doctrine of Imam Abu Yusuf-Egypt.

Bequest:

Capacity of testator, Legatee, One Third Rule, Actual and Legal Heir, Bequest-General, Special, Joint, Contingent, Conditional, Usufructuary, Failure Bequest, acceptance by Legatee, pro Rata Abatement, Proportional Abatement, Ratification, Rise and Fall of Value of Property, Homicide.

Case Law:

Beguman vs Saroo PLD 1964 Lahore 451 [Homicide].
Yusuf Abbas vs Mst. Ismat Mustafa PLD 1968 Karachi 480 [Section 4 MFLO, 1961] Nazar
Muhammad vs Shahzada Begum PLD 1974 SC 22 [Death Sickness]
Sheikh Ibrahim vs Nazrna Begum 44 DLR 1992 AD 276 [Section 4 MFLO, 1961]
Maheea and 5 other vs Shaiya and 7others PLD 1991 SC 724 [Homicide)

Farid vs. Manzooran PLD 1990 SC 511 [Section 4 MFLO, 1961]
Editor, Banglabazar Patrika vs. Dist. Magistrate Naogaon 6 MLR 2001 HD 45 [Fatwa] followed
by AD case of May 12, 2011.

Statutes:

Provisions of Statutes of so much as is related to Muslim Law of Succession,

The Shariat (Application) Act, 1937.

The Child Marriage Restraint Act, 1929.

The Dissolution of Muslim Marriages Act. 1939

The Muslim Family Laws Ordinance. 1961.

The Family Courts Ordinance, 1985.

Penal Code, 1860.

Pensions Act, 1871,

Evidence Act, 1872[Ss 107, 108, 112)

The Succession Act, 1925.

The Provident Fund Act 1925 [Ss. 1-5]

Revised Pension Rules, 1966 gratuity and family pension

Public Servants Retirement Act, 1974.

Public Servants Retirement Rule, 1975.

General Provident Fund Rules, 1979.

Books Recommended:

AAA Fyzee : Cases in the Mohammedan Law of India and Pakistan, Oxford, 1965

Abdur Rahman I. Doi : Shariah the Islamic Law, Ta Ha Publishers. London, 1984.

Alamgir Muhammad Serajuddin : Sharia, Law and Society, Asiatic Society of
Bangladesh, Dhaka 1999.

David Pearl : A Textbook on Muslim Law, Groom Helm London, 1979.

DLR Publications : Muslim Family Laws Ordinance. 1961.

Jamal J Nasir : The Islamic Law of Personal Status, Graham & Vrotman, Oxford, 1986.

Muhammad Faizuddin: A text Book on Islamic Law, Shams Publications. Dhaka, 2008.

NJ Coulson : Succession in the Muslim Family Law, Cambridge. 1971.

NJ Coulson : A History of Islamic Law. Edinburgh, 1964.

Syed Khalid Rashid : Muslim Law, Eastern Book company, Lucknow, 2004.

Tahir Mahmood : Family Law Reform in The Muslim World, New Delhi, 1972.

Tanzil-Ur-Rahman : A Code of Muslim Personal Law, Islamic Publisher, Pakistan,
1980.

আওরঙ্গজেব আলমগীর (র) সম্পাদিত: ফাতাওয়ায়ে আলমগীরী, ইসলামিক ফাউন্ডেশন, বাংলাদেশ, ঢাকা, ২০০৩।

আবু বকর আল-ফারগানী আল মারগীনানী (র) : আল-হিদায়া, ইসলামিক ফাউন্ডেশন বাংলাদেশ, ঢাকা-২০০১।

আবু বকর আহমাদ বিন আলী আল যাসসাস (র) : আহকামুল কুরআন, দ্বিতীয় খন্ড, ইসলামিক ফাউন্ডেশন বাংলাদেশ, ঢাকা-
১৯৮৮

ইসলামিক ফাউন্ডেশন বাংলাদেশ : ফাতাওয়া ও মাসাইল, ইসলামিক ফাউন্ডেশন বাংলাদেশ, ঢাকা- ১৯৯৭।

ইসলামিক ফাউন্ডেশন বাংলাদেশ: দৈনন্দিন জীবনে ইসলাম, ঢাকা-২০০৪।

নুরুল মোমেন : মুসলিম আইন, বাংলা একাডেমী, ঢাকা -১৯৭৭।

এম. হাবিবুর রহমান : মুসলিম আইন, রাজশাহী-১৯৮৯।

গাজী শামছুর রহমান গং : বিধিবদ্ধ ইসলামি আইন, প্রথম খন্ড, প্রথম ভাগ, ইসলামিক ফাউন্ডেশন বাংলাদেশ, ঢাকা-১৯৯৫।

Course Code: LAW-512
Private International Law
Marks: 100

Private International Law: General Part

Different names; Definition; Nature and scope: Difference between Public & Private international law; How PIL become Public International law; Historical Antecedents and development of private international law; The consecutive stages in an action involving a conflict law; Logical & legal basis of conflicts of laws; Conflicts of classification-determination of the main legal category- factors influencing the choice of governing law-Solution of the conflicts of classification-implementation of ascertained governing law; Doctrine of *Renvoi*; jurisdiction of court; Proof of foreign law; function of foreign law in domestic courts; Forms of examination of cases containing a foreign element: Direct method in private international law; Domicile contracts; Torts, Marriage, Divorce, Legitimacy litigation and adoption, infancy and mental disorder; Wills, the destination between movable and immovable property; the law of movable; the law of immovable; recognition or enforcement of Foreign Judgments; Procedure.

Hague Conference on Private International Law:

The organizations' purpose regarding progressive unification of the rules of private international Law.

International Institute for the Unification of Private Law (UNIDROIT)

Role of this global institution

Books:

American Law Institute, Restatement of the Law. Second: Conflict of Laws 2d (St. Paul: American Law Institute).

Dicey and Morris on the Conflict of Laws (13thed., London: Sweet & Maxwell, 2000).

Peter North, J.J. Fawcett, Cheshire and North's Private International Law_(13thed.. London: Butterworths, 1999)

Cheshire, North & Fawcett, Private International Law (Oxford University Press, USA, 14th edition, 2008).

Alan Reed, Anglo-American Perspectives on Private International Law (Lewiston, N.Y.: E.Mellen Press, 2003)

Eugene F Scoles, et al., Conflict of Laws (4th ed., St. Paul, Minn: Thomson/West, 2004)

Dr. Ghalib Aldawoudi, Private International Law Wale's Publishing House, 2005.

Dr. Ibrahim A Ibrahim, Private International Law First Part Cairo 1969.

David P Stewart, Private International Law - A Dynamic and Developing Field. 30 U. Penn J. Int'l L. 1121.31 (2009).

Other Issues:

Paul R. Beaumont. Peter E McEleavy. The Hague Convention on International Child Abduction (Oxford New York: Oxford University Press, 1999)

Andrew S. BeII, Forum Shopping and Venue in Transnational Litigation (Oxford. New York: Oxford University Press. 2003), See also the other volumes In the Oxford Private International Law Series by searching this title on Lqwcatt

David Epstein et al., International Litigation: A Guide to Jurisdiction, Practice and Strategy (3rd ed, Atrdsley, NY. Transnational Publishers. 1998).

European Private International Law (Bernd von Hoffmann ed., Nijmegen, Holland: Ars Aequi Libfl. 1998).

WA. Kenneti, Enforcement of Judgments in Europe (Oxford (England) New York Oxford University Press, 2000)

The Practice of Transnational Law (Klaus Peter Berger ed., The Hague; Boston: Kluwer Law International, 2001).

Some Relevant Journals:

- Journal of Private International Law (Oxford, UK: Hart. 2005)
- GPR Zeitschrift Fur Gemeinschaft Sprivatrecht= European Cornmunity Private Law Review - Revue de Droit Pive Communautaire (Munche: Sellier; Heidelberg: Verlag Recht und Wirstchasft. 2003).

- European Review of Private Law (Dordrecht. The Netherlands Kluwer Academic Publishers, 1993).
- Uniform Law Review (Rome. International Institute for the Unification of Private Law), Also available on Hein Online,
- Zeitschrift fur Europaisches Privatrecht: ZEuP Munchen: C.H. Beck, [1993].
- The American Journal of Comparative Law (Berkeley: American Association for the Comparative Study of Law, 1952). Available of Hein_Online.
- The International and Comparative Law Quarterly (London: Society of Comparative Legislation, 1952). Available on Hein Online.
- Maastricht Journal of European and Comparative Law (Antwerp: Kaklu: Baden-Baden: Nomos, [1994].

Course Code: LAW-513
Human Rights
Marks: 100

1. The concept and development of human rights. Importance of human rights in international and national legal system. Human rights, Fundamental rights and Legal rights — their comparison. Development of the concept of human rights. Magna Carta.
2. International Human Rights documents; The UN Charter; The universal Declaration of Human Rights, 1948: Its impact on the Constitutions of different Countries. International Covenant on Civil and Political Rights & international Covenant on Economic, Social and Cultural Rights. 1966. Optional Protocols to the International Covenant on Civil and Political Rights. Convention Against Torture and other Cruel, Inhuman or Degrading Treatment, 1948. Child Rights and the UN Convention on the Rights of the Child, 1989.
- 3 The UN High Commissioner for Human Rights, his powers, functions and role for promotion of human rights.
4. Elimination of Discrimination—Discrimination and its impact on human rights: Declaration and Convention on the Elimination of All Forms of Racial Discrimination, 1965; Convention on the Elimination of All Forms of Discrimination Against Women, 1979.
5. Self-determination. State of self-determination in Kashmir, Palestine, Algeria, South Africa etc.

6. Fundamental Rights and the Constitution of Bangladesh, remedies against violation of fundamental rights, preventive detention and the Special Powers Act, 1974; The Children Act, 1974.
7. Non-Governmental Organizations (NGO). their role for the promotion and protection of human rights.
8. Human Rights and Islam; Prophet Muhammad's (peace be on him) last pilgrimage speech.
9. Human Rights Council and its functions.

Recommended Readings:

AB Kalaya: Human Rights in International Law, New Delhi, 1986.

AJA Joyce : The New politics of Human Rights London. Yala University Press, 1973

Brownlie : Basic Documents on Human Rights. London, Clarandan Press, 1971.

Christian Tomuschat: Human Rights Between idealism and Realism, Oxford University Press, 2008

DJ Haris: Cases and Materials a' International Law, Sweet & Maxwell London, 1999.

H Lauterpach: International Law and Human Rights, London Gerland Pub. ine 1972.

M Abdii Hannan: Human Rights of the Accused in the Criminal Process. Madhav Books, Haryana, 2009.

McGoldrick : The Human Rights Committee, Oxford University Press, 1991.

Mofiul Islam Patuary: Human Rights in Contemporary International Law, Dhaka,1995.

Muhammad Zamir: Human Rights issues and international Law Dhaka, 1990

Raija Hanski & Markku Suksi (eds): An Introducbon to the International Ptotection of Human Rights: A Test book. IHR. Abo Akademi University, 1997.

Racharan: Human Rights: Thirty years after University Declaration. London,1979,

Thomas Buergentat : International Human Rights, Washington-DC.

Tuhin Malik: Manual of Human RightS. Dhaka, 1997.

Umoplke : Self-determination in International Law, Archon Books, 1972.

আবুল ফজল : আন্তর্জাতিক আইনের মূল দলিল, বাংলা একাডেমী, ঢাকা, ১৯৮৬।

মুহাম্মদ সালাহুদ্দিন : ইসলামে মানবাধিকার, আধুনিক প্রকাশনী, ঢাকা, ১৯৯২।

: Human Rights The New Consensus, Regency Press Ltd. 1994.

: The Constitution of Bangladesh. (latest amendments)

:The Special Powers Act, 1974.

Leading Cases:

- 1 Dr. Nurul Islam vs. Bangladesh. 33 DIR (1981)
2. Mahub Uddin vs. Govt. of Bangladesh. 43 DIR 1991)
- 3 State vs. *Golam Azam*. 46 DIR (1994)
4. *Bilkis Akhten Hussi vs. Bangladesh Govt* 2 MLR (1997) H.C.

Course Code: LAW-514
Law of International Organizations
Marks: 100

Contents:

1. International Organizations: Concepts-Emergence-Organizations of the ancient time.
2. General Characteristics of International Organization- Its nature and importance-Its relation with International Law-Legal personality of International Organizations-Organic structure and classification of International Organizations-Membership, decision making and dissolution of the International Organizations.
3. League of Nations-Its origins-Principal Institutions-Failures-Evaluations.
- 4 The United Nations Organizations-Its Background-Objectives-Purpose Principal Organs-The International Criminal Court-Future and Prospects of the United Nations.
5. Specialized Agencies of the United Nations-Its Provisions in the UN Charter Common Features-Its Relations with the United Nations-Compositions, Powers and Functions of all the Specialized Agencies of the United Nations; International Atomic Energy Agency and World Trade Organization.
6. Regional Organizations-Its Provisions in the UN Charter-General Characteristics, Objectives and Functions of the Regional Organizations-Its Classifications.

7. Some of the significant present day Regional Organizations-The Arab League-The Organizations of the American States-The African Union-The European Union-The Association of the South East Asian Nations-The South Asian association for the Regional Cooperation-The Atlantic Treaty Organization-The Western European Union-The ANZUS.

8. Some Special Organizations-The Commonwealth-The Non Aligned Movement-The Organization of the Petroleum exporting Countries-The Organization of the Islamic Conference.

9. Newly formed International Organizations shall be Included,

Books Recommended:

Bowett, DW: The Law of International Institutions (Latest edition)

Good Speed, S.S. : The Nature and Function of International Organization.

Starke, J.G. : Introduction to International Law.

4. ড. শাহ আলম : আন্তর্জাতিক সংগঠন আইন । [তৃতীয় সংস্করণ]

Dr. Robiul Hosain : International Organization (2010).

Course Code: LAW-521

International Trade Law

Marks: 100

1. Origin and Development: Historical background and development of International Trade Law-Scope and Nature of international Trade Law Different Principles and issues.

2.International Finance Institutions: Contribution of Brettonwoods Economic Conference-World Bank Group-IBRD, IDA, IFC, MIGA, ICSID;-IMF-GATT-Role of UN-UNCTAD-UNICITRAL.

3.WTO Mechanism: Background and objectives of WTO-TRIPS Agreement-Dumping and Anti-Dumping Measures WTO Agreement on Agriculture, agreement on Services, Dispute Settlement Procedure.

4. Regional Trade System: OECD-Europe.an Union-NAFTA- SAFTAS APTA-and other Trading Agreements.

5. New International Economic Order: Introduction-United Nations initiatives-trade imbalances-Problem of North-South Cooperation.

6. International Trading Contracts: International Sales Contracts Applicable Laws-Liabilities of Parties to a Contract for Sale of Goods- Carriage of Goods by Sea-Marine Insurance-international Law relating to Bill of Trading and Shipments.

7. **International Commercial Litigation and Related Issues:** Conflicting Rules-Forum Convenience and Forum Shopping-Applicable Laws.

8. **Dispute Settlement Resolution:** WTO Dispute Resolution Mechanism- International Commercial Arbitration-UNICITRAL-Model Law on Arbitration-ICSID Arbitration-Domestic implementation of Foreign Arbitral Award.

9. **International Instruments:**

(a) Declaration for the Establishment of NIEO. 1974; The Charter of Economic Rights and Duties of States, 1982; UN Convention on Contracts for the International Sale of Goods: Convention on Conditions for Registration of ships, 1968; Convention on international Carriage of Goods by Sea.

(b) The Hague Convention. 1986 on the Law Applicable Contracts for the International Sale of Goods.

(c) Un Convention the Recognition and Enforcement of Foreign Arbitral Awards; UNICITRAL Arbitration Rules.

Books Recommended:

P. Carcenic — Essays on International Commercial Arbitration London, 1989

Michael J. Trebil — The Regulation Of International Trade

M Rafiqul Islam - International Trade Law, LBC. 1999

Indira Car - Principles of International Trade Law. London. 1999

Pamelle sellman - Law of International Trade. Old Bailey, 2003.

P. Gillies & M. Moens (ed.) - International Trade and Business Law, Sydney, 1998.

JDM Len & C. Stawbook (ed.) - International Trade Law of Practice, London. 1990

Course Code: LAW-522
Intellectual Property Law
Marks: 100

1. Introduction to Intellectual Property laws:

Introduction to intellectual property—definition and meaning.

Theoretical and economic rationale of IP protection.

IP as a tool for technological, economic and social development.

2. Copyright and Related Rights:

(a) Concept of copyright and its justification—history, theoretical justification and economic rationale of copyright—role of copyright in encouraging creativity and facilitating access to work—concept of originality in copyright and works protected under copyright.

(b) Enjoyment of right—various rights recognized—economic and moral rights—concept of authorship and ownership—joint author, works created during employment—assignment and licensing of rights—related rights and co-existence of rights—collective management of copyright and related rights.

(c) Enforcement of right—Infringement of copyright—substantial copying—types of infringement and remedies.

(d) International Protection of Copyright—principles of protection in Berne, TRIPS and WIPO Treaties—flexibilities under international conventions to facilitate access to works.

(e) New technology and Copyright—protecting owners of copyright and related rights in digital technology—balancing of interest—limitations and exceptions to copyright and related rights in digital age.

3. Law relating to Inventions:

(a) Concept of Patent and its Justification—history, theoretical justification and economic rationale—concept of novelty, inventive step and commercial utility—exclusions from patent and its rationale

(b) Rights and ownership of patent—ownership of patent—joint ownership—inventions during employment—assignment of patent—transfer of technology and industrial development.

(c) Enforcement of patent—Infringement of patent—claims interpretation—defenses to Infringement—remedies for infringement.

(d) International protection of patent—principles of Paris Convention, TRIPS Agreement—flexibilities to promote innovation and development.

(e) Patent and competition—remedies for abuse of monopoly—compulsory license, revocation—limitations and exceptions to patent rights—parallel import.

(f) New technology and Patent—biotech, software and pharmaceuticals—protection of inventor—access to products of new technology—balancing of interest.

4. Principles of Trademark Law:

- (a) Concept of trademark and its justification—history, theoretical justification and economical rational of trademark protection—concept of distinctiveness and deceptive similarity--registrable marks and exclusion—distinction between trademark, collective mark and certification mark.
- (b) Enjoyment of right—trafficking of trademark—registered user.
- (C) Infringement and Passing Off—distinction—remedies for infringement.
- (d) International protection of Trademark—principles in Paris Convention— TRIPs Agreement—Trademark Treaty.
- (e) New trends in trademark protection-dilution—well known marks—character merchandising—ambush marketing—trademark and domain names—protection of unconventional marks.

5. Designs and Utility Models:

- (a) Theoretical justification and economic rational of design protection— concept of design— notion of novelty or originality—exclusion from design protection—overlap of design and copyright protection
- (b) Enjoyment and protection of design rights—design copyright— ownership—design created during employment—assignment of design— infringement of design—defenses—remedies for infringement
- (c) Protection of Design and Utility Model and Development—rational and justification— standards of protection—enjoyment of rights enforcement of rights — Experiences of developed countries in protection Utility models.
- (d) International protection of Design and Utility Models— obligations under Paris Convention—Provisions in the TRIPS Agreement—WIPO Model Laws.

6. Sui Generis IP Law:

- (a) Geographical Indications. (GIs)
- (b) New Plant Varieties.
- (C) Genetic Resources and Traditional Knowledge (TK)
- (d) Protection of Farmer's Right—obligations under UPOV—1 978 and 1991.

Books Recommended:

W R Cornish: Intellectual Property Sweet & Maxwell, London (2007).

Craig Allen Nard: The Law of Patents Aspen Publishers, New York, USA (2010).

David I Bainbridge: Intellectual Property Law, Fifth Edition. 2002. Pearson Education (Indian Print).

Lionel Bently Brad Sherman: intellectual Property Law Oxford University Press. New York (2003)

WIPO Publication: WIPO Intellectual Property Handbook: Policy, Law and Use. 2008.

N S Gopalakrishnan: Principal of Intellectual Property Eastern Book Company, India (2009).

Abbot Cottler Gurry: International Intellectual Property in Integrated World Economy Aspen Publishers, New York, USA (2008)

Tina Hart, Linda Fazzani & Simon Clark: Intellectual Property Law Palgrave Macmillan, New York, USA (2009)

Shiv Shahi Singh: The Law of Intellectual Property Rights Deep & Deep Publications Pvt. Ltd. New Delhi. 2005.

Dr J K Das: Intellectual Property Rights Kamal Law House, India (2008)

V K Ahuja: Law Relating to Intellectual Property Rights Lexis Nexis Butterworths, London (2007).

R K Nagaranjan : Intellectual Property Law. Allahabad Law Agency, India (2006).

Dr. B L Wadehra: Law Relating to Intellectual Property Vnsversal Law Publishing Co India (2008)

P Narayanan: Intellectual Property Law Eastern Law House. India (2009)

Dr. G B Reddy: Intellectual Property Rights and The Law Gogia Law Agency. India (2008)

S R Sharma: Laws on Intellectual Property Anmol Publications Pvl. Ltd. New Delhi 2004

Course Code: LAW-523

Law of the Sea

Marks: 100

Law of the sea-concept, scope, emergence of Mare Liberum (1625) and Mare Clausum (1935) doctrines, their development; UNCLOS I, UNCLO II and UNCLO III-UN Convention on the Law of the Sea, 1982 (LOS Convention); delineation of baselines-normal, straight, deltaic,

archipelagic and historic; sea zones within and beyond national jurisdiction: (a) within national jurisdiction-internal waters, territorial sea, contiguous zone, exclusive economic zone (EEZ), continental shelf; (b) beyond national jurisdiction-High Seas and 'Area' (deep sea region); land-locked and geographically disadvantage states, their positions, regime of Islands highlighting the issues of South Talpatty Island; High seas freedoms; Activities to carry out in the Area-Common heritage of mankind-Principles applicable to deep seabed mining-Marine scientific research, marine environment and transfer of marine technology-The Authority, its organs-Settlement of disputes under LOS Convention with an emphasis on ITLOS and Seabed Disputes Chamber, Arbitration and Special Arbitration-Territorial Waters and Maritime Zones Act, 1974 of Bangladesh, its problem for delimiting maritime boundaries with the neighbours e.g. India and Myanmar.

Books Recommended (preferably the latest editions)

Alexander, LM (ed) : The Law of the Sea Offshore Boundaries and Zones, 1967, University Press.

Amador, FG : The Exploitation and Conservation of the Resources of the Sea, 1963, Sijthoff.

Anand, RP : The Legal Regime of Seabed and the Developing Co Countries, 1976, Sijthoff.

Blum, YZ : Historic Title in International Law (1965), Nijthoff.

Brown, ED : The Legal Regime of Hydrospace, 1971, Stevens.

Bouches, LJ : The Regime of Bays in International Law, 1964.

Bartson & Or : The Maritime Dimension (1980) Allen & Unwin.

Crocker, HG : The Extent of the Marginal Sea (1919), Govt. Print, Press, Washington.

Dubner, BH : The Law of Territorial Waters of Mid-Ocean Archipelago and Archipelagic States (1976).

Dupuy, RJ : The Law of the Sea-Current Problems (1974), Oceana.

Eckert, RD : The Enclosure of Ocean Resources: Economics and the Law of the Sea (1979), Hoover Institution Press.

Extavour, WC : The Exclusive Economic Zone (1977), Sijthoff.

Kish, J : The Law of International Space (1978), Sijthoff.

Knight, HG : Managing the Sea's Living Resources Legal and Political Aspects High Seas Fisheries (1977).

- Lumb, RD. : The Law of the Sea and Australian Off-Shore Areas (1978), University of Queens land Press.
- Fulton, TW : The Sovereignty of the Sea (1911), Kraus Reprint.
- Rahman, MH : Delimitation of Maritime Boundaries, 1991.
- Rahman, MH : Legal Regime of Marine Environment in the Bay of Bengal (2007), Atlanta, New Delhi.
- McDougal : The Public Order of the Oceans (1975), New Haven.
- Wenk, EJ : The Politics of the Oceans (1992).
- Tacker, RW : The Inequality of Nations (1977).
- Waldock, H : The International Court and the Law of the Sea (1979), Asser Institute.
- D. J. Harris : Cases and Materials on International Law (London: Sweet and Maxwell,1998)
- Robin R. Churchill and Vaughan Lowe: *The Law of the Sea*, 3rd ed., (Manchester University Press: Manchester, 1999).
- United Nations, *The Law of the Sea: Official Texts of the United Nations Convention on the Law of the Sea and of the Agreement Relating to the Implementation of Part XI with Excerpts from the Final Act of the 3rd Conference* (United Nations: New York, 1997).

Case References:

- Abu Arbitration 1 (1951) ICLQ 4 pp 247-261.
- Aegean Sea Continental Shelf Case (1977) ICJ.
- Alabama Arbitration (1872).
- Anglo-Norwegian Fisheries Case (1951) ICJ.
- Beagle Channel Arbitration (1977).
- Fisheries Jurisdiction Case (1974).
- North Atlantic Coast Fisheries Case (1910).
- North Sea Continental Shelf Cases (1969) ICJ.
- Nuclear Test Cases (1974) ICJ.
- Tunisia-Libya Continental Shelf Case (1982) ICJ.
- Maritime Delimitation in the Area between Greenland & Jan Mayen (Denmark v.Norway).

Delimitation of Maritime Boundary in the Gulf of Maine Area (1984) ICJ.

The M/V Saiga Case (Saint Vincent and Grenadines v. Guinea (1997) ITLOS.

Delimitation of the Maritime Boundary between Bangladesh and Republic of India (2014) PCA

Judgment in Disputes concerning delimitation of Maritime Boundary between Bangladesh and Myanmar in Bay of Bengal (2012), ITLOS.

Course Code: LAW-524
International Humanitarian Law
Marks: 100

1. Definition, Nature, Scope and development of Humanitarian Law.
2. Jurisprudential Foundation of human rights. Sources and schools of human Rights.
3. Comparative study and analysis of first generation, second generation and third generation Human rights.
4. Human rights under different systems.
5. Comparative study of Human right and Humanitarian Law.
6. Human Rights in Armed Conflict: Law of war, Concept of war crimes.
 - Nuremburg & Tokyo Trial.
 - Rouanda Tribunal.
 - Tribunal for war crimes regarding former Yugoslavia.
 - International Criminal Court & War crimes.
7. International Humanitarian Organizations and Red Cross.
8. Implementation of International Humanitarian Law.
9. Protection of Certain Rights on the humanitarian ground: Right of Asylum, Refugees, Minorities, Indigenous peoples, Women and Children.
10. Hague Convention of 1907.
11. Geneva Convention of 1949, Protocols additions to Geneva Convention, Weapon Convention.
12. Some Case Studies.

Books Recommended:

1. Paul Sieghart: The International Law of Human Rights Oxford: Clarendon Press, 1985.
2. H. Law Erpacht: International Law and Human Rights London; Stevens & Sons Limited 1950, 1973.
3. Jean Pictet: Development and Principles of International Humanitarian Law.
4. Theoder Meren: Human Rights in International Suite: Their International Protection I an Browlie: Principles of Public International Law.
5. Faiz-Uddin. M–“Protection and Promotion of Human Rights, International Perspective,” –Law Journal, Law Faculty, Rajshahi University 1998.
6. M. Zamir –Human Rights Issues and International Law.
7. A.B.M. Mafizul Islam Patwari –Liberty of the People: Britain and Bangladesh Dhaka: Institute of Human Rights and Legal Affairs, 1987.
8. Guy S. Goodwin-Gill –The Refugee in International Law.
9. Thomas Buergenthal –international Human Rights.
10. Hurst Hannum –Guide to International Human Rights Practice. London: Macmillan Press, 1994

Course Code: LAW-531
Judiciary and Comparative Judicial Activism
Marks: 100

Introductions to the Judiciary of Bangladesh: History of the Judiciary, Outlines of the Current, Judicial System, Executive control over the judiciary, Judicial Corruption, Delays in Disposal of Cases.

Concepts of Judicial Independence: Separation of powers and Judicial Independence, Meaning and Elements of Judicial independence, Importance of Judicial Independence.

Concepts of Judicial Accountability: Meaning and Objectives of Judicial Accountability, Mechanisms of Judicial Accountability, Relationship between Judicial Independence and Judicial Accountability.

Appointment of Judges: Criteria for Appointment: Merit Principle, Non-discrimination and Fair Representation, Seniority, Political Considerations.

Mechanisms for Appointment: Exclusive executive power to appoint Judges, consultation with the Judiciary and Legal Profession, Use of an Independent Commission.

Tenure of Judges: Security of Tenure of Judges, Changes of Tenure and other Terms and Conditions of service, part-time and temporary judges.

Discipline and Removal of Judges: Causes for Discipline and Removal: Physical or mental incapacity, Misconduct.

Mechanisms for Discipline and Removal: Exclusive executive power, parliamentary approval, involvement of the Judiciary through investigation and/or consultation, Supreme Judicial council, Use of an independent commission.

Judiciary and the Media: Types of the Media and its reporting on the Judiciary, role of the media in scrutinizing the Judiciary, media and contempt of court

Judicial Activism:

-How far the existing global Jurisprudence is accommodative of judicial activism: analysis of three principal legal theories- legal positivism, natural law and Sociological schools.

-The role of a judge or the Judiciary in appreciating the necessity at legal pluralism.

- Judicial activism in Western (the UK and the USA) and non-western countries (South Africa, India and Pakistan)

Judicial Activism in Bangladesh:

- Potential for the judges democracy-reinforcing and (social)) justice-enhancive role.
- Whether it is yet to reach a satisfactory level

- Balance between over-activism and untenable passivity.

- Judicial activism as a constitutional necessity.

Judiciary and the Bar:

Relationship between the Bench and the Bar, rationale of the role of the Bar in scrutinizing the Judiciary, Ways of scrutinizing the Judiciary: Criticism of Judges, Boycott of a Judge

Recommended Books:

AK M Shamsul Huda (1997), The Constitution of Bangladesh. Vol. i a ii. 1st ed, Rita Court, Chittagong.

Badrul Haider Chowdhury (1990), *Evolution of the Supreme Court of Bangladesh*, 1st ed, University of Dhaka, Dhaka.

B R Sharma (1989), *Judiciary on Trial*, Deep a Deep publications, New Delhi

Kate Malleson (1999), *The New Judiciary* Ashgate, Aldershot.

Kazi Ebadul Haque (1998), *Bichar Babasthar Bibartan (Evolution of Administration of Justice)*, 1st ed, Bangle Academy, Dhaka.

Kazi Ebadul Haque (2003), *Administration of Justice in Bangladesh*, Asiatic Society of Bangladesh, Dhaka.

Latifur Rahman (2002), *Tattabodhayak Sorkarer Dinguli 0 Amar katha (The days of Caretaker Government and my version)* [in Bangla]. Ayesha Rahman, Dhaka.

M Abdul Halim (1998), *Constitution Constitutional Law and Politics: Bangladesh Perspective*, Md. Yousuf Ali Khan, Dhaka.

M. Ridwanul Hoque (2007), *Judicial Activism as a Golden Mean: A Critical study of Evolving Activist Jurisprudence with Particular Reference to Bangladesh*, SOAS, University of London, London (Unpublished PhD Thesis).

Mahmudul Islam (2003), *Constitutional Law of Bangladesh*, Bangladesh Institute of Law and International Affairs, Dhaka.

Mauro Cappelletti (1989), *The Judicial Process in Comparative Perspective*, Clarendon Press, Oxford.

Mustafa Kamal (1994), *Bangladesh Constitution: Trends and Issues*, University of Dhaka, Dhaka.

Peter H Russell and David M O'Brien (ode) (2001), *Judicial Independence in the age of Democracy, Critical Perspectives from around the World*, University Press of Virginia, London.

Sarkar Al, Akkas (2004) *Independence and Accountability of Judiciary: A Critical Review*, Center for Rights and Government, Dhaka.

Shimnon Shetreet and J Dechenes (eds) (1985). *Judicial Independence: The Contemporary Debate*, Martinus Nijhoff Publishers, Dordrecht.

Werner Menski (2006), *Comparative Law in a Global Context: The Legal Systems of Asia and Africa*, Cambridge University Press, Cambridge.

Recommended Articles:

AR B Amerasinghe (1997), Judicial Independence .Some Core Issues, 7 Journal of Judicial Administration 74.

Christopher M Larking (1996, 'Judicial Independence and Democratization: A Theoretical and Conceptual Analysis, 44 American Journal of Comparative Law 605.

Elizabeth Handsley (2001), 'Issues Paper on Judicial Accountability', 10 Journal of Judicial Administration 181.

Frances Khan Zemans (1999), 'The Accountable Judge: Guardian of Judicial Independence' 72 Southern California Law Review 625.

Guy Green (1985). 'The Rationale and some Aspects of Judicial Independence', 59 Australian Law Journal 135.

J. Clifford Wallace (1998), 'Resolving Judicial Corruption while Preserving Judicial Independence: Comparative Perspectives', 28 California Western International Law Journal 341.

John Ferejohn (1999). 'Independent Judges. Dependent Judiciary: explaining Judicial Independence', 72 Southern California Law Review 353.

Kelvin M Esterling (1998), 'Public Outreach-the cornerstone of judicial Independence', 82 (3) Judicature 112.

M Ershadul Bari (1993), 'Importance of an Independent Judiciary in a Democratic State', 4 (1) Dhaka University Studies (Part F) 1.

M. Ridwanul Hoque and Md. Morshed Mahmud Khan (2007), 'Judicial Activism and Islamic Family Law: A Socio.Legal Evaluation of Recent Trends in Bangladesh' Islamic Law and Society. 14(2): 204-39

MP Sing (2000), 'Securing the Independence of the Judiciary'-The Indian Experience', 10 Indiana International & Comparative Law Review 245.

Pamela S Karlan (1999), 'Two Concepts of Judicial Independence', 72 Southern California Law Review 535

Peter D Webster (1995), 'Selection and Retention of Judges: Is there on 'best Method?', 23 Florida State University Law Review 1.

R D Nicholson (1993), 'Judicial Independence and Accountability: Can they Co-exist?' 67 Australian Law Journal 404. Sarkar Au Akkas (2002), 'Appointment of Supreme Court Judges in Bangladesh: A study of Law and Practice', 11 Journal of Judicial Administration 146.

Sarkar Ali Akkas (2003), 'Judicial Independence and Protection of Human Rights in the age of Globalization' in Mizanur Rahman (ed) Human

Rights and Globalization (Empowerment Through Law of the Common People (ELGOP). p 157

Shimon Shetreet (1986), 'Judicial Accountability: A comparative analysis of the Models and the recent trends' 11 International Legal Practitioner 38.

Shimon Shetreet (1987), 'Who will Judge: Reflections on the process and standards of Judicial selection, 61 Australian Law Journal 766-778.

Leading Cases:

Beale v GIO (1997) 47 NSWLR 430

Bole v Civil City of Ligonier (1959) 130 Ind AppI 362; 161 NE 2nd 189.

Bruce v Cole (1998) 45 NSWLR 163.

Gupta v President of India (1982) AIR (SC) 149,

Secretary, Ministry of Finance v Masdar Hossain (2000) 52 DLR (AD) 82.

Special Reference No 1 (1995) 47 DLR (AD) 111

Sta v Islam (1985) 37 DLR 200.

Supreme Court Advocates-on-Record Association v Union of India (1994) AIR (SC) 268.

Supreme Court Bar Association v Union of India (1998) 4 SCC 0409

Valente v The Queen (1985) 2 SCR 673 (Canada)

Webb v R (1994) 68ALJR 582; 122ALR41.

Course Code: LAW-532
International Environmental Law
Marks: 100

1. **Meaning and Definition of environmental law:** The history of environmental law-The modern age of environmental law –The future of environmental law-The functions of environmental law- Environmental rights as human rights- Environmental harms- Environmental crimes- Environmental-liabilities-Principles of environmental law-Policy

and environmental law- Environmental protection and laws: Issues and problems-Access to justice in Environmental Matters.

2. **International efforts or concern at environmental Protection:** Environment and International law-Development of International Environmental law-United Nations Conference on the Human Environment of 1972-UN Conference on Environment and Development of 1992-Sustainable development: legal implications.

3. **Judiciary and Protection of Environment:**

The role of judiciary in promoting environmental governance-Debates on Traditional Courts versus special courts or tribunals-Need for special courts or tribunals for environmental protection- Environmental, law and Public interest Litigation-Judicial approaches to Environmental law.

4. **Legislation concerning environmental protection in Bangladesh:**

Nature and scope of environmental legislation in Bangladesh Institutional arrangements for environmental protection-Environment Policy 1992-The Bangladesh Environment Conservation Act 1995-The Environment Court Act 2000-The Motor Vehicles Ordinance 1983-Other major environmental laws.

5. Environmental protection and local government bodies-Various City Corporation Laws and The Paurashava Ordinance, 1977.

Recommended Source Material:

Mohiuddin Farooque and Rizwana Hassan, *Law Relating Environment in Bangladesh* (Dhaka: Bangladesh Environmental Lawyer's Association, 2004).

David Hugnes, *Environmental Law*, 2nd ed. (London: Butterworths, 1992).

S. Rizwana Hassan and Taslima Islam, *Judicial Decisions on Environment in South Asia* (Dhaka: Bangladesh Lawyers Association, 2005).

Tom Tietenberg, *Environmental and Natural Resource Economics*, 6th ed. (Delhi: Pearson Education Inc., 2003).

Environmental law-Simol Bali v/s Stuart Bell (ULP Delhi).

Environmental law-Susan Wolf & Anna White Cavendish Publishing Limited.

International Law and The Environment P W Birnie and A E Boyle-Oxford.

Public Interest Environmental Litigation in India, Pakistan and Bangladesh-Zona Razzaque-Kluwer Law Int.

Environmental Administration law and Judicial Attitude-Paras Diwan (III Vol.)

Environmental Protection and the law-Chetan Singh Mehta.

Environmental law-Dr. G.S. Karkara.

Environmental law-Rosen Craz (Tripathi Publication).

Environmental law-Gurdip Singh-Lawman Pvt. Lvt. Delhi 1995.

Environmental law and Justice-M.A.A. Baig Regency Publ. Delhi 1996

Course Code: LAW-533
Refugee and Migration Law
Marks: 100

Objectives

This course provides an overview of international refugee law. It explores the concept of 'international protection' through the lens of the 1951 Refugee Convention, asking who is a refugee? what status does a refugee get?, who is expressly excluded from protection?, and is this instrument still adequate for refugee movements in the 21st century? It examines the notion of complementary protection (how human rights law has expanded States' protection obligations), the role of the United Nations High Commissioner for Refugees, the causes of and possible solutions to refugee flows, and the political and ethical issues concerning refugees and other forced migrants, including people trafficking and smuggling.

Contents

Introduction: Definition of 'Refugee', History and development of International Refugee Law, status of a refugee in international human rights and humanitarian law.

Comparison: Difference between a refugee and stateless person, refugee and migrant, refuge and IDPs etc.

Conventions and protocols: 1951 convention relating to the status of Refugees and the 1967 Protocol, the South Asia Declaration on Refugees etc.

Protection of Refugee: Rights of a refugee under international laws, refugee protection, protection mechanism, right to Asylum and non-refoulement, The UNHCR, its function, objective, jurisdiction and connection with various states; present status of refugee protection worldwide etc.

Refugee crisis and solution: Various experiences on refugee crisis, refugee crisis in Pakistan, in Syria, in India, in Bangladesh, in Africa etc. Nature of common crises in refugee camps, gender, sexuality and status of refugee, socio-economical impact of refugee crisis over various part of the globe, possible legal and non-legal solutions, Duties of the International Community in refugee protection etc.

Refugee Protection in Bangladesh: the domestic laws and protection mechanism, status of refugees in Bangladesh, refugee camps and their socio-economic pros and cons, bilateral agreements and talks to end the crisis, their effects, possible solution to mitigate the crisis etc.

Readings

1. B.S. Chimni, ed., *International Refugee Law: A Reader* (New Delhi: Sage Publication, 2007).
2. Javaid Rahman, *International Human Rights Law: A Practical Approach* (London: Pearson Education).
3. Tuhin Malik, *International Refugee Law* (Dhaka: LETI, 1995).
4. Guy S. Goodwin-Gill: *The Refugee in International Law* (Clarendon Press, Oxford, 3rd ed. 2007)
5. James Hathaway: *The Rights of Refugees under International Law* (Cambridge University Press, 2005)
6. Harun-ur-Rashid: *Refugee Law with case Laws and Materials* (Dhaka, 2000)
7. Guy S. Goodwin-Gill: *International Law and the Movement of Persons between States* (Clarendon Press, Oxford, 1978)
8. Ranabir Samaddar (ed): *Refugees and the State* (Sage Publications Ltd. New Delli, 2003)
9. United Nations High Commissioner for Refugees: *Collection of International Instruments and other Legal Texts Concerning Refugees and Displaced Persons*, Vols I & II, (Geneva, 1995)

Course Code: LAW-534
Research Monograph and Viva-Voce
Marks: 100

Research Monograph

Each student will write a Research Monograph as partial fulfillment of the LLM degree.

The teachers of LLM taught courses will select topics for the Research Monograph each year and place the same for the approval of the Academic Committee. The Academic Committee will select and distribute topics to each student to write a Research Monograph.

The Research Monograph will contain 9000-10000 words, double space, font size 12, font style Times New Roman, printed on single side of the paper. Margin of 1 space on top, bottom and right side of the page and 1.5 on the left side of the page to allow space for binding. Apart from the rules required by this Department mentioned here, the Research monograph may be

composed by following any one standard form in writing title page, abbreviation, glossary, acknowledgement, abstract, content page, footnote, bibliography, and appendices containing list of statutes, table of cases, if and when necessary. Standard of citation styles in composing may be Chicago, Harvard, MLA (Modern Language Association), APA (American Psychological Association) etc. A student choosing any one of the standard form of writing research must abide by it all through the work and s/he is not allowed to mix up different styles. Course on Research Methodology in LLB (Hons) Part-4 is a good guide to compose a Research Monograph.

Students must submit three copies of the Research Monograph on or before the date notified by the Department.

VIVA-VOCE

The students will have to face a viva board as the last area of study about the overall Masters' courses.