COURSE MANUAL
CLINIC II- Drafting, Pleadings and Conveyancing
FIVE YEAR B.B.A.L.L.B/ THREE YEAR LL.B

Fall 2020
(AY 2020-21)

Instructor/s
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PART I

General Information

General Information on Drafting, Pleadings and Conveyancing, offered by Jindal Global Law School of the AY 2020-21 for Five Year BB.A.LL.B and Three Year LL.B classes.

The following information contains the official record of the details of the course.

Course title: Drafting, Pleadings and Conveyancing

Course Code:

Course Duration: One Semester

No. of Credit Units: 4

Level: 4th Year BB.A.LL.B./ 3rd Year LL.B.

Hours of Teaching: Five

Medium of Instruction: English


Pre-cursors: Nil

Equivalent Courses: Nil

Exclusive Courses: Nil

The information provided herein is by the Course Coordinator. The following information contains the official record of the details of the course.

This information shall form part of the University database and may be uploaded to the KOHA Library system and catalogued and may be distributed amongst Law students for B.A. (Hons) in Legal Studies; B.A.LL.B./B.B.A.LL.B.; LL.B.; LL.M. courses if necessary.
PART II

a. Course Description

Lawyers need to figure out how best to present their cases to someone who does not know the facts. Hence the ability to articulate one’s thoughts, legal opinions and conclusions effectively through the medium of writing is a fundamental aspect of being a good lawyer. Legal proceedings progress by way of filing of appropriate documents at every stage. For example, one cannot initiate a suit without filing a plaint and a suitable defense cannot be raised without posting a befitting written statement. Thus, form and content of the document acquire critical dimensions vis-à-vis adjudication of rights and liabilities of the party represented by a lawyer. It is imperative for any law student who aspires to achieve a good standing at the Bar that she achieve mastery over her drafting skills. Similarly, lawyers ought to be able to understand, interpret, and indeed draft with precision, various other documents which declare and regulate the legal rights of parties to a particular transaction viz. sale, mortgage, partnership, family settlement, lease, license etc. A well written document can help settle transactions better, minimize costs for parties and reduce risk of litigation.

Contrary to popular perception, well written legal documents are neither verbose, nor loaded with legalese. One aim of this course is to introduce students to modern standards of legal drafting, moving away from archaic styles. This course will acquaint students with fundamentals of drafting, pleadings and advocacy techniques. It is designed to provide practical orientation and inculcate among students, the necessary acumen in drafting legal documents both for court purposes and otherwise. Students will also learn to select the appropriate legal document based on the legal proceeding or the transaction, format of the document, tone and tenor of the language to be used and the art of developing the content of the document in light of the various controlling legal provisions.

b. Course Aims

The Course aims:

1. To acquaint students with fundamentals of drafting, pleadings and advocacy techniques, with a focus of simplicity and brevity.
2. To help students develop adequate theoretical account of substantive law in the context of drafting, pleadings and conveyancing.
3. To offer students a systematic analysis of well drafted legal documents.
4. To provide practical orientation and develop necessary acumen in drafting legal documents.
5. To train students in the art of drafting for courts, various other legal fora, and transactions.
c. **Grading of Student Achievement**

The Bar Council stipulates that “this course will be taught through class instructions and simulation exercises, preferably with assistance of practicing lawyers/retired judges. Apart from teaching the relevant provisions of law, the course will include 15 exercises in Drafting carrying a total of 45 marks and 15 exercises in Conveyancing carrying another 45 marks (3 marks for each exercise)…The remaining 10 marks will be given in a viva voce examination which will test the understanding of legal practice in relation to Drafting, Pleading and Conveyancing.”

Following the general structure suggested by the Bar Council, the entire assessment of a student’s performance will be through simulation drafting exercises and class assignments. There will be no End Term Examination; students will submit assignments (all in class assignments), containing both pleadings and conveyancing assignments, and totaling 100 marks. Individual instructors may suitably modify the aforesaid pattern, so long as they substantially comply with the general structure laid out.

Student achievement shall be graded as per the following schedule:

<table>
<thead>
<tr>
<th>Letter Grade</th>
<th>Grade Value</th>
<th>Total Course Marks</th>
<th>Grade definitions and Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>O</td>
<td>8</td>
<td>80 and Above</td>
<td>Sound knowledge of the subject matter, excellent organizational capacity, ability to synthesize ideas, rules, and principles, critically analyze existing, materials and originality in thinking and presentation.</td>
</tr>
<tr>
<td>A+</td>
<td>7.5</td>
<td>75 to 79</td>
<td>Sound knowledge of the subject matter, thorough understanding of issues, ability to synthesize ideas, rules and principles and critical and analytical ability</td>
</tr>
<tr>
<td>A</td>
<td>7</td>
<td>70 to 74</td>
<td>Good understanding of the subject matter, ability to identify and provide balanced solutions to problems and good critical and analytical skills</td>
</tr>
</tbody>
</table>

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1. Under extraordinary circumstances, the JGU Academic Council or the JGU Deans’ Council can suspend Clause D or make it optional. If Clause C is suspended, the policy which will be framed by the School based on the decision of the said bodies will supersede Clause C. However, whether a situation is extraordinary or not will be decided by the said bodies only.

2. [http://lawmin.nic.in/la/subord/bcipart4.htm](http://lawmin.nic.in/la/subord/bcipart4.htm)
<table>
<thead>
<tr>
<th>Grade</th>
<th>Score Range</th>
<th>Percentage Range</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>A-</td>
<td>6</td>
<td>65 to 69</td>
<td>Adequate knowledge of the subject matter to go to the next level of study and reasonable critical and analytical skills.</td>
</tr>
<tr>
<td>B+</td>
<td>5</td>
<td>60 to 64</td>
<td>Decent knowledge of the subject matter but average critical and analytical skills.</td>
</tr>
<tr>
<td>B</td>
<td>4</td>
<td>55 to 59</td>
<td>Limited knowledge of the subject matter and irrelevant use of materials and poor critical and analytical skills.</td>
</tr>
<tr>
<td>B-</td>
<td>3</td>
<td>50 to 54</td>
<td>Limited knowledge of the subject matter and irrelevant use of materials and poor critical and analytical skills.</td>
</tr>
<tr>
<td>F</td>
<td>0</td>
<td>Below 50</td>
<td>Poor comprehension of the subject matter, poor critical and analytical skills and marginal use of the relevant materials. Will require repeating the course.</td>
</tr>
</tbody>
</table>
PART III

a. **Keyword Syllabus**

Drafting, Pleadings, Conveyance, Notice, Plaint, Application, Interlocutory Order, Petition, Memorandum, Caveat, Complaint, Appeal, Deed, Will, Agreement, Power of Attorney, Lease, Sale, License, Probate, Letters of Administration, Compromise, Limitation, Execution, Order, Revision, Review, Special Leave Petition, Bail, Affidavit, Reply, Rejoinder, Writ Petition, Contempt

b. **Course/Class Policies**

The ‘taught’ component in clinics is less compared to other traditional courses. Students are expected to gain practical experience through mock pleadings and advocacy. The class will cover between one and two topics each week as per the lecture program. This course work will advance primarily through class assignments. At the conclusion of each topic, the professor will inform students of their upcoming assignments. Students are expected to attend all class meetings and to complete all the required assignments. If you are unable to attend a class meeting, or to complete one of the reading assignments before the class session, you should contact the course instructor in advance.

Students are expected to prepare for and participate in class assignments on a regular basis as the same shall be crucial for their assessment. Course instructors will hand out relevant drafting formats/structures at various times during the semester. Students are required to carry these precedents/templates to class every day.

**Academic Integrity and Plagiarism**

Learning and knowledge production of any kind is a collaborative process. Collaboration demands an ethical responsibility to acknowledge who we have learnt from, what we have learned, and how reading and learning from others have helped us shape our own ideas. Even our own ideas demand an acknowledgement of the sources and processes through which those ideas have emerged. Thus, all ideas must be supported by citations. All ideas borrowed from articles, books, journals, magazines, case laws, statutes, photographs, films, paintings, etc., in print or online, must be credited with the original source. If the source or inspiration of your idea is a friend, a casual chat, something that you overheard, or heard being discussed at a conference or in class, even they must be duly credited. If you paraphrase or directly quote from a web source in the examination, presentation or essays, the source must be acknowledged. The university has a framework to deal with cases of plagiarism. All form of plagiarism will be taken seriously by the University and prescribed sanctions will be imposed on those who commit plagiarism.
Disability Support and Accommodation Requirements

JGU endeavors to make all its courses accessible to students. All students with any known disability needing academic accommodation are required to register with the Disability Support Committee dsc@jgu.edu.in. The Committee has so far identified the following conditions that could possibly hinder student’s overall well-being. These include: physical and mobility related difficulties; visual impairment; hearing impairment; medical conditions; specific learning difficulties e.g. dyslexia; mental health.

The Disability Support Committee maintains strict confidentiality on the matters under its purview. Students should preferably register with the Committee during the month of June/January as disability accommodation requires early planning. DSC will coordinate all disability related services such as appointment of academic mentors, arranging infrastructural facilities, and course related requirements such as special lectures, tutorials and examinations.

All faculty members are requested to refer students with any of the above-mentioned conditions to the Disability Support Committee for getting them disability-related accommodation. Faculty members are also requested to be sensitive to the needs of such students and cooperate with Disability Support Committee and the School, extending students the necessary support by maintaining utmost confidentiality of the matter.

Safe Space Pledge

This course may discuss a range of issues and events that might result in distress for some students. Discussions in the course might also provoke strong emotional responses. To make sure that all students collectively benefit from the course, and do not feel disturbed due to either the content of the course or the conduct of the discussions. Therefore, it is incumbent upon all within the classroom to pledge to maintain respect towards our peers. This does not mean that you need to feel restrained about what you feel and what you want to say. Conversely, this is about creating a safe space where everyone can speak and learn without inhibitions and fear. This responsibility lies not only with students, but also with the instructor.

P.S. The course instructor, as part of introducing the course manual, will discuss the scope of the Safe Space Pledge with the class.
PART IV

a. Weekly Course Outline

The following program is intended to be only a guide and is subject to variation as and when circumstances may render necessary:

<table>
<thead>
<tr>
<th>Teaching Week</th>
<th>Lecture Topic</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Drafting: Introduction</td>
</tr>
<tr>
<td>2</td>
<td>Pleading: Introduction</td>
</tr>
<tr>
<td>3 to 8</td>
<td>Civil Pleadings</td>
</tr>
<tr>
<td>9 &amp; 10</td>
<td>Criminal Pleadings</td>
</tr>
<tr>
<td>11</td>
<td>Other Pleadings</td>
</tr>
<tr>
<td>12</td>
<td>Conveyancing: Introduction</td>
</tr>
<tr>
<td>13 to 15</td>
<td>Conveyancing: Documents</td>
</tr>
<tr>
<td></td>
<td>Review Week</td>
</tr>
</tbody>
</table>

b. Readings

Students will have to follow the text of the following legislations:

- Civil Procedure Code 1908
- Specific Relief Act, 1963
- Code of Criminal Procedure 1973
- Negotiable Instruments Act, 1881
- Transfer of Property Act, 1882
- Indian Contract Act, 1872
- The Registration Act, 1908
- The Indian Stamp Act, 1899
- Indian Succession Act, 1925
- The Limitation Act, 1963 (may require reference to the Indian Limitation Act, 1908)

Note: The list of statutes is not exhaustive.

In addition, students are encouraged to consult the latest editions of the following text books:

- The Law of Pleadings in India with Precedents: P.C. Mogha, Eastern Law House
- Pleadings: S.P. Agarwal, Butterworth’s / Lexis Nexis
- Conveyancing: Draftsman and Interpretation of deeds Vol. II: N.S. Brinda, Delhi Law House
• Principles & Forms of Pleading & Conveyancing with Advocacy and Professional Ethics: Dr. A.N. Chaturvedi, Allahabad Law Agency
• Kelly's Draftsman: Roderick W. Ramage, LexisNexis Butterworths

Course instructors may offer additional readings from other books and encyclopedia of forms and precedents, which are not easily available or accessible.

WEEK 1

Drafting: Introduction

Meaning and Importance ● Forms of Drafting ● General Rules of Drafting ● Important Steps in Drafting ● Precautions ● Plain Legal Language Movement

Readings


4. Vardarajan, Tunku. “Judgment by Thesaurus - Or, a 'Proponement in Oppugnation' to the Supreme Court's use of language” available https://thewire.in/law/judgment-by-thesaurus

• CLASS EXERCISE

WEEK 2

Pleadings: Introduction

History and Development of Pleadings in England and India ● Meaning and Importance ● Functions of Pleadings ● Order 6 of CPC ● Essentials of Pleading ● Particulars of Pleading ● Signing and Verification of Pleading ● Amendment in Pleadings ● Applicability of Order 6 CPC in Other Proceedings
Readings:

1. History, Systems and Functions of Pleading, 11 Virginia Law Review 517 (1925)
2. Excerpts from Chapters 2-6, Mogha, P. C. (2003). The law of pleadings in India. 16th edition. New Delhi: Eastern law house
4. Order VI of the Code of the Civil Procedure and rules of Supreme Court and Delhi High Court

CLASS EXERCISE

WEEK 3

Civil Pleadings I:

Legal Notice ● Reply to legal notice

No assigned reading

CLASS EXERCISE

WEEK 4 AND 5

Civil Pleadings II: Plaint

Plaint (Order 7 of CPC) ● Frame of Suit ● Parties to a Suit ● Cause of Action ● Reliefs ● Court Fees

Readings

2. Order VII of the Code of Civil Procedure
WEEK 6

Civil Pleadings III: Defence

Written Statement (Order 8 of CPC) • Set Off and Counter Claim

Readings

2. Order VIII of the Code of Civil Procedure

WEEK 7

Civil Pleadings IV: Miscellaneous

Injunction Application • Interlocutory Application

Readings

2. Ss 36 to 42 of the Specific Relief Act 1963
3. Order 39, Rules 1 and 2 of the Code of Civil Procedure

WEEK 8

Civil Pleadings V: Appeals, Revisions and Reviews

Appeals • Revision Petition • Review Petition • Caveat
Readings

1. Section 115 of the Code of Civil Procedure
2. Section 114 and Order 47 of the Code of Civil Procedure
4. Section 104 and Order 43 of the Code of Civil Procedure
5. Section 96 to 99 and Order 41 of Code of Civil Procedure
6. Sections 100 to 103 and 108 and Order 42 of Code of Civil Procedure

CLASS EXERCISE

WEEK 9

Criminal Pleadings I

Complaint ● Maintenance Application (Sec. 125 of Cr P C) ● Application for Bail ● Anticipatory Bail

Readings

3. Section 125 of CrPC (Maintenance)
4. Sections 389, 436 and 437 of the Criminal Procedure Code
5. Section 438 of the Criminal Procedure Code

CLASS EXERCISE

WEEK 10

Criminal Pleadings II

Revision Petition ● Appeals ● Petition under section 482 of Cr P C

Readings
CLASS EXERCISE

WEEK 11

Other Important Pleadings

Petition for dissolution of marriage • Petitioner under Article 226 of Indian Constitution • Petition under Article 32 of Indian Constitution

Readings

4. Supreme Court Rules on Practice and Procedure

CLASS EXERCISE

WEEK 12

Conveyancing: Introduction

History and Development in England and India • Meaning and Definition • Document • Instruments • Deed • Types of Deeds • Its Components • Capacity to Convey • Precautions • Law on Registration • Stamp duty

Readings
2. Indian Stamp Act 1899
3. The Registration Act 1908

WEEK 13

Conveyancing I: Immoveable Property
Sale Deed ● Mortgage Deed ● Lease Deed

Readings

1. Transfer of Property Act, 1882 (54, 55, 58, 60, 61, 62, 63, 63A, 67, 68, 72, 76, 105, 107-108)

CLASS EXERCISE

WEEK 14

Conveyancing II: Immoveable Property
Gift Deed ● Power of Attorney ● Will

Readings

1. Transfer of Property Act, 1882
2. The Gift Tax Act 1958
3. The Indian Partnership Act 1932
4. Moman Lal Vs Anandi Bai & Ors,1971 AIR SC 2177

CLASS EXERCISE
WEEK 15

Conveyancing III: Commercial Contracts, Arbitration Agreement, Partnership Deed etc.
Drafting Indemnity Clauses ● Share Purchase Agreement ● Arbitration Agreement ● Deed of Assignment of Registered Trade Mark/ Copy Right ● License to use Patent ● Joint Venture/ Collaboration Agreement ● Lease Finance Agreement ● Partnership Deed

Readings

1. Sections 276 to 278 and 372 of the Indian Succession Act, 1925
2. Indian Registration Act 1908
3. The Powers of Attorney Act 1882
4. Trade Marks Act 1999
5. Arbitration and Conciliation Act 1996
6. Indian Contract Act 1872

CLASS EXERCISE

Review Week

PLEASE NOTE: Any work that has been plagiarized will be awarded an F grade. The student may also face disciplinary action.