

**NUJS Study Material**

# **CLINIC-I**

**(COMPULSORY COURSE)<sup>1</sup>**

**SEMESTER IX**



**Prepared by:**

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**JULY 2011**

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**CONTACT OF THE COURSE TEACHER**

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## **COURSE OBJECTIVE**

In India training law student with professional skills and values in law schools has received tremendous importance over the last decade. The Bar Council of India has made it a mandatory component of the curriculum for legal education in since 1997 and the Supreme Court of India in its opinion in *V. Sudeer vs. Bar Council of India (1999) 3 SCC 176* has regarded it fundamental to improving the conditions of Indian legal profession and judicial system.

NUJS has a strong emphasis on educating its students in professional skills and values. Since its inception NUJS has introduced two compulsory courses on professional training which aim to enhance students' understandings in important professional skills e.g. drafting & pleading, client interviewing, negotiation, client counseling and the fundamental professional values and responsibilities involved in lawyering. The pedagogy of these courses involves seminars, group rounds, simulation and court visit.

However these courses involve very limited aspects of clinical teaching methodology and negligible amount of live-client experience. This limitation is due to greater student-teacher ratio, absence of student practice rule to represent clients at judicial forums in India and lack of adequate financial resources. It is primarily a simulation and class-room teaching oriented skills training program.

The present course is the first of the two professional training courses. The course intends *firstly* to provide students a foundation in some of the complicated professional skills e.g. drafting, interviewing & counseling and negotiation. Secondly it intends to familiarize students with the different forms of legal pleadings in India and their legal requirements and typology of particular procedural aspects involved in specific pleadings. In addition the course also desires to discuss about the role of a lawyer in contemporary India, his social obligations and his overarching professional commitments which is integral to every aspect of lawyering.

# **TEACHING METHODOLOGY & EVALUATION**

## **Teaching Methodology**

The course aims to combine lectures, seminar, group-rounds and simulation to provide the educational experience to the students, preferably with assistance of practicing lawyers/retired judges. The class lectures will intend to instruct students on the concepts, general rules and principles. The simulations, seminars and group-rounds will guide students to learn from experience, reflect on their performances, peer-review and critique their work individually and in groups.

## **Evaluation System**

The evaluation of the course will include performance in 3 exercises in drafting, professionalism and end semester examination. Professionalism will be evaluated on the basis of following factors:

- |  |    |
|--|----|
| 1. Class attendance  | 5  |
| 2. Good-faith participation in all aspects of the course   | 12 |
| 3. Not making false statements or engaging in intentionally disruptive conduct   | 1  |
| <i><u>N.B- 'Disruptive conduct' means and includes, coming late to class, talking and disturbing the class, inappropriate use of technology, for example unauthorized use cell phone or computer during class sessions of.</u></i> |    |
| 4. Demonstrating respect for the legal system, the faculty and fellow students.  | 1  |
| 5. Timely submission of all the assignments.   | 1  |

## **Distribution of marks**

Drafting & Pleading exercises-	10×3=30 Marks
Professionalism-	20 Marks
End Semester-	50 Marks
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Total-	100 Marks

# COURSE RULES

## **1. Professionalism**

**You must exhibit professionalism.** For purposes of this course, the term “professionalism” has two aspects. First, it means compliance with Academic Regulations of NUJS and following this course rules. Second demonstrating “*Good Moral Character Degree Requirement*” this means the student must meet the standard of personal and professional integrity traditionally associated with the profession of law (good moral character). These professional integrity requirements are:

Secrecy: This is more familiarly called the duty of confidentiality.

Diligence: This means that a lawyer must both be skillful and must exercise the skill he has.

- ❖ lawyer must have a sound knowledge.
- ❖ liable for wrongful advice.
- ❖ act without any delay.
- ❖ must not stray beyond the task authorised by the client.

Fidelity: This means that they must be loyal to their client.

## **2. Class Attendance**

**Class attendance is mandatory.** Occasionally attendance may be required at times other than regular class times. *Excessive absences would prevent you from completing the course successfully.*

## **3. Cooperative Learning and Individual Writing**

Lawyers frequently learn cooperatively, by constructively sharing and evaluating ideas. I also want you to learn in this way. However in order to help you to develop your own writing voice and abilities I create a fundamental, most important rule for this course:

**Your writing always must be entirely your own work.**

You also need to put a pledge at the beginning of your every draft:

*“On my honor, I pledge that I have neither given nor received unauthorized help on this work and that I have followed all the course rules”.*

## **4. Plagiarism**

**Plagiarism violates these Course Rules and NUJS examination rules and if detected warrants a failing grade.** Plagiarism also typically ends or irreparably damages a law student’s

career. Plagiarism is also inconsistent with the standard of personal and professional integrity traditionally associated with the profession of law.

## **5. Submission of Writing Assignments**

You must submit each writing assignment as per my instruction. The place to submit *paper* copies is typically the in the box marked for the same kept in room number 123 and signing your name on the signing sheet attached with. **Deadlines are firm.** Computer difficulties do not excuse compliance with deadlines.

Accordingly, always back up your data files, and budget your time so that you complete your assignments before they are due.

## **6. Required Format for Papers**

**Unless an assignment instructs otherwise, papers must comply with the stated page or word limit and these format rules:**

- (a) white paper
- (b) typed or printed using a word processor
- (c) 12-point font, either Times New Roman or an equivalent
- (d) 1-inch margins everywhere — top, bottom, and both sides
- (e) double-spaced — except single-spaced headings and block quotations

I enforce these detailed format rules because (1) they create a “level playing field,” giving each student an equal amount of space to write; and (2) they ensure a fairly uniform format, which leaves professors room to critique effectively.

## **7. Communication between Students and Professors**

I will distribute assignments, notices and weekly class schedule and other documents mostly by e-mail. You are responsible for following course updates and instructions. **Accordingly, check your e-mail daily.**

I encourage students to meet and correspond with me individually when necessary to discuss the course. I will post my office hours and inform you how to request appointments.

# **COURSE CONTENTS**

## **Module-1 DRAFTING:-**

General principles of drafting and relevant substantive rules shall be taught.

## **Module-2 PLEADINGS: -**

- **Civil:** Plaint, Written Statement, Original Petition, Affidavit, Execution Petition, Memorandum of Appeal and Revision,
- **Criminal:** Complaint, Bail Application, Criminal Miscellaneous petition Memorandum of Appeal and Revision.
- **Writ petition and PIL petition**
- **Consumer Complaints under Sec 12 CPA, 1986**

## **Module-3 Basic Advocacy Skills:-**

- Interviewing & Counseling
- Negotiation
- Trial Advocacy

## **Module-4- Role of Lawyer**

- A vision of legal profession
- Ethical dilemma of a lawyer
- Rule of confidentiality and conflict of interest
- Lawyer and the society
- Client centered lawyering
- International Business Lawyer- issues and concerns

# LIST OF READING MATERIALS

## **Introduction to Clinical Legal Education**

1. Jerome Frank, Why Not a Clinical-Lawyer School?, (ALEX J. HURDER ET AL. (Edited) , CLINICAL ANTHOLOGY : READINGS FOR LIVE-CLIENT CLINCIS [SIC](1997)
  2. Anthony G. Amsterdam, Clinical Legal Education - A 21st Century Experience, (ALEX J. HURDER ET AL. (Edited) , CLINICAL ANTHOLOGY : READINGS FOR LIVE-CLIENT CLINCIS [SIC](1997)
  3. Task Force on Law Sch. & the Profession: Narrowing the Gap, ABA, Legal Education and Professional Development - An Educational Continuum 3-8 (1992) (report issued by the Task Force, which was established by the ABA Section of Legal Education and Admissions to the Bar and was headed by Robert MacCrate) [hereinafter MACCRATE REPORT] (ALEX J. HURDER ET AL. (Edited) , CLINICAL ANTHOLOGY : READINGS FOR LIVE-CLIENT CLINCIS [SIC](1997)
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## **Module-1 DRAFTING:-**

1. Drafting and Convenyancing, S.P.Agrawal, Butterworths,2005
  2. A Practical Guide to Lawyering Skills, Boyle & Capps ( 3<sup>rd</sup> Ed.2005)
  3. Legal Practice Handbook on Legal Writing and Drafting, Rylance (2000)
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## **Module-2 PLEADINGS: -**

1. Mogha's Law of Pleading in India, G.C. Mogha (et.al), Eastern Law House, 2006
  2. Civil Pleadings & Practice, Jus. P.S. Narayana, Asian Law House, 2007
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## **Module-3 BASIC ADVOCACY SKILLS: -**

4. V. Nagaraj & Frank Bloch, Interviewing and Counseling (MENON (ED.), CLINICAL LEGAL EDUCATION, 1998)

5. Alex J. Hurder, Negotiating the Lawyer-Client Relationship: A Search for Equality and Collaboration, 44 Buffalo L. Rev. 71(1996)
  6. Robert Fisher, William Ury and Bruce Patton, Getting to Yes, Negotiating Agreement Without Giving In (ALEX J. HURDER ET AL. (Edited) , CLINICAL ANTHOLOGY : READINGS FOR LIVE-CLIENT CLINCIS [SIC](1997)
  7. Don Peters, Negotiation Theory and Skills: An Introduction for teachers and students (MENON (ED.) CLINICAL LEGAL EDUCATION, 1998)
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#### **Module-4- RULES OF PROFESSIONAL RESPONSIBILITY**

1. Stephen L. Pepper, “*The Lawyer’s Amoral Ethical Role...*” (excerpt)
  2. Gerald J. Postema, *Moral Responsibility in Professional Ethics*” (excerpt)
  3. Warren E. Burger, *Isn't There a Better Way?*, American Bar Association Journal, 1982. (68 A.B.A.J. 274)
  4. David A. Binder et. al., Lawyers as Counselors: A Client-Centered Approach, (ALEX J. HURDER ET AL. (Edited) , CLINICAL ANTHOLOGY : READINGS FOR LIVE-CLIENT CLINCIS [SIC](1997)
  5. James E. Moliterno, The Lawyer As Catalyst Of Social Change, 77 Fordham L. Rev. 1559 (2009)
  6. Ronald A. Brand, Uni-State Lawyers and Multinational Practice Dealing with International Trans National and Foreign Law, 34 Vand. J. Transnat'l L. 1135 (2001)
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