# B.A. LL.B. (HONS.) SEMESTER – VIII

# PAPER – VI : CLINICAL PAPER II

**(DRAFTING, PLEADING AND CONVEYANCE)**

Note: This paper shall have Diary of 90 (45+45) marks and viva- voce of 10 marks.

## Course Objective:

## To provide expert knowledge of drafting, documentation and advocacy techniques.

## Introduction:

By the art of legal drafting (also commonly called the legal composition) we mean the art of composing or writing all documents which are either expressly intended to be, or which frequently become the subject of legal interpretation. It is concerned chiefly therefore, although not exclusively, with the documents which declare or regulate rights. This at once distinguishes the art of legal composition from the art of ordinary composition or literature, which deals not with rights but with thoughts or facts. Of course the bases of literary composition and legal composition are all the same, grammar and logic. The latter, perhaps, more strictly than the former kind of composition is bound by the rules of the grammarian and logician but we do not intend, except incidentally, to touch on the rules of grammar or logic. It is composition as legal - as dealing with or affecting rights - which we have in view. This differs so much from literary composition that, though they have a common basis, the same rules do not apply to both. The style of good legal composition (for it has a style of its own) is free from all colour, from all emotion, from all rhetoric. It is impersonal as if the voice, not of any man, but of the law, dealing with the necessary facts. It disdains emphasis and all other artifices. It uses no metaphor or figure of speeches. It is always consistent and never contradicts itself. It never hesitates or doubts. It says in the plainest language, with the simplest, fewest and fittest words, precisely what it means. These are qualities which might be used to advantage more frequently than is common in literature, and unfortunately they are not to be found in many legal compositions, but they are essential to good legal composition and not essential to literary composition. Pleadings are statements in writing drawn up and filed by each party to a case, stating that his contentions will be at the trial and giving all such details as his opponent needs to know in order to prepare his case in answer. The function of pleadings is not simply for the benefit of the parties, but also and perhaps primarily for the assistance of the court by defining with precision the area beyond which, without the leave of the court and consequential amendment of the pleadings, the conflict must not be allowed to extend. The purpose of rules regarding pleadings is to advance justice and to prevent multiplicity of proceedings. Conveyancing is the process by which legal title to property is transferred. As a consequence, over time, a conveyancing has become the description for the document effecting such transfer. In many ways conveying is like Shakespeare’s character, Autolycus in *The Winter’s Tale*, ‘a snapper-up of unconsidered trifles’. Like this amiable rogue, conveyancing takes from here, there and everywhere, from within the full gamut of the law. Conveyancing rests and has been built upon the three foundations of land law, contract law and equity and trusts. Because of this, a confident appreciation of land law is crucial for success in conveyancing. You will also need to have prior knowledge and understanding of the details concerning the formation of contracts, the formalities of written contract, misrepresentation and remedies for breach of contract. A detailed understanding of the influence of equity as well as trust will always be a prerequisite for a successful conveyancer. So, the key to understand the nature of conveyancing is to appreciate how it calls upon various disparate areas of law. It means that you must abandon a discrete approach to applying the separate elements of the law. Conveyancing requires you to blend your knowledge. Conveyancing does not relate just to the transfer of ownership of residential properties. It covers the transfer of title to both houses and flats, new and second-hand properties and commercial property of all kinds. When students reach the legal practice course they should have developed a general critical approach to the new law and to problem solving. The object of this course is to present substantive law in the context of pleadings and conveyancing and to show how those transactions are influenced by the legal considerations. A well drafted document instantly attracts the attention of the court. Any failure however little, in bringing out the material issues would be fatal to the matter under consideration. Therefore, it is pertinent that one has an accurate understanding of the concerned issues, so that relevant questions are brought before the court for successful adjudication. Pleadings assists students in their endeavor to enter active practice. This course is created to help student’s understand the basics of pleadings and conveyancing.

# COURSE CONTENTS

1. Drafting: General principles of drafting and relevant substantive rules shall be taught.
2. Pleading & Conveyance: This part shall include 2 diaries consisting 15 topics each.

## Diary – 1 :-

* 1. Sale Deed
  2. Mortgage deed
  3. Lease Deed
  4. Gift Deed
  5. Promissory Note
  6. General Power of Attorney
  7. Special Power of Attorney
  8. WILL
  9. Trust Deed
  10. Partition Deed
  11. Family Settlement Deed
  12. Writ Petition under Article 226 of Constitution of India
  13. Writ Petition under Article 227 of Constitution of India
  14. Public Interest Litigation
  15. Affidavit

## Dairy 2 :-

1. Plaint
2. Written Statement
3. Interlocutory Application
4. Execution Petition
5. Civil First Appeal
6. Civil Second Appeal
7. Criminal Complaint
8. Complaint under section 138 NIA
9. Application under section 482 Cr.P.C
10. Anticipatory Bail Application under section 438 Cr.P.C
11. Regular Bail Application under section 439 Cr.P.C
12. Criminal Appeal
13. Criminal Revision
14. Application under section 125 Cr.P.C
15. Application under section 9 Hindu Marriage Act

The 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 may include not less than 15 practical exercises in drafting carrying a total of 45 marks (3 marks for each) and 15 exercises in conveyance carrying another 45 marks (3 marks for each exercise) remaining 10 marks will be given for viva voice.

**Statutes**

1. Civil Procedure Code,1908
2. Specific Relief Act, 1963
3. Criminal Procedure Code, 1973
4. The Registration Act, 1908
5. The Indian Stamp Act, 1899
6. Indian Contract Act, 1872
7. Negotiable Instruments Act, 1881
8. Indian Divorce Act, 1869
9. Hindu Marriage Act, 1955
10. Transfer of Property Act, 1882

## Learning Outcome:

## How to draft, in legal sense, means an act of preparing the Legal Documents like agreements, contracts, deeds, etc. A proper understanding of drafting cannot be realised unless the nexus between the Law, the facts and the language along with drafting of deeds and documents for various purposes.

## Select Bibliography

* 1. R.N. Chaturvedi : Pleading, Drafting and Conveyancing,
  2. Manohar Murli : The art of Conveyancing and Pleading.

**B.A. LL.B. (HONS.) SEMESTER - IX**

**PAPER – V : Moot Court Exercise and Internship**

**Course Objective:**

Participation in Moot Court subject will enable students to develop skills in preparing written submissions and in oral advocacy at an advanced level. Central to the learning in this subject is the preparation and participation in national mooting competitions

**Note : 1. Three components of 30 marks each (30+30+30) and viva for 10 marks shall be conducted by the department.**

(a) Moot Court (30 Marks). Every student will be required to participate in moot courts in a year. The moot court work will be on assigned problems.

(b) Observance of Trial in two cases, one Civil and one Criminal (30 marks) :

Students may be required to attend two trials in the course of the last two or three years of LL.B. studies. They will maintain a record and enter the various steps observed during their attendance on different days in the court assignment. This scheme will carry 30 marks.

(c) Interviewing techniques and Pre-trial preparations and Internship diary (30 marks) :

Each student will observe two interviewing sessions of clients at the Lawyer’s Office/Legal Aid Office and record the proceedings in a diary, which will carry 15 marks. Each student will further observe the preparation of documents and court papers by the Advocate and the procedure for the filing of the suit/petition. This will be recorded in the diary, which will carry 15 marks.

(d) The fourth component of this paper will be Viva Voce examination on all the above three aspects. This will carry 10 marks.

**Learning Outcome:**

On successful completion of this course students will have:

1. Developed a knowledge and understanding of the basic principles and policies that influence the area of Indian law that is the subject matter of their moot;

2. Developed advanced problem solving skills in order to analyse complex fact scenarios in order to identify the relevant legal issues;

3. Developed the ability to locate, analyse, evaluate, and synthesise materials so as to be able undertake advanced legal research;

4. Developed the skills of written and oral advocacy;

5. Developed the ability to critically analyse legislation and case law;

6. Developed good interpersonal and communication skills to prepare written and oral presentations both independently and as a member of a team

7. Developed an understanding of the ethical issues and responsibilities that arise in the practice of law.