

ORDINANCES, COURSES AND REQUIREMENTS FOR P.G. DIPLOMA IN INTELLECTUAL PROPERTY RIGHTS AND P.G. DIPLOMA IN ENVIRONMENTAL LAW, POLICY AND MANAGEMENT

P.G. DIPLOMA IN INTELLECTUAL PROPERTY RIGHTS

WHEREAS, it is necessary to reorient legal education by making provision for extensive as well as intensive instructions in new courses of study, like, Intellectual Property Rights, for diverse careers open to such diploma holders.

AND WHEREAS, with a view to reorient legal education as aforesaid and to provide sufficient opportunity for adequate instructions, the Banaras Hindu University has decided to institute a Two Semester P.G. Diploma Course in Intellectual Property Rights of Study and has approved of a syllabus of studies therefor :

NOW, THEREFORE, the Banaras Hindu University frames these ORDINANCES for the implementation of the aforesaid policy decisions:

1. **The Post Graduate Diploma in Intellectual Property Rights :** The Banaras Hindu University may confer the P.G. Diploma in Intellectual Property Rights on such candidates who, being eligible for admission to such Diploma Course, have received regular instructions in the prescribed courses of study, passed relevant examinations being otherwise suitable by virtue of their character, and have fulfilled such other conditions as may be laid down from time to time.
2. Commencement of the course: July 2007
3. Intake : Maximum 60 students and minimum 30 students
4. Admission:
 - A. **Procedure:** Admission to the course shall be made on merit prepared on the basis of marks obtained in the qualifying examination as per the eligibility for the course.
 - B. **Eligibility:** Graduate Degree from a recognized Indian University or equivalent degree from Foreign University.

Note: Admissions shall be made strictly in order of merit which may be based on marks in the qualifying Exam/any other criteria as per the decision of concerned faculty/department/centre.

- (i) In case the aggregate percentages of the marks at the qualifying examination are equal then preference shall be given to a candidate who is a Law graduate or who has better academic record from High School to qualifying examination as the case may be.
- (ii) In case the candidates have equal marks in the above stated examinations, then the candidate senior in age shall be given preference.

C. Reservations:

- (a) Seats shall be reserved for Scheduled Caste (15%) and Scheduled Tribe (7.5%) candidates in each course.
- (b) The SC/ST candidates shall have to submit a certificate stating that the candidate belongs to SC/ST. Such certificates shall be subject to verification from the concerned District Magistrate. The following are empowered to issue the Certificate.

- (i) District Magistrate / Additional District Magistrate / Collector / Deputy Commissioner /Addl. Deputy Commissioner / Deputy Collector / Ist Class Stipendiary Magistrate/City Magistrate/ Sub-Divisional Magistrate / Taluke Magistrate /Addl.Chief Presidency Magistrate/Presidency Magistrate.
- (ii) Chief Presidency Magistrate/Addl. Chief Presidency Magistrate/Presidency Magistrate.
- (iii) Revenue Officer not below the rank of Tehsildar.
- (iv) Sub-Divisional Officer of the area where the candidate and/or his family normally resides.
- (v) Administrator/Secretary to the Administrator/Development Officer (Lakshadweep Islands).
Candidates must note that certificate from any other person/authority will not be accepted in any case.

D. Admission of Foreign Nationals:

Application of foreign nationals nominated by the Govt. of India shall be entertained provided they fulfill the following conditions:

- (a) That they fulfill the minimum eligibility requirements.
- (b) That the applications of scholarship holding Foreign Nationals (Under various schemes) are routed through Indian Council for Cultural Relations/Ministry of Human Resource & Development (Dept. of Education), Govt. of India, New Delhi.
- (c) That they have valid Residential Permit/Student Visa for the prescribed duration of the concerned course.
- (e) That the candidates submit certificate verified by the Ministry/Agencies to the effect that he/she has been subjected to AIDS test and found negative.
- (f) That they have adequate knowledge of English and/or Hindi as per requirements of the course.
- (g) That the degree/certificates of the candidates have been approved by the Association of Indian Universities (AIU) as equivalent to the corresponding degrees/certificates of the AIU.

5. **No. of Papers:** Five (each of 100 marks), Dissertation/Project Work- (100 marks) in both the Semesters along with Viva Voce Examination (100 marks) in each semester.

6. THE CURRICULUM AND DURATION OF STUDIES

A. Curriculum of Studies:

- (i) The curriculum of study for the P.G. Diploma shall comprise of the courses set out in Schedule-A.
- (ii) The contents of the courses of study shall be such as set out in Schedule - B
Provided that the Board of Studies in Law may make such changes in the contents of the courses of study as and when it deems necessary, and report the matter to the Faculty of Law.

B. The Duration of Study :

The curriculum of study for the P.G. Diploma shall be spread over one academic year, and shall be divided into two semesters for the examination purposes, called as First Semester and Second Semester.

Explanation :

The academic year shall extend from the day of the reopening of the University after summer vacation to the last working day of the concerned academic year or as determined by Academic Council. The First semester shall ordinarily extend from the day of re-opening of the University after summer vacation to

the last week of December. The Second semester shall ordinarily extend from the first week of January to the last working day of the concerned academic year.

C. Subsequent Registration and Rules for Promotion :

- (i) Students who have pursued a regular course of studies prescribed for the First Semester and have appeared at the relevant examination shall be eligible to be promoted and registered for pursuing the course of study of the Second Semester.

Provided that a student of the First semester shall be promoted to Second semester irrespective of the number of courses in which he /she has failed to pass or failed to appear in the First semester examinations.

- (ii) No such student of the First Semester, who has failed to secure 25% of attendance in that semester, shall be allowed to pursue the Diploma Course of study of the Second Semester.

However, a student securing more than 25% but detained due to shortage of attendance in any semester may be readmitted in that semester and be allowed to pursue the course of study of that semester within two years from the academic session of his/her admission in the Diploma Course for the first session or as prescribed by the University.

7. FEES

A. General : Student of the Law School on being formally admitted to the Diploma Course shall pay to the University the prescribed fees by the date appointed in this behalf.

B. Enrolment : Every candidate, who is admitted for the first time in the Banaras Hindu University in any of its courses of study, shall pay the University Enrolment Fee of Rs. 2/- at the time of his/her first admission in the University.

C. Admission Fee : Every candidate, who is admitted for the first time in the Law School in any of its courses of study, shall pay the School Admission Fee of Rs. 6/- at the time of his/her first admission in the School.

D. Tuition Fee : Candidates seeking First Admission shall also have to pay Special Fee (currently Rs.20,000/- per annum) in addition to the Normal Fees as prescribed by appropriate authorities from time to time.

E. Games Fee :

(i) The Game Fee payable shall be Rs. 12/- for each semester and shall be paid along with the first instalments of the Tuition Fee of each semester.

(ii) The Games Fee shall be credited to the Law School Athletic Association Fund and shall be utilized for such purpose concerned with sports, games, athletics, etc. as the executive body of the aforesaid Association may decide.

Provided that such part of the Law School Athletic Association Fee as may be prescribed shall be transferred to the Banaras Hindu University Athletic Association.

F. Common Room Fee :

(i) The Common Room Fee shall be Rs. 50/- for each semester and shall be paid along with first instalment of the Tuition Fee of each semester.

(ii) The Common Room Fund shall be utilised for subscription of daily newspapers, magazines, legal periodicals and for such other purposes, including appointment of personnel therefor as the Course Coordinator may decide.

- G. Hostel Fee :** The Hostel Fee shall be payable as per University Rules decided from time to time.
- H. Other Fees :** A student of the Law School shall have to pay following fees also at such time as determined by the University.
- (i) Library Fee;
 - (ii) Medical Examination Fee;
 - (iii) Magazine Fee;
 - (iv) Transfer Certificate Fee;
 - (v) Migration Certificate Fee;
 - (vi) Re-admission Fee;
 - (vii) Caution Money; and,
 - (viii) Any Other fees prescribed by the University from time to time.

Notwithstanding anything mentioned in the aforesaid Ordinances concerning fees, the amount of the fee chargeable under various heads shall be subject to variation made by the University from time to time.

8 (A) COURSE OF STUDY

A candidate for the P.G. Diploma in Intellectual Property Rights shall be required to:

- (i) Study 3 theory papers in First Semester and 2 theory papers in Second Semester carrying 100 marks for each paper.
- (ii) Attend lectures, submit written assignments, project reports and also attend and participate in other activities including extension activities in the University Campus.
- (iii) Write a Dissertation or take up a Project Work on same topic of practical importance in IPR related areas.

8 (B) PROSECUTION OF A REGULAR COURSE OF STUDY

Every student is expected to have full attendance i.e. 100% and condonation upto 30% can be considered by the H.O.D./Dean of the Faculty for specified cogent reasons only on the following grounds:

- (i) Participation in NCC/NSC/NSO Camps duly supported by a certificate;
- (ii) Participation in University or College/Faculty Team Games or Inter-University Tournaments duly supported by a certificate from the Secretary of the University Athletics Association.
- (iii) Participation in Educational Excursions conducted on working days certified by the H.O.D./Dean of the Faculty/Course Coordinator. These excursion shall not include those organized for a class as a whole. No credit will be given for excursions conducted on holidays.
- (iv) University Deputation for Youth Festival certified by the H.O.D./Dean of the Faculty/Course Coordinator.
- (v) Prolonged illness dully certified by the Medical Officer or the Superintendent S.S. Hospital of Banaras Hindu University.

Provided further that the Academic Council may on the recommendation of the Dean as advised by the Departmental Council make, in appropriate cases, a further condonation to such extent as it may deem fit.

9. EXAMINATION

A. General :

- (i) (a) There shall be an examination at the end of each semester. Every student registered in any semester shall be eligible to appear in the concerned examination of the respective semester

subject to the attendance requirement as prescribed by the University and calculated on the semester basis.

- b) A candidate for the P.G. Diploma in Intellectual Property Rights shall be required to pass in all the prescribed courses within the span of two years from the academic session of his/her admission.
- (ii) Subject to the provisions of these ordinances, the examinations for the P.G. Diploma shall be held in Varanasi/Mirzapur at such time and on such dates as the Academic Council may prescribe.
- (iii) A candidate shall be examined in 5 theory papers each of 100 marks in both the semesters, i.e., three in First Semester and two in Second Semester. Each theory paper of the Diploma examination shall consist of 100 marks, out of which 80 marks in each of such paper shall be reserved for award on the basis of written theory paper, 10 marks on the basis of project work and 10 marks on the basis of performance including discussion pertaining to the concerned paper, regularity, and alertness in the class.
- (iv) Examinations in Theory courses as mentioned in Schedule A, shall be conducted by means of written papers each of three hours duration.
- (v) In the Second Semester Dissertation/Field work carrying 100 marks shall be compulsory for all. In the Second Semester each student shall be required to write a Dissertation or take up a Project work on some topic of practical importance in Intellectual Property Rights related areas.
- (vi) There shall be a viva voce examination of students who have successfully pursued a course of study for P.G. Diploma. Such viva voce examination shall be held in each semester immediately after the theory examinations.
- (vii) The Viva voce examination shall be held at such place, time and date as decided by the Controller of Examinations, in consultation with the Dean of the Faculty of Law/Course Coordinator.
- (viii) The Viva voce examination shall be conducted by the Banaras Hindu University and the examiners shall, while evaluating the performance of a candidate, take into account the diaries etc. maintained by the candidate as the case may be.
- (ix) The maximum marks for viva voce examination shall be 100.

B. REGISTRATION:

- (i) A candidate shall apply to the Registrar on the prescribed form together with the prescribed Examination Fee, on or before the date that may be fixed in this connection, intimating his intention to appear at the specified Examination.
- (ii) (a) Fee for each semester examination shall be Rs.120/-
 - (b) One Back paper Exam. (including marks fee) Fee- Rs.12/-; for two papers Rs.22/- & for three papers Rs.32/-
 - (c) Fee for more than three Papers- Rs.52/-
 - (d) Examination Fee paid by a candidate shall not be refunded. However, in cases hereinafter mentioned, such fee may be refunded or credited to next ensuing Examination.
 - (e) The Examination Fee paid by a candidate may be refunded if:
 - i) his form is rejected by the University; or
 - ii) the Fee has been submitted but not the form; or

- iii) the Academic Council permits a refund on compassionate ground.
- (f) Examination Fee of candidate, after deducting Rs.10/- may be credited for the next ensuing Examination in the case of a candidate who fails to appear at the Examination on account of sickness.
- Provided that an application, supported by a Medical Certificate, shall be made for the aforesaid purpose within a month of the date of the commencement of the Examination.
- Provided further that the form which the candidate submits for the next ensuing Examination is complete in all respects and is accepted.
- (g) An Examination Fee once credited to the next ensuing Examination shall not be refundable.
- (iii) The Registrar shall register the application which is found to be in order in the register of candidates for such Examination and shall issue Admit Card to the candidate.

C. Admit Card :

- (i) No candidate shall be admitted to any examination unless he produces his Admit Card in respect thereof to the Officer conducting the examination.
- (ii) The Registrar / Controller of Examinations may, if satisfied that an examination Admit Card has been lost or destroyed, issue a duplicate Admit Card on payment of the prescribed fee.

D. RE-REGISTRATION FOR EXAMINATION :

- (i) A candidate who having pursued a regular course of study in First and Second Semesters fails to appear at the main examination of First and Second Semesters, held for regular students or having appeared but fails to pass in any of the courses (First and Second semesters taken together) may appear in the course (in both semesters) in which he did not appear or has failed, at any subsequent examination, held as back logger or at supplementary examination held for regular students without undergoing a regular course of study in subsequent year in accordance with the provisions of these Ordinances.
- (ii) There shall be a supplementary examination for First and Second Semester students. Besides, students who fail to pass or appear in the paper(s) of First and or Second Semesters shall also be eligible to appear in the concerned paper or papers of the respective semesters along with the regular students of next academic session.
- (iii) The marks obtained by a candidate in the previous examination in respect of a paper in which he/she has secured less than minimum pass marks, shall be substituted by the marks obtained by him/her in the subsequent examination in respect of the concerned paper.
- (iv) Unless otherwise specifically provided, an ex-candidate shall be required to pass the relevant examination at the time when he actually appears at the examination in accordance with the existing provisions and not in accordance with the provisions that were prescribed at the time he appeared or should have appeared as a regular candidate, subject to the provisions contained in the Transitory Ordinances.

E. Scale of Marks, Division and Distinction :

Maximum Marks in each paper 100

Minimum pass marks in each paper 45% (Taken together of both the written theory paper, dissertation/project work and viva-voce as the case may be).

- Division : First Class 65% and above of the aggregate of marks in both Semesters.
Second Class 45% and above of the aggregate of marks in both Semesters.
- Distinction : A candidate who, without failing in any course, secures an average of 75% or more marks in the aggregate of both the Semesters may be declared to have obtained distinction.
- Merit The order of Merit shall be determined on the basis of aggregate marks obtained in both the Semesters from among candidates who passed all papers in both the Semesters from the year of their being admitted to the First Semester, subject to the rules/regulations prescribed by the University in this regard.

F. Re-evaluation of Answer Books:

Provisions for re-evaluation of answer books shall be governed by the Ordinances of the University framed from time to time.

G. Consequences of Irregular Appearance at and passing of Examination :

- (i) A student who pursues the course of studies of a second semester without passing examinations in respect of all the prescribed courses of study for the first semester shall not be eligible to receive any scholarship, or any other financial aid so long as he has not passed in all the relevant courses which entitle him to be in the second semester.

Provided that nothing in this clause shall prevent the Dean of the Law School from continuing any scholarship or free ship or granting any other financial aid where he is satisfied that a candidate could not appear at the examination because of his/her prolong illness.

- (ii) A student shall not be entitled to receive any award, medal, prize or certificate of excellence unless he passes in all the prescribed courses of both the semesters in the first attempt.
- (iii) A student shall not be entitled to residential accommodation or any other facility during a period in excess of the minimum period prescribed for receiving instructions for the Diploma Course of Study (i.e. two Semesters).

10. DEFINITIONS

- (i) A "Regular Student" is one who has pursued a regular course of study and obtained prescribed attendance mentioned in the Ordinance and is eligible to appear in the examination for the aforesaid course.
- (ii) "Ex-student" means one who has been admitted in the Diploma Course but has failed or failed to appear in the examination, though otherwise eligible.

11. MISCELLANEOUS PROVISIONS

1. The Supplementary Examination for the students of First and Second Semesters shall be held after the reopening of the University after summer vacation on such dates as may be specified by the Controller of Examinations.
2. These Ordinances contained herein shall be deemed to have come into effect from the academic session 2007-2008 to the extent of its applicability.
3. The Dean of the Faculty of Law in consultation with the Departmental Council shall have the power to remove all difficulties in interpretation and /or application of these Ordinances which shall be final.

COURSE CONTENTS

SCHEDULE A:

First Semester

Paper I : General Regime of Intellectual Property Rights

Paper II: Patent Law

Paper III: Copyright, Neighbouring Rights and Industrial Designs

Second Semester

Paper IV: Trademarks

Paper V: Geographical Indications, Layout designs of Integrated Circuits and Protection of Plant Varieties and Farmers' Rights.

Paper VI: Dissertation/Project Work

SCHEDULE B:

First Semester

Paper I

General Regime of Intellectual Property Rights

1. Concept of Property vis-à-vis Intellectual Property
 - (a) Concept of Property and Theories of Property - An Overview.
 - (b) Theories of Intellectual Property Rights.
 - (c) Intellectual Property as an Instrument of Development
 - (d) Need for Protecting Intellectual Property- Policy Consideration- National Perspectives and International demands.
2. Types of Intellectual Property- Origin and Development- An Overview.
3. Intellectual Property Rights as Human Right.
4. Role of International Institutions
 - (a) World Intellectual Property Organisation (WIPO)
 - (b) Function of WIPO
 - (c) Membership of WIPO
 - (d) Agreement between the WIPO and the WTO
 - (e) Dispute Settlement- New Treaties
5. Commercialisation of Intellectual Property Rights by Licensing
6. Determining Financial Value of Intellectual Property Rights.
7. Negotiating Payments Terms in Intellectual Property Transaction
8. Intellectual Property Rights in the Cyber World

Paper II

Patent Law

1. Introduction to Patent Law

- (a) Paris Convention
 - (b) Patent Cooperation Treaty
 - (c) WTO- TRIPS
 - (d) Harmonisation of CBD and TRIPs
2. Indian Patent Law
- (a) The Patents Act, 1970
 - (b) Amendments to the Patents Act
 - (c) Patentable Subject Matter, Patentability Criteria
 - (d) Procedure for Filing Patent Applications, Patent Granting Procedure
 - (e) Revocation, Patent Infringement and Remedies
 - (f) Relevant Provisions of the Biological Diversity Act, 2002
 - (g) Access and Benefit Sharing Issues

Paper III

Copyright, Neighbouring Rights and Industrial Designs

1. Introduction to Copyright
- (a) Conceptual Basis
 - (b) International Protection of Copyright and Related rights- An Overview (International Convention/Treaties on Copyright)
2. Indian Copyright Law
- (a) The Copyright Act, 1957 with its amendments
 - (b) Copyright works
 - (c) Ownership, transfer and duration of Copyright
 - (d) Renewal and Termination of Copyright
 - (e) Neighbouring Rights
 - (f) Infringement of copyrights and remedies
3. Industrial Designs
- (a) Need for Protection of Industrial Designs
 - (b) Subject Matter of Protection and Requirements
 - (c) The Designs Act, 2000
 - (d) Procedure for obtaining Design Protection
 - (e) Revocation, Infringement and Remedies

Second Semester

Paper IV

Trademarks

1. Introduction to Trademarks
2. Need for Protection of Trademarks

3. Kinds of Trademarks
4. International Legal Instruments on Trademarks
5. Indian Trademarks Law
6. The Trade and Merchandise Marks Act, 1958
7. Trademarks Act, 1999
8. Procedural Requirements of Protection of Trademarks
9. Content of the Rights, Exhaustion of Rights
10. Assignment under Licensing
11. Infringement, Right of Goodwill, Passing Off
12. Domain Names and Effects of New Technology (Internet)

Paper V

Geographical Indications, Layout designs of Integrated Circuits and Protection of Plant Varieties and Farmers' Rights.

1. Geographical Indications
 - (a) Concept of Appellations of Origin, Indication of Source and Geographical Indication
 - (b) International Conventions/Agreements
 - (c) The Geographical Indications of Goods (Registration and Protection) Act, 2000
 - (d) Procedure for Registration, Duration of Protection and Renewal
 - (f) Infringement, Penalties and Remedies
2. Layout- Designs of Integrated Circuits
 - (a) The Semiconductor Integrated Circuits Layout-Design Act, 2000
 - (b) Conditions and Procedure for Registration
 - (c) Duration and Effect of Registration
 - (d) Assignment and Transmission
3. The Protection of Plant Varieties and Farmers' Rights
 - (a) The Protection of Plant Varieties and Farmer's Rights Act, 2001.
 - (b) Protection of Plant Varieties and Farmers' Rights, Authority and Registry
 - (c) Registration of Plant Varieties and Essentially derived variety
 - (d) Duration, Effect of Registration and Benefit Sharing
 - (e) Surrender and revocation of Certificate
 - (f) Farmers' Rights
 - (g) Plant Varieties Protection Appellate Tribunal
 - (h) Infringement, Offences, Penalties and Procedure

PAPER VI - DISSERTATION/PROJECT WORK: Compulsory Paper

Every student shall write a Dissertation or submit a Project Work/Field Study Report on any area/topic pertaining to IPR involving techno-scientific and legal issues therein. The research proposals submitted by the students shall be examined by a committee of teachers teaching the diploma course. The committee shall work under the Chairmanship of the Course Coordinator, who shall also allot a supervisor to each student or a group of students to supervise the dissertation/field study/project work.

P.G. DIPLOMA IN ENVIRONMENTAL LAW, POLICY AND MANAGEMENT

WHEREAS, it is necessary to reorient legal education by making provision for extensive as well as intensive instructions in new courses of study, like, Environmental Law, Policy and Management for diverse careers open to such diploma holders.

AND WHEREAS, with a view to reorient legal education as aforesaid and to provide sufficient opportunity for adequate instructions, the Banaras Hindu University has decided to institute a Two Semester P.G. Diploma Course in Environmental Law, Policy and Management of Study and has approved of a syllabus of studies therefor :

NOW, THEREFORE, the Banaras Hindu University frames these ORDINANCES for the implementation of the aforesaid policy decisions:

1. The Post Graduate Diploma in Environmental Law, Policy and Management: The Banaras Hindu University may confer the P.G. Diploma in Environmental Law, Policy and Management on such candidates who, being eligible for admission to such Diploma Course, have received regular instructions in the prescribed courses of study, passed relevant examinations being otherwise suitable by virtue of their character, and have fulfilled such other conditions as may be laid down from time to time.

2. Commencement of the course: July 2007

3. Intake: Maximum 60 students and minimum 20 students

4. Admission:

A. Procedure: Admission to the course shall be made on merit prepared on the basis of marks obtained in the qualifying examination as per the eligibility for the course.

B. Eligibility: Graduate Degree from a recognized Indian University or equivalent degree from Foreign University.

Note: Admissions shall be made strictly in order of merit which may be based on marks in the qualifying Exam/any other criteria as per the decision of concerned faculty/department/centre.

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Magistrate/Sub-Divisional Magistrate / Taluke Magistrate / Addl. Chief Presidency Magistrate/Presidency Magistrate.

- (ii) Chief Presidency Magistrate / Addl. Chief Presidency Magistrate/Presidency Magistrate.
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However, a student securing more than 25% but detained due to shortage of attendance in any semester may be readmitted in that semester and be allowed to pursue the course of study of that semester within two years from the academic session of his/her admission in the Diploma Course for the first session or as prescribed by the University.

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- (viii) Any Other fees prescribed by the University from time to time.

Notwithstanding anything mentioned in the aforesaid Ordinances concerning fees, the amount of the fee chargeable under various heads shall be subject to variation made by the University from time to time.

8 (A) COURSE OF STUDY

A candidate for the P.G. Diploma in Environmental Law, Policy, Science and Management shall be required to:

- (i) Study 3 theory papers in First Semester and 2 theory papers in Second Semester carrying 100 marks for each paper.
- (ii) Attend lectures, submit written assignments, project reports and also attend and participate in other activities including extension activities in the University Campus.
- (iii) Write a Dissertation or take up a Project Work on same topic of practical importance in environment related areas.

8 (B) PROSECUTION OF A REGULAR COURSE OF STUDY

Every student is expected to have full attendance i.e. 100% and condonation upto 30% can be considered by the H.O.D./Dean of the Faculty for specified cogent reasons only on the following grounds:

- (i) Participation in NCC/NSC/NSO Camps duly supported by a certificate;
- (ii) Participation in University or College/Faculty Team Games or Inter-University Tournaments duly supported by a certificate from the Secretary of the University Athletics Association.
- (iii) Participation in Educational Excursions conducted on working days certified by the H.O.D./Dean of the Faculty/Course Coordinator. These excursions shall not include those organized for a class as a whole. No credit will be given for excursions conducted on holidays.
- (iv) University Deputation for Youth Festival certified by the H.O.D./Dean of the Faculty/Course Coordinator.
- (v) Prolonged illness dully certified by the Medical Officer or the Superintendent S.S. Hospital of Banaras Hindu University.

Provided further that the Academic Council may on the recommendation of the Dean as advised by the Departmental Council make, in appropriate cases, a further condonation to such extent as it may deem fit.

9. EXAMINATION

A. General :

- (i) (a) There shall be an examination at the end of each semester. Every student registered in any semester shall be eligible to appear in the concerned examination of the respective semester subject to the attendance requirement as prescribed by the University and calculated on the semester basis.
- b) A candidate for the P.G. Diploma in Environmental Law, Policy and Management shall be required to pass in all the prescribed courses within the span of two years from the academic session of his/her admission.
- (ii) Subject to the provisions of these ordinances, the examinations for the P.G. Diploma shall be held in Varanasi/Mirzapur at such time and on such dates as the Academic Council may prescribe.
- (iii) A candidate shall be examined in 5 theory papers each of 100 marks in both the semesters, i.e., three in First Semester and two in Second Semester. Each theory paper of the Diploma examination shall consist of 100 marks, out of which 80 marks in each of such paper shall be reserved for award on the basis of written theory paper, 10 marks on the basis of project work and 10 marks on the basis of performance including discussion pertaining to the concerned paper, regularity, and alertness in the class.
- (iv) Examinations in Theory courses as mentioned in Schedule A, shall be conducted by means of written papers each of three hours duration.
- (v) In the Second Semester Dissertation/Field work carrying 100 marks shall be compulsory for all. In the Second Semester each student shall be required to write a Dissertation or take up a Project work on some topic of practical importance in Environmental Law, Policy and Management related areas.
- (vi) There shall be a viva voce examination of students who have successfully pursued a course of study for P.G. Diploma. Such viva voce examination shall be held in each semester immediately after the theory examinations.
- (vii) The Viva voce examination shall be held at such place, time and date as decided by the Controller of Examinations, in consultation with the Dean of the Faculty of Law/Course Coordinator.
- (viii) The Viva voce examination shall be conducted by the Banaras Hindu University and the examiners shall, while evaluating the performance of a candidate, take into account the diaries etc. maintained by the candidate as the case may be.
- (ix) The maximum marks for viva voce examination shall be 100.

B. REGISTRATION:

- (i) A candidate shall apply to the Registrar on the prescribed form together with the prescribed Examination Fee, on or before the date that may be fixed in this connection, intimating his intention to appear at the specified Examination.
- (ii) (a) Fee for each semester examination shall be Rs.120/-
- (b) One Back paper Exam.(including marks fee) Fee- Rs.12/-; for two papers Rs.22/- & for three papers Rs.32/-
- (c) Fee for more than three Papers- Rs.52/-
- (d) Examination Fee paid by a candidate shall not be refunded. However, in cases hereinafter mentioned, such fee may be refunded or credited to next ensuing Examination.
- (e) The Examination Fee paid by a candidate may be refunded if:
 - i) his form is rejected by the University; or

- ii) the Fee has been submitted but not the form; or
- iii) the Academic Council permits a refund on compassionate ground.
 - (f) Examination Fee of candidate, after deducting Rs.10/- may be credited for the next ensuing Examination in the case of a candidate who fails to appear at the Examination on account of sickness.

Provided that an application, supported by a Medical Certificate, shall be made for the aforesaid purpose within a month of the date of the commencement of the Examination.

Provided further that the form which the candidate submits for the next ensuing Examination is complete in all respects and is accepted.

- (g) An Examination Fee once credited to the next ensuing Examination shall not be refundable.
- (iii) The Registrar shall register the application which is found to be in order in the register of candidates for such Examination and shall issue Admit Card to the candidate.

C. Admit Card :

- (i) No candidate shall be admitted to any examination unless he produces his Admit Card in respect thereof to the Officer conducting the examination.
- (ii) The Registrar / Controller of Examinations may, if satisfied that an examination Admit Card has been lost or destroyed, issue a duplicate Admit Card on payment of the prescribed fee.

D. RE-REGISTRATION FOR EXAMINATION :

- (i) A candidate who having pursued a regular course of study in First and Second, Semesters fails to appear at the main examination of First and Second Semesters, held for regular students or having appeared but fails to pass in any of the courses (First and Second semesters taken together) may appear in the course (in both semesters) in which he did not appear or has failed, at any subsequent examination, held as back logger or at supplementary examination held for regular students without undergoing a regular course of study in subsequent year in accordance with the provisions of these Ordinances.
- (ii) There shall be a supplementary examination for First and Second Semester students. Besides, students who fail to pass or appear in the paper(s) of First and or Second Semesters shall also be eligible to appear in the concerned paper or papers of the respective semesters along with the regular students of next academic session.
- (iii) The marks obtained by a candidate in the previous examination in respect of a paper in which he/she has secured less than minimum pass marks, shall be substituted by the marks obtained by him/her in the subsequent examination in respect of the concerned paper.
- (iv) Unless otherwise specifically provided, an ex-candidate shall be required to pass the relevant examination at the time when he actually appears at the examination in accordance with the existing provisions and not in accordance with the provisions that were prescribed at the time he appeared or should have appeared as a regular candidate, subject to the provisions contained in the Transitory Ordinances.

E. Scale of Marks, Division and Distinction :

Maximum Marks in each paper 100

Minimum pass marks in each paper 45% (Taken together of both the written theory paper, dissertation/project work and viva-voce as the case may be).

Division :	First Class	65% and above of the aggregate of marks in both Semesters.
	Second Class	45% and above of the aggregate of marks in both Semesters.
	Distinction	A candidate who, without failing in any course, secures an average of 75% or more marks in the aggregate of both the Semesters may be declared to have obtained distinction.
	Merit	The order of Merit shall be determined on the basis of aggregate marks obtained in both the Semesters from among candidates who passed all papers in both the Semesters from the year of their being admitted to the First Semester, subject to the rules/regulations prescribed by the University in this regard.

F. Re-evaluation of Answer Books: Provisions for re-evaluation of answer books shall be governed by the Ordinances of the University framed from time to time.

G. Consequences of Irregular Appearance at and passing of Examination :

- (i) A student who pursues the course of studies of a second semester without passing examinations in respect of all the prescribed courses of study for the first semester shall not be eligible to receive any scholarship, or any other financial aid so long as he has not passed in all the relevant courses which entitle him to be in the second semester.

Provided that nothing in this clause shall prevent the Dean of the Law School from continuing any scholarship or free ship or granting any other financial aid where he is satisfied that a candidate could not appear at the examination because of his/her prolong illness.

- (ii) A student shall not be entitled to receive any award, medal, prize or certificate of excellence unless he passes in all the prescribed courses of both the semesters in the first attempt.
- (iii) A student shall not be entitled to residential accommodation or any other facility during a period in excess of the minimum period prescribed for receiving instructions for the Diploma Course of Study (i.e. two Semesters).

10. DEFINITIONS

- (i) A "Regular Student" is one who has pursued a regular course of study and obtained prescribed attendance mentioned in the Ordinance and is eligible to appear in the examination for the aforesaid course.
- (ii) "Ex-student" means one who has been admitted in the Diploma Course but has failed or failed to appear in the examination, though otherwise eligible.

11. MISCELLANEOUS PROVISIONS

1. The Supplementary Examination for the students of First and Second Semesters shall be held after the reopening of the University after summer vacation on such dates as may be specified by the Controller of Examinations.
2. These Ordinances contained herein shall be deemed to have come into effect from the academic session 2007-2008 to the extent of its applicability.
3. The Dean of the Faculty of Law in consultation with the Departmental Council shall have the power to remove all difficulties in interpretation and /or application of these Ordinances which shall be final.

COURSE CONTENTS

SCHEDULE A

FIRST SEMESTER: Compulsory Papers

First Paper : Indian Environmental Law-I Control of Pollution, Liability and Protection & Management of Natural Resources

Second Paper : Indian Environmental law-II: Administrative Machinery, Dispute Settlement Mechanism and Remedies.

Third Paper : Indian Environmental Law-III, Industry, Trade, Business and Environment

SECOND SEMESTER: Optional Papers

Fourth Paper : Environmental and International Legal Order

Fifth Paper : Biotechnology and Legal Regulations

Sixth Paper : Environmental and Development: Law and Policy

Seventh Paper : Resource Management and the Law

Eighth Paper : Dissertation/Field study: Compulsory

SCHEDULE B

FIRST SEMESTER: Compulsory Papers

First Paper: **Indian Environmental Law-I Control of Pollution, Liability and Protection & Management of Natural Resources**

1. An Overview of Pollution Control Laws

Acts and Rules applicable to control of air, water and noise-pollutions (with reference to Water Act, 1974, Air Act, 1981 and E.P. Act, 1986)

2. Waste Management Law : Any two of the following shall be prescribed in each year-

(i) Solid waste, (ii) Hazardous waste, (iii) Bio-medical waste, (iv) Manufacture, Use, Import, Export and Storage of Hazardous Micro organisms Genetically Engineered Organism or Cells Rules, 1989.

3. Polluter's Liability

(a) Tortious Liability: Strict and absolute liability, vicarious liability

(b) Liability for Industrial Accidents

(i) The Public Liability Insurance Act, 1991, (ii) The National Environment: Tribunal Act, 1995

(c) Liability under criminal Law

(i) Relevant provisions of Indian Penal Code, (ii) Relevant provisions of Pollution Control Legislations.

4. (a) Bio-diversity law- An overview with special emphasis on traditional knowledge and intellectual property rights.
- (b) Coastal Zone-Regulations and select judicial decisions
- (c) River Water and Ground Water Pollution- Legislative attempts and select judicial decisions.

Second Paper : Indian Environmental law-II: Administrative Machinery, Dispute Settlement Mechanism and Remedies.

1. Powers, Functions and Procedure of Administrative Agencies
 - (i) Central Government, State Government, Central Pollution Control Board, State Pollution Control Boards and local authorities.
 - (ii) Select judicial decisions of the Supreme Court of India (To be prescribed in each year)

2. Forums for Resolution of Environmental Disputes

(Note: "Remedies" provided by such forums will not be discussed in this head which have been covered in a separate head)

- (i) Primary judiciary (District Court), (ii) High Courts and Supreme Court, (iii) The role of Collector under Public Liability Insurance Act, 1991, (iv) Environment Tribunal under N.E.T. Act, 1995, (v) National Environment Appellate Authority under the N.E.A. Authority Act, 1997.

3. Remedies

(A) Formal Remedies

- (1) Constitutional Remedies: Right to Environment as a fundamental Right, Writ jurisdiction under Articles 32 and 226.
The Scope and limit of Public interest litigation.
- (2) Statutory Remedies
 - (i) Under Section-133 of Criminal Procedure Code, 1973.
 - (ii) Representative suit under Civil Procedure Code, 1908
 - (iii) Under Water Act, 1974, Air Act, 1981 and E.P. Act, 1986 (with Special reference to citizens' suit provision.)
 - (iv) Under N.E.T. Act, 1995
 - (v) Under N.E.A. Act, 1997

(B) Non Formal Remedies

- (i) Mediation, (ii) Arbitration, (iii) Conciliation

Third Paper : Indian Environmental Law-III, Industry, Trade, Business and Environment

1. Location, Site, Licensing and Tackling of Emergencies.

The following Legislations and Rules are to be studied-

- (i) Industrial (Development and Regulation) Act, 1951

- (ii) Factories Act, 1948 as amended in 1987
 - (iii) Chemical Accidents (Emergency Planning Preparedness and Response Rules), 1996.
 - (iv) Industrial citing and environment impact assessment:
 - (a) Mega projects and environment (one case study to be prescribed in each year).
 - (b) Public Hearing Notification (Public participation in environmental decision making process).
2. Industrial Accidents and Environmental Law
- (i) Sriram Gas Leak Case
 - (ii) Bhopal Gas Tragedy Case
3. Market Based Mechanisms :
- Financial Incentive Disincentive (with special reference to water (Prevention and Control of Pollution) Cess Act, 1977 as amended in 1991.
4. Consumer Law and Environment Concerns
(Select case laws to be prescribed each year)

SECOND SEMESTER: Optional Papers

Fourth Paper: Environmental and International Legal Order

1. General Background

- * Nature and Scope of International Environmental Law and its evolution
- * Issues, Concepts and Definitions

2. General Principles and Rules Establishing Standards

- (i) Sovereignty over natural resources and responsibility not to cause damage to environment of other states.
 - (ii) Principles of preventive action.
 - (iii) Sustainable development
 - (iv) Precautionary principle
 - (v) Polluter - pays principle
 - (vi) Principle of common but differentiated responsibility
 - (vii) Human Rights and environmental protection
 - (viii) War and Armed conflict and environmental protection
3. Principles of International Environmental Law and the Indian Courts.
4. Important Conventions Concerning Protection of Environment
(Two Conventions to be prescribed each year)

5. Liability and Compensation for Environmental Damage
6. Environmental concerns and World Trade with Special Reference to World Trade Organisation (W.T.O.)
(At least two issues shall be discussed)

Fifth Paper- Biotechnology and Legal Regulations

1. Introductory

- 1.1 Decoding the Structure of the DAN/RAN
- 1.2 The Technology of Splicing
- 1.3 Cloning
- 1.4 Cell- Fusion
- 1.5 Genetic Engineering

2. The Case For and Against Genetic Engineering

- 2.1 The problem of biohazards in recombinant DNA Research
- 2.2 Men should not play God and create new forms of life unknown to nature
- 2.3 Social responsibility of scientists
- 2.4 Multi-national and imperialist appropriation and use of biotechnology
- 2.5 Failures of self-regulation and vicissitudes of legal regulation
- 2.6 The right of scientific research as an aspect of basic human rights
- 2.7 There is no cost-free innovations and invention
- 2.8 Biohazards can be contained
- 2.9 Non-exploitative Biotechnology is both conceivable and likely
- 2.10 Legal incentives such as patenting of new life-forms is a necessary, though not sufficient, condition for advances in frontier technologies.

3. Biotechnology Agro-business and Biological Diversity

- 3.1 Plant Genetic Resources in Nature: Abundance of biological diversity
- 3.2 The Genetic mutation of Seed: Seed industry at global level: Indian Seeds Act, 1966
- 3.3 The impact of Biotechnology on Biological Diversity: Erosion of plant genetic resources.
- 3.4 Patenting of new plant varieties
- 3.5 The green revolution and biotechnology
 - 3.5.1 Growth of fertilizer and pesticide industry
 - 3.5.2 Impact of fertilizer and pesticides on agricultural workers

3.5.3 Green revolution and biotechnology

3.5.4 Agro-business and reckless commercial exploitation of biotechnology

4. **Biotechnology and Human Health**

4.1 Genetic Markers: Diagnostic biotechnology

4.2 Conquest of disease

4.3 Genetic screening: Prevention of genetic disease and mental retardation

4.4 Genetic screening: Uses and abuses of amniocentesis

4.5. Cloning of human beings

4.6 Obsolescence and resilience of law

5. **Legal Regulation of Biotechnology**

5.1 Regulation of government sponsored research

5.2 Regulation of Private R & D

5.3 Regulation of deliberate release of genetically mutated microorganisms

5.4 Regulation of accidental release of genetically mutated microorganisms

5.5 Comparative perspectives

5.5.1 USA

5.5.2 EC

5.5.3 U.K

5.5.4 INDIA

5.5.5 Progress of biotechnology and legal regulation of India.

Sixth Paper- Environmental and Development: Law and Policy

1. **The Idea of Environment**

1.1 Ancient and medieval writings

1.2 Traditions

1.3 Natural and biological sciences: perspectives

1.4 Modern concept: Conflicting dimension

2. **Development**

2.1 Theories of development

2.2 Right to development

2.3 Sustainable development - national and international perspectives

3. **Policy of Law**

- 3.1 From Stockholm to Rio and after
- 3.2 Post-Independence India
- 3.3 Role of government
 - 3.3.1 Five Year Plans
 - 3.3.2 Forest Policy
 - 3.3.3 Conservation strategy
 - 3.3.4 Water Policy
- 4. **Population, Environment and Development**
 - 4.1 Population explosion and environmental impact
 - 4.2 Population and development
 - 4.3 Population and sustainable development
- 5. **Constitutional Perspectives**
 - 5.1 Fundamental Rights
 - 5.1.1 Right to environment
 - 5.1.2 Enforcement and fundamental duties
 - 5.1.3 Directive principles and fundamental duties
 - 5.1.4 Legislative power
 - 5.2 Environment: Emerging concepts and challenges
 - 5.2.1 Polluter pays principle: absolute liability of hazardous industry
 - 5.2.2 Precautionary principle
 - 5.2.3 Public trust doctrine

Seventh Paper - Resource Management and the Law

- 1. **Water**
 - 1.1 Salinity
 - 1.2 Bund and spill ways
 - 1.3 Aqua-culture and fishing regulations
 - 1.4 Irrigation
 - 1.5 Ground water management
 - 1.6 Interstate water management and disputes
- 2. **Land**
 - 2.1 Control of land development

2.2 Eco-friendly land planning: conservation, utilization and conversion

2.3 Mining and quarrying

3. **Concepts of Common Property and State Property**

3.1 Forest

3.2 Wildlife

3.3 Common facilities and the right to use: roads, parks, pathways, lakes, rivers.

3.4 Natural heritage: Tribal habitat

3.5 Historical monuments

3.6 Wet lands: Wise use concept

4. **Energy**

4.1 Sources

4.2 Energy related environmental problems: tapping, transmission and utilization, indiscriminate use.

4.3 Utilization of conventional energy: hydro-electric, thermal and nuclear

4.4 Non-conventional energy: Solar, wind, tidal and bio-gas

Eighth Paper - Dissertation/Field study: Compulsory Paper

Every student shall write a Dissertation or submit a Field Study Report on any area/topic pertaining to environment involving techno-scientific and legal issues therein. The research proposals submitted by the students shall be examined by a committee of teachers teaching the diploma course. The committee shall work under the Chairmanship of the Course Coordinator, who shall also allot a supervisor to each student or a group of students to supervise the dissertation/field study.