



# Certificate Course on Military Laws

(8<sup>th</sup> February- 13<sup>th</sup> February, 2016)

**(Information Brochure)**



**Gujarat National Law University**

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## Concept Note:

Indian Military Laws have its origin from British Military Laws, primarily because of British Rule in India. Before independence, the Indian Army was largely governed by the provisions of the Indian Army Act 1911, Indian Army Rules 1911 and the Regulations for the Indian Army. But after the commencement of our Constitution, necessity was felt to revise those Rules so as to modify the existing provisions in accordance with the new Constitutional provisions, to make the Act self-sufficient by incorporating provisions of other enactments, to bridge the gap between Army and various civil laws relating to punishment and to remove the disparity between similar provisions of law applicable to the Armed forces of India. As a result of this The Army Act, 1950; The Air Force Act, 1950 and The Navy Act, 1957 were enacted. There was no provision for Appeal in these Acts from the orders of Court Martial.

The Hon'ble Supreme Court in Lt. Col. Prithi Pal Singh Bedi etc vs. Union of India & Others observed that absence of even one Appeal from the order of Courts Martial is a glaring lacuna in the country regarding the rights of the Armed forces personnel. In the light of this Judgment, The Army Act was amended in 1992 but it could not fully implement those observations. The 169th Law Commission Report stressed on the need for amending provisions of the Army Act (1950), the Air Force Act (1950) and the Navy Act (1957) and as a result, The Armed Forces Tribunal Act, 2007 was passed. Prior to the establishment of the Armed Forces Tribunal, defence personnel had no other option but to approach the High Courts or the Supreme Court by way of writ petitions from the orders of Court Martial.

The Armed Forces Tribunal Act 2007 provides for the establishment of Armed Forces Tribunal and its branches thereof and these Armed Forces Tribunals are provided with original as well as appellate jurisdiction. The Tribunal is not bound to follow the Code of Civil Procedure, 1908 but the members must ensure that the principles of natural justice Military legal system in India was designed and implemented after the Mutiny of 1857 to prevent such situations to occur in the future. The political situation of the country at that time was different and no consideration of Human Rights was given by the British Government. The system might have been the necessity of the times but in the present era of welfare state, the concepts of Human Rights, Fundamental Rights of the Armed forces personnel cannot be neglected. In the present times, there is a need to value Rules of Natural Justice, Human Rights, and International developments in Military Laws in other countries of the world. The present course contains the various facets of human rights and fundamental rights and military justice system in India with comparative study of military justice systems in USA and UK.

## **Aims and Objectives:**

- To acquaint participants with process of law in defence forces, starting from reporting of a cases to sentencing, as also appeals and remedies available, within the force and outside the organization.
- To make participants familiar with Court martial proceedings in detail, including moot on court martial.
- To acquaint participants with Armed forces Tribunal Act and Rules, including, drafting and art of pleading in these tribunals.
- Participants will be shown previously recorded court martial proceedings and petitions filed in tribunal, to give them almost on ground kind of experience and feel of case.
- This will help the students in taking up career as advocates on AFT and court martials.

## **Duration:**

Six days excluding Sunday and Public holidays (2:30 pm to 5:30 pm with break)

## **Participants:**

Students, Advocates, Law Professionals – Total 30 participants.

## **Methodology and Evaluation:**

Class lecture, group discussion and practical exercise.



## Syllabus:

<u>Date</u>	<u>Duration</u>	<u>Topic</u>
8 <sup>th</sup> February, 2016	1 hour	1. CONCURRENT JURISDICTION, <ul style="list-style-type: none"> <li>• Familiarization with all courts of law existing in civil and military.</li> <li>• Salient differences' in their functioning and hierarchy.</li> <li>• Adjustment of jurisdiction between these courts.</li> <li>• Procedure to be followed when a defence personnel is arrested and produced before civil court.</li> <li>• Duties of magistrate and commanding officer in case of concurrent jurisdiction.</li> </ul>
8 <sup>th</sup> February, 2016	1 hour	2. ARREST <ul style="list-style-type: none"> <li>• How arrest is affected in army.</li> <li>• Open arrest and close arrest.</li> <li>• Duties to be performed.</li> <li>• Bail etc.</li> <li>• Differences when a person is arrested by civil and military.</li> </ul>
8 <sup>th</sup> February, 2016	1 hour	3. RIGHTS OF ACCUSED. <ul style="list-style-type: none"> <li>• Rights if a military person when arrested by military authorities.</li> <li>• Rights of a person when brought for trial for summary disposal or court martial.</li> </ul>
9 <sup>th</sup> February, 2016	1 hour	4. ADMINISTRATIVE POWERS IN ARMY <ul style="list-style-type: none"> <li>• Army authorities are vested with administrative powers at various levels. Such as censure etc.</li> <li>• Presidents pleasure</li> </ul>
9 <sup>th</sup> February, 2016	2 hours	5. OFFENCES <ul style="list-style-type: none"> <li>• Offences enacted in military law ,</li> <li>• Punishments there to</li> <li>• How these offences are dealt with in military.</li> <li>• Civil offences, dealing by court martial with exceptions.</li> </ul>
10 <sup>th</sup> February, 2016	1 hour	6. CHARGE SHEET <ol style="list-style-type: none"> <li>1. Drafting of a charge sheet.</li> <li>2. Duplicity and multiplicity of a charge sheet.</li> </ol>

		3. Practice students in drafting a charge sheet.
10 <sup>th</sup> February, 2016	1 hour	7. SUMMARY OF EVIDENCE. AND COURT OF INQUIRY. <ul style="list-style-type: none"> <li>• Recording</li> <li>• When ordered</li> <li>• Duties of various authorities at various level</li> </ul>
10 <sup>th</sup> February, 2016	1 hour	9. SUMMARY TRIAL <ul style="list-style-type: none"> <li>• Powers</li> <li>• Procedure</li> <li>• Review</li> <li>• Remedies available against the punishment.</li> </ul>
11 <sup>th</sup> February, 2016	2 hours	10. COURT MARTIAL. <ul style="list-style-type: none"> <li>• Types of court martial</li> <li>• Convening</li> <li>• Powers</li> <li>• Procedure</li> <li>• Sentencing</li> <li>• Review</li> <li>• Revision</li> <li>• Powers of confirming authority.</li> </ul>
11 <sup>th</sup> February, 2016	1 hour	11. COMMITMENT TO CIVIL JAIL <ul style="list-style-type: none"> <li>• Commitment to jail.</li> <li>• Execution of sentence</li> <li>• Categorization in jail.</li> <li>• Parole and furlough.</li> </ul>
12 <sup>th</sup> February, 2016	3 hours	12. STUDY OF SPECIMEN GENERAL COURT MARTIAL PROCEEDING.
13 <sup>th</sup> February, 2016	2 hours	13. ARMED FORCES TRIBUNAL <ul style="list-style-type: none"> <li>• Detailed study of provisions of armed forces tribunal act.</li> <li>• Powers</li> <li>• Constitution</li> <li>• Practical aspects, experiences.</li> </ul>
13 <sup>th</sup> February, 2016	1 hour	14. PLEADING IN ARMED FORCES TRIBUNAL <ul style="list-style-type: none"> <li>• Armed forces tribunal rules.</li> <li>• Procedure for filing petition</li> <li>• Study of previously filed petitions.</li> <li>• Drafting , practical to be done by students</li> </ul>
13 <sup>th</sup> February, 2016	45 Minutes	Evaluation

## Facilities:

A state-of-art modern world class fully IT equipped (Wi-Fi) 50 acres university campus with residential facilities, sports complex, excellent library and online research services, conference halls, 15 minutes away from Ahmedabad airport and governmental departments.

## Fees:

INR. 2000 (excluding food and accommodation)  
(Accommodation will be provided by the University on a payment basis)

The registration fees for the course is as follows:

Fees: Rs. 2,000 for GNLU Students  
Rs. 3,500\* for other students  
Rs. 5,000\* for professionals

\*excluding boarding and lodging

## How to Apply:

Applicants from GNLU may register themselves by depositing the course fees with the Accounts Department of GNLU (to be deposited only in cash).

Other candidates may register by drawing DD in favour of Gujarat National Law University payable at Ahmedabad and send it to us on our address.

\*participants requiring accommodation may avail the guest house facility at the University, subject to availability of rooms, on additional payment.



## Expert Resource Person

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