

Syllabus for

POST GRADUATE DIPLOMA IN ALTERNATIVE DISPUTE RESOLUTION (ADR)

PAPER – I : Introduction to Alternative Dispute Resolution

PAPER – II : Application of ADR Methods in Different Fields & Areas

PAPER – III : Arbitration & Conciliation Act, 1996 & International Developments

PAPER – IV : Practical Training / Field Work

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PAPER - I

Introduction to Alternative Dispute Resolution

Total Marks : 100 Marks

1. Introduction:

Evolution of mediation/conciliation as a mode of settlement of disputes, distinction between arbitration, mediation, conciliation, negotiation.

Nature, Scope, Limitations and necessity of alternative models of disputes resolution

2. Negotiation

Theory of negotiation, Approaches to Negotiation

Positional bargaining, Interest-based bargaining or principled negotiation

Preparation for Negotiation

Collaborative Communication skills, Negotiating skills, Negotiation exercises

3. Mediation and Conciliation

Theory of mediation, Role of the mediator

Drafting Mediation and Conciliation clauses and agreements

Initiating mediation (court annexed and private), Preparation for Mediation /Conciliation

The Mediation/Conciliation process

Confidentiality and neutrality

How to write Award

Ethical issues in Mediation /Conciliation

Mediation in India, institutions, their role

4. Arbitration

Theory of arbitration, the arbitration process

Federal and provincial legislation

Drafting Arbitration clauses and agreements

Preparation for Arbitration, Conducting an Arbitration, Seat, location, Examinations and its various aspects, Evidence

Writing Arbitration Award

Foreign awards

Ethical issues in Arbitration

Conducting a Mock Arbitration

5. Communication & Role of the Paralegal

Verbal communication, Non verbal communication

Role of the Paralegal

- i. In negotiation when representing a client
- ii. In mediation when representing a client
- iii. When acting as a mediator

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PAPER - II

Application of ADR Methods in Different Fields & Areas

Total Marks : 100 Marks

1. Settlement in Labour and Industrial Disputes ,
 - i. Bargaining structure, grievance resolution,
 - ii. the role of the Labour Relations Board,
 - iii. Board of conciliation.
2. Administrative tribunals : Article 323 A and B
3. Family Court under the Family Court Act, 1984.
4. Consumer Disputes under the Consumer Protection Act, 1986
5. Settlement of Dispute through Lok Adalat and Lok Nyayalayas. Grassroots Justice and Panchayat System for Resolution of dispute.
6. Settlement of :
 - i. Bank Disputes, Securities and Matters related to Debt recovery
 - ii. Negotiable Instruments.
 - iii. Family and Matrimonial Disputes
 - iv. Maintenance
 - v. Guardianship
 - vi. Custody of the Child

- vii. Adoption
- viii. Inheritance/Succession
- ix. Housing Societies, Maharashtra Housing and Area Development Authority
- x. Maharashtra Land Revenue Code, Slum Rehabilitation
- xi. Co-Operative Disputes
- xii. Accident Claims.

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PAPER – III

Arbitration & Conciliation Law & International Perspective

Total Marks : 100 Marks

The Arbitration and Conciliation Act, 1996

- i. Advantages of conciliation and the Arbitration and Conciliation Act, 1996 : Arbitration Agreement, Composition of Arbitral Tribunal, Jurisdiction and conduct of Arbitral Tribunals, Making of Arbitral Award and termination of proceedings, Recourse against Arbitral Award, Finality and Enforcement of Arbitral award, Appeals, Appointment of conciliators, commencement of conciliation proceedings , Termination of conciliation proceedings; costs and deposits.
- ii. Analyzes the composition and the jurisdiction of arbitral tribunals, the procedure followed by arbitrators, recognition and enforcement of foreign arbitral awards, and other related issues.
- iii. The appointment of the arbitral tribunal; competence/competence; a consideration of cost-effective arbitral procedures; interim measures; the award, including the challenge, recognition and enforcement thereof
- iv. A study of the negotiation and administration of collective agreements in the private sector.
- v. Family courts and Lok adalats.
- vi. Scope, Challenges and Limitations of ADR.

International Developments

- i. The law and practice of international commercial arbitration, case studies, including arbitral agreements, applicable law, the enforcement of arbitral awards and arbitrations involving state parties.
- ii. The UNCITRAL Model Law on International Commercial Arbitration,
- iii. The role of national courts in the international arbitration process; the evaluation of international arbitral institutions and their rules
- iv. The drafting of an international arbitration clause or submission agreement

- v. ICSID arbitrations; and current issues in international commercial arbitration (e.g. confidentiality and consolidation).
- vi. For understanding the United Nations Convention on Contracts for the International Sales of Goods (CISG), which is regarded as the world's standard sales contract law and often applied in international commercial arbitration?
- vii. A consideration of arbitration as a dispute resolution process in the domain of international trade.
- viii. London Court of International Arbitration and the UN Convention on Recognition and Enforcement of Foreign Arbitral Awards.

PAPER – IV

Practical Training / Field Work

Total Marks : 100 Marks

The project report submitted by the student will be evaluated jointly by the internal and external examiners during the practical examination. The distribution of marks will be as follows :

Dissertation	- 40 marks
Project Work on Arbitration / Mediation (Practical exercises in the preparation and conduct of arbitration & mediation)	- 40 marks
Attendance	- 10 marks
Viva	- 10 marks

Students learn through classroom lectures, discussion and group problem solving method. Any matters covered in class and/or in the assigned readings will constitute part of the subject content and be eligible for inclusion on all assessments. It is **ESSENTIAL** that students read assigned material before class and make careful notes on the reading material as well as in-class lectures and discussion. It is extremely important for students to be prepared for class and to be actively involved in discussions as this greatly aids the learning process.

RECOMMENDED BOOKS

1. The Indian Arbitration and Conciliation Act, 1996.
2. John M. Haynes and Stephanie Charles worth : The Fundamentals of Family Mediation
3. Robert A Baruch Bush and Joseph Folgers : The Promise of Mediation
4. Marian Roberts : Mediation in Family Dispute
5. Lisa Parkinson : Family Mediation
6. Ruth Chariton and Michelin Dewdney : The Mediator's Handbook

7. Sriram Panchu : Mediation Practice and law (textbook)
8. Mukta Mahajani : Let's Talk, Negotiation and Communication at the Workplace
9. Morton Deutsch, Peter Coleman and Eric Marcus : The Handbook of Conflict Resolution: Theory and Practice. San Francisco: Jossey-Bass)
10. William W Wilmot and Joyce L Hocker : Interpersonal Conflict , New York: McGraw-Hill
11. Simon Roberts and Michael Palmer : Dispute Processes, ADR and the Primary Forms of Decision-Making; Cambridge University Press
12. Charles Ewert, Gordon Barnard, Jennifer Laffier, Michael L. Maynard : Choices in Approaching Conflict, Understanding the Practice of Alternative Dispute Resolution, Emond Montgomery, ISBN: 978-1-55239-384-0
13. Malhotra : Arbitration & Conciliation Act
14. Justice R.S. Bachavat : Law of Arbitration & Conciliation Act, Vol – I & II; LexisNexis Butterworth's; 5th Edition 2013.
15. Mallik : Arbitration & Conciliation Act
16. Myneni : Alternate Dispute Resolution
17. P. C. Rao and William Sheffield : Alternative Dispute Resolution, by
18. Ashwinie Kumar Bansal : International Commercial Arbitration- Practice & Procedure . West Thomson Reuters, ISBN 10
19. P. C. Markanda : Law relating to Arbitration and Conciliation. LexisNexis India; 8th Edi. 2013 ISBN – 8180388131
20. Dr. Avtar Singh : Law of Arbitration and Conciliation, Lucknow
21. The Code of Civil Procedure, 1908.
22. Arbitration and Conciliation Act 1996,
23. Mediation Rules of Bombay High Court

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