LL.B. VI Term

LB-602 : Alternative Dispute Resolution

Reading Materials Prepared by
Prof. Ved Kumari
Dr. Aman Hingorani
Dr. Ashish Kumar

Faculty of Law, University of Delhi
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(For Private Circulation only)
Objectives of the Course

With the introduction of Section 89, CPC and amendment in the Arbitration and Conciliation Act 1996 in 2015, alternative dispute resolution methods have been given a primary role in reducing arrears and promoting fast and affordable settlement of disputes. This course has two primary objectives. First is to provide the students with the theoretical understanding of the concepts and the legal provisions relating to ADR. Secondly, the course is geared to train the students in the practical skills required to effectively participate in the ADR processes. The course has been designed for a class of not more than 30 students. It is desirable that the course is delivered by a team of teachers together for individualized learning and supervision.

The teaching methods to be employed by teachers include lectures, use of multi-media, simulation exercises, role plays, field visits, feedback and other CLE methods of teaching and learning.

The course focuses on instilling the following practical skills among the students: Communication including verbal, non-verbal, body language and para-linguistic; Case and Dispute Analyses and Strategy; Distinguishing interests from rights; Persuasion; Skills of mediators; Drawing agreements; Negotiation skills; Ethical dilemmas.

Learning Outcomes: At the end of the Semester, the students will be able to

- Describe, analyse and apply the substantive rules of ADR
- Choose appropriate ADR
- Communicate effectively
- Draw settlement agreements
- Choose appropriate negotiation strategy
- Practice Mediator’s skills
- Solve the ethical dilemmas

Required Readings:

2. Section 89, Code of Civil Procedure
3. Legal Services Authorities Act, 1987
4. Mediation and Conciliation Rules 2004 of Delhi High Court
6. 222nd Report of the Law Commission of India on NEED FOR JUSTICE-DISPENSATION THROUGH ADR, etc. (2009)
Introduction to Alternate Dispute Resolution: Differences between litigation, arbitration, conciliation, mediation and negotiation (2 lectures)

Readings:
1. Need for Alternatives to the Formal Legal System (Special Address by Muralidhar S. in International Conference on ADR, Conciliation, Mediation and Case Management Organised By the Law Commission of India at New Delhi on May 3-4, 2003)
2. ‘Comparison of Adjudication with ADR’, Mediation Training Module of India Chapter 4 (2011) SC of India
3. ‘Development of Mediation in India’, Mediation Training Module of India Chapter 1 (2011) SC of India

Communication – Introduction, verbal, non-verbal communication, para linguistics (2 lectures)

Readings:
1. Body Language – non-verbal communication
2. One and Two-Way Communication

Simulation Exercises (2 classes)

Negotiation- Introduction, Style and Strategies (2 lectures)

Readings:
1. Negotiation Strategies
2. Negotiation: The Seven Elements Checklist

Negotiation Simulation Exercises (6 Classes)

Conciliation / Mediation – (4 lectures)
(a) Difference between mediation/conciliation and other ADRs
(b) Mediator’s Skills and Roles
(c) Stages of Mediation: Mediator’s Opening Statement; Parties’ Opening Statement; Joint Session; Caucus or Separate Session; Final Negotiation/Deal-Making Round; Closure
(d) Strategies and Techniques
(e) Role of Silence/Apology
(f) Handling Emotions/Impasse
(g) Drafting Agreement
(h) Ethical Dilemmas in Mediation

Readings:
1. Understanding Conflict by Aman Hingorani
2. ‘Concept & Techniques of Mediation’, Mediation Training Module: Delhi Mediation Centre
3. ‘Stages in Mediation Process and Role of Mediator’ by Ashish Kumar

Simulation Exercises (8 classes)

5. Arbitration
   (a) Overview of A&C Act, 1996 (1 lecture)
   (b) Overview of International Rules (2 lectures)
   (c) Drafting Arbitration Clause (1 lecture)
   (d) Case Analysis (1 lecture)

Readings:
1. Aman Hingorani, “Alternative Dispute Resolution, including Arbitration, Mediation and Conciliation”, All India Bar Examination Preparatory Materials
2. 2015 Amendment to the Arbitration and Conciliation Act, 1996
4. ONGC Limited Vs Western Geco International Limited (2014) 9 SCC 263
5. Excerpts from Drafting Dispute Resolution Clauses A Practical Guide, American Arbitration Association

Simulation Exercise (8 classes)
   (i) Drafting Arbitration Clause
   (ii) Identifying good and bad facts
   (iii) Identifying Issues
   (iv) Presenting Arguments
   (v) Ethical Exercise

Simulation Exercises (8 classes)

6. Visits to Delhi Mediation Centre / Lok Adalat /Arbitration Centre and Submission of Reports (two days each)

Examination:
End-semester written examination--- 50 marks

Oral/ practical exercises—50 marks

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<thead>
<tr>
<th>Mediation (10 marks)</th>
<th>Attendance</th>
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<tbody>
<tr>
<td>Negotiation (10 marks)</td>
<td>96 - 100% = 10 marks</td>
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<td>Arbitration (10 marks)</td>
<td>91 - 95% = 8 marks</td>
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<td>Field Visit Report (10 marks)</td>
<td>86 - 90% = 6 marks</td>
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<td>81 - 85% = 4 marks</td>
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<td>76 - 80% = 2 marks</td>
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<td>Less than 76% = 0 marks</td>
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