

BA.LL.B (HONS.) – VI-SEMESTER

ALTERNATIVE DISPUTE RESOLUTION (CLINICAL PAPER-I)

COURSE CODE:

Course Objectives: Alternative Dispute Resolution has become the primary means by which cases are resolved now days, especially commercial, business disputes. It has emerged as the preferred method for resolving civil cases, with litigation as a last resort. Alternative Dispute Resolution provides an overview of the statutory, procedural, and case law underlining these processes and their interplay with litigation. A significant theme is the evolving role of professional ethics for attorneys operating in non-adversarial settings. Clients and courts increasingly express a preference for attorneys who are skilled not only in litigation but in problem-solving, which costs the clients less in terms of time, money and relationship. The law of ADR also provides an introduction to negotiation and mediation theory.

Course Outcomes:

1. To recognise of pending litigation in Indian Courts
2. To understand the origin and importance of ADR mechanism like arbitration, negotiation, mediation, conciliation, etc.
3. To interpret and analyse provisions of legislations pertaining to ADRs
4. To interpret and analyse judicial decisions pertaining to ADRs
5. To analyse the emerging trends in Alternative Dispute Resolution

UNIT-I: Concept of ADR-Meaning, Nature and Genesis of Alternative Dispute Resolution; Forms of ADR Mechanism; Legal Framework: Legal Services Authorities Act, 1987, Legal Aid

UNIT-II: Negotiation and Mediation-Negotiation Theories, Development and its types c. Qualities of Negotiator and Process for Negotiation, International Negotiation; Mediation; Good Offices

UNIT-III: Arbitration and Conciliation; Arbitration Agreement, Essentials, Rule of Severability; Composition of Arbitral Tribunal, Extent of Judicial Intervention, Interim Measures, Power of Court to refer Parties to Arbitration; Jurisdiction of Arbitral Tribunal, Competence, Competence of Arbitral Tribunal, Conduct of Arbitral Proceedings, Place of Arbitration, Seat of arbitration; Arbitral Award, Termination, Enforcement Conciliation and its Mechanism

UNIT-IV: International Perspective: International Commercial Arbitration New-York and Geneva Convention UNCITRAL Model Law, Treaties etc. Enforcement of Foreign Award and Jurisdictional Issues

UNIT -V: Emerging trends in ADR-ADR Application-Commercial and Financial Disputes-Real estate and Land Disputes-Consumer Disputes-Accident Claims-Matrimonial Disputes; Online Dispute Resolution (ODR)

Text Books:

1. J. G. Merrills, International Dispute Settlement, 6th Edition, Cambridge University Press, 2017
2. Anirban Chakraborty, Law & Practice of Alternative Dispute Resolution in India-A detailed analysis, 1st Edition, LexisNexis, 2016
3. Anila V. Menon, International commercial arbitration: A critical study, ICFAI University Press, 2007