

8.4 Course – IV, Clinical Course-II: Alternative Dispute Resolution Systems

Objectives:

Today alternative disputes resolution systems have become more relevant than before both at local, national and international levels. Certain of the disputes, by nature are fit to be resolved through specific method of resolution. Each of these dispute resolution systems involves different style of planning and execution. The skills involved are also different as also preparation. This course trains the students in ADRs. The course teacher shall administer simulation exercises for each of the methods.

Course Outcomes:

Students graduating with ‘Arbitration, Conciliation and Alternative Disputes Resolution Systems’ will be able to:

1. Familiarize with the modalities and techniques of resolution of conflict which is a necessary component in the endeavors of developing expertise in juridical exercise.
2. To understand and analyze the traditional justice delivery system through adjudication by along with an alternative mode of dispute resolution in the common law countries.
3. To approach the processes of arbitration, conciliation and mediation in areas where the traditional judicial system had its sway in the past and in the new areas of conflicts that demand resolution by alternative methods.

Contents:

UNIT-I

General; Different methods of dispute resolution; Inquisitorial method; Adversarial method; Other methods- both formal and informal- like Arbitration, Conciliation, Negotiation, Mediation, etc.; Advantages and disadvantages of above methods; Need for ADRs; International commitments; Domestic needs; Suitability of ADRs to particular types of disputes; Civil Procedure Code and ADRs.

UNIT-II

Arbitration: Meaning of arbitration; Attributes of arbitration; General principles of arbitration; Different kinds of arbitration; Qualities and qualifications of an arbitrator; Arbitration agreement and its drafting; Appointment of arbitrator; Principal steps in arbitration; Arbitral award; Arbitration under Arbitration and Conciliation Act, 1996.

UNIT-III

Conciliation: Meaning; Different kinds of conciliation- facilitative, evaluative, court-annexed, voluntary and compulsory; Qualities of a conciliator; Duties of a conciliator; Role of a conciliator; Stages of conciliation; Procedure; Conciliation under statutes- Industrial Disputes Act, 1947; Family Courts Act, 1984; Hindu Marriage Act, 1955; Arbitration and Conciliation

Act, 1996.

UNIT-IV

Negotiation: Meaning; Different styles of negotiation; Different approaches to negotiation; Phases of negotiation; Qualities of a negotiator; Power to negotiate.

UNIT-V

Mediation: Meaning; Qualities of mediator; Role of mediator; Essential characteristics of the mediation process – voluntary, collaborative, controlled, confidential, informal, impartial & neutral, self-responsible; Different models of mediation; Code of conduct for mediators.

Prescribed Books:

Sridhar Madabhushi- Alternative Dispute Resolution.

Rajan R.D. - A Primer on Alternative Dispute Resolution.

Reference Books:

Sampath D.K. - Mediation.

Gold Neil, et.al. - Learning Lawyers Skills (Chapter-7).

Michael Noone- Mediation, (Chapters-1, 2&3).

Mode of Assessment: There will be an end of the semester examination for 60 marks and 40 marks to be awarded by the course teacher for four exercises at the rate of 10 marks for each of the exercise.