

UNIVERSITY OF MUMBAI



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DEPARTMENT OF LAW

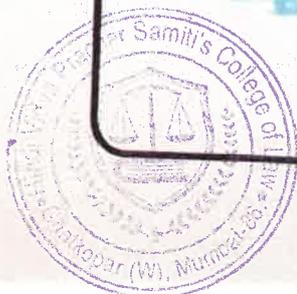
Post Graduate Diploma
in

ALTERNATIVE DISPUTE
RESOLUTION (ADR)

●
Ordinances, Regulations,
Scheme of Papers and
Syllabus for the
Post-Graduate Diploma in
Alternative Dispute
Resolution (ADR)

(with effect from the
academic year 2019-2020)

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Dr. (Mrs.) Madhura Kalamkar
I/C Principal
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DEPARTMENT OF LAW

INTRODUCTION

The Department of Law was established in November 1959 for the purpose of imparting post graduate legal education and encouraging legal research, the need for which was felt long ago as Mumbai is the commercial capital of India and the importance of the study of Law and legal research cannot be over emphasized. The Department provides for courses leading to LL.M., M.Phil., Ph.D. Degree and the following Post Graduate Diploma Courses.

- 1) Post Graduate Diploma Course in Intellectual Property Rights
- 2) Post Graduate Diploma in Alternative Dispute Resolution
- 3) Post Graduate Diploma in Securities Law
- 4) Post Graduate Diploma in Cyber Law and Information Technology

O. 5554 Title of the Course : Post Graduate Diploma in Alternative Dispute Resolution (ADR)

O. 5555 Eligibility : Graduate from any faculty from a recognized University.

R. 5240 Duration of the Course : One Academic Year

R. 5241 Fees Structure : Rs.8700/-

Examination : To be held at the end of every Academic Year.



No students will be allowed to appear for the examination unless he / she has attended 75% of the total number of Lectures / Seminars / Practical conducted for the course.

Each Paper will be of 100 Marks

R. 5242 Intake Capacity - : 50
Weekly Lectures : Eight Hours per week

R. 5243 Teachers Qualification : Post Graduate in Law or Graduate in Law with five to ten years teaching experience or five to ten years professional / service experience in the subject of Law.

R. 5244 Standard of Passing :

- a) To pass the Diploma examination a student must obtain 45% of marks in each paper and 50% in aggregate
- b) Candidate who secures 50% to 59% marks in aggregate shall be declared to have passed the examination in the Second Class.
- c) Candidate who secures an aggregate of 60% and above marks on the whole shall be declared to have passed the Examination in the First class
- d) In addition to (a) (b) and (c) above, a candidate who secures 70% and above marks on the whole shall be declared to have passed the Examination with Distinction.

Number of Papers :

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



**SYLLABUS FOR POST GRADUATE DIPLOMA
IN ALTERNATIVE DISPUTE RESOLUTION (ADR)**

PAPER I—Introduction to Alternative Dispute Resolution

(Total Marks : 100)

1. Introduction :

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

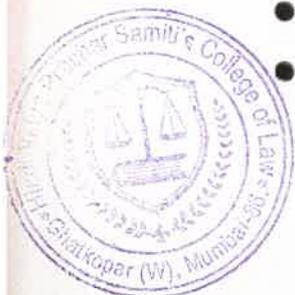
Nature, Scope, Limitations and necessity of alternative models of disputes resolution

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

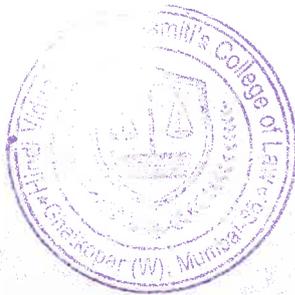
- Theory of arbitration, the arbitration process
- Federal and provincial legislation
- Drafting Arbitration clauses and agreements
- Preparation for Arbitration, Conducting an Arbitration
Seat, location, Examinations and its various aspects
Evidence
- Writing Arbitration Award
- Foreign awards
- Ethical issues in Arbitration
- Conducting a Mock Arbitration

5. Communication & Role of the Paralegal

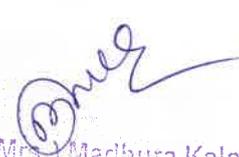
Verbal communication, Non verbal communication
Role of the Paralegal

- 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)

1. **Settlement in Labour and Industrial Disputes,**
 - Bargaining structure, grievance resolution,
 - The role of the Labour Relations Board,
 - 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 :**
 - Bank Disputes, Securities and Matters related to Debt recovery
 - Negotiable Instruments
 - Maintenance
 - Guardianship
 - Custody of the Child
 - Adoption
 - Inheritance/Succession
 - Housing Societies, Maharashtra Housing and Area Development Authority
 - Maharashtra Land Revenue Code, Slum Rehabilitation
 - Co-Operative Disputes
 - Accident Claims.

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**PAPER III—Arbitration & Conciliation Law & International
Perspective**

(Total Marks : 100)

1. 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 Lokadalats.
- vi. Scope, Challenges and Limitations of ADR.

2. 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.

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PAPER IV—Practical Training / Field Work

(Total Marks : 100)

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 :

- | | |
|---|----------|
| a) Dissertation | 80 marks |
| Project Work on Arbitration / Mediation | |
| b) Viva | 20 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 MichelinDewdney : The Mediator's Handbook
7. SriramPanchu : Mediation Practice and law (textbook)
8. MuktaMahajani : 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; 8thEdi. 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

Note : All research projects, dissertations & other research assignments are required to be in accordance with the circular of the University of Mumbai dated 15th June 2018, no. Exam./Thesis/Uni/VCD/947 of 2018 and University Grants Commission (Promotion of Academic Integrity & Prevention of Plagiarism in Higher Educational Institutions) Regulation 2018.

