



## SGT UNIVERSITY, GURGAON FACULTY OF LAW

PROGRAMME	SEMESTER	COURSE NAME	COURSE CODE
LL. B. (Hons)	V	Alternate Dispute Resolution	08040502

### Alternate Dispute Resolution

#### Course Objective-

The course includes a detailed examination of the theory and practice of ADR methods in the context of an adversarial legal system, to develop an understanding of the operation and implications of various ADR theories and practices and to assess their value. It evaluates the Indian experience of the development and incorporation of ADR options in dispute resolution, in civil, administrative, family and criminal contexts. The course will acquaint the students with historical perspectives, nature, origin and scope of ADR. The course will also make students learn the concept of some Indian form of ADR with the help of examples.

#### Module – I

1. Alternative Dispute Resolution (ADR) - Meaning and Philosophy
2. Different methods of Dispute Resolution; Inquisitorial method; Adversarial method;
3. Other methods- both formal and informal- like Arbitration, Conciliation, Negotiation, Mediation, etc.;
4. Advantages and disadvantages of above methods;
5. Need for ADRs;
6. International Commitments:- Various Conventions, Domestic needs

#### Module - II

1. Different kinds of Arbitration;
2. Arbitration under Arbitration and Conciliation Act, 1996.-
3. Qualifications of an arbitrator
4. Essentials of Arbitration agreement
5. Arbitration Tribunal-Appointment, Challenge, Jurisdiction of arbitral tribunal
6. Powers, Grounds of challenge, Procedure, Hearing and written proceedings

7. Court assistance, Arbitral award, Appeal & revision and Enforcement of foreign awards

### **Module – III**

1. Meaning of Conciliation
- 2 Different kinds of Conciliation- Facilitative, Evaluative, Court-annexed, Voluntary and Compulsory;
- 3 Qualities of a Conciliator; Duties of a Conciliator; Role of a Conciliator; Stages of Conciliation; Procedure;
  
4. Conciliation under the following statutes-
  - Industrial Disputes Act, 1947;
  - Family Courts Act, 1984;
  - Hindu Marriage Act, 1955;
  - Arbitration and Conciliation Act, 1996.

### **Module – IV**

- 1 Negotiation: Meaning;
- 2 Different styles of Negotiation;
- 3 Different approaches to Negotiation;
- 4 Phases of Negotiation;
- 5 Qualities of a Negotiator; Power to Negotiate.
- 6 Difference between Negotiation, Arbitration Conciliation and Mediation

### **Module – V**

- 1 Mediation: Meaning;
- 2 Qualities of Mediator; Role of Mediator;
- 3 Essential characteristics of the Mediation process – Voluntary, Collaborative, Controlled, Confidential, Informal, Impartial & Neutral, Self-responsible;
- 4 Different models of Mediation;
- 5 Code of Conduct for Mediators.

### **Module – VI**

- 1 Traces of Alternative Disputes Resolution in Civil Procedure Code - Amendment of 1999- Object of Section 89- Civil Procedure
- 2 Alternative Dispute Resolution and Civil Procedure Mediation Rules, 2005
- 3 Criminal law and Alternative Disputes Resolution

- 4 section 320 of Cr.P.C.- Compoundable offences- with the consent of the parties- with the consent of the court-
- 5 plea Bargaining – use and utility- Indian scenario
6. Lokadalat, Nyaya Panchayat

**Course Outcome** – After the completion of the course, the students will be able to:

1. Appreciate the social relevance and historical context of ADR models in Western and other social contexts;
2. Identify and analyze the complex nature of disputes and their settlements in the community,
3. Understand the theoretical models of dispute resolution and analyze their operation in both legal and social contexts
4. Adaptively apply ADR theory in varied practical contexts, including international, industrial, and socio-political.

### **Suggested Readings:**

1. Sridhar Madabhushi- Alternative Dispute Resolution.
2. Rajan R.D. - A Primer on Alternative Dispute Resolution.
3. Sampath D.K. - Mediation.
4. Gold Neil, et.al. - Learning Lawyers Skills (Chapter-7).
5. Michael Noone- Mediation, (Chapters-1, 2&3).
6. B.P. Saraf and M. Jhunjhunwala, Law of Arbitration and Conciliation (2000), Snow white, Mumbai.
7. Gerald R. Willame (ed.), The New Arbitration and Conciliation Law of India.
8. Indian Council of Arbitration (1998), New Delhi.
9. A.K. Bansal, law of International Commercial Arbitration (1999), Universal, Delhi.
10. P.C. Rao & William sheffield, Alternative Disputes Resolution- what it is and How it works? (1997) Universal Delhi.
11. G.K. Kwatra, The Arbitration and Conciliation Law of India 2000 Universal, Delhi.
12. Basu N.D. Law of Arbitration and Conciliation (9th edition reprint 2000) Universal Delhi.
13. Johari, Commentary on Arbitration and Conciliation Act 1996 (1999) Universal, Delhi.