



**MOHANLAL SUKHADIA UNIVERSITY, UDAIPUR**

**FACULTY OF LAW**

**SECOND YEAR BACHELOR OF LAWS**

(Effective from Session 2020-21)

PAPER – IX (PAPER CODE - 7009)

(PAPER NAME – **ALTERNATIVE DISPUTE RESOLUTION**)

**COMPULSORY PAPERS**

**Max. Marks: 100**

**Min. Marks: 36**

**This paper shall consist of following two parts:**

<b>Part A.</b>	Practical Written Paper	- 80 marks
<b>Part B.</b>	Viva-voce Examination	- 20 marks

The candidate must pass in both parts (a) and (b) separately. For Passing, he will be required to obtain 36% marks in each part, i.e. 29 marks out of 80 and 7 marks out of 20 marks.

**Part – A**

**1. The Arbitration and Conciliation Act, 1996 :**

- (A) General Provisions** – Arbitration Agreement Arbitral Tribunals (Composition and Jurisdiction) – Conduct of Arbitral Proceeding – Arbitral Awards – Termination of Proceeding – Setting Aside of Arbitral Award – Enforcement of Arbitral Awards. Enforcement of Foreign Awards. (Sec 9 -13) – Scheme of Appointment of Arbitrators
- (B) Conciliation** – Conciliators – Procedure of Conciliation – Relationship of Conciliator with Parties – Settlement – Agreement – Termination of Conciliation Proceeding Resort to Arbitral of Judicial Proceedings – Costs and Deposits.
- (C) Mediation:** Understanding Conflict and Disputes: Modes of Dispute Resolution, need for ADR & the importance of Mediation, Mediation and Restorative Justice: Theory of restorative justice and its application, Gandhian principles of non-violent conflict resolution, traditional mediation practices in India and abroad, Mediation Laws in India: Judicial interpretation and relevant case law, dispute resolution institutions in India, Key Concepts in Mediation: Essential elements, process and stages, approaches to Mediation, role of the mediator, Importance of Communication: Elements of verbal and non-verbal communication, effective and ineffective communication techniques, Conducting Effective Mediation: Decision-making techniques, problem-solving tactics, ensuring positive outcome, Qualities and Skills of Mediators: Developing mediation skills, code of ethics, confidentiality requirements, Status of Mediated Agreements: Drafting of agreements, sanctity of mediated agreements, enforcement laws and procedures, Important Developments in Mediation: Growth of virtual dispute resolution, Pre-Institution Mediation, UNCITRAL Model Law, Singapore Convention

**2. Lok Adalat :** Organisation of Lok Adalats, Jurisdiction and Power of Lok Adalats Procedure for determination of Dispute before the lok Adalat, Permanent Lok Adalat.

## Part – B

### VIVA-VOCE

20 Marks

Students are required to write two arbitration proceeding/ Lok Adalat on the Subject. Practical exercises may be devised in mediation to train students in developing crucial communication and negotiation skills, including summarizing of facts, neutral reframing, identification of issues, formulating objective criteria, conducting reality checks, assessing alternatives. Further they have to attend Lok Adalat/arbitration proceeding and have to report the same in their diary. The Viva-voce examination shall be conducted by a committee of two Internal Examiners. The Committee shall award marks on the basis of written submission by the students and performance in the Viva-Voice examination.

### LEADING CASES FOR EXAMINATION

1. Rajasthan State Mines & Minerals Ltd. v. Eastern Engineering Enterprises, AIR 1999 SC 3627.
2. Tamil Nadu Electricity Board v. Bridge Tummel Construction, AIR 1997 SC 1376.
3. Trans Osis Shipping Agency Pvt. Ltd. V. Black Sea Shipping, AIR 1998 SC 707.
4. A/S Gotan Construction & Fisheries Ltd. v. National Bank of Agriculture & Development, AIR 2000 SC 3018.
5. ONGC v. Saw Pipes, AIR 2003 SC 2629
6. Afcons Infrastructure V. Cherian Varkey. (2010) 8 SCC 24

### SUGGESTED READINGS:

1. P.R. Swarnkar : माध्यस्थम व सुलह विधि
2. N.V. Paranjape : माध्यस्थम व सुलह विधि
3. The Arbitration and Conciliation Act, 1996.
4. Sunil Deshta – Lok Adalats in India – Genesis & Functioning.
5. Bakshi, P.M. – Arbitration Law.
6. Paruck, P.L. – Indian Arbitration Act.
7. Avtar Singh – Law of Arbitration and Conciliation
8. Sriram Panchu - Mediation Practice & Law:- The Path to Successful Dispute Resolution
9. Mediation and Conciliation Project Committee, Supreme Court of India - Mediation Training Manual of India
10. Anuroop Omkar and Kritika Krishnamurthy - The Art of Negotiation and Mediation - A Wishbone, Funnybone and a Backbone
11. Joel Lee and The Hwee Hwee - An Asian Perspective on Mediation