

**Post Graduate Diploma in Alternative Dispute Resolution
Methods (ADRMs) (Through Distance Learning)**

Course Structure :

Paper I : ADR Methods	Paper II : Arbitration and Conciliation Act, 1996
Paper III : International Commercial Arbitration	Paper IV : International and Domestic Centers for Institutional Arbitration.
Paper V - Practical Application of ADR Methods	

Course Syllabus

Paper I – ADR Methods

I. Introduction to the Indian Legal System

- Introduction
- The Concept of ADR methods
- Conventional Methods of Dispute Settlement
- Civil Cases vs. Criminal Cases - Key Differences
- Court structure and Jurisdiction
- Stages of Dispute Settlement in Regular Courts
- Shortcomings of Adjudicatory System
- Introduction of ADRMs in the Indian Legal System
- What is Alternative Dispute Resolution Methods?
- Advantages of ADRMs over the Conventional Adjudicatory System

- International Scenario
- Implementation of ADR Methods in India
- Increased Awareness of ADR is the need of the Hour
- Final Observation
- Common Methods of ADR

II. Mediation

- What is Mediation?
- Characteristics of Mediation
- Essential Elements of Mediation
- Advantages/ Benefits of Mediation
- What Kinds of Cases Can Be Mediated?
- What kinds of Cases Cannot Be Mediated?
- Convening for Mediation
- Guidelines to the Parties and Mediator
- Training of the Mediator

III. Conciliation

- Introduction
- How is it done?
- When is it used?
- Advantages
- Difference between Arbitration and Conciliation
- Difference between Arbitration and Conciliation
- A Comparison of Different Methods of Alternative Dispute Resolution Methods

IV. Negotiation

- Introduction
- Eight Pillars of Negotiational Wisdom
- Qualities of a Good Negotiator
- Various phases in Negotiation
- When a Negotiation can fall?
- Setting the Stage for Productive Negotiations
- Certain Specific Titles in the Negotiation Process
- Mixed Motive Exchange
- Winner's Curse
- Interest based Bargaining
- Negotiation "Dance"
- BATNA & WATNA
- Integrative Negotiation
- Distributive Negotiation

V. Essential Concepts - Negotiation/Mediation

- Introduction
- Alternative Paths
- What is BATNA?
- What is WATNA?
- What is MALATNA?
- Purpose of the Analysis
- Initial Presentation of Analysis within Mediation
- When to Suggest the Alternatives: Timing and Context of Analysis
- Quality of Analysis of the Alternatives
- Connection to Development of Settlement Proposals
- Conclusion

VI. Other Types of ADR Methods

- Arbitration
- Fast Track Arbitration
- Mini-Trial
- Med-Arb
- Medola
- International Commercial Arbitration
- Lok Adalat
- Permanent Lok Adalat for Public Utility Services
- Online Dispute Resolution

Paper II - The Arbitration and Conciliation Act, 1996

I. Origin and Development of Arbitration Law

- Introduction
- Arbitration as an important method of ADR Mechanisms
- Origin of Arbitration law in India: Pre Independence Era
- Shortcomings in the Arbitration Act, 1940
- Arbitration and Conciliation Act, 1996 - Essential features
- Scheme of the Arbitration and Conciliation Act, 1996
- Scope and extent of the Arbitration and Conciliation Act, 1996

II. What is Arbitration?

- Meaning and Definition of Arbitration
- Need, importance and benefits of Arbitration
- Other Related definitions under the Act of 1996
- Kinds of Arbitration
- Other modes of settlement of disputes

III. Arbitration Agreement

- Definition of Arbitration Agreement
- Essential elements of arbitration agreement
- Attributes of an Arbitration Agreement
- Who can enter into an Arbitration Agreement
- Power of Judicial Authority to refer parties to arbitration in case of arbitration agreement
- Arbitration clauses in the contracts.

IV. Arbitral Tribunal

- What is an Arbitral Tribunal?
- Composition of Arbitral Tribunal
- Appointment of Arbitrators
- Qualifications of an Arbitrator
- Procedure for appointment of an Arbitrator
- Appointment of arbitrators by Chief Justice
- Duties and responsibilities of Arbitrators
- Challenge of appointment of Arbitrator
- Termination of mandate of Arbitrators and substitution of Arbitrator
- Termination of the mandate of Arbitral Tribunal

V. Jurisdiction of an Arbitral Tribunal and Conduct of Arbitral Tribunal Proceedings

- Jurisdiction of Arbitral Tribunal : Competence of Arbitral Tribunal to rule on its own jurisdiction
- Interim measures by Arbitral Tribunal.
- Conduct of Arbitral Proceedings
- Rules of Procedure
- Place of Arbitration
- Commencement of Proceedings
- Language of the Arbitral Proceeding
- Statements of Claim and Defence
- Hearing and Written Proceedings
- Appointment of Experts by Arbitral Tribunal

VI. Interim measures

- Interim measures by Court
- Interim Measures by Arbitral Tribunal

VII. Arbitral Award

Making of Arbitral Award and Termination of Arbitral Proceedings

- Definition of Arbitral Award
- Types of Awards
- Rules applicable to Arbitral Proceedings
- Form and contents of Arbitral Award
- Termination of proceedings
- Correction and interpretation of Arbitral Award
- Additional Award

VIII. Recourse against Arbitral Award

- Grounds for setting aside Arbitral Award
- Additional Grounds
- What is Public Policy of India?
- Finality of Arbitral Awards
- Enforcement of Arbitral Awards
- Appealable orders
- Miscellaneous Provisions - Lien and Deposits as to Cost
- Effect of death of parties on arbitration agreement
- Effect of insolvency
- Jurisdiction
- Application of Law of Limitation to Arbitrations

IX. Conciliation under the Arbitration and Conciliation Act, 1996

- Meaning of Mediation and Conciliation as a method of settlement of dispute
- Distinguishing features between Arbitration, Mediation and Conciliation
- Preference of Conciliation and Mediation over traditional litigation
- Conciliation under the Arbitration and Conciliation Act, 1996
- Definition of Conciliation
- Application and Scope
- Commencement of conciliation proceedings
- Number of Conciliators
- Appointment of Conciliators
- Assistance of Institutions for appointment of Conciliators

- Submission of statement to conciliators
- Conciliator not bound by certain enactments
- Role of Conciliators
- Administrative Assistance
- Communication between Conciliators and Parties
- Confidentiality and disclosure of information
- Confidentiality
- Co-operation of parties with conciliator
- Suggestions by parties for settlement of disputes
- Settlement agreement
- Status and Effect of Settlement Agreement
- Termination of conciliation proceeding
- Resort to arbitral or judicial proceedings
- Costs and deposits
- Role of conciliator in other proceedings
- Admissibility of evidence in other proceedings

X. Supplementary Provisions

Paper III : International Commercial Arbitration

I. General

- Introduction
- International Commercial Arbitration
- Position in India prior to 1996 Act
- International Conventions on Arbitration
- Geneva Convention and New York Convention
- International Commercial Arbitration: Position in India Post 1996 Act
- Meaning of international Commercial Arbitration
- Differences between Domestic Award, Foreign Award-made in Convention and Non-Convention country
- Applicability of Part I of the A & C Act, 1996 to Foreign Awards

II. Types of International Commercial Arbitration

- Introduction
- Types of International Commercial Arbitration
- Ad-hoc Arbitration
- Merits of ad-hoc method of Arbitration
- Institutional Arbitration
- International Arbitral Institutions

- Indian Arbitral Institutions
- Merits and Demerits of International Commercial Arbitration

III. Choice of Law

- Introduction
- International Commercial Arbitration Subject to Different Laws
- Law governing Arbitration Agreement
- Choice of Law
- Levels of Law that has a bearing on International Commercial Arbitration
- Proper Law of Contract
- Proper Law of the Arbitration Agreement
- Law governing Arbitration proceedings / the Curial Law
- Rules Applicable to Substance of a Dispute in International Commercial Arbitration where the place of arbitration is within India

IV. Governing Laws for Enforcing the Arbitration Agreement

- Introduction
- Applicable Laws in International commercial Arbitration
- Lex Loci Arbitri-- Lex Loci Contractus - Lex Loci Solutionis
- Technical aspect of law in dispute matters
- Curial law/Seat Theory- Governing Law of arbitration
- The sovereignty of the parties to the contract
- Synchronized Laws
- Combined Laws
- The Shariah - General principles of law applicable to international commercial arbitration
- International development law - Lex Mercatoria - Codified terms, Trade Usages and Customs - Conflict Rules
- International Conventions

V. Foreign Arbitral Award

- What is an Arbitral Tribunal?
- What is a foreign Arbitral Award?
- Difference between a Domestic Arbitral Award; a Foreign Arbitral Award made in a Convention Country and a Foreign Arbitral Award made in Non-Convention Country
- Meaning of a Foreign Arbitral Award – under the A & C Act, 1996 – with reference to New York Convention and Geneva Convention
- Essential conditions of a Foreign Award
- What is commercial legal relationship?

- Arbitration Agreement

VI. Enforcement of foreign arbitral awards in India

- Introduction
- Indian Position
- Procedure for Enforcement of Foreign Arbitral Award under the two Conventions
- Power of Judicial Authority to Refer Parties to Arbitration
- Binding Nature of the Foreign Awards
- Procedure for Enforcing the Foreign Award - No Time Limit for Enforcing a Foreign Award
- Evidence to be Produced for Enforcement of Foreign Awards
- What is Court?
- Conditions for Enforcement of Foreign Award under the New York Convention
- Incapacity of the Party, invalid agreement and other conditions
- Lack of proper notice and inability of the party to present his case
- Excess authority or Jurisdictional Issues
- Improper Composition of Arbitral Tribunal or Arbitral Procedure
- Non-binding or Suspended Award
- Inarbitrability or Non-Arbitrability of the Subject Matter
- Public policy:
- Ground for Enforcement of the Award
- Some Observations about the Enforcement of a Foreign Award under the A & C Act, 1996
- Differences Between Grounds for Enforcement of Awards : Domestic Award and Foreign Arbitral Award
- Foreign Award when is Deemed to be a Decree

VII. Appealable Orders

- Appealable Orders - Second Appeal - Revision

VIII. Conduct of Arbitral Proceedings as per the Provisions of Arbitration and Conciliation Act, 1996

- Introduction
- A Brief overview-Commencement of Arbitral Proceedings
- Language of the Proceedings
- Statement of Claim and Defence

IX. Composition of Arbitral Tribunal

- What is Arbitral Tribunal?
- Composition of Arbitral Tribunal as per the provisions of A & C Act, 1996
- Composition of Arbitral Tribunal under UNCITRAL Rules
- Appointment of Arbitrators
- Appointment of Sole Arbitrator by the Appointing Authority
- Procedure when Three Arbitrators are Appointed
- Challenge of Appointment of Arbitrators
- Procedure for Challenging the Appointment of an Arbitrator
- When the Appointment of the Arbitrator is Not Challenged
- Replacement of an Arbitrator
- Repetition of Hearings in the Event of the Replacement of an Arbitrator

X. Arbitral Proceedings with Reference to Leading Institutional Rules

- A Brief Overview of Rules of Leading Institutional Arbitration
- UNCITRAL Model Law
- UNCITRAL Rules
- International Chamber of Commerce (ICC) Rules
- American Arbitration Association (AAA) ICDR Rules
- London Court of International Arbitration (LCIA) Rules
- World Intellectual Property Organisation (WIPO) Rules
- Indian Council of Arbitration (ICA) Rules – with reference to : Extent and scope of application
- Commencement of Arbitration Proceedings
- Place of Arbitration
- Appropriate Law of Arbitration
- Procedure of Arbitration Proceedings
- Arbitration Award

Paper IV: International and Domestic Centers for Institutional Arbitration

International Centres

1. The United Nations Commission of International Trade Law (UNCITRAL) Model Law

- Introduction
- About the Institution
- Features of the Model Law
- Extent and scope of application

- Model Arbitration Clause
- Website for Detailed Rules

2. The International Chamber of Commerce (ICC) Rules

- Introduction
- Place/Location of the Institution
- Rules in force
- Features of the ICC Rules
- Extent and scope of application
- Model Arbitration Clause

3. London Court of International Arbitration (LCIA) Rules

- Introduction
- Place/Location of the Institution
- About the Institution
- Rules in force
- Features of the LCIA Arbitration Rules
- Place of arbitration
- Extent and scope of application
- Model Arbitration Clause

4. World Intellectual Property Organization (WIPO) Rules

- Introduction
- Place/Location of the Institution
- Features of the WIPO Rules
- Extent and scope of application
- Model Arbitration Clause

5. Singapore International Arbitration Centre (SIAC) Rules

- Introduction
- Location/Place of the Institution
- Rules in force
- Scope and Application
- Features of the Rules
- Model Arbitration Clause

6. The Asian International Arbitration Centre (AIAC) Rules

- Introduction

- Place/Location
- Rules in force
- Features of the Rules
- Scope and Extent of Application
- Model Arbitration Clause

7. SAARC Arbitration Council Rules

- Introduction
- Place/Location of the Institution
- Rules in Force
- Features of the Rules
- Model Arbitration Clause

8. The Chartered Institute of Arbitrators (CI Arb) Rules

- Introduction
- Place/Location of the Institution
- Rules in force
- Scope and application
- Model Arbitration Clause
- Website for Detailed Rules

Domestic Centres

1. IMC International ADR Centre, Mumbai

- Introduction
- Place/Location of the Institution
- Rules in Force
- Features of the Rules
- Scope and Application
- Model Arbitration Clause

2. Delhi International Arbitration Centre (DAC)

- Introduction
- Place/Location of the Institution
- Rules in force
- Features of the Rules
- Scope and Application
- Model Arbitration Clause

3. Indian Council of Arbitration (ICA)

- Introduction
- Place/Location of the Institution
- Rules in force
- Features of the Rules
- Scope and Application
- Model Arbitration Clause

4. Mumbai Centre for International Arbitration (MCIA) Rules

- Introduction
- Place/Location of the centre
- Rules in Force
- Features of the Rules
- Scope and Application
- Model Arbitration Clause

5. Indian Institute of Arbitration & Mediation (IIAM), Rules

- Introduction
- Location/Place of the Institution
- Rules in Force
- Features of the IIAM Rules
- Scope and Application
- Model Arbitration Clause

6. Nani Palkhivala Arbitration Centre, Chennai

- Introduction
- Place/Location of the Institution
- Features of the Rules
- Scope and Application
- Model Arbitration Clause

7. ILS Centre for Arbitration (ILSCA)

- Introduction
- Place /Location of the Centre
- Model Arbitration Clause:

Establishment of Arbitration Council

Paper V - Practical Application of ADR Methods

Introduction

Alternative dispute resolution as an aid in family practice matters

Application of alternative dispute resolution to business transactions

A. Transport

- The Railways (Amendment) Act, 2008
- The Multimodal Transportation of Goods Act, 1993
- National High Ways Act, 1956

B. Judiciary

- The Gram Nyayalayas Act, 2008

C. Entertainment

- The Cine-Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981

D. Domestic Disputes

- Family Courts Act, 1984
- The Hindu Marriage Act, 1955
- The Special Marriage Act, 1954

E. Education

- Institute of Technology Act, 1961
- University of Hyderabad Act, 1974

F. Financial Disputes

- The Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002
- The Credit Information Companies (Regulation) Act, 2005

- The Micro, Small and Medium Enterprises Development Act, 2006
- The Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Act, 1993
- The Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings (Amendment) Act, 1993

G. Corporate Issues

- Companies Act 1956

H. Services

- The Indian Telegraph Act, 1885
- The Indian Electricity Act, 1910
- Electricity Act, 2003
- Electricity Supply Act, 1948

I. Others

- Atomic Energy Act, 1962
- The Special Economic Zones Act, 2005
- Multi Co-operative Societies Act, 2002

J. Statues which make a reference to settlement of Disputes by Arbitration does not mandate application of the Arbitration Act

- Antiquities and ART Treasures Act, 1972
- Chit Fund Act, 1982
- Major Port Trusts Act, 1963
- Merchant Shipping Act, 1958
- Specific Relief Act, 1963
- Visva-Bharati University Act, 1951
- Trusts Act, 1882

Note: The syllabus may be amended or enlarged, as and when found necessary.