

NATIONAL LAW UNIVERSITY, DELHI

B.A, LLB. (Hons.): III-YEAR, VI-SEMESTER

Repeat/Improvement Examinations, August-2015 (Old Syllabus)

Paper 6.3: Clinic-I (ADR)

Time: 3 Hours

Total Marks: 70

Instructions:

1. Read the questions carefully and answer. All questions are compulsory.
2. No clarification shall be sought on the question paper.
3. Do not write anything on the question paper except your Roll No.

Answer ALL the questions.

- Q.1 "Conflict generally is associated with negative encounters; conflict itself is neither inherently good nor inherently bad. In fact, engaging in conflict can have positive effects on relationships and organizations." Elaborate the statement giving benefits of identifying the conflicts and resolving them. **(10 Marks)**
- Q.2 When we have Lok Adalats with unlimited jurisdiction, what was the need to create a new institution of Permanent Lok Adalat? Critically analyze the composition, jurisdiction and procedure of Permanent Lok Adalat as provided for in the Legal Services Authorities Act, 1987 in the light of the decision of the Supreme Court in the *Bar Council of India v. Union of India*, AIR 2012 SC 3246. **(12 Marks)**
- Q.3 The Supreme Court aptly observed in the *Afcons Infrastructure* case that the correct interpretation and understanding of Section 89, CPC has become "a trial judge's nightmare".
- Why do you think the Supreme Court was of this view? Can you suggest some measures for smooth application of Section 89, CPC vis-a-vie the fundamental principles of ADR mechanism. Discuss in detail. **(10 Marks)**
- Q.4 "The ONGC case sets the clock back to the pre-1996 era where the courts were having lots of power to set-aside the arbitral awards." Do you think that ONGC judgment can be faulted as widening the scope of public policy of India? Give reasons for your answer both in the context of domestic as well as foreign arbitral awards. **(10 Marks)**
- Q.5 The Supreme Court in *Konkan Railways* case held that the power of the Chief Justice under Section 11 of the Act of 1996 is administrative in nature. Was there any need for the Supreme Court in *SBP Patel Engineering* case to go on to decide that the power is judicial in nature where as it could have been easily held only that the power is not administrative in nature if the court was not in agreement with the decision in *Konkan Railways* case? How does it make any difference whether the power under Section 11 of the Act of 1996 is administrative or judicial in nature? Give reasons for your answer especially against the background of Section 5 of the Act of 1996, doctrine of competence-competence and the decision of the Supreme Court in *Boghara Polifab* case. **(12 Marks)**
- Q.6 Write Short Notes on:
- a. Salient features of "Case Flow Management Rules" as proposed by the Supreme Court in *Salem Advocate Bar Association* Case.
 - b. Is an *inter-parte* suit for interim relief maintainable according to the Supreme Court in *BALCO* case? Give reasons for your answer.
 - c. What is Negotiator's Dilemma and how it can be resolved.
 - d. Requirement of participation in ADR mechanisms in good faith (both nationally and internationally) and its implications. **(16 Marks)**