

SCHEME OF EXAMINATION

and

SYLLABUS

for

MASTER OF LAWS

[One Year]

[LL.M. in ADR]



**GURU GOBIND SINGH
INDRAPRASTHA
UNIVERSITY**

UNIVERSITY SCHOOL OF LAW AND LEGALSTUDIES

**Guru Gobind Singh Indraprastha University
Dawark Sector-16-C, New Delhi-110078**

The one year LLM (ADR) programme shall be introduced from the Academic Year, 2015-16 in the university.

LL.M (One Year) – ADR

Semester I

Paper Code	Paper Title	L	RTDA	C
GEN 101	Research Methods and Legal Writing	4	2	5
GEN 103	System of Governance	4	2	5
GEN 105	Law and Justice in a Globalised World	4	2	5
ADR 115	Evolution and Concept of ADR	4	2	5
ADR 117	Law of Arbitration	4	2	5

Semester II

Paper Code	Paper Title	L	RTDA*	C
IPR 120	Mediation, Conciliation and Negotiation	4	2	5
IPR 122	International Commercial Arbitration	4	2	5
IPR 124	International Investment Arbitration	4	2	5
IPR 126	Practical Training in ADR Skills/ Practical Applications of ADR Methods	4	2	5
GEN 110	Dissertation**	-	-	10

Explanations

- * **L**- Lecture
- * **C**- Credits
- * **RTDA** – Research and Teaching Development Activities
- ** **NUES**

Mode of Evaluation and Distribution of Marks

Each course shall carry total of 100 marks. There shall be semester end written examination for all the courses conducted by Examination Division of the University for 60 Marks. In each course in each semester there shall be Internal-examinations of 15 marks and 25 marks through written and RTDA evaluation respectively as continuous assessment by the subject teacher concerned.

Note:

The total number of Credits of the LL.M. Programme is 55 (Fifty Five).

1. Each student shall be required to appear for examination in all the papers of the course and secure 55 credits for the award of a degree.

Paper – I
Subject: Research Methods and Legal Writing

L4 RTDA2 C5
Paper Code: GEN-101

Objective: This paper will make students understand research methodology and different components of legal research and their application. The paper will attempt to instill rational tools of analysis in the students so that their research contributes to the development of socio-legal dimensions.

Unit – I: Precepts

(Lectures 10)

- a. Nature, Scope and Objectives of Legal Research and Methodology
- b. Methods of Legal Research
- c. Collaborative Research
- d. Doctrinal and Non-Doctrinal

Unit - II: Research Designs

(Lectures 10)

- a. Identification and Formulation of Research Problem
- b. Hypothesis and Research Design (Characteristics and contents)
- c. Database for Legal Research: Legislations, Judicial Decisions, Juristic Writings and Traditional and Online Databases

Unit - III: Research Techniques

(Lectures 10)

- a. Methodology: Tool and Techniques for collection of data, collection of case materials and juristic literature, use of historical and comparative research material and use of questionnaire and interview.
- b. Census and Survey
- c. Sampling: Types, Merits and Demerits
- d. Observation
- e. Interview, Questionnaire

Unit – IV: Data Processing Report Writing

(Lectures 10)

- a. Data Analysis and Interpretation
- b. Report Writing
- c. Supervision
- d. Guidelines for researchers
- e. Research Ethics

Text Books:

1. S.K. Verma and M. Afzal Wani (Eds.) *Legal Research and Methodology*, Indian Law Institute (2001) 2nd Edition.
2. Goode and Hatt, *Methods in Social Research*, Singapore, Mc. Graw Hill Book Co., 1985 (reprint).

References:

1. Baxi, Upendra, *Socio-Legal Research in India – A Program Schriff*, ICSSR, Occasional Monograph, 1975.
2. Cohen, Morris L., *Legal Research*, Minnesota, West Publishing Co. 1985.
3. Ghosh, B.N., *Scientific Method and Social Research*, New Delhi, Sterling Publishers Pvt. Ltd., 1984.
4. Johari J.C. (ed), *Introduction to the Method of Social Sciences*, New Delhi, Sterling Publishers Pvt. Ltd. 1988.
5. Kothari C.K., *Research Methodology: Method and Techniques*, New Delhi, Wiley Eastern Ltd., 1980.
6. Stone, Julius, *Legal System and Lawyer's Reasoning*, Sydney, Maitland Publications, 1968.

Paper – II
Subject: System of Governance

L4 RTDA2 C5
Paper Code: GEN-103

Objective: The objective is to enable the students understand and appreciate various forms and systems of Governance. The students should particularly appreciate the role of judicial institutions in promotion of governance, its limitations and challenges.

Unit - I : Introduction

(Lectures 10)

- a. Meaning and Concept of Governance
- b. Systems of Governance
- c. Constitutional Governance: Democracy, Rule of Law and Separation of Powers
- d. Law and Governance in India

Unit - II : Federalism as a Pattern of Governance

(Lectures 10)

- a. Nature and Principles of Federal Governance : Classical and Modern
- b. Comparative Analysis of American, Canadian and Indian Systems
- c. Corporative Federalism in India: Legislative, Administrative and Financial Relations between Union and States.

Unit - III: Judicial process and its role in Governance

(Lectures 10)

- a. Concept and Practice of Judicial Review in India and USA
- b. Judicial Accountability, Administrative and Parliamentary Ethics
- c. Role of Judiciary in Promoting Governance: Human Rights, Criminal Justice System, Environment, Public Health etc.
- d. Research and Development in Governance

Unit-IV: Emerging Trends and Challenges to Governance

(Lectures 10)

- a. Challenges to Governance: Corruption, Criminalization, Caste, Poverty, Terrorism etc.
- b. State Responsibility & PPP
- c. Principles of compensatory discrimination, Religious and Linguistic Minorities
- d. Role of Media in Governance

Text Books:

1. Joseph Minattur, *Indian Legal System*, ILI Publication, 2006 (2nd Revised Edn)
2. Allot, A.N. "African Law", in J.D. M. Derret, Ed., *An Introduction to Legal Systems* (London: Sweet & Maxwell, 1968), 131.
3. ASEAN Law Association, *ASEAN Legal Systems* (Hong Kong/Malaysia/Singapore: Butterworths, 1995).
4. Basu, D. D., *Comparative Federalism*, New Delhi: Prentice-Hall, 1987.

5. Baxi, U., "The Colonial Heritage", in Legrand, P. and Munday, R., eds., *Comparative Legal Studies: Traditions and Transitions* (Cambridge University Press, 2003), 46.

References:

1. C. H. Mell Wain, *Constitutionalism: Ancient and Modern*. (1947).
2. A. V. Dicey, *Introduction to the Study of Law of the Constitution*. (1982) Edition.
3. Lary Alexander (ed). *Constitutionalism: Philosophical Foundations*. Cambridge. (1998)
4. M. P. Singh 'Constitution of India. 11th Ed. 2008, Eastern Book Co.
5. K. C. Wheare. *Federal Government*. Ch. 1 & 2, 4th Edition 1963.
6. M. P. Singh. *Federalism, Democracy and Human Rights*. 47 J.I.L.I. 47 (2005).
7. Parmanand Singh 'Social Rights and Good Governance In C. Raj Kumar and D. K. Srivastava (ed.) *Human rights and Development: Law, Policy and Governance* Ch.24 pp.437-54. Lexis Nexis. Hong Kong. (2006).
8. Parmanand Singh 'Hunger Amidst Plenty: Reflections on Law, Poverty and Governance. 48, J.I.L.I. PP 57-77. (2006).
9. Virendra Kumar. *Dynamics of Reservation Policy: Towards a More Inclusive Social Order*, 50, J.I.L.I. PP 478-517. (2007).
10. Virendra Kumar, *Minorities' Rights to Run Educational Institutions: T. M. A. Pai Foundation in Perspective*. 45, J.I.L.I. PP 200-238. (2003).
11. Parmanand Singh 'Equality and Compensatory Discrimination: The Indian Experience, In Choklingam and C. Raj Kumar (ed) *Human rights, Criminal Justice and Constitutional Empowerment*, Chapter 7, Oxford, Delhi. (2006).
12. Parmanand Singh. *Protecting the Rights of the Disadvantaged Groups Through Public Interest Litigation*, in M. P. Singh et al (ed), *Human Rights and Basic Needs: Theory and Practice*, Universal Law Publishing Company, New Delhi, PP 305-329. (2008).
13. Balakrishnan, K. G. 'Judiciary in India: Problems and Prospects. 50, J.I.L.I. PP 461-467 (2008).

Paper – III
Subject: Law and Justice in a Globalised World

L4 RTDA2 C5
Paper Code: GEN-105

Objectives: The students should understand the process of globalization in all its dimensions and perspectives, they should particularly appreciate the globalization in the context of law and justice and the *vice versa* i.e. the law and justice in the context of globalization.

Unit-I: Justice in Globalising World: Existing Scenario (Lectures 10)

- a. Globalisation as Process
- b. Existing Scenarios and Issues: Economic, Social, Political
- c. Rethinking the Idea of Just World Order

Unit-II: Mechanism of Justice under International Legal Regime (Lectures 10)

- a. United Nations' Institutional Mechanism
- b. Responsibility of Nation States
- c. Challenges and the Way Forward

Unit-III: Globalisation and National Justice Delivery System (Lectures 10)

- a. Avoidance of National Jurisdictions
- b. Intervention of International Human Rights Regime
- c. Third World's Perspectives to Globalisation

Unit-IV: Emerging Initiatives for Justice (Lectures 10)

- a. MNCs and CSRs
- b. Other New Initiatives
- c. Global *Ombudsman*
- d. Protection of Faiths and Culture

Text Books:

1. Kai Ambos, Judith Large, Marieke Wierda, *Building a Future on Peace and Justice: Studies on Transitional Justice, Peace and Development The Nuremberg Declaration on Peace and Justice*, Springer Science & Business Media, 2008
2. Andrew Byrnes, Mika Hayashi, Christopher Michaelsen, *International Law in the New Age of Globalization*, Martinus Nijhoff Publishers, 2013

References:

1. Joseph Stiglitz, *Making Globalisation Work: The Next Step to Global Justice*, Penguin 2007
2. Antony Anghie (Editor), *The Third World and International Order: Law, Politics, and Globalization*, Kluwer Law International, 2003

Paper – IV
Subject: Evolution and Concept of ADR

L4 RTDA2 C5
Paper Code: ADR 115

UNIT – I: Introduction to ADR-I

(Lectures 10)

- a. Disputes – meaning and Kinds of Disputes
- b. Dispute Resolution in adversary system, Justiciable court structure and jurisdiction
- c. ADR- Meaning and philosophy, Need for ADR
- d. Overview of ADR processes

UNIT – II: Indian Perspective of ADR

(Lectures 10)

- a. Types of ADR in India
- b. Current Trends
- c. Acceptability

UNIT –III: Dispute Resolution at grass root level

(Lectures 10)

- a) Lok Adalats,
- b) Nyaya Panchayath,
- c) Legal Aid,
- d) Preventive and Strategic legal aid.

UNIT – IV: ADR Application

(Lectures 10)

- a. Commercial and Financial Disputes
- b. Real estate and Land Disputes
- c. Consumer Disputes
- d. Accident Claims
- e. Matrimonial Disputes

Text Books:

1. P.C. Rao and William Sheffield, *Alternative Dispute Resolution*, Universal Law Publication, 2004
2. Sarfaraz Ahmed Khan, *Lok Adalat: An Effective Alternative Dispute Resolution*, New APCON Publication, Daryaganj, 2006.
3. Madabhushi Sridhar - *Alternative Dispute Resolution*, Butterworth Lexis Nexis, (Reprint 2010) 1st edition.

References:

1. Federal Judicial Centre, *Manual for Litigation Management and Cost and Delay Reduction* (1992).
2. Henry J Brown and Arthur L. Marriott, *ADR Principles and Practices* (2nd ed.) Sweet and Maxwell, 1999.
3. J. G. Merrills, *International Dispute Settlement*. U.K : Cambridge University Press, 2005(Fifth Edition)

Paper – V
Subject: Law of Arbitration

L4 RTDA2 C5
Paper Code: ADR 117

UNIT – I: Introduction to Arbitration (Lectures 10)

- a. Concept and Essential features
- b. Need of Arbitration in International and Indian Law
- c. Arbitration Law before 1996
- d. Arbitration Law after 1996

UNIT –II: Law of Arbitration in India-I (Lectures 10)

- a. Arbitration Agreement
- b. Appointment of Arbitrator
- c. Conduct of Arbitration Proceedings
- a. Power of Courts to interfere in Arbitration Proceedings
- d. Place of Arbitration
- e. Law applicable to the Arbitration

UNIT – III: Law of Arbitration in India-II (Lectures 10)

- a. Interim Measures
- b. Jurisdictional Issues
- c. Arbitral Award
- d. Setting Aside the Arbitral Award
- e. Enforcement of Arbitral Award
- f. Online Dispute Resolution

UNIT – IV: International Dispute Resolution (Lectures 10)

- a. Foreign Award
- b. New York Convention
- c. Geneva Convention
- d. Enforcement of Foreign Award: Public Order

Text Books:

1. Avtar Singh, Law of Arbitration and Conciliation, Eastern Book Company, 2013(10th Edition)
2. Bansal, A. K. *Law of international commercial arbitration*, Universal, Delhi, (2010)
3. David St. John, Judith Gill, Mathew Gearing, *Russell on Arbitration*, Sweet & Maxwell, 23rd ed. 2013.

References:

1. O. P. Malhotra & Indu Malhotra, *The Law and Practice of Arbitration and Conciliation*, 3rd ed. (2014).
2. Justice P.S. Narayan, *The Arbitration and Conciliation Act*, 4th ed. (2007).
3. Chawla, S.L. *Law Of Arbitration and Conciliation*, Eastern Law House (2004)
4. Markanda P.C., *Law Relating to Arbitration and Conciliation*, Wadhwa Nagpur

Paper – VI
Subject: Mediation, Conciliation and Negotiation

L4 RTDA2 C5
Paper Code: ADR 120

UNIT – I: Mediation-I (Lectures 10)

- a. Mediation: Meaning, Scope and importance of Mediation
- b. Adjudication vs Mediation
- c. Techniques of Mediation
- d. Mediation Ethics and Obligations of Mediation

UNIT – II: Mediation II (Lectures 10)

- a. Supreme Court's Module on Mediation
- b. Civil and Commercial Mediation
- c. Family Mediation
- d. Victim-offender Mediation

UNIT – III: Conciliation and Negotiation (Lectures 10)

- a. Conciliation: Nature and Modes of Conciliation
- b. Law Relating to Conciliation
- c. Negotiation: Meaning and Significance
- d. Techniques and approach to Negotiation

UNIT – IV: International Practices (Lectures 10)

- a. Comparative study of Mediation
- b. Comparative Study of Conciliation
- c. Negotiation for International Relations and Disputes

Text Books:

1. Sriram Panchu, *Mediation Practices & Law*, Lexis Nexis Butterworth, 1st ed. (2011).
2. S. Susheela, *Mediation Readers Handbook*, Asia Law House, 1st ed. (2012).

References:

1. Abraham P. Ordover and Andrea Doneff, *Alternatives to Litigation : Mediation, Arbitration, and the Art of Dispute Resolution*, Notre Dame: National Institute for Trial Advocacy, 2002
2. Mediation in India, A Toolkit, USEFL
3. The Mediator's Handbook by Ruth Chariton and Micheline Dewdney .
4. The Fundamentals of Family Mediation by John M. Haynes and Stephanie Charlesworth.

Paper – VII
Subject: International Commercial Arbitration

L4 RTDA2 C5
Paper Code: ADR 122

UNIT-I: Introduction

(Lectures-10)

- a. Concept, Nature and Emergence of International Commercial Arbitration
- b. Dispute Resolution in International Trade
- c. Important terms used in International Commercial Arbitration
- d. International Arbitration Institutions
- e. A comparison between institutional versus ad-hoc rules of arbitration

UNIT-II: Applicability of Laws

(Lectures-10)

- a. Types of laws applicable in international commercial arbitration
- b. Governing law of arbitration, Law applicable to the substantive and procedural issues
- c. Enforcing the choice of law clause
- d. Party Autonomy: Choice of law (Seat Theory), Choice of national law.
- e. Conflict Rules

UNIT-III: Regulating International Commercial Arbitration

(Lectures-10)

- a. An introduction to UNCITRAL Model law on International Commercial Arbitration
- b. Judicial intervention to Arbitration
- c. Reference to arbitration
- d. Interim Measures
- e. General policy for enforcement, review and refusal of foreign award in India.

UNIT-IV: Recognition or enforcement of foreign arbitral awards

(Lectures-10)

- a. Foreign Award- meaning
- b. The International Conventions for recognition and enforcement of arbitral awards
- c. Reciprocity and Commercial Reservation
- d. Indian law- Scope and Applicability
- e. Recognition and enforcement of annulled awards

Text Books:

1. Jay E. Grenig, International Commercial Arbitration, West Thomson Reuters, 1st ed.(2014).
2. Kroll, Laukas A Mistelis, Viscasilas, V. Rogers, International Arbitration and International Commercial Law, Kluwer International (2011)

References:

1. Ashwinie Kumar Bansal, International Commercial Arbitration - Practice and Procedure (Enforcement of Foreign Awards - Covering more than 75 Countries), Universal Law Publication Co. Pvt. Ltd, 1st ed. (2014).
2. Justice R.S. Bachawat, Anirudh Wadhwa, Anirudh Krishnan, Law of Arbitration and Conciliation with Exhaustive Coverage of International Commercial Arbitration & ADR, Lexis Nexis Butterworth, 5th ed. (2013).

Paper – VIII**L4 RTDA2 C5****Subject: Foreign Investment and
International Investment Arbitration****Paper Code: ADR 124****UNIT-I: Introduction****(Lectures-10)**

- a. Overview of issues and trends in foreign investments
- b. Foreign investments in historical context.
- c. Trends in flow of foreign investments.
- d. Foreign investments and development.

UNIT-II: Regulation of Foreign Investment**(Lectures-10)**

- a. Historical trends in regulation of foreign investments
- b. Perspectives and emergence of bilateral, regional and multilateral Investments Treaties.
- c. Rights of foreign investors.
- d. Responsibilities of foreign investors' vis-à-vis environment, human rights and other municipal concerns of host states

UNIT III: Remedies for Foreign Investors**(Lectures-10)**

- a. Trends and issues in treaty based remedies for foreign investors.
- b. Fork in the road and the umbrella clauses.
- c. Overview of foreign arbitral institutions.
- d. Recognition and enforcement of foreign arbitral awards with specific reference to India.

UNIT-IV: International Centre for Settlement of Investment Disputes (Lectures-10)

- a. Overview of ICSID.
- b. Resolution of Investors State Dispute with specific reference to Washington Convention 1965.
- c. Preliminary issues in respect of jurisdictional proceedings.
- d. Essentials for the jurisdiction of ICSID, patterns of consent and meaning of foreign investment under Article 25 of the ICSID.

Text Books:

1. Campbell Mc Lachlan, Laurence Shore & Matthew Weiniger, *International Investment Arbitration: Substantive Principles*, Oxford University Press, 1st ed, 2008.
2. Todd Weiler, *International Investment Law and Arbitration: Leading Cases from the ICSID, NAFTA, Bilateral Treaties and Customary International Law*, Cameron, 2005.
3. Mohamed A. M. Ismail, COnseil d'État, *International Investment Arbitration: Lessons from Developments in the MENA Region*, Ashgate, 1st ed., 2013

References:

1. *Arbitration under International Investment Agreements: A Guide to the Key Issues* (2010) INTL K3830 .A75 2010.
2. Kroll & Horn, *Arbitrating Foreign Investment Disputes: Procedural and Substantive Legal Aspects*, Kluwer Law, (2004)

Paper – IX
Subject: Practical Training in ADR Skills

L4 RTDA2 C5
Paper Code: IPR 126

The objectives of this paper is to develop in the students of LLM ADR practical understandings of the matter which can be preferably resolved through ADR. They will therefore be given actual training in processing cases for resolution using ADR techniques. The main focus will be on resolution of commercial disputes of both national and international dimensions, disputes between citizens and government, matrimonial disputes, arbitration and those concerning civil rights. During the semester at least four cases will have to be processed by the students. The evaluation of course work in this paper shall be exclusively internal by a Board of examiner constituted by the Academic Programme Committee of the University School of Law and Legal Studies.

Paper – X
Subject: Dissertation

C 10
Paper Code: GEN 110

The evaluation of the Dissertation and Viva Voce will be conducted by a Board of Examiners comprising of Dean, Supervisor and senior most faculty member and an External Examiner with the approval of the Hon'ble Vice Chancellor.