



THE UNIVERSITY OF THE WEST INDIES

EXAMINATIONS OF _____ APRIL/MAY _____ 2000

CODE AND NAME OF COURSE: LA27C ALTERNATIVE DISPUTE RESOLUTION

DATE AND TIME:

DURATION: 2 HOURS

INSTRUCTIONS TO CANDIDATES: This paper has 2 pages and 6 questions.

Answer **TWO** questions.

Answers may be confined to the law of any jurisdiction in the Commonwealth Caribbean unless the context indicates otherwise.

1. "Alternative Dispute Resolution (ADR) complements litigation and other adjudicatory forms, providing processes which can either stand in their own right or be used as an adjunct to adjudication. This enables practitioners to select procedures (adjudicatory or consensual) appropriate to individual disputes. ADR gives the parties more power and greater control over resolving the issues between them, encourages problem-solving approaches, and provides for more effective settlements ..."

Discuss.

2. "In addition to their use in such traditional areas as business and the family, [alternative] dispute(s) resolution processes have been used, at least on an experimental basis ... for almost every kind of dispute."

Discuss this statement. Explain the extent to which it may be reflective of an increasing resort to ADR processes in the Commonwealth Caribbean.

3. ✓ "Impartiality and neutrality are absolute prerequisites to a valid process of mediation. It is important that neither side should feel judged in any way by the mediator."

In the context of this statement, discuss the mediation process, with particular reference to its strengths and weaknesses as a means of resolving disputes which would otherwise be subject to litigation.

4. ✓ Explain the process of arbitration and assess the relative merits and demerits of the arbitration process over litigation.

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5. Analyse the various approaches which may be used in the settlement of disputes by negotiation, and explain which of these approaches may be best suited to the resolution of commercial disputes in the Commonwealth Caribbean.

6. "Any view which asserts that the main strength of Alternative Disputes Resolution processes lies in the fact that decisions which are made in these processes are unenforceable is a contradiction in terms."

Discuss.

END OF PAPER