

UGANDA MARTYRS UNIVERSITY

NKOZI

UNIVERSITY EXAMINATION

MAY 2023

FACULTY OF LAW

BACHELOR OF LAWS (LLB) YEAR IV

END OF SEMESTER TWO EXAMS

ACADEMIC YEAR 2022/2023

ALTERNATIVE DISPUTE RESOLUTION (ADR)

DATE: Thursday, 18th May 2023

TIME: 9:30 AM– 1: 00 PM

DURATION: 3 & HALF HRS

Instructions:

1. Carefully read through ALL the questions before attempting
2. This paper consists of two sections, A and B. Answer two questions from each section. All questions carry equal marks, (25). Answer a total four (4) questions).
3. This is a partially open book examination, students may bring into the examination room **CLEAN COPIES** of the Arbitration and Conciliation Act (amended), The Judicature Mediation Rules, Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention 1958) and the UNCITRAL Model Law on International Commercial Arbitration **BUT SHALL NOT SHARE THE SAME**
4. It is in your interest that your work is clear and readable.
5. Clarity of expression, provision of relevant authorities/examples and logical flow of arguments will earn you extra marks
6. Do not write anything on this question paper; use your answer booklets to do your rough work.
7. **ANY TYPE OF EXAMINATION MALPRACTICE WILL LEAD TO AUTOMATIC DISQUALIFICATION**

SECTION A

Question One

Examine the evolution of Alternative Dispute Resolution (ADR) in Uganda (25marks)

Question Two

"Commercial arbitration has been very powerful, as a dispute resolution mechanism in the 21st Century due to the UNCITRAL or Model Law. Attempts are being made to encourage Alternative Dispute Resolution (ADR) as a way of reducing disputes. Lawyers are thus encouraged to champion ADR in their daily legal practice". Per Anderson, an LLB IV student of Umu. With the use of relevant authorities, discuss the merits of ADR against adjudication in legal management process. (25marks)

Question Three

Parties to a dispute can now save time and money by avoiding protracted court battles involved in litigation altogether. Explain, with examples and where appropriate legal authorities any three ADR mechanisms that can be used in dispute resolution. (25marks)

Question Four

Discuss the mandate of the Centre for Arbitration and Dispute Resolution (CADRE) as provided for under the Arbitration and Conciliation Act as amended. In your discussion explain the challenges that the center has experienced and how these challenges can be addressed. (26marks)

SECTION B

Question Five

Okello is a farmer who lives in Lira where he is engaged in sunflower growing. He has been approached by a Canadian company that processes organic sunflower oil in Canada. Okello excited about this potential business opportunity that could open for him the gates to more businesses and the profits that come along such opportunities. The Canadian company has proposed to buy 3000tons of sunflower from Okello's farm but that it would pay 30% of the contract balance and complete the balance of 70% after the sunflower has been processed by the company. Okello is excited but also confused because the Canadian company is based in Canada and in the event of breach of their contract, he may not be in position to secure the payment of his money. He wants to include all his concerns in the agreement to ensure that it is water tight and that he will not lose his money in this prospective deal. He has approached you his lawyer for advice.

Please advise him on what he can do right from what he can include in the agreement and in the event of a dispute arising, advise him on the best alternative dispute resolution mechanisms, their advantages and disadvantages and the best option for him. (25marks)

Question Six

"I do not see why I would go to London or anywhere in this world for arbitration proceedings when I can have the same in Uganda. Indeed, all I would have to do is to ensure that my arbitration clause is so well drafted so that I keep within my country. Moreover, arbitration that is done locally will pull more benefits in comparison to the international one". (Per Mr. Luge, an LLB IV Student of Uganda Martyrs University, Nkozi).

With regard to international commercial arbitration, discuss to what extent you agree with the statement of Mr. Luge. **(25marks)**

Question Seven

Explain the steps in the conduct of the following:

- a) Mediation **(10marks)**
- b) Negotiation **(10marks)**
- c) Scheduling Conference **(5marks)**

Question Eight

Write explanatory notes on the following:

- a) Arbitral Awards **(5marks)**
- b) Arbitration Agreement **(5marks)**
- c) The Role of a Mediator **(5marks)**
- d) Scheduling Conference **(5marks)**
- e) Conciliation **(5marks)**