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| Name: |  |
| Enrolment No: | |

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| UNIVERSITY OF PETROLEUM AND ENERGY STUDIES Online End Semester Examination, May 2021 | |
| Course: Arbitration and Conciliation & Alternative Dispute Resolution Mechanism Program: BA. LL.B SZ-CNTL/CRL Course Code: LLBL 531/LLB L461 | Semester: X Time 03 hrs. Max. Marks: 100 |

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| SECTION A | |
| 1. Each Question will carry 5 Marks 2. Instruction: Word limit- 200-300 words. | |

| S. No. | Question | CO |
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| Q 1 | Explain the term 'Alternate Dispute Resolution'. Discuss its advantages and disadvantages. | CO 1 |
| Q2 | Write short note on the following: a). Arbitration Agreement b). Conciliation | CO 2 |
| Q3 | Briefly discuss the difference between 'place', 'seat' and 'venue' of arbitration and cite related case laws. | CO 2 |
| Q4 | When a party for stay of legal proceedings has filed an application, the judicial authority may refuse to order stay on some grounds. Enumerate any four grounds. | CO 3 |
| Q5 | Quite often parties in international commercial arbitration provide a clause in their contract that all disputes arising in relation to said contract should be referred for arbitration to the exclusive jurisdiction of a foreign court. Such clause indicates intention of the parties that the law of that country shall govern their dispute. This is known as called Foreign Arbitration Clause. Discuss the conditions that shall guide the applicability of such foreign arbitration clauses in the contract. | CO 3 |
| Q6 | Discuss the salient features of FastTrack Procedure inserted by Arbitration and Conciliation (Amendment) Act 2015. | CO 2 |

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| SECTION B | |
| 1. Each question will carry 10 marks 2. Instruction: Write short / brief notes | |

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| Q 7 | The alternative dispute resolution is not an alternative to the formal judicial system, but only a way to supplement it. It was an account of this reason that CPC 1908 was amended in 2002 enabling the court to take advantage of ADR mechanism to resolve a dispute. Critically examine the statement and elucidate your answer with the help of a case law in brief. | CO 2 |
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| Q 8 | <p>Geneva Convention on the execution of Foreign Arbitral Awards 1927 and the 1923 Geneva Protocol on Arbitration Clauses were not efficacious in providing relief to contesting parties due to certain defects. New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 succeeded these two international arbitral instruments. The Geneva Convention virtually ceased to serve any practical purpose following Article VII of New York Convention 1958.</p> <p>Enumerate the shortcomings in the Geneva Treaties relating to Execution of Foreign Arbitral Awards and Arbitration Clauses.</p> | CO2 |
| Q 9 | <p>With the passage of time, there is a complete paradigm shift in the ADR mechanism in India. Judicial system has been overburdened due to arrear of cases. Arbitral cases also end up in courts under the provisions contained in Arbitration and Conciliation Act 1996. Various committees set up by Government of India and Law Commission of India in their recommendations have suggested adoption of those means of ADR which are time and cost efficient in resolving disputes between parties.</p> <p>In view of the above, Explain salient features of composition, jurisdiction, procedures and powers of Lok Adalat.</p> | CO2 |
| Q 10 | <p>While the decision in BALCO case was a step in right direction, the Law Commission of India felt there were still a few areas that are likely to be problematic. Following the recommendations of the Law Commission of India, Arbitration and Conciliation Act 1996 was amended in 2015.</p> <p>Explain the problematic areas created by BALCO decision.</p> | CO3 |
| Q 11 | <p>There was a general trend to decline enforcement of Foreign Arbitral Awards by Indian Courts on rounds of violation of public policy of India. This had created disappointment among Foreign Arbitral Party and they slowly started moving away from investing in India due to its poor arbitral law and grievance redressal regime. This was adversely affecting India's economy. Government of India and Law Commission of India made several recommendations to alter India's Arbitration and Conciliation Act 1996.</p> <p>Critically examine the changes made in Arbitration and Conciliation Act 1996 relating to Public Policy and elucidate your answer with ratio of two appropriate cases decided by the Supreme Court of India on matters of Public Policy.</p> | CO4 |
| <p>Section C</p> <p>1. Each Question carries 20 Marks. 2. Instruction: Write long answer.</p> | | |
| Q12 | <p>The Supreme Court in the case of Chloro Controls India Pvt. Ltd. v Severn Trent Water Purification Inc. (2013) mentioned five theories about reference of non-signatories to arbitration by a judicial determination (as part of the <i>obiter dicta</i>), which have been encapsulated in the matter of Thomson-csf, S.a., v. American Arbitration Association F.3d 773 (2d Cir.1994).</p> <p>1. Enumerate five theories mentioned by the Supreme Court of India in the above-cited case as part of <i>Obiter Dicta</i> contained in the judgment.</p> | CO4 |

OR

Mr. X and Y entered into an arbitration agreement and both decided to subject all future disputes arising out of the said agreement to be subjected to arbitration. At a later stage, a dispute arose between the two parties and both proceeded to initiate arbitration proceeding as per the agreement. After the commencement of arbitral proceedings, Mr. X contested that the arbitration scheme is not applicable, as the issue in dispute is not related to the clauses set out in the Arbitration Agreement. Mr. X also stated that Arbitral Tribunal has also exceeded its jurisdiction in conducting proceeding on an issue not mentioned in the Arbitral Agreement. Mr. X wants Arbitral Tribunal to conduct Arbitral Proceedings strictly as per the terms and conditions mentioned in the Arbitration Agreement.

Mr. X approached you to seek legal opinion on the following:

- 1. What would be appropriate stage for Mr. X to challenge conduct of Arbitral Tribunal in continuing the proceeding on terms and conditions not mentioned in the Arbitral Agreement?**
- 2. State and explain relevant Section/ Sections of Arbitration and Conciliation Act 1996 to challenge the conduct of the Arbitrator.**