

THE KENYA SCHOOL OF LAW



DIPLOMA IN LAW (PARA-LEGAL STUDIES)

2ND YEAR TERM II, 2026 EXAMINATION

INTRODUCTION TO ALTERNATIVE DISPUTE RESOLUTION-PTP 205

SPECIAL EXAMINATION

8th APRIL, 2026

DURATION: 2 HOURS

10.00 AM – 12.00 PM



Instructions to Candidates

- (a) Answer Question ONE and ANY OTHER THREE Questions
- (b) Question ONE carries 25 Marks
- (c) All other questions carry 15 Marks each

PLEASE TURN OVER

QUESTION ONE

- a) Identify and explain the essential features of the following ADR processes (12 Marks)
- Arbitration
 - Mediation
 - Traditional Dispute Resolution Mechanisms
 - Adjudication
 - Conciliation
- a) Discuss the conditions set out in the Constitution of Kenya for the promotion of traditional dispute resolution mechanisms. (6 Marks)
- b) Discuss the instances where courts can intervene in an arbitration matter as set out in the Arbitration Act. (7 Marks)

QUESTION TWO

Identify and explain five (5) principles that guide effective conflict prevention. (15 Marks)

QUESTION THREE

- a) Differentiate between med-arb and arb-med. (5 Marks)
- b) Explain five (5) benefits of alternative dispute resolution mechanisms in Kenya. (10 Marks)

QUESTION FOUR

Identify and discuss five (5) major limitations of ADR processes. (15 Marks)

QUESTION FIVE

Discuss the history and development of alternative dispute resolution mechanisms in Kenya. (15 Marks)

QUESTION SIX

Discuss five (5) key considerations for drafting an enforceable alternative dispute resolution agreement. (15 Marks)

END

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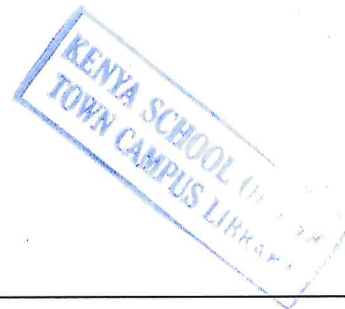
DIPLOMA IN LAW (PARA-LEGAL TRAINING PROGRAMME)

EXAMINATION - SECOND YEAR TERM TWO, 2025

INTRODUCTION TO ALTERNATIVE DISPUTE RESOLUTION PTP 205

18TH NOVEMBER, 2025

DURATION: 2 HOURS
2.00 PM – 4.00 PM



Instructions to Candidates

- (a) Answer Question ONE and ANY OTHER THREE Questions
- (b) Question ONE carries 25 Marks
- (c) All other questions carry 15 Marks each

PLEASE TURN OVER

QUESTION 1

Read the case study below and answer the questions that follow.



CASE STUDY

Beta Hotel Group placed an order with Alpha Furniture Limited for 50 custom-designed banquet chairs. Upon delivery, Beta Hotel Group found that the fabric used on the chairs was not the fire-retardant material specified in the contract, rendering them unsuitable for hotel use under safety regulations. Beta Hotel Group refuses to pay the remaining Kes.1,500,000 balance and demands that Alpha Furniture Limited take back the chairs. Alpha Furniture admits the wrong fabric was used but states that they can replace the fabric at a cost of Kes.500,000 and asks Beta Hotel Group to accept this solution and pay the remaining Kes.1,500,000.

- a) The parties would like you to explain to them what the most suitable Alternative Dispute Resolution (ADR) mechanism is in this context. **(2 Marks)**
- b) Outline three differences between the ADR mechanism chosen in (a) and litigation? **(3 Marks)**
- c) Discuss with the client five advantages of the alternative dispute resolution mechanism chosen in (a) above over litigation. **(10 Marks)**
- d) Advise the parties of at least **three (3)** limitations of the ADR mechanism use in (a) above. **(6 Marks)**
- e) Discuss the legal and policy framework in Kenya for the alternative dispute resolution mechanism chosen in (a) above. **(4 Marks)**

QUESTION 2

- a) Disputing parties are encouraged to consider alternative methods for resolving disputes including traditional dispute resolution mechanisms. Examine the constitutional basis for recognizing Traditional Dispute Resolution Mechanisms (TDRMs) in Kenya and critically analyze the **limitations** that **Article 159(3)** of the Constitution imposes on TDRMs. **(9 marks)**
- b) Explain **three (3)** mechanisms that parties can use to prevent disputes. **(6 Marks)**

QUESTION 3

- a) Define three (3) different types of ADR mechanisms and highlight the advantages and disadvantages of each mechanism. **(9 Marks)**
- b) Discuss the factors that parties should consider when selecting a specific ADR method to resolve disputes. **(6 Marks)**

QUESTION 4

- a) Discuss the principle of "**Clear and Unequivocal Intention**" as a key consideration in drafting Arbitration Agreements under Kenyan Law. **(6 Marks)**

- b) Discuss the principle of 'Minimal Court Intervention' as enshrined in the Arbitration Act, 1995, and reinforced by Kenyan case law (6 Marks)
- c) Discuss the use of alternative dispute resolution in criminal matters in Kenya. (3 Marks)

QUESTION 5

- a) Assess the contribution of the Constitution and the Civil Procedure Act in formalizing and promoting mediation within Kenya's justice system. (9 Marks)
- b) Discuss **three** key considerations in drafting a legally enforceable alternative dispute resolution agreement. (6 Marks)

QUESTION 6

- a) Using clear illustrations, discuss at least five mechanisms of dispute prevention. (15 Marks)



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DIPLOMA IN LAW (PARA-LEGAL STUDIES)

2ND YEAR SPECIAL / SUPPLEMENTARY EXAMINATIONS

INTRODUCTION TO ALTERNATIVE DISPUTE RESOLUTION – PTP 205

8TH APRIL, 2025

DURATION: 2 HOURS

Instructions to Candidates

- (a) Answer Question ONE and ANY OTHER THREE Questions
- (b) Question ONE carries 25 Marks
- (c) All other questions carry 15 Marks each

PLEASE TURN OVER

Question One

Sanitta is an engineer working in Wajir County. She has been supervising a construction project for four years. Last month, her laptop was stolen by one of the workers on the site. The Chief has requested that she attends a meeting to resolve the dispute, as the worker (accused thief) is from the area, and the local community wishes to use traditional dispute resolution methods. However, she is uncertain about this approach since theft is a criminal offence. The meeting does not take place because the accused person falls sick. Due to the stress of the situation, Sanitta decides to attempt negotiation. Unfortunately, the negotiation is unsuccessful, she is now considering court-annexed mediation or other methods to resolve the dispute. Over the past month, she has sought your advice on several issues.

- (a) Advise her on **FIVE (5)** key preparations for negotiation and factors to consider. (10 Marks)
- (b) Discuss the role of Alternative Dispute Resolution (ADR) in Criminal matters in Kenya, use case law where applicable. (5 Marks)
- (c) If she signs a mediation settlement agreement but later wishes to have it set aside, what are **THREE (3)** reasons / grounds she can present to the court for consideration? (6 Marks)
- (d) Explain to her what a dispute board is. (2 Marks)
- (e) Outline **TWO (2)** key differences between arbitration and negotiation. (2 Marks)

Question Two

- (a) Discuss **THREE (3)** shortcomings and **TWO (2)** advantages of Alternative Dispute Resolution (ADR) mechanisms in resolving dispute. (10 Marks)
- (b) Outline the historical development of Arbitration Law in Kenya. (5 Marks)

Question Three

Describe the following in detail:

- (a) Construction Adjudication. (4 Marks)
- (b) Conciliation. (4 Marks)
- (c) The application of Traditional Dispute Resolution mechanisms in Kenya and the exemptions provided under the Constitution of Kenya. (4 Marks)
- (d) The New York Convention on Recognition and Enforcement of Foreign Arbitral awards. (3 Marks)

Question Four

- (a) Discuss in detail **SIX (6)** roles of the court in arbitration. (12 Marks)
- (b) Outline the role of ADR in resolving disputes at the County government level. (3 Marks)

Question Five

- (a) Discuss **FOUR (4)** roles of an Advocate in negotiation. (8 Marks)
- (b) What are hybrid processes in ADR? (3 Marks)
- (c) Outline **FOUR (4)** factors to consider before selecting an ADR process. (4 Marks)

Question Six

- (a) What are the **THREE (3)** ways a mediation arises or a matter ends up in mediation? (3 Marks)
- (b) Apart from construction adjudication, discuss in detail a method of ADR where the outcome is final and binding. (3 Marks)
- (c) In what **THREE (3)** ways is conciliation similar to mediation? (3 Marks)
- (d) Discuss in detail **THREE (3)** disadvantages of using negotiation as a method of dispute resolution. (6 Marks)

END

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DIPLOMA IN LAW (PARA-LEGAL STUDIES)

2ND YEAR TERM II EXAMINATIONS

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INTRODUCTION TO ALTERNATIVE DISPUTE RESOLUTION – PTP 205

19TH NOVEMBER, 2024

DURATION: 2 HOURS

2.00 PM – 4.00 PM

Instructions to Candidates

- (a) Answer Question ONE and ANY OTHER THREE Questions
- (b) Question ONE carries 25 Marks
- (c) All other questions carry 15 Marks each

PLEASE TURN OVER

QUESTION ONE

A client of yours entered into a contract with the clause below:

"All disputes arising out of or in connection with this agreement, including any question regarding its existence, validity or termination ("Dispute"), must be attempted to be solved through negotiation by the parties within 30 calendar days after either party notifies the other in writing of the existence of the Dispute.

Any Dispute not resolved in the term abovementioned, shall be escalated to a sole mediator who shall be appointed under the Nairobi Centre for International Arbitration Mediation Rules. The parties shall attempt to resolve the dispute within 30 calendar days after the appointment of the Mediator.

Any Dispute not resolved in the term abovementioned, shall be finally settled by arbitration under the Nairobi Centre for International Arbitration Rules by an Arbitrator appointed in accordance with the said Rules.

The party that initiates the Dispute must submit a request for arbitration according to the said Rules. To that effect, the appointing authority will be the Nairobi Centre for International Arbitration.

The place of arbitration shall be Nairobi. The Language of arbitration shall be English and the law governing the Agreement shall be Kenyan law.

The arbitration award ("the Award") shall be final and binding upon the parties, and it shall not be subject to any kind of appeal or revision. Each of the parties waives its right to appeal the Award before any tribunal. Any party to the Dispute may request the recognition and enforcement of the Award to any competent tribunal, if the other party does not comply with it."

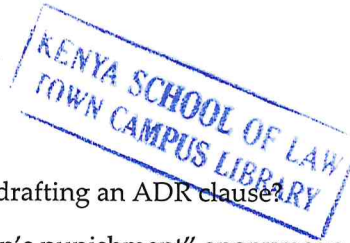
A dispute has arisen between your client and the other party.

- (a) Advise the client on the dispute resolution process **OUTLINING** the various stages involved. (7 Marks)
- (b) Discuss **FIVE (5)** roles of the court in the arbitration process. (10 Marks)
- (c) Discuss **THREE (3)** essential skills that a mediator should possess. (6 Marks)
- (d) In the absence of the appointing authority, identify **TWO (2)** alternative methods for appointing an arbitrator. (2 Marks)

QUESTION TWO

- (a) Explain **THREE (3)** limitations of using ADR to resolve disputes? (3 Marks)
- (b) **DISCUSS** in detail, **THREE (3)** ADR methods other than arbitration, conciliation and mediation. (6 Marks)
- (c) Apart from the Constitution and the Arbitration Act of 1995, **DISCUSS THREE (3)** examples of the National Framework for ADR in Kenya while citing relevant examples. (6 Marks)





QUESTION THREE

- (a) Explain **FIVE (5)** key factors to consider when drafting an ADR clause. (10 Marks)
- (b) "Criminal cases must lead to the accused person's punishment" anonymous.

DISCUSS the above-mentioned statement, while identifying the role of ADR in resolving criminal matters. Use relevant case law where applicable. (5 Marks)

QUESTION FOUR

- (a) Identify **THREE (3)** possible orders the High Court may grant when a mediator files a certificate of non-compliance in Court Annexed Mediation. (3 Marks)
- (b) **DISCUSS THREE (3)** consequences of a non-compliance certificate in Court Annexed Mediation. (6 Marks)
- (c) **DISCUSS** early neutral evaluation as a form of Alternative Dispute Resolution. (3 Marks)
- (d) **DISCUSS** the UNCITRAL Model Law on Commercial Arbitration. (3 Marks)

QUESTION FIVE

- (a) Explain **FIVE (5)** factors to consider when selecting an ADR process to consider for resolving disputes. (10 Marks)
- (b) Identify **FIVE (5)** advantages of using litigation over Alternative Dispute resolution methods. (5 Marks)

QUESTION SIX

- (a) **DISCUSS** the New York Convention. (3 Marks)
- (b) **DISCUSS** The Regional Framework for ADR in Kenya (2 Marks)
- (c) **DISCUSS THREE (3)** shortcomings of using Traditional Dispute Resolution methods to resolve disputes. (3 Marks)
- (d) Describe conciliation as a method of dispute resolution and **HIGHLIGHT THREE (3)** key differences between conciliation and mediation. (4 Marks)
- (e) Identify **THREE (3)** primary causes of conflict in society. (3 Marks)

END

THE KENYA SCHOOL OF LAW



DIPLOMA IN LAW (PARA-LEGAL STUDIES)

2ND YEAR TERM II EXAMINATION



INTRODUCTION TO ALTERNATIVE DISPUTE RESOLUTION – PTP 205

16th JANUARY, 2024

DURATION: 2 HOURS

Instructions to Candidates

- (a) Answer Question ONE and ANY OTHER THREE Questions
- (b) Question ONE carries 25 Marks
- (c) All other questions carry 15 Marks each

PLEASE TURN OVER



QUESTION ONE

You are a Paralegal working for a leading NGO in Kenya. Your day-to-day work involves advising members of the public. In your area of operation, many disputes touch on land and family disagreements such as inheritance. Community members seek to be advised on various issues to help them understand how to resolve their disputes.

- a) Explain in detail **FIVE (5)** skills they need to be effective in a negotiation. (10 Marks)
- b) Advise on the use of traditional dispute resolution mechanisms while highlighting the limitations of their use under the Laws of Kenya and the Constitution. (3 Marks)
- c) Discuss advantages of using traditional dispute resolution systems/alternative Justice Systems. (4 Marks)
- d) Advise the community members on instances where mediation in resolving disputes may not be suitable. (3 Marks)
- e) Outline the historical development of Arbitration Law in Kenya until the current Arbitration Act of 1995. (5 Marks)

QUESTION TWO

- a) Write short notes on construction of adjudication. (4 Marks)
- b) Discuss the conciliation process as a method of dispute resolution in Kenya and highlight key **THREE (3)** differences with mediation. (4 Marks)
- c) What are some causes of conflict in society? (4 Marks)
- d) Discuss early neutral evaluation as a form of alternative dispute resolution. (3 Marks)

QUESTION THREE

As you complete your studies at the Kenya School of Law, you discuss some issues with your classmates.

- a) Discuss **FIVE (5)** advantages of using litigation instead of ADR to resolve disputes. (10 Marks)
- b) Highlight some examples of the National Framework for ADR in Kenya. (5 Marks)

QUESTION FOUR

Discuss **FIVE (5)** roles of the court in arbitration in Kenya. (15 Marks)

QUESTION FIVE

- a) "Criminal cases must lead to the accused person's punishment" (anonymous).
Discuss the statement above while discussing the role of ADR in resolving criminal matters. Use relevant case law where applicable. (5 Marks)
- b) What are **FIVE (5)** key factors to consider when drafting an ADR clause? (10 Marks)

QUESTION SIX

- a) "Why should we seek an alternative process to resolve our disputes, yet there are courts and judges we pay to hear and determine our disputes?" (anonymous)
What answer would you give to this inquiry? (12 Marks)
- b) Write short notes on the New York Convention on Recognition and Enforcement of Arbitral Awards. (3 Marks)

END

THE KENYA SCHOOL OF LAW



DIPLOMA IN LAW (PARA-LEGAL STUDIES)

2ND YEAR TERM II EXAMINATION



INTRODUCTION TO ALTERNATIVE DISPUTE RESOLUTION – PTP 205

14TH MARCH, 2023

DURATION: 2 HOURS



Instructions to Candidates

- (a) Answer Question ONE and ANY OTHER THREE Questions
- (b) Question ONE carries 25 Marks
- (c) All other questions carry 15 Marks each

PLEASE TURN OVER

QUESTION ONE

A client of yours entered into a contract with the clause below:

"All disputes arising out of or in connection with this agreement including any question regarding its existence, validity or termination (Dispute) must be attempted to be solved through negotiation by parties within 30 business days after either party notifies the other in writing of the existence of the Dispute.

Any dispute not resolved in the terms aforementioned, shall be escalated to a sole mediator who shall be appointed under the Chartered Institute of Arbitrators, Kenya Rules. The parties shall attempt to resolve the dispute within 30 calendar days after the appointment of the mediator.

The party that initiates the dispute must submit a request for arbitration according to the said Rules. To that effect, the appointing authority shall be the Chartered Institute of Arbitrators, Kenya.

The place of arbitration shall be Nairobi and the language of arbitration shall be English. The governing law shall be Kenyan Law.

The arbitration award (The Award) shall be final and binding upon the parties and shall not be subject to any appeal. Any party to the dispute may request the recognition and enforcement of the Award to any competent tribunal, if the other party doesn't comply with it."

A dispute has arisen between your client and the other party. Your client seeks advice on how to proceed.

- a) Advise the client on the dispute resolution process, carefully outlining the various stages. (7 Marks)
- b) Discuss the role of the lawyer at the various stages of the dispute resolution process. (10 Marks)
- c) Advise your client on his role at all stages of the dispute resolution process. (8 Marks)

QUESTION TWO

- a) Explain FIVE (5) requirements / considerations when drafting an Alternative Dispute Resolution (ADR) clause. (10 Marks)
- b) What factors would you advise your colleagues to take into consideration when SELECTING an ADR process. (5 Marks)

QUESTION THREE

- a) Outline the historical development of Arbitration law in Kenya, until the current Arbitration Act of 1995 (7 Marks)
- b) What is the impact of the New York Convention on Arbitration on Kenya? (2 Marks)
- c) Kenya is a signatory to the UNCITRAL Model Law on Commercial Arbitration. What is the impact of this international Convention on Arbitration in Kenya? (2 Marks)
- d) Briefly discuss construction adjudication as a dispute resolution method in Kenya. (4 Marks)

QUESTION FOUR

- a) The Constitution under Article 159(2) provides for the use of ADR mechanisms in resolving disputes. One of the methods is Traditional Dispute Resolution Mechanisms. What are some four advantages of using the above mechanisms? (4 Marks)
- b) What limitations does the Constitution give for use of the Traditional Dispute Resolution Mechanisms? (3 Marks)
- c) With the use of relevant case law and statutes, discuss the use of ADR in resolving criminal matters. (8 Marks)

QUESTION FIVE

With reference to the Arbitration Act of 1995 and relevant case law, discuss the role of the court/ judiciary in arbitration in Kenya. (15 Marks)

QUESTION SIX

- a) A mediator helps disputants / parties in a mediation to identify the issues, develop options and attempt to reach a settlement. The parties are in charge of the process (party autonomy). Explain in detail six (6) skills that parties must have or utilize in a session in order to succeed. (12 Marks)
- b) Discuss three differences between the role of a conciliator and a mediator. (3 Marks)

END

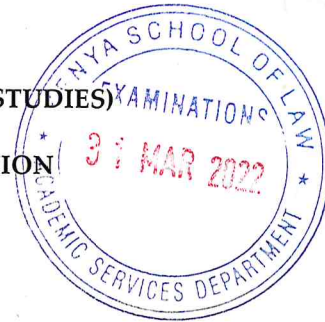
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THE KENYA SCHOOL OF LAW



DIPLOMA IN LAW (PARA-LEGAL STUDIES)

2ND YEAR TERM II EXAMINATION



INTRODUCTION TO ALTERNATIVE DISPUTE RESOLUTION – PTP 205

31ST MARCH, 2022

DURATION: 2 HOURS



Instructions to Candidates

- (a) Answer Question ONE and ANY OTHER THREE Questions
- (b) Question ONE carries 25 Marks
- (c) All other questions carry 15 Marks each

PLEASE TURN OVER

QUESTION ONE

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The party that initiates the dispute must submit a request for arbitration according to the said Rules. To that effect, the appointing authority shall be the Chartered Institute of Arbitrators, Kenya.

The place of arbitration shall be Nairobi and the language of arbitration shall be English. The governing law shall be Kenyan Law.

The arbitration award (The Award) shall be final and binding upon the parties and shall not be subject to any appeal. Any party to the dispute may request the recognition and enforcement of the Award to any competent tribunal, if the other party doesn't comply with it."

A dispute has arisen between your client and the other party. Your client seeks advice on how to proceed.

- a) Advise the client on the dispute resolution process, carefully outlining the various stages. (10 marks)
- b) Discuss the role of the lawyer at the various stages of the dispute resolution process. (5 marks)
- c) Advise the client on his role at all stages of the dispute resolution process. (5 marks)
- d) What ways can the court intervene in Arbitration on this instance. (5 marks)

QUESTION TWO

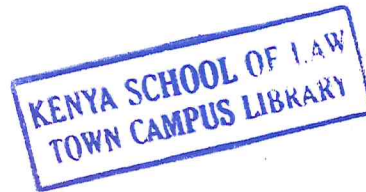
"Drafting of ADR agreements is everything" Do you agree? Highlight the rules and considerations when drafting ADR clauses or agreements. (15 Marks)

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QUESTION THREE

Briefly describe the following:

- a) Hybrid processes
- b) Award
- c) Construction adjudication.
- d) Conciliation



(4 Marks)

(3 marks)

(4 marks)

(4 marks)

QUESTION FOUR

- a) Explain in detail, four types of Alternative Dispute Resolution mechanisms, highlighting some general disadvantages of ADR if at all. (15 Marks)

QUESTION FIVE

On a recent trip upcountry, a group of community organizers sought to understand if they can use local tradition and customary law to resolve disputes including criminal matters.

- a) Discuss the role of Alternative Justice Systems (AJS) in the Kenya in resolving disputes. (8 Marks)
- b) With the help of decided cases, discuss the role of ADR in resolving criminal cases in Kenya. (7 marks)

QUESTION SIX

"Alternative Dispute Resolution does not have a framework and conflicts are not defined and their cause is unknown: In light of the above statement, discuss:

- a) National Legal framework for ADR in Kenya (5 Marks)
- b) Causes of conflict in society (5 Marks)
- c) International framework for ADR in Kenya. (5 Marks)

END



