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**COURSE MANUAL**

**INTRODUCTION TO**

**LAW OF ARBITRATION**

(2023)

1. **Course Description**

Welcome to Introduction to the Law of Arbitration!! In your introduction to the world of arbitration, you will study the importance of arbitration as a dispute resolution mechanism, in the changing world beyond the territorial jurisdiction of different countries.

1. About the Organiser.

The Complete Lawyer is an innovative project developed by the Cochin Institute of International Arbitration and Law and Justice Research Foundation, inspired by the teachings of Prof. Dr N R Madhava Menon. Its primary objective is to help fresh law graduates become independent practitioners within a shorter period of time – less than 2 years after graduation – by providing them with a comprehensive understanding of the legal profession and its various institutions. The project is based on the fundamental principle that all institutions created under law operate under the rule of law, including the higher judiciary, district judiciary, and various tribunals. By studying the jurisdiction, practice, and procedures followed by these institutions, the project aims to empower students to enter the legal profession with confidence.

1. **Course Aims**
2. To provide an understanding of the general principles of domestic and international arbitration and its relationship to other dispute resolution processes. The course will provide candidates with an introduction to the legal framework, best practices and procedures of domestic and international arbitration.
3. **Course Duration .**

The course would be for a period of 50 hours as decided by the Organiser. Divided in way of 32 + 8+ 10. Format.

1. **Expected Learning Outcomes:**

On successful completion of this course candidates will be able to:

1. Understand the background of domestic and international arbitration;
2. Describe the processes and procedures of domestic and international arbitration;
3. Understand arbitration in the context of other forms of dispute resolution.

1. **Course Format:**
* The course will be conducted on the moodle platform.
* It will be a combination of recorded online lectures, live interactive sessions and other exercises and assignments.
* The course will be designed as interactive sessions, allowing students to engage with experts in the field.
* Recorded classes will be available on the Moodle platform. Students are required to review these recordings before attending the live interactive sessions on weekends. The live sessions will build upon the foundational knowledge gained from the videos.
* Live interactive sessions will be held every weekend, totaling four sessions per month.
* Each interactive lecture will have a duration of 2 hours.
* Classes will be conducted on Saturdays at 4 PM.
* Guest lectures by luminaries in the field will be scheduled on Sundays for 2 hours. Students will receive advance notification regarding these guest lectures. There will be a total of 5 such lectures throughout the course.
1. **Classroom Policies**
* ***Class Decorum –***
* When the lecturer is speaking, **do not interfere** in any manner. A Q&A session will be held after every lecture where students can raise questions and make valid observations about the content of the lecture.
* Students must maintain proper decorum in online classes and be respectful of others attending the class.
1. **Grading & Evaluation**
* A total of three assignments will be uploaded on the moodle platform. Students are required to complete these assignments within the prescribed time.
* Students are required to complete a research paper of minimum 1500 words and maximum 3000 words. The paper will be scrutinized and reviewed by subject matter experts
1. **Readings**
* Learning materials for the course includes legislations, judgments, and articles.
* Most importantly, notes/points that come out of our class discussions will be helpful.
* A short note will be provided along with every video as reference material.
* **Legislations –**
* Arbitration and Conciliation Act, 1996.
* UNCITRAL Model Law
* UNCITRAL Model Rules
* Rules of the Arbitral Institutions
* **Reference Books –**
1. A reference text will be provided by the course coordinators.
2. Everything You Need to Know about Arbitration in India by Tariq Khan (optional)
* **Caution:** While accessing online resources for reference, be careful to **avoid unreliable websites**. Make sure your source is legit.
1. **About the Course Instructor**

Adv. Johnson Gomez is a highly qualified instructor with extensive expertise in the field of Arbitration Law. Holding the prestigious qualification of FCIArb (UK), he brings a wealth of knowledge and experience to the course. With a remarkable 30-year tenure in the legal field, he has established himself as a prominent figure, serving as the Managing Partner of Lexpertians and currently leading the law firm, Gomez and Gomez Associates.

His proficiency extends across various arbitration domains, including domestic cases, small claims finance arbitration, and international arbitrations. His impressive track record includes presiding as a sole arbitrator in numerous cases, showcasing his exceptional understanding of the intricacies involved in dispute resolution. With his vast expertise and comprehensive understanding of arbitration law, Johnson Gomez is the ideal instructor to guide learners through the intricacies of this introductory course.

1. **Syllabus**

## FUNDAMENTALS OF ARBITRATION (MONTH 1- WEEK 1 & 2)

In the first month of this course, learners will be given an introduction to the field of Arbitration. We will discuss arbitration as a dispute resolution method and the different types of arbitrations that exist in the world.

Agendas and Questions for the month:

1. What is Arbitration?
2. What are the different types of Arbitration?
3. What is the difference between Adhoc and Institutional Arbitration?
4. What is the difference between Domestic and International Arbitration?
5. Difference between Arbitration and other dispute resolution methods?
6. A discussion on the merits of Litigation vs Arbitration
7. A discussion on the different types of industry specific arbitration; eg., construction, maritime and investment arbitration.

## INTERNATIONAL LAWS RELATED TO ARBITRATION (MONTH 1 - WEEK 2 & 4)

This month discusses arbitration from an international perspective. We will also start discussions into the practical process of arbitration by learning about international arbitration agreements and their enforcement.

Agendas for the month:

(1) Implementing UNCITRAL Model law in member states

(2) Arbitration as a universally acceptable dispute resolution methods

(3) The Convention on the Recognition and Enforcement of Foreign Arbitral Awards, commonly known as the New York Convention

(4) Part II of The Arbitration and Conciliation Act, 1996.

(5) Enforcement of Foreign Arbitration Awards in India

##  ARBITRATION IN INDIA AND ENGLAND (MONTH 2 - WEEK 1 & 2)

## This month will contain a comparative study of Arbitration under the English Law and how the English system has influenced the Arbitration Laws in India.

Agendas and Questions for the month:

1. General Principles of Arbitration with reference to the English Arbitration Act 1996
	1. fair resolution of disputes by an impartial tribunal without unnecessary delay and expenses
	2. party autonomy in arbitration process
	3. Limited interference of courts.
2. General duties of the Arbitral Tribunal, with reference to Section 33 of the English Arbitration Act 1996
3. General duties of the Parties, with reference to Section 40 of the English Arbitration Act
4. Concept of serious irregularities and Challenge against the Award under Section 68 of the English Arbitration Act 1996
5. A comparative analysis of English Arbitration Act 1996 with reference to the Arbitration and Conciliation Act 1996

## ARBITRATION AGREEMENTS IN PRACTICE (MONTH 2- WEEK 3 & 4)

In this month we will discuss the procedure for appointing an arbitrator, the laws that govern such appointments, and the process of how an arbitrator passes an award.

Agendas and Questions for the month:

1. Pathological Clauses in Arbitration Agreements
2. Appointment of Arbitrator
3. Importance of Chapter V and VII of the Arbitration Act
4. Importance of Section 16 of the Act
5. Application of Civil Procedure Code and The Indian Evidence Act in Arbitration.

## COURTS AND ARBITRATION: AWARDS, APPEAL AND ENFORCEMENT (MONTH\_3)

In this month of the course, we will discuss assistance of courts in the arbitration process, essentials of an enforceable arbitration award, challenge against the arbitral awards orders of the court and enforcement of arbitration awards. This month will focus on both the theoretical background and the practical effects of an arbitration award.

1. Interim Measures
2. Removal of Arbitrator
3. Extension of Time
4. Assistance in the Arbitral Process
5. Essentials of an enforceable arbitration award
6. Challenge against Arbitration Awards
7. Appeal against order of court and arbitrator
8. Enforcement of an award

98

## THE WAY FORWARD (MONTH 4)

In the last month of the course, we will briefly revise the essential concepts learned throughout the course and discuss how the process of arbitration in India can be evolved moving forward.

This month’s discussions will include:

1. The problems with arbitration in practice.
2. Issues with unnecessary intervention by courts.
3. Areas of Arbitration law that lack clarity and transparency.
4. Suggested changes to make the practice of arbitration in India more efficient and effective.

## Details for Registration

Applications will be invited through a Google form. Registrations will be accepted only on the basis of submitting google forms.

https://forms.gle/dPmfutD6LFrmVGjL6

For any queries please contact with the convenor or coordinator

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