

Discussion questions law

Business



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1. An Alternative Dispute Resolution is a method of settlement for disputes that does not involve litigation. The methods of ADR include early neutral evaluation, negotiation, conciliation, mediation, and arbitration. The reason that ADR is oftentimes more beneficial than litigation has to do with the costs and length of time that it will take to resolve a situation or case. Court litigation can take years to resolve due to the high volume of backlogs within the system. This backlog is caused by the number of people filing cases which do not always have to be settled before a jury. Litigation is also cost prohibitive due to the legal fees and case filing fees involved. Due to the unpredictable time frame involved in trying such cases, additional emotional and financial damage is inflicted upon the person who filed the case. That is why ADR has become a logical alternative for some people who do not want to deal with the hassles of litigation. ADR offers an alternative solution to filing a case in a shorter amount of time because the negotiations involve an informal and less adversarial setting than litigation. Both parties can compromise on an issue with the aid of an expert in the decision making process. This is something that judges approve of as sometimes their knowledge of certain business related cases can be limited. Examples of ADR or arbitration that can happen to a person in his personal or professional life include restructuring of debt payments (personal) and an administrative case filed before a person in his place of office that needs to be resolved by the owners of the company or its in-house legal department.

2. Substantive law is the written law that defines the crimes and punishments in criminal law, or civil rights under civil law. It is a codified legislated statute that is enacted through public initiative. An example of this law would be the law covering the intentional killing of a person. This should

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not be confused with Procedural law which is the law that enforces the said rights and duties through rules determined in civil or criminal proceedings. A clear example of a procedural law is when a decision is made to arrest a person. The grounds covering his arrest fall under procedural law. These are totally different from criminal law which, simply put, is the system of law that punishes people who commit crimes such as felonies and misdemeanors. Civil law on the other hand, deals with private relations between community members. Civil law looks to gain compensation for damages received such as if a person breaks the window of a private house and then refuses to admit and pay for the damages incurred. While the confusingly named common law, are court decisions based upon previous court cases and settlements. An example of common law would be the case of divorce settlements and other cases relating to marriage. Statutory law on the other hand, is legislated law within a national, state, or municipality level. These include ordinances and Senate laws. The 5th and 14th Amendment were enacted under the U. S Constitution to help protect the rights of businesses and organizations. The 5th amendment protects the rights of individuals to “ life, liberty, and property” and includes a guarantee that people will have the equal protection of the law. The 14th Amendment supports the previous amendment by further expanding the law to indicate that the federal government is not allowed to violate a persons rights to due process and equal protection. This includes limiting the power of the state and federal government to discriminate against employees and job applicants based upon religion, race, or organizational memberships. Due process protects the employees rights to have a fair procedural process before being terminated from a job.