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NATIONAL UNIVERSITY OF LESOTHO
FACULTY OF LAW
PGD IN LABOUR LAW (CONCILIATION AND ARBITRATION)
FINAL EXAMINATIONS
LPD 105 - CONCILIATION THEORY

MAY 2018

MARKS: 100

TIME: 3 HOURS

INSTRUCTIONS:

1. Answer any **FOUR (4)** questions.
2. Each question carries 25 marks. .

QUESTION 1

Discuss the features of occurrence of conflict at the workplace and critically analyse the approaches that may be used to manage conflict or resolve it at a work environment.

[25 MARKS]

QUESTION 2

Describe how negotiation as a process features in the general context of conflict management. Explain in the same context of conflict management the difference between position based negotiation and interest based negotiation.

[25 MARKS]

QUESTION 3

(a) Describe the key functions of conciliation as a form of dispute resolution process and critically analyse its elements.

15 Marks

(b) Describe what the introductory stage entails in the conduct of conciliation proceedings.

10 Marks

[25 MARKS]

QUESTION 4

(a) Critically discuss the concept of Reality Testing which is applied in con/arb processes and explain the limitations of the concept.

15 Marks

(b) Critically discuss the attributes of a good conciliator.

10 Marks

[25 MARKS]

QUESTION 5

Write short notes on the following:

(a) The importance of mandating a negotiator in negotiation process and the types of mandate that the negotiator may be given. **5 Marks**

(b) The overall aim of Alternative Dispute Resolution in the context of labour disputes in Lesotho. **5 Marks**

(c) The benefits of con/arb as a hybrid dispute resolution mechanism. **5 Marks**

(d) Analysis of a dispute in Stage 2 of the conciliation process. **5 Marks**

(e) Con – Adj process. **5 Marks**

[25 MARKS]

QUESTION 6

The employer and the trade union were engaged in the end of year negotiations to review the terms and conditions of employment of the trade union members. The trade union presented a proposal on the introduction of staff restaurant facility within the employer's premises, which it said should be fully subsidised by the employer. The employer developed interest on the issue because if agreed, it would make the employees take their lunch at the work premises and would enable the employer to cut the employees' lunch break from 1 hour to 30 minutes every day. The employer was also willing to provide the facility but wanted the employees to contribute towards the costs of running it so that it can be sustained. The trade

union did not accept the employer's position that the facility should be provided with the employee's contributing money towards its running and that the lunch hour should be reduced from 1 hour to 30 minutes. The trade union maintained its position that the facility should be provided free of charge and that the lunch break should not be reduced. The parties could not agree on the issues and referred the matter for conciliation where you were appointed to conciliate.

Describe how you would go about the process of consensus building in the conciliation based on the issues above.

[25 MARKS]