



pact. | Peacekeeping
And
Conflict Resolution
Team

ALSD-ISDR

ADR Society, Amity Law School
Delhi



INDIAN SYMPOSIUM ON DISPUTE RESOLUTION, 2018

15 JANUARY, 2018 TO 17 JANUARY, 2018



AMITY LAW SCHOOL, DELHI

pact. | Peacekeeping
And
Conflict Resolution
Team



ABOUT ISDR

Indian Symposium on Dispute Resolution (ISDR) is an endeavour which aims to make a positive difference to the very idea of dispute resolution.

Mediation, which is a Consensual Alternative Dispute Resolution (CADR) mechanism, is the focus and fulcrum of the first edition of ISDR.

pact.

Peacekeeping
And
Conflict Resolution
Team

ABOUT CONSENSUAL ALTERNATIVE DISPUTE RESOLUTION MECHANISMS



Alternative Dispute Resolution (ADR) mechanisms are either adjudicative or non-adjudicative/consensual. Litigation is an adjudicative dispute resolution mechanism. It follows as a logical corollary that whatever ails litigation is bound to, more or less, ail any adjudicative ADR mechanism. No wonder, arbitration which is an adjudicative ADR mechanism, has not solved all the problems posed by litigation.

Hence, it becomes imperative to explore non-adjudicative or CADR mechanisms; independent of the standpoint of arbitration. Such an exploration is perhaps the only way to tap the true potential of CADR mechanisms.

pact.

Peacekeeping
And
Conflict Resolution
Team

ABOUT CONSENSUAL ALTERNATIVE DISPUTE RESOLUTION MECHANISMS



Mediation and conciliation being non-adjudicative or consensual by their very nature, are CADR mechanisms. They are fundamentally democratic, as they respect party autonomy far beyond what arbitration could ever.

When the disputing parties explore CADR mechanisms like mediation and conciliation, their attempt is to arrive at a consensus. A consensus which is of the parties, for the parties and by the parties; reached at with the assistance of a neutral, who is not an adjudicator.

ABOUT AMITY LAW SCHOOL, DELHI

The Amity Law School, Delhi has been consistently ranked as one of the Top Law Schools in the country since 2006. In the survey of the India's Best Law Colleges in 2015, the school has been ranked No. 11 by *THE WEEK- HANSA RESEARCH SURVEY*, No. 13 by *INDIA TODAY- NIELSEN SURVEY*, and No. 13 by *THE OUTLOOK-G/K MODE SURVEY*.

The Law School has the unique distinction of being the first Law School in Delhi to start a 5-year integrated LL.B (H) programme. The Law School was established under the Ritnand Balved Education Foundation (RBEF) to achieve world-class legal education in the country.

The students of Amity Law School, Delhi have actively participated in competitions within India as well as Internationally. Many awards and accolades have been won by the same.



pact.

Peacekeeping
And
Conflict Resolution
Team

MESSAGE FROM THE ADVISOR- ISDR

In 1996, the word 'mediation' appeared in Indian statutory law for the first time. Cut to 2018, we are still waxing eloquent as to mediation being a 'new' ADR mechanism, and yet, it has not really picked up in India.

The narrative that has built up over the years is that there is not much awareness about mediation, and therefore, it has not struck a chord with many Indian users. Indeed, mediation has not struck a chord with many Indian users, but attributing this state of affairs to an awareness deficit alone is a brutal oversimplification.

Complexity is as important as simplicity and some things cannot and should not be left to the mercy of simplicity.



MR. ARJUN NATARAJAN

ADVOCATE |

ACCREDITED & CERTIFIED

MEDIATOR

FOUNDER AND PUBLISHING

EDITOR :

INDIAN MEDIATION LAW BLOG

MESSAGE FROM THE ADVISOR- ISDR

Yes, a lot needs to be done in India to generate awareness about mediation. However, how far are aware potential users of mediation really using mediation in India?

The figures are quite low, I shall not say abysmally low. Lack of awareness is one of the problems. It is not the only problem. It follows as a logical corollary that generating awareness is one of the solutions and not the only solution to give an impetus to mediation in India.

In the context of mediation, ISDR embarks upon skill exploration as well as law exploration, which makes it very progressive and promising. Amongst other things, I trust that ISDR shall facilitate the formulation of a strategy to give an impetus to mediation in India.



pact.

Peacekeeping
And
Conflict Resolution
Team

MESSAGE FROM THE CHAIRMAN - ALSD

With great honour I present to you the 1st edition of the Indian Symposium on Dispute Resolution (ISDR), 2018. The first edition of the symposium shall focus on CADR mechanisms.

We often talk about the huge pendency of cases in the Indian courts. But what we do not talk about is the reasons leading to the piling of cases. One such substantial reason is not resolving the disputes amicably at the first instance. In the present times, a lot of litigation is frivolous in nature, initiated either with the intention of harassing or scourging one of the parties to the dispute. This is where the Consensual Alternate /Adequate ways of Dispute Resolution (CADR) is urgently needed. CADR involves discussions and not arguments. There is a very thin line difference between discussion and argument.



**PROF. (DR.) D.K.
BANDYOPADHYAY**

MESSAGE FROM THE CHAIRMAN - ALSD

Discussion involves exchange of knowledge & information, whereas, arguments involve exchange of legally valid words causing inordinate delay. Thus CADR results in speedy resolution of the disputes with a win-win situation for the parties involved.

In the 21st century, globalization and market driven economy further necessitates speedy, yet effective dispute resolution mechanism. As a result it becomes necessary to grow outside the adversarial legal practices. In addition to being speedy, consensual and confidential, CADR also preserves the relationships between the parties to a huge extent.

Having said this, I on behalf of Amity Law School, Delhi and PACT invite you to associate with the 1st edition of ISDR and support a worthy cause. I am confident that ISDR will achieve what it envisions.



pact.

Peacekeeping
And
Conflict Resolution
Team

MESSAGE FROM THE CHAIRPERSON-ADR SOCIETY

Welcome to the 1st edition of ISDR, 2018. ISDR embarks to explore the unexplored, discuss what has been shrugged off and most importantly question what has been ignored and not answered.

The 1st edition of ISDR will focus upon the Consensual Alternate Dispute Resolution (CADR) mechanism, more specifically- Mediation. When we talk about mediation as a dispute resolution mechanism, we often argue that it is fast, flexible, cost efficient, convenient and confidential, but even after all these benefits, it has not received its due. The important question that arises is, WHERE HAS IT FAILED?

I am confident that the 1st edition of ISDR will find an answer to this question. The symposium has been structured in a manner to cover "skill exploration" along with "law exploration".

I look forward to your participation.



MS. VENU PARNAMI

ASST. PROF. OF LAW

VISION

The recent past has witnessed an unprecedented rise in discussions on mediation. Undoubtedly, this has immensely contributed to the body of knowledge pertaining to the skills which are essential to mediate disputes. It has also created more awareness about mediation and the advantages of mediation. No amount of awareness about mediation and its advantages can ever be unnecessary. However, any aware potential user of mediation is concerned about the enforceability of mediation settlements.

Hence, there is an imminent need to discuss and address this concern of aware potential users of mediation, which brings us to the law governing mediation in India.



pact.

Peacekeeping
And
Conflict Resolution
Team

MISSION

Thoughts on mediation, rooted in foreign jurisdictions, have molded Indian mediation thoughts to such an extent that there is a dearth of originality in them. Consequently, Indian mediation law, for obvious reasons has felt the need to be discussed and debated.

A nuanced discussion and debate on Indian mediation law is required, in order to:

1. Know the present legal position and understand it.
 2. Critique the present legal position.
 3. Arrive at an assessment as to whether the present legal position is conducive to mediation or not.
 4. In the event that the assessment is that the present legal position is not conducive to mediation, then, discuss what needs to be done to create a legal environment which is conducive to mediation.
-



pact.

Peacekeeping
And
Conflict Resolution
Team



MISSION

Aware potential users of mediation need to have confidence in the institution of mediation. Inspiring their confidence in this institution, could in turn, make mediation the preferred dispute resolution mechanism, in suitable cases.

pact.

Peacekeeping
And
Conflict Resolution
Team

STRUCTURE OF ISDR

Broadly speaking, **skill exploration** and **law exploration** are the two components of ISDR. Equipping law students and lawyers with peacemaking skills is important. ISDR firmly subscribes to the view that a thorough understanding of law is equally important.

Law students and lawyers need to be acquainted with the law governing mediation in India. Understanding the law governing mediation in India is bound to give a stronger sense of purpose to law students and lawyers, while learning and practising peacemaking skills.

ISDR, which is a 3-day-symposium, shall comprise of “skill exploration” in the former half of each of the days and “law exploration” in the latter half of each of the days.



pact.

Peacekeeping
And
Conflict Resolution
Team

SKILL EXPLORATION IN ISDR

Every morning of the 3-day-symposium shall begin with workshop cum training sessions for the participants these will be conducted by expert CADR practitioners (domestic & international); with the sole objective of exploring the skills required in CADR. The workshop cum training sessions will provide the participants with core mediation skills through a variety of simulations.

Skill exploration in ISDR will enable the participants to learn effective professional communication, as well as, adoption of solution focussed approach to disputes. These sessions will help and enable the participants to understand CADR concepts. They shall also present insights into the role of lawyers in CADR and importance of preserving value in relationships. Overall these sessions are intended to inculcate and hone negotiation & mediation skills.



pact.

Peacekeeping
And
Conflict Resolution
Team

LAW EXPLORATION IN ISDR

Law students and lawyers should be equipped with adversarial skills and also peacemaking skills.

Understanding the law is an integral part of learning adversarial skills. However, while learning peacemaking skills, unfortunately, the necessity to understand the law is often undermined.

ISDR firmly subscribes to the view that at the cost of learning peacemaking skills, law students and lawyers cannot and should not undermine the ability to understand the law governing CADR in general and the law governing mediation in specific.

Law students and lawyers play a major role in navigating the maze of law.



pact.

Peacekeeping
And
Conflict Resolution
Team

LAW EXPLORATION IN ISDR

Law students and lawyers, especially those who are generating general awareness about CADR and mediation, are duty-bound to make the users of CADR and mediation specifically aware as to whether mediation settlements are enforceable and how. Doing so would go a long way in inspiring the confidence of the users of mediation in the institution of mediation, which in turn could make mediation the preferred dispute resolution mechanism, in suitable cases. That's the spirit underlying law exploration in ISDR.

Unfortunately, discussions on mediation, including general awareness measures invariably steer clear of two areas. First, the law on mediation and second, the enforcement of mediation settlements.



pact.

Peacekeeping
And
Conflict Resolution
Team

LAW EXPLORATION IN ISDR

Without addressing these delicate fronts, general awareness initiatives won't be able to optimise their effect, despite being carried out with utmost sincerity. Law exploration in ISDR shall take on these fronts.

In the latter half of each of the days of the 3-day-symposium, there shall be engaging panel discussions. Judges, practitioners and policy makers shall discuss, know and understand the present legal position and critique it. The endeavour shall be to arrive at an assessment as to whether the present legal position is conducive to mediation or not. The endeavour shall also be on what needs to be done to create a legal environment which is conducive to mediation.



pact.

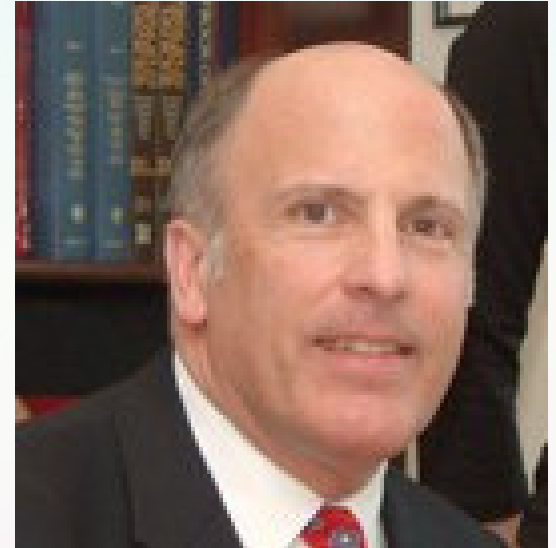
Peacekeeping
And
Conflict Resolution
Team

RESOURCE PERSONS- FOR SKILL EXPLORATION

Tom Valenti is a Chicago based conflict resolution specialist offering mediation, arbitration, and facilitation services and training, globally. A certified mediator, Tom has conducted numerous mediations involving civil, commercial, interpersonal and workplace matters. He has mediated and trained extensively, both nationally and internationally.

Tom is a member of several Bar Associations, including the American, Chicago, Illinois and Indian Bar, and is a co-founder and former Board Member of Mediation Beyond Borders.

With a passion for mediation, highlighted by the many qualifications Tom holds in the field, Tom is a dedicated and talented mediator. AAA and ABNA Neutral, he is also a Neutral Arbitrator and Mediator for the National Arbitration Forum and Center For Resolution.



MR. TOM VALENTI



Tom Valenti is also an Arbitrator on the Public Panel at FINRA and is an approved Arbitrator and Mediator for several governmental and regulatory bodies, including the Circuit Court of Cook County, The National Arbitration Forum and is on the Advisory Board for The Association of Mediation Assessors, Trainers and Instructors.

Extensively trained himself in all aspects of dispute resolution, Tom's accreditations include Conflict Transformation Skills Training, focusing on Systems Dynamics, ABA International Family Mediation Training including Hague Convention Child Abduction cases, Circuit Cook County Annexed Arbitration and Mediation Training Programs. Tom also holds a Mediation Certification at The Institute for Conflict Management, and is a Board Member and Trainer at The International Academy of Dispute Resolution.

pact.

Peacekeeping
And
Conflict Resolution
Team



Having a keen interest in the Middle East and the cultivation of mediation systems across the world, Tom has also worked with the Middle East Peace Initiative.

Collaborating with the Pluralistic Spirituality Center Project, he oversaw the development of an Israeli- Arab and Jewish co- mediation approach and service to mediate community dialogue in an Israeli Jewish and Palestinian peace village, Neve Shalom Wahat Al Salam (NSWAS) . Training the world’ s future mediators is also important to Tom.

Tom has travelled to the UK, Dubai, India and Europe to deliver mediation training for students. He is also an International Mediation Institute’ s Mentor to Youth.



RESOURCE PERSONS- FOR SKILL EXPLORATION

Catherine Davidson is a nationally accredited mediator (NMAS) and IMI Certified mediator practising in Australia and internationally. Catherine has mediated over six hundred commercial and workplace disputes and is a member of several national panels. Catherine has a legal background having practiced commercial litigation in Sydney and London. Catherine's commercial practice includes construction, intellectual property, banking, insurance, negligence, estates, guardianship, partnership, small business and medical matters. Her workplace mediations involve bullying, performance, discrimination, harassment in the public and private sector including tertiary institutions, professional services firms and hospitals.



**MS. CATHERINE
DAVIDSON**



Catherine is a Mediation Trainer and also conducts Negotiation and Conflict Management Workshops in the public and private sector.

She is a Trainer for the Australian Disputes Centre's - Mediation Training Courses in Australia and Asia.

Catherine Davidson Mediation Services provides a variety of conflict intervention services including mediation, facilitation, negotiation and training. CDMS specialises in tailoring services across the dispute resolution timeline - from conflict prevention to resolution.

pact.

Peacekeeping
And
Conflict Resolution
Team

RESOURCE PERSONS- FOR SKILL EXPLORATION

Pascal Comvalius, is a an IMI- Certified Mediator, a MFN Registered mediator in Holland, a rule 114 mediator in Minnesota USA and a Certified Hostage Negotiator. He followed mediation trainings in the USA and Holland, completed an internship at Erickson Mediation Minneapolis, USA and received the hostage negotiation training from Mark Lowther and Hugh McGowan at PATC, USA.

Mister Comvalius also completed the level I- IV training in “ Kinesic Interviewing and Interrogation” in the USA under the guidance of Stan Walters. He obtained a Masters Degree in “ Communication, Behavior and Credibility analysis” at the Manchester Metropolitan University under the supervision of Dawn Archer



**MR. PASCAL
COMVALIUS**



and will pursue a PhD. Pascal practices and teaches mediation and negotiation in the USA, Europe and Asia. He is specialized in family/ divorce and victim/ offender mediation. Sharing his knowledge and skills with students is important to him. He is the former vice-president and board member of the Academy of Professional Family Mediators (APFM), an IMI QAP representative and co-chair of the IMI appraisal committee.

pact.

Peacekeeping
And
Conflict Resolution
Team

RESOURCE PERSONS- FOR SKILL EXPLORATION

Jonathan Rodrigues is an accredited negotiator and mediator listed with the Indian Institute of Arbitration and Mediation (IIAM), and an empanelled civil and commercial mediator with the Indian Institute of Corporate Affairs (IICA) for the western region. He has also trained in cross- border dispute resolution at Charles University, Prague. Jonathan is the co-founder of PACT and the founding-president of Lex Infinitum, Goa. He serves as a continental advisor with the SCMA (London) and WMO (Berlin) .

He is also a listed member with the Young Mediators' Initiative (YMI) Hague, and the Goa Community Mediation Centre (GCMC) . With a background in psychology and law, he has worked as a Mediation Associate with Centre for Advanced Mediation Practice (CAMP) .



**MR. JONATHAN
RODRIGUES**



Jonathan has trained in restorative facilitation under the guidance of Easy Justice (Australia) . An award winner at the CDRC (Vienna) and ICCMW (Paris), he has coached competing teams at international mediation competitions. He is a lifetime member of the South Asian Society of Criminology and Victimology (SASCV) .

He blogs at www.mediationmusings.wordpress.com

pact.

Peacekeeping
And
Conflict Resolution
Team

