News magazine of the Indian Institute of Arbitration & Mediation

THE Indian arbitrator

THE INDIAN ARBITRATOR

Volume 1 Issue 3
April 2009

CONTENTS

Publisher:
Indian Institute of Arbitration & Mediation

Address:
Second Floor, PDR Bhavan, Foreshore Road, Cochin 682 016, India.

www.**arbitrationindia.org**
Tel: +91 484 6570101 / 6570102

EDITOR'S NOTE

We had a large number of enquiries about IMI certification based on the article by Irena Vanenkova, published in the previous edition. We are happy to announce that IIAM has been approved by IMI as an institute for Experience Qualification Path for Mediators in India. IIAM Accredited mediators will be eligible to apply for IMI certification. Even though mediation has developed to a large extent as one of the popular ADR methods for dispute resolution, till now it has not evolved into a full time profession. Until and unless we have a unified code of conduct and ethical standards for mediators, it is difficult to evolve. In this edition we have an article by Mr. Michael McIlwrath, Chairman of IMI, The Hague about evolving Mediation into a global profession.

We have received some feedbacks to the effect that we are giving more emphasis to mediation than arbitration. We are publishing articles received from our valuable readers. We are receiving articles mainly on mediation, may be because "mediation" is the hot subject now. We shall definitely publish articles on arbitration as well.

We continue to look forward for your valuable opinions and suggestions to improve the quality and usefulness of the magazine, so as to serve you better.

Can Mediation evolve into a Global Profession?

: MICHAEL MCILWRATH

This year, 2009, celebrates the 200th anniversary of the birth of Charles Darwin, whose theory about how change occurs over time in organisms has had an impact far beyond the biological sciences. Variations on Darwin's theory of evolution through the process of natural selection are used to explain how changes occur in the formation of culture and societies, companies, technology, and so on.

The same thinking has been applied to methods of dispute resolution, which over time adapt to changes in their surrounding environments. In fact, I recently had the privilege of interviewing cultural anthropologist Robert Carniero, curator of South American ethnology at the American Museum of Natural History in New York, who explained his experiences living for periods with different tribes in the Amazon basin, and their approaches to dispute resolution.[1] As Dr. Carniero explains it, primitive and rather brutal forms of dispute resolution – such as beating each other with heavy wooden clubs – works just fine when the groups consist of no more than 50 or 100 people and those not content with the outcome can just move away.

Things get more complicated, however, as societies grow in size and complexity, and so far all large societies have evolved within them formal justice systems. In fact, it appears that societies cannot grow larger in size and complexity without first having evolved a system of resolving disputes that can keep the peace between the citizenry and ensure that markets efficiently function.

Societies cannot grow larger in size and complexity without first having evolved a system of resolving disputes that can keep the peace between the citizenry and ensure that markets efficiently function.

Which leads naturally to consider the future of private dispute resolution in a global, interconnected marketplace, and in particular the potential for mediation as an enabler for more efficient global commercial activities. Today, mediation is an organism that thrives in particular niche ecosystems like the UK, Australia, and North America. The question is whether it can thrive in other locations, and whether it can be used to resolve cross-border disputes. Anyone who has experienced mediation will understand its potential to grow and flourish as a critical part of a globally inter-connected economy, but it would be folly to ignore the challenges in breaking out of a local niche practice.

ORIGIN OF THE MEDIATION SPECIES

Although mediation traces its origin to the great cultures of Confucian Asia, the Mid-East and Africa, the modern notion was born when US Chief Justice Warren Burger invited Harvard Professor Frank Sander to present a paper at the Roscoe Pound Conference of 1976, a historic gathering of legal scholars and jurists brought together to address dissatisfaction with the American legal system. Prof. Sander's paper Perspectives on Justice in the Future provoked a radical change in thinking. As Justice Sandra Day O'Connor explained: The courts of this country should not be the places where resolution of disputes begins. They should be the places where the disputes end after alternative methods of resolving disputes have been considered and tried.

(Footnotes)

[1] Episodes IDN 26 and IDN 45 of International Dispute Negotiation, a podcast published by the International Center for Conflict Prevention and Resolution (CPR) and available for free at www.cpradr.org

Thus, modern mediation is at most 33 years old. Even in places, like my home state of California where mediation is commonly used, it really would not be fair to say that in this short span of time it has matured to the same level of, say, the medical or legal professions, which have hundreds of years behind them. In many places around the world, in fact, mediation is struggling to gain any traction at all. It has gained a strong foothold in a few countries, such as Canada, the UK and the Netherlands, but in most places it is virtually unknown. It is rarely promoted and often misunderstood, causing lack of respect and acceptance.

In many legal environments, mediation has found itself in a bit of a rut, experiencing only very marginal growth. Where mediators are plentiful, they tend to be in chronic over-supply. In the view of many consumers of dispute services, this is not a problem of mediation but of the way it is presented within these particular markets.

Take the UK for example. Having developed initial techniques and training from the US, there are now thousands of trained mediators. However, it is claimed that only about 20 people practice as full time mediators, with perhaps 50 conducting 80% of the country's mediations. Thousands of others struggle to gain experience and practical skills. And this is in the one place in Europe where mediation is sometimes claimed to be "mature".

At one and the same time, mediation is being presented with an opportunity to leave its status quo as a local niche activity and become a truly global profession. But the question is – are the mediators and service providers in this field sufficiently responsive to the current environment to make it happen?

The fact that change must occur at an unprecedented level in order for mediation to rapidly grow is hardly debatable. In a poignant article last month "A Perfect Storm is Gathering" http://www.imimediation.org/macro-perspectives.html a dozen current and former in-house legal counsel, including one of my senior GE colleagues, pointed out how a triple convergence of economic turbulence, vital needs of corporate counsel and information and communications technology are overturning the role of the litigator and demanding they metamorphose into resolvers and, more broadly, outcome generators.

At one and the same time, mediation is being presented with an opportunity to leave its status quo as a local niche activity and become a truly global profession. But the question is – are the mediators and service providers in this field sufficiently responsive to the current environment to make it happen?

To put it bluntly, mediation needs to emerge globally as a profession that is widely understood and accepted, and where competent, trained mediators are instinctively regarded as professionals regardless of their background. Where parties see mediation as an opportunity to come to a conclusion and are much more inclined to accept, rather than reject, a proposal to engage a mediator. Where there are enough competent mediators from all cultures and technical fields that the most suitable can easily be identified.

MEDIATION AS A POTENTIALLY MIGRATORY SPECIES

The most vocal supporters of mediation tend to be those of us responsible for disputes; we see directly (and are held accountable for) the failure to resolve them. Given that so many of us believe mediation represents a generally superior form of dispute resolution, we are bound to ask why it has not become more popular around the world. There may be many factors preventing a more rapid spread of the practice of mediation beyond its core jurisdictions.

One possibility is that the cost of litigation in North America, the UK, and Australia makes the search for an alternative that leads to settlement more pressing. That may certainly be the case, but it is not a completely satisfying explanation. Here in Italy where I live, for example, court proceedings may cost the typical litigant a fraction of what a similar action would cost in the US, but the case will still take some years to work its way through the courts. Parties want resolution sooner rather than later, and one would think that inefficiency of dispute resolution would be a fertile environment for mediation. Yet it is little practiced here, despite efforts over the past decade to promote it, including legislation imposing an obligation to mediate certain types of disputes. And there are countries like India that make Italy a shining example of judicial efficiency, and where mediation is even less known and practiced.

So there must be other factors stalling the growth of mediation. One in particular appears to be variability

So there must be other factors stalling the growth of mediation. One in particular appears to be variability in the quality of the services that are called "mediation" in different places. Mediation's ability over time to be recognized as a true profession depends on a certain degree of consistency in delivering a quality product. Standards must be high, and also transparent and credible.

Another impediment to progress is the patchy development of mediation on a global scale. Here and there, excellent but isolated initiatives exist in this regard. I am on the Board of the Indian Institute for Arbitration and Mediation, which is urging progress for the development of the practice, especially in the Community area, but it is not something that one institution can accomplish alone.

That is not to say that educational and best practice sharing does not happen; it does, but it is unfortunate such efforts are done in isolation and without connecting them with a broader, more global initiative.

Modern mediation may be just three decades old, but already it is challenging notions about the cost and practicality of litigation.

These impediments take their toll on the potential for mediation to truly develop. I once had a discussion with Michael Leathes, formerly head of intellectual property of British American Tobacco (and now Executive Director of the International Mediation Institute (IMI)), of how many offers to mediate a dispute actually lead to a mediation. I estimated the number might be one in 10 to 20 in my industry. Michael felt it might have been closer to 1 in 50 or even fewer in his experience. While both of us believe that the results of the few mediations that actually take place make proposing mediation worth the candle, we have always been surprised how mediators (and mediation institutions) have failed to appreciate how hard it is to get an opposing party to accept mediation in the first instance.

IMI: ADAPTING TO GLOBALIZATION

For these reasons, I accepted an invitation from Michael and the former Chair of IMI, Wolf von Kumberg (assistant general counsel of Northrup Grumman Corp), to be the 2009 Chair of IMI. The empty space that IMI is designed to occupy is that of a global convenor. Because IMI is not a service provider in any sense, it does not compete with any mediator, provider, trainer or any other. Its role is to promote excellence and overcome the huge variation in standards. But it goes well beyond that, to inspire the development and use of mediation in all its forms worldwide and help address the prospect of regulatory initiatives affecting mediation.

This notion of convening is critical. The founders of IMI specifically sought to avoid establishing a new entity, specifying a role for it, and then assuming it could make change happen alone. Instead, the idea for IMI was to rely on wide support from the field's leaders across all stakeholders, and across many countries.

The desire is to draw out and build upon the methods and schemes developed by practitioners in the field worldwide, such as inviting mediators to gain experience by shadowing and assistantships, sponsorship programs for getting trained, surfacing named examples of where and how mediation worked, statistics, sharing articles and expertise like role plays in copyright-free environments, inspiring appreciation for the use of a neutral as part of the deal-making process outside the dispute context, better availability of model clauses, the prominent use of credible codes of conduct and complaints processes, encouraging governments to set examples and to provide promotional funding, the use of new processes and techniques from other fields…

The remarkable thing is that none of these things (or the many other possibilities) is particularly difficult to deliver, locally and internationally. The challenge is to harness these collective efforts for the benefit of mediation generally and all its stakeholders.

THE MISSION OF IMI

IMI's mission is to convene, enable, encourage, celebrate, explain, simplify and above all to inspire. To succeed properly, it requires everyone in the field, and those who care about it, to work more proactively together and aim for that common goal. Setting aside some time each day or week to make the earth move is important if we are to leave the field to our successors in a better condition than when we entered it.

I appeal to all serious mediators and provider institutions to get involved and perceive IMI as an opportunity, a vehicle that, with your active involvement, can drive progress locally and right around the world. I appeal to experienced mediators to become IMI Certified quickly and to share their ideas and insights for promoting and developing the field more effectively. Governments and other benefactors will support financially convened initiatives that will produce positive and measurable change.

In his day, Charles Darwin encountered a great deal of scepticism in propounding what has been called his

In his day, Charles Darwin encountered a great deal of scepticism in propounding what has been called his "dangerous idea", dangerous because it so radically challenged the way that we humans previously saw ourselves and our place in the universe. Modern mediation may be just three decades old, but already it is challenging notions about the cost and practicality of litigation. Where mediation has taken hold, it has been able to adapt well to different environments, and has even developed specialized practice areas. The dangerous idea facing mediation today is whether it can be transformed into a credible, free-standing profession that challenges basic notions of justice, and what a legal system can and should deliver. A vehicle with which to achieve this – the only one I know right now – is IMI. If experienced mediators act now to become IMI Certified, and if we users seize the opportunity to apply the IMI portal as leverage to send more of our disputes to mediation (and away from litigation), significant positive change is within reach.

Let's grab this dangerous idea and make it work.

(Author is the Senior Counsel-Litigation, GE Oil & Gas, Florence, Italy and Chairman of the Board of the International Mediation Institute, IMI (www.IMImediation.org).

Interested to contribute Articles?

We would like to have your contributions, provided they are not published else where. Articles should be in English. Please take care that quotations, references and footnotes are accurate and complete. Submissions may be made to the Journals Division, Indian Institute of Arbitration & Mediation, PDR Bhavan, Second Floor, Foreshore Road, Cochin - 682 016 or editor@arbitrationindia.com.

Publication of the Article will be the discretion of IIAM and submissions made indicates that the author consents, in the event of publication, to automatically transfer all copyrights thereof to the publisher of the IIAM Journal

The Lighter Side

Case Closed

Several women appeared in court, each accusing the others of causing the trouble they were having in the apartment building where they lived.

The women were arguing noisily even in the court.

The judge, banging his gavel to quiet them, said, "We are going to do this in an orderly manner.

I can't listen to all of you at once. I'll hear the oldest first."

The case was dismissed for lack of testimony.

Arbitral Process of Justice

: JUSTICE B.K. SOMASHEKARA

Having dissatisfied with the system of dispute resolution process by courts, Arbitral Justice system was evolved as an alternative means

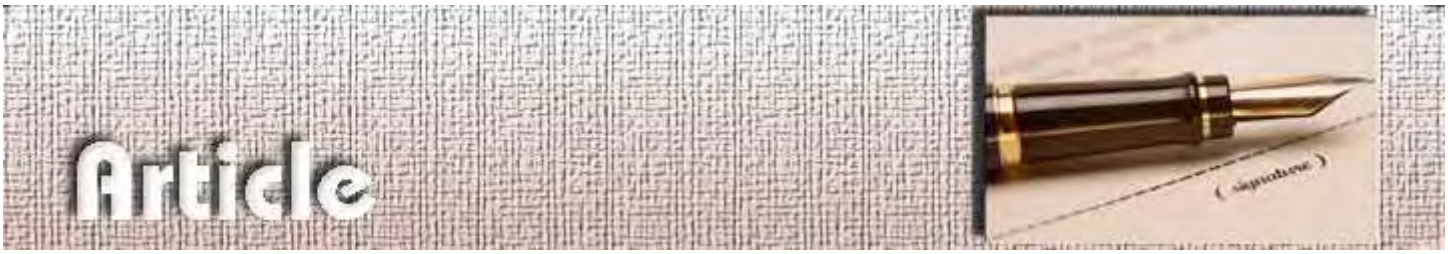
We are in a Hi-tech age. In the emerging hi-tech society dispensation of hi-tech justice is imperative in our Constitution preamble. Having dissatisfied with the system of dispute resolution process by courts, Arbitral Justice system was evolved as an alternative means, but not as a substitute. To free from the technical web of procedural means a non-technical style was contemplated in a so-called non-technical means of resolving the disputes by wise men with objective approach to arrive at solutions acceptable to both or all parties involved in the process. The disputes were resolved to render decisions called 'Awards' by such wise men called 'Arbitrators', which invariably opened up fresh disputes again to be resolved by the Courts by the very technical legal methods. Arbitrators were frequently and strongly attacked as partial and immature in resolving the disputes. Probably many persons involved in the legal world are blissfully ignorant of the Alternative methodology in dispensing the even justice process through Arbitral process. So the arbitral justice system has co-extensively remained with the legal system but without much expected success.

Then with the Law Commissions recommendations and long felt need to reorient the system to the changing situations a new legislation was sought with modified structures and the present Arbitration & Conciliation Act, 1996 was enacted. It is a product of the UNCITRAL model law. The whole scheme is of the parties by the parties and for the parties. The Courts intervention is tried to be avoided as much as possible. The agreement for arbitration ousts the jurisdiction of the civil courts. The provisions of Civil Procedure Code and Evidence Act are inapplicable to such proceedings to avoid technicalities and avoidable delays.

CPC Amendment Act 1999, inserted S.89 and Order X, wherein they deal with the same subject matter, viz., 'the settlement of disputes outside the court'. In the scheme of the law in this section, reference to settlement is mandatory. The parties have the full opportunity to exhaust all possible means to come to settlement through legally constituted or recognized Forums which will make all efforts to settle the referred matter. This measure of settlement of disputes out of Court is a Constitutionally in-built mechanism in rule of law and nothing new in the judicial or legal system all over the world. To make this effective all persons involved or concerned in the system including the consumers of law and justice should first be made aware of the utility of the system and fully cooperate in the implementation. This mechanism of Alternative Dispute Resolution (ADR) also requires proper teaching and training to students, lawyers and judges and others who are to participate in such measures.

Then comes the effect of the hi-tech law in the hi-tech age called the Information Technology Act 2000, which is also a product of UNCITRAL Model law adopted by UNO & it is called Online Arbitration. This law is operative on arbitration and conciliation proceedings at least when opted. This is also meant for commercial world when there will be more occasions to apply the law in international proceedings. We may hope for a hi-tech arbitral justice system emerging as a result of such law some day if not soon.

(Author is the former Judge of the High Court of Karnataka & Andhra Pradesh, India).



Conciliation as a necessary precursor to Arbitration

: MATHEW THOMAS

Conciliation when employed as a pre-cursor to arbitration, it gives an opportunity to settle the dispute informally. Conciliation helps the parties to the dispute to understand the nature and crux of the dispute, by providing an opportunity to either party to present a list of their demands according to their priorities.

INTRODUCTION

Arbitration and Conciliation are mechanisms employed for alternate dispute resolution, popularly known as ADR. The main purpose for begetting these methods was to mitigate the burden cast on the current judicial setup i.e., courts. Courts are faced with the problem of increasing number of cases in their dockets, waiting for settlement. With the passage of time modernisation and privatisation will give rise to greater commercialisation, which in turn will bring about increasing number of commercial disputes which would require judicial settlement. If mechanisms like ADR are not brought in and given the importance that it deserves, judicial dockets will be overflowing with pending cases and in order to tackle this problem of surplus cases, the court would go in for speedier trials by doing away with some procedures or likewise and thus may end up compromising the quality of the trial proceeding, resulting in vitiating decisions. Thus the judiciary adopted the ADR methods to lessen the stress of docket explosion and a challenge to improve its age-old dilatory procedures and sustain the people's faith in itself as an institution.

The settlement of disputes made by arbitration or conciliation will have the same effect as a decision of the court, if all the procedures in accordance with the governing act have been duly complied with. These ADR's should be encouraged because they provide procedural flexibility, save valuable time and involve less expenditure and strains as compared with conventional trials in civil courts.

ARBITRATION: MEANING, GENESIS AND SCOPE

"An arbitration is the reference of a dispute or difference between not less than two parties for determination, after hearing both sides in a judicial manner, by a person or persons other than a court of competent jurisdiction"[1]. Arbitration can be used for settling all or certain disputes which have arisen or which may arise between the parties in respect of a defined legal relationship whether contractual or not[2]. Whatever be the type of dispute the matter in dispute must be of civil nature. Arbitration is carried out by an arbitral tribunal, which comprises of an arbitrator or arbitrators, who are appointed by the procedure laid down in the arbitration agreement framed by the parties. The present arbitral law in India is based on the UNCITRAL model law on International Commercial Arbitration.

CONCILIATION: MEANING, GENESIS AND SCOPE

Conciliation means "the settling of disputes without litigation"[3]. It is an alternate dispute resolution (ADR)

(Footnotes)

[1] John B. Saunders, WORDS AND LEGAL PHRASES LEGALLY DEFINED, P 107(VOL 1, 1969)

[2] Section 7(1) of the Arbitration and Conciliation Act, 1996.

[3] WHARTON'S LAW LEXICON, p 227 (14th Edn,1937, Indian Reprint-1993).

process whereby the parties to a dispute agree to utilize the services of a conciliator, who then meets with the parties separately in an attempt to resolve their differences. In conciliation the final decision is that of the parties arrived at with the assistance of the conciliator. The conciliators role is mainly to guide the parties to a settlement.

Practise of conciliation came into light when UNCITRAL has adopted the UNCITRAL Conciliation Rules in 1980. The general Assembly of the United Nations recommended the use of these rules in cases where the disputes arose in the context of International commercial relations and the parties seek amicable settlement of their disputes by recourse to conciliation. The general law on the subject of conciliation had its origin in India through the Arbitration and Conciliation Act of 1996. According to this Act, the process of conciliation extends to disputes whether contractual or not, but the disputes must arise out of legal relationship[1]. It means that the dispute must be such as to give one party the right to sue and the other party the liability to be sued.

DRAWBACKS OF ARBITRATION AS A FORM OF ADR

Arbitration has now become closer to litigation because it has to be in accordance with statutory provisions and become virtually an adjudicatory process with all formalities of the functioning of a court. Even though arbitral tribunals are independent of the civil procedure code and the evidence act, it has to proceed with the procedure agreed by the parties for it's functioning in compliance with the procedures laid down in the Act.

Thus even arbitral proceedings have become lengthy and time consuming. Moreover in arbitral proceedings the final settlement of the dispute is made by an arbitrator or panel of arbitrators and the parties to the dispute are bound by their decisions.

ADVANTAGES OF CONCILIATION AS A FORM OF ADR

Conciliation, through its procedures and formalities tries to make an amicable settlement of the dispute with the consent of both the parties. The greatest advantage of conciliation is that the suggestions for the resolvement of the dispute are from both the parties with the conciliator acting as an instrument for initiating the process. Moreover conciliation procedures have its basis in independence, impartiality, fairness, justice, confidentiality, cooperation between the parties etc.

Conciliation through its non-litigatory procedures attempts to resolve the dispute without creating animosity or any bitter feeling among the parties. Conciliation through its suggestions and negotiations clears any misunderstanding prevailing with regard to the dispute and thus could preclude them from adopting legal measures for its resolution. Litigation & Arbitration are both within the shackles of procedural claptrap, while the procedural formalities in conciliation are not so intense. Conciliation also works out to be cheaper and much more time saving, when compared to litigation and arbitration.

MERITS OF MAKING CONCILIATION A NECESSARY PRECURSOR TO ARBITRATION

Conciliation when employed as a pre-cursor to arbitration, gives an opportunity to settle the dispute informally. No court rules or legal precedents are involved in conciliation; it tries to resolve the dispute by developing creative solutions with the help of the parties themselves. Conciliation helps the parties in dispute to understand the nature and crux of the dispute, by providing an opportunity to either party to present a list of their demands according to their priorities, to both, the conciliator and the other party. When conciliation is made a precursor to arbitration, it gives the parties an opportunity to resolve the dispute without being caught up in the procedural claptraps of either arbitration or litigation and thus saves the valuable time and money of the parties.

Moreover it is evident from the Arbitration & Conciliation Act of 1996, that the framers of the Act preferred the settlement of the dispute by conciliation rather than by arbitration. It is because of this that under section 30 of part 1 of the Act, the arbitral tribunal is encouraged to settle the dispute by conciliation, mediation or other procedures at any time during the arbitral proceedings, with the agreement of the parties. It also confers an arbitral award on agreed terms, the same status and effect as any other arbitral award[2].

Conciliation thus plays the role of prior filtering when it is made a necessary precursor to arbitration.

(Author is a law student of the National University of Advanced Legal Studies (NUALS), Cochin, India).

(Footnotes)

[1] Section 65 of the Arbitration and Conciliation Act, 1996.

[2] Section 30(3) of the Arbitration and Conciliation Act, 1996.

1st AMA Conference, "Mediation Diversity – Asia & Beyond"

The Asian Mediation Association (AMA) has announced the 1st AMA Conference, "Mediation Diversity – Asia & Beyond". The Conference will feature cultural concepts like face in the Asian mediation framework, issues of topical interest like the role of mediation in the current economic crisis, and effective strategies for managing complex disputes in Asia and beyond.

Distinguished speakers from around the world, including Australia, Hong Kong, India, Indonesia, Malaysia, New Zealand, the Philippines, Singapore, the United Kingdom and the United States of America will explore these issues, and discuss best practices, trends and developments in dispute resolution. The Singapore Minister for Law and Second Minister for Home Affairs, Mr K Shanmugam, will be the Guest-of-Honour at the Conference. The Singapore Mediation Centre will host this event.

UN's mediation capacity must be bolstered: Ban Ki-moon

Describing United Nations' role in peaceful settlement of disputes as its primary mission, Secretary-General Ban Ki-moon has said the world body's mediation capacity must be bolstered. "Too often in the past, mediators have been dispatched without the full benefit of specialised training and background information, giving United Nations efforts an ad hoc quality too dependent on trial and error"' says Ban Ki-moon's report made to the Security Council.

The Secretary-General, in his report, emphasised the need for early UN engagement to strengthen conflict prevention and resolution; increasing support for mediators; developing the next generation of the world body's mediators; and integrating mediation support into UN field missions.

CASE LAWS ...

Decision of Mediation centre binding on all subordinate courts

If a matter is decided by mediation at the direction of the high court, the terms and conditions of the decision will be binding on the subordinate courts, including civil court, family court, arbitration, tribunals etc as also on the authorities such as police and administration – decision by the High Court of Lucknow, India.

Jurisdiction of CJ under Arbitration Act

Section 16 of the Arbitration and Conciliation Act, 1996 does not take away the jurisdiction of the Chief Justice of India or his designate, if need be, to decide the question of the 'existence' of the arbitration agreement. Merely because the new Act permits the Arbitrator to decide this question, it does not necessarily follow that at the stage of Section 11 the Chief Justice of India or his designate cannot decide a question as to the existence of the arbitration clause – decision by the Supreme Court of India.

Arbitration between Companies incorporated in India

If two companies are incorporated in India, an arbitration between such parties cannot be an international commercial arbitration as defined under the Arbitration and Conciliation Act 1996. For the purposes of Section 28, substantive Indian law will apply to an arbitration that is not an international commercial arbitration where the place of arbitration is in India – Decision by the Supreme Court of India.

Think ...

The Difference in Heaven and Hell

A man spoke with the Lord about heaven and hell.

The Lord said to the man, "Come, I will show you hell." They entered a room where a group of people sat around a huge pot of stew. Everyone was famished, desperate and starving. Each held a spoon that reached the pot, but each spoon had a handle so much longer than their own arm that it could not be used to get the stew into their own mouths. The suffering was terrible.

"Come, now I will show you heaven," the Lord said after a while. They entered another room, identical to the first - the pot of stew, the group of people, the same long-handled spoons. But there everyone was happy and well-nourished.

"I don't understand," said the man. "Why are they happy here when they were miserable in the other room and everything was the same?"

The Lord smiled, "Ah, it is simple," he said. "Here they have learned to feed each other."

Upcoming courses & training programs from IIAM

Certified Legal Auditor (CLA) Training Program

Knowledge of legal issues affecting business is increasingly important in today's environment. Law is probably the most important external factor affecting business operations. Ever-larger numbers of business decisions are influenced by government rules, regulations, and policies. The Certified Legal Auditor (CLA) Training program is a customized training program conducted by IIAM, which enables the auditor to be a professional who understands the standards and principles of auditing and the auditing techniques of examining, questioning, evaluating and reporting to determine a quality system's adequacy and deficiencies. It gives auditors in depth training on legal audit principles, iCLA audit procedure and techniques, to prioritize and focus on matters of significance, to familiarize with iCLA Legal audit software, current legal issues and trends affecting business, organizations, contracts and property, dispute prevention and management options and ADR techniques.

The Auditors have to be basically law graduates, chartered accountants or company secretaries qualified from recognized institutions. The training is designed to have a clear view of the legal environment of business, enhance their abilities to think and communicate effectively, conduct interviews, make presentations effectively and develop effective strategies for managing legal risks. It will also provide basic instruction in legal research and critical reasoning skills.Professionals who successfully complete the CLA training program will be certified by IIAM and empanelled for iCLA audit. The names of CLA's empanelled with IIAM shall be placed on the website.

Community Mediator Training Program

The Mediation Clinics established under the IIAM CMS would function with an efficient team of mediators who are selected from the local community itself. People from a wide variety of backgrounds can make good mediators. The mediators so selected will be persons who shall be having a good repute in the local area to whom people shall have faith and shall include educated youth, ladies and elders. The people so selected would be given an orientation program by IIAM, and a certificate of recognition would be issued. The selected community mediators will be empanelled with the clinic.

With the skill of an excellent mediator and the willingness of each of us to communicate, we have resolved conflicts and that resolution is as strong today as it was years ago. But it takes courage and patience to take up the responsibility of becoming a mediator. Apart from the acceptance and honour given by the community, it also gives absolute satisfaction of becoming peace builders in our community. Are you willing to become one? If so, we are looking for people who are interested in becoming community mediators for our clinics. IIAM offers free training for mediators.

Certificate in Dispute Management (CDM)

CDM is a distance learning course valid for six months from the date of enrolment. You can enroll at any time of year and you study entirely at your own pace, submitting your assignments when you are ready. Your tutor will be available to mark your assignments and give feedback on your progress for a period of six months from the date of enrolment.

You will be sent four 'reading and study assignments' with your course materials, and these form an essential part of your distance learning course. They are designed to help you to work through the course manual and understand the concepts. The course will provide a good basic knowledge of ADR – Negotiation, Mediation & Arbitration – in theory and practice. On successfully completing the assignments included in the course a certificate will be awarded.

For details on courses and training programs; mail to: training@arbitrationindia.com