



CADR NEWSLETTER

THE OFFICIAL NEWSLETTER OF
CENTRE FOR ALTERNATIVE DISPUTE RESOLUTION,
RGNUL, PUNJAB

NATIONAL NEWS

Get your monthly dose of everything related to ADR that is happening nationally.

INTERNATIONAL NEWS

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ABOUT US

The Centre for Alternative Dispute Resolution, RGNUL (CADR-RGNUL) is a research centre dedicated to research and capacity-building in ADR. The ultimate objective, at CADR, is to strengthen ADR mechanisms in the country by emerging as a platform that enables students and professionals to further their interests in the field.

In its attempt to further the objective of providing quality research and information to the ADR fraternity, the CADR team is elated to present the fifth Issue of the Third Volume of 'The CADR Newsletter'. The Newsletter initiative began with the observation that there exists a lacuna in the provision of information relating to ADR to the practicing community. With an aim to lessen this gap, the Newsletter has been comprehensively covering developments in the field of ADR, both national and international. The CADR Newsletter is a one-stop destination for all that one needs to know about the ADR world; a 'monthly dose' of ADR News!



FROM THE DESK OF THE VICE CHANCELLOR

Alternative Dispute Resolution (ADR) has proven to be a game-changer in the legal world. The 'Alternatives' to litigation, such as Arbitration, Mediation, Negotiation and Conciliation are being increasingly accepted as 'Appropriate' dispute resolution techniques. It would not be an exaggeration to say that ADR methods will soon replace traditional court-based litigation in resolving commercial disputes at the least. It is thus incumbent upon a law school to not only introduce its students to the multi-faceted world of ADR but also to adequately prepare, train, and enable them to contribute and participate in a



meaningful manner in this thriving industry. In order to facilitate the same, it is necessary that the students are familiarised with the practicalities and nuances of the ADR universe.

It is a matter of pride for me that the Centre for Alternative Dispute Resolution (CADR-RGNUL) at Rajiv Gandhi National University of Law, Punjab has, since its inception in 2018, been promoting and furthering the cause of ADR. The Centre has strived to organized various stimulating discourses ranging from International Seminars, Webinars and various Credit Courses to National Level Mediation Competitions which have seen participation from some of the best law universities of India. Not only this, the Centre has emerged as an exemplary platform for furthering students' interests in the field of ADR and provide them a base for participating in number of ADR related competitions. The CADR Monthly Newsletter has been one of the most well-received idea of the Centre which is a 'one-stop' ADR news destination for students, teachers and professionals alike. It brings me immense pleasure to announce that this edition marks eighteen months of the monthly newsletter series which has been comprehensively covering various dimensions and latest developments in the field of ADR at national and international level. I hope and that the student community and each one concerned will make the best out of the Newsletter. I am optimistic that every small effort put in by the hardworking team of my teachers and students will contribute to the ever-growing scholarship on Alternative Dispute Resolution.

PROFESSOR (DR.) G.S. BAJPAI

VICE-CHANCELLOR, RGNUL, PUNJAB

ADR UPDATES

ARBITRATION

DOMESTIC ARBITRATION

1. SUPREME COURT OF INDIA CONFIRMS PARTY AUTONOMY IN THE PROCESS OF FORUM SELECTION FOR ARBITRATION OUTSIDE OF INDIA

The Supreme Court of India in *PASL Wind Solutions Private Ltd. v. GE Power Conversion India Private Ltd.*, held that “nothing stands in the way of party autonomy in designating a seat of arbitration outside India even when parties happen to be Indian nationals”. Both the parties in this case, were incorporated in India. The judgment is said to be of much significance to foreign businesses operating or planning to operate in India.

[Read More](#)

2. COUNTRY’S FIRST ONLINE DISPUTE RESOLUTION PLATFORM LAUNCHED BY CHANDIGARH BASED START-UP JUPITICE

A Chandigarh based start-up called Jupitice Justice Technologies, has launched the country’s first online dispute resolution platform. The platform would be a medium for conducting virtual arbitration, mediation, conciliation et al. The advisory board of the

company includes amongst others, several former High Court judges.

[Read more](#)

3. DELHI HIGH COURT DIRECTED THE RELEASE OF ARBITRAL AWARD AMOUNTING TO INR 14 CRORE FOR MANUFACTURING OF SPUTNIK-V VACCINES

The Delhi High Court directed the Centre to release an Arbitration Tribunal Award amount worth INR 14 Crore to be paid along with interest to Panacea Biotec. The Arbitral Award has been released to help the company in its manufacturing of the Sputnik-V vaccine amidst the shortage of Covid-19 vaccines in India.

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4. EXISTENCE OF ARBITRATION CLAUSE WILL NOT DEBAR THE COURT FROM ENTERTAINING WRIT PETITIONS

A bench of Justice UU Lalit and Justice Indira Banerjee reiterated, that just the existence of an Arbitration Clause alone will not be a ground for debaring a writ petition from being entertained by the High Courts. The court referred to the judgement of *Harbanslal Sabnia*

and Ors. v. Indian Oil Corporation Ltd. while reiterating the same.

[Read more](#)

5. ARBITRAL AWARD CLAIM TO STAND EXTINGUISHED UPON APPROVAL OF A RESOLUTION PLAN

The Calcutta High Court settled the question regarding the extinguishing of an arbitral award

holder's claim on approval of award debtor's resolution plan. Justice Moushumi Bhattacharya rendered the judgement and observed that indeed the claim would get extinguished on the acceptance of a resolution plan by the National Company Law Tribunal.

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INTERNATIONAL COMMERCIAL ARBITRATION

1. ALLEGATION, CONSIDERATION OR FINDING OF ‘SUBSTANTIAL INJUSTICE’ NOT AN EXPRESS CONDITION FOR ESTABLISHING A ‘PROCEDURAL IRREGULARITY’

The Privy Council in *RAV Bahamas Ltd and another v. Therapy Beach Club Incorporated* analysed section 90 of the Bahamas Arbitration Act, 2009 that deals with challenges to arbitration awards on grounds of ‘serious irregularity’. The council held that for a procedural irregularity to be established there was no requirement of an express allegation, consideration and finding of “substantial injustice”.

[Read more](#)

2. CLAIMS AGAINST INDIVIDUALS FALL OUTSIDE THE SCOPE OF AN ARBITRATION CLAUSE IN A SHARE PURCHASE AGREEMENT

In *Manek and others v IIFL Wealth (UK) Ltd and others* the jurisdiction of the English Commercial Court was challenged on the ground that the claims were within the scope of the arbitration agreement. The English Court of Appeal rejected the challenge and held that the claims against individual majority shareholders was not within the scope of the arbitration agreement and the English Commercial Court could hear it.

[Read more](#)

3. RUSSIA GRANTS “PERMANENT ARBITRATION INSTITUTION” STATUS TO ICC AND SIAC

In a major boost to International Arbitration, ICC and SIAC have been granted “Permanent Arbitration Institution” status by the Russian Ministry of Justice. Parties involved in international arbitration in Russia will now have access to three of the “top-five most preferred arbitral institutions” in the world as per the 2021 International Arbitration Survey.

[Read more](#)

4. ATTEMPTS TO ‘MANUFACTURE A PATHWAY’ TO APPEAL ARBITRAL AWARD THWARTED BY THE SUPREME COURT OF WESTERN AUSTRALIA

In *Venetian Nominees Pty Ltd v Weatherford Australia Pty Ltd*, the Supreme Court of Western Australia confirmed its support for the arbitral system and held that any effort to circumvent the arbitration process will be rebuked and might even be accompanied with punitive costs sanction.

[Read more](#)

5. ANTI-ARBITRATION INJUNCTION AGAINST LONDON ARBITRATION ISSUED BY THE MALAYSIAN HIGH COURT

The Malaysian High Court in *MISC Berhad v Cockett Marine Oil (Asia) Pte Ltd*. issued an anti-arbitration injunction to cease a London-seated arbitration. The court held that the arbitration

agreement gave the Malaysian courts exclusive jurisdiction and reaffirmed its power to halt foreign seated arbitration where it has jurisdiction.

[Read more](#)

6. SCOPE AND ARBITRABILITY OF AMBIGUOUS ARBITRATION AGREEMENTS CLARIFIED BY THE SUPREME COURT OF QUEENSLAND

The Supreme Court of Queensland in *Cheshire Contractors Pty Ltd v. Civil Mining & Construction Pty Ltd*, held that a contract between Australian Parties containing an arbitration agreement can be referred to arbitration under the Commercial Arbitration Act 2013. It was contended that the arbitration agreement was too wide to be enforced. The decision also exhibited the “expansive view” shared by the Australian Courts concerning arbitration of non-contractual claims.

[Read more](#)

INVESTMENT ARBITRATION

1. INITIAL DRAFTS ON THIRD-PARTY FUNDING REGULATIONS IN INVESTOR-STATE DISPUTE SETTLEMENT PUBLISHED BY UNCITRAL

Initial draft provisions on the regulation of third-party funding in investor-state dispute resolution settlement have been published by UNCITRAL, which contains various probable models on investor -state dispute settlement reform, disclosure requirements and various other provisions. Besides the definitions, the draft includes sanctions for inadmissible third-party funding, and means like arbitration rules, legislation, multilateral treaty and inclusion in investment treaties have also been provided. These draft provisions are investment treaty specific.

[Read more](#)

2. AN ICSID CLAIM OVER AN EGYPTIAN PORT PROJECT LAUNCHED BY A KUWAITI INVESTOR

Egypt faces a Kuwaiti claim of US\$700 million over a terminated concession for a container terminal facility at the port of Damietta. It may be mentioned that there is already a US\$ 420 million award against this port authority.

[Read more](#)

3. COLOMBIA EMERGES VICTORIOUS OVER BILLION-DOLLAR TELECOMS AND BANKING CLAIMS

A dispute over the ownership claims over a bank by Mexico's América Móvil about the alleged expropriation of a telecom concession and a US\$323 million UNCITRAL claim has prevailed over Columbia.

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4. IN ORDER TO COLLECT A \$1.4 BILLION ARBITRATION AWARD, A UK BASED ENERGY FIRM HAS THREATENED TO SEIZE INDIAN ASSETS ABROAD

UK's Cairns Energy, having a \$1.4 Billion award against the Indian Government is looking for an option of getting various properties of Government seized, in case of default in payment of award amount. This would be permissible, as the Indian government is a signatory to the New York convention, more particularly described as international rules of arbitration awards. Though the Indian Government is reported to be looking for an option of challenging it before the Supreme court of India, but whether it can do so would be an interesting legal proposition.

[Read more](#)

5. THE CLAIMS OF INDIRECT EXPROPRIATION AGAINST UKRAINE HAS BEEN UPHELD BY AN ARBITRAL TRIBUNAL

An arbitral tribunal, in a case titled *Olympic Entertainment Group v. Ukraine* has passed an award against the Ukraine. The dispute pertained to Theban imposed by Ukraine in the

year 2009, which according to the petitioner OEG was violative of an agreement between governments of Estonia and Ukraine for promotion and reciprocal protection of investments, and the petitioner company, an Estonian investor invoked arbitration as the ban by Ukraine Government was a breach of the said agreement, as per the claims of the OEG.

[Read more](#)

6. AN ICSID CLAIM AGAINST CONGO HAS BEEN FILED BY A UK BASED ENERGY COMPANY

An ICSID claim for \$450 million has been filed against the Republic of Congo by a UK Energy

company, over the alleged expropriation of its interest in an oil block.

[Read more](#)

7. AN ARBITRATION SUIT HAS BEEN FILED BY A US OIL SERVICE COMPANY IN ORDER TO SEEK US\$100 MILLION FROM MEXICO

An alleged Mexican violation of investor protections under the NAFTA trade pact has resulted into the filing of a US\$100 million claim by a US oil service group, before a World Bank Arbitration Court. This was after the renegotiation of the US-Mexico-Canada agreement of 2020.

[Read more](#)

MEDIATION

1. CHRISTIAN PORTER AGREES TO RESOLVE HIS DISPUTE VIA MEDIATION, DROPPING THE DEFAMATION CASE

Christian Porter, former Attorney General of Australia dropped his case on defamation against the ABC for the latter's allegations against the Minister. The ABC accused him of raping a woman in the 1980s, against which he launched a case. However, he has agreed to resolve the same via mediation, but has sought to claim victory despite being unable to get an apology or retraction of the statement.

[Read more](#)

2. MEDIATORS FROM ECOWAS ALLOWED TO MEET DETAINED LEADERS OF MALI

Two days after the detention of Mali's President and Prime Minister by the country's military, a mediation team from the Economic Community of West African States (ECOWAS) was permitted to meet with the detained leaders.

[Read more](#)

3. US CDC AND FLORIDA ORDERED TO SOLVE DISPUTE OVER CONDITIONAL SAILING ORDER THROUGH MEDIATION

Pursuant to Florida's suit against the US Centers for Disease Control and Prevention on

the state's claim on the conditional sailing order, the US District Judge Steven Merryday demanded the parties to resolve their dispute via mediation and appointed a mediator for the same.

[Read more](#)

4. STATEMENTS MADE "WITHOUT PREJUDICE" IN MEDIATION TO BE DISCLOSABLE: UK COURT OF APPEAL

The England and Wales Court of Appeal held that mediation position statements said in one of the parties' confidential position papers were admissible in evidence and could be referred to in the Defence.

[Read more](#)

5. MEDIATION BY EGYPT RESULTS IN ISRAEL AND HAMAS CONCEDING TO GAZA TRUCE

Amidst mediation bids by Egypt, Qatar and the United Nations to hold ceasefire between Hamas and Israel, the Gaza truce proposed by mediator Egypt was unanimously agreed to by Israel's security cabinet, while favouring "a mutual and simultaneous" ceasefire.

[Read more](#)

UPCOMING EVENTS

One of the founding objectives of the CADR has been to promote students', researchers' and academicians' interest in various activities related to Alternative Dispute Resolution. To fulfil such goals, CADR has time and again partnered with premier institutions around the world to provide several opportunities that helps in building a vibrant portfolio in ADR. In furtherance of these objectives, CADR has collaborated with Jagran Lakecity University, Bhopal to organise an **International Virtual Conference on Regulation of Sports and Entertainment Law** on August 01, 2021.

The Centre has attempted to make available a common platform for legal experts, academicians, researchers, students to bring out, discuss and deliberate on contemporary issues in law relating to sports and entertainment law and possible solutions for resolutions of the same.

HIGHLIGHTS OF THE MONTH

STUDENTS UPDATE

Even in the most raging months of the pandemic, the students of the Rajiv Gandhi National University of Law, Punjab have proved their undaunted spirit in these tiring times by bringing home victory in various competitions held around the country. CADR considers it as their responsibility to recognize and rejoice in these achievements in the best way possible.

CADR's entire team is glad to announce that a team comprising **Pratham Malhotra**, **Paitoshvir Singh** and **Pravertna** have made the college proud by winning the **BEST NEGOTIATING PAIR** award at the 3rd SYAR National Mediation and Negotiation Competition organized by Society for Young Advocates and Researchers from May 15-16, 2021. We congratulate the team and wish them the best of success in the future!



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