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CADRadar

CENTRE FOR ALTERNATIVE DISPUTE RESOLUTION

RGNUL

The Centre for Alternative Dispute Resolution's Quarterly Newsletter



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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. CADR's ultimate objective 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 Third Edition of the Fifth Volume of its quarterly newsletter, **“The CADR Radar.”** 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. Additionally, the newsletter documents the events at CADR and the achievements of RGNUL students in ADR competitions. The CADR Radar is a one-stop destination for all that one needs to know about the ADR world; a “quarterly dose” of ADR News!

Domestic Arbitration

-Kartikey Tripathi

ZEE Entertainment faces arbitration proceedings from Star India

Star India Private Limited ('Star') filed an application for arbitration against ZEE Entertainment on 14th March 2024. The proceedings stem from a dispute arising out of the Alliance agreement dated 26th August 2022. Under the August 2022 agreement, Star India was to license television broadcasting rights for the International Cricket Council's (ICC) events to Zee for four years, starting this year. Star India now seeks either specific performance or compensation in this regard. The application has been filed in London Court of International Arbitration. Meanwhile Zee has filed a counterclaim of \$8.3 Million. The proceedings come as another blow to ZEE after the Sony-ZEE divorce. [Read More](#)

Shashank Garg appointed as next ICC India Arbitration Group Chair

The ICC has selected Shashank Garg, an autonomous legal advisor and arbitrator, to serve as the fresh Chair of the ICC India Arbitration Group (IAG). As part of a strategic overhaul, the group will undergo reformation with the objective of bolstering the arbitration landscape in India. This initiative aims to further India's endeavors in advocating for Indian cities as prime arbitration destinations and enhancing the visibility of ICC Dispute Resolution Services within the country. He succeeds Ciccu Mukhopadhaya and brings an experience of 15 years to the table. The announcement was made during the 9th annual ICC India Arbitration Group Meeting held on 1st December 2023, presided over by ICC Court president Claudia Solomon. [Read More](#)

Clear intention to arbitrate within the agreement necessary, remarks the Hon'ble Calcutta HC

A single judge-Bench of J. Moushumi Bhattacharya concluded that the agreement must not be ambiguous while dictating the terms of the arbitration clause. The Hon'ble Justice remarked, "Section 11 of the 1996 Act is one of the earlier interventions by a Court on the presumption of the existence of an arbitration clause. The parties cannot set forth on the procedural journey if there is no arbitration agreement." The petitioner had approached the court regarding appointment of arbitrator with respect to a clause in the General Terms & Conditions (GCC) agreement which the respondents contended did not constitute an arbitration agreement. The Court took into consideration of the word 'may' along with the intention of the respondents to previously not agree to the existence of intention to arbitrate before commercial court and a coordinate Bench. The Court therefore, did not uphold the existence of a valid arbitration agreement. [Read More](#)

Delhi High Court holds seat designation as analogous to exclusive jurisdiction clause

The single judge Bench of J. Prateek Jalan recently examined the nature of designation of the seat of arbitration and the effect and consequences it had on other jurisdictions specified in an agreement. The matter involved the question of whether the Delhi HC, as designated by the arbitration clause as seat of arbitration or Courts of Kolkata, as specified within the exclusive jurisdiction clause, would rest with the power to conduct arbitration proceedings under section 11 of the Arbitration and Conciliation Act, 1996. The Court held the pre-eminence and precedence of the seat of arbitration over the specified jurisdiction and concluded that the Delhi HC was empowered to conduct proceedings under section 9, 11 and 34 of the Act. [Read More](#)

Arbitration clause independent of the contract, valid even after contract termination: Delhi HC

The Delhi High Court recently examined a case where an application made under Section 11(6) of the Arbitration and Conciliation Act, 1986 was opposed by the respondents on the grounds that the arbitration proceedings could not be initiated because the general agreement entailing the arbitration clause had been terminated. The respondent therefore contended that any dispute was non-referable to arbitration post termination of the contract. The Court first echoed the importance of referring to the arbitration tribunal for the question of non-arbitrability, followed by the interpretation of 16(1)(a), inferring that the arbitration clause served as an independent agreement. [Read More](#)

Challenged award cannot be enforced by writ petition: Andhra HC

The division bench comprising Chief Justice Dhiraj Singh Thakur and Justice R. Raghunandan Rao of the Andhra Pradesh High Court oversaw a plea for enforcement of the arbitral award by appellant National Highway Authority of India against respondent M/s. Vijayanagaram Hatcheries Pvt. Ltd.. The appellant had previously challenged the award before the single judge bench of Delhi HC who found no claims against enforcement of the award. The respondent further challenged the decision through Letter Patent contending that the appellant withheld that the award was being challenged under Section 34 of the Arbitration and Conciliation Act, 1986, by themselves. The Bench therefore found the order of the Single judge refutable and rejected the enforcement of the award. The Bench also remarked against converting the Court under Article 226 of the Constitution into an execution court. [Read More](#)

Contemporary Arbitration process equipped to arbitrate fraud: Bombay HC

The Bombay High Court, in a case involving disputes arising from the formation and restructuring of a company, ruled that allegations of fraud are arbitrable and not inherently unsuitable for arbitration. The case centered on the termination of the petitioner's employment and subsequent allegations made against him by the respondent company. Despite the respondent's objections and pendency of criminal pendency, the court held that the dispute fell within the scope of arbitrable claims, emphasizing the distinction between rights in rem and actions in personam. The court observed a shift in contemporary arbitration practices, where arbitral tribunals routinely handle complex disputes, including those involving fraud. Concluding, the Bombay HC appointed the arbitrator for the same. [Read More](#)

Arbitration tribunal fit to decide whether claim barred by lapse of time: Telangana HC

The Telangana High Court, under Justice C.V. Bhaskar Reddy's bench ruled that determinations regarding the limitation period for a claim fall within the jurisdiction of the Arbitral Tribunal or Arbitrator as per Section 20 of the Arbitration and Conciliation Act, 1996. It emphasized that Section 11(6) and Section 11(9) are solely for appointing arbitrators based on the existence of an arbitration agreement and not for scrutinizing the case's merits. In a case involving a construction project dispute between East Hyderabad Expressway Limited and the Hyderabad Metropolitan Development Authority, the court observed its role in appointing arbitrators under Section 11(6) and referred to relevant Supreme Court decisions emphasizing limited judicial intervention. Additionally, the court clarified that there's no specified limitation period under the Arbitration Act for filing an application under Section 11, hence the Limitation Act, 1963 applies. It held that the limitation period for such applications is three years from the date of the cause of action. Moreover, the court noted that the question of whether the claim is barred by lapse of time is to be decided by the Arbitral Tribunal. [Read More](#)

International Commercial Arbitration

-Garima Thakur

UK Court Denies Anti-Suit Injunction Against Venezuela

The UK Court of Appeal in a significant legal judgment, (*UK P&I Club & Anor v Republica Bolivariana de Venezuela* [2023] EWCA Civ 1497), has upheld the principle of state immunity. The court denied an anti-suit injunction against Venezuela in a commercial dispute, underlining the UK's commitment to international comity. This ruling underscores the delicate balance between respecting domestic policies, such as state immunity, and safeguarding rights, particularly those outlined in Article 6 of the European Convention on Human Rights concerning access to justice. The decision carries important implications for the understanding of state immunity in commercial transactions and the strategic approaches for parties dealing with states breaching arbitration agreements. [Read More](#)

Hong Kong Court Upholds CIETAC Award Enforcement

In a notable ruling, the Hong Kong Court of First Instance has upheld the enforcement of a CIETAC award, despite a re-arbitration by a new tribunal on a limited evidential issue. The court dismissed the argument by the award debtor, asserting that the re-arbitration rendered the original award non-binding or suspended, clarifying the legal impact of remission in both Mainland China and Hong Kong jurisdictions. The court's decision underscores the importance of timely enforcement and the availability of remission as an alternative to setting aside arbitral awards. [Read More](#)

High Court Upholds Decision to Allow London Arbitration in Carrier Dispute

In the case of *Carmichael Rail Network Pty Ltd v BBC Chartering Carriers GMBH & Co KG & Anor* [2024] HCA 4, the High Court of Australia upheld the decision of the Full Court of the Federal Court to dismiss Carmichael's application to restrain arbitration proceedings in London. The dispute arose from damaged goods transported under a carrier contract. Carmichael argued that the choice of law clause and arbitration agreement were void, contravening Australian law. However, both courts found that BBC's undertaking and the application of Australian law in arbitration mitigated these concerns, ultimately ruling in favor of allowing the arbitration to proceed. [Read More](#)

CIETAC Introduces Upgraded Arbitration Rules for 2024

The China International Economic and Trade Arbitration Commission (CIETAC) has unveiled its updated arbitration rules, effective immediately. The revisions mark a significant shift, aligning with global best practices and anticipating future legal adjustments in the PRC Arbitration Law. Key highlights include expanded tribunal powers, facilitating decisions on jurisdiction, early dismissal, and interim awards. Noteworthy changes also include provisions on commencement and consolidation of proceedings, enhancing alignment with international standards. Moreover, the rules introduce forward-thinking measures for digitalization and potential ad hoc arbitration. [Read More](#)

Clarity in German Arbitration: BGH Decision on Setting Aside Awards

The recent decision by the German Federal Court of Justice (BGH) clarifies that filing to set aside an arbitral award before a German state court becomes inadmissible if the applicant already paid the award amount without reservations. This ruling resolves a contentious issue among scholars and arbitration practitioners in Germany. In the case under review, the respondent paid the awarded sum to the claimant without reservations but later sought to partially set aside the award, resulting in the Higher Regional Court deeming the application inadmissible. The BGH determined that similar principles applicable to state court proceedings also extend to arbitration settings. It emphasized that unreserved payment signifies acceptance of the award as final and binding, extinguishing the party's legal interest in challenging it. However, the BGH noted that the circumstances of each case, including any recognizable reservations in the payment, must be carefully evaluated by the competent state court. This decision significantly impacts arbitration proceedings in Germany, cautioning losing parties against unreserved payment as it may preclude them from challenging the award in state courts. [Read More](#)

Hong Kong Courts Navigate Public Policy in Arbitration Disputes

In the case of **G v N** [2023] HKCFI 3366, G sought to set aside the awards, claiming conflict with Hong Kong public policy on illegality. The court agreed, remitting the matter to the arbitrator. This case marks a rare successful invocation of the public policy ground in Hong Kong. The central issue involved the application of public policy when illegality is raised as a defense, particularly in arbitral proceedings. The court emphasized the importance of considering recent legal developments, such as the Patel case, which departed from the previous Tinsley precedent. Ultimately, the court decided to suspend the setting aside proceedings, allowing the arbitrator to reassess the awards in light of the updated legal principles. [Read More](#)

UAE Court Affirms Validity of Arbitration Agreements Despite Non-Payments

In a recent ruling by the Dubai Court of Cassation, it reversed its previous stance on the impact of non-payment of arbitration costs on the validity of arbitration agreements. The court unanimously determined that if an arbitration center closes a case due to non-payment of costs without issuing an award, the arbitration clause remains valid. This overturns prior rulings where such non-payment led to the invalidation of arbitration clauses, reverting jurisdiction to Dubai Courts. The decision aligns with the UAE Arbitration Law, emphasizing that non-payment doesn't invalidate the arbitration agreement, nor waive rights to arbitration or court recourse. This supports an arbitration-friendly environment, discouraging tactics to circumvent arbitration agreements. [Read More](#)

English Court Asserts Jurisdiction: English Court Halts Russian Legal Action in Landmark Case

In the case of *Unicredit Bank GmbH v RusChemAlliance LLC* [2023] EWCA Civ 64, the English Court of Appeal reversed the High Court's decision and granted a final anti-suit injunction (ASI), requiring RusChemAlliance LLC (RCA) to terminate proceedings in Russia, which breached an English-law governed arbitration agreement for arbitration seated in Paris. The dispute arose from contracts between RCA and German firms, governed by English law, with ICC Paris-seated arbitration clauses. Despite EU sanctions halting work, RCA initiated Russian proceedings against UniCredit Bank GmbH. The Court of Appeal's decision underscores the English court's willingness to uphold arbitration agreements, even when not the curial court, potentially influencing future ASI applications. However, pending changes in arbitration law may affect future jurisdictional considerations. [Read More](#)

HKIAC's 2023 Statistics Reflect Growing Appeal and Diversity in Hong Kong Arbitration

The HKIAC's 2023 statistics show a record-breaking year in arbitration, with a total dispute amount of HK\$92.8 billion, doubling 2022 figures. The popularity of Hong Kong as an arbitration hub for PRC-related disputes is evident, with mainland Chinese parties involved in nearly 40% of arbitrations. The interim measures arrangement between Hong Kong and the mainland PRC continues to be utilized, preserving over US\$2 billion in assets since 2019. International parties, including those from 63 jurisdictions, contributed significantly to HKIAC caseloads. Notably, the appointment of arbitrators from diverse backgrounds increased, with female arbitrators comprising over a third of appointments. Challenges to arbitrators remained low, indicating confidence in their impartiality. Virtual hearings, although reduced from 2022, continued to be utilized, suggesting their enduring appeal for efficient dispute resolution. [Read More](#)

English Court Revokes Enforcement in *Contax Partners Inc BVI v Kuwait Finance House*

In *Contax Partners Inc BVI v Kuwait Finance House* (KFH-Kuwait) & Ors [2024] EWHC 436 (Comm), the English Commercial Court revoked its previous decision to enforce an arbitral award, discovering it as a fabrication.

The Claimant sought to enforce a Kuwaiti arbitration award based on alleged proceedings and a judgment from the Kuwaiti courts. However, investigations revealed that the arbitration and judgment were fabricated, with passages copied from an English High Court judgment. The Court set aside its enforcement order, finding no genuine arbitration agreement or award. This case highlights the importance of scrutiny in legal proceedings and serves as a cautionary tale against blind acceptance of presented materials. [Read More](#)

Navigating Multi-Contract Disputes: HK Court Reverses HKIAC Tribunal Decision

The Hong Kong Court of First Instance overturned an HKIAC tribunal's decision in **AAA, BBB, CCC v. DDD** [2024] HKCFI 513, ruling it lacked jurisdiction to arbitrate claims under a promissory note with a separate HKIAC arbitration clause. The ruling clarifies the Hong Kong courts' stance on resolving disputes in multi-contract scenarios with conflicting dispute resolution provisions. Despite similarities, differences in the arbitration clauses deemed them distinct, warranting careful consideration. The court advocated a pragmatic approach, determining the "centre of gravity" of the dispute to ascertain the appropriate arbitration agreement. This case underscores the importance of scrutinizing dispute resolution provisions in multi-contract scenarios to avoid jurisdictional issues and conflicting outcomes. [Read More](#)

The IBA has published revised guidelines concerning conflicts of interest in global arbitration

The International Bar Association (IBA) has issued updated guidelines on Conflicts of Interest in International Arbitration, aiming to standardize approaches to arbitrator conflicts. These guidelines, although not legally binding, are influential and promote best practices. The 2024 update introduces significant changes, including clarifications on the duration of impartiality obligations, distinctions between waivable and non-waivable conflicts, and expansions of the "Orange List" for disclosure. Notably, parties are now deemed to have learned of potential conflicts if reasonable inquiry could have uncovered them. The guidelines also address relationships, extending disclosure duties to persons or entities over which a party holds a controlling interest. Moreover, new additions to the Orange List mandate disclosure in various scenarios, from arbitrators sharing an employer to public advocacy on social media. [Read More](#)

Insights from Hong Kong Court: Failure to deal with an essential issue

The Hong Kong Court of First Instance clarified the grounds for setting aside awards, emphasizing the need for essential issues to be raised before the tribunal. In **X and YCo v ZCo** [2024] HKCFI 695, the court rejected a challenge based on alleged failure to address key defenses, noting they were not adequately presented during arbitration. Simon Chapman KC represented the prevailing award creditor, underlining parties' responsibility to articulate crucial issues clearly. The court ruled that issues not raised explicitly before the tribunal couldn't be presumed essential, stressing the importance of parties and their legal representatives in identifying and highlighting pertinent matters for arbitration consideration. [Read More](#)

Singapore Court Grants Recognition of Indonesian Insolvency Proceedings: Cross-Border Integration in Restructuring

The Singapore International Commercial Court's (SICC) recent decision in ***Re PT Garuda Indonesia (Persero) Tbk*** [2024] SGHC(I) 1 marks a significant milestone in facilitating cross-border insolvency proceedings between Singapore and Indonesia. This groundbreaking ruling granted recognition of Indonesian PKPU proceedings for the first time, offering a streamlined approach for insolvency professionals, creditors, and debtors with assets or claims in both jurisdictions. The decision underscores the regional importance of harmonizing restructuring efforts, especially given the substantial business ties between Singapore and Indonesia. With this precedent, cross-border protections are now formally acknowledged, paving the way for more efficient and globally coordinated restructuring initiatives. [Read More](#)

Hong Kong Court Upholds Arbitrator's Interim Order in Landmark Decision

The Hong Kong Court of First Instance dismissed a challenge to an arbitrator's interim order restraining court proceedings in mainland China against non-parties to an arbitration agreement. The decision hinged on the distinction between final arbitral awards and interim orders. G, a party in the arbitration, challenged the enforcement order, arguing it was premature and against public policy. The court rejected these arguments, clarifying that interim orders, unlike awards, are not subject to the same grounds for challenge. Additionally, G's claims lacked merit even if treated as award challenges, as the arbitrator had adequately considered the issues. [Read More](#)

Investment Arbitration

-Daksh

SHIAC Releases Updated Arbitration Rules

The Shanghai International Economic and Trade Arbitration Commission (SHIAC) implemented a significant revision to its arbitration rules on January 1st, 2024. These SHIAC Arbitration Rules (2024) replace the previous version from 2015. The update reflects the growth of the Chinese arbitration market and aims to create a more user-friendly and efficient process for both domestic and international investment arbitration. The revised rules focus on a balance between party autonomy, arbitrator authority, and institutional support throughout the arbitration process. [Read more](#)

Panel Discussion on "Future-Proofing Investments: Trends in Arbitration"

The Indian Institute of Arbitration & Mediation (IIAM) hosted a panel discussion in New Delhi on February 25th. The event focused on navigating the intricacies of investment arbitration in India and globally. Experts discussed India's evolving investment landscape, current legal frameworks, and notable cases shaping the arbitration scene. This type of industry discussion helps shape best practices and future trends in investment arbitration. [Read more](#)

SFSC Upholds ICSID Decision on China-Singapore BIT Dispute

In a recent ruling, the Swiss Federal Supreme Court (SFSC) upheld the International Centre for Settlement of Investment Disputes' (ICSID) decision regarding China's objection to the jurisdiction of arbitral tribunals. Originating from ICSID arbitration proceedings in Geneva, the case involved Singaporean companies claiming expropriation damages from China. The SFSC affirmed the restrictive interpretation of the China-Singapore Bilateral Investment Treaty's dispute settlement clause, emphasizing the necessity of clear and unambiguous consent for tribunal jurisdiction. This ruling underscores the significance of precise treaty language in determining arbitration scope and highlights the SFSC's cautious stance towards extending arbitration clauses to non-included claims. [Read More](#)

Mediation

-Swastika Saha Chowdhury

E-Mediation Writings

"E-Mediation Writings" is India's first digital magazine dedicated to mediation-related information and contributions in the form of articles, columns, working papers and updates from across the globe. The mediators/ advocates/litigants can share their views on any aspect and/or concept of mediation/negotiation/dispute resolution with the readers across. On the occasion of Republic Day of India, Justice D Bharatha Chakarvarty, Judge, Madras High Court flagged the yet another 1st of its kind initiative of Team EMW offering Chambers of its team members in 31 States and UTs across pan- India for guiding, spreading and supporting the law students from various colleges/ universities in India to learn more about mediation education and their important contribution and duties in the mediation process. [Read More](#)

Women in Mediation

GNLU Centre for Alternate Dispute Resolution ("ADR") organised a lecture on "Women in Mediation: Unleashing power of Women Mediators in Mediation". The discussion was exhaustive, covering several aspects of mediation, including the meaning and process of mediation as well as the Mediation Act, 2023. Emphasis was bestowed upon the importance of gender diversity in mediation and how women can bring in qualities such as empathy, effective communication and relationship-building to the mediation table. The lecture also included the need for the Central Government to switch from adversarial litigation to ADR routes. Further, how the United Nations Security Council resolution 1325 (2000) and subsequent resolutions on women, peace and security has motivated an extensive range of policy initiatives among Member States and international organizations to advance women's participation in peace processes was also deliberated upon. [Read More](#)

Report on Framework for Use of Mediation under the Insolvency and Bankruptcy Code, 2016

The Expert Committee, constituted by the Insolvency and Bankruptcy Board of India (IBBI), to examine the scope of use of mediation in respect of processes under the Insolvency and Bankruptcy Code, 2016 (Code/ IBC) submitted its Report on 31st January 2024. The Expert Committee in its Report has made recommendations on the likely framework for the introduction of mediation as a complementary mechanism for resolution of disputes around the processes under the Code. The mediation framework under the Code, as recommended by the Committee, would best operate as a self-contained blueprint within the Code, with independent infrastructure to ensure that the objectives of the Code are met without compromising or diluting the basic structure of the Code in terms of timelines, public rights, etc. In consonance with the Mediation Act, 2023, the Committee has recommended a voluntary mediation framework under the Code. [Read More](#)

Family Mediation Week 2024

Family Mediation Week is hosted by the Family Mediation Council and takes place in January each year. This year it took place from 22 – 26 January 2024. The Family Mediation Council have an action-packed schedule of webinars this week for a whole host of professionals. These webinars aim to provide information about family mediation and other resources available to support families when they separate so that those professionals can signpost families to relevant services. [Read More](#)

Recognition and Enforcement of International Settlement Agreements Resulting from Mediation Act, 2023

The Ministry of Finance, Economic Stabilization, and National Policies has proposed a bill to establish a legal framework for international mediation settlements under the Convention. The purpose is to reduce the number of disputes that lead to the termination of commercial relationships. This move is expected to contribute to the development of harmonious international economic relations etc. [Read More](#)

SDRCC 2024 Mediator and Arbitrator Conference

The Sport Dispute Resolution Centre of Canada (SDRCC) is partnered with the Court of Arbitration for Sport (CAS) to deliver the public portion of its 2024 Mediator and Arbitrator Conference on 1 February 2024 in Calgary (Alberta), Canada. The program featured presentations and panel sessions by guest speakers, including SDRCC arbitrators, mediators, clients and collaborators. Under the theme “Role of ADR in Improving the Culture of Sport”, this year’s program addressed several current topics and issues in sport dispute resolution. [Read More](#)

Japan adopted a “Bill to Partially Amend the Arbitration Act”

Japan has also placed a lot of effort to promote the use of arbitration in the past years. As part of such an effort, the bill was submitted to the Diet on 28th February 2024 and came into force from 1st April 2024. The amendments are part of the broader ongoing initiative by the Government of Japan to increase its presence in the global alternative dispute resolution market, with a particular focus on international arbitration and mediation. This effort is spearheaded by Japan’s Ministry of Justice and aims to strengthen Japan’s offering as a seat for international arbitrations. [Read More](#)

Australian Disputes Centre conducts Online Mediation Training

As an independent, not-for-profit company, and an ADR industry leader, ADC has been at the forefront of providing leading-edge mediation training in Australia and internationally since Sir Laurence Street conducted their first course in 1986. Over many decades, ADC has successfully trained thousands of professionals from all walks of life in mediation skills. ADC’s trained mediators, seeking recognition under the Australian National Mediator Accreditation System (NMAS), could undertake its 1-day Accreditation program. [Read More](#)

Mediators from Egypt, Israel, Qatar and USA in Cairo working to secure a cease-fire between Israel and Hamas

Officials from Israel, Egypt, Qatar and the U.S. are meeting in Cairo for negotiations around a second cease-fire in Gaza and the release of hostages being held by Hamas. The talks in the Egyptian capital were expected to centre on a plan that would pause the fighting in Gaza for up to six weeks, and clear the way for another exchange of Palestinian prisoners and Israeli hostages. The high-stakes meeting took place as Israel signalled it may soon launch a ground invasion in Rafah, on the southern tip of Gaza, where nearly 1.5 million Palestinians are sheltering. [Read More](#)

American Arbitration Association updated the Construction Industry Arbitration Rules and Mediation Procedures

The American Arbitration Association (AAA) announced the updated Construction Industry Arbitration Rules and Mediation Procedures, reflecting our commitment to efficiency, modern technology adoption and the evolving demands of the construction industry. These updates, effective March 1, 2024, were developed with extensive input from the National Construction Dispute Resolution Committee, advocates, in-house counsel, arbitrators and industry professionals from across the nation. [Read More](#)

Delhi Arbitration Weekend 2024

The second edition of the Delhi Arbitration Weekend ('DAW') 2024, was hosted in March this year by the Delhi International Arbitration Center, Delhi High Court, in collaboration with the Supreme Court of India and the High Court of Delhi. The second edition of the event aims to build on last year's network of experts, practitioners, and academia by engaging them in dialogues led by renowned legal luminaries, judges, and experts in the field of arbitration, from across the globe. DAW 2024 was graced by various International Arbitration Institutions and key representatives and partners of the top International and Indian law firms specializing in dispute resolution to deliberate on challenges confronting the arbitration community. [Read More](#)

A training programme for intercultural mediators in Greece

The Ministry of Migration and Asylum in Greece, within the framework of the national strategy for integration and in particular the actions to strengthen intercultural mediation, launched a training programme for intercultural mediators which has among its objectives the strengthening of social inclusion support for third-country nationals (TCNs). The training programme has a total duration of 206 hours and is implemented under the umbrella of the Ministry of Migration and Asylum's Directorate of Social Integration - Intercultural Mediation Department, in cooperation with UNHCR and the other partners. [Read More](#)

Exploring the Frontier: AI as Arbitrators in Contemporary Legal Systems

-Gautam Taneja & Mustafa Topiwala

INTRODUCTION

According to Richard Susskind, the legal world is expected to change more dramatically during the next two decades than it has in the previous two centuries. Since its inception in the 1940s, Artificial Intelligence ('AI') has advanced greatly, with one of the most recent progresses centred around the application of AI in arbitration. As the argument over artificial intelligence becomes more partisan, some in the arbitration community believe that AI is "perfect" for conflict resolution, while others are concerned about its inadequacies.

Major legal firms across the globe have already started integrating AI to automate and enhance their work. AI systems such as Xiaofu and System 206 are among the few AI software capable of assisting parties in a lawsuit, conducting hearings, and even rendering decisions based on case law. The idea of AI arbitrators has been a subject of significant scholarly research and debate globally. Additionally, the contemporary ruling of the Mexican Court in the Kleros Case introduced the concept of blockchain arbitrators, highlighting a new area of development for AI in the field of ADR. The concept of AI as an arbitrator is a step up from blockchain arbitrator. The authors strive to examine whether existing regulations provide scope for the introduction of AI as arbitrators, and the plausible ramifications of the same.

THE LEGAL DEBATE

Contemporary arbitration legal systems are primarily focus on appointing only 'natural persons' as arbitrators. Multiple laws explicitly require the arbitrator to be human. For instance, the French Code of Civil Procedure, 2007, states that "only a natural person having full capacity to exercise his or her rights may act as an arbitrator". Similarly, the United Kingdom Arbitration Act, 1996, mentions the death of the arbitrator, which holds the implication that the arbitrator should possess human qualities. Interestingly, the Indian Arbitration and Conciliation Act, 1996, (A&C Act) makes no mention of the word 'human'. Thus, in the context of India, there is no particular requirement for an arbitrator to be a natural person, allowing scope for AI to lead the arbitration process.

Sections 10 and 11 of the A&C Act play a crucial role in this regard, as they deal with the appointment of an arbitrator. As long as the parties agree otherwise, Section 10 gives the parties the authority to select arbitrators "of any nationality." In contrast to the usage of a limited term like "citizenship," it is important to consider the use of the term "nationality" and its legal ramifications. In the case of State Trading Corporation v. Commercial Tax Officer, the Supreme Court held that the former term suggests a jural relationship between any kind of person—natural or artificial—and the State, but the latter suggests a relationship that is exclusive to natural people. The impugned provision's use of the term "nationality" thereby broadens the definition of an arbitrator to include not only natural person but also legal entities, such as an AI arbitrator, in this particular case.

Although, if AI is placed within the definitional framework of 'person' as used in Sections 10 and 11 of the A&C Act, then plethora of complexities arise, especially related to its civil and criminal liabilities. It is pertinent to note that legal personhood can be conferred in the context of varied legal domains - corporations, as legal persons, can be held accountable under civil jurisdiction, and natural persons can be held liable under criminal jurisdiction.

Further, in the context of criminal law, all legal persons require representation. Therefore, positive law in general can grant legal personhood to whatever entity it deems fit, considering the fact that such attribution may be of necessity to further relevant interests, freedoms and rights. History is a testament to this effect - there was a period wherein people of color were considered to be subpar humans, and how animals have been recognized as legal persons within the ambit of Article 21 of India's constitution. Hildebrandt describes the concept of 'person' as a mask. The mask of legal persona allows that entity to create legal effect, and at the same time, protects that entity. On this basis, the authors propose that the particular AI that can act as arbitrator can be validly granted legal personhood.

THE PRACTICAL CONCERNS

Although legally valid, such an attribution entails its own demerits, that puts into spotlight its viability. Brandeis Marshall, in her article 'No Legal Personhood for AI', highlighted three significant challenges:

- 1) AI's impact in the context of systems and institutions has not been fully assessed;
- 2) The scope of bias within AI has to be acknowledged, accepted, or atoned;
- 3) The lack of arbitration-specific AI compliance guidelines and protocols.

More importantly, if AI were to be attributed with legal personhood, it would need to address the established social structure along with political, legal and economic consequences. The very replacement by AI arbitrators is a cumbersome process, as AI models will require to be fed with humongous quantities of data-sets for them to function. Additionally, many parties prefer a human element in the arbitration process; they believe that AI arbitrators will not enable them to understand the reasoning behind decisions effectively, as AI is better-designed to provide binary responses.

CONCLUSION

The integration of AI in the field of arbitration will not be devoid of challenges. Legal frameworks for attribution and culpability for potential civil or criminal suits will face new issues as AI entities continue to function at a greater distance from their developers and owners. Although the current legal system provides a balanced viewpoint on the potential for artificial intelligence to act as an arbitrator. However, we also need to consider the practicality of applying AI arbitrators in real-world scenarios.

Further, whether or not an AI system is in the best interests of society is the primary factor that determines whether or not it should be given legal status. The issue of granting legal status should only be taken into consideration if doing so serves society's best interests. After all of this, it would be reasonable to say that "the real social necessity in a certain legal and social order is dependent on the consideration that an autonomously functioning artificially intelligent robot should have a secure legal subjectivity."

Events @ CADR

Upcoming Events

2nd National ADR Seminar in collaboration with CCPLA

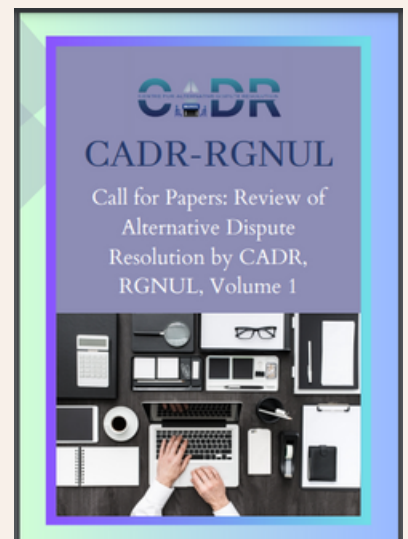


The second National Seminar on ADR in Consumer Protection, organized by the Centre for Alternative Dispute Resolution (CADR) at RGNUL, aims to address the overwhelming backlog of consumer cases in India. The Consumer Protection Act, 2019, emphasizes mediation as an ADR mechanism to expedite dispute resolution. The seminar serves as a platform for stakeholders to discuss the intersection of consumer rights and effective dispute resolution. Additionally, RGNUL's initiatives, such as the Dr. P.C. Markanda Chair on ADR and the Centre for Consumer Protection Laws and Advocacy (CCPLA), focus on promoting ADR methods, conducting research, and providing legal aid. CADR strives to develop ADR as a tool for socio-economic and political justice, ultimately enhancing access to justice and consumer welfare in India.

Completed Events

Call for Papers: Review of Alternative Dispute Resolution (RADR Volume 1)

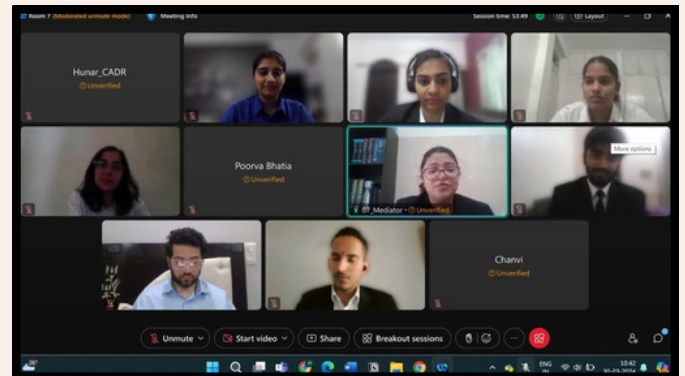
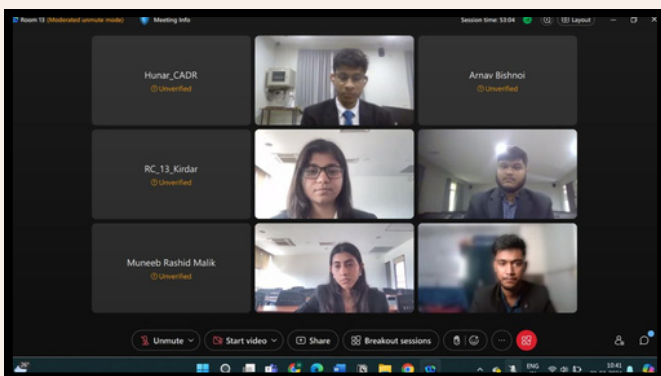
The Editorial Board of Centre for Alternate Dispute Resolution (CADR) RGNUL was pleased to announce its Call for Papers for Review of Alternative Dispute Resolution Volume 1. The theme, "Navigating the Expanding Role of Mediation and Arbitration in Dispute Resolution," encompassed a multifaceted exploration of the evolving landscape of alternative dispute resolution. Within this overarching theme, the Board delved into various illustrative themes that shed light on the intricate dynamics of this field such as: International Commercial Arbitration; Investment Arbitration; Facets of Arbitration; Guiding Factors in a Mediation Process and Domains of Mediation. CADR invited submissions from legal practitioners, academicians, research fellows, undergraduate and postgraduate students from the legal fraternity in the form of short articles, long articles, and case comments.



6th RGNUL Sports & Entertainment Law Mediation Competition

We were delighted to announce the Sixth Edition of the RGNUL National Sports & Entertainment Law Mediation Competition 2024, organized by the Centre for Alternative Dispute Resolution, Rajiv Gandhi National University of Law, Punjab, and India's leading law firm Cyril Amarchand Mangaldas. The competition was scheduled to take place in an online format from 29th to 31st March 2024. The competition hosted teams from all across India, chosen based on the experience and accomplishments of the universities in the field of Alternative Dispute Resolution. The objective of the competition was to instill soft skills of mediation and commercial awareness in law students from across the globe, set to practice law.

The 6th edition of the Sports and Entertainment Law Mediation Competition aimed at honing the advocacy and argumentative skills of the participants. With the Final rounds of the competition held between KPMSOL and NLIU Bhopal as negotiator teams and Christ University and NUALS Kochi as the finalist mediators, it truly was a spectacular competition. The trophy of the best negotiating pair went into the hands of Aditi Srivastava and Jyotsna Sood from NLIU Bhopal, and Vanshika Jha of Christ University took home the best mediator prize.



RGNUL Intra Mediation Competition, 2024

In pursuance of its objectives to promote the skills of the students of RGNUL and to provide them with a platform to showcase their prowess, the Centre for Alternative Dispute Resolution organised the Intra mediation Competition, 2024 over the span of 3 days. The competition saw the participation of more than 200 students from different batches of the University.



Achievements

Students of Rajiv Gandhi National University of Law bring Laurels to the University, bagging top positions at ADR Competitions



The team comprising Rachit Somani, Rohan Gajendra Pratap Singh and Srajan Yadav from the Batch of 2024 emerged as **Runners-Up (Overall)** in the **4th AZB-GLC National ADR Triathlon, 2024** at the Government Law College, Mumbai. Rohan and Srajan emerged as the **Best Negotiating Pair**. We congratulate the team for the achievement and wish them best for their future endeavors!



The team comprising Ekamjot Singh Bagga and Devesh Khandelwal from the Batch of 2025 emerged as **Runners-Up (Negotiators Category)** in the **3rd NALSAR Mediation Tournament, 2024** by NALSAR University, Hyderabad. We congratulate the team for the achievement and wish them best for their future endeavors!

Introducing- The Advisory and Peer Review Board of RADR

The Advisory Board

Join us in honoring the esteemed members of our Advisory Board, who are dedicated to advancing knowledge in alternative dispute resolution (ADR) and upholding the high academic standards of our Journal. Their exceptional expertise in arbitration and mediation law brings immense value to our publication.

Ms. Ila Kapoor, a Partner at Shardul Amarchand Mangaldas (SAM), is renowned for her proficiency in dispute resolution, with qualifications to practice in both India and New York. She is affiliated with esteemed associations such as the New York Bar Association and the Indian Arbitration Forum, reflecting her standing in the legal community.

Mr. Ratan K Singh, a distinguished Senior Advocate based in New Delhi, is recognized for his expertise in complex commercial litigation and arbitration, spanning over 25 years. He is actively engaged with industry stakeholders and holds esteemed fellowship from the International Academy of Construction Lawyers.

Mr. Gourab Banerji, another distinguished Senior Advocate in New Delhi, brings exceptional legal acumen in constitutional and commercial law, with notable contributions to India's arbitration landscape.

Hon'ble Justice Arjan Kumar Sikri, a luminary in jurisprudence and former judge of the Supreme Court of India, enriches our advisory board with his profound understanding of the law and experience as an international arbitrator.

Together, these esteemed professionals contribute to shaping our strategic direction, providing insights, and identifying emerging trends in ADR, aligning with our goal of enhancing quality and impact in the field.



Ms. Ila Kapoor



Mr. Ratan K Singh



Mr. Gourab Banerji



**Hon'ble Justice Arjan
Kumar Sikri**

The Peer Review Board

Mr. Tariq Khan, formerly the Registrar of the International Arbitration and Mediation Centre (IAMC) in Hyderabad, India, and an Advocate in the Supreme Court of India, possess extensive expertise in international arbitration. Trained at prestigious institutions like the Chartered Institute of Arbitrators (CI Arb, UK) and the Singapore International Mediation Centre (SIMC), Mr. Khan authored numerous publications on arbitration law and was acknowledged as an expert by SCCOnline.

Subsequently, Mr. Ankit Virmani, a Partner at Virmani & Virmani Law Firm and a Fellow at the Chartered Institute of Arbitrators, brought extensive experience in commercial arbitration and litigation, complemented by recognition such as the AgriAward 2021 for his strategic vision in the legal field.

Joining them was Mr. Mitul Jain, Founding Partner of Advaita Law Partners, known for his expertise in Criminal Law, Insolvency, and Bankruptcy, and Mr. Anubhab Sarkar, Founding Partner of Triumvir Law, renowned for proficiency in international commercial arbitration and corporate law.

Further contributions were made by Mr. Animesh Anand Bordoloi, Assistant Professor at O.P. Jindal Global University, Mr. Sourabh Rath, Partner at Trilegal, Ms. Vrinda Pareek, a Commercial Dispute Resolution Lawyer, and Mr. Aakash Parihar, Partner at Triumvir Law, collectively enriching the Peer Review Board's expertise and diversity in alternative dispute resolution.



Mr. Ankit Virmani



Mr. Tariq Khan



Mr. Mitul Jain



Mr. Anubhab Sarkar



**Mr. Animesh Anand
Bordoloi**



Mr. Sourabh Rath



Ms. Vrinda Pareek



Mr. Aakash Parihar

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