

Department Report 2018-19

Title of Department:
ILS Centre for Arbitration and Mediation (ILSCA)
(Est: December 3, 2016)

- Faculty Co-coordinator : Ms. Sathya Narayan, Director, ILSCA
- **Aims & Object of the Centre:** The **ILS Centre for Arbitration and Mediation (ILSCA)** –

The Centre was established on 3rd December 2016 by the Indian Law Society. The Centre was established with the sole purpose of providing facilities for settlement of disputes through different methods of Alternative Dispute Resolution. The Centre would act as an effective institution to realize the objectives of ADR.

ILSCA is in the process of making rules for holding Institutional Arbitration at ILSCA. Currently, besides the **Mumbai Centre for International Arbitration, Mumbai**, there is no such arbitration centre in Maharashtra which can cater to parties who can opt for institutional arbitration. It will be a joint effort between the Indian Law Society, and the domestic and international business and legal communities to promote institutional arbitration. The Centre aims to bring about faith in the process of institutional arbitrations by framing user-friendly rules of institutional arbitration.

ILS Institutional Arbitration will be a first-of-its-kind, attached to an educational institution which imparts legal education. Another important objective of ILSCA is to provide training in ADR methods and other allied subjects on Arbitration.

Activities done – Academic year 2018-2019

2018

- I. **Intra-Collegiate Mediation Competition 2018**, in collaboration with ILS Law College

Conducted on: 7th-8th September, 2018

The Intra-Collegiate Mediation Competition was a first-of-its-kind event held at ILS Law College.

Orientation Session

Prior to the actual competition, a **half-day orientation** session was conducted by renowned mediator Ms. Tanu Mehta. This orientation session aimed at providing information to students about- What the process of mediation entails and how a mediation is conducted. The session also highlighted the roles played by- parties to mediation, the mediator and lawyers. The orientation session cleared many doubts that the students had prior to the orientation. This session also encouraged students to come forward and participate in the competition.

Competition

The competition witnessed a **participation of 48 students** from three-year and five-year law courses. The competition was conducted in three rounds- preliminary round, semi-final round and final round. The competition was adjudged by practicing mediators who are experts in their field. The mediators or assessors of the competition came from various areas of subject specialization.

Following were the mediators who assessed the competition;

- | | |
|----------------------------|------------------------|
| 1. Rashmi
Dhongde | 9. Shantanu
Harpale |
| 2. Omkar Kudale | 10. Ajay Mehta |
| 3. Pratap Singh
Salunke | 11. Uday Warunjikar |
| 4. Rahul Risbud | 12. Vinay Koparkar |
| | 13. Ana Veron |

5. Prasad Barje
6. Avanti Moghe
7. M S Pandit
8. Kunal Sarpal
14. Anand Kulkarni
15. Parimal Shah
16. Aarya Thhakkare

ILSCA proposes to hold such competitions and make it an annual feature. It is basically an initiative aimed to create an awareness amongst the law students about importance of the process of Mediation as an alternate dispute method to resolve disputes.

II. **Legal Aid Mediation Camp** in collaboration with Council of Mediation and Arbitration (CMA)

Conducted on: 24th November, 2018

ILSCA initiated the concept of holding a free Mediation Camp for the benefit of parties in dispute and to provide such parties in conflict a space for resolving their conflicts on their own without any external agency. The purpose of this camp was to promote Mediation as one of the best methods to resolve personal disputes. This camp targeted the disputant parties, particularly who were involved in domestic disputes, that were registered under the ILS Law College's Legal Aid Centre..

ILSCA and ILS Legal Aid Centre in association with Council of Mediation and Arbitration (CMA) organized this one-day **Free Mediation Camp** to encourage the disputants to adopt the process of Mediation for resolving the disputes. Basic purpose of holding a camp on Mediation for resolving disputes was primarily to educate parties who were in dispute and convince them that they could consider Mediation as the first and the best option to resolve their disputes with other persons.

The parties who took part in this Mediation Camp had originally lodged their grievance with the ILS Law College's Legal Aid Centre and after initial persuasion were ready and willing to attend the Mediation camp.

This Pro Bono Mediation camp was the first ever initiative by ILSCA. There were six such parties (husband and wife) who were in a undecided situation about their relationship. At the end of the Mediation camp one could witness that most of the parties went with a smiling and satisfied face.

The Mediation was conducted by the following expert mediators from the **Council of Mediation and Arbitration (CMA)**. CMA is based in Navi Mumbai and consists of panel of trained Mediators and Arbitrators expert in different subject areas.

1. Mr. Parvez Khan
2. Ms. Gandha Sahu
3. Ms. Krishna Thacker
4. Ms. Leena Patil
5. Ms. Avanti Moghe
6. Ms. Disha Mulgaonkar
7. Mr. Ashish Sonawane
8. Mr. Prasad Barje
9. Mr. Azim Shaikh
10. Mr. Rajesh Jage

The camp witnessed the participation of **six disputing parties**. Most of the disputes were matrimonial in nature. Out of the six cases, four were successfully resolved with the parties managing to reach an agreeable settlement through the help of the Mediators. Two cases are pending and will be called again for another session.

This Mediation camp helped the parties avoid litigation and resolve disputes amicably. Court litigation is a costly and a lengthy process. The initiative took all efforts to help the parties reach a peaceful and acceptable settlement.

ILSCA proposes to hold many such camps in the near future. It is basically a people oriented initiative. This Centre can cater to all types of disputes: matrimonial, landlord-tenant, money recovery issues, property disputes etc.

III. ILSCA 48-Hours Mediation Training Program, 2018

Conducted on: 26th November to 1st December 2018

No. of participants: 40; including legal professionals, law faculty and students.

The ILS Centre for Arbitration and Mediation (ILSCA) conducted the ILS-ILSCA 48-hours **“Mediation Training Program”** at ILS Law College from 26th November to 1st December 2018.

This was a maiden program conducted under ILSCA which proved to be a successful event. The training program witnessed the presence of **40 participants** including legal professionals, law faculty and students.

The Mediation Training Program was conducted to provide the participants with training to become future mediators. The program was a 6-days training involving mediation theory, simulations, real life case studies, discussions and series of presentations.

The course was conducted by experienced and highly trained mediators;

1. Mr. Ajay Mehta (Master Trainer)- Trained as a Mediator in the year 2006 and as a Mediation-Trainer in the year 2008, by MCPC, Supreme Court of India, Mr. Ajay Mehta is empaneled as a Mediator with the Main Mediation Centre, Bombay High Court. As a mediation-trainer he has travelled all over the country, imparted 40-hours mediation-trainings to around 1500 Judges besides judges’ wives, social workers, advocates, bureaucrats, law-students and has also conducted awareness programs for around 5000 people all over the country.

2. Ms. Tanu Mehta – With a master’s degree in Conflict Resolution and Mediation from Tel Aviv University, Israel, Ms. Tanu Mehta is practicing as Mediator and Conciliator, with case referrals by Courts, Private Organisations and Institutional sources. She is an empaneled mediator at High Court of Bombay, City and Civil Sessions Court of Bombay, IMC ADR Centre (Indian Merchant Chambers), Centre for Alternate Dispute Resolution (CADR) Mumbai, IICA-Ministry of Corporate Affairs, GOI and Association of Mediation Practitioners, Mumbai.

3. Ms. Gandha Sahu - Trained and accredited by the Indian Institute of Arbitration and Mediation, Cochin in 2014, Ms. Gandha Sahu is presently the Vice-President of Council of Mediators and Arbitrators, Bombay. She is also the member of the Indian Institute of Arbitration and Mediation, Cochin and a member and trustee of the Goa Community Mediation Centre, Goa

4. Mr. Firdosh Karachiwala (Master Trainer) – Mr. Firdosh Karachiwala visited us on the last day of the session for the valedictory function. He is an empanelled mediator at International Centre for Alternative Dispute Resolution (ICADR) Delhi, Indian Council of Arbitration (ICA) Delhi, Bombay Incorporated Law Society – High Court Bombay, World Mediation Forum (WMF) (Steering Committee), Lawyers Engaged in Alternative Dispute Resolution (LEADER) Australia. Mr. Karachiwala has also co-authored Book on “Mediation in India – A Toolkit” published by USEFI.

The 6-days program consisted of the following;

- Theory, Presentation and Practical Sessions on - Dispute and Conflict, Mediation, Negotiation, The Role of Advocate/ Lawyer in a Mediation, Mediation and the Laws in India

- Documentaries and Role Plays on Mediation followed by discussions on the performance of each team
- A Joint Parliamentary Committee final role play by using techniques learnt through the training
- Evaluation
- Valedictory speech by Chief Guest
- Closing Comments by the Director, Vote of Thanks and Feedback Sessions
- Certificate Distribution

Upon successful completion of the training program, the participants were given a certificate in **“Skills of Mediation”**. As per ILSCA Mediator Empanelment System, a candidate having successfully completed Mediation Training Program conducted by ILSCA, will become eligible for empanelment as ILSCA Mediator on completion of an assessment program and upon meeting some minimum pre-requisites (assessment program is under construction.)

2019

IV. **National Mediation and Negotiation Competition- “Intercessionis”** 2nd Edition- a joint initiative between ILSCA and PACT (Peacekeeping and Conflict Resolution Team)

Conducted on: 6th and 7th January 2019

No. of teams participated - 16

The competition was the second edition of the previously held national negotiation and mediation – one of its kind competition where the core mediation and negotiation skills of participants across the country were put to test. The problems for the competition were based on the concept - **‘Community-based Mediation’**.

The event witnessed 16 participating teams from difference law institutions from all over the country who showcased mediation and negotiation skills. The assessors of the competition included certified mediators and mediation experts.

The following were the assessors at the event:

1. Shraddha Bhosale
2. Rahul Kothari
3. Leena Patil
4. Avanti Moghe
5. Krishna Thacker
6. Gandha Sahu
7. Azim Shaikh
8. Ashish Vilas Sonawane
9. Prasad Barje
10. Roohi Kohli
11. Ashutosh Bhise
12. Prathamesh D Popat
13. Disha Karambar Mulgankar
14. Megha Gurav
15. Jatin Rodrigues
16. Gracious Timothy
17. Rajlaxmi Joshi
18. Arti Tayde

V. Two day Workshop on ADR Methods- “Being Resolution Ready”, A joint initiative between ILSCA and PACT (Peacekeeping and Conflict Resolution Team)

Conducted on: 8th and 9th January 2019

No. of participants: 60 including legal professionals and students.

Orientation Session

Upon announcement of the Workshop on ADR Methods, a half-day orientation session was conducted for introducing the workshop to interested students. This session aimed at educating students regarding the basics of arbitration.

The Workshop

The 2-day workshop aimed at providing the participants with basic understanding of ADR methods. The themes of the workshop included but were not limited to;

- Use of Arbitration-Mediation (Med-Arb) as an appropriate ADR tool in Indian and foreign jurisdictions.
- Setting and executing Arbitration and Mediation clauses in commercial contracts.
- Recent updates on mandatory Commercial Mediation in India and its impact on the courts of Law.
- Med-Arb, Arb-Med-Arb
- Scope and practice of Investor-State Arbitration in India and Abroad.
- Negotiation, Preparation of negotiation strategy, Types of Negotiation
- Group Activities
- Role Play
- Simulations

The Resource Persons for the event were as follows;

1. Juhi Gupta Associate at Shardul Amarchand Mangaldas (LLM, Harvard Law School) An LL.M. graduate from Harvard Law School; Ms. Gupta is deeply interested in ADR and mediation specifically. She concentrated her LL.M. on ADR and pursued courses such as mediation, 'cult' of ADR, settlement and the courts, and the negotiation-

workshop, which is a flagship course of HLS. She was also a member of the Harvard Mediation Program as a part of which she became a certified mediator and was an active mediator in a small claims court. Ms. Gupta also has experience in arbitration having completed her Training~ Contract at Allen & Overy, during which she worked in the firm's international arbitration team in London and its dispute resolution team in Dubai. Ms. Gupta currently offers her services as a CDR resource person at The PACT and actively engages in the CDR Boot Camps, held across the country.

2. Kriti Chopra, LLM, MIDS Geneva & NUS, Singapore. Kriti is a qualified lawyer with an extensive Litigation experience, with appearances before all levels of judicial fora and active participation in ADR practice. She was called to the Bar in 2015 and holds a Double Master's Degree in LLM (International Arbitration and Dispute Resolution) from the National University of Singapore and the prestigious MIDS (LLM in International Dispute Settlement) Program, Geneva. Her work experience involves holding Associate position with a known law firm in New Delhi, as an Advocate with the chambers of Senior Counsel at the Supreme Court of India, as an Intern with the Singapore International Mediation Centre and with various International Law Firms. She is currently working as an Advocate with the Chambers of Rupinder Singh Suri, Senior Advocate at the Supreme Court of India.

3. Jonathan Rodrigues, Co-Founder and Partner, Peacekeeping and Conflict Resolution Team (PACT). He is the founding - president of Lex Infinitum, Goa and Intercessionis, Pune. He is the co-creator of Advocate Maximus, the arbitration-mediation competition premiering in New Delhi in 2018.

An accredited negotiator and mediator listed with the Indian Institute of Arbitration and Mediation (IIAM), Cochin, and an empaneled civil and

commercial mediator with the Indian Institute of Corporate Affairs (IICA) for the western region, under the aegis of the Ministry of Corporate Affairs (Govt. of India). Jonathan is trained and certified in facilitating cross-border disputes by the summer academy hosted at Charles University, Prague, Czech Republic.

4. Gracious Timothy, Co-Founder, Peacekeeping and Conflict Resolution Team(PACT), (LLM, Pepperdine School of Law). Gracious is an LL.M. graduate of the Straus Institute for Dispute Resolution (Pepperdine University) as a 'JAMS Scholar and is a qualified lawyer in India, with a primary interest in commercial arbitration and litigation. He is also an Accredited Mediator, currently empanelled at the Indian Institute of Arbitration and Mediation and at the Ministry of Corporate Affairs (Western Region). He did his training in cross-border mediation at the Prague Summer Mediation Academy (Charles University), as the recipient of the Charles IV Scholarship. He is also the Ambassador of the Young Mediator's Initiative (YMI) by the International Mediation Institute. He is also the Global Ambassador of IBA-VIAC CDRC Vienna and Chairs its Young Global Ambassador Programme (YGAP). He is a founding member of the 'Peacekeeping And Conflict Resolution Team' (PACT).

VI. ILSCA Arbitration Week

Conducted on: 15th February 2019 to 18th February 2019

Indian Law Society's Centre for Arbitration and Mediation (ILSCA) held - ILSCA Arbitration Week 2019, from 15th February to 18th February 2019 (four days) comprising of intense discussion and deliberation on Arbitration through various events spread over four days. Each day's event was designed in its unique way to deal with the subject of Arbitration in depth, be it in the form of a conference involving industry leaders or through an award writing competition. It involved an array of

events aimed towards promoting and inculcating awareness of the need and advantages of arbitration amongst the students.

Day 1- 15th February 2019 - Paper Presentations

- Students who had submitted their abstracts were shortlisted and invited to ILS Law College to present their full length papers before the assessors on the 15th February 2019 for a final selection. The selected paper presenters had the privilege to present their paper in the full day Conference on the 16th February.

Day 2 -16th February 2019 - National Conference on Various aspects of Arbitration

No. of participants: 30

The conference was in the form of panel discussions on different topics related to Arbitration. There were five sessions on five different topics. The discussion in each panel witnessed participation of three eminent professionals who are experts in the field of Arbitration. The panel also included – a student presenter.

The topics of the Conference were;

1. Institutional Arbitration: Recent Developments, Issues & Trends and Comparative Prospects with Other Jurisdictions.
2. Investment Treaty Arbitration: Trade-off between State Interest and Investor Interest.
3. Arbitration in the Construction Industry: Recent Developments, Issues, Trends and Comparative Prospects with other Jurisdictions.
4. Med-Arb: Vision V. Reality in India: Comparative Prospects with Other Jurisdictions

5. Maritime Arbitration: Issues, Trends and Comparative Prospects across Various Jurisdictions.

Panelists for the Conference were;

- **Ajay Thomas**, Vice Chairperson, ICC India Arbitration Group
- **Arjun Doshi**,
- **Ratan K. Singh**, Advocate and Founder, Chambers of Ratan K. Singh
- **Aman Hingorani**, Lawyer, Supreme Court of India. Arbitrator and Mediator.
- **Manoj Kumar**, Founder & Managing Partner, Hammurabi & Solomon
- **Rahul Kothari**, Co-Founder, Squarely Legal.
- **Dr. Prabash Ranjan**, Assistant Professor, South Asian University, New Delhi.
- **Raj Panchmatia**, Partner, Khaitan and Co.
- **Inbavijayan Veeraraghavan**, International Arbitrator, Fciarb (Uk)
- **Gracious Timothy**, Jams Scholar, LL.M. International Commercial Arbitration
- **Adith Narayan**, Advocate, A.K. Law Chambers
- **Rishabh Malaviya**, Advocate, Arista Chambers
- **Harshad Pathak**, Senior Associate, P&A Law Offices
- **Uttam Hathi**, Partner, Brus Chambers

Day 3- 17th February 2019 –Arbitration Training Program

No. of participants: 35

The Arbitration Training Program on the third day was a full day basic training designed to provide an understanding to the participants with the proceedings, practice and procedures applicable to an arbitration.

The training also shed light on drafting an arbitration clause and arbitral award.

Resource Persons for the training;

1. Ratan Singh
2. Manoj Kumar

The training covered the following topic areas;

- (i) Writing of arbitration clause
- (ii) Drafting of pleadings which includes:
 - Submissions and drafting of Submissions
 - Reply and general format of Replies
 - Evidence affidavit before an arbitrator i.e. Affidavit in lieu of Evidence
 - Cross and Chief questions and their format
 - Expert testimony and Arbitration
 - Interim award related pleadings
- (iii) Consideration for drafting arbitral award.

Day 4- 18th February 2019 – Mock Arbitral Award Writing Competition

No. of participants: 35

Mock Arbitral Award Writing Competition

The Competition was designed to benefit the participant competitors by observing live arbitral proceedings. Two experienced lawyers from the Pune Bar argues the matter before an experienced Arbitrator.

The first half of the day of competition (between 10.00 a.m. to 1.00 p.m.) the participants witnessed the arbitration session based on a pre drafted dispute in the area of construction. The matter was argued by two senior lawyers from Pune who have years of experience in domestic arbitration. The arguments were heard by an experienced arbitrator. This

mock arbitration was the basis for writing an arbitral award. Based on this mock the participants drafted their award.

Resource Persons

1. Mr. S.R. Sathe, Former Judge, High Court of Bombay, Arbitrator
2. Mr. P. Narayan, Senior Advocate, Pune
3. Mr. S.V. Kanetkar, Senior Advocate, Pune

Arbitral Award Writing

The registered competitors witnessed the actual proceedings in the mock arbitration. Post Lunch the competitors were free for writing the award - based on the arguments posited in the morning by the counsels. Based on the training provided on the previous day (17th February) and the practical simulation conducted in the mock arbitration session on the first half of the actual day of competition, the student participants wrote an arbitral award.

The following are the winners for the ILSCA 1st National Arbitration Award Writing Competition 2019;

- 1st Rank : Ms. Ayushi Mittal
- 2nd Rank : Tie between Ms. Vanisa Upadhyay and Ms. Vedika Kejriwal

Ms. Sathya Narayan

Director

ILS Centre for Arbitration & Mediation (ILSCA)