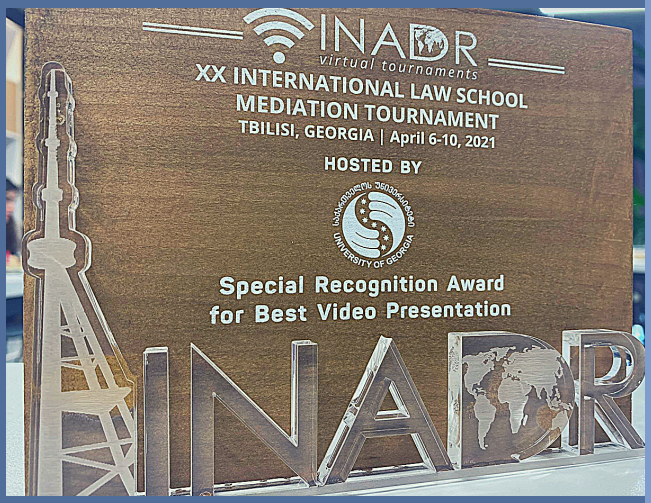
2nd edition 2021

INADR

PEACEMAKER QUARTERLY



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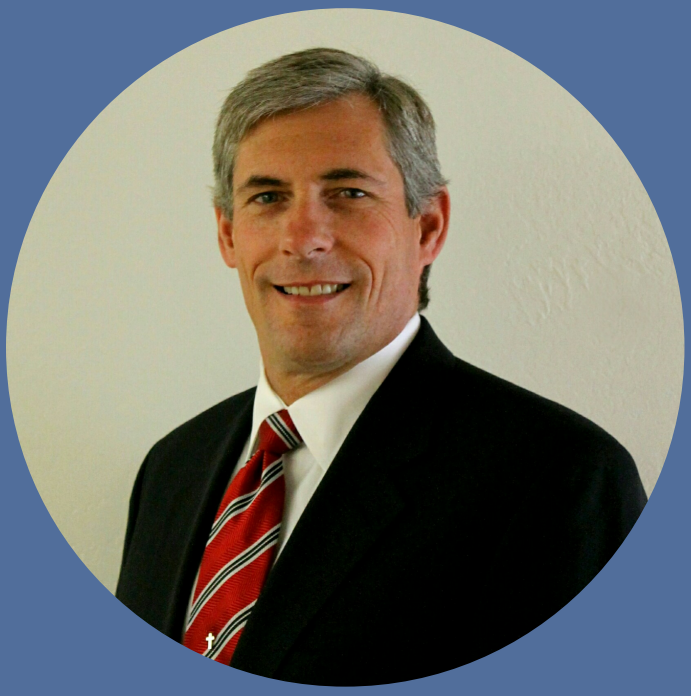
WELCOME NOTE

Dennis R. Favaro
INADR President



The International Academy of Dispute Resolution continues to promote the ideals of mediation during this pandemic. The Academy has sponsored two highly successful online, virtual mediation tournaments in the last two months, the International Law School Mediation Tournament hosted by the National Law Institute University, Bhopal and the International Law School Mediation Tournament hosted by the University of Georgia, Tbilisi.

Over 250 law school students from across the globe participated in these virtual tournaments. The NLIU INADR tournament was the 9th annual mediation competition from Bhopal, India, which took place on March 10 – 14, 2021. The University of Georgia in Tbilisi helped celebrate the 20th anniversary of the Academy's International Law School Mediation Tournament on April 6 – 10, 2021. As with all INADR-sponsored mediation tournaments, student participants are trained by world class mediators and renowned educators. Tournament rounds are judged by prominent and esteemed professors, lawyers, mediators and other legal and judicial professionals.

For two decades, INADR has sought to provide a learning environment that enables students to develop skills to be successful mediators. These two tournaments continued that tradition by providing opportunities for the students to adapt their skills to an online environment, which is an alternative method for mediating conflicts in today's world.

Since the fall of 2020, the Academy has been preparing for its 10th anniversary World Mediation Congress.
The theme of this year's Congress was "Common Ground: Using Mediation to Cool Off a Heated Planet". Speakers discussed mediation as a tool to not only resolve but also prevent conflicts. Some of the topics included addressing how mediation can be used in environmental and intercultural disputes, public administration conflicts, and complex political dialogues. The Congress was presented virtually via Zoom and broadcast from one of three locations each day. The first remote Congress was from Chicago on

Every two years, the Academy convenes an international Congress wherein mediation professionals, educators and others present on relevant mediation topics. In the past, these Congresses have convened at venues such as Loyola University School of Law in Chicago and Drake University Law School in Iowa. Because of the pandemic, the 10th World Mediation Congress was convened remotely from June 16 through June 18, 2021. Loyola University School of Law, Chicago, Mykolas Romeris University, Vilnius and the National Law Institute University, Bhopal have joined with INADR as academic partners for this event. All registration fees for attending the World Congress were waived this year due to the pandemic.

The Academy continues to maintain and develop relationships with academic partners throughout the world. We all look forward to the end of the pandemic so we can resume meeting together in person. Until that time, INADR will carry out its mission using cutting-edge technology and our best efforts to reach and enlarge a global audience toward recognition of the power of dispute resolution processes to peaceably resolve conflicts and promote conciliation and healing.

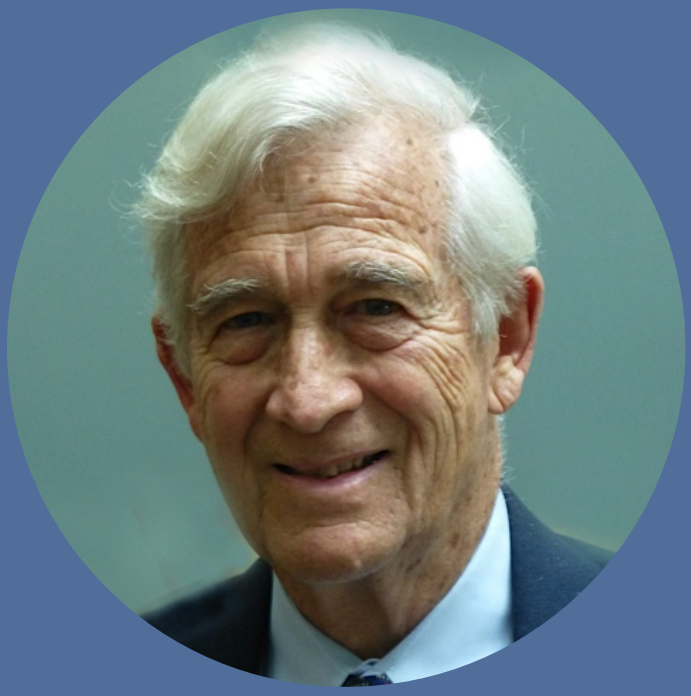
HISTORY OF THE INTERNATIONAL ACADEMY OF DISPUTE RESOLUTION

Richard M. Calkins

The precursor to the International Academy of Dispute Resolution began in 1985, when Drake University Law School initiated the first college mock trial tournament. At that time, the American Mock Trial Association (AMTA) was established to run the tournaments. In the first year, 8 schools and 12 teams participated, and 20 years later over 400 schools and 700 teams participate each year in the United States.

In 1999, Faith O'Reilly, a professor at Hamilton University in St. Paul, Minnesota, approached the president of AMTA, who was me at the time, and inquired whether we could have a mediation tournament to teach students the skill set to resolving disputes in a peaceful rather than adversarial way. The impetus for such a program was defined by the growing dominance of mediation in our legal system.

The immediate reaction to such a proposal was the obvious question, how can you have a tournament where all participants must end up winners? The proposal was submitted to a newly created organization named American Academy of ADR Advocates (AAAA). A format was established emphasizing learning rather than winning, and the first college tournament was held December 1, 2000 at Drake University Law School. Fourteen schools attended the inaugural tournament: Brenau University, Gainesville, Georgia (coach: Kenneth K. Frank); Bellarmine University, Louisville, Kentucky (coaches: Ruth Wagoner and Jim Wagoner); Drake University, Des Moines, Iowa (coach: William Schultz); Eastern Illinois University, Charleston, Illinois (coach: Peter R. Leigh); Hamline University, St. Paul, Minnesota (coach: Faith O'Reilly); Iowa Lakes Community College, Estherville, Iowa (coaches: Jennell Johnson and Mike Johnson); Loras College, Dubuque, Iowa (coach: Dick Lescke); Middle Tennessee State University, Murfreesboro, Tennessee (coaches: Clyde E. Willis and John R. Vile); David N. Myers College, North Olmsted, Ohio (coach: Deborah A. Drossis); Northern State University, Aberdeen, South Dakota (coach: Tove Hoff Bormes); Penn State, Altoona, Pennsylvania (coaches: John Linn and Patricia Loveless); University of Wisconsin, Platteville, Wisconsin (coach: John Rink).



In early 2001, a split occurred in AAAA because several members wanted the organization to include non-lawyers interested in mediation as well as lawyers. Fred Lane, Case Ellis, and myself met in my office in Des Moines and agreed to establish a new organization, which became INADR. Fred Lane made it international by getting his wife Corky's cousin, Judge Bryan Davis of Vancouver, British Columbia, Canada, to join.

The first officers of the organization were:

President
Fred Lane

Vice President
Benjamin Mackoff

Secretary
Linda Fund

Treasurer
Lawrence P. McLellan

A primary function of INADR was to take over the college and law school mediation tournaments. The inaugural law school tournament was held November 16-18, 2001 at Drake University Law School. The committee running the tournament was Peter McGovern (John Marshall Law School), Josephine Grittler (University of Iowa Law School), Sara Dooley-Roth, John Ayers, Linda Tissue, and Dick Calkins. Four law schools attended the tournament: Georgetown University, University of South Dakota, Loyola University – Chicago, and Drake University. Because of the low interest in the program, the committee considered dropping it. However, the Drake law students requested continuing it another year. Thereafter, the tournament grew rapidly and is the flagship tournament of INADR to this day.

The format of all INADR tournaments differs considerably from mediation tournaments sponsored by the American Bar Association (ABA) and the International Commerce Commission (ICC), Paris, France. These tournaments only provide opportunities for students to act as attorneys and clients and concentrate on teaching skills of negotiation. In the INADR tournaments, students participate as mediators as well. Each member of a three-person team must act as a mediator in one of the three preliminary rounds. They co-mediate with a student from another school - often from another country in the international tournaments - thereby learning how to work with rather than against another student competing in the tournament. Another difference is that students are provided with two days of training before they begin the competition. A highlight of the tournament is that it enables students to learn how to work together for the common good. Students return home with new friends from around the world. Students are told that 50 percent of the program is learning skills in mediation; 35 percent is networking with students from around the world, and 15 percent is who wins.

Typical of the letters received from students is the following from a former Polish student, Agnieszka Majka, who stated:

'Entering the Taras Shevchenko National University mediation tournament, we were hoping to acquire knowledge about mediation and the ability to use this knowledge in practice. Never in our wildest dreams did we expect to gain so much more and change our way of thinking completely. We want to express our gratitude to the organizers, mem bers of INADR, and all our new friends for the fact they showed us how to stop building walls and start building bridges. Days spent in Kiev were the best lesson, lessons of me diation and life in general. They will last in our memory as an unforgettable adventure. When we were preparing our mediation opening remarks, we told those participating to be patient, creative and flexible. And at the end of our stay we noticed that this amazing mediation training caused us to implement those values in our everyday life. Words are not enough to express how much we appreciate this mediation tournament experience, the knowledge that cannot be found in a book in such a unique atmosphere. We can only write one simple thing – thank you with all our hearts.'

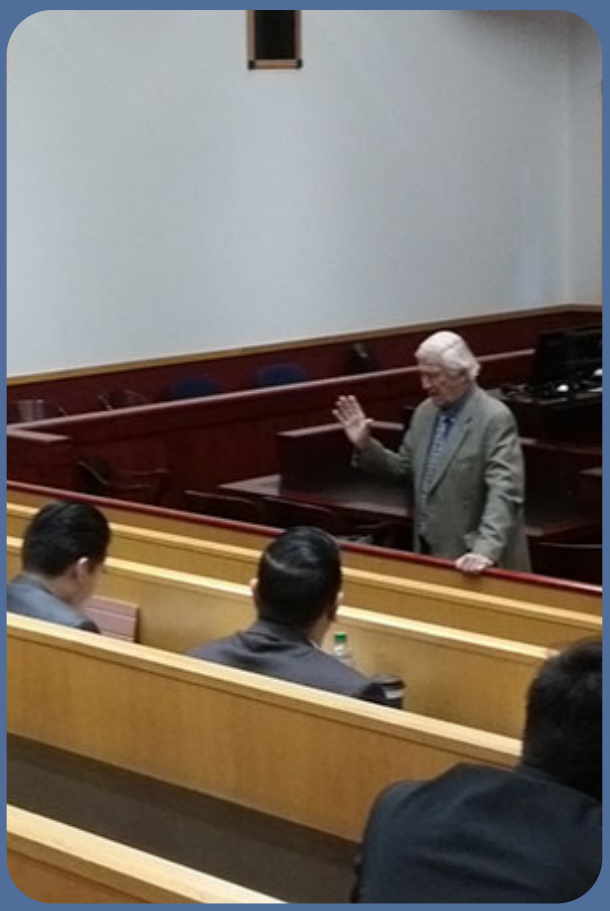
Three Syrian refugees, who had escaped Syria and were encamped in a refugee camp in Greece, participated in a tournament in Athens, Greece, which was hosted by Elena Koltsaki. INADR supplied them with clothes because everything they owned was at the bottom of the Mediterranean Sea. One expressed his gratitude as follows:

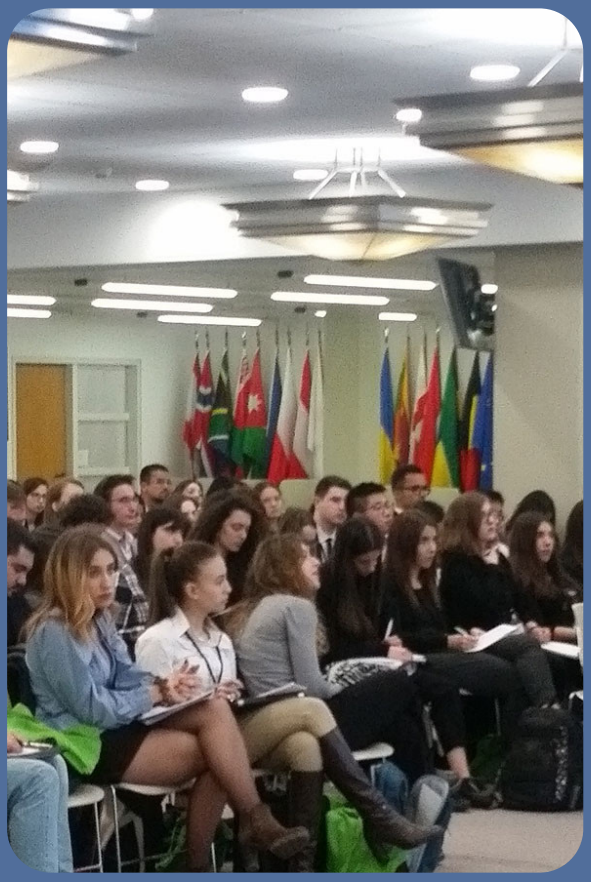
'My participation at the tournament was really a great experience. I was so excited because many people said to me I can't do it so it was some kind of challenge for me to make them see that we can do it. I think we can't just sit and say we want a new life we have to fight to do it and by saying fight I don't refer to the fighting with arms that we have in Syria! We need to let other people know that Syrians are nice people we're not just people fighting with weapons. We used to have a good life before the war begun I can only say that we're really peaceful people. I did not choose to be born in Syria and I did not choose to be a Kurdishits not my fault all we need is hope and a chance to be better.'

In 2011, the law school international championships were held for the first time outside the United States, in London, England. Through the good office of Rahim Shamji, a professor at BPP Law School in London, teams from around the world attended, from as far away as Aus Australia and Singapore. Since that tournament, tournaments are held in the even years at Loyola University Law School in Chicago (2012, 2014, 2016, 2018. 2020) under the auspices of Teresa Frisbie, director of the program at that university. In the odd years, the tournament has been held in London (2011, 2015), Dublin, Ireland (2013), Glasgow, Scotland (2017), and Athens, Greece (2019). To date, INADR has trained thousands of students at both the college and law school levels in 45 countries and eight major regions: North America – USA, Canada, Mexico; South America – Brazil; Europe – England, Scotland, Northern Ireland, Irish Republic, France, Germany, Italy, Czech Republic, Slovakia, Bosnia Herzegovina, Lithuania, Serbia, Estonia, Belarus, Russia, Ukraine, Romania, Bulgaria, Albania, Latvia, Austria; Asia – India, Sri Lanka, Nepal, Pakistan, Afghanistan, Georgia; Middle East: Syria, Lebanon, Jordan, Israel, United Arab Emirates; Asia - Malaysia, New Zealand, Singapore, Borneo; Africa – Ethiopia, Zimbabwe; Australia.

Because of the pandemic in 2020 and 2021, INADR hosted the first mediation tournament online in Vilnius, Lithuania. We continued with invitational virtual mediation tournaments hosted by Brenau University and another hosted in Bhopal, India. We also offered the International Intercollegiate Mediation Tournament hosted by Brenau University and the University of Central Florida as well as the annual International Law School Mediation Tournament hosted by Tbilisi, Georgia in a virtual format. We look forward to continuing to provide the virtual mediation competition format as well as in-person tournaments when permitted.

It is important to note that Dick Calkins was instrumental in starting INADR as well as Mock Trial. Most recently, he worked with high schools in Missouri on the first high school mediation tournament. His contributions to the field of mediation, in his private practice, in his role as dean of Drake University's Law School, and in INADR are significant, and we honor him!





WIN/WIN: THE MAGIC OF MEDIATION

PRACTICE TIPS

Fred Lane

Introduction

This column will be recurring on a quarterly basis. The suggestions herein are derived from having mediated and resolved thousands of disputes. I have participated in, and attended, numerous mediation seminars. Also, I have reviewed many mediation books and articles, as well as material generated by different institutions, and from teaching mediation. Further, I have made a practice of interviewing lawyers concerning their experience with mediators and the mediation process and have the benefit of their positive and negative opinions. We will be reviewing the approaches of the most effective mediators concerning all aspects of the mediation process.

Why do I relate magic to mediation? For one thing, from the day in 1990 when I started mediating, I was totally shocked and surprised by the fact that what appeared to be "unsettleable" disputes seem to magically resolve. Also, the impact of settlements so often has been described by the parties in magical terms. For example, "this result is like magic", "I can't believe how much better I feel", etc. Not infrequently, tears appear when parties describe how relieved they feel that the burden of a lawsuit has been removed from their shoulders. I am sure every mediator has had such satisfying experiences. Also, I happen to be a very amateur magician. At appropriate times, usually while waiting for one of the parties to respond to an offer or demand, or at the conclusion of a mediation, I will perform a quick magic trick.

Pre-Mediation Hearing

At the outset, when there is a discussion concerning your possible engagement as a mediator, it is absolutely essential, according to the Uniform Mediation Act (UMA), that you reveal any possibility of a conflict of interest. A disqualifying conflict may involve either a personal or a financial conflict with any of the parties or the attorneys. Of course, this obligation is a continuing obligation throughout every stage of the mediation.

Most of the states have adopted the UMA, and most of the judicial circuits have created rules regulating mediation. It is absolutely essential that all mediators should become familiar with the UMA and the various relevant judicial circuit court rules.

Prior to the mediation hearing, the mediator should arrange for a face-to-face or telephone conference with each of the attorneys individually. The reason for meeting individually, is that there may be something of a confidential nature one of the attorneys would wish to reveal to the mediator.

The discussion should include a request that the parties send the mediator a submission setting out their theory of liability or non-liability of their case and the extent of the damages. If it is a more complex case, consideration should be given to the possibility of meeting personally with each of the attorneys.

During this conference, it is worthwhile to discuss the general structure of how you conduct a mediation hearing. For example, you might advise the attorneys that you are going to make an opening remark, then invite the attorneys and parties and non-party participants to discuss the involved dispute. It is important to emphasize that if anybody chooses to comment on the case, it should be in a low-key, non-adversarial, non-confrontational manner.

This will be followed by private caucuses with the parties. It is also customary for the mediator to send confirming letters to the participating attorneys.

Occasionally, the parties will submit voluminous materials and documents such as depositions, contracts, business records, work employment records, school records, or hospital records. Make certain that the relevant portions of voluminous records are clearly highlighted, and that the cover letter (submission) specifically identifies their location. We want to avoid the attorneys resenting any unnecessary fees charged for reading irrelevant material. This is especially true if the value of the case does not support this extraneous cost.

We all know how important first impressions are. First impressions are said to be "lasting impressions." First impressions relate to feelings, both negative and positive, about particular issues. Events or evidence that contradicts that first impression is generally rejected. Therefore, we must respond to phone calls and other communications promptly. Also, it is important that you know and understands all aspects of the submissions you receive from the attorneys. This is especially true if you expect that any of the parties will request that you be evaluative, which is when the credibility of the mediator is so critical.

On the day of the mediation, it behooves the mediator to always bear in mind that we are constantly being judged at every stage by the attorneys and their clients. Therefore, we will greet all parties and attorneys in an equally friendly and enthusiastic manner.

Finally, the positioning at the conference table should be in a symmetrical manner. We should place the attorneys and the clients equidistant from us, whether it's around a circular table or a long rectangular table. In other words, as mediators, we never want to appear to be favoring any attorney or party.

More to come in our next column and looking forward to hearing from you!

MEDIATION DISCUSSIONS IN SCOTLAND:
GRASPING THE COMPULSORY NETTLE

Derek Auchie

In Scotland, there has been a recent surge in discussions of how best to promote and organise mediation in the resolution of civil disputes. There are, of course, many models of state mediation provision across the globe. The recent debate in Scotland has centred around two initiatives that have been launched, one a proposal for legislation on mediation, the other a report of an expert group. Before coming to each of these, I will discuss one key issue in this area: the use of compulsion.

Compulsion or encouragement?

When consideration is given to the introduction of mediation as a method of resolving civil disputes in any country, there are three possible approaches, broadly speaking.

The first is to allow mediation to evolve as a voluntary process and hope it takes hold. This can be discounted in Scotland, as it has not worked. The reasons for this could be debated, but probably the biggest barrier to the organic expansion of mediation is the reticence of lawyers to embrace it. This is not a criticism of Scots lawyers: it is natural to stick to what is known, and to fear something new which might lead to a loss of business and control.

The second is to develop a system whereby parties to litigation are encouraged to mediate. In England and Wales in family cases, this method has been adopted: parties are required (unless exempted) to attend a 'MIAM' (Mediation Information and Assessment Meeting) before proceeding with litigation. The idea is that as a result of attending that meeting, the parties might agree to mediate their case rather than litigate it. If there is no such agreement, the parties simply proceed to litigate.

The third is to develop a compulsory system whereby parties are required to have attempted mediation before they can litigate a dispute. There would be a need for exemptions for cases where the parties need not attempt mediation; but such exemptions would be kept to a minimum.

Why not compulsion?

In some senses, the argument against compelled mediation is illogical.

Before coming to that point, it is sometimes said that since mediation is a consensual process, it cannot be compelled. But this argument misses the point. No-one would suggest that parties are forced to agree following mediation; only that they are forced to try to do so.

Turning to logic, we are already forced to litigate to finally resolve a dispute. No one argues that it is unfair to have enforced litigation. So why not, in principle, have something else that is forced as a pre-requisite to litigation?

One point against this is that litigation is a final and binding method of resolution, mediation is not. However, while this distinction exists, it is hard to see this as a valid argument against having a two-tier compulsory system, as long as there is a final method at the conclusion of the process.

We are so used to being forced to litigate that we don't see litigation as a forced process. But it is. If a person or organisation is sued in the public courts of a state and does not respond (or does but loses), that person/organisation will be forced to deliver on the remedy imposed by the court.

There is nothing wrong with this. Indeed, it is necessary, since if people are not forced to do something they don't want to do, they won't do it. The plausible threat of force has to be there in the end for any system of civil justice to work.

So, the question is not whether force should be employed to resolve a dispute, since we have that already; instead, the question is: how to use force.

This is where we come to the economics of disputes.

Public courts are funded by taxpayers. These costs are significant and include premises and staff, including judges. Taxpayers are entitled to value for money. In a system where an attempt to mediate is not forced as a pre-requisite to litigation, I would argue that taxpayers are not getting value for money. This is simply a fact, since no-one would dispute that litigation is more expensive than mediation. So, in the absence of compulsory mediation, the taxpayer is paying for the premium-cost method. Good reason should exist for the wholesale use of a premium-cost route as the default (and the only compulsory) method. I can't think of any such reason.

I haven't yet touched on the non-economic case for compulsory mediation. Litigation is divisive and often leads to a clear winner and outright loser. In a sense, the real dispute may not even be resolved: disputes are often much more complex than the underlying legal rights suggest. There is no opportunity in litigation for a form of reconciliation or mending. In a divisive world, there should be a keen state interest in encouraging reconciliation between parties who disagree. This benefits not only the parties, but also society as a whole.
It is with these thoughts that I turn to the two recent Scottish initiatives.

Proposed Bill

A politician in the Scottish Parliament, Margaret Mitchell MSP, has proposed a new piece of legislation (called a Bill) to be enacted by the Scottish Parliament. It is a Bill sponsored by an individual MSP, and so is not supported directly by the Scottish Government. This does not mean that it won't become law; just that it is less likely to.

Ms Mitchell has not drafted a Bill, she proposes one, and so sets out suggestions for the content of such a Bill. The Bill would be called the Mediation (Scotland) Bill.

The consultation was issued in May 2019, closing in August 2019. The proposal responses have not been published, and elections take place in May 2021 for a new Scottish Parliament and so the proposal as it stands will not proceed; it may be resurrected in the new Parliamentary session, but even if not, it is worth examining.

The model proposed by Ms Mitchell essentially requires parties to a litigation to meet with a mediator to consider responses to a questionnaire completed by them, and to agree whether or not to mediate the dispute. This meeting is called a 'Mediation Information Session'. This is similar to the MIAM mentioned above. If the parties don't agree to mediate, they need not do so; if they do, they proceed to mediation. This method falls firmly within the 'encouragement' to mediate camp.

The mediators who would meet with the parties would be paid for by the state; where a mediator is appointed to help to resolve the dispute, this would be a different person whose fees would be met by the parties.

Interestingly, there is brief mention of the possibility of the compulsory Mediation Information Session taking place as a pre-requisite to raising a court action (as opposed to after it has started). This is of interest since the chances of securing agreement to mediate are logically much higher before the parties have begun the litigation process, including expending the initial costs associated with it.

Expert Group Report

This document, entitled *Bringing Mediation into the Mainstream in Civil Justice in Scotland* runs to 65 pages and was published by Scottish Mediation in June 2019. It is not a law reform proposal , but it carries recommendations which would require law reform.

The report seeks to tackle two types of challenge that are faced by those who seek to 'normalise' the use of mediation: structural challenges and cultural challenges. In a series of 27 recommendations, each of these challenge types is tackled.

This document is much broader than Ms. Mitchell's Bill and, in fairness, has a different focus: it is aimed at a more systematic embedding of a mediation culture and structure into the Scottish disputes environment.

The recommendations suggest that there should be (as with Ms Mitchell's proposal) a requirement on parties in certain cases to consider mediation. However, the proposals go further in suggesting that an independent body established for this purpose should assess disputes and, within certain criteria, direct suitable cases to mediation. This body would operate within a presumption in favour of mediation, unless good reason not to mediate exists. Having said this, once the referral takes place, the parties are required to agree to take part in the mediation process; if not, the case would revert to the court or tribunal to proceed.

On funding, for very low value claims, publicly funded mediation is proposed. For low value claims (and non-monetary claims), an appropriate pricing model should be devised. For medium–high value claims, commercial rates would be paid by the parties for the mediation.

There are also recommendations around:

- a 'roster' of mediators to take cases;
- mediator accreditation requirements;
- requirements on advice given by lawyers to clients;
- new court rules on judicial encouragement to mediate;
- educational requirements on those educating Scots lawyers (and non-legally qualified mediators);
- judicial training;
- promotion of mediation to businesses;
- public body contracts to include mediation clauses; and
- a self-help portal for the public on how to resolve disputes.

This report has much to commend it. This is especially so in the broader, more cultural recommendations. However, it does not require anyone who does not wish to do so to mediate. In that sense, it also lacks compulsory teeth.

Grasping the nettle

Neither initiative grasps the nettle (or perhaps I should say 'thistle' since I am Scottish!). That nettle is the nettle of compulsion.

In my view, the Scottish public (and the public anywhere) have the right to know that their hard-earned taxes have been spent appropriately. They have the right to demand value for money in the justice system. To funnel all cases into an expensive adjudicatory process at the whim of the parties (or even at the whim of only one party) with, at most, a requirement to consider a more efficient less expensive process, represents a failure in the requirement to provide value for money.

The only way to resolve this is to legislate for compulsory mediation, to force parties not just to think about it but to try it. After all, a defendant is forced to litigate. No-one argues with that.

I understand the argument that adding an additional compulsory step could increase cost and add to delay, since in some cases mediation will fail. However, given the gulf in cost between mediation and litigation, it would take an extraordinarily low mediation success rate before a litigation-only system would be more cost effective.

I accept that, overall, my analysis might seem like a rather simplistic way to look at the issue, and that there are complications in devising any compulsory system not least who will pay for it, how effective participation is measured and any exceptions to compulsion. However, sometimes a simplistic approach is needed, at least on considering an issue in principle. If a decision in favour of compulsion is taken in principle, all other considerations are practicalities. That does not mean that they are easy to resolve, but the principle at stake should not be obscured by difficulties of implementation, all of which should, with effort, be resolvable.

One possible idea would be to introduce a compulsory scheme for claims of a certain value, review its operation and decide whether and how to expand it out elsewhere.

Conclusion

Let me end on a positive note.

The Expert Group Report offers an authoritative, thoughtful and interesting focus on the key issues, and, more broadly, a menu of measures which could be useful in any country considering introducing or reforming the public provision for mediating civil disputes.

It seeks to tackle the cultural environment, and it is certainly the case that cultural shifts in education, advice, attitudes, training, and accreditation would all be required if a more wholesale compulsory (or even encouragement-based) approach is to be taken in Scotland. The same could be said elsewhere too.

COACHES INSIGHTS

Agnieszka Góra and Jacek Czaja

What is the story of you two becoming coaches of the Jagiellonian University Mediation and Negotiation Team?

Funny fact – our story with mediation began with the two of us being students not selected to a team representing JU at one of the mediation competitions. Going through the selection process is something we share with all our current students who take part in a recruitment procedures for our team. As coaches we need to be frank about this – choosing students for any competition is really hard and very subjective in nature. We are not choosing the best individuals, we are choosing a team. The team needs to be able to work together well, present a united front and spend hundreds of hours together.

JU had been taking part in the ICC competition for years before we were even students there. However, we were the first team of Jagiellonian University who took part in INADR competitions, as well as participants of the first editions of Lex Infinitum and CDRC Vienna. Altogether, we took part in 6 mediation competitions as students and won more than 10 top awards while doing so. The fact that we have been somehow successful in representing the University combined with the fact that we just graduated our Alma Mater with the highest honours and were awarded the Scholarship granted by the Minister of Science and Higher Education, helped with convincing the Dean of the JU Law Faculty to give us a chance to be coaches for INADR and Lex Infinitum competitions (as well as a few other national competitions). Still, it was a leap of faith on her part and we are humbled and grateful for this opportunity. Hopefully, our University believes it paid off, since we are still there today.

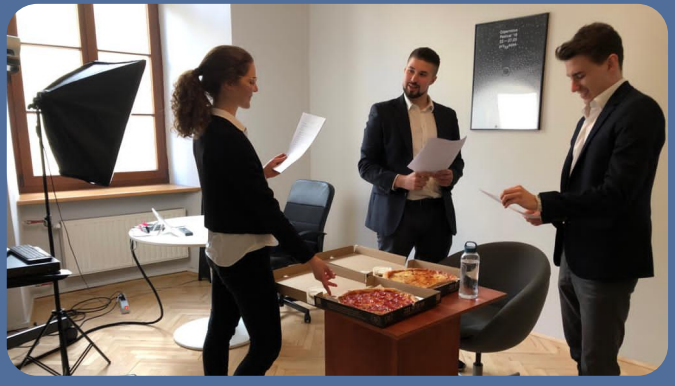
Right now, we run classes on effective advocacy in mediation and negotiation, recruit and train teams for INADR and Lex Infinitum competitions, as well cooperate with the outstanding JU ADR Students' Society on many events (national mediation law competitions, numerous events and special workshops, etc.).

We are happy to see that our efforts bring huge results – every year there are more and more mediation and negotiation events, more students sign up for our classes (we now reach full groups, whereas in the first year we needed to approach students and ask if they would be interested) and take part in recruitment procedures for teams for various tournaments.

To sum up, mediation and negotiation skills at the University went from being almost unknown to being recognized and popularised. Truth be told, knowing we have contributed to this growth is what drives us.

What are students' motivations to take part in the competitions? What encourages you to take a responsible role as the team coach? What are your most significant successes?

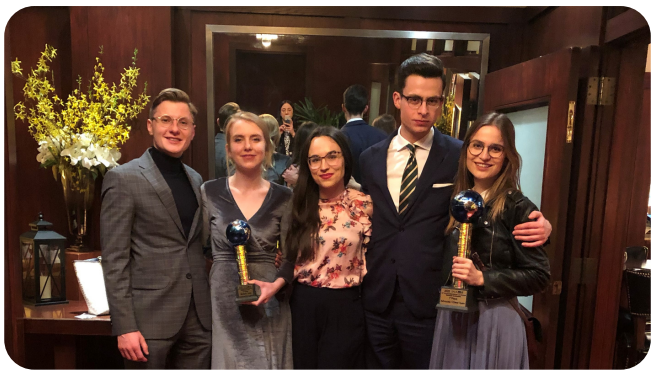
This is a very broad question. Every year students share with us at the beginning of their journey with mediation that they decided to take part in competition mostly because they wanted to: (i) do something different than the rest of the law students, (ii) improve their English, (iii) win an award. To be very frank, our students have been really successful in their performances.



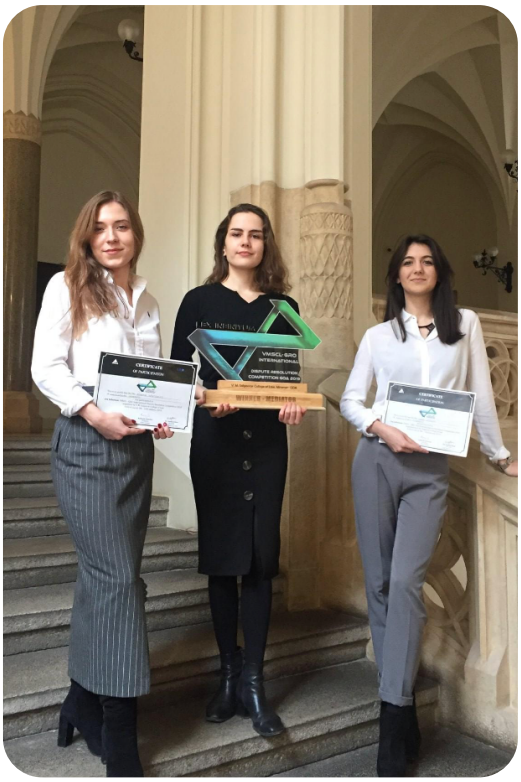
During the last 4-5 years, JU teams, among other recognitions, have advanced 3 times in a row to the INADR Championships Finals, 3 times (out of 4) came first or second at Lex Infinitum, won the International Mediation Tournament at Mykolas Romeris University (MRU), and have achieved at least semifinals in every competition they have entered. In just the last 13 months, our students won 1st Best Advocate Client at INADR Championships (Chicago 2020), Best Advocate Client at Lex Infinitum (2021), Best Mediator at Lex Infinitum (2019) as well as came 2nd at Best Advocate Client a week ago at this year's INADR Championships and won Best Individual Mediator (Tbilisi 2021).

And yes, we highly appreciate awards and are very proud of our students. However, this is not the most important outcome of competitions and this is not where the focus should be. We truly believe that participation in such competitions is (or should be) a life-changing experience. This is an enormous amount of hard work, dedication, and stress. Just to give you an example, we usually spend about 200 hours each year with our students. At the same time, this is a one-of-a-kind chance for students not only to learn so many things about themselves, but also to better understand other people, to improve their communication skills, to understand conflict, and to learn how to get to the roots of such crucial obstacles to dispute-resolution or deal-making as perceptions, biases, and the influence of culture.

On the other hand, this is the time when they learn to effectively protect their interests and the interests of their clients. Participation in an international competition is a unique experience of meeting peers from all around the world and an opportunity to make long-lasting friendships. If you ask us, those are crucial skill and experiences for a successful professional career in almost any field, not to mention law.



The best proof of that is what we hear from our former students. They work in outstanding law firms, in diplomacy, follow LLMs at the best universities abroad, work as in-house lawyers in international businesses and many more. Just to give you an example of the power of those events, last year, we were invited to a wedding of our two dear 'mediation' friends who met at the INADR championships. One of them is from Malaysia, the other from Ukraine and they met in London.



What is the process of the team preparation and your role in it? Can you give a piece of advice and share some tips for other coaches, which may help them improve in a team preparation?

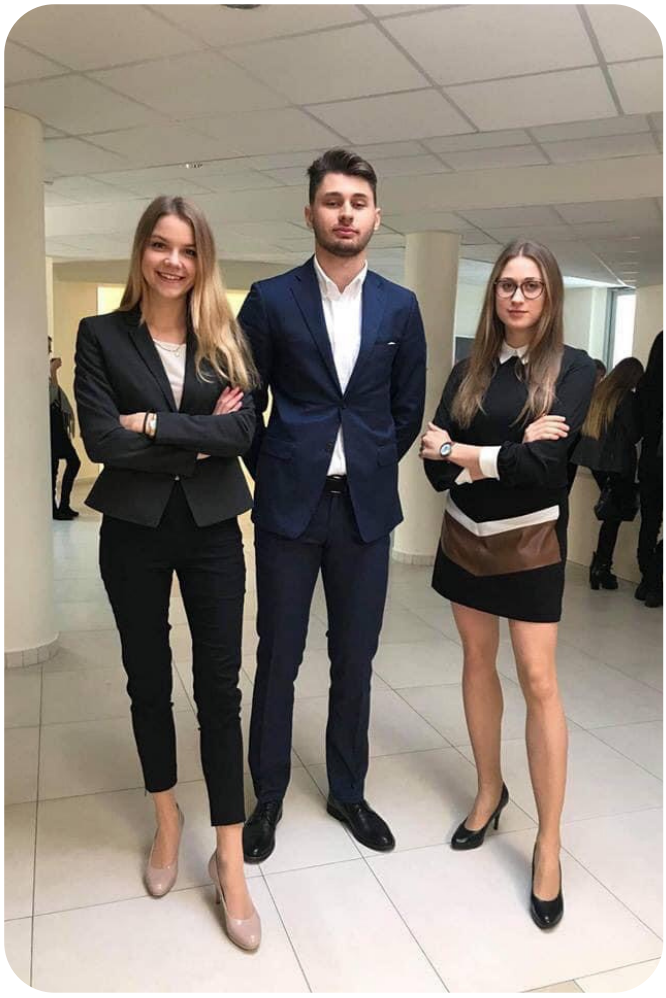
No - it's a secret! Of course, we are joking:)

Each year the process of preparation is different. Partly, because we grow as coaches, but mostly because each team is unique and requires quite a different approach. Of course, the first few weeks are similar - we have theoretical classes on mediation, negotiation, roles and objectives, process etc. and ask students to read some literature. But after that, the approach is very different. Some groups require more theory, some more practice. To be very frank, we usually try to postpone the full mediation simulations as far in time as possible. Experience does not mean expertise and it is very easy to perpetuate bad habits.

Having said that, we try to implement a hands-on approach, with lots of short exercises while covering a particular subject (for example for active listening skills or negotiation strategy). Also, we make sure that we discuss thoroughly the logic behind particular actions, what is the purpose of particular behaviours etc. We keep repeating to our students that they can do lots of things and adopt lots of approaches but always need to be able to answer simple questions such as:

"Why did you do that? Why this way? What do you think will be an effect of your action?".

Karolina, one of our students, at the end of this year's competition said: 'You were right, you just need to understand your role and objectives, and then understand the process itself'. It probably summarises our approach to coaching quite well!



If you ask us for some advice on coaching, we would probably say:

a) Don't put all of your students in the same box and force them to lose their personal style – there is no one right way of negotiating/mediating. The role of the coach is rather to help a student develop their natural talents and use them to the fullest, as well as to overcome their obstacles than to impose ways that the coach is familiar with and that are natural to a coach

b) Build your relationship with students on respect and trust, rather than by authority. In our humble opinion, students will not be able to acquire knowledge and develop skills if they simply don't trust you and do not understand the logic behind what you are teaching them. Invite them to question, inquire, seek clarification.

c) Spend time to get to know your students – it is easy to forget in a process of preparation.

d) Focus on basics – it is crucial to learn how to walk before you learn to fly. In our opinion, there is no point in covering advanced topics if students have not yet fully internalised the most crucial and basic concepts.

Hope this is helpful!

It is important to remember that as coaches, we are there for students – not the other way around. If we listen very carefully to students and manage to build the right relationship with them, in most scenarios, they will be the ones to communicate (one way or another) what they need the most. At the end of the day, we like to think that we are part of the team, just with a slightly different role.

Last but not least, as coaches, but also as former participants, we recognise how stressful and difficult preparation and participation in such events might be. That is why it is really important to often remind ourselves how lucky we are to work with such brave, ambitious and hardworking people.

XX International Law School Mediation Competition

Ana Khurtsidze

The oldest international mediation competition for the first time in history was hosted by Georgia. It was an honor and at the same time, a huge responsibility for our country to celebrate and hold the 20th anniversary of such a major tournament. With the joint effort of the International Academy of Dispute Resolution (INADR) and the host university - the University of Georgia, all of the difficulties and challenges were successfully overcome and this remarkable event traditionally showed its highest quality.

Something worth mentioning is that the challenge was two-fold: first, to virtually connect hundreds of peacemakers from all over the world and to create such a magical atmosphere that they would all feel like a big family, as has been INADR's practice for 20 years and which always makes this tournament one of the most memorable and respectful for the participants, and, second, to host the largest number of participating teams in INADR's virtual tournament history. Fortunately, with the hard work of dozens of people from different time zones, all of the boundaries were temporarily erased. More than a hundred participating professionals, 40 extraordinary teams, their coaches, and our amazing volunteers who hosted the sessions with unbelievable professionalism, united once again, albeit virtually, and made this tournament happen without significant technical difficulties.

On the one hand, this tournament created the atmosphere and maintained the spirit of this annual event and on the other hand, as far as it was possible, delivered Georgian hospitality to each of the participants, with social events playing a major role. The wine masterclass, which was dedicated to judges and was held by the famous Georgian somellier, Zaza Grigalashvili, got together everyone on Zoom after the busy and stressful day and encouraged them to raise a glass of wine.

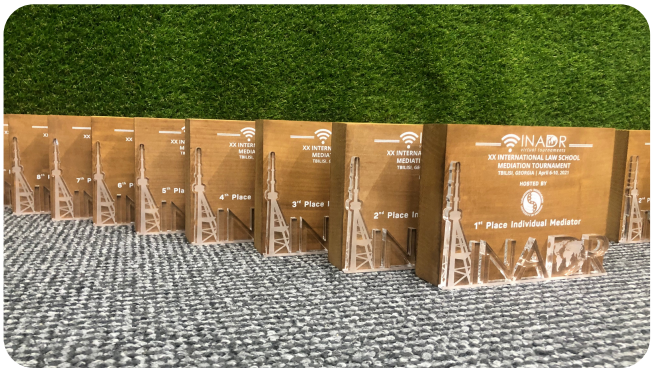
It was a risky step for us to hold the Georgian dance masterclass via Zoom, but we were pleasantly surprised when we saw participants who were eagerly imitating our former students' dance moves. According to the received feedback, the video recipe of ourfamous Georgian dish, Acharuli Khachapuri, directed by Mari Sharadze and Mariam Phirtskhalaishvili, turned out to be one of the most enjoyable events not only to the representatives of the guest countries but also for Georgians. We couldn't even imagine such a beautifully told story of converging cuisine and nature.

A quiz about the fun facts of the judges not only entertained our participants but also let everyone get to know better those professionals, who are always ready to play their unique role in developing mediation and in peacemaking. Another quiz, which was encompassed interesting facts about participant countries, familiarized us with each other's uniqueness.

As always, our exceptional world-class mediators conducted unforgettable training and made a tremendous contribution to the success of this event. All of the participants, including the judges and the hosts, had an outstanding opportunity to attend the sessions held by Elena Koltsaki, Mary Lou Frank, Dennis Favaro, Ken Frank, Jawad A. Sarwana, Agnieszka Majka-Gora, Jacek Czaja, Justin Kesley, and Andrew Goodman and to receive an INADR certificate for 8 hours of mediation training.

This tournament would not have been so impressive without the backing of the sponsor organizations, who trusted us in this endeavor and made this INADR Virtual Tournament Tbilisi 2021 outstandingly successful and memorable.

To emphasize the importance of this event, as it was the 20th anniversary, the University of Georgia granted all the first-place winners of the tournament a special award – a full scholarship for the International Business Law Master's Program. The following individuals did a great job and were the winners in the sharp competition amongst dozens of brilliant participants: Madeeha Arshad, Pooja P N and Navya Bhayana from WB National University of Juridical Sciences, Jessie Armour and Joshua Harriott from Osgoode Hall Law School, and Maciej Modrzynski from Jagiellonian University. We are more than happy to welcome those amazing young peacemakers to Georgia.



The winning Mediator Team from WB National University of Juridical Sciences and the top Advocate/Client Team from Osgoode Hall Law School were additionally awarded the Peacemaker's prize, presented by the United States Embassy in Georgia.

We are also very grateful to the president of the Mediators Association of Georgia, Mr. Irakli Kandashvili, who supported this tournament and awarded a special prize - Best Newcomer Mediator.

Thanks to the generosity of our sponsors and host university, participant team members will get memorable souvenirs, which will serve as a beautiful reminder of this amazing event.

Although the feedback we have received and are still receiving allows us to be proud and satisfied by what we have done and how this tournament succeeded in building bridges between different countries and connecting people in this hard time, we still feel that things would be completely different, in a better way, if we had an opportunity to be the real hosts, not just virtual hosts. So, we do not give up the prospect of hosting the tournament in Georgia and meeting all of these amazing people in person.

Please find more info in our INADR 2021 e-brochure:

follow the link

Youtube channel for all videos

INADR
virtual tournaments
XX INTERNATIONAL LAW SCHOOL
MEDIATION TOURNAMENT
TBILISI, GEORGIA | April 6-10, 2021

XX International Law School Mediation Competition
|Results|

TOP 5
MEDIATOR TEAMS

INADR virtual tournaments
XX INTERNATIONAL LAW SCHOOL MEDIATION TOURNAMENT
TBILISI, GEORGIA | April 6-10, 2021

1st WB NATIONAL UNIVERSITY OF JURIDICAL SCIENCES

2nd UNIVERSITY OF NEBRASHKA COLLEGE OF LAW

3rd CREIGHTON UNIVERSITY SCHOOL OF LAW

4th NATIONAL LAW UNIVERSITY, DELHI

5th AMERICAN UNIVERSITY–WASHINGTON COLLEGE OF LAW

TOP
INDIVIDUAL MEDIATORS

INADR virtual tournaments
XX INTERNATIONAL LAW SCHOOL MEDIATION TOURNAMENT
TBILISI, GEORGIA | April 6-10, 2021

1st Maciej Modrzyński
1st Joshua Harriott
2nd Sarika Laljie
3rd Leisa Boswell
4th Colton Schnepf
5th Madeeha Arshad
6th Mariam Geguchadze
7th Nishant Goyal
8th Peyton Stagemeyer
9th Megan Ganley
10th Adam Betts

XX International Law School Mediation Competition
|Results|

INADR virtual tournaments
XX INTERNATIONAL LAW SCHOOL MEDIATION TOURNAMENT
TBILISI, GEORGIA | April 6-10, 2021

TOP 5
ADVOCATE-CLIENT TEAMS

1st OSGOODE HALL LAW SCHOOL

2nd JAGIELLONIAN UNIVERSITY

3rd LAW SOCIETY OF IRELAND

4th OP JINDAL GLOBAL UNIVERSITY

5th NALSAR UNIVERSITY OF LAW

INADR virtual tournaments
XX INTERNATIONAL LAW SCHOOL MEDIATION TOURNAMENT
TBILISI, GEORGIA | April 6-10, 2021

TOP 10
ADVOCATE-CLIENT PAIRS

1st Jessie Armour & Joshua Harriott
2nd Rachel Mina & Neli Traykova
3rd Anna Jikia & Nino Bichiashvili
4th Romit Sarkar & Yashas TR
5th Karolina Chłopicka & Maciej Modrzyński
6th Nishant Goyal & Abhilash Tyagi
7th Nicholas Liotta & Megan Ganley
8th Milea Moye & Jim Alrutz
9th Dominika Peko & Augustus Ispen
10th Klaudia Lewandowska & Kinga Jałkiewicz

9th NLIU-INADR International Mediation Tournament

Rayana Mukherjee

We are happy to inform you that the 9th NLIU-INADR International Mediation Tournament was held successfully on March 10-14, 2021.

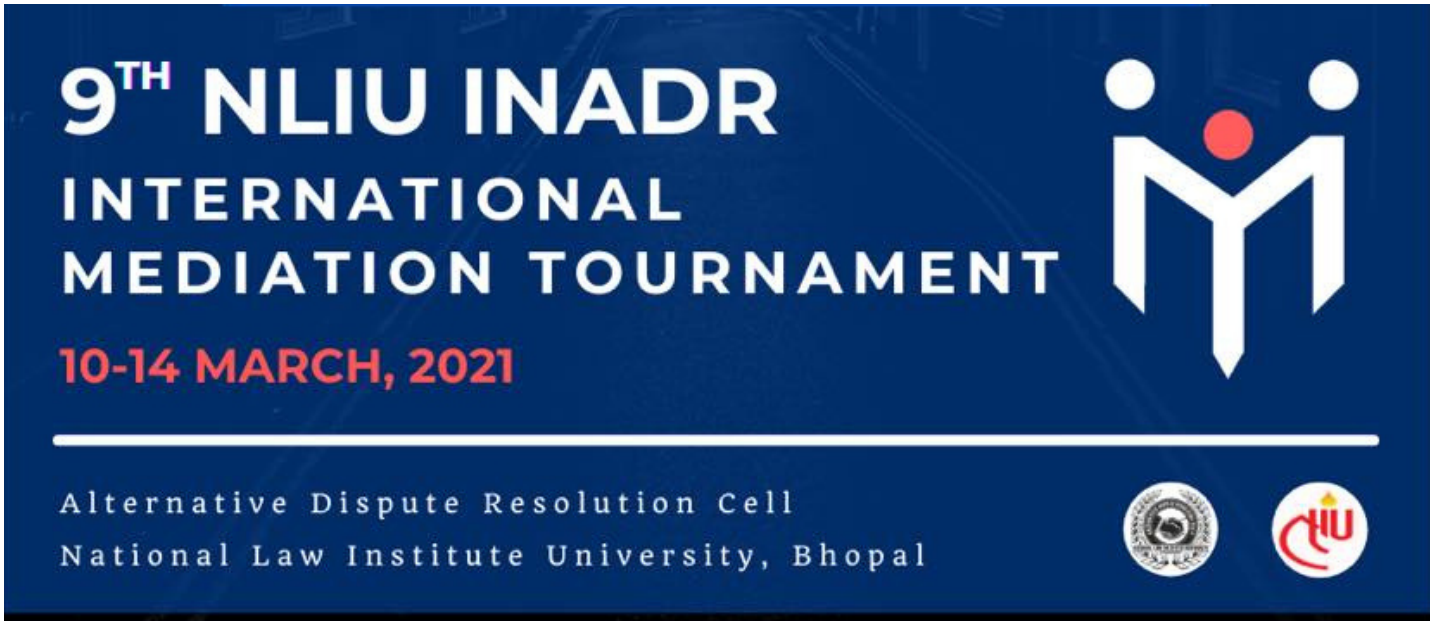
Even though this was a virtual tournament, all the participants were in high spirits, making for a successful and highly competitive tournament.

We began on the first day with the Opening Ceremony, which included the virtual lighting of the lamp initiated by the Joint Convenors of the Alternative Dispute Resolution Cell, Prabhav Bahuguna and Aditya Wadhwa. It was heart-warming to see all the participants and judges turn on their flashlights as a symbolic gesture.

Day 1 featured the Participants Training Session I, conducted by four esteemed mediation experts of INADR. Case Ellis, Former President of the INADR, explained the ins and outs of the Mediation process. The founder of INADR, Dick Calkins, along with Prof. John Lag, Adjunct Professor of Law at The John Marshall Law School, jointly gave us their insight on the importance of a Mediator in dispute resolution. Finally, the current President of INADR, Dennis R. Favaro, ended the session by discussing Advocacy in Mediation.

Day 2 began with Training Session II and saw our speakers Adv. Pushpa Gupta, Mediator Trainer, Mediation and Conciliation Project Committee, Supreme Court of India, Mr. Tom Valenti, Chicago-based conflict resolution specialist offering mediation, arbitration, and facilitation services and training, Mr. Michael J. Jassak, Adjunct Professor of Law at the Marquette University Law School and Adv. Ethelwald O. Mendes, an accredited mediator with the Indian Institute Of Arbitration And Mediation (IIAM), along with Prof. John Lag, talks in detail about the planning and strategies that go into a mediation session. The session covered various elements of a mediation process and a big part of it was dedicated to strategizing the roles of the Mediator, the Advocate and the Client.

The third and final Training Session panel consisted of Elena Koltsaki, President-Elect of the INADR, Case Ellis, Former President of the INADR, Jean-Paul Bevilacqua, Professor and Coach at Osgoode Hall Law School, York University, Canada, Krusch Antony, Associate Arbitrator, UK and Accredited Mediator, Indian Institute of Arbitration and Mediation, Dick Calkins, Former President of the INADR, and Kavita Bhatia, Assistant Professor, Faculty of Law, The Maharaja Sayajirao University, who addressed the concerns regarding the Role of the Mediator, how to segue into a caucus and how to tackle the closing when the parties have reached a settlement.



The next two days were particularly eventful, with more than 40 teams from around the world competing against each other in three Preliminary Rounds. All the teams displayed exemplary mediation skills and noteworthy performances that were highly appreciated by the judges.

The evening before the Semi-Finals, the Alternative Dispute Resolution Cell of the NLIU, Bhopal arranged a virtual social event for the participants to provide them some respite from the busy schedules of the previous two days. The participants played many fun games, which helped them to relax and bond with one another. The social night also featured soulful musical performances from Athena, the Cultural Society of NLIU, Bhopal.

On the final day of the tournament, after a riveting discussion on the Pink and Blue cities of India as a part of the Semi-Finals problem, the round was concluded and the teams qualifying for the Final Round of the 9th NLIU-INADR International Mediation Tournament were announced.

This announcement was followed by a nail-biting final among two exuberant attorney/client teams who portrayed praiseworthy performances, and ingenious strategies, and two excellent mediators who demonstrated astounding mediation skills.

Our 9th edition of the Negotiation Competition came to an end with a Valedictory Ceremony. The judges, Mr. Dennis Favaro, President of the INADR, Mr. Kenneth Frank, Director of the undergraduate degree program in Conflict Resolution and Legal Studies at Brenau University Dr. Mary Lou Frank, a licensed psychologist and mediator, Prof. John Lag, Adjunct Professor of Law at The John Marshall Law School, Mr. Case Ellis, Former President of the INADR, Mr. Pascal Comvalius, an IMI-certified/MFN Registered mediator with a specialization in Family Divorce and Criminal Cases, Ms. Aphrodite Bletas, President the Hellenic-Chinese Business Chamber, Prof. Fred Lane, Co-founder and past President of the INADR, and Mr. Tapan Mohanty, a faculty member of NLIU Bhopal, graced the occasion with their kind words.

"National University of Singapore" was adjudged as the winning advocate/client team followed closely by "Boston University" as the runners up of the competition.

Rajiv Gandhi National University of Law, Patiala was adjudged as the winning mediator team followed closely by National Law University, Delhi who were the runners up.

Thus, the tournament ended with the organizers' promise to be back next year with another wonderful tournament.

We extend gratitude to our sponsors & collaborators for their immense support, judges for their constant guidance, and participants for their enthusiasm and commitment to mediation. We thank everyone associated with us from the bottom of our hearts and truthfully, it wouldn't even have been imaginable without your assistance and encouragement.

All in all, even though it was organized virtually, the tournament was successful in all aspects. We thoroughly enjoyed hosting you and the experience was truly a memorable one.

Kindly find the media coverage for the competition on our various social media platforms. We request you to share the same from your respective social media handles as that would allow us to connect with a larger audience and enable us to spread our message further.

Follow us on social media:

We would like to congratulate the winners and we wish all the participants the absolute best with all their future endeavors.

We look forward to hosting you again, next year, hopefully in Bhopal!

9th NLIU-INADR International Mediation Tournament
|Results|

TOP 5 MEDIATORS

1. Team 34 Ardhya Dixit NLUJ
2. Team 11 Sunidhi Verma HPNLU
3. Team 26 Dhruv chhajed GNLU
4. Team 9 Indre Korsakovienė MRU
5. Team 4 Anushka Gupta

TOP 5 CLIENTS

1. Team 42 Steven Mitchell Boston University
2. Team 18 Pratim Majumder NLUO
3. Team 15 Riya Soni Bennet University
4. Team 32 Anushmita Dutta DNLU
5. Team 22 Asees NUJS

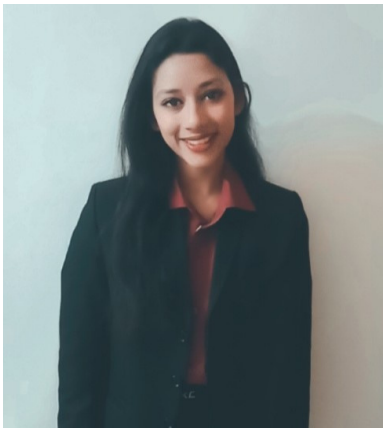
9th NLIU-INADR International Mediation Tournament
|Results|

TOP 5 COUNSELS

1. Team 15 Shambhavi Singh Bennet University
2. Team 27 Shubham Gupta JGU
3. Team 9 Mykola Netserenko MRU
4. Team 23 Leo Chen Boston University
5. Team 35 Ritwik Gupta

TOP 5 CLIENT/COUNSEL PAIRS

1. Team 15 Bennet University
Shambhavi Singh & Riya Soni
2. Team 42 Boston University
Steven Mitchell & Catherine Peerson
3. Team 27 Jindal Global Law School
Yashas TR & Shubham Gupta
4. Tem 35 NLU Jodhpur
Ritwik Gupta & Shashwat Mimani
5. Team 23 Boston University
Grace Jung & Leo Chen



STUDENT ESSAY COMPETITION

Modern changes of mediation

Aditi Bansal

"Mediation and reconciliation work is about a profound quest for justice and social transformation. But at the same time, they are about service, solidarity, about exploring and rediscovering the human spirit that has been lost or shattered through human conflict, cruelty, ignorance and greed."

Hizkias Assefa

Introduction:

Mediation is one of the Alternate Dispute Resolution (ADR) mechanisms that is highly preferred all around the world. It is a mechanism that is easily accessible, is highly reliable, is efficient and effective, and is advantageous on many other grounds as well. But this mechanism has gone through various developments over the years. In its initial years of introduction in India, it was not seen as a mechanism which was very warmly welcomed by the lawyers in India. They saw it as a mechanism which might raise questions on the legitimacy of litigation. It had a rough beginning in India, but presently it is seen as a highly preferred mechanism which is time saving, cost-effective and party-friendly. The idea of mediation is not new or is not some concept that has been thought of only a couple of years ago. The concept is rather quite deep-rooted. In the older times, the concept of village panchayats or councils and other such mechanisms came to light which were most preferred. These mechanisms were quite peaceful in nature and worked on the compromise factor. The person leading such a mechanism would peacefully listen to both the parties and then proceed with coming to a suitable solution for the problem. These practices had traces of mediation in them which is clear enough to signify that this practice is not new.

Changes seen over the time

Mediation rose to popularity in India when the concept of a "People's Court" or Lok Adalats was brought back into effect or revived in the Indian Judicial System. Initially, only about two to three mediation rooms could be set up. Over time, mediation, which was previously seen as a "spare wheel," came to prominence. Presently, about sixty to seventy mediation rooms are set up on a daily basis. The main changes that have been observed in the mediation mechanism in the recent or modern time follow.

The Singapore Mediation Convention (Singapore Convention):

Mediation is only developing official or legitimate procedures. There have been multiple centers and associations all over the globe, which have been created in order to promote and provide mediation. In India, the concept of ADR has been given due recognition and the Arbitration and Conciliation Act, 1996 is evidence. This Act does not specifically focus on mediation, but in certain sections it briefly mentions mediation. Additionally, the Legal Services Authorities Act, 1987, was responsible for introducing the Lok Adalat redressal mechanism. The Code of Civil Procedure (Amendment) Act, 1999, Section 89 specifically, highlights the use of ADR mechanisms. India has continued to develop mediation into current practices. The High Courts of Delhi, Mumbai and Calcutta have also started multiple initiatives in order to promote mediation. The Singapore Convention was adopted on 20 December, 2018 and came into effect September 12, 2020 and was a game-changer. The Convention promotes one law for all in international commercial disputes that cross borders. The Singapore Convention on Mediation is an extension of Model Law and prevents law suits from being caught up in never-ending global disputes. The Convention aims to create a uniform and reliable structure for international settlement negotiations arising from mediation. It focuses on international arbitration arrangements arising from mediation signed by the parties with the purpose of settling a trade dispute. At the same time, it also aims to promote international commerce and trade by making it possible for disputed parties to implement and rely on cross-border arbitration agreements. It conceives that companies can benefit from mediation as an alternative option for conflict resolution and arbitration in the settlement of cross- border conflicts.

The Convention presently has 53 signatories and is set to function on an international level, thereby facilitating countries all across the globe. The structure acts to strengthen the foundation of mediation.

Development in the Different Types of Mediations:

Mediation offers a variety of options. We have seen court-annexed mediation as well as private mediation in current practices. The main difference between the two lies in their flexibility. Private mediation is somewhat considered to be more flexible as compared to court-annexed mediation since the parties can adjust the mediation session to a mutually agreeable time. However, the mediator's charges might fluctuate making mediation not as cost-saving as possible. Also, selecting the best mediator during a private mediation is a challenge. Court-annexed mediation, on the other hand, is seen as a more systematic process since it is regulated by the court. Both private and court-annexed mediation have developed independently in the past few years. The effectiveness and efficiency of both are still being determined. There is no common method between private and court-annexed mediations and they have developed their own processes. Ultimately, it is up to the client which approach to mediation to choose.

Mediator's Training:

At present, multiple mediation training institutions have been developed for new lawyers. Highly qualified experts with knowledge and experience in mediation have been serving as trainers. It is essential for the mediator to complete ehis training and be qualified in this field, to be a certified mediator. ADR is also being promoted in law schools so that students realise the need of these mediation. Over time, the mediation training has improved and mediators are better able to meet the needs of their clients. Every case that comes up for mediation is unique. The way of working with different clients differs depending on the case and the clients who are the parties to the mediation proceeding. Each party has a different set of demands, opinions, needs and reasons. The dependence on the mediator is important since the mediator is the one who sails the mediation boat and guides the parties to a mutually determined destination. During the mediation proceeding the mediator needs to think and act responding to the need of the particular situation. Mediation training plays helps individuals balance the multiple needs in a session. The training prepares the mediator in advance for the various possibilities that might arise during a session. Likewise, training includes helping mediators learn how to maintain neutrality, be unbiased, and not allow personal emotions interfere with the session. Most importantly, the young lawyers coming fresh out of law school have started realizing the importance of this training since the mediation has been opening multiple new opportunities. Entry level lawyers see potential for a career and a good future in this profession.

Various Sectors where Mediation is Applicable:

Mediation is very suitable for almost all different sectors due to the nature of disputes that might arise. While mediation is not currently being used to resolve constitutional issues or matters where grievous injury has been caused to people, it is highly effective in matters of most other disputes. Mediation is highly effective in matters of commercial disputes, matrimonial disputes, family disputes, custody disputes, property disputes, and many more. Mediation is also useful in the workplace. The Human Resource department of many firms is now encouraging workplace mediation by incorporating it in their own process. This practice helps improve the workplace and facilitates speedy redress so that the firm can continue functioning smoothly. Another very important sector where mediation has made a lot of progress is in sports disputes. Mediation is very efficient in resolving disputes involving sports law. There have often been occasions where multiple disputes arose in sports, as with the cases of Usain Bolt and in that of Caster Semenya. The decisions coming from the mediations have led to reforms in sports aw. Thus we see that mediation has and will continue to make an impact.

ODR:

Despite the pandemic posing a great threat to people's lives all around the world, leading to a global lockdown and putting all professions and jobs on a hold for a very long time, ADR provided a way to help people who were experiencing conflict through "Online Dispute Resolution" or ODR. ODR has been an effective way to continue to conduct mediations. Initially, it took time to develop however, within a short span of time, ODR proved to be highly effective. It did not let the pandemic stand in the way of speedy dispute resolution. ODR was a tool to deal with multiple obstacles which were faced during a regular mediation proceeding, like the clients being punctual, and gave the mediator more control over a proceeding. The mediator in an online meeting is the meeting's host and developed ways to help facilitate the mediations. The mediators developed ways to arrange timing of entry, who was speaking, and helping individuals take turns. However, technical obstacles like network lag, audio problems, and difficulty managing the technology, remained a challenge. Some clients sometimes even doubted the fact if the meeting would stay confidential or not, since there was concern that someone might violate

the rules and end up being a threat to the procedure's confidentiality. But these problems were also addressed.

As these came to light, experts started working on solutions so that the scope for all such loopholes could be minimized. Use of better software, providing all sorts of guidance to clients, counsels, and mediators, better time-management, more control in the hands of the mediator, etc. were some ways that were implemented so that these problems could be taken care of. ODR has proved to be quite effective since the people involved in online mediation have been able to gain a lot out of it. They have been able to save up money that was to be spent on logistics, clients have been able to avail a concession on their counsel's fee, communication has been improved, people from any part of the globe have been connected, it has been very time-saving for all the participants of the proceeding, and many more such advantages have come to light. This ODR mechanism has proven to be highly effective and its use would be continued even after live proceedings start. The virtual platform's benefits shall not be put in vain. Both the live and virtual platforms would be available to a person's option.

Conclusion:

Nothing lasts for a very long while, which is why, these changes will continue to take place and keep on changing the situation's flow, as well as mediation's destiny. The popularity that it has gained over the past decade is proof of the fact that mediation has a bright future and if all the development takes place in the right direction, it will soon reach new heights. The mechanism definitely has certain lacunas as well, but there will definitely come ways in the future to fill them so that the number of obstacles can be minimized. The wide scope of mediation has also been realized. It is progressing internationally. Countries that were previously unaware of the mechanism, or doubted its effectiveness are also progressing and cooperating in making mediation's future bright. It has been incorporated into the legal fraternity of multiple nations and this process is still on-going. It is always better to resolve as many disputes outside the court as possible. Despite the Covid-19 pandemic's outbreak, mediation proceedings were very well carried out through the virtual platform. Rather than a hinderance to the mechanism's working, and extra benefit, i.e., smooth functioning through the virtual platform could be attained, which has also left a very good alternate for the future. This advantage shall further help in carrying out more proceedings in a day.

This would not only resolve multiple disputes in a speedy manner but will also help to reduce the pile of cases stacked up in the court.

The blooming era of mediation has now arrived and its beautiful flowers shall soon bloom all over the globe.

"I always hold out hope. Mediation is an opportunity for each side to present their case, and or us to get back to the table again."

Ron Weber

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