



Kuala Lumpur Regional Centre
for Arbitration



International Islamic University
Malaysia

ASIA PACIFIC CONFERENCE



ASIA PACIFIC CONFERENCE ON CONTEMPORARY TRENDS IN MEDIATION & ARBITRATION

Date : 17 - 18 July 2006 (Monday - Tuesday)
**Venue : Pan Pacific Hotel,
Kuala Lumpur**



Supporting Organizations:



Bar Council
Malaysia



Construction Industry
Development Board Malaysia



Financial Mediation Bureau
Malaysia

ABOUT THE CONFERENCE

Modern world needs speedy, inexpensive and simple means of dispute resolution. Mediation and Arbitration are the two most popular means for resolving civil and commercial dispute.

In the past, every civilization had its own means of amicable settlement of disputes. Islam gave prominence to *Sulh* (which covers Negotiation, Mediation, Conciliation and Compromise of Action) and *Tahkim* (arbitration); Chinese preferred *xieshang* (Negotiation and Consultation) and *Tiaojie* (Mediation); while Hindus had *Panchayat* (Village Tribunal of five elders). However, the Western over-emphasis on litigation and the transplantation of this idea in the East during the Colonial period sent into oblivion the amicable modes of dispute settlement. Now, with the emergence of Alternative Dispute Resolution (ADR), the emphasis is shifting back towards Mediation and Arbitration. It presents a unique opportunity to upgrade and streamline these processes in the light of our old traditions and modern experiences. Procedural rules are now being devised for Mediation at the cost of its informality. Mediation agreements and settlements are fast becoming legally enforceable. Mediation is joining hands with arbitration and the resultant Med-Arb is fast gaining statutory recognition. Court-annexed Mediation is increasingly being used in many countries of the Asia-Pacific Region.

Modernisation of the law of arbitration is taking place in many countries of this Region. Principles like Amiable Composition, Med-Arb, empowerment of Arbitrators, Fast Track Arbitration, Minimal judicial intervention in arbitral proceedings, etc are now reinvigorating the once stagnating law of arbitration.

There is a need to examine the above-stated issues and developments in Mediation and Arbitration, with special reference to Asia-Pacific Region, to seek answers to many problems. Such examination may even lead to possible harmonization of current law and the older tradition of the Eastern jurisprudence.

Issues For Discussion

1. The position of Mediation and Arbitration in the traditional laws of the East, and whether anything could be learnt from this. What is *Sulh* and *Tahkim* in Islamic law? What relevance these have today.
2. Whether rules should govern Mediation? Who should formulate these rules? Should Mediators be trained and accredited? If yes, by which body?
3. Could Mediation clauses be made legally enforceable?
4. Examining the efficacy of court annexed Mediation and Arbitration, and possible problems associated with this.
5. An evaluation of Med-Arb on the basis of theoretical and actual experiences.
6. A critical evaluation of the law of arbitration in Malaysia.
7. How fast is the Fast Track Arbitration? Is there a need to set a speed limit?
8. What un-orthodox measures may be adopted to liberate the present law of arbitration from its shackles of rigidity, complexity, costliness and “elephantine laborious”?
9. The working of the Kuala Lumpur Regional Centre for Arbitration and its Rules for conducting Mediation as well as Arbitration.
10. The working of the Financial Mediation Bureau of Malaysia in settling banking and insurance disputes.
11. The working of the Mediation and Arbitration in various countries of the Region like China, India, Japan, Australia, Singapore, Hong Kong SAR, etc.
12. What future holds for Mediation and Arbitration? [This list is indicative not exhaustive]

Who Should Attend

- ❖ **Mediation and arbitration practitioners**
- ❖ **Parties interested in dispute resolution processes**
- ❖ **Members of professional bodies, such as**
 - **Chartered and National Institutes of Arbitrators**
 - **National or Regional Centres for Arbitration**
 - **Bar Councils of various countries**
- ❖ **Members of Mediation councils, bureau, associations, etc.**
- ❖ **Persons involved in construction industry**
- ❖ **Academic staff of Universities, Polytechnics, etc.**
- ❖ **Research scholars and students**
- ❖ **Government officials and policy-makers**
- ❖ **Members of judiciary**

Conference Speakers

Eminent persons from Bench and Bar as well as academicians and professionals from various countries of the Asia-Pacific Region will make presentations. There will be a Panel Discussion on various issues concerning mediation and arbitration.