



BIAC

Bangladesh International Arbitration Centre (BIAC)
The Institution for Alternative Dispute Resolution

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BIAC TRAINING PROGRAMMES ON ARBITRATION

To address the problem of congestion of cases in our court system, and to enable quick settlement of disputes, the Legislature, the Judiciary as well as the Government have undertaken numerous measures to expedite disposal of cases. Among the initiatives are significant amendments to our laws providing for ADR as a method of resolution of disputes outside of courts.

To benefit from these changes in our laws, there must be greater awareness and expertise in ADR. With the objective of adding to the pool of ADR professionals, BIAC has undertaken a programme to providing training in arbitration. The trainings were held at BIAC office at Suvastu Tower, Pantha Path. Certificates were distributed among the trainees after successful completion of the programmes. To allow for close interaction between the trainees and the trainers, the number of trainees accepted at each event was limited.

Module 1: Overview & Drafting of an Arbitration Clause

The foundation of all arbitration proceedings is the dispute settlement clause in the contract. Often, parties have a great deal of difficulty once a dispute has arisen in the implementation of a contract, on account of the inappropriate text of the dispute settlement clause. Accordingly, the 1st Module provided an overview of arbitration, and the drafting of a correct arbitration clause. This training provided incisive details about arbitration, and the skills necessary to draft a dispute settlement clause - a fundamental requirement in commercial contracts.

The trainers were Former Attorney General Barrister Fida M. Kamal, Barrister Imtiaz Farooq and Barrister Nilufar Mannan.

The day-long training was held on 27th January 2015.



Module 2: Arbitration Proceedings

Once a dispute has arisen in the implementation of a contract, and all attempts at resolving the dispute amicably have failed, the option available may be to proceed with the arbitration, in accordance with the provisions of the contract. Exactly how this arbitration is to begin, what steps to take during the different phases of the process, was the theme of the second Module. This day-long Module was held on Saturday, 28 February 2015.

The Module covered details of arbitration proceedings from commencement to termination of arbitration, including basic principles underlying arbitration, constitution of arbitral tribunal, challenging arbitrator, exchange of pleadings between the parties, conduct of arbitration hearings, role of arbitration institutions and arbitrators.



Barrister Akhtar Imam, Barrister Imtiaz Farooq and Barrister Nabil Ahsan were the trainers, while fifteen trainees from different law houses and companies participated in the programme.

Module 3: Arbitration Award and Enforcement

The third and final Module in the series of arbitration trainings organized by BIAC was held on Saturday, 21st March 2015. An area sometimes overlooked was covered in this day-long event. How an award is made, the types of awards and the legal/ formal requirements of the award, dissenting opinion, awarding costs, and correcting errors in the award were covered. Also, at the final stages of the process of arbitration, how and when an award can be challenged, and implemented through a decree of the court, and enforcement of foreign awards, were covered.



Former Attorney General Mr. A. F. Hassan Ariff and Barrister Imtiaz Farooq were the trainers, while fifteen trainees from different law houses and companies participated in the programme.

BIAC-DCCI Workshop on Commercial Mediation

The Bangladesh International Arbitration Centre (BIAC) offers excellent opportunities to businesses to resolve commercial disputes outside of courts. In order to create awareness of such opportunities, BIAC in collaboration with the Dhaka Chamber of Commerce & Industry (DCCI), organised a Workshop on Commercial Mediation on 11th March, 2015 at the DCCI Auditorium.

The presence of distinguished representatives of the business community reflected the importance they attach to the subject. Among others Latifur Rahman Chairman & CEO, Transcom Ltd., Syed Nasim Manzur, President MCCI, Dhaka, Hossain Khaled, President DCCI, Former Adviser to the Caretaker Government Abdul Mueed Chowdhury, Former Attorney General Barrister Fida M Kamal, Former Managing Director & CEO Pubali Bank Ltd. Helal Ahmed Chowdhury, Former senior banker Shireen Scheik Mainuddin, Former Judge Mohammad Tarik Haider, Mohammad Shahjahan Khan, Immediate Past President of DCCI, also deliberated in the Workshop. Representatives of banks, law chambers and business houses participated in the workshop.

Moderating the workshop, BIAC Chairman Mahbubur Rahman observed that, for entrepreneurship in trade and investment to flourish, we require an enabling framework. One key requirement is quick and cost-effective methods to resolve commercial and investment disputes. However, in regards to Bangladesh, we have a long way to go. As the country's first and only



ADR institution, BIAC has developed physical facilities for mediation and arbitration and organizes professional training in these ADR methods. It is now up to the business community to take advantage of these services, instead of approaching the court at every instance.

Among the speakers were three UK-based Centre for Effective Dispute Settlement (CEDR) accredited moderators: Abdul Mueed Chowdhury, Barrister Fida M Kamal, and Shireen Scheik Mainuddin, who emphasized that in the globalized world of today, Bangladesh will have to adopt the most effective and modern techniques used for quick settlement of business disputes. In many developed countries, more than 90% of the commercial disputes are settled through mediation. In Bangladesh, a number of fundamental changes in our laws now permit civil disputes to be settled through mediation. Now that we have trained and certified mediators, business should take greater advantage of the opportunities.

BIAC is committed to raising awareness about the benefits of alternative dispute resolution methods – particularly, mediation. This Workshop is a manifestation of BIAC's commitment to providing our businesses required infrastructure and facilities to take advantage of the new opportunities created with incorporation of mediation provisions in our laws.

National News

“.. not possible to dispose of pending cases in 100 years”: Chief Justice S K Sinha

Chief Justice Surendra Kumar Sinha said that the number of cases pending for trial in the country at present is 30,07,860. Even if no new cases are added, it would not be possible to dispose of the pending cases in 100 years. Judges and lawyers would have to devote more time in courts in order to create a momentum in judicial work and expedite disposal of cases. The Chief Justice further said that, in many countries of the world, courts sit for 210-215 days in a year, while courts in our country cannot sit for more than one hundred days.....

The Chief Justice made this observation at a reception accorded to him by the Sylhet District Bar Association on 23rd March.

(extract from news item in Bangladesh Protidin, 24th March, 2015)

Case backlog piling up

YEAR	APPELLATE DIVISION	HIGH COURT	LOWER COURT
2014	5,911	22,477	12,76,156
2013	5,035	24,286	10,89,972
2012	2,905	64,483	9,88,651
2011	1,359	68,912	8,79,105
Number of cases disposed of according to a SC study			
YEAR	PENDING CASES	DISPOSED OF	FILED AND REVIVED
2014	30,07,860	13,04,544	16,07,255
2013	27,47,468	11,19,294	15,05,167
2012	24,45,435	10,32,189	13,59,589
2011	21,31,559	9,49,476	10,83,827

Although the number of cases disposed of in a year has increased, more than 30 lakh cases were pending with courts across the country causing litigants to endure long waits for justice.

A SC study showed that 30,07,860 cases were pending as of December 31 last year. Of the cases, 15,346 were at the Appellate Division, 3,61,038 at the High Court Division, and 26,31,476 at the lower courts.

(extract from report in The Daily Star on 22nd March 2015)

PPP Bill tabled

The Public-Private Partnership Bill has been tabled in Parliament with provisions of resolving PPP venture disputes through discussions, third-party mediation, and arbitration under the proposed law.



Agriculture Minister Matia Chowdhury, in-charge of the Prime Minister's Office for parliamentary affairs, placed the bill on Sunday, February 1, 2015.

The bill says in case of any dispute over any PPP project, the two sides shall first try to resolve it through discussions. If the effort fails, they can go for third-party mediation, and finally choose arbitration, if the second option, too, proves futile.

(Extract from bdnews24.com; Published: 2015-02-02)

12 BANKS HOLD 70 % OF TOTAL DEFAULTED LOANS

Twelve scheduled banks including eight state-run banks held 70.06 per cent of the total defaulted loans in the banking sector as of December 31, 2014. The defaulted loans in the 12 banks stood at Tk 35,143.75 crore, or 70.06 per cent of the total classified loans amounting to Tk 50,155.77 crore in the banking sector as of December 31, 2014.

A Bangladesh Bank official told New Age that the defaulted loans in the banking sector including that in the state-run banks declined significantly in the last quarter of 2013 after most of the banks had gone for rescheduling of their defaulted loans during two months before the national elections held on January 5, 2014.

12 bank's defaulted loans as of Dec 31

Bank name	Defaulted loans (Taka in crores)	Bank name	Defaulted loans (Taka in crores)
Sonali Bank	8,224.17	Basic Bank	6,309.88
Janata Bank	3,286.16	BDBL	445.78
Agrani Bank	3,706.23	IBBL	2,281.93
Rupali Bank	1,236.76	Prime Bank	1,030.49
BKB	5,372.76	National Bank	891.31
RAKUB	1,441.26	Pubali Bank	917.01

The defaulted loans stood at 9.69 per cent of the total outstanding loans of Tk 5,17,837.43 crore in the banking sector as of December 31, 2014. It was 8.93 per cent of the total outstanding loans of Tk 4,54,435.26 crore as of December 31, 2013.

Another BB official said the existing sluggish business situation amid the political uncertainty and the recent bank scams were the key reasons for the large amount of the defaulted loans in the 12 banks. The banks sanctioned huge amount of loans without proper scrutiny pushed up their defaulted loans, he said.

(extract from New Age, 14th February 2015)

BIAC comment: From a study of the statistics of bank loan cases before the Artha Rin Adalat, it appears that many of the outstanding loan cases could possibly be settled through "Mediation", as is provided for in the law. BIAC's list of mediators now include many accredited mediators trained by internationally-renowned trainers from the Centre for Effective Dispute Resolution, UK. It is hoped that the availability of trained mediators will encourage the banks and their clients to take advantage of the opportunity provided by the law to settle bank loan cases.

Chief Executive of BIAC Dr. Toufiq Ali in WTO Dispute Resolution Panel

On 26th March the Director General of WTO composed a three-member dispute settlement panel in which BIAC Chief Executive, Dr. Toufiq Ali, has been selected as a member. The formation of the panel has been requested by the EU following their complaint against certain measures concerning taxation and charges by Brazil (WT/DS472). Argentina, Australia, Canada, China, Colombia, India, Japan, the Republic of Korea, the Russian Federation, South Africa, Chinese Taipei, Turkey and the United States have reserved their rights to participate in the Panel proceedings as third parties. (The dispute settlement process is akin to arbitration, but is exclusively for trade-related disputes among WTO Members.) Ideally, the task of the panel should be completed within a year.



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