

Training on Mediation



In the modern business world Alternative Dispute Resolution (ADR) has been growing fast as the most popular way of resolving civil and commercial disputes. Apart from arbitration, mediation is an emerging form of dispute resolution means in Bangladesh and many other countries.

Mediation is a dynamic, structured, interactive process where a neutral third party assists disputing parties in resolving conflicts through the use of specialized communication and negotiation techniques. All participants in mediation are encouraged to actively participate in the process. Mediation is a 'part-centered process', in that it is focused primarily upon the needs, rights, and interests of the parties. The mediator uses a wide variety of techniques to guide the process in a constructive direction and to help the parties find their optimal solution.

The following are key aspects of Mediation:

- **Mediation is Confidential-** Mediation is a confidential process. This means that, generally speaking, parties cannot talk about anything that went on in mediation outside of mediation. The purpose of mediation confidentiality is so that parties can speak freely and be creative without being concerned that it will be held against them later. The main exception to this is that you are allowed to discuss the mediation with your attorney.
- **Mediators are Neutral-** Mediation is premised on neutrality. You cannot have an effective mediation if the mediator is biased in favor of one party or the other. Your mediator must inform the participants if there is any reason why the mediator's neutrality may be compromised. Further, the mediator should be impartial as to result, which means that the agreement is up to the parties to decide, not the mediator.
- **Mediation is Voluntary-** Mediation is a voluntary process. Anyone can leave mediation at any time for any reason. If a court case has been filed, people may be required to participate in "mandatory" mediation under certain circumstances. Generally speaking, though, mediation participants are there voluntarily.
- **Mediation is Private-** Mediation is a private process which typically occurs at a mediator's office rather than at a courthouse. Mediation settlements are typically written up and filed with the court, but not always.
- **Participants are fully Informed-** In Mediation all relevant information has to be made available to all participants. If certain information is unknown, the Mediator will work with the participants to figure out how to obtain the information.

The types of disputes most suitable for Mediation:

- Business disputes
- Small claims
- Employment /workplace disputes
- Real estate Disputes
- Community disputes
- Bad debts
- Contractual disputes
- Procurement Disputes
- Disputes under service agreements

Prelude to the Training on Mediation

Some important laws in Bangladesh today have provisions for mediation, e.g., The Code of Civil Procedure 1908 (as amended in 2012), Labor Act 2006, Money Loan Court Act 2003 and so on. The amended Code of Civil Procedure 1908 provides that all civil cases should be referred for mediation first before going to the court.

Financial institutions require efficient and effective resolution methods for disputes arising out of their contracts that will allow parties to keep matters confidential and preserve their relationship. In this regard, Bangladesh Bank instructed all scheduled banks in April 2016 to include ADR Clause of Bangladesh International Arbitration Centre (BIAC), the country's first and only ADR institution in the Banks' loan agreements and commercial contracts and suggested that in resolution of disputes through ADR methods the banks may seek assistance from BIAC. Recently Bangladesh Bank has formed a tripartite committee comprising Bangladesh Bank, Association of Bankers Bangladesh (ABB) and BIAC to find out ways to strengthen the ADR system in order to settle a large number of pending cases in the banking sector. The committee is currently working on formulating a draft guideline in this regard, which, once becomes part of the regulatory mandate of Bangladesh Bank, is expected to contribute enormously in realizing the heavy bulk of Non-Performing Loans in the growing banking industry of the country.

BIAC is organizing this Training Program on Mediation for interested participants. We feel that lawyers, entrepreneurs, officials and decision-makers of banking and financial institutions, corporate houses and members of the Civil Service should be aware of the principles and application procedures of Mediation for smooth running of businesses and thereby help grow a flourishing economy attracting more Foreign Direct Investment (FDI) to the country. This Program is also expected to sensitize participants about the hapless low ranking of Bangladesh in the Enforcing Contracts Index of the World Bank Doing Business Global Report 2019 and suggest means towards an upper ranking in the near future.

Who should enroll in Training on Mediation?

• <i>Government officials</i>	• <i>Bankers</i>	• <i>Sitting and retired Judges</i>
• <i>Practicing advocates</i>	• <i>In-house counsels</i>	• <i>Company Secretaries and Executives</i>
• <i>Faculties (law, Business, Management, Commerce etc)</i>	• <i>Risk Managers</i>	• <i>Human Resource Development, Procurement and Management professionals</i>
• <i>Members of Business Associations</i>	• <i>Social workers and Entrepreneurs</i>	• <i>Members and Employees of various Sector Regulators</i>
• <i>Professionals who are interested in Mediation as a method of settlement of commercial and business disputes.</i>		

Why enroll for training on mediation?

Mediation training provided at BIAC is very interactive. We believe the best way to learn to mediate is by actually conducting one. Therefore, participants spend approximately half of the session in role plays, and lectures the other half consists of exercises. Feedback from the participants is considered extremely positive.

Expectations from the Training:

This Training Course will cover among other things-

- An overview of Mediation processes
- Principles of mediation
- Stages and goals of mediation process
- The role of the Mediator
- Nature of conflicts/behaviors in conflict
- Incisive details about the principles and process of mediation, skills of a competent Mediator and Mediators' Code of Conduct under BIAC Mediation Rules 2014.
- Mediation skills, including negotiation skills, interactive listening, question-asking, use of neutral language, interest identification, addressing barriers to agreement.
- Values and bias awareness
- Cultural diversity
- Ethical issue, including confidentiality, impartiality, informed consent, conflict of interest, fees, responsibilities to third parties, advertising and soliciting, withdrawal by Mediator.

The Training Course also aimed at-

- Developing your interpersonal skill.
- Teaching you to set performance-based standards for evaluating your own work.
- Enhancing your communication skill.
- Improving your attending skill.
- Attaining your questioning and clarifying skill.
- Teaching you new skills that are relevant to your current job position.
- Refreshing the skills that you already possess.

HOW TO REGISTER?

1. Training on Mediation will be held on Saturday, 8 December 2018 from 10.00 am to 5.00 pm at BIAC.
2. Please fill in the Registration Form and e-mail to mahbuba.runa@biac.org.bd, or info@biac.org.bd, Please contact BIAC for further information at +88 02-964-1071-73
3. Hand in the Registration Form with the Registration Fee of Tk. 6,500/- to BIAC.
4. Last date for registration is Sunday, 2 December 2018.

Resource Persons

Khaled Hamid Chowdhury
Barrister-at-Law
CEDR (UK) Accredited Mediator
Head of Laws, LCLS South, Dhaka

Shahariar Sadat
Advocate
CEDR (UK) Accredited Mediator
Mediator - CAO, The World Bank
Group, Dhaka

REGISTRATION FORM*

Training Course on Mediation

Venue: BIAC

Date: Saturday, 8 December 2018

Time: 10.00 a.m. – 5.00 p.m.

Please return to:
BIAC
Suvastu Tower (6th Floor)
69/1 Pantha Path, Dhaka-1205
Tel: 964 1071-73
mahbuba.rahman@biac.org.bd,
info@biac.org.bd

Name of the Participant: _____
(Full Name – in capital letters, and underline the Surname)

Educational Background: _____

Name of the Organisation and Designation (if any): _____

- Did you attend any Training Course on Arbitration/Mediation/ADR (if yes, please describe) : _____ Yes/No

Work Experience (if any): _____

Address: _____

Telephone: Office _____ Mobile: _____ Email: _____

Date _____ Signature: _____

Please indicate any dietary restrictions (for lunch/snacks): _____

Name and designation of the nominating official-----

Signature of the nominating official

Course Fee: Taka 6,500/- only (Six thousand Five Hundred) per participant (VAT is not included)

Cancellation:

No refund can be made for cancellation of nominations. However, substitute candidate can be nominated at any time with intimation to CEO of BIAC. Updated registration materials will be required for substitute candidates.

***Please return the completed Registration Form, along with the Course Fee by Cash/Cheque /Pay Order favouring Bangladesh International Arbitration Centre (Training) to BIAC. The last date for registration is Sunday, 2 December 2018.**