

MEDIATION NEWSLETTER

NEWSLETTER OF THE DELHI MEDIATION CENTRE

Volume 2

(June, 2008)

Number 6



05.06.2008 - Seen is the Faculty of the CEDR on the conclusion of the Master's Training/Training of Trainers Programme in Mediation conducted in collaboration with the ICADR with the participant Trainer Mediators of the Delhi Mediation Centre. Seen are L to R - Mr. Karl Mackie, Chief Executive and Initiator of the CEDR, Ms. Isabel Phillips (Faculty CEDR), Mr. C. J. Gupta, Advocate Mediator, Ms. Neena Krishna Bansal, AD & SJ, Ms. Anu Malhotra, AD & SJ, Mr. G. P. Mittal, Law Secretary, Government of NCT of Delhi, Ms. Asha Menon, ADJ, Ms. Deepa Sharma, ADJ, Ms. Nisha Saxena, AD & SJ, Ms. Heather Allen (Faculty CEDR), Mr. Vinay Gupta, AD & SJ, Mr. M. L. Mehta, Judge-in-charge, Karkardooma Mediation Centre, Hon'ble Ms. Justice Manju Goel, Retired Judge, High Court of Delhi and presently Judicial Member, Appellate Tribunal for Electricity, Mr. Dharmesh Sharma, AD & SJ and Secretary Delhi High Court Legal Services Committee, Dr. Sudhir Kumar Jain, Ms. Shailender Kaur, Mr. Alok Aggarwal, Mr. Harish Dudani, all AD & SJ's and Mr. James South (Faculty CEDR).

(TIS HAZARI MEDIATION CENTRE)
 3rd Floor, Tis Hazari, District Courts, Delhi.
 Telephone No. 23961909 Extn. 479
 Judge in Charge
 Telephone No. : 23975030
 Extn. 303
 FAX No. 23961909

KARKARDOOMA MEDIATION CENTRE
 Ground Floor, B Block,
 Karkardooma, Delhi.
 Telephone No. 22309085
 Judge in Charge
 Telephone & FAX No. 22309086

E-mail : delhimediationcentre@nic.in
 Website : www.delhimediationcentre.gov.in

Mediation is an ongoing process. It never ceases. Thus, even though the District Courts were on vacation, the Delhi Mediation Centre was busy. Set forth herein is the tremendous, enthusiastic activity taking place at the Delhi Mediation Centre.

Hon'ble Mr. Justice R. C. Lahoti, the former Chief Justice of India in His Lordship's keynote visionary address - **"Envisioning ADR in 21st Century" at the Conference on "ADR - Conciliation and Mediation" on 20.11.2004 emphasized the need of training of mediators to make mediation an effective tool of institutionalized complementary dispute resolution**

- *".....Thirdly, the mediators and conciliators shall have to be trained in the art. Educational institutions involving universities and in particular the National Law Schools can initiate Diploma or Degree courses in Mediation and Conciliation. The State level judicial academies can assume a vital role by conducting training programmes. Every law professional is not necessarily a good mediator or conciliator. Apart from lawyers willing to come out of the adversarial box, in appropriate cases, well trained financial advisors, doctors and other health care service providers, computer experts, architects, surveyors, insurance advisors, psychologists and family therapists, etc. can also prove to be good mediators. Such experts would be indispensable in complex civil and commercial disputes where lawyers or judges do not have requisite technical expertise. But the important point is ... that more than subject expertise it is the capacity to mediate that matters and this crucial point has to be borne in mind while selecting, training and appointing mediators.*

Fourthly, India dictates the need for our experience. In institutionalizing mediation and conciliation from its very inception. We cannot take the risk of leaving them to free lancing. Apart from training, the profession of mediators and conciliators shall have to be subjective to a code of conduct and ethics and rigorously regulated for achievement. A system of continuing evaluation of the performance of mediators and conciliators needs to be introduced and implemented....."

The proposals in the Draft National Plan for Mediation also emphasize upon the selection of right mediators and trainers and training to make them successful mediators. **Recognition and impetus to the work done by the Delhi Mediation Centre has come steadily and the Delhi Mediation Centre, as our esteemed readers are aware, has been duly recognized for its training skills and abilities by the Madhya Pradesh High Court, Jharkhand High Court, Karnataka High Court, Chattisgarh High Court, High Court of Bombay, High Court of Gujarat, High Court of Rajasthan, High Court of Orissa, High Court of West Bengal, High Court of Bihar, High Court of Punjab and Haryana, High Court of Jammu & Kashmir, High Court of Himachal Pradesh, High**

Court of Uttar Pradesh and the Delhi High Court and the National Judicial Academy and the Hon'ble Supreme Court of India.

As visualized by the Hon'ble Mediation and Conciliation Project Committee in the proposed National Plan for Mediation, it is essential that the trained mediators from time to time are exposed to multidisciplinary approaches to mediation. For this purpose, it is necessary that refresher courses for groups of mediators are organized. Assistance is also contemplated to be taken and is now also being taken from trained psychologists, psychiatrists, sociologists and social workers attached to academic institutions. **For the effective implementation for the National Plan for Mediation and for training mediators around the country and to enable them to impart mediation training to others when ever called upon to do so, under the directions of the Mediation and Conciliation Project Committee, 13 fully qualified trainers of the Delhi Mediation Centre, who have all conducted, at least, one 40 hours training programme in mediation each and an accomplished trained advocate mediator of the Delhi Mediation Centre were given an opportunity to refine their mediation and communication and training skills in the Master's Training / Training of Trainers Programme in Mediation conducted by the Centre for Effective Dispute Resolution in collaboration with the International Council of Alternative Dispute Resolution from 03.06.2008 to 05.06.2008 at the ICADR at New Delhi. The said qualified trainers of the Delhi Mediation Centre who were benefited through this Master's Training were, - Mr. G.P. Mittal, Mr. M.L. Mehta, Ms. Deepa Sharma, Ms. Anu Malhotra, Ms. Asha Menon, Ms. Neena Bansal Krishna, Dr. Sudhir Jain, Mr. Vinay Kumar Gupta, Ms. Shailender Kaur, Mr. Harish Dudani, Mr. Alok Aggarwal, Ms. Nisha Saxena, all AD&SJ's and Master Trainers of the Delhi Mediation Centre, Mr. Dharmesh Sharma, AD&SJ and Secretary, Delhi High Court, Legal Services Committee and Mr. C. J. Gupta, Advocate Mediator of the Delhi Mediation Centre.**

The above said Trainers of the Delhi Mediation Centre had the proud privilege of being trained by the eminent faculty of the top mediators of the CEDR, that is, by Mr. Karl Mackie, Chief Executive and Initiator of the CEDR, a barrister and a psychologist, Ms. Heather Allen, Mr. James South and Ms. Isabel Phillips. The CEDR has trained over 3000 mediators from different countries till date.

The participants received an intensive training programme to enhance their competence in developing skills for delivering training and awareness raising activities that enhance knowledge

and use of mediation. *The participants through in depth interactive sessions and training on Trainer Roles such as:- Host, Presenter, Facilitator, Coach, Demonstrator, Scribe, Administrator, Assessor and were also enriched by having appreciated how to design effective training sessions.*

An intensive 40 hours training on mediation of Judicial Officers and advocates of the East-India States i.e. of Bihar, Chattisgarh, Jharkhand, Orissa, West Bengal was conducted from 11.06.2008 to 15.06.2008 at the IICM, Kanke, Ranchi, under the aegis of the Mediation and Conciliation Project Committee, by the Jharkhand State Legal Services Authority and the Judicial Academy, Jharkhand, Ranchi. 42 participants benefited by this training, which was inaugurated by Hon'ble Mr. Justice M.Y. Eqbal, Acting Chief Justice, Jharkhand High Court. The participants had the privilege of being guided by Hon'ble Mr. Justice S.B. Sinha, Judge, Supreme Court of India and Chairman of the Mediation and Conciliation Project Committee on various practical aspects of Mediation. His Lordship emphasized upon the role of a good mediator in bringing about peace and harmony in society, by fathoming the underlying causes of conflicts and also emphasized upon the necessity of a mediator generating justice, ensuring that each one got his rightful due.

Three of the Master Trainers of the Delhi Mediation Centre, Mr. M.L. Mehta, ADJ and Coordinator / Judge-in-charge, Karkardooma Mediation Centre, Dr. Sudhir Kumar Jain, and Ms. Shailender Kaur, both ADJ's, Delhi were the individual Resource Persons for each of the three groups of 14 participants each, into which the 42 participants were bifurcated. The renowned international mediator Mr. Firdoshali S. Kassam (Karachiwala) and Ms. Shazia Vaquar, Research Associate and Conciliator, CIP, Ranchi were also the Resource Persons for all participants. As reported by Mr. M.L. Mehta ADJ and Judge-in-Charge / Coordinator, Karkardooma Mediation Centre, Dr. Sudhir Kumar Jain, ADJ and Ms. Shailender Kaur, the Master Trainers and Resource Persons of the Delhi Mediation Centre, the participants were enlightened on the various aspects of mediation, its relevance, stages of mediation, qualities of a good mediator, cases appropriate and not appropriate for mediation, conflict management and detailed emphasis on communication techniques and patterns of communications to be adopted by a Mediator, bargaining, impasses, techniques of breaking impasses, logical and lateral thinking, mediation management, use of apology, face saving, vindication and Mediation and Conciliation Rules and role of parties and lawyers in mediation. The participants also

had the benefit of the expertise of expert psychologists, Mr. Amol Ranjan Singh and Ms. Shazia Vaquar, who deliberated upon the importance of psychological counselling as a tool in mediation of matrimonial disputes. The participants also had the benefit of Acharya Swami Saumen Bhrahamchary's spiritual guidance and were guided by Hon'ble Mr. Justice S.K. Sinha, Judge, Chattisgarh, High Court on Mediation being a tool for Court Management. On 14.06.2008, the participants along with the Resource Persons went to the Civil Court, Ranchi, where a Mediation Centre was inaugurated by Hon'ble Mr. Justice S.B. Sinha, Judge, Supreme Court of India and Chairman of the Mediation and Conciliation Project Committee and actual mediation was conducted in a number of cases of which 21 were settled. The report of the Resource Persons brings forth the enthusiasm generated by the Training Programme which the participants agreed had brought an effective change in their mindset, in as much as they all hoped to conduct active mediation soon in their States.

The successes of the Delhi Mediation Centre of having brought about amicable settlement of chronic litigations sans acrimony continues to draw distinguished visitors to both the limbs of the Delhi Mediation Centre, to learn about the systematic development of mediation. On 08.04.2008, 11 District Judges and Magistrates from Sri Lanka led by Mr. R.S.S. Sapuvida, District Judge, Kegalle, Sri Lanka visited the Karkardooma Mediation Centre and were greatly impressed by the effective system of mediation being conducted in a cordial manner, encouraging litigants to come out with the real underlying causes of the disputes. Hon'ble Ms. T.N. Manjula Devi presently Hon'ble Member of the Central Administrative Tribunal, Bangalore and then Senior Advocate and Coordinator Mediator of the Bangalore Mediation Centre and Ms. Suman Hegde, Advocate Mediator of the Karnataka Mediation Centre visited the Tis Hazari and Karkardooma Mediation Centres on 25.02.2008 to get first hand information about the set up and working of the Centre. Hon'ble Ms. T.N. Manjula Devi expressed that there was much to be learnt from the Delhi Mediation Centre which the Bangalore Mediation Centre would try to implement in Karnataka to make mediation more meaningful.

The effectiveness of Mediation even in the administration of affairs of the State is now steadily gaining recognition. A group of IAS and DANICS trainee officers undergoing training with the Directorate of Training, Government of Delhi, accompanied with their Director, Dr. S. Khullar visited

