



NIAC Bulletin

Issue 2, 2021

During these trying times, NIAC brings forward its second issue of the NIAC Bulletin to spread some hope and optimism regarding the economic rebound and development to follow with the help of accessible and credible dispute resolution.



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नेपालीहरूको महान चाड बडा दशैं, तिहार, नेपाल सम्बत् तथा छठको उपलक्षमा हाम्रा सम्पूर्ण शुभेक्षुक, मेलमिलाप र मध्यस्थतासँग आबद्ध मित्रहरू, उद्योग बाणिज्य तथा व्यापार व्यवसाय क्षेत्रका मित्रहरू एवं स्वदेश तथा विदेशमा रहनुहुने सम्पूर्ण नेपाली दाजुभाइ तथा दिदीबहिनीहरूमा हार्दिक मंगलमय शुभकामना व्यक्त गर्दछौं ।

- NIAC परिवार



Editorial

Much to gain from ratifying the Singapore Convention

Nepal International ADR Center (NIAC) has been working to promote Arbitration and Mediation in Nepal. It has conducted many trainings, seminars, interactions, discussions and dialogues among prominent groups of stakeholders comprising of leading business conglomerates, judicial service providers, engineers, bankers, and so on. Despite the pandemic induced lockdowns, in 2021 alone, many iterations of the NIAC Professional Arbitration Training were held in Kathmandu. Likewise, seminars, workshops, lecture series, Mediation Day Meet and Greet program and dialogues with stakeholders including the corporate lawyers were also conducted by NIAC. In the same vein, a seminar on the 'Importance and Challenges of Singapore Convention on Mediation' was also conducted by NIAC.

The discourse on Singapore Convention on Mediation and its significance has started to gain momentum in Nepal. Recently, Nepal Law Commission prepared a recommendation on the key aspects of the Convention which has lent much needed succor to the on-going discourse on the theme. The law commission's recommendation has appropriately underlined the importance of the adoption and ratification of the Convention which will, according to the recommendation, set an important milestone towards promotion and development of commercial dispute resolution in Nepal. The view contained was further articulated and endorsed by the participants in the seminar organized recently by NIAC in collaboration with Arbitration Committee of the Supreme Court Bar Association where business leaders, mediation practitioners, lawyers, advocates and policy

makers echoed and emphasized the importance of the Convention to promote commercial sector and business investment in the country.

Nepal can be said to have raced far ahead of many other countries in this part of the region when it comes to creating the much needed domestic institutional framework such as the active presence of NIAC, for development of mediation as a non-adversarial tool for dispute resolution. It is among the leading countries in South Asia for having enacted an umbrella Mediation Act in 2011 which has been appreciated by eminent mediation practitioners from India and many other countries in the region. They have even described the Nepalese Mediation Act as a model which is deserving to be followed by other nations in the region with amendments. Going by its credentials in taking initiatives for providing legal and institutional basis to mediation, Nepal cannot afford to delay the process to respond positively to the Singapore Mediation Convention through accession and ratification.

Indeed, there is nothing to lose or any added burdens to bear by ratifying this Convention which is different from other international human rights covenants. Though there is a need to study and analyze the potential consequences upon the ratification of the international treaties and convention, for this one we can say with firm convictions that there is much rather to gain from it than to lose. It does not cast any additional obligations to the state to fulfill and responsibilities to account. Its ratification will instead enhance the image and credibility of the state in the international business arena.

The fact that mediation has been promoted and enforced as the key institutional avenue in resolving cross border commercial disputes will help raise the country's ease of doing business index to lure foreign direct investment and increase economic activities. That is a reason why NIAC has its Kathmandu Commercial Mediation Center (KCMC) as a specialized body to work in providing commercial mediation services along with raising the discourse on importance of Mediation. There is no harm in stating the fact that the Singapore Convention has been hailed as a game changer in the alternate dispute resolution space. A wider range of cases where commercial mediation can be successfully used include business contracts, Intellectual

property and information technology, tortious liability, real estate and construction, banking and insurance, insolvency and so on. The effective resolution of the commercial disputes in the areas as mentioned can assure business sector to invest and promote their commercial activities. Going by the provisions of the convention, it can be said that the Convention lays the firm ground for enforceability of international commercial settlement agreements to facilitate efficient administration of justice and also contribute to the development of harmonious international economic relations across business sector and even the countries. It is expected that Nepal takes steps to ratify the Convention and enroll in the league of the countries that have already endorsed the Convention.

NIAC as a constituent member of Asia Pacific Center for Arbitration and Mediation - APCAM, is also involved in international mediation services wherein the novel concept of Project Mediation is being practiced. APCAM Mediation Services also include "deal mediations" or "assisted deal-making" for making efficient business deals and dispute management systems. The APCAM Mediation Rules also makes provisions to make the settlement award binding as per the Singapore Convention in countries which are signatories of the Convention. So as a leading promoter of Mediation, NIAC aims to keep on working on commercial dispute resolution while also working to host discourse on relevant issues alongside its working partner Asia Pacific Centre for Arbitration and Mediation - APCAM in the days to come.



कोरोना महामारीमा मेलमिलाप : दृश्य र दृष्टिकोण

डा. कुमार शर्मा आचार्य

विगत २ वर्ष देखि कोरोना महामारीले विश्व आक्रान्त छ। यातायात, वन्दव्यापार, व्यवसाय, कारोबार र कल कारखाना ठप्प छन्। स्कूल कलेज र विश्वविद्यालय बन्द छन्। मानिस घरमै थुनिएका छन्। धनी देशले नागरिकलाई कोरोनाको भ्याक्सिन दिएर सुरक्षित बनाएका छन्। नेपालको सरकारले महामारीलाई जित्न पर्याप्त पूर्व तयारी गर्न सकेन। नागरिक नातेदार गुमाएको पीडामा रहेका र महामारीको प्रकोपबाट आफू बच्न चाहिरहेका छन्। जोखिमको त्रास र लकडाउनको मारले असहाय जस्तो बनेकोमा आक्रोश र परिवारलाई जोगाउन नसकेको लाचारीले नैराश्यता र मानसिक समस्या बढेको छ। जनजीवन ठप्प तथा आक्रान्त पार्ने बन्दाबन्दी हुने-फेरी खुल्ने-बन्द हुने चक्रको भयावह दृष्य कष्टप्रद छ।

महामारीको कहरले बजेटको ठूलो हिस्सा ओगट्ने केन्द्र सरकार समेत प्रदेश र स्थानीय सरकारले पनि खोप ओखतीको व्यवस्था र व्यवस्थापन गर्न सकिरहेका छैनन्। सर्वोच्च अदालत र उच्च अदालतले महामारी सम्बद्ध धेरै विषयमा सरोकारवाला निकायलाई परमादेशको रीट जारी गरेका छन् तर रीटको कार्यान्वयन शुन्यप्राय छ। कानूनले पूर्वकल्पना गर्न नसकेका विषयमा कानूनको अभावलाई पूरा गर्ने जिम्मेवारी लिई सर्वोच्च अदालतको बृहत इजलासबाट न्यायिक सक्रियता देखाउँदै विशेष आदेश जारी भएको छ। बन्दाबन्दीको समयलाई सर्वोच्च अदालतले शून्य समय मानेर अदालतमा जथाभावी भिड नहुनेगरी हदम्याद, म्याद वा तारिखलाई सुचारु गर्ने प्रबन्ध पनि गरेको छ। तथापी यस प्रतिकुल अवस्थामा अदालतको ढोका सम्मै पुग्न जनतालाई मुस्किल छ।

अदालतमा प्रवेश गर्न नपाएपनि परिवार र समुदायमा फरक फरक प्रकृतिका विवादहरू सिर्जना भई नै रहेका छन्। अदालत बन्द भएको अवस्थामा नागरिक अधिकारको प्रचलनमा कठिनाई परेको छ। स्थानीय तहहरूले नीतिको अस्पष्टताले गर्दा नयाँ खालका विवादलाई ग्रहण गर्न गराउन असहजता महसूस गरेका छन्। सबै स्थानीय सरकारले मेलमिलापको तालिम पनि गर्न सकेका छैनन्। तालिम सम्पन्न भएका ठाउँमा पनि हरेक वडामा मेलमिलाप केन्द्र स्थापना गर्न सकिरहेका छैनन्। आगामी फागुनमा स्थानीय तहको निर्वाचन हुने भएकाले अब स्थानीय तहका नेताहरूको स्थानीय

विकास, नीति तथा कार्यक्रम तर्फको ध्यानमा निर्वाचनको प्रभाव पर्ने नै छ। तर महामारीको भयावय असरलाई कसरी न्यून गर्ने कसैको कुनै दृष्टिकोण छैन।

स्वास्थ्य र शिक्षामा महामारीको प्रभाव :

कोरोना महामारीले निसर्देह नै जनस्वास्थ्यमा गम्भीर असर पारिरहेको छ। ठुलो संख्यामा समाजले आफन्त गुमाएको छ। यसले शारीरिक मात्र नभई मानसिक तनाव र रोग समेत बढाएको छ। विभिन्न खालका मनोसामाजिक समस्याहरू देखा पर्न थालेका छन्। समय बित्दै जाँदा यसले विकराल रूप नलेला भन्न सकिदैन। छाती हल्लिएको जस्तो हुने, रिंगटा लाग्ने, छटपटी हुने, अब मरिने हो कि भन्ने सोचाइ बढ्ने, टाउको दुख्ने, हातगोडा काम्ने, राति निद्रा नलाग्ने, मन हतास हुने, एकोहोरो हुने, अरुसँग बोल्न मन नलाग्ने, पढन लेख्न मन नलाग्ने, एकलै बस्ने जस्ता समस्याहरू समाजमा बढी रहेका छन्। महामारीले गर्दा सामाजिक व्यवहार र संस्कारगत मूल्य मान्यतामा परिवर्तन भैरहेको छ। मानिस आफन्तको खुसी र दुःख पीडामा सम्मिलित हुन सकिरहेका छैनन्। जीउँदाको जन्ती र मर्दाको मलामी भन्ने सामाजिक संस्कार बदलिएको छ। मानिस देखि मानिस डराउनु पर्ने अवस्था आएको छ। मानिसका स्वभावमा र दिनचर्यामा अकल्पनीय परिवर्तन ल्याएको छ। विकास निर्माण र स्वास्थ्य क्षेत्रमा सरकारी अलमल र अकर्मण्यताको प्रभाव परेको कुरा महामारीले अभि प्रष्ट पारेको छ।

विश्वविद्यालय, स्कूल, कलेज ठप्प हुँदा शिक्षामा परेको प्रभाव व्यापक छ। महिना विद्यालय बन्द हुँदा साना विद्यार्थीहरूमा पढ्नु पर्छ भन्ने ज्ञान घटेको छ भने उच्च शिक्षा लिइरहेका विद्यार्थीहरूको परीक्षा असमंजस भएर अनेक समस्या परेको छ। घरमा बसेर नवीनतम प्रविधीको प्रयोग गरी अनलाईन शिक्षा लिन पाएका विद्यार्थी र उक्त सुविधा उपभोग गर्न बाट बन्चित विद्यार्थी वर्ग बीच अबको समयमा देखिने फरकले नयाँ प्रकारको सामाजिक समस्या निम्त्याउने आंकलन गर्न सकिन्छ।

घरेलु हिंसामा महामारीको प्रभाव :

महामारीसुरु भएपश्चात् विभिन्न राष्ट्रहरूले संक्रमण फैलन नदिन गरेको लकडाउनसँगै विश्वभर विभिन्न खालका घरेलु हिंसाको वृद्धि

Roundtable (परिसंवाद)

NIAC has a special focus on Arbitration and Mediation. We aim to promote dispute resolution services through training, seminars, workshops and so on. NIAC conducted NIAC Professional Arbitration Training in March at Hotel Shangri La, Kathmandu. As a follow up to the event, we hosted a roundtable with four professionals from the training with years of experience in the Corporate Legal sector and the Arbitration scene in Nepal to learn their views on some of the prevalent problems in the Arbitration sector in Nepal. The problems were identified by NIAC at the said training program.

Experts Interviewed for the Roundtable:

JUSTICE BALARAM KC - Former Justice of Supreme Court of Nepal

DR. NARAYAN PRASAD GHIMIRE - Senior Advocate and Faculty at the Kathmandu University School of Law

MR. MATRIKA PRASAD NIRLA - Senior Advocate, Arbitrator and Mediator

MR. ANUP RAJ UPRETI - Corporate Lawyer and Managing Partner at Pioneer Law Associates

Discussion on Law and Policy:

The Roundtable started off by asking the experts if they thought that law and policy are a barrier for the smooth functioning of arbitration. To this, Mr. Balaram KC said that the beautiful concept and practice of Arbitration has slightly degraded in Nepal owing to the courts themselves. He opined that arbitration as a process of effective dispute resolution is taking time to pace up due to unnecessary court intervention in Nepal. This interventionist attitude has to be heavily amended or cancelled altogether to develop a new law. But developing a new law isn't enough on its own. Awareness and training in relation to its values and practices are also important. Dr.

Narayan Ghimire deliberated on the substantive part of relevant law requiring expressed recognition of foreign awards which would help to enforce judgment or award rendered in foreign jurisdiction. Otherwise it would be difficult to adhere to arbitral judgments. In Nepal however, the laws need updates and amendments to support smooth arbitration practices. Mr. Matrika Niraula pointed out the practice of reexamining steps of the arbitral process in court as a major hurdle for the smooth functioning of arbitration. "The way arbitral steps are nitpicked in the courtroom like tribunal appointment, arbitral setting aside of award and enforcement of award, etc. it is difficult for the arbitration process to function smoothly", he said. Mr. Anup Upreti mentioned that the arbitration law as is currently framed is based on the UNCITRAL model law, needs to be updated, for eg. in reference, to laws of the seat by making a clear distinction between place/venue of arbitration, recognition of domestic and foreign awards and overall promoting a pro-enforcement regime, allowing of judges to be retained as arbitrators, since they are a wealth of knowledge.

Discussion on Institutions Rendering Arbitration:

Second in our discussion was the need for a regulatory body. "Do you think a regulatory body for Arbitration is required in Nepal? And are the existing Arbitration and Mediation service provider institutions functioning well? Could an International collaboration further benefit the growing Nepali ADR Scenario?" Mr. Balaram KC agreed. He insisted on the necessity of an able and independent regulatory body to strengthen the arbitration procedure. While cooperating with exemplary foreign organizations that provide

arbitration service could improve the situation greatly, it is imperative to have and implement our laws. Dr. Ghimire speaking on the same added that policy and program with priority to strengthen institutional development with government support is necessary. That is why, presence of a regulatory body would be better. He went on to mention some handful of service providers that are functioning quite well such as NIAC with its International collaborations but insisted that support from regulatory bodies and the government is imperative for the institutions' growth. Mr. Niraula said that independent, sound and qualified professionals should be involved to create such a regulatory body. Mr. Uprety added that the said body should understand modern concepts and trends of arbitration that are taking place globally so that it is able to achieve a vibrant arbitration regime.

Discussion on Training and Capacity Building:

We asked the experts how important they thought training, awareness programs, workshops, et al are needed to acquaint relevant stakeholders and authorities with Arbitration? To this, Mr. Balaram KC very simply said, it is okay to not know. One should not hesitate to learn. Even the court personnel, legal practitioners and arbitration service provider individuals and institutions need training and workshops. We have to dismantle this system where curiosity and hunger for education is absent. Dr. Ghimire stated that skilled professionals with sound and advanced knowledge are the prominent need of the times. Awareness, training and global network is today's demand. Mr. Niraula reiterated saying qualified, accredited, sound professionals are the backbone of institutional arbitration. So, training and capacity building programs will keep the professionals updated and their skills

sharpened. Mr. Uprety focused on how training and awareness help practitioners, judges and academics get acquainted with the nuances of arbitration in a short span of time. Further they also help with the mutual exchange of knowledge and information between the parties.

Discussion on Role of Courts in Arbitration:

The experts were asked their thoughts on whether the Nepali Courts are supportive/unsupportive of Arbitration. Mr. Balaram KC with his decades of experience and leadership in the Nepali judiciary, expressed his belief that the courts are learning and adapting albeit slowly. The Courts are neither supportive nor are they unsupportive, they are merely uninterested in the arbitral process. They don't know, but they can learn. They have to be taught and made aware about the nuances of arbitration and how the courts play a role in strengthening it. Dr. Ghimire speaking on the same said that it is mainly due to current legal provision with room for the court to intervene in arbitral proceedings that it is doing so. It is imperative that the courts need to accept the Arbitration process as a parallel to it and not as an adversary to the regular courts. With reformation to laws and current practices, we can avoid ambiguity and needless intervention. Mr. Niraula talked about courts being invested in the arbitral process as an issue that goes against the core values and principle of arbitration. Mr. Anup Uprety, in a review of the precedents, talked about how apparent it is that Courts have not hesitated to interfere in arbitration matters. Whereas the whole ethos of arbitration is actually to avoid the interference of the Court. Even in matters of judicial review, Courts need to understand the limited role of the judiciary not to act as a bench for appeal, but only for invalidation/ setting aside.

Discussion on Public Policy Regime:

Upon asking the experts if they wanted to talk about our public policy regime, they went on about the lack of distinction in determining public policy issues. Mr. Balaram KC shed light upon the fact that public policy has been viewed by everyone in their own way. A suitable explanation has neither been ascertained nor has it led the way. The Courts have failed in realizing the scope of public policy. Dr. Ghimire added to that. "Public policy" being itself a vague term and mainly used for policy making. It must be limited with express clarification in law as to what constitutes public policy in terms of enforcement of foreign judgement. Mr. Niraula went on to give an example of how the Indian Judiciary had put almost everything under the blanket of public policy, a step that tainted the arbitration scenario of India. Now, the Indian Judiciary is on the path of correction. But in Nepal, we are facing the same issue of a vague public policy regime. Likewise, Mr. Uprety mentioned that so far there is no precedent on public policy by the Supreme Court in the country. This would be a cornerstone in determining the mindset of the judiciary towards arbitration and ensuring a pro-enforcement regime.

Discussion on Areas for improvement in Arbitral Legal Regime:

Lastly, we summed up the discussion by asking if they would like to point out any flaws as they saw in our Arbitral Legal Regime. Mr. Balaram KC was quick to state that there are a few which can easily be resolved if there are adequate training and education opportunities for existing legal/judicial mechanisms. He also suggested that a group of experts in this field and academic professionals who have been working regularly has to be formed to eventually bring out a new law altogether. Dr. Narayan Ghimire said that we cannot outright call it a flaw but it should be noted that any law without timely and periodic reformation turns rigid and obsolete. Likewise, he expressed his belief that settlement friendly laws are to be developed for Nepal. Mr. Matrika Niraula called it the technical area of law. He sided with Mr. KC on saying that well deserved professionals on arbitration should sit together and need to sort the issue if any flaw persists in the arbitral system. Mr. Anup Uprety also did not point to anything as a flaw as such, but stated that a stable and reliable method of dispute resolution, particularly international commercial arbitration should be encouraged in Nepal as one of the criteria for economic growth and investment.



Professional Arbitration Training on January



NIAC conducted a Professional Arbitration Training on January, 2020. More than twenty professionals working in the field of Arbitration successfully participated in and completed the training course. The participants included Former Judges, Lawyers, Chartered Accountants, Management Consultants, and Engineers and so on. The Training was conducted for four consecutive days from 9th January 2021 to 12th January 2021. Sessions in the first three days of the training were hosted via online video conferencing app Zoom. The practical sessions on the fourth and final day i.e. 12th January 2021 were held in the physical presence of all participants at Mojo Boutique Hotel, Baneshwor, Kathmandu.

Owing to the Coronavirus pandemic's safety protocols, NIAC held the first three days of the training online. We used online video conferencing app Zoom for the training sessions. The sessions lasted one and a half hours or more depending upon the weight of the contents and the extent of the interactivity. There were almost always one too many questions asked and fruitful discussions happening in each session.

On the Fourth Day, Urban Planner and Former Secretary General of The Nepal Engineer's Association Mr. Kishore Kumar Jha gave a real-life example of an Arbitration case in Nepal. Mr. Matrika Prasad Niraula and Mr. Kedar Koirala gave practical sessions on the processes of Arbitration. The Participants presented a mock arbitration process from the appointment of arbitrators to the award writing.

The training started with a formal inauguration ceremony chaired by Dr. Mukti Rijal, Chairperson of NIAC. Hon. Justice Mr. Keshari Raj Pandit gave his best wishes while Dean of the Kathmandu University School of Law, Prof. Dr. Rishikesh Wagle delivered congratulatory remarks.

NIAC believes that NIAC Professional Arbitration Training was effective in dispelling myths regarding arbitration and reinforced the strengths and possibilities of and helped break the myth that online trainings cannot be as effective as those held in the physical presence of individuals. Participants of the Training program submitted positive reviews and have been regulars at NIAC's programs in the days that followed.

Highlights of the NIAC Arbitration Training:

In the Start up Session, Former Judge of the District Court of Nepal and NIAC Director, Mr. Binod Prasad Sharma introduced the esteemed participants to one another by hosting an introductory expectations and interests sharing session. This session shaped the overall training experience for most participants as the expectations and interests they mentioned were duly focused on during the rest of the training.

Next up, two prominent scholars Prof Dr. Rishikesh Wagle and Dr. Narayan Prasad Ghimire gave a joint session on Law of Obligation, Contract, its Relevance with Arbitration where the concept of liability and concept of contract as an obligation, its nature, formation and remedies were highlighted.

In the third session of Day One, Former Chief Judge of High Court of Nepal, Hon. Keshari Raj Pandit delivered a session on Nepalese Legal Landscape on Arbitration where the star of the session was the Arbitration Act of 2055. Justice Pandit beautifully presented the otherwise cumbersome Act providing anecdotes and precedents from his experience in the High Courts of Nepal.

On the Second Day, morning session began with prominent Arbitrator and Mediator Mr Matrika Prasad Niraula introducing the participants to Hybrid Model of Dispute Resolution often called as Arb-Med or Med-Arb. He emphasized on the fact that opting for litigation or arbitration alone to settle disputes is considered old-school and that new hybrid methods have to be followed.

Chairperson of the APCAM Accreditation & Disciplinary Committee, Prof. Dr. Rajesh Sharma gave the participants a presentation on Arbitrations on Various Commercial Disputes. Despite the time zone difference, Dr. Sharma introduced the participants to International Commercial Arbitration as well.

On the third day of the training, the participants

were visibly excited to receive a session on Role of Courts and Public Policy in Arbitration from Former Judge of the Supreme Court of Nepal Hon. Mr. Balaram KC himself. While giving rich tips on how the Courts have a long way to go to be facilitative of Arbitration in Nepal, he presented the true scenario and his experience in dealing with cases of arbitration in the Judiciary.

Ms. Iram Majid, Executive Director of APCAM, gave a session on Some Model Arbitral Institutions like APCAM positively highlighting the work and scope of APCAM as an International Center for Arbitration and Mediation. Generous with her time, she went on to give up-and-coming arbitrators various real-life tips on how to advance one's career in Arbitration.

Right after that, the Chairperson of APCAM himself, Mr Anil Xavier gave participants a session on Roles and Responsibilities and Code of Ethics of Arbitrators. This enlightening session was pivotal in keeping our participants grounded with regards to various limitations they had to be under if they chose to become Arbitrators for a particular case.

On the Fourth Day, we came full circle with Prof. Dr. Rishikesh Wagle as he once again gave our participants a session. This time he talked in depth about the Law of Evidence applicable to Arbitral Proceedings. This highly meticulous presentation opened many avenues for discussion among our esteemed participants as Acts of Nepal and India, Institutional Rules of NIAC and APCAM along with other major model rules on taking evidence like IBA Model Rules and Seoul Protocol were also discussed. Mr. Binod Prasad Sharma gave a detailed presentation on Composition and Jurisdiction of Arbitration Tribunal which generated a lively discourse among our participants. From the adhoc and institutional process of arbitration to sources of powers for arbitrators, Mr. Sharma gave a clear picture of what constitutes the Jurisdiction of an Arbitral Tribunal.

The final theoretical session of the Training was given by Managing Partner of Pioneer Law Associates Mr. Anup Raj Upreti. On Enforcement of Arbitral Award, he hosted an interactive session with precedents on Court Cases from Nepal, Russia and the United States accepting or rejecting Arbitral awards based on Public Policy.

In the presence of the Chief Guest Hon. Mr. Balaram KC, the concluding ceremony of the Five Day NIAC Professional Arbitration Training took place at Hotel Shangri-La, Kathmandu. A Certificates distribution ceremony was held to celebrate the successful completion of the course by all participants.



NIAC को तालिम कार्यक्रम र कार्यशाला

नेपाल इन्टरनेशनल एडिआर सेन्टर (NIAC) ले गर्दै आएको तालिम कार्यक्रम यही मिति २०७७ फाल्गुन १८ गते देखि २२ गते (02–06 March, 2021) सम्म काठमाडौँमा आयोजना गरियो। उक्त तालिम कार्यक्रम एसिया प्रशान्त क्षेत्र मध्यस्थता तथा मेलमिलाप केन्द्र (Asia Pacific Centre for Arbitration and Mediation–APCAM) ले स्वीकार गरेको पाठ्यक्रमका आधारमा मुख्य मुख्य विषयमा NIAC का विशेषज्ञ प्रशिक्षककै संलग्नतामा सम्पन्न भएको थियो। पाँच दिनसम्म चलेको उक्त कार्यक्रममा विभिन्न २१ विषयमा व्यवहारिक अभ्यास सहित तालिम सम्पन्न भएको थियो। उक्त तालिम कार्यक्रममा देहाय बमोजिमका प्रशिक्षकहरु संलग्न हुनु भएको थियो।

१. प्रा.डा श्री राजेश शर्मा, अष्ट्रेलिया
२. श्री अनिल जेभियर, केरला, भारत
३. श्री इराम मजिद, नयाँ दिल्ली, भारत
४. श्री केशरी राज पण्डित
५. श्री बिनोद प्रसाद शर्मा
६. प्रा.डा श्री ऋषीकेश वाग्ले
७. श्री बलराम केसी
८. डा. श्री नारायण प्रसाद घिमिरे
९. श्री मातृका प्रसाद निरौला
१०. श्री अनुप राज उप्रेती
११. श्री कबिता सिलवाल
१२. श्री माधव राज घिमिरे

उल्लेखित तालिम कार्यक्रममा विभिन्न क्षेत्रबाट व्यतिगत र संस्थागत रूपमा २५ जना सहभागीहरुको सहभागिता रहेको थियो।

तालिमका सहभागीहरु -

१. श्री प्रताप सिंह ठकुराठी
२. श्री विश्व प्रकाश पौडेल
३. श्री दुर्गा प्रसाद अर्याल
४. श्री सतिश राज मैनाली
५. श्री रबिन नेपाल
६. श्री सुभास विश्वकर्मा
७. श्री सरोज बुढाथोकी
८. श्री महेन्द्र प्रसाद भट्टराई
९. श्री चिरञ्जिवी नेपाल

१०. श्री मदन कुमार डंगोल
११. श्री यादव प्रसाद दुङ्गाना
१२. श्री बासुदेव रिजाल
१३. श्री डा. नारायण प्रसाद घिमिरे
१४. श्री शेर बहादुर कार्की
१५. श्री नरबहादुर खड्का
१६. श्री रिवाज शर्मा आचार्य
१७. श्री अतित बाबु रिजाल
१८. श्री बिनोद श्रेष्ठ
१९. श्री डा. दिनमणी पोखरेल
२०. श्री चन्द्रेश्वर श्रेष्ठ
२१. श्री मनोज अधिकारी
२२. श्री अच्युत राज बुढाथोकी
२३. श्री अनुप राज उप्रेती
२४. श्री तिलक विक्रम पाण्डे
२५. श्री प्रकृति योजन

तालिम कार्यक्रमको अधिल्लो ३ दिन अनलाइन जुम माध्यमबाट संचालन भएको थियो। अनलाईन माध्यमको सदुपयोग गर्दै स्वदेश तथा विदेशमा रहेका प्रशिक्षकहरुले प्रशिक्षण दिनु भएको थियो भने अन्तिम दुई दिनको तालिम कार्यक्रम काठमाण्डौको लाजिम्पाट स्थित होटल सांग्रिलामा व्यवहारिक अभ्यास सहित सम्पन्न भएको थियो।

कार्यशाला तथा व्यावहारिक प्रशिक्षण सत्र

अन्तिम दिनको तालिम कार्यक्रम तीन समुहमा विभाजित भई पहिलो समुहमा एक उत्कृष्ट अवार्ड वितरण गरी सहभागीहरुबाट त्यस अवार्डका सबल र दुर्बल पक्षको समीक्षा गरिएको थियो। उक्त समुहले अवार्डका सबल र दुर्बल पक्षको संक्षिप्त विश्लेषण गरी संयुक्त सत्रमा प्रस्तुत गरेको हुँदा सबै सहभागीले उक्त विश्लेषणबाट लाभान्वित भएका थिए।

दोस्रो समुहले मध्यस्थता अभ्यासमा नेपालमा देखिएका समस्याहरु र समाधानका उपायका सम्बन्धमा व्यापक विवेचना र विश्लेषण गरी समस्या र समाधानहरु पहिचान गरेको थियो। उक्त समुहले पहिचान गरेका उल्लेखित समस्याहरु र ती समस्याका समाधानका उपायहरु निम्नानुसार छन्।

१. मध्यस्थताको अवार्ड पाए पछि एक तह उच्च अदालतमा र लगभग सबै मुद्दामा रिट निवेदन लिई सर्वोच्च अदालतमा प्रवेश गर्ने र अदालतले मध्यस्थताको मर्म प्रतिकुल पुनरावेदन सरह सुनुवाई गर्ने गर्दा मध्यस्थताको अभ्यास र मूल्य मान्यतामा ह्रास ल्याउने काम भएको छ भने श्रोत साधन र समय समेत बढी लाग्न गएको हुँदा मध्यस्थको निर्णय (अवार्ड) विरुद्ध सार्वजनिक नीति प्रतिकुल भएको आधारमा उच्च अदालत नगई सोभै सर्वोच्च अदालतमा निवेदन दिन पाउने व्यवस्था भए न्यायोचित हुने थियो । सो व्यवस्था गरी हालको जस्तो उच्च अदालतमा निवेदन दिने व्यवस्था खारेज गरी ऐन संशोधन गर्न आवश्यक छ ।
२. संस्थागत रुपमा मध्यस्थता गर्ने संस्थाहरु क्रमश बढ्दै गएका, तदर्थ रुपमा पनि मध्यस्थता हुदै आएको हुँदा मध्यस्थता प्रकृयालाई व्यवस्थित विकास, अनुगमन र नियमन गर्ने सक्षम निकायको आवश्यकता परेको हुँदा ऐनमा संशोधन गरी सो व्यवस्था गर्नु आवश्यक छ ।
३. हालको “सार्वजनिक नीति” सम्बन्धी ऐनको दफा ३० को व्यवस्थालाई एकिन र सटिक परिभाषित गर्नु अपरिहार्य छ ।
४. हालका दिनमा मध्यस्थ नियुक्तिमा, मध्यस्थको अवार्ड विरुद्ध परेको निवेदनको सुनुवाई र निकासामा, मध्यस्थको अवार्ड कार्यान्वयनका सम्बन्धमा अदालतको काम कारवाहीमा समग्र मध्यस्थता प्रकृया नै हतोत्साही हुनु परेको, अदालत मध्यस्थतापृथ हुन नसकेको हुँदा सम्बद्ध जनशक्तिलाई विभिन्न निकाय मार्फत मध्यस्थता सम्बन्धमा प्रभावकारी प्रशिक्षण कार्यक्रम संचालन गरी क्षमता विकास गर्न अपरिहार्य छ ।
५. मध्यस्थता प्रकृयामा सामेल हुने मध्यस्थहरु तथा कानून व्यवसायीहरु, सम्बन्धित अन्य जनशक्तिलाई मध्यस्थताका आधारभूत मूल्य मान्यता र नविनतम अवधारणा बुझाउन अपरिहार्य भएको हुँदा समय समयमा तालिम, गोष्ठी, कार्यशाला आदि गर्नु गराउनु जरुरी छ ।
६. नेपालको मध्यस्थता ऐन - २०५५ UNCITRAL मोडलमा आधारित छ भनिन्छ तथापी त्यस्तो देखिदैन । सन् १९५८ को न्यू-योर्क महासन्धीको पक्ष राष्ट्रका हैसियतले मध्यस्थताका घरेलु सीमा हटाई बाहिरी दुनियासंग सहकार्य गर्ने गरी APCAM जस्ता क्षेत्रीय संगठन वा अन्य उपयुक्त अन्तराष्ट्रिय संगठनसँग सहकार्यका लागि उन्नत क्षमता विकासमा सहयोगका लागि UNCITRAL लगायतका संस्थामा पहुँच बढाउन र सहयोग लिन आवश्यक छ।
७. नेपाल विविध भौगोलिक र विविध जलवायुयुक्त सुन्दर प्राकृतिक छटाले भरिपूर्ण रमणीय देश भएको हुँदा विभिन्न क्षेत्रीय र अन्तराष्ट्रिय संस्थाको सहयोग लिई नेपाललाई भरपर्दो र आकर्षक मध्यस्थ केन्द्रको मुलुकका रुपमा विकास गर्न अपरिहार्य भएकोले सुन्दर शहर पोखरा जस्ता स्थानमा अन्तराष्ट्रिय स्तरको फोरम संचालन गर्न र अन्तराष्ट्रिय रुपमा मध्यस्थताको संरचनागत विकास गर्न क्षेत्रीय र विश्व समुदायलाई सहकार्यको आव्हान गर्ने ।
८. मध्यस्थता र वाणिज्य विवादमा मेलमिलाप सम्बन्धी विशिष्ट क्षमता विकासका लागि अन्तराष्ट्रिय दातृ निकाय वा UN एजेन्सीहरूसँग सहकार्य गरी कम्तीमा हरेक वर्ष ५० जना न्यायाधिश, ५० जना मध्यस्थहरु र ५० जना कानून व्यवसायीलाई कम्तीमा ३ महिनाको मध्यस्थता सम्बन्धी तालिमको व्यवस्था गर्न गराउन आवश्यक छ ।

तेस्रो समुहमा मध्यस्थता सम्बन्धी व्यवहारिक सीप सहित मध्यस्थताको सुरुवात देखी अन्त्य सम्म अभ्यास गरियो । कार्यशाला पश्चात यस संस्थाका तर्फबाट वरिष्ठ अधिवक्ता श्री मातृका प्रसाद निरौला र प्रशिक्षक डा. नारायण प्रसाद घिमिरे समेतले सम्बोधन गर्नु भयो । प्रमुख अतिथी सर्वोच्च अदालतका पुर्व न्यायाधीस श्री बलराम केसीज्यूको मन्तव्य पछि प्रमाणपत्र वितरण कार्यक्रम गरी तालिम कार्यक्रम समापन भयो ।



National Mediation Day Celebration



On the Occasion of National Mediation Day and the beginning of the Nepali New Year 2078, NIAC hosted a Meet and Greet ceremony in Kathmandu among prominent Mediators and Lawyers on First of Baishakh 2078.

NIAC offers all kinds of Mediation services as part of its dispute resolution services. A mediation focused service facility with the banner of Kathmandu Commercial Mediation Center (KCMC) operates under the purview of NIAC to deliver commercial mediation services. NIAC has its own set of Mediation rules to deliver dispute resolution services in an effective and efficient manner. It aims to expand these initiatives and take on the mediation scenario in Nepal to greater heights. To discuss ways to improve the mediation scenario in Nepal and also share about its services to fellow mediators, NIAC organized a small meet and greet and celebration on the occasion of National Mediation Day.

Prominent Mediation experts like Mr. Bishnumani Adhikari, Dr. Mukti Rijal, Dr. Kumar Sharma Acharya, and Secretary of the SC Bar Mr. Rishi Ram Ghimire, along with Mr. Laxman Thapaliya expressed their views on the importance of Mediation as a dispute resolution mechanism. Discussion on the Singapore Convention on Mediation took place with all

participants agreeing on the ratification of the Convention to be a major milestone for Nepali Dispute Resolution scene. Mr. Balchandra Acharya, Mr. Rajendra Giri, Mr. Madhab Raj Ghimire, Mr. Kedar Koirala and Mr. Matrika Prasad Niraula also expressed their thoughts at the program. The ensuing discussion was lively and enthusiastic.

All dignitaries present unanimously reached to a conclusion that it is imperative for Nepal as a Mediation friendly nation to ratify the United Nations Convention on International Settlement Agreements Resulting from Mediation often referred to as the 2018 Singapore Convention for it to steer ahead the growth of Mediation as a method of international dispute resolution.

Owing to the pandemic, the program was held in an outdoor venue and all safety protocols were adhered to. NIAC took it upon itself to carefully celebrate the Mediation day among the mediation experts and dignitaries of Nepal.

The Mediation Activists, Experts and Mediators gathered around the Chairperson of NIAC, acclaimed Mediation Expert Dr. Mukti Rijal himself, and exchanged best wishes of the National Mediation Day and Nepali New Year 2078.

नेपाल इन्टरनेशनल एडीआर सेन्टर (NIAC) र बहुराष्ट्रिय ल फर्म Pinsent Masons बीच समझदारी सम्झौता -Memorandum of Understanding (MOU)

नेपाल इन्टरनेशनल एडीआर सेन्टर (NIAC) ले बहुराष्ट्रिय ल फर्म Pinsent Masons सँग समझदारी सम्झौता (Memorandum of Understanding –MOU) गरेको छ । यससँगै दुई संस्थाहरू बीच NIAC को अन्तराष्ट्रिय मध्यस्थता क्षमता अभिवृद्धि गर्न एउटा महत्वपूर्ण सम्बन्ध कामय भएको छ । NIAC का तर्फबाट प्रबन्ध संचालक श्री मातृका प्रसाद निरौलाले र Pinsent Masons का तर्फबाट पार्टनर तथा मध्यस्थता प्रमुख डा. डीन लेविसले समझदारी पत्रमा हस्ताक्षर गर्नु भएको थियो ।

पत्र अनुसार, NIAC / Pinsent Masons ले विवाद समाधानका सेवा प्रवर्धनको लागि सँगै काम गर्नेछ । Pinsent Masons को अग्रणी अन्तराष्ट्रिय समुहले मध्यस्थता र मेलमिलाप सुझाव दिनुका साथै वैकल्पिक विवाद समाधान (ADR) र व्यापार र वाणिज्यसम्बन्धी कानूनको विकासमा सहयोग गर्ने छ । उक्त ल फर्मले बाणिज्य कानून, मध्यस्थता, मेलमिलाप र वैकल्पिक विवाद समाधान सम्बन्धी तालिम कोर्सहरू दिनुका साथै सम्बन्धित संस्था र आधिकारी, निजी क्षेत्र र उद्योगसँग सहकार्य गरी NIAC को माध्यमबाट यी सेवाहरूलाई नेपालमा प्रवर्धन गर्ने छ ।

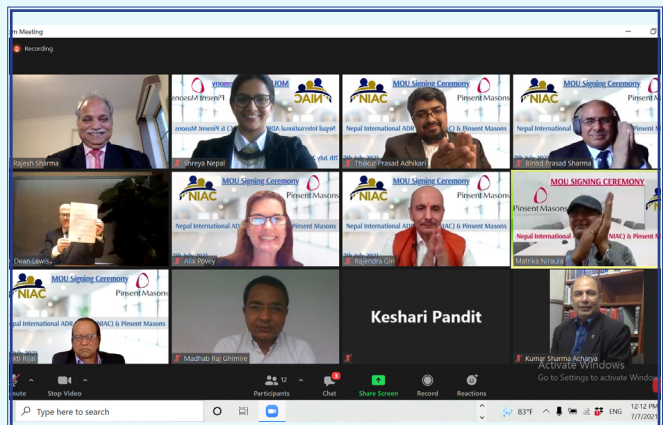
डा. लेविसले NIAC सँग उक्त पत्र हस्ताक्षर गरेकोमा खुसी व्यक्त गर्दै हरित मध्यस्थताजस्ता नव-अवधारणाहरूमा समेत काम गर्नु पर्ने कुरा गर्नु भयो । उहाँले भन्नुभयो “हामी NIAC ले नेपालभरी र Asia-Pacific क्षेत्रमा ADR को प्रयोगलाई बढावा दिने कार्यलाई मद्दत गर्न यो समझदारी पत्र हस्ताक्षर गरेकोमा खुसी

छौं । हामीले यस प्रकारको विवाद समाधानको विधीको फाईदा व्यापारलाई देखाउँदै सरल र सजिलो पहुँच अभिवृद्धि गराउनु पर्छ ।”

श्री मातृका निरौलाले Pinsent Masons संगको समझदारी सम्झौताले NIAC तथा निजी क्षेत्र, उद्योग वाणिज्य क्षेत्र, न्यायालय र व्यवस्थापिका लगायतका वैकल्पिक विवाद समाधानका अन्य संस्थाहरूको क्षमता विकास बढाउने हुनाले NIAC का लागि धेरै महत्वपूर्ण रहेको बताउनु भयो । यसले लगानी बढाउनुको साथै विदेशी लगानी प्रवर्धन हुने, Joint ventures बढ्ने, पब्लिक-प्राइभेट साझेदारी बढ्ने र नेपालको वृहत्तर कानूनी र अर्थ व्यवस्था, शैक्षिक संस्था र अनुसन्धानकर्तालाई समेत बढावा मिल्नेछ । यस MOU ले दुई संस्थाहरू बिच अनेक सम्भावना र बृहत् कअयउभ निर्माण गरेको भन्दै यो सम्झौता नेपाल र NIAC दुबैको लागि कोषेढुंगा साबित हुनेछ” ।

NIAC का अध्यक्ष डा श्री मुक्ति रिजालले यस MOU लाई नयाँ सम्बन्धको राम्रो सुरुवात भन्दै यो NIAC का लागि कोषेढुंगा भएको भन्दै डा डीन लेविस र सम्पूर्ण Pinsent Masons समुहलाई धन्यवाद ज्ञापन गर्नु भयो ।

APCAM Accreditation समितिका अध्यक्ष डा. राजेश शर्माले अस्ट्रेलियाबाट बोल्दै Pinsent Masons जस्तो बहुराष्ट्रिय ल फर्मले नेपालमा रहेको संस्थसँग सहकार्य गर्न MOU सही गर्नु नै ठुलो कुरा भएको भन्दै यो समझदारीले नेपाल साथसाथै एसिया प्रशान्त क्षेत्रकै कानूनी र वैकल्पिक विवाद समाधानको अवस्था सुदृढ बनाउने आशा र शुभकामना व्यक्त गर्नु भयो ।





SINGAPORE CONVENTION ON MEDIATION

मेलमिलाप सम्बन्धी सिंगापुर महासन्धि अनुमोदन गर्न सरकारलाई सुझावः

सर्वोच्च अदालत बार एसोसिएशन मध्यस्थता समिति तथा नेपाल इन्टरनेशनल एडिआर सेन्टर (NIAC) को संयुक्त आयोजनामा “मेलमिलाप सम्बन्धी सिंगापुर कन्भेन्सनको महत्व र चुनौती” विषयक एक दिवसिय गोष्ठी २०७८ जेष्ठ २८ गतेका दिन सम्पन्न भयो । अनलाइन माध्यमबाट संचालित सो कार्यक्रममा विशिष्ट सरकारी अधिकारीहरु, कानून न्याय क्षेत्र, निजी तथा उद्योग वाणिज्य क्षेत्र तथाबार एसोसिएशन सम्बद्ध कानून व्यवसायीहरु, मेलमिलापकर्ता तथा मध्यस्थकर्ताहरुसमेतको उल्लेख्य उपस्थिती रहेको थियो । सो कार्यक्रमका सबै वक्ताहरुद्वारा आवश्यक तयारी पूरा गरी मेलमिलापकको सिंगापुर महासन्धिलाई छिटो अनुमोदन गर्न नेपाल सरकारलाई सुझाव दिइएको छ ।

नेपाल सरकारका कानून न्याय तथा संसदीय व्यवस्था मन्त्रालयका सचिव श्री उदयराज सापकोटाले मेलमिलाप पद्धति आफैमा पूर्विय दर्शनकोउपज भएको स्पष्ट पाउँदा कानून आयोगले सो महासन्धि अनुमोदनका लागि सिफारिस समेत गरेको, सो को अनुमोदनबाट मुलुकको आर्थिक विकासमा सहयोग पुग्ने, विदेशी लगानी र प्रविधि भित्राउन मद्दत पुग्ने, सीमापार तथा अन्तर्राष्ट्रिय विवाद समाधान सहज हुने हुँदा अनुमोदन गर्न आवश्यक तयारी हुदैछ भन्ने जानकारी दिनुभयो ।

नेपाल उद्योग वाणिज्य महासंघका वरिष्ठ उपाध्यक्ष तथा मेलमिलापपरिषदका सदस्य श्री चन्द्रप्रसाद ढकालले सिंगापुर महासन्धिले सम्पूर्ण निजी क्षेत्रलाई प्रभावित पार्ने हुँदा व्यापक सचेतना बढाउन आवश्यक रहेकोमा जोड दिँदै सो महासन्धि उद्योग वाणिज्य क्षेत्रका विवाद समाधानमा सरल र प्रभावकारी

हुने भएकाले अनुमोदन गर्नु पर्नेमा जोड दिनुभयो र नेपाल उद्योग वाणिज्य महासंघ यस सम्बन्धमा सबैसंग सहकार्य गर्न तयार रहेको प्रतिबद्धता समेत जनाउनु भयो ।

नेपाल चेम्बर अफ कमर्सका वरिष्ठ उपाध्यक्ष श्री कमलेश कुमार अग्रवालले चीन र भारत दुबै हाम्रा मुख्य व्यापारिक साझेदार हुन, ति दुबै राष्ट्र सो महासन्धीको पक्षराष्ट्र रहेका र हामीले पनि अन्तरदेशीय व्यापार व्यवसाय गर्नु पर्ने भएकाले उनीहरुले अनुमोदन गरिसकेको सिंगापुर महासन्धिअनुमोदन गर्न ढिलाई गर्न नहुने बताउनु भयो । नेपाललाई खाँचो रहेको वैदेशिक लगानी भित्र्याउन मद्दत गर्ने उक्त महासन्धिअनुमोदनमा सरकारको ध्यानाकर्षण गराउदै आवश्यक सहयोगको प्रतिबद्धता जाहेर गर्नु भयो ।

नेपाल उद्योग परिसंघका उपाध्यक्ष श्री निर्वाण चौधरीले मेलमिलाप सम्बन्धी सिंगापुर महासन्धिले उद्योग वाणिज्य क्षेत्रका विवाद समाधानमा सहयोग पुग्ने, अन्तरदेशीय व्यापार व्यवसायको विकास हुने वैदेशिक लगानी प्रवर्द्धनमा सकारात्मक प्रभाव पार्ने भएकाले ढिला नगरी महासन्धि अनुमोदन गर्नु पर्नेमा जोड दिँदै, त्यसका लागि निजी क्षेत्र आवश्यक सहयोग गर्न तयार रहेको बताउनु भयो ।

सर्वोच्च बार एसोसिएशनका अध्यक्ष वरिष्ठ अधिवक्ता प्रा. श्री पूर्णमान शाक्यले आवश्यक पूर्वाधारको तयारी र कार्यन्वायनको क्षमता विकास गरी महासन्धिबाट हुने लाभ लिनु पर्ने बताउनु भयो । सर्वोच्च अदालतका रजिष्ट्रार तथा मेलमिलाप परिषदका सदस्य-सचिव श्री नारायणप्रसाद पन्थीले

महासन्धिअनुमोदन गर्न र अनुमोदन पश्चात कार्यन्वयन गराउन निजी क्षेत्र प्रतिबद्ध रहनुपर्ने र आवश्यक तयारीका साथ सो महासन्धिको अनुमोदन गरी मुलुकले लाभ लिन सक्ने वातावरण बन्नु पर्ने धारणा राख्नु भयो ।

राष्ट्रिय न्यायिक परिषदका व्यवस्थापक श्री राजन केसीले यस बहुउपयोगी महासन्धिअनुमोदन गर्न आवश्यक गृहकार्य गर्नुपर्ने धारणा राख्दै सोका लागी छलफल, गोष्ठी, कार्यशाला आदि आयोजना गर्न परिषदले सहयोग गर्ने प्रतिबद्धता दिनुभयो ।

त्यस अघि मेलमिलाप सम्बन्धी सिंगापुर महासन्धिको महत्व र चुनौतीका विषयमा कार्यपत्र प्रस्तुत गर्दै वरिष्ठ अधिवक्ता श्री मातृका प्रसाद निरौलाले सो महासन्धिको अनुमोदन गर्दा राष्ट्रलाई कुनै घाटा नहुने, व्ययभार नबढ्ने बरु नेपालवाट मध्यस्थ (Arbitration) द्वारा विवाद समाधान गर्न वर्षेनी बाहिरिने ठूलो धनरासी जोगिने, विवादका पक्षहरु बीचमा सौहार्दता बढ्ने, बिदेशी लगानी आकर्षित हुने, निजी क्षेत्रलाई सवलिकरण गर्ने र त्यस महासन्धिको उपलब्धीका रुपमा पक्षहरुबीच हुने संभौताले विवाद समाधान कम खर्चिलो र सहज बनाउने हुँदा अनुमोदन गर्न ढिला गर्न नहुने निष्कर्ष प्रस्तुत गर्नु भएको थियो ।

सोही कार्यपत्रमा छलफल गर्दै उच्च अदालतका पूर्व मुख्य न्यायाधीश श्री केशरीराज पण्डितले मुद्दा मामिला र मध्यस्थता समेतबाट आजित विश्व समुदायलाई यस महासन्धिले राहत दिने छ भन्दै व्यापारिक सम्बन्धको सौहार्दता बढाउने, एक मुलुकमा भएको

मेलमिलापको सम्भौता अर्को मुलुकमा सहजै लागु हुने र अदालत र न्यायिक निकायलाई सहयोग पुग्ने तथा मुलुकको आर्थिक विकासमा वृहत्तर हित गर्ने हुँदा सो महासन्धि अनुमोदनमा ढिलाई गर्न नहुने धारणा राख्नुभयो । वरिष्ठ अधिवक्ता तथा मेलमिलापकर्ता श्री रामप्रसाद भट्टराई, मेलमिलापकर्ता समाजका अध्यक्ष श्री बिष्णुमणि अधिकारी, पूर्व अध्यक्ष श्री शंकर सुवेदी, सर्वोच्च वार एशोसियशनका सचिव श्री ऋषीराम घिमिरे, अधिवक्ता अमर थापा, अधिवक्ता प्रकृति योजन, काठमाडौं विश्वविध्यालयका फ्याकल्टी अधिवक्ता श्री माधवराज घिमिरे समेतका वक्ताहरुले सो महासन्धि नेपालजस्ता मुलुकका लागी उपयोगी भएको, मुलुकको क्षमता विकासमा मद्दत पुर्याउने र कुनै क्षेत्रमा प्रतिकूल असरनपारी विवाद समाधानका लागी कोषेढुङ्गा साबित हुनसक्ने भन्दै महासन्धि अनुमोदन शिघ्र हुनुपर्नेमा जोड दिनुभयो ।

आयोजक संस्था नेपाल इन्टरनेशनल एडिआर सेन्टर (NIAC) की कार्यकारी अधिकृत अधिवक्ता श्री श्रेया नेपालले संचालन गरेको सो कार्यक्रम आयोजक संस्थाका संस्थापक, मेलमिलाप अभियन्ता तथा वरिष्ठ अधिवक्ता डा. श्री कुमार शर्मा आचार्यले मोडरेट गर्नु भएको थियो । कार्यक्रमको अन्त्यमा विवाद समाधानमा सिंगापुर कन्भेनसन वास्तवमै कोषेढुङ्गा साबित हुने दाबी गर्दै, महत्वपूर्ण विषयमा आयोजित यस कार्यक्रममा सबै क्षेत्रको व्यापक उपस्थिती भएको, सबैले महासन्धिको महत्वमा जोड दिई कार्यक्रम सफल पारी दिनु भएकोमा सबैलाई धन्यवाद ज्ञापन गर्दै आयोजक संस्थाका अध्यक्ष डा. श्री मुक्ति रिजालले कार्यक्रम विसर्जन गर्नु भएको थियो ।



Supreme Court Bar Association - Arbitration Committee

&



Nepal International ADR Center (NIAC)

Invite you To

Online Seminar on:

"Importance of Singapore Convention on Mediation"

Organized By:

Arbitration Committee
Supreme Court Bar Association

Nepal International ADR Center
(NIAC)

Date : २८ जेष्ठ २०७८ (11th June), Time : 1:00 PM

Via Google Meet :
<https://meet.google.com/ozs-ckex-kkm>

Lecture and Discussion on

“Construction Dispute Resolution: Importance and Challenges in Nepal”

Nepal International ADR Center - NIAC in collaboration with Kathmandu University School of Law - KUSL organized a lecture series on “Construction Dispute Resolution: Importance and Challenges in Nepal” along with discussion on the topic with esteemed multidisciplinary participants.

The program focused on the need for a specialized and research-based construction law in Nepal, possible rooms for dispute, scope of hybrid dispute resolution used in Nepal, and lessons from the UK experience. The issue was delivered by Dr. Yog Upadhyay, construction law expert from the UK and was followed by discussion and interaction from participants from Nepal and beyond. Participants shed light on some of the pertinent challenges in construction law from the Nepal perspective. Nepal has been facing terrible delays in construction and no efficient remedy has been sorted so far. After the lecture delivery and interaction on the issue, participants unanimously pointed out the gaps in the Nepalese legal regime for a consolidated construction law.

Experts and experienced engineers, Senior Lawyers, high ranking officials from the government like Secretary of the Ministry of Law, Justice and Parliamentary Affairs Mr. Uday Raj Sapkota, Dr. Tara Niraula and other participants including the presenter Dr. Upadhyay himself urged to address the need for research and policy advocacy for consolidated legislation. Former Secretary-General of the Nepal Engineers Association Mr. Kishore K. Jha also focused on the need for a well synthesized law. KUSL faculty including Dean Prof. Dr. Rishikesh Wagle,

Former Dean of KUSL Prof. Dr. Bipin Adhikari, Mr. Anup Raj Acharya, Mr. Madhab Ghimire, Mr. Shiva Bisangkhe, also participated in the program.

There were international participants from Asia Pacific Center for Arbitration and Mediation - APCAM such as Mr. Anil Xavier, Dr. Rajesh Sharma, Fahmi Shahab, Ms. Delcy Lagones, Ms. Nachammai Kumarappan and so on. The dignitaries from APCAM also expressed they thoroughly enjoyed the lecture and collectively pointed towards legislative framework development in construction law to be the way forward for Nepal's growth and development. The day also marked the first APCAM anniversary and congratulatory messages were delivered by members.

Legal and construction luminaries from Nepal such as President of Nepal Bar Association Mr. Chandeshwor Shrestha, Secretary of Supreme Court Bar Association Rishi Ram Ghimire, Former Chief Judge Hon. Keshari Raj Pandit and Mr. Hari Pokharel and various corporate lawyers, professional engineers and students graced the program with their presence and focused on the needs of consolidated construction law. Prof. Dr. Rishikesh Wagle, Dean of Kathmandu University School of Law summed up the program with his agreement on the need for extensive research in the construction law regime and Senior Advocate Mr. Matrika Niraula focused on the pertinent need for a consolidated law. Dr. Mukti Rijal, the Chairperson of NIAC concluded the program with his best wishes to NIAC and to Kathmandu University School of Law - KUSL. Executive Officer of NIAC, Ms. Shreya Nepal coordinated the event and was the emcee of the program.

NIAC MANDATED COMMITTEES:

The NIAC Board has constituted three mandated thematic committees through which the team works to achieve its objectives in an effective and efficient manner.

• MEDIATION COMMITTEE

Coordinator : Mr. Keshari Raj Pandit
 Member : Dr. Mukti Ram Rijal
 Member : Mrs. Suneeta Regmi
 Member : Mr. Madan Kumar Dangol
 Member : Mr. Madhab Raj Ghimire

• ARBITRATION COMMITTEE

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• INSTITUTIONAL DEVELOPMENT COMMITTEE

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 Member : Mr. Hari Kumar Pokharel
 Member : Prof. Dr. Rishikesh Wagle
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NIAC SECRETARIAT TEAM



DR. MUKTI RIJAL
CHAIRPERSON



MR. MATRIKA NIRAULA
MANAGING DIRECTOR



ADV. SHREYA NEPAL
EXECUTIVE OFFICER



MS. KALPANA MAGAR
OFFICE ASSISTANT



MS. PUSHPA BASYAL
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