

Kluwer Mediation Blog

Reflections: Sri Lanka's Moot Court Bench Hosts IIMC Colombo 2023 – World's Only Investor-State Mediation Competition

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Efficient and robust dispute resolution mechanisms are imperative to promote foreign investments in a State; with Sri Lanka steadily recovering from an economic crisis, this is vital in creating an investor-friendly environment. Investor-State Mediation (**ISM**) is an Alternative Dispute Resolution (**ADR**) mechanism that provides host states and foreign investors with a high degree of autonomy, flexibility, and choice when navigating potential disputes.

The adoption of ISM as a dispute resolution mechanism is on the rise globally, driven by its reputation for efficiency, flexibility, and collaborative problem-solving in addressing conflicts between foreign investors and host states. This trend is reflected in the incorporation of mediation within dispute settlement clauses of an increasing number of investment treaties and the establishment of a multilateral framework, such as the Singapore Convention on Mediation, which recognizes and enforces cross-border mediated settlements. Embracing ISM has the potential to facilitate international investment, safeguard enduring partnerships, and alleviate the strain on formal legal systems caused by extensive litigation.

The Moot Court Bench (MCB) is Sri Lanka's first fully integrated legal advocacy training platform, focused on enhancing the overall standards of the future of the legal profession. The MCB has been enlightening undergraduates and professionals around the island and the world since 2020, with special emphasis on International Commercial Mediation and Negotiation, International Commercial Arbitration, and International Trade Law. A principal objective of the MCB, especially through its Mediation Program, has been to kickstart and promote mediation in the country, by broadening the pool of trained mediators and mediation advocates.

With the aim of advocating for enhanced visibility, awareness, and scope for ISM locally and internationally, the MCB took the initiative to inaugurate **the International Investor-State Mediation Competition, IIMC Colombo**, virtually, in 2022. IIMC Colombo is the world's first and only Investor-State Mediation Competition, focused on providing a platform for university teams to compete and network with other teams and mediation professionals from around the globe. Building on the foundations laid in 2022, **IIMC Colombo 2023** successfully concluded on 27 August last year, hosting 14 Negotiator Teams, 7 Mediator Teams, 60+ students, and 20+ Expert Assessors from more than 12 countries, in-person in the heart of Colombo, Sri Lanka.

With the theme of going "*Beyond a Competition*" at its core, IIMC Colombo 2023 aimed to deliver

a holistic learning experience in ISM. This included Panel Discussions, networking sessions, and cultural events on the agenda, in addition to its thrilling competition rounds. After an exciting few days of intense competition, the **Negotiator Team from the University of Vienna, Austria** and the **Mediator Team from West Bengal National University of Juridical Sciences, India** emerged as the **Winners at IIMC Colombo 2023**. The Runners-Up Negotiator Team and Mediator Team titles were awarded to the teams from O. P. Jindal Global University, India, and the University of Vienna, Austria, respectively.

Supporting Organizations such as the United Nations Commission on International Trade Law Regional Centre for Asia and the Pacific (**UNCITRAL RCAP**), the International Centre for Settlement of Investment Disputes (**ICSID**), the International Mediation Institute (**IMI**) together with The Young Mediator's Initiative (**YMI**), the Hong Kong International Arbitration Centre (**HKIAC**), and **JAMS ADR** came on board to partner with this initiative. IIMC Colombo was also advocated for by **Jus Mundi**, as the official Research Partner, providing free access to Jus Mundi Legal Research to all participants. **Edwards Mediation Academy**, **International Mediation Campus**, and **Accords International** joined in partnership with the competition as Education Partners, and winners of the competition were awarded scholarships for mediation training courses offered by these institutions.

The cases for IIMC's rounds were drafted by the competition's very own Drafting Committee, **co-chaired by Greg Bond and Sophie Tkemaladze**, international mediators of great renown. They focused on Investor-State disputes in varying fields including the construction and operation of a stadium, how an earthquake affected the construction of a railway track, the effects of a government withdrawing incentives for the renewable energy sector, the suspension of a tourism venture due to environmental concerns, and a government's decision to phase out all coal-based power plants and how this decision impacted investments in the country. The cases, centred around persistent global issues faced by investors and governments, motivated students to devise pragmatic solutions and encouraged them to foster a deeper understanding of how to address these challenges for the betterment of all parties involved.

Looking at the bigger picture, IIMC Colombo 2023 tested the limits of a competition experience, evolving into a transformative journey for the competition's attendees. From booking flights, experiencing their stay, and exploring Sri Lanka, the organising team meticulously looked over every facet, securing and delivering offers, partnerships, and exclusive experiences for the attendees, covering every step from the moment they had to book their flights, to exploring Sri Lanka and experiencing their stay here together with the other attendees. IIMC Colombo '23 was an enriching encounter, highlighting the theme of going *Beyond a Competition*, in that the true resolution of any dispute stems from comprehension and empathy, which is only possible if one is open to exploring and learning from different cultures and peoples.

The MCB, by organizing IIMC Colombo 2023, successfully managed not only to provide young mediation enthusiasts around the world a platform to compete and learn from the best in the field, but also to set the stage for experienced mediators and mediation advocates to gather and engage in important dialogue to challenge existing norms and to build, develop, and enhance the scope of ISM.

During first Panel Discussion on the future and sub-structures of ISM, **Anil Changaroath**, a Partner at RHTLaw Asia of Singapore and representative of the IMI Investor-State Mediation Task Force, offered his unique interpretation of ADR, aptly rephrasing it as 'Appropriate' Dispute Resolution.

He enunciated the importance of challenging the ‘default’ methods of resolving a dispute such as the lengthy and rigid litigation process, especially considering the intricacies of Investor-State disputes. This talk succinctly captured the spirit of IIMC.

Giving new life to John Paul Young’s famous lyrics, **Judith Knieper**, legal officer at the Secretariat of the UNCITRAL in Vienna, stated that “mediation is in the air,” enunciating the importance of mediation on the global stage. As future legal professionals and practitioners are moulded through such competitions, they are poised and well-equipped to shape the future of ISM and contribute to more efficient, cost-effective, and consensual dispute-resolution mechanisms.

As we reflect on the resounding success of IIMC Colombo 2023, anticipation builds for the next chapter of the competition. With the momentum gained from past editions, IIMC Colombo is primed to once again ignite dialogue, foster learning, and propel the advancement of Investor-State Mediation (ISM) on a global scale. Scheduled for **August 19th to 24th, 2024, in Colombo, Sri Lanka**, the upcoming competition promises to further elevate the discourse surrounding efficient and robust dispute resolution mechanisms.

As Sri Lanka continues its path of economic recovery, the significance of promoting an investor-friendly environment through ISM cannot be overstated. IIMC Colombo 2024 will not only provide a platform for university teams to showcase their negotiation and mediation skills but will also serve as a nexus for collaboration among mediation professionals, academics, and industry experts. With a commitment to going “Beyond a Competition,” this iteration of IIMC Colombo aims to deepen understanding, broaden perspectives, and inspire innovative approaches to resolving Investor-State disputes.

For more details and updates, visit iimc.themootcourtbench.com and join us in shaping the future of ISM.

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