



THE MALAYSIAN INSTITUTE OF ARBITRATORS ANNUAL REPORT 2017/2018

1.0 COUNCIL MEMBERS FOR SESSION 2017-2018

President	: Mr Sudharsanan Thillainathan
Deputy President	: Ms Karen Ng Gek Suan
Vice President	: Mr Gregory Vinesh Das
Honorary Secretary	: Ms Wan Syariah Razman
Honorary Treasurer	: Mr Verghese Aaron Mathews
Imm. Past President	: Mr Kevin Prakash
Council Member	: Ms Dawn Wong Keng Jade
	: Mr Edward Vinodh Kuruvilla
	: Ms Nereen Kaur Veriah
	: Ms Chow Ruen Xin, Esther
	: Mr Lim Fan Chong
	: Mr Shaun Adrian Perera

For the 2017-2018 term, the Council met eleven (11) times on the following dates:

- 1) 14 June 2017 (Special);
- 2) 20 July 2017;
- 3) 24 August 2017;
- 4) 28 September 2017;
- 5) 1 November 2017;
- 6) 15 December 2017;
- 7) 25 January 2018;
- 8) 1 March 2018;
- 9) 29 March 2018;
- 10) 26 April 2018; and
- 11) 24 May 2018.

2.0 COMMITTEES

The following Committees were formed and chaired by the following Council Members to organize activities for the Institute:-

- | | |
|--|--|
| 1) Special Projects | - Sudharsanan Thillainathan |
| 2) Education and Training | - Karen Ng Gek Suan |
| 3) Events and Talks | - Gregory Vinesh Das |
| 4) Editorial and Publicity | - Dawn Wong Keng Jade |
| 5) PR and Liaison | - Wan Syariah Razman |
| 6) Review of Panel of Arbitrators | - Verghese Aaron Mathews |
| 7) Young Members Committee | - Edward Vinodh Kuruvilla |
| 8) Membership | - Verghese Aaron Mathews |
| 9) Professional Development and Law Reform | - Nereen Kaur Veriah/
Chow Ruen Xin, Esther |

3.0 THE REPORTS OF THE COMMITTEES

3.1 EDUCATION AND TRAINING

3.1.1 DIPLOMA IN INTERNATIONAL ARBITRATION (DIA) [IN COLLABORATION WITH BRICKFIELDS ASIA COLLEGE (BAC)]

From July 2017 to June 2018, the DIA Course was conducted with two (2) intakes, one in August 2017 and another in March 2018.

August 2017 Intake

There were 32 students in the August 2017 intake where all sat for the final examination. Out of 32 students, 27 passed the examination, and successfully obtained their Diploma. The overall passing rate for that intake was 84.3%.

March 2018 Intake

There were 22 students in the March 2018 intake. All 22 students and 1 re-sitter sat for the examination (in total 23 students sat for the examination). The examination results for the March Intake are pending as at the time of writing this report.

Review/update of course materials

The DIA Committee undertook an exercise to review/update the course materials and completed such exercise in December 2017. The new course materials were used in the March 2018 intake.

The Arbitration Act 2005 was again amended in April 2018 by the Parliament, as such, the DIA Committee will need to further review/update the course materials based on the new amendments made recently.

Upcoming

The DIA Committee aims to continue to improve the quality of the Course having obtained feedback forms from the Course candidates. With that objective in mind, the DIA Committee will continue to work closely with BAC to promote and improve the quality of the Course. The DIA Committee hopes to see greater numbers of students enrolling for the future intakes.

3.1.2 Conference on ‘Avoiding Dispute: Lessons From the Past’ on 5 April 2018 in Penang.

The Institute had, in collaboration with CIDB Malaysia, Master Builders Association Malaysia (MBAM) and the Royal Institution of Surveyors Malaysia (RISM) organized a one-day conference on 5 April 2018 at Vistana Hotel, Bukit Jambul in Penang.

The conference started off with a welcome address by Sr. Mohd Zaid Zakaria (General Manager, Policy and Corporate Sector, CIDB Malaysia). Followed by a keynote address by the Honourable Justice Tuan Lim Chong Fong, Judge of the High Court in Penang.

The conference was divided into three sessions, namely: (i) Construction Law Report-Common Cause of Dispute, (ii) Resolving Disputes by ADR; and (iii) Construction Contracts.

The Institute's President, the Mr Sudharsanan Thillainathan spoke in the second session, on Resolving Disputes by ADR. Ms. Dawn Wong, the Institute's council member was the master of ceremonies for the conference.

This event was attended by approximately 145 attendees (excluding secretariat and organizing committee).

3.2 EVENTS & TALKS

3.2.1 The Committee has been chaired by Gregory Das for the 2017 – 2018 term.

3.2.2 Gregory Das assumed the chairmanship of the Organising Committees for The Jonathan Yoon MIARB Debate Series and the MIARB and The AIAC CPD Seminar Series and, further, oversaw the running of the MIARB's Member Upgrade Course for the term.

The Jonathan Yoon MIARB Debate Series

- 1) This was a new event in the MIARB's calendar. The event is to feature a series of debates on topical issues in the alternative dispute resolution sector.
- 2) The **first debate** of the event series was held on 25 October 2017. The Motion of the Debate was *"This House Believes that the scope to challenge a domestic arbitration award under the Arbitration Act 2005 is too narrow at present"*.
- 3) The speaker 'For' the motion was Mr. Mohanadass Kanagasabai, a past President of the MIARB, and the speaker 'Against' the motion was the former Court of Appeal judge Dato' Varghese George.
- 4) The debate was a closely fought contest that attracted wide participation from the floor.
- 5) Ultimately, the arguments 'Against' the Motion were upheld by the House and the Motion was defeated.
- 6) The debate was followed by an Evening Cocktail Reception to commemorate the start of this new events series in the MIARB's event calendar.
- 7) The second debate is scheduled for 28 June 2018. The debate motion is *"This House believes that the continuing duty of disclosure of an arbitrator under section 14(2) of the Arbitration Act 2005 (as interpreted in MMC Engineering Group Bhd. v. Wayss & Freytag (M) Sdn. Bhd. [2015] MLJU 477) is too limited."*
- 8) The speakers 'For' the motion are Mr. Ranjit Singh and Mr. Nahendran Navaratnam and the speakers 'Against' the motion are Mr. Yatiswara Ramachandran and Dato' Malik Imtiaz Sarwar.

3.2.3 The MIARB and The AIAC CPD Seminar Series

- 1) This was another new event series in the MIARB's schedule. The event has been run by Gregory Das with the able assistance of Shaun Pereira.
- 2) The event series is collaboratively organised by the MIARB and the AIAC.
- 3) The event series is to feature a series of structured seminars that focus on alternative dispute resolution mechanisms with a target audience being non – legal practitioners. Each seminar is proposed to be structured in a manner that ensures audience participation.
- 4) Inaugural seminar titled "*The Advantages of Alternative Dispute Resolution in the Resolution of Disputes*". It is to be held on 7 June 2018 and the speaker will be Justice Nantha Balan a/l E. S. Moorthy, Judge of the Kuala Lumpur High Court.
- 5) The inaugural seminar will be followed by the "*Exclusive MLARB Networking Session*", which will provide networking opportunities for attendants of the seminar and members of the MIARB and its affiliated organisations as well as other practitioners in the alternative dispute resolution domain. The "*Exclusive MLARB Networking Session*" has been capably run by Edward Kuruvilla.

3.2.4 The MIARB Membership Upgrade Course

- 1) The Membership Upgrade Course this term was held on 24 February 2018 and 25 February 2018. It attracted 12 registrants. The sessions were conducted by a series of experienced practitioners from a variety of spheres in the dispute resolution sphere.
- 2) Each registrant successfully passed the assessments on the Course, with 4 participants being awarded the grade of Distinction.
- 3) Particular mention must be made of Dawn Wong and Raja Junaidah, whose assistance in the running of the Course this term was indispensable.
- 4) The Programme and Events Committee thanks all members of the Institute, the speakers and the participants of the events for their support of the Committee and its events and looks forward to their continued support in the following terms.

3.3 EDITORIAL AND PUBLICITY

Ms Dawn Wong Keng Jade took over from the able Mr Joshua Chong Wan Ken as Editor of the MIARB Newsletter for the 2016-2017 term and continued as Editor for the 2017-2018 term.

In June 2018, the Editorial Committee produced the first issue of 2018 featuring three articles contributed by lawyers from Messrs Steven Thiru & Sudhar Partnership and Messrs Mah-Kamariyah & Philip Koh. The Editorial Committee also unveiled a new Q&A feature in this issue, featuring Dato' Bill Davidson, Consultant at Messrs Azman, Davidson & Co. The Editorial Committee would like to thank Ms Karen Ng Gek Suan, Deputy President of the Institute for arranging the interview. The Editorial Committee would also like to thank Charlton Martin Consultants for taking out an advertisement in the Newsletter.

In a bid to increase the Institute's visibility and readership, the Newsletter was printed and distributed to members on 8 June 2018. The Newsletter was also circulated to members via

email, and a copy is readily available on the MIArb website. The Editorial Committee has recommended that an e-mail blast is sent out in advance of circulation to ascertain which of the Institute's members would prefer a hard copy of the Newsletter.

The Editorial Committee expects to release the next issue of the MIArb Newsletter by September 2017, and plans are in the pipeline to include the usual feature articles, as well as another Q&A segment with a leading practitioner / industry expert. The next issue will also contain a special feature on the National Arbitration Conference 2018, which was held in February 2018. The Editorial Committee also hopes to source for articles contributed by non-lawyers so as to appeal to a broader audience.

The Editorial Committee thanks all advertisers, contributors, and readers for their constant support.

The Editorial Committee encourages and welcomes members to contribute advertisements, articles, and feedback.

3.4 PUBLIC RELATIONS AND LIAISON

This has been a busy year for the Institute in trying to make the Institute more visible internationally and locally.

The Institute continues to maintain its strong collaborative relationships with international and regional ADR institutions, industry associations and centres of higher learning, at the same time reaching out and building new ties with other institutions as it positions itself as the national institute of arbitrators. This year the Institute have supported the following events:-

- KLRCA-ICC Vis Pre-Moot [1 to 4 March 2018]
- Novice Arbitration Mooting Competition (NAMCO) [23 – 24 March 2018]
- CIARB (Malaysia Branch) Presidential Lecture And Members Night 2018 [20 April 2018]
- Wolters Kluwer & Legal Plus – CHINA: 3rd Annual International Arbitration, Compliance & Competition Law Summit, Shanghai [24 April 2018]
- Asian Legal Business (ALB) - Arbitration and Dispute Resolution Forum in Hong Kong [21 June 2018]

The Institute also continues to be an active member of the Regional Arbitral Institutes Forum (RAIF). This year, the institute was represented by the President, Mr Sudharsanan Thillainathan and the Deputy President, Ms Karen Ng at the annual RAIF Conference, which was hosted by the Hong Kong Institute of Arbitrators on 13th to 15th October 2017 in Hong Kong. The conference was a success and amongst the issues discussed, members of RAIF proposed that they should recruit new members including Thailand, China, Vietnam and Korea. It was also decided at the RAIF conference that the next conference will be held in Indonesia. Mr Sudharsanan presented Malaysia's country report and also presented a paper on Enforcement of Arbitral Awards in Malaysia.

The Institute has made the following courtesy visits throughout the year to build stronger ties and relationships with these institutions for purposes of collaboration and support.

- Royal Institution of Surveyors Malaysia (RISM) [11 January 2018]
- The Institution of Engineers, Malaysia (IEM) [12 January 2018]
- Pertubuhan Arkitek Malaysia (PAM) [23 January 2018]

The institute had its first End of Year Party where affiliates, past presidents and judges of the construction courts of Kuala Lumpur and Selangor were invited. The Honourable Justice Dato' Lee Swee Seng attended the event.

In conjunction with the AGM, the Institute will also host its members to its first Hari Raya Celebration.

3.5 REVIEW OF PANEL OF ARBITRATORS

The institute received applications from Mr Isacc Sunder Rajan (F/120) and Ms Lynnda Lim Mee Wan (F/122) respectively for empanelment on the Institute's Panel of Arbitrators. Upon review, both applications were approved and both candidates have since been empanelled on the Institute's Panel of Arbitrators.

3.6 YOUNG MEMBERS COMMITTEE

The Young Members Committee, during the present term, undertook numerous steps to promote arbitration amongst young practitioners. These steps included attending various conferences and reaching out to young practitioners, as well as participating in events organized by other institutions.

The Young Members Committee is presently planning an event to be held in the second half of 2018, to give young practitioners the opportunity to discuss, engage and exchange ideas with senior practitioners in various industries.

3.7 MEMBERSHIP

3.7.1 Table 1 herein below illustrates the current membership status of the Institute as of May 2018.

Table 1 Membership As At May 2018

Grade	B/f from May 2017	Recon	Total (after recon)	New	Upgraded (+/-)	Resigned/ Deceased	Defaulters Terminated	Current Total
Fellow	100	-	-	5	5	-	-	110
Member	242	-	-	19	1	(1)	-	261
Associate	94	-	-	10	(2)	-	(1)	101
Affiliate	172	-	-	2	(3)	-	-	171
Total	608	-	-	36	1	(1)	(1)	643

Table 2 herein below illustrates the summary of membership of the Institute starting from year 1993/1994 to 2017/2018.

Table 2: Summary of Membership 1993-2018

YEAR	TOTAL MEMBERSHIP
1993/1994	45
1994/1995	64
1995/1996	74
1996/1997	90
1997/1998	136
1998/1999	144
1999/2000	141
2000/2001	145
2001/2002	173
2002/2003	225
2003/2004	337
2004/2005	198
2005/2006	233
2006/2007	242
2007/2008	305
2008/2009	309
2009/2010	346
2010/2011	485
2011/2012	478
2012/2013	511
2013/2014	529
2014/2015	568
2015/2016	607
2016/2017	608
2017/2018	643

Fig. 1 Histogram of membership 1993-2018



- 3.7.2 As part of the Membership Committee's (MC) initiative to increase the membership of MIArb, the MC has adopted a stepped approach. The first step is to update the Institute's membership records by removing the defaulters, and the second step is to increase membership via corporate membership and other events alike.

As part of the first step, Council has over the period of 3 months contacted either by email and/or telephone calls to members who have been in default of their subscription fees from 2011 to 2017. The total number of defaulting members is 223.

At the time of this report, 71 defaulters (Fellow/ Member/ Associate level) were contacted and 16 members have expressed their interest to remain as members and pay the outstanding sum. As a result of the Council's efforts in this first step, 5 members have made payment of their outstanding subscription fees and the Institute have collected the sum of RM2,500.00.

We have also contacted 7 affiliates who are in default. We are delighted to report that some affiliates have agreed to pay the outstanding sum as they wish to continue with their membership with the Institute.

At the time of the report there are 32 defaulting associates, which we have yet to contact.

The MC will continue its efforts in updating the Institute's record of members and hope to resolve all outstanding sums and status update of members in the upcoming term.

As part of the second step, the MC is looking at the following activities to increase its membership:

- (i) To develop corporate memberships in order to increase the Institute's overseas membership as well as increase the Institute's profile.
- (ii) To host a diversity-themed talk which will include guests from, inter alia, the railway industry as well as host a segment on diversity of women in the ADR world, which is aimed to attract potential members from different background and disciplines.

3.8 PROFESSIONAL DEVELOPMENT AND LAW REFORM

In the past year, the Institute has held several events to enhance its member's professional development in ADR. In January 2018, a Membership Upgrade Course was held with a total number of 12 participants. The Course was held over a 2 day period with over 8 trainers.


The Institute also had the privilege of co-hosting the inaugural National Arbitration Conference on 8 February 2018. This event was attended by over 116 participants. The topics highlighted the transforming landscape of arbitration in Malaysia and discussed the proposed amendments to the Arbitration Act 2005 including the removal of Section 42.

The Institute plans to have its 4th MIArb Annual Review 2018 in the 2nd Half of 2018.

The Institute intends to also increase its visibility with the State Bars, and hope to co-host lecture series with the different State Bars in the last Quarter of 2018.

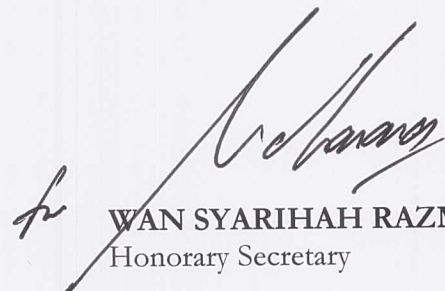
3.9 SOCIAL EVENTS

The Social Events Committee has, during the present term, undertaken various social events to foster relations between members and non-members alike. These social events consisted of standalone events, as well as social events that followed other events, the most recent being the MI Arb Members' Networking Session following the Lecture by Y.A. Nantha Balan on 7 June 2018.



SUDHARSANAN THILLAINATHAN
President

7 June 2018



WAN SYARIAH RAZMAN
Honorary Secretary