



OPENING SPEECH BY

THE RIGHT HONOURABLE

THE PRESIDENT OF THE COURT OF APPEAL OF MALAYSIA

TAN SRI DATUK AMAR ABANG ISKANDAR BIN ABANG HASHIM

AT THE

SECOND INAUGURAL MEETING OF THE INTERNATIONAL JUDICIAL

DISPUTE RESOLUTION NETWORK (JDRN)

SESSION 1 – ACCESS TO JUSTICE AND THE ROLE OF THE JUDICIAL

DISPUTE RESOLUTION PROCESS IN FURTHERING ACCESS TO

JUSTICE IN MALAYSIA

MONDAY, 22 MAY 2023

Assalamualaikum, Good morning to all.

The Honourable Chief Judge Laura Taylor Swain, United States District Court for the Southern District of New York and Chief Justice Sundaresh Menon, Chief Justice of Singapore, Co-Chairs For the 2nd Judicial Dispute Resolution Network Meeting;

Head of Delegations and Founding Members of the JDRN

Distinguished Guests, Ladies and Gentlemen,

[1] On behalf of the Right Honourable the Chief Justice of Malaysia and the Malaysian Judiciary, allow me to express our profound and sincerest gratitude to the United States District Court for the Southern District of New York for hosting this Second Meeting of The International Judicial Dispute Resolution Network (JDRN). Our profound appreciation extends not only to the facilitation of the proceedings but also to the remarkable hospitality arrangements, which have so graciously been made available to the Malaysian delegation.

- [2] We are immensely gratified to participate in the 2nd JDRN held in person here at the United States District Court for the Southern District of New York. The JDRN is an alliance that affords us the opportunity to disseminate our experiences and contemporaneous advancements among all the distinguished founding nations across the international stage to advance the cause of Judicial Dispute Resolution (JDR) .
- [3] I will this morning give you all a brief update on how the Malaysian Judiciary had fortified and advanced access to justice within the Malaysian jurisdiction through the instrumentality of JDR. We anticipate that this conclave will provide an unparalleled platform for judicial constituents to engage in edifying and productive deliberations.

The Role of Judicial Dispute Resolution Process in Furthering Access to Justice in Malaysia

- [4] In Malaysia, the judicial system has made remarkable progress in embracing JDR to augment access to justice, particularly for individuals who may not possess the resources or expertise to manoeuvre the conventional court system. This has been accomplished through a plethora of initiatives, including the integration of JDR into the Rules of Court 2012 (Order 34A); conducting regular training programs for judges, court personnel, and legal practitioners, which are often organized under the auspices of the Judicial Academy of the Malaysian Judiciary; and fostering collaborations with

international organizations, such as the Asian International Arbitration Centre (AIAC), World Bank, United Nations, and foreign judicial institutions to glean insights from best practices in other jurisdictions.

- [5] The adoption of JDR in Malaysia is grounded in the nation's commitment to upholding the rule of law and ensuring a fair and efficient justice system for all citizens. By incorporating JDR into the procedural framework, the Malaysian judiciary has demonstrated its dedication to exploring innovative methods of dispute resolution that better serve the needs of litigants, reduce court backlogs, and facilitate a more expeditious and cost-effective resolution of disputes.
- [6] We have employed various methods of JDR, for instance, mediation, conciliation or early neutral evaluation, etc., in resolving parties' disputes without going through a lengthy trial process. These methods are in line with the Malaysian Courts of Judicature Act 1964, specifically Section 30A, which provides for the use of JDR in resolving disputes.
- [7] In Malaysia, the primary avenue for JDR is through Court-Annexed Mediation, which is instituted under the auspices of the Mediation Act 2012 [Act 749] ("the Act"). The provisions and guidelines pertaining to Court-Annexed Mediation are enshrined within Order 34 rule 1 of the Rules of Court 2012, which serves as the enabling legislative instrument for the establishment of Court-Annexed Mediation.

- [8] Furthermore, a pivotal reference point for Court-Annexed Mediation is Practice Direction No. 2 of 2022, or "Matters and Mediation Procedures for Cases in the High Courts and the Subordinate Courts" ("PD 2/2022"). This directive, effective from the 1st of April, 2022, stipulates the application of PD 2/2022 to mediation matters and procedures applicable to civil proceedings in the High Courts and Subordinate Courts across Malaysia.
- [9] In essence, PD 2/2022 mandates the compulsory referral of traffic accident cases to mediation as a preliminary step before proceeding to trial.
- [10] The Malaysian Judiciary has been steadfastly providing Court-Annexed Mediation as an invaluable tool for conflict resolution for a span exceeding a decade. The machinery of justice remains perpetually in motion, as the Court-Annexed Mediation service is provided at no cost, facilitating a democratized approach to justice. Cases earmarked for mediation are typically resolved with greater expediency than those that navigate the traditional court process, irrespective of whether the mediation process culminates in an amicable resolution or not. This substantially enhances the accessibility of justice for our citizenry.
- [11] Further elucidation on this matter, with a particular emphasis on our accumulated experience in the application of this specific JDR process, will be proffered during the course of Session 3 of this Meeting.

- [12] Be that as it may, according to the 2022 World Justice Project (WJP) Rule of Law Index¹, out of 140 countries, Malaysia has been ranked 61 globally and 7 regionally in terms of accessibility, impartiality, and effectiveness of alternative dispute resolution mechanisms in civil justice. Hence, there is always room for improvement that we need to carry out to further enhance access to justice.
- [13] As the Malaysian Judiciary continues to invest in the development and promotion of JDR, it is expected that the use of JDR will continue to grow in the coming years. This will require ongoing efforts to build capacity within the judiciary, address existing challenges, and raise awareness about the benefits of JDR among the public and legal practitioners.
- [14] There is also potential for JDR to be expanded to other areas of law, such as criminal cases, family disputes, reconciliation process , and administrative matters. By exploring the applicability of JDR in these contexts, Malaysia can further enhance access to justice for its citizens and promote a more just and equitable society.
- [15] Technological advancements have the potential to significantly improve JDR processes in Malaysia. The pervasive COVID-19 pandemic has catalyzed a significant shift towards the utilization of digital platforms for the facilitation of mediation. The prevalence of video-conferencing as a mode of conducting mediation has reached a zenith, replacing traditional in-person meetings as the norm.

¹ <https://worldjusticeproject.org/rule-of-law-index/country/2022/Malaysia/Civil%20Justice>

[16] The opportunity to conduct mediation in a remote capacity has proven particularly efficacious under circumstances where disputing parties are not domiciled within the same city or state, or when the authoritative decision-makers on either side are distributed across multiple jurisdictions. This advancement in mediation procedures has not only overcome geographical limitations but also ensured continued access to justice during unprecedented times. Additionally, data analytics and artificial intelligence can be harnessed to improve decision-making and streamline the JDR process, ensuring that disputes are resolved in the most effective and efficient manner possible.

Conclusion

[17] As the Malaysian Judiciary steadfastly pursues its commitment to the endorsement of JDR as a mode of dispute resolution, we foresee a substantial potential to cultivate a society defined by its principles of justice and equality, wherein every citizen is accorded the opportunity to seek remediation and to resolve disputes in an impartial and expeditious manner.

[18] To encapsulate, we are of the conviction that the inauguration this year's JDRN will propel us towards heightened efficiency and efficacy in the execution of the JDR protocols within our legal purview. The adoption of the Best Practices Guideline in the preceding year stands as a tangible affirmation of the remarkable achievements that

judiciaries of shared perspectives, such as ours, can realise if we effectively harness our collective synergy.

[19] As I approach the end of this address, it is my fervent hope that the culmination of this year's JDRN will precipitate significant progress reminiscent of the preceding year. I look forward to a fruitful meeting.

Thank you