4TH MEETING OF THE INTERNATIONAL JUDICIAL DISPUTE RESOLUTION NETWORK

"The Vital Role of Judicial Dispute Resolution in the Effective and Efficient Administration of Justice and its Application in Appellate Proceedings"

Monday, 26 January 2026

The Honourable the Chief Justice Sundaresh Menon
Supreme Court of Singapore

Chief Justice Alexander G. Gesmundo
Fellow Chief Justices
Fellow Judges and colleagues
Distinguished guests
Ladies and gentlemen

I. Introduction

1. It is a real pleasure to be here today with my colleagues from Singapore. Let me first, on behalf of the Singapore delegation, express our deepest appreciation to Chief Justice Gesmundo and his colleagues from the Supreme Court of the Philippines for their exceptionally warm and gracious welcome. The Philippines is legendary for the warmth of its hospitality, and this gathering has been no exception to that outstanding tradition. The arrangements have been superb, though it is somewhat challenging to be inside a room looking out at a view like this, and knowing that there is a nice swimming pool just about 50 metres away. It is also my great pleasure to welcome the judiciaries of Jamaica and

Zimbabwe to the Network, and I am delighted that Chief Justice Bryan Sykes and Chief Justice Luke Malaba are here to lend their insights to our panel discussion today.

II. The Role of JDR

2. The topic for this panel, "The Vital Role of Judicial Dispute Resolution in the Effective and Efficient Administration of Justice", reminds us that JDR is a concept that is much wider than our core function of adjudication and it is anchored in a holistic understanding of our mission to do justice. It reflects our shared recognition that adjudication is but one modality of dispute resolution, and that other processes such as mediation and neutral evaluation may, in appropriate cases, offer a more proportionate and effective response to the dispute at hand. We should keep at the forefront of our collective consciousness that the idea of the courts playing a central role in JDR is not yet a natural one. Courts, after all, are the institutions that the parties turn to resolve differences when all else has failed. The rise of JDR reflects our realisation that by embracing JDR, we are better positioned to deliver justice that is not only fair and efficient, but also has due regard to parties' broader interests, including the preservation of relationships beyond the immediate dispute.[1]

3. I will elaborate on this by reference to the four vital contributions of JDR to our core mission of administering and delivering justice. The starting point is the

[1] Sundaresh Menon CJ, "The JDRN: Remoulding the Justice System", Opening Address at the Inaugural JDRN Meeting (18 May 2022) ("Remoulding the Justice System") at paras 3 to 6.

understanding that JDR is actually an essential tool for the **effective management of our growing caseloads**. During the coffee break, one of you mentioned that it is a universal phenomenon that we have rising caseloads. By providing an avenue for the early resolution of disputes, often before the parties have embarked on lengthy and resource-intensive trial processes, JDR enables judicial resources to be concentrated in those cases where adjudication is truly necessary. In Singapore, court dispute resolution, together with a broader suite of reforms, was central to clearing significant backlogs that bedevilled our justice systems in the 1990s.[2] This challenge is by no means unique to Singapore. The Chief Justices of India[3] and Malaysia[4] have similarly underscored the need to turn to mediation and other ADR techniques as a necessary means of addressing mounting caseloads.

4. Second, JDR **enhances access to justice**.

(a) It offers the parties an opportunity for early and cost-effective resolution, and even in those cases where a complete settlement proves elusive, partial agreements can substantially narrow the issues that then require adjudication.[5] This can be especially important in an era where disputes have grown in complexity and

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2 Julian Chin and May Mesenas, "The Role of Court Dispute Resolution", in Tan Boon Heng (ed), "A Guide to Judge-Led Court Dispute Resolution" Singapore Academy of Law (2025) at paras 1.4 to 1.6.

3 Indian Express, "Reducing case backlog will be my priority as CJI: Justice Surya Kant", available at https://indianexpress.com/article/legal-news/reducing-case-backlog-will-be-my-priority-as-cji-justice-surya-kant-10380921/

4 The Edge Malaysia, article available at https://theedgemalaysia.com/node/783007.

5 Remoulding the Justice System at para 8.

the cost of a full trial might often be disproportionate to the value of the claim, as a result of which even meritorious claims may be deterred.

(b) JDR also provides a more accessible and less intimidating forum for dispute resolution, while still allowing the parties to engage directly with a judicial officer without the restrictions imposed by formal and often quite technical evidential rules.[6] This is especially significant for another trend that affects, I daresay, most if not all of our jurisdictions – the growing number of self-represented litigants, who may struggle with procedural and substantive law and who may face real difficulties in effectively advancing or defending their own claims.

5. Third, JDR **provides appropriate dispute resolution modalities** that are particularly well suited to matters which do not lend themselves to a strictly rights-based, adversarial approach. Indeed, in some of these cases, a purely adversarial framework may be ill-suited, and even counterproductive. Construction disputes provide one illustration. Construction projects typically give rise to complex and long-term business relationships that span the entire life cycle of a project, and the preservation of those relationships is often critical to the

6 Liz Richardson, Genevieve Grant and Janina Boughey, "The Impacts of Self-Represented Litigants on Civil and Administrative Justice: Environmental Scan of Research, Policy and Practice" Australasian Institute of Judicial Administration (2018), available at https://aija.org.au/wp-content/uploads/2018/11/SRL-Policy-and-Practice-FINAL.pdf at p 70.

successful completion of the project.[7] Another area that I have suggested should be looked at is that of climate-related disputes, where the relationships at stake may be those between governments and their people, or between communities and corporations that provide employment and economic opportunity. In this context, JDR can create spaces within which to explore solutions that integrate both protection and viability.[8]

6. Fourth, and relatedly, JDR contributes to the **maintenance of peace in society**. By empowering the parties to arrive at amicable settlements that reflect the lived realities and sensitivities,[9] JDR shifts the focus from conflict to the identification of the shared interests of the parties. When embedded within a broader dispute resolution framework, JDR helps foster a culture in which disputes are managed through constructive engagement rather than through confrontation. In this way, JDR does more than resolve individual disputes; it helps to alleviate the social strain that protracted and adversarial litigation can generate within society.

7. The second, third and fourth points that I have just outlined are significant because they situate JDR within a different narrative that focuses on the positive

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7 Sundaresh Menon CJ, "Constructing Collaboration: Remoulding the Resolution of Construction Disputes", delivered at the 9th Annual Conference of The International Academy of Construction Lawyers (14 April 2023) at para 3(a).

8 Sundaresh Menon CJ, "A New Perspective on Climate Disputes: Lessons from Therapeutic Justice", speech delivered at the Asia Pacific Judicial Convening on Environment and Climate Law Adjudication (2 December 2024) at paras 11 and 12.

9 Sundaresh Menon CJ, "International Mediation and the Role of the Courts", Speech to the Indonesian Judiciary (7 November 2023) at para 10.

benefits of JDR in terms of building trust in Courts by enhancing access to justice and striving to build and keep the peace and preserve relationships, instead of the purely logistical concern of managing caseloads. To be sure they are both important, but they are different dimensions.

8. I want to set this in context just to remind ourselves of a point that Professor Richard Susskind has made – that the legal process is meant to generate solutions.[10] But it is a means to an end; it is not an end in itself, and this is something that our lawyers sometimes forget. I want to tell you a story many years ago when I was at the start of my tenure as Chief Justice. One of the main reforms that I wanted to drive at a very early stage was in the context of family justice, and I wanted to really redefine family justice and the approach we took to family justice, to move away from it being essentially an adversarial mode of dispute resolution, and to one that was much more rooted in identifying shared interests and the avoidance and the alleviation of disputes and the generation and keeping of the peace. At one of the first meetings that I attended, a town hall to address concerns from the Bar, one of the reforms that we wanted to introduce involved situating mediation as an integral part of the family process at the very beginning, instead of after the pleadings and affidavits had been filed. A member of the Bar invited me to reconsider this, suggesting that it would be better if we introduced mediation after the pleadings and the affidavits had been put into the

[10] Professor Susskind draws a distinction between Process-thinking and Outcome-thinking: see Richard Susskind, "How to Think About AI: A Guide for the Perplexed" (Oxford University Press, 2025) at pp 41 to 47.

record. I asked her why, and her answer was very frank. She said, “Because it is going to affect our fees.” And my response was, “I am sorry, we need to be clear. We do not make judicial policy in order to protect the fees of the Bar. We make judicial policy by reference to what is the best way to deliver justice.” And I think we need to remind ourselves about that when we think about the increasingly important role that JDR is playing in all our jurisdictions.

9. The benefits of JDR are clear. And I want to touch on the second point which is raised in this panel, which is the relevance of JDR to the appellate context, because much of the discussion has centred on JDR primarily at the trial level. And at one level, it might be thought that the same kind of considerations also apply when we move from first instance to the appellate level. In most jurisdictions, after all, the challenge of rising caseloads extends equally to the appellate courts. And I think there is much we can learn from those jurisdictions that have formalised JDR at the appellate level, some of which are represented here today.

III. Application of JDR to Appeals

10. In the United States, for instance, the federal appellate courts have implemented appellate mediation and settlement programmes.[11] The Court of

[11] Robert J. Niemic, Mediation & Conference Programs in the Federal Courts of Appeals: A Sourcebook for Judges and Lawyers, Federal Judicial Center, available at https://www.fjc.gov/sites/default/files/2012/MediCon2.pdf at p 3.

Appeal of Quebec in Canada has introduced Settlement Conferences,[12] and the Court of Appeal in England and Wales has instituted the Court of Appeal Mediation Scheme.[13]

11. The success of these initiatives is evident from some of the empirical evidence. In the United States, data demonstrates that, where mediation is successful, appeals are resolved more quickly and obviously at lower cost.[14] Nor is it necessarily the case that appellate mediation has diminished prospects of success because of the fact that you have a result. The former Chief Justice of Ontario has observed that the success of appellate mediation in Quebec was approximately 80%,[15] an impressive rate that has been broadly maintained in recent years.[16] I suggest that the value proposition of appellate mediation is in principle clear.

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12 Court of Appeal of Quebec, Settlement Conference, available at https://courdappelduquebec.ca/en/civil-matters/settlement-conference.

13 Court of Appeal (Civil Division) Guide (Judicial Office, Courts and Tribunals Judiciary, June 2025), available at https://www.judiciary.uk/wp-content/uploads/2025/06/35.67_JO_Court-of-Appeal-Civil-Division-Guide_FINAL_WEB.pdf at p 81.

14 Ignazio J. Ruvolo, "Appellate Mediation – 'Settling' the Last Frontier of ADR", (2005) 42 San Diego Law Review 177, available at https://digital.sandiego.edu/cgi/viewcontent.cgi?article=2895&context=sdlr at p 192; Roger A. Hanson & Richard Becker, "Appellate Mediation in New Mexico: An Evaluation", (2002) 4 Journal of Appellate Practice and Process 167, available at https://lawrepository.ualr.edu/cgi/viewcontent.cgi?article=1038&context=appellatepracticeprocess at p 180.

15 The Honourable Warren K. Winkler, Access to Justice, Mediation: Panacea or Pariah? (Court of Appeal for Ontario Archives), available at https://www.ontariocourts.ca/coa/about-the-court/archives/access/.

16 Court of Appeal of Quebec, "Statistics", available at: https://courdappelduquebec.ca/en/general-information/about/statistics.

12. Let me first outline some of the considerations before briefly sharing our experience with appellate mediation in Singapore. To be sure, appellate JDR comes with some particular challenges, a number of which the Chief Justice of Malaysia has touched on. For one thing, by the time a matter reaches the appeals, the parties may have quite entrenched positions. The party who succeeded at first instance might view compromise as diluting the vindication that it has obtained at trial. On the other hand, the unsuccessful party may regard settlement as an unacceptable concession when, in its view, what is required is the correction of an erroneous decision.[17]

13. These are challenges, to be sure, but there are also distinct advantages in thinking about mediation at the appellate level. Appeals typically centre on legal issues, which will usually be free of much of the emotional charge that accompanies factual disputes. By this stage, the parties may also have a clearer and more realistic appreciation of the strengths and weaknesses of their respective cases, and this recalibration of expectations may in fact be conducive to meaningful settlement discussions.[18] And from a practical perspective, appellate JDR can significantly help avoid further cost, delay and the risk of adverse outcomes.

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17 Joseph A. Torregrossa, "Appellate Mediation in the Third Circuit – Program Operations: Nuts, Bolts, and Practice Tips", Villanova Law Review, available at https://digitalcommons.law.villanova.edu/cgi/viewcontent.cgi?article=1384&context=vlr at p 1061.

18 Jeff Kaplan, "Practical Considerations for Post-trial and Appellate Mediations", available at https://www.jdsupra.com/post/fileServer.aspx?fName=82cdafef-f8e8-4152-9a1c-72755ab01b19.pdf&utm

14. I want to touch on one structural concern that has been raised, and that is that the widespread adoption of appellate mediation may constrain the development of precedent,[19] which is an important consideration for common law jurisdictions in particular, because appellate mediation can reduce the opportunities for appellate courts to clarify and develop the law. And this is said to apply with particular force at the appellate level, given the role of appellate courts in shaping legal doctrine.

15. I question whether the data actually shows that appellate mediation is meaningfully going to slow the pace of precedent development, but I will come back to that. I just wanted to make the point that it may nonetheless be possible even in this context to mitigate some of this concern, because in some instances the court may consider issuing a judgment even when the matter is settled. In *QBE Insurance (Singapore) Pte Ltd and another v Relax Beach Co Ltd* [2023] SGCA 45, my court issued a judgment where we outlined our preliminary views on the merits even though the appeal was withdrawn, because the appeal raised a question of public importance to the wider insurance industry on the interpretation of business interruption clauses and adjudication of claims in the aftermath of the COVID-19 pandemic, and this was seen as a very important point to the industry as a whole. Our provisional view was that the trial judge had got it wrong, but the case was settled just before the appeal was heard. The significant

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[19] Mary Anne Noone, "ADR, Public Interest and Access to Justice: The Need for Vigilance" (2011) 37 Monash University Law Review 57, available at https://www.austlii.edu.au/au/journals/MonashULawRw/2011/4.pdf at pp 65 and 67.

thing about that case was that all the written submissions were in. We had already digested the written submissions, and the only thing left was the oral hearing when we were told the case was settled. We issued a judgement, setting out our views as provisional and explaining all the qualifications, but we did say that we thought there was a real question mark over the interpretation that had been applied to that very significant clause in the context of business interruption right at the heart of the COVID-19 pandemic.

16. Such an approach may not be possible in many cases, particularly where appeals are resolved before arguments are even made, but I want to here draw a parallel to arbitration, in respect of which a similar concern was raised by Lord Thomas, the former Lord Chief Justice of England and Wales.[20] And let me say that I think the case for arbitration eating into important precedent setting opportunities in commercial law is likely to be far stronger than in the setting of appellate mediation. But in any case, regardless of what the numbers are, I think the question is ultimately one of trade-off. The adoption of different dispute resolution modalities necessarily entails trade-offs, and I think we have to be very clear in our understanding and evaluation of those trade-offs.[21] If mediation at the appellate level does in fact result in a more gradual pace of precedent development, which is not something that has been factually established, this

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[20] Lord Thomas, Bailii Lecture 2016, "Developing commercial law through the courts: rebalancing the relationship between the courts and arbitration", available at https://www.judiciary.uk/wp-content/uploads/2016/03/lcj-speech-bailli-lecture-20160309.pdf at para 22.

[21] Sundaresh Menon CJ, "Arbitration's Blade: International Arbitration and the Rule of Law", address at the SIAC Virtual Congress 2020 at para 53.

could well be considered by some to be an acceptable compromise if it results in a system that produces more harmonious and less adversarial dispute resolution. Is that necessarily a bad thing if more and more of our cases are resolved consensually? I think that is a judgment that each of us must ultimately make, having regard to the needs and circumstances of our own legal traditions, institutional frameworks and societal contexts within which our respective jurisdictions operate.

IV. Singapore's Experience

17. I want now to briefly share our experience in the context of appellate mediation. We did a trial of appellate mediation about a decade ago. We did not continue with the programme. Of course, it is open to parties to seek mediation in the midst of an appeal, and it does happen from time to time. And if we are told that the parties would like to adjourn the appeal in order to mediate their differences, we would readily agree.

18. But we stopped the pilot of proactively encouraging them to go and look at mediation, and we did it primarily because of the predominant nature of our caseload – we are a relatively small jurisdiction, and the bulk of our caseload at the apex court level consists of broadly speaking, two or three types of matters: serious crimes and public law issues – which I think are typically not well suited to mediation or proactive JDR – and high stakes commercial disputes where the parties may be more driven because of the amounts involved to insist on their way and on what they say the answer should be. It should also be noted that the

actual proportion of those commercial cases that reach the stage of an appeal to the apex court is a tiny fraction of the total pool of commercial disputes, and we took the view that this accounted for the relatively low uptake of appellate mediation when we did the pilot, and the even lower rate of successful resolution. It was very noticeable – the success rate of mediation and other ADR techniques at first instance typically rated at around about 75 to 80 percent, but in the appellate context it was closer to around 25 percent. But none of this suggests that there is a principled objection to it, and as I said, the answer very much depends on each judiciary.

V. Conclusion

19. Let me conclude by returning to the theme of this panel. I think we are here because we all believe that JDR plays a vital role in the effective and efficient administration of justice. It does enable us to steward judicial resources efficiently, it does enhance access to justice, it does help to preserve relationships that might otherwise be fractured beyond repair by the adversarial process and it does contribute to societal peace by encouraging constructive engagement rather than conflict. And I think the time has come for us to stop seeing JDR as an adjunct to adjudication, but rather as an integral expression of our commitment to doing justice holistically. And I think that with that, we can calibrate the response and determine where we situate JDR at each level more effectively.