

Opening speech notes by Jamela A. Ali, Attorney at Law, Mediator and Founder of Mediation Services International (MSI) on behalf of the Supreme Court of Judicature of Guyana in collaboration with the Judicial Reform Institutional and Strengthening (JURIST) Project of the Caribbean Court of Justice on May 24 & 25, 2018 at Marriot Hotel, Georgetown. This initiative was funded through the Government of Canada.

1. In 2003, Court connected Mediation was introduced in Guyana.
2. 6 February 2017 was another significant date for civil justice improvement with the introduction of the Civil Procedure Rules 2016. Part 26 of the CPR dealt with court connected mediation, the power of the court to order Mediation, the procedure for court appointed Mediation, the outcome of mediation and consequences for failing to comply with order to attend mediation or refusing to engage in discussion of the issues or generally frustrating the process.
3. I recall attending a meeting on the 23<sup>rd</sup> March 2017 with the Honourable Yonette Cummings-Edwards, Chancellor ag, the Honourable Roxanne George, Chief Justice ag and Jurist Project team. It was at that meeting that our hardworking Chancellor and Chief Justice, two high achievers of the judiciary, and I might add, females, that the issue of Mediation training was raised.
4. The first Mediation course in 2003 trained 24 lawyers as Mediators; might I add that our Honorable Attorney General Mr Basil Williams was part of that historic training as well as several Judges here, Justices Insanally, Kurtious, Holder and Bovell-Drakes. The training was extended to persons from other professions. Subsequently, USAID-GDCCR then headed by Ms Gloria Richards Johnson facilitated Advanced and Refresher courses, and a Mediator's Training Course.
5. Mediation is a voluntary process in which parties try to work out their own agreement of the issues with the help of a Mediator. With the introduction of the CPR which permitted the Judges to direct mediations, I had a vision that the shift

from voluntary mediation to court directed mediation would lead to the swifter development of mediation and need for services. It was also recognised that there was gap as since 2010 to 2011, Mediators received no court connected training. With this in mind, MSI was conceptualised with a three fold purpose, to assist in the support of alternative dispute resolution by providing mediation training, offering mediation services to persons with grievances who prefer to avoid going to Court as well as court connected mediation and public sensitisation.

6. I believe Joel A. Barker aptly describes MSI with these words "Vision without action is merely a dream. Action without vision just passes the time. Vision with action can change the world."
7. As mentioned earlier, Part 26 of the CPR has given the Court the power to order mediation. As Judges utilise this power, this will inevitably lead to the increased use of mediation, thus giving mediators the opportunity to develop the skills learnt.
8. Mediation in Guyana has faced two major challenges. There is resistance by some members of the legal profession, in particular the senior bar, to participate in and embrace the use of mediation as an effective tool to resolve disputes and secondly, to accept use of Mediators who are not lawyers.
9. Mediation remains in the fledging stage. For instance, there are no protocols governing Mediators. There is a need to take steps to promote confidence in the process.
10. For the future, consideration can be given as to whether Guyana will benefit from having mediators in specialised fields such as Family law, Commercial law,

Land law and Landlord and Tenant to complement and amplify our specialized courts. This in turn will assist in the reduction of a backlog of cases and perhaps prevent the creation of a CPR backlog.

11. **Cost reduction and speedy resolution of disputes are the biggest advantages to the litigants**, so perhaps channeling some effort in the direction of making the Guyanese citizens aware of Mediation might be useful.

12. Speedy resolution was noted by Judge Edwards, J in the 2014 Canadian case of GREEN v. STEWART JM 2014 SC 20. Suit No. HCV 6982 of 2011

I accept that "*mediation is a tool designed to promote mutually acceptable and early resolution of disputes*" (see Master Macleod in Bruce William Marshall et al v Ensil Canada Ltd. et al, Superior Court of Canada (unreported).

13. I am delighted that the present acting Chancellor the Honourable Madam Justice Yonette Cummings-Edwards has continued the development of mediation led from 2003 to 2017 by the former acting Chancellor Carl Singh and is at the helm of arranging this refresher mediation training.

14. This Mediation training represents a further initiative by the head of our Judiciary to improve our justice system so as to give improved effect for court connected mediation under Part 26 of the CPR.

15. **Mediation is universally recognized, it is a valuable skill, it is one of the most effective tools for non violence, it displays wisdom and human morality. It would have equipped you the Mediators with the ability to listen effectively and to develop positive communication.**

16. At the end of the session tomorrow, **it is our goal that the Mediation algorithm that Mediators will receive in this Mediation Refresher Training course by the MSI team will be used to achieve optimal solutions for the parties involved in disputes. This will result in faster delivery of justice and also provide litigants with a wider range of solutions than those which are available in litigation, for example, an apology, an explanation and the continuation of an existing professional, business or family relationship.**

17. In the words of Frederick Lenz, *"Don't think of us as separate beings. Imagine that we are one body and it's been split into millions. When we sit in the mediation hall - that is unity."*

18. In closing, I again applaud the acting Chancellor and the Chief Justice for recognising the need for refresher mediation training for mediators and for undertaking this initiative. Acting Chancellor Cummings has shown dedicated judicial activism in ensuring the success of this event.

19. Finally, I must say that this event was made possible by Judicial Reform and Institutional Strengthening (JURIST) Project led ably by Mr John Furlonge and Alison Ali in the planning stages and now recently appointed Regional Project Coordinator, Ms Gloria Richards Johnson, the CCJ and the Canadian Government. I hope there that there will be continued support and collaboration.

20. I end by leaving with you a quote emphasising the benefits of Mediation

*"An ounce of mediation is worth a pound of arbitration and a ton of litigation!" - Joseph Grynbaum"*