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Solicitor General Tushar Mehta suggests setting up of 'arbitration townships'

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Solicitor General of India Tushar Mehta (File)

Solicitor General of India Tushar Mehta on Saturday suggested setting up of “arbitration townships” with its own framework and infrastructure, and to recruit specialised arbitration lawyers, instead of relying on retired judges as arbitrators.

Mehta was speaking at a plenary session of a conference on ‘International Commercial Arbitration — The Way Forward’ at Ahmedabad, organised by Mumbai Centre for International Arbitration along with Gujarat High Court Arbitration Centre and Gujarat High Court Advocates’ Association (GHCAA). Supreme Court judges Justices MR Shah and Bela Trivedi, Gujarat HC Chief Justice Aravind Kumar, and other judges — sitting and retired — of the Gujarat HC were also present in the event.

Advocating for moving away from the two dominant models of arbitration — United Nations Commission on International Trade Law (UNCITRAL) and Singapore model, namely Singapore International Arbitration Centre — Mehta suggested a third model of arbitration that is “India-centric, India-specific, India-conducive, but having complete acceptability among the world business community” to make India the arbitration hub of the world.

“Can we not have an arbitration township with our own arbitration framework which need not be UNCITRAL-specific, Singapore model-specific or any other model specific and yet is acceptable to the world community. We can provide for a township, a place where people would want to come (that is choose the said township as a venue for arbitration) an arbitration model which combines best of all systems of arbitration prevailing in the world. We can provide for all infrastructural facilities in the township, which includes places where arbitration takes place, places where arbitration secretariat services are available, places where arbitrators, lawyers, parties can stay, (facilities of) dispute resolution mechanism, and which would serve as an incentive to select this township as a venue,” said Mehta.

The solicitor general also pointed out that the difference between arbitration globally and in India is essentially that the latter is heavily “former (retired) judge-centric arbitration”.

“But world over there are good professors who are functioning as arbitrators. There are efficient and seasoned bureaucrats after retirement functioning as arbitrators. We (India) have good bureaucrats, with good experience...If they can

be requested to undergo a refresher course in the legal system, say for six months or so, then we will have a pool of arbitrators which will be other than retired judges,” said Mehta.

The quality of arbitrators in India was flagged as a persistent issue by several other speakers at the conference.

At a chat hosted by the MCIA Maritime User Council at the conference, responding on why the development of maritime cluster at Gujarat’s GIFT city is not seeing progress when ship owners, freight forwarder companies etc should have set shop by now, Rahul Narichania, senior advocate at Bombay High Court pointed out that there are other countries like [England](#) which have an existing better and specialised arbitration process in place.

Partner at Nishith Desai Associates Vyapak Desai too pointed out there’s now a common trend being seen in arbitration of appointing field experts in arbitration and senior managing director at FTI Consulting Kartik Balisagar echoed that he advocates for experts to be brought into arbitration “early on in the process,” added that “much more importance should be given to quantum experts.”