

## MEDIATION IS HERE TO STAY!

*Anil Xavier\**

*The article gives an overview of various dispute resolution processes emphasizing the advantage and benefits of mediation as the only method which empowers people to take control of their own lives and find creative solutions that work for them. The article also looks at the various techniques of mediation. It further moves on to see the history and present scenario of mediation in India and looks at how mediation can contribute in bringing in social harmony and communal harmony and thereby create a loving and caring world.*

### I. CONFLICTS & DISPUTES

Conflict is a part of life. Everyone has differing points of view and we all need to figure out how to live with each other. No matter how trivial the conflict, it causes serious stress for everyone involved. Many of us get into situations that are not as easy to get out of as they were to get into. These range from family clashes that seem simple to solve to full-blown legal issues.

No matter how we feel, think or believe, there is unity in our diversity. Finding that one thing we all have in common is the first step to solving any problem. No matter how far apart we are in our feelings, thinking or beliefs, finding that common ground would enable us to come together and find a solution that we all can live with.

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People with problems, suffers from mental trauma and obviously yearns relief as quickly as possible preferably in an inexpensive way.

Most people imagine a dramatic courtroom battle when they think of resolving legal issues. What they may not realize is that court is not always the best place to settle a dispute between private parties. Former US Supreme Court Chief Justice Warren Burger has said, *“The notion that ordinary people want black-robed judges, well dressed lawyers and fine courtrooms as settings to resolve their disputes is incorrect. People with problems, like people with pain, want relief, and they want it as quickly and inexpensively as possible.”*<sup>1</sup>

In the past, parties in dispute often felt they had no choice but to take the matter to court. Now, a growing number of people are choosing another option that allows them to avoid the aggravation and expense of a lawsuit. People have started to realize that court is not always the best place to settle their disputes. They are looking at an option to find workable solutions by sitting down and talking face to face. The option is MEDIATION!

## II. BEHIND DISPUTE RESOLUTION

Behind almost every human conflict someone feels dismissed, discounted, disenfranchised or disrespected. Unresolved tensions that may have simmered below the surface can resurface and make situations difficult. Even if angry words are not spoken, an appearance of “peace” may not be truly peaceful at all. Underneath the still waters, there may be a turbulent bed of emotions. Mediation seeks to help parties find an authentic peace. Case adjudication or dispute settlement through conventional litigation system focus on rights and remedies and resolve the case, but not the problem. Mediation focuses on needs, empowerment, restructures perspectives or relationships and seeks to resolve the underlying problem. Law is being utilized as a modality for healing and helping, not only for resolving problems. In our experience, we have seen that “an open mind and an extended hand will always work.”

Imagine sitting in a room in one of three chairs. A second chair is filled by someone with whom you are in conflict. The third, by a person whose intention is to provide an empathic structure for what is present in the room. That third person creates a neutral space of openness, listens attentively and openheartedly to each person, acknowledges the universal feelings and needs they are expressing, supports the growing connection between the two as understanding emerges and develops, helps them open to new possibilities as

they create solutions which take everyone's needs into consideration. That third person is the Mediator.

### III. THE MEDIATOR

They are those who have been trained to work with people in these situations. Mediators, as the name implies, mediate between two people or groups of people and help them to reach a solution which works for everyone involved. Through the confidential private meetings with the parties, the mediator is able to understand the needs of the party and the mediator assists the parties to arrive at a "win-win" situation with an agreement in which the solution to the dispute is favorable to both parties and thus not only resolves the problem but also strengthens the relationship among them by giving a more humane verdict.

*"Blessed are the peacemakers: for they shall be called the children of God",<sup>2</sup> the words may not be the same, but a similar philosophy exists in all religions. Reconciliation, love and peace have enormous moral, spiritual and ethical value.*

Mahatma Gandhi has said, *"My joy was boundless. I had learnt the true practice of law. I had learnt to find out the better side of human nature and to enter men's hearts. I realized the true function of a lawyer was to unite parties riven asunder. The lesson was so indelibly burnt into me that a large part of my time during the 20 years of my practice as a lawyer was occupied in bringing about private compromises of hundreds of cases. I lost nothing thereby – not even money, certainly not my soul."<sup>3</sup>*

### IV. WHAT IS MEDIATION?

Of all mankind's adventures in search of peace and justice, mediation is among the earliest. Long before law was established or courts were organized, or judges had formulated principles of law, man had resorted to mediation for resolving disputes.

Mediation is a process of dispute resolution in which one or more impartial third parties intervenes in a conflict or dispute with the consent of the participants and assists them in negotiating a consensual and informed agreement. It can also be said as a confidential process of negotiations and discussions in which a "neutral" third party or mediator assists in resolving a dispute between two or more parties.

Mediation presents the opportunity to express differences and improve relationships and mutual understanding, whether or not an agreement is reached.

It is generally considered to be a non-adversarial approach to the resolution of conflicts or disputes. The general role of the mediator is to facilitate communication between the parties, assist them on focusing on the real issues of dispute and to generate options that meet the respective parties' interests or needs in an effort to resolve the dispute.

The most important feature of Mediation is that it provides a solution that both parties can live with, instead of a verdict imposed by a court. Both parties are involved in suggesting possible solutions to the conflict.

Mediation is based on the voluntary cooperation and good faith participation of all parties. The mediator cannot force the parties to resolve their differences. But the mediator can help the parties reach a solution agreeable to both of them. If the parties work out all or some of their differences, the resolution - or agreement - is put in writing and signed by both the parties. Mediation may be able to plow beneath the surface of frequently vexatious litigations by addressing the underlying conflicts. The mediator acts as a bridge to iron the wrinkles of differences affecting the parties.

Mediation differs from arbitration, in which the third party (arbitrator) acts much like a judge in an out-of-court, less formal setting but does not actively participate in the discussion. Unlike a judge or an arbitrator, a mediator does not decide what is right or wrong or make suggestions about ways to resolve a problem. A mediator seeks to help parties to develop a shared understanding of the conflict and to work toward building a practical and lasting resolution. Mediation serve to identify the disputed issues and to generate options that help disputants reach a mutually-satisfactory resolution. It offers relatively flexible processes; and any settlement reached should have the agreement of all parties. This contrasts with litigation, which normally settles the dispute in favour of the party with the strongest argument.

Mediation is different from counseling, therapy or advocacy. The mediator does not take sides or push for any one solution. Mediators maintain a neutral role. Mediation focuses on the future, not the past, and what will resolve the conflict. Mediation does not replace the need for legal advice or counseling if your "rights" in a situation are the concern.

## V. WHY MEDIATION?

If you have given up on negotiating a settlement of your dispute directly with the other party, mediation may be the best way to solve it. Compared to a lawsuit, mediation is quick, private, fair, and inexpensive. And, if your dispute is

with someone that you need to deal with in the future – such as an employer, landlord, neighbour, business partner, or co-parent – mediation will help you resolve your disagreement without destroying your relationship.

In a lawsuit, no matter whether you have won or lost, it is usually a loss. Litigation is public. People lose their sense of privacy. It is slow, it is overburdening. Mediation and other forms of conflict resolution empower people to take control of their own lives and find creative solutions that work for them. Further we avoid the economic disadvantage because we spend so much on litigation.

Abraham Lincoln has said, “*Discourage litigation. Persuade your neighbours to compromise whenever you can... the nominal winner is often the real loser in fees, in expenses and waste of time.*”<sup>4</sup>

## VI. ADVANTAGES OF MEDIATION

As mentioned earlier, in addition to the fact that it is voluntary, mediation is a much less formal process than arbitration or litigation. Sessions are usually scheduled at a time and location convenient to all parties. Because the parties are directly responsible for developing the terms of an agreement, they are more likely to keep the agreement. Participants in mediation reach agreements about 80% of the time and keep those agreements about 90% of the time. Even if a written agreement is not reached, parties may lay groundwork for future agreements by opening lines of communication.

Advocates of mediation say that mediation can address each of these issues, namely, diverting cases from court, building bridges between communities and transforming society into a more tolerant, understanding people.

Another benefit is that mediations remain under wraps, whereas court cases are usually in the public domain. The process is also far less intimidating than a courtroom. Most often, the parties feel empowered by the process as they have been directly involved in negotiating the outcomes.

The driving motivation behind mediation is to find a solution. Mediation need not be viewed as a process by which the mediator helps people come to a resolution. It could be viewed as a process by which the mediator helps people go to the next step; whether it is clarifying a thought process, communicating with another person, or simply organizing a person’s thinking. The mediator can support and focus the party’s thinking.

## VII. WHO CAN MAKE A GOOD MEDIATOR?

There is no simple answer to this question. There can be no one predictor of success as a mediator. Successful mediators come from many different backgrounds and have varied life experiences. A competent mediator is an effective conflict manager. Competence depends partly on the type of the dispute and the parties' expectations. It also depends on whether the mediator has the right mix of acquired skills, training, education, experience and natural abilities to help resolve the specific dispute.

A good mediator will probably have many of the following qualities, Overall "people" skills, good verbal and listening skills, ability to think "out of the box", helping people work together as a team, impartial, respect for the parties, the ability to gain the parties' confidence, knowledge of the mediation process, bringing about a balanced approach to control of the process, initiative and the confidence to use it, reflective, trustworthy, dependable, keeping information confidential and the ability to remain calm under pressure.

I have often found that one of the core strengths of a mediator is to have a sense of humour and the ability to use humour appropriately to lighten the tone or refocus people away from a slide into some very unhelpful place. It is a skill that parties appreciate but it is not necessarily one that they think of when they look to appoint a mediator. Apart from the above qualities, knowledge on mediation process, ethical standards and the code of conduct are some of the important norms that a mediator should possess. Before we go further, I would like to give one discussion of mediation in history shortly before world-war II.

"Far East: Mediation: It's Wonderful<sup>5</sup> The war between Thailand and French Indo-China ended last week. The victor was Japan. Nobody had asked Japan to mediate the quarrel, which had gone on intermittently in the swampy jungles along the Mekong River since October, but fortnight ago Tokyo offered its services. When the offer was not immediately accepted, Japan became insistent, threatening. Nipponese warlords insisted that, as "the most stabilizing power in the Far East," Japan alone had the right to settle Oriental differences. Under duress Vichy, then Thailand, accepted.

Last week the stage was set for mediation, Nipponese style. The Japanese cruiser Natori steamed into Saigon harbor. Off the southeast Indo-Chinese coast appeared two Japanese aircraft carriers, two cruisers and two torpedo boats. Planes from the carriers cruised low over the city. At an appointed hour six French and six Thai delegates

were taken aboard the Natori, where seven white-uniformed Japanese officers headed by Chief of the Japanese Military Mission in Indo-China Major General Raishiro Sumita received them with bows and toothy smiles.

Tea was served; then the delegates prepared to mediate. Before either Thailand or Indo-China could present a claim or grievance, Japan handed both a bill for her services as mediator – to be paid in advance. She demanded: a virtual monopoly over Indo-China's production of rice, rubber and coal; a free hand to exploit Indo-China's natural resources; military garrisons along the Chinese frontier; Japanese inspectors at all Indo-Chinese customs houses; a naval base at strategic Camranh Bay and defense concessions at Saigon; air bases throughout Indo-China. From Thailand she demanded a naval base in the Gulf of Siam for a fleet of 15 battleships, cruisers and auxiliary craft. Unless the terms were accepted on the spot, it was intimated, naval units would go into action and invasion of both countries would follow. The delegates signed.

Smiles returned to Japanese faces, tea cups were refilled and an armistice creating a twelve-mile buffer zone between the Indo-Chinese and Thai forces was quickly arranged. Peace talks were postponed for a later meeting in Tokyo, when claims would be settled and peaceful collaboration in the New Asiatic Order discussed.

The bows were deeper and smiles toothier as Japan's mediators sent the delegates ashore."

Reading it now, many mediators may wonder, how this could ever happen. We should understand that people are not born into this world knowing how to solve conflicts. As we grew up we observed others: our parents, teachers, elders, leaders etc. as to how they resolved conflicts. We copied them, imitated them or tried to improve on them and we began to use different strategies out of the different problem-solving methods we saw and copied. But when we were faced with bigger issues, more complicated issues, we found nothing worked to resolve the dispute. But we continued doing the best we could, having no idea there could possibly be other methods that could have more peacefully and successfully resolved our disputes. I firmly believe that to make mediation effective and professional, appropriate training on mediation techniques should be mandatory. If conflict resolution skills and mediation strategies are taught to all people, humanity would be able to live in peace with themselves, each other, and our environment.

Michael McIlwrath, Chairman of the International Mediation Institute at the Hague has stated, *“To emerge as a profession, mediation must be globally understood and accepted; where competent mediators apply transparent high standards, and are instinctively regarded as professionals regardless of their background; where users see mediation as an opportunity and are more inclined to accept than reject a proposal to engage a mediator; where there are enough competent mediators from all cultures and technical fields that the most suitable mediator can easily be identified. The creation of IMI is an opportunity for mediation to leave behind its status quo as a local niche activity and become a truly global profession. But can the leading players drive the necessary changes to the current environment to make it happen?”*<sup>6</sup>

## VIII. TECHNIQUES OF MEDIATION

### A. *FACILITATIVE STYLE OF MEDIATION*

In a classic mediation, the mediator’s mission is purely facilitative. The mediator does not give an opinion on the likely outcome at trial or legal issues, but only seeks to help the parties find solutions to the underlying interests or problems giving rise to the litigation. Generally, in this kind of mediation, the mediator’s expertise in the process of mediation, rather than in the subject matter of the litigation, is viewed as paramount. Some mediation professionals view facilitative mediation as the preferred approach because the mediator preserves the principle of complete impartiality by not giving an assessment or prediction of the outcome of the case at trial. A facilitative mediator creates an environment in which parties work together collaboratively as problem-solvers. The mediator uses techniques that place full responsibility for resolving the dispute on the shoulders of the participants.

### B. *EVALUATIVE STYLE OF MEDIATION*

In the evaluative approach, the mediator is more likely to give a view of the case. The mediator’s opinion – including, for example, a legal and/or factual evaluation of the case, and sometimes an assessment of potential legal outcomes – is used as a settlement tool. An evaluative mediator assists the participants in breaking impasses by contributing her views of the merits of the legal case, the consequences of failure to settle, and the benefits of particular settlement proposals. For instances, if each side has strongly conflicting views of the legal merits, the neutral might try to break the impasse by giving an

evaluation of the merits of the dispute. By predicting the likely outcome in the adjudicatory forum, the neutral gives the participants a basis against which to assess the attractiveness of emerging options for settlement. If the case is not settling, the neutral might suggest how failure would impact on the interests of each party. If each side has strongly conflicting views of the benefits of a particular settlement proposal, the neutral might give an assessment of how the proposal benefits each side. The neutral might even present a proposal for adoption by the participants. This approach generally requires mediators who are experts in the subject matter of the case. Most evaluative mediators also consider the interests of the parties in attempting to facilitate a settlement. Many mediators blend facilitation and evaluation, applying each approach in varying degrees at different times during the mediation process, depending on the needs of a given case.

There is a third model, which is also popular, called the Transformative style. In their 1994 publication, *“The Promise of Mediation”*,<sup>7</sup> Robert A. Baruch Bush and Joseph Folger explicitly outlined a framework for the practice of transformative mediation. As stated earlier, problem-solving mediation is aimed at resolving specific disputes between parties and coming up with a mutually acceptable solution to the immediate, short-term problem. In problem-solving mediation, the mediator normally plays a very active role in guiding the process. Instead, Bush and Folger proposed that mediation can effect much deeper changes in people and their interpersonal relationships, beyond just remedying a short-term problem. They proposed a way of practicing mediation that seeks to address deeper levels of social life. In the preface of their seminal work, they stated that, “mediation’s greatest value lies in its potential not only to find solutions to people’s problems but to change people themselves for the better, in the very midst of conflict.” By employing a specific perspective on mediation practice as well as specific techniques, they believe mediation possesses the power to change how people behave not only toward their adversary in a particular conflict, but also in their day-to-day lives thereafter. Mediation, in their opinion, can transform individuals. For mediators who adhere to the framework of transformative mediation, achieving this type of long-term change is more important than solving a specific problem between parties.

Typically, settlement-oriented mediation is not considered successful unless a settlement is reached. Transformative mediation, however, is successful if one or both parties becomes empowered to better handle their own situation or the parties better recognize the concerns and issues of the other side. Transformative mediation is a relatively new concept, though many mediators

had been acting in this way for a long time, but did not have a name for their style until Bush and Folger defined transformative mediation as a concept. Because empowerment and recognition are phenomena that happen to people, the transformative approach is usually thought to be useful in interpersonal conflicts such as family conflicts, conflicts between neighbors, and conflicts between co-workers.

## IX. INDIAN PERSPECTIVE

### A. HISTORY

Mediation is not something new to India. Centuries before the British arrived, India had utilized a system called the *Panchayat* system, whereby respected village elders assisted in resolving -community disputes. Such traditional mediation continues to be utilized even today in villages. The mediator, an expert in the process of dispute resolution, controls the proceedings, much like a tribal chief serving in the role of peace-maker. But under the ancient methods if mediation failed, the same person was authorized to render a binding decision.

Another dispute resolution process, *lok adalat*, has received more favorable attention since its re-introduction in the 1980s. Originally, *lok adalat* was an ancient method for dispute resolution used by tribal people. The Legal Services Authority Act (1987) promoted the resurgence of *lok adalat* to provide litigants with the -means to resolve their disputes early and affordably. The ancient concept of settlement of dispute through mediation, negotiation or through arbitral process known as “Peoples’ Court verdict” or decision of “*Nyaya-Panch*” is conceptualized and institutionalized in the philosophy of *Lok Adalat*. In essence, *lok adalat* may be compared to settlement conferences as they are traditionally conducted in the United States, except that the neutrals in *lok adalat* are senior members of the Bar.

Mediation is, in fact, the oldest and historically most effective way that societies have resolved their differences outside of resorting to the courts or violence. Today, it has become the new buzzword in law.

### B. PRESENT SCENARIO

According to recent statistics, in India, the judge population ratio is 12 - 13 judges per million. This is the lowest in the world, as compared to 135 to 150 per 10 lakh people in advanced countries. A study conducted by the Ministry of Finance reveals that at the current rate it will take 324 years to dispose of the backlogs of

cases in Indian courts.<sup>8</sup> “California’s population was almost touching 38 million. In India, that’s the number of cases pending in courts across the country”<sup>9</sup> – providing this peculiar comparison was none other than the Chief Justice of India, Mr. Justice K G Balakrishnan.

The denial of justice through delay is the biggest mockery of law, but in India it is not limited to mere mockery; the delay in fact kills the entire justice dispensation system of the country. The legal system is simply not equipped to handle the number of cases filed. It is often said that litigation is an unwelcome houseguest that stays for years or decades together. This has led to instances of people settling scores on their own, resulting in a growing number of criminal syndicates and mob justice at least in some parts of the country reflecting the frustration of the people and loss of confidence in the rule of law.

A recent study also concluded that 70 percent of the “winners” in litigation were unhappy in the end. One can safely assume that close to 100 percent of the “losers” in litigation were also unhappy. To make rule of law a reality, the arrears will have to be reduced. Speedy justice is an assurance extended to a citizen under the right to life guaranteed by the Constitution.

The present India faces corruption, dowry death, rape, thugs and dacoit, thefts, unemployment problems like suicide, drugs which also leads to social insecurity and anarchy. As per National Crime Record Bureau, New Delhi the total crime recorded in India in the year 2006 is 5102460 which forms 455.7 % of the total IPC crimes recorded. These figures can form only a part of the reported cases. In many places in India people are so uneducated that they are scared to call for legal aid and so many fades away as unreported deaths/crimes. This is almost 3-4 times higher than the rates of crimes in Foreign Nations. The Prison Statistics (2005) of the country shows alarming results of 358368 inmates against the capacity of 246497 in 1328 prisons. Whether it is due to the lack of proper legal system or social systems and customs prevailing, it is high time to find a solution for it.

## X. ROLE OF MEDIATION

The legal system rarely takes the psychological or emotional factors of either party into account. Litigation is said to be cold, hard, and uncaring. Both parties are instructed not to talk to each other and neither side gets to voice their concerns. Mediation uses the psychological power of empathy to create mutual understanding between parties to address concerns, promote emotional healing, and preserve ongoing relationships.

The role of mediation is not confined to bring in social harmony but also communal harmony. The development of a more proximate, indigenous mediation mechanism will help to prevent deeply rooted conflicts from erupting into communal violence. Mediation seeks to handle such situations more effectively than the courts which end in a win for a section at the expense of the other section. However in the case of mediation, it is a win-win situation that is involved which benefits both sections. Here again, the aspect of peaceful and amicable settlement of disputes becomes the best way to tackle such sensitive and volatile issues affecting the people at large. Mediation also helps in restorative justice through its variety approaches and restoring the offender in community by giving correctional practice thereby giving everyone a second chance. Sometimes victims of crime need answers and apologies more than they need to know perpetrators are being punished; and sometimes offenders need to find out just who they've hurt to realize what they've done is wrong. There is no conflict without emotion. There can be no resolution of a conflict without addressing the underlying emotions that gave rise to it and sustained it.

Matrimonial disputes can shake the entire social fabric of existing families. They have such an effect upon the society and impact the whole society as such. Such matrimonial disputes arise mainly out of minor differences which seeks adjustment from husband and wife or even parents. These disputes when coming to the court will assume such dangerous proportions that leads to an adverse result. It is essential for the sustenance of a family which has been declared by many international conventions as the basic fabric of the society. It is here the role of mediation comes to the forefront. Through mediation such minor differences are solved amicably even before attaining dangerous proportions.

Through the confidential private meetings with the parties, the mediator is able to understand the needs of the party and the mediator assists the parties to arrive at a "win-win" situation and thus not only resolves the problem but also strengthen the relationship among them. This avoids hostility within the community and improves harmony. A conflict free environment makes the community more focused, optimized and disciplined by setting up standards and values and principles. Mediation helps to maintain peace and solidarity among the members by facilitating settlements among conflicting parties.

## XI. COMMUNITY MEDIATION

The roots of community mediation can be found in a community which is concerned to find better ways to resolve conflicts, and efforts to improve the

system. It gives people in conflict an opportunity to take responsibility for the resolution of their dispute and control of the outcome.

But where do people go to get the problem resolved by mediation? The system has to be authentic, legally acceptable and the mediators should be trained and under ethical guidelines and review. Even though, presently there are court-annexed mediation centres, they cater the requirements of litigants, whose cases are pending before courts and referred to the centre. Where do people find good mediators, who can assist the parties to settle the issue before it aggravates to a litigation? Moreover the system should function as a vehicle to create harmony in the society and promote legal compliance in general.

Community Mediation service should not be too late or too remote from the community level to nip the budding emergence of conflicts. It is in this context that the Indian Institute of Arbitration & Mediation (IIAM) thought of the possibility of establishing Community Mediation Clinics as an inexpensive option. The motto is; *“Resolving conflicts; promoting harmony.”*

IIAM Community Mediation Service will serve as a mechanism in bringing into the consciousness of the society the effectiveness of grassroots-level arrangements to bring forth harmony in community, providing a safe environment for people to air grievances to reach a peaceful resolution. Community mediation means neighbours helping neighbours to solve problems and resolve disputes.

Setting up of Community Mediation Clinics in all villages of each state with a view to mediate all disputes will bring about a profound change in the Indian Legal system. Conflict management programs with the formation of such centres will serve to defray tensions in societies and prevent them from erupting into violence. It is also a process that can mould a more peaceful society. Community Mediation Clinics enhances access by helping to bring justice to the society. It aims to prevent the underlying conflict (or the need to go to court) and advance compliance with the law in general. People would get a platform near home to settle their cases without the trappings of a court. It helps preserve relationships by avoiding the embarrassment of being hauled into court, and by giving people the opportunity to air concerns that a court would rightly ignore when evaluating a legal claim. Through a system that resolves disputes before it requires adjudication, it is hoped the legal system will be freed up to deal with more serious cases.

The Mediation Clinics would function with an efficient team of mediators who are selected from the local community itself. The people so selected would be

given an orientation program by IIAM, and a certificate of recognition would be issued. IIAM will also implement high standards of ethics as laid down by the International Mediation Institute (IMI), The Hague, Netherlands (which has endorsed the IIAM Community Mediation Service). The mediators so selected will be persons who will be having a good repute in the local area to whom people shall have faith because of his/her integrity and sense of fairness in public dealing; and shall include educated youth, ladies and elders. People having experience in dispute resolution and community interactions will be preferred. Peacekeeping is a profession and can be a vocation. It is a belief, a value and a way of life. We have many people in our community who believe in peace and practice peace making.

IIAM Community Mediation Service has the potential to shape powerful conflict transformation partnerships. Such approaches often have the power to heal even profound social wounds, so that the system can become a vehicle for creating a loving and caring world.

We are mindful that cultural “clicks” do not happen overnight. We must devise workable ways of implementing them and build broad public support for those changes. As Mahatma Gandhi has said, *“There is not a single virtue which aims at, or is content with, the welfare of the individual alone. Conversely, there is not a single moral offence which does not, directly or indirectly, affect many others besides the actual offender. Hence, whether an individual is good or bad is not merely his own concern, but really the concern of the whole community, nay, of the whole world.”*<sup>10</sup>

While launching the IIAM Community Mediation Service, the Chief Justice of India, Hon’ble Mr. Justice K.G. Balakrishnan had hoped that Community Mediation Clinics could be established in at least 100 villages by 2010 and in every village by 2015. Such peace building processes could be greatly strengthened if organizations, people and society join together and cooperate. As a business opportunity and simultaneously to fulfill the Corporate Social Responsibility, we urge corporate houses, public spirited individuals, associations and clubs to join in implementing the IIAM Community Mediation Program, which has a clearly defined mission and a vision statement, combined with a sound implementation strategy and a plan of action firmly rooted in ground realities. We can join together for an enduring process of positive social transition.

## XII. CONCLUSION

India has huge potential to become an economic superpower. Its population stands at over a billion, making it the second largest population in the world. The middle class alone is greater than the population of the United States or the European Union. India is also the fourth largest economy in the world and has the second largest GDP of developing countries. But in spite of all this, India has failed to live up to expectations, and foreign investment has not been as high as expected. No amount of prosperity or development is either possible or worthwhile, if it is not accompanied by social infrastructure, one of which is a good legal system and an efficient dispute redressal mechanism, which provide the citizenry the assurance that they live under the protection of an efficient legal regime.

The expectations of parties of legal services are changing. The new requirement is “resolution” and not “litigation.” Mediation is now being projected as a truly global profession. ADR is thought of as the alternative to going to court. Yet, a good case can be made that one or more of these so-called “alternatives,” especially mediation, have become the commonly accepted way of resolving legal disputes and that going to court is now the true alternative. Inevitably, negotiation and mediation are becoming the most commonly accepted vehicles for the resolution of lawsuits in the United States and perhaps around the world.

So let us welcome the new world of dispute resolution and the new alternatives!

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