

**SPEECH OF THE PRESIDENT OF INDIA, SHRI PRANAB
MUKHERJEE ON THE OCCASION OF INAUGURATION OF
THE NATIONAL DISTRICT MEDIATION CONFERENCE**

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I am very happy to inaugurate this National “District Level” seminar on Mediation being organized with the theme of “Role of District Judiciary in Strengthening Mediation at Institutional Level”.

Mediation as process of dispute resolution is not new to India. Much before the British arrived, the Panchayat system of India was a forum where respected village elders assisted in resolving disputes within the community. Such traditional mediation continues to be prevalent in villages and our tribal communities even today.

In pre-British India, mediation was popular among businessmen. Impartial and respected businessmen were requested by business association members to resolve disputes using an informal procedure, which combined techniques similar to those that exist today. Even though these processes lacked legal authority, such mediation processes were regularly used and commonly accepted by Indian disputants.

The British regime brought with them the system of

Anglo-Saxon jurisprudence which continues till date. But alternative dispute resolution processes continued to reinvent themselves post independence and in 1987 with the introduction of the Legal Services Authorities Act, we saw the revival of the ancient mediation process in the new form of *Lok Adalats*.

It is important to recognize that despite the robust, independent and impartial judicial system we have in our country, the unfortunate reality is that legal disputes can be both protracted and expensive. There is a high degree of public frustration over the complexity of the laws, long delays and unproductive use of their resources in litigation. Many social conflicts have also got transformed into legal disputes, which accentuates the problem rather than resolve them. Promotion and popularisation of alternate methods of dispute settlement is therefore the need of the hour. Alternate dispute resolution mechanisms not only facilitate speedier justice but is also a process wherein the parties involved have control over the eventual outcome. This results in quick implementation of the decisions taken and eliminates continued litigation in the form of further appeals. Notably if a matter gets resolved by mediation, then a substantial part of the court fees deposited by the litigant also gets returned to them. It is for these reasons that throughout the business

world, and especially in common law jurisdictions, there is a recognition that properly conducted mediations are the most effective means by which parties in civil and commercial disputes can resolve the matters that divide them. It is well known that mediation can play a very useful role in amicable resolution of matrimonial and family matters. Disputes amongst Government departments and agencies are also perhaps best resolved through out of court mediation rather than litigation.

As Joseph Grynbaum, an acclaimed mediator of the United States has said, “an ounce of mediation is worth a pound of arbitration and a ton of litigation”.

I compliment the Supreme Court of India for having established in 2005 the Mediation and Conciliation Project Committee and for its efforts to promote and encourage Alternative Dispute Resolution methods across the country.

Only if Alternative Dispute Resolution becomes an integral part of the Indian justice delivery system will we be able to truly safeguard the welfare of the common man in India.

Stakeholders need to be made fully aware of the nature, merits, limitations and consequences of their action when involved in a dispute. The best way to reach people early

in the dispute is through disseminating information about mediation, increasing public awareness and making information on Mediation and Conciliation generally accessible and available to all. It is not sufficient to popularize mediation in the cities. Awareness needs to reach the grass roots level, especially among youth and students, in order to ensure a wider participation in building up the concept of mediation. People should be encouraged to take first recourse to mediation rather than litigation.

There is need for endurance and perseverance on the part of the administrative as well as judicial machinery in the above regard. Every Society is ridden with inertia to change. People are aware of the options but more comfortable with the time-tested notion of litigation. Litigation has been the first option of those seeking justice and it is natural for them to move the courts for redressal of their disputes.

However, this is where the District Courts and Judiciary can and must play a major role. They need to be able to convince litigants that mediation offers benefits with a human touch. It has no winners or losers. It has no limitations or restrictions. It is a pragmatic and flexible path that is in the interest of everyone involved. Mediation at district level would encourage the attitude of amicable settlements.

Legal education in today's India also needs to incorporate alternate methods of dispute resolution as an essential course for a new breed of socially conscious lawyers.

At a personal level, as someone who has been in public service for many decades, it is my experience that most disputes become difficult to resolve due to either miscommunication or 'egoism' of the individuals involved. I have always found that effective communication combined with sensitivity to the concerns of individuals concerned makes resolution of most disputes possible. At a very basic level, all that is required is an informal and confidential process and third party assistance that can help negotiate and amicably resolve matters in the common interest. It is not about cutting the pie, but making all feel victorious in the process.

I wish the Mediation and Conciliation Project Committee all success in their endeavours to promote Alternate Dispute Resolution. I call upon all stakeholders gathered here to take up this cause in full earnest, building on our past traditions and keeping in mind the benefit to the common man.

I wish this conference a great success.

Jai Hind.