



# Mediation – The New Social Revolution in Conflict Resolution

Mankind has historically undergone social changes time and again from the beginning of civilization. From the invention of the wheel and agriculture in the early period to industrialisation and technology of the modern times there have been numerous catalysts that transformed society. There has been development in all facets of living leading to revolutionary changes. The twentieth century saw cars, aeroplanes, antibiotics, modern weaponry, the internet, missile technology, space missions and the mobile phone. The Twenty first century has been witnessing incredible changes like social media, facebook, whatsapp, Uber and driverless cars.

While these remarkable developments are happening in all spheres of life, the field of law and dispute resolution is also witnessing fast paced activity. The traditional mechanism of litigation and arbitration have moved forward with the advent of internet and consequent advances like video conferencing in trials, online law journals and electronic filings of suits. Arbitration Tribunals and administrations of arbitration institutions have all accepted online mechanisms for their filings and processes. However litigation and arbitration have not been endorsed by society as an harmonious

method. Both are continuations of feudal, barbarian, tribal, imperial and colonial systems of ancient civilizations such as Babylonian, Greek, Roman and Arab and are generally adversarial if not based on monarchical verdicts. India's Manusmriti, Hammurabi's code, the Jewish Ten Commandments are all moral and legal codes based on the culturescape of their period.

Ancient Mediation was seen across all cultures. In the East the Buddhists, followers of Confucius and the Indian panchayat Systems all practiced various methods of mediation. Islam had the Qadis, the Africans had village moots and in the West Christians had the clergy and the Jews had the Rabbinical courts which had traditional Torah based settlement procedure.

Modern Mediation can be said to have come up in 1896 in the United Kingdom with the enactment of The Conciliation Act for Industrial Relations leading to the institutionalization of mediation. Alternate Dispute Processes began in the U.S in 1913 with the Department of Labour establishing a panel of conciliators called the 'commissioners of conciliation' to deal with labour management disputes which later on became the US Conciliation service. This later on in 1947 became the Federal Mediation and Conciliation service. Expertise garnered in Labour and Industrial dispute resolution was adapted to Interpersonal conflict resolution. The process of Mediation being voluntary, confidential, non-binding and without prejudice where the parties control the outcome is quickly gathering momentum across the world. It is fast, cost effective and focuses on interests and not positions leading to win-win situations. It encourages the engagement of emotions and generates creative solutions. The process is practical and does not delve into whether a party is right or wrong. The solutions are long lasting.

The US, Canada, UK and Australia have long experience in Mediation. The US has the concept of multi door court house where civil claims are vetted and referred to appropriate

resolution mechanisms at the filing stage. Canada has introduced mandatory court annexed mediation. With the implementation of the European Union mediation directive, many countries including Germany and Italy have introduced compulsory mediation. Most other European countries have legislated mediation and court Regulated Mediation. Brazil, India, China, Hongkong, Japan, Russia, Singapore, UAE, New Zealand and South Africa have established Mediation systems. The UN has been promoting use of mediation in International Diplomacy. Large numbers of Mediators are undergoing training and getting professional accreditation .In India the Indian Institute of Arbitration and Mediation has come up with a project of training Community Mediators from across villages and has taken efforts in Community Mediation services in consultation with police ,NGO's and community leaders.

The widespread promotion of Mediation by the UN and Governments across the World has created a positive momentum for Mediation and will soon be the enabling factor in revolutionizing the mechanics of dispute resolution.