

**Address by Honourable the Chief Justice of India to inaugurate the International Virtual Mediation Summer School, 2021 organised by Nivaaran-Mediators of Supreme Court of India on 22.07.2021**

1. Namaskar.
2. At the outset, let me congratulate the Supreme Court trained mediators- “NIVAARAN”, for organizing this important Summer School on Mediation for Young Lawyers and Law Students.
3. I am delighted to be releasing the inaugural edition of the newsletter and inaugurating the present event for more than one reason. The *first* reason is that I believe that education is one of the most important tools to not only empower people, but to effect change in society. To this extent, organizing an event such as the present one where eminent mediators, lawyers, judges and jurists have the opportunity to speak their thoughts on various topics and impart information and knowledge to foster new understanding among students and practitioners is invaluable.
4. This brings me to the *other* reason I am pleased to be inaugurating this event. I believe that mediation is one of the most important conflict resolution mechanisms currently which will only continue to grow in relevance in the coming future.

- 5.** I recently had the opportunity of voicing my views on mediation, its growth in India and the role it can play in our country during the India-Singapore Mediation Summit. Mediation was a practise that was commonly followed in India prior to the arrival of the British, and their Court system. Not only did the British establish the framework for the modern Indian judicial system, but they were also instrumental in the creation of the myth that dispute resolution, and justice, requires black coats and gowns and elaborate arguments. It is time to dispel such myths and notions. The reality is most of the litigants in India suffer from many social and economic constraints. What they need is a quick, inexpensive and convenient method of dispute resolution.
- 6.** Mediation is one such mechanism available to parties to a dispute which has the abovementioned characteristics. Apart from the fact that it is cost effective, time saving and convenient to parties, there is another facet of mediation that marks it out as perhaps a better alternative for parties. Traditional litigation often leaves one of the parties to the proceedings dissatisfied with the result, which is why parties sometimes appeal decisions all the way to the Supreme Court. This often compounds the problem of judicial delays. This is

an outcome of the “winner-takes-all” attitude that has come to affect the system.

- 7.** Mediation solves this problem. It signifies a shift from an adversarial attitude or position and creates an atmosphere that focusses on better outcomes for all parties. It enables parties to contemplate a continued relationship after the end of the resolution process.
- 8.** An important facet of mediation that is often not emphasised enough is its possible contribution to improving access to justice in the country. Pursuing traditional litigation strategies can often be difficult for parties without ample resources or time or sophistication. Mediation, as a tool of grievance redressal which is cheaper, faster and simpler, can ensure just and fair outcomes.
- 9.** The Supreme Court has played an active effort to improve mediation in India and has played a crucial role in bringing mediation into the mainstream. Various judicial pronouncements by the Supreme Court of India have, among other things, resulted in the creation and spread of Court annexed mediation in the country.
- 10.** Apart from this, the Supreme Court Mediation and Conciliation Project Committee, which was set up in 2005, has been integral when it comes to the training of Mediators in India. The first batch of mediators was trained nearly a decade ago and a fresh batch was

trained in May 2019. I am glad to state that, over the past two years, the Supreme Court trained mediators have been extremely active, despite the ongoing pandemic. and have organized various events, lecture series and discussions. The present Summer School programme is one such programme which can help mediation become an important tool for “NIVAARAN” in the country.

- 11.** This brings me to the importance of training mediators. I had flagged some issues during the India-Singapore Mediation Summit regarding the difficulties that mediators face during conflict resolution. The *first* issue related to the role of a Mediator- which is now shifting to a more active, engaged role as opposed to the facilitative role which was earlier envisaged, and how a Mediator must act in such situations. The second, relates to what a Mediator must do, or how “neutral” a Mediator must be, in the face of a patently unjust settlement reached between parties in unequal bargaining positions.
- 12.** Such issues require a Mediator to be well trained and equipped to understand and be prepared to react to any situation that arises before him. This can only happen if there is a well-designed training programme for Mediators in place with a focus on situation recognition and the appropriate response. The Supreme Court

Mediation and Project Committee has already created a model Training Programme wherein 40 hours of training and participation and successful completion of a certain number of mediations is mandated for accreditation as a qualified mediator.

- 13.** However, it is necessary for the training programme to be constantly updated and modified, to keep up with the best practices in the rest of the world. We should also be innovative and think of how new technologies and ideas can help in improving the training. As I have earlier suggested, the development of a training tool for Mediators like the simulators used in training commercial pilots might be a useful innovation to put in place. It is also important that such training take place periodically and continuously to keep Mediators updated on the best practices to be followed.
- 14.** It must also be remembered, being a successful lawyer does not guarantee similar success in mediation. These two distinct roles require distinct characteristics. A mediator needs to be perceptive to the emotions of both the parties, as well as the underlying issues. Even, with the most stubborn parties, the mediator must guide parties with great optimism and patience to find a workable settlement.

- 15.** The role of law schools and law school curriculum should also not be underplayed. While the Bar Council of India mandates a course on Alternate Dispute Resolution, more focus should be placed by law schools in the country on clinical education, with a focus on Mediation.
- 16.** The future belongs to mediation. Law students and young lawyers need to learn the requisite skills and be at the forefront of creating the space for the establishment of Mediation, and Mediators, as a separate profession. The Court system needs full time, qualified mediators with necessary skills to convince parties to arrive at an amicable settlement.
- 17.** Going through the newsletter, I am incredibly pleased to see that since 2020, despite the pandemic, the mediators of the Supreme Court have successfully conducted multiple events with renowned speakers from across the world. All these events, along with today's programme, are an important step towards the skill development of students and young lawyers. I am sure that the next week of lectures by all the eminent invitees will be an eye-opener and will make you appreciate, include, and improve mediation strategies while counselling present or future clients when they approach you with their disputes.

- 18.** Finally, I would again like to congratulate the organizers and wish them all the best for the success of this event. Let me also formally extend my support for future events that they wish to organize.
- 19.** Let me conclude with the words of the Mahatma Gandhi-

***“I realised that the true function of a lawyer was to unite parties riven asunder....[T]wenty years of my practise as a lawyer was occupied in bringing out private comprises of hundreds of cases. I lost nothing thereby- not even money; certainly not my soul.”***

**THANK YOU**